



Department for  
Communities and  
Local Government

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Our Ref: APP/P3420/A/14/2219380  
and  
APP/P3420/E/14/2219712

20 July 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 78 AND  
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990 -  
SECTION 20 AND 74  
APPEAL BY KEELE SEDDON LTD – THE HAWTHORNS AND KEELE UNIVERSITY  
CAMPUS, KEELE, NEWCASTLE-UNDER-LYME  
APPLICATION REF: 13/00424/FUL AND 13/00425/CON**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christina Downes BSc DipTP MRTPI, who held a public local inquiry on 7 days between 17 December 2014 to 13 February 2015 into your client's appeals against the refusal of Newcastle-Under-Lyme Borough Council ('the Council') to grant:
  - Appeal A: Full planning permission for the development of student accommodation blocks at Keele University Campus and residential development at The Hawthorns, Keele, in accordance with application ref 13/00424/FUL, dated 17 June 2013; and
  - Appeal B: Conservation area consent for the demolition of existing student accommodation blocks and management block at The Hawthorns, Keele, in accordance with application ref 13/00425/CON, dated 17 June 2013.
2. On 17 June 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, and paragraph 3 of Schedule 3 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The reason for this direction is that Appeal A involves significant development in the Green Belt and Appeal B would be more efficiently and effectively decided with Appeal A.

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## **Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeals be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

## **Policy considerations**

4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Newcastle-under-Lyme Local Plan 2011 adopted in 2003 (the LP) and the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 adopted in 2009 (the CS) (IR15). The Secretary of State agrees with the Inspector that the most relevant policies to these appeals are those listed at IR18 and IR19.
5. The Secretary of State notes that a Joint Local Plan with Stoke-on-Trent City Council is being prepared but that this is still at an early stage and is not expected to be adopted until late 2018 (IR15). As that emerging Plan is liable to change, the Secretary of State attributes it limited weight.
6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (The Framework), the associated planning practice guidance issued in March 2014, and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

## **Procedural matters**

7. For the reasons given at IR5, the Secretary of State agrees with the Inspector that Mr Brenner's oral evidence should be treated as a written representation with reduced weight.
8. The Secretary of State notes that an amended layout drawing and elevations were submitted during the course of the Inquiry which shows the two pairs of garages closest to the western boundary with hipped roofs in place of gables. He agrees with the Inspector that this has not caused prejudice to any party (IR6).

## **Main issues**

### *Housing land supply*

9. There is no dispute between the parties that the Council cannot demonstrate a 5 year supply of deliverable housing sites (IR182). For the reasons at IR182-185 the Secretary of State agrees with the Inspector that the proposed redevelopment of the Hawthorns to provide 92 dwellings would contribute to the short term housing land supply deficit, and that this would be an important benefit in favour of the scheme (IR186).

### *Development in the Green Belt*

10. There is no dispute that the Hawthorns appeal site is within an area that is 'washed over' by the Green Belt (IR187). Paragraph 89 of the Framework states the construction of new buildings on previously developed land is not inappropriate provided it would not have a greater impact on the openness of the Green Belt than the

existing buildings. For the reasons given at IR187-191, the Secretary of State agrees with the Inspector that the appeal scheme would not be inappropriate development in the Green Belt and therefore there is no need to consider the matter of 'very special circumstances' (IR192).

#### *Impact on heritage assets*

11. For the reasons given at IR193-225, the Secretary of State agrees with the Inspector's conclusions at IR226. He agrees that the appeal proposal would result in some benefits in terms of the contribution it will make to the significance of the conservation area, including the refurbishment and re-use of undesignated heritage assets including Hawthorne House, and the removal of the existing campus buildings which are incongruous detractors. However, like the Inspector he finds that there would also be considerable harm; most importantly, the open space which provides the setting to Hawthorns House would be substantially reduced. This he agrees would diminish the contribution that Hawthorns House and its setting make to the significance of the conservation area (IR207). The Secretary of State also notes that the number of new trees would be significantly less than those that would be lost (IR222). He agrees with the Inspector that the loss of mature specimens, many of which are protected by a TPO, would result in the substantial and harmful erosion of the mature sylvan setting which is important in terms of the significance of the conservation area (IR222&226).

#### *Effect on the character and appearance of the Hawthorns area*

12. The Secretary of State agrees with the Inspector's analysis at IR228-335. He agrees that the design and layout of the proposed development at the Hawthorns would not have an adverse effect on the character and appearance of the area, and that other than in heritage terms the proposal complies with the relevant policies on design in the CS and the Framework (IR235).

### **Other matters**

#### *The accommodation blocks on the University Campus*

13. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR247-250. He agrees that the construction of the accommodation blocks will not adversely affect the character or appearance of the campus site or wider environs (IR247). He also agrees that the significance of the historic parkland landscape would not be materially diminished, the significance of the listed buildings and their setting would be preserved, and there would be no harm to the significance of the conservation area (IR248). Like the Inspector the Secretary of State considers that, subject to a condition that ensures that the two parts of the scheme are linked together, the new student accommodation can be treated as an educational and economic benefit that is supported by development plan policy (IR250).

#### *Public consultation and local facilities*

14. The Secretary of State agrees with the Inspector's assessments of the suitability of public consultation and the effect of the scheme on, and its contribution to, local facilities (IR251-253).

#### *Ecology*

15. For the reasons given at IR254-256, the Secretary of State agrees with the Inspector that there is no evidence of ecological harm (IR254-256).

### *Flooding and drainage*

16. The Secretary of State is satisfied that planning conditions can be used to ensure that effective drainage and sewage systems could be put into place and maintained (IR257-258).

### *Highway safety and parking*

17. The Secretary of State agrees with the Inspector's assessment of highway safety and parking, including the parking arrangements for the school (IR259-262).

### **Section 106 planning obligations**

18. The Secretary of State agrees with the Inspector's reasoning at IR236-245 and his conclusions at IR246. He agrees that the obligations relating to the Newcastle Urban Transport Strategy Sum and the County Monitoring Fee would not meet the necessary statutory tests and so cannot be taken into account. However he agrees that the obligations relating to education, affordable housing and open spaces do accord with Paragraph 204 of the Framework and the CIL Regulations 2010 as amended. Nevertheless, for the reasons set out in this decision letter, the Secretary of State does not consider that these undertakings are sufficient to overcome his reasons for dismissing the appeals.

### **Conditions**

19. The Secretary of State has considered the Inspector's assessment on the proposed planning conditions at IR263. He is satisfied that conditions proposed by the Inspector and set out at Annexes 3 and 4 of the IR meet the tests of Paragraph 206 in the Framework. However, for the reasons set out in this decision letter, he does not consider that these conditions overcome his reasons for dismissing the appeals.

### **Overall balance and conclusion**

20. The Secretary of State agrees with the Inspector's conclusions at IR265-276. He agrees that the proposal does not accord with the development plan read as a whole in terms of the location of housing and heritage assets. He has therefore considered whether there are material considerations that indicate planning permission should nevertheless be granted (IR265).
21. As a 5 year supply of housing cannot be demonstrated, the housing supply policies in the Local Plan are not up-to-date and the Secretary of State gives reduced weight to the policy conflict above (IR266).
22. In the light of Paragraph 47 which seeks to boost significantly the supply of housing, the Secretary of State agrees with the Inspector that considerable weight attaches to the contribution the scheme would make to the shortfall in housing (IR269).
23. There are various other benefits to the scheme. These include the removal of the unattractive campus accommodation blocks and administrative buildings, and the refurbishment and re-use of undesignated heritage assets. There would also be a new permanent population that would support existing village facilities. Like the Inspector, the Secretary of State affords significant weight to these benefits (IR270).
24. The University is very important to the local economy. In the light of this the Secretary of State agrees with the Inspector that the funding the Hawthorns scheme would provide towards the new student accommodation is also a benefit of significant weight (IR271).

25. However, weighting against the benefits is the harm to heritage assets. Like the Inspector, the Secretary of State the the harm to the conservation area to be less than substantial in terms of Paragraph 134 of the Framework but he attaches great importance and weight to this to reflect the duty under Section 72 of the Planning Act 1990 (IR273).
26. Overall the Secretary of State considers that the benefits of the appeal scheme, though considerable, are insufficient to outweigh the irreversible and serious harm that would be caused to the conservation area. The proposals would fail to preserve the character and appearance of the conservation area, contrary to the development plan which in heritage terms is up to date and consistent with the Framework (IR273). It is for the appellant to consider how the deficiencies of the proposals identified in the IR might be rectified in order to preserve the character and appearance of the conservation area.
27. The Secretary of State agrees with the Inspector that it would not be appropriate to grant consent for Appeal B if Appeal A is dismissed, as there is no satisfactory replacement scheme (IR276).

### **Formal decision**

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby dismisses your client's appeals and refuses:
- Appeal A: Planning permission for the development of student accommodation blocks at Keele University Campus and residential development at The Hawthorns, Keele, in accordance with application ref 13/00424/FUL, dated 17 June 2013; and
  - Appeal B: Conservation area consent for the demolition of existing student accommodation blocks and management block at The Hawthorns, Keele, in accordance with application ref 13/00425/CON, dated 17 June 2013.

### **Right to challenge the decision**

29. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
30. A copy of this letter has been sent to Newcastle-Under-Lyme Borough Council. A notification e-mail or letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Julian Pitt*

**JULIAN PITT**

Authorised by Secretary of State to sign in that behalf

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# **Report to the Secretary of State for Communities and Local Government**

**by Christina Downes BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 9 April 2015**

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**TOWN AND COUNTRY PLANNING ACT 1990**

**PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990**

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**Appeals made by**

**KEELE SEDDON LTD**

Inquiry held on 17, 18 December 2014, 8 January 2015, 10-13 February 2015

The Hawthorns and Keele University Campus, Keele, Newcastle-under-Lyme

File Refs: APP/P3420/A/14/2219380 and APP/P3420/E/14/2219712

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## **ABBREVIATIONS LIST**

### **Term**

Biodiversity Action Plan  
Community Infrastructure Levy  
Green Belt  
Keele Conservation Area  
National Planning Policy Framework  
Newcastle-under-Lyme and Stoke-on-Trent Core Spatial  
Strategy 2006-2026  
Newcastle-under-Lyme Local Plan 2011  
Planning Obligation by Agreement  
Residual Land Value  
Root Protection Area  
Square metres  
Statement of Common Ground  
Tree Preservation Order

### **Acronym**

BAP  
CIL  
The GB  
The CA  
The Framework  
The CS  
  
The LP  
S106 Agreement  
RLV  
RPA  
Sq m  
SCG  
TPO

Richborough Estates

**Appeal A Ref: APP/P3420/A/14/2219380**

**The Hawthorns and Keele University Campus, Keele, Newcastle-under-Lyme**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Keele Seddon Ltd against the decision of Newcastle-under-Lyme Borough Council.
- The application Ref 13/00424/FUL, dated 17 June 2013, was refused by notice dated 13 December 2013.
- The development proposed is construction of student accommodation blocks at Keele University Campus and residential development at The Hawthorns, Keele.

**Summary of Recommendation: That the appeal be dismissed.**

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**Appeal B Ref: APP/P3420/E/14/2219712**

**The Hawthorns and Keele University Campus, Keele, Newcastle-under-Lyme**

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Keele Seddon Ltd against the decision of Newcastle-under-Lyme Borough Council.
- The application Ref 13/00425/CON, dated 17 June 2013, was refused by notice dated 16 December 2013.
- The demolition proposed is existing student accommodation blocks and management block at The Hawthorns, Keele.

**Summary of Recommendation: That the appeal be dismissed.**

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**PROCEDURAL MATTERS**

1. The Inquiry was due to sit on 16 December 2014 for 4 days. However due to the illness of the Council's barrister it was unable to commence until 17 December. It then sat for 2 days, during which time the evidence of Keele Parish Council was heard. The Parish Council did not wish to give their evidence first and considered it would be prejudicial, not least because they were inexperienced participants and may repeat points that were going to be made by the Council.
2. However the Parish Council had their own case to advance and I considered that their written evidence seemed well presented and carefully considered. Whilst they were not professionally represented they did have Rule 6 status at the Inquiry and I made clear that I would provide guidance if it proved necessary. Furthermore, the arboricultural evidence was being given by a professional consultant. I also agreed that if there was an important new point that the Parish Council wished to raise having heard the Council's evidence, I would give them the opportunity to do so. The Council's barrister was content for the Inquiry to continue on this basis even though he was not present himself for the Parish Council's evidence.
3. Having carefully considered the matter I was satisfied that the Parish Council would not be prejudiced and I asked them to proceed with their evidence accordingly. At this time I also heard local people who wished to speak and I undertook an unaccompanied site visit. This seemed to me the best that could be done to use the time allocated in as efficient a way as possible. It was agreed that the Inquiry could not be completed in the original 4 allocated days and one day in January 2015 and 4 more days in February were reserved.

4. The Council's decision included 6 reasons for refusal. All of these, apart from one, related to the residential redevelopment of The Hawthorns site. However the Council subsequently decided not to defend this latter reason for refusal, which concerned the landscape and visual impact of the new student accommodation proposed on the University Campus. Whilst the Parish Council had some reservations about the acceptability of this element of the appeal proposal they made clear that they did not have the resources to carry forward an objection and preferred to concentrate on their concerns regarding The Hawthorns site. I have therefore received little evidence about this part of the scheme, although there have been some third party representations and consultation responses that refer to it. I raised the possibility of a split decision with the parties but no-one considered this to be appropriate.
5. Towards the end of the Inquiry I was asked if a local resident would be permitted to speak. This was agreed and oral evidence was given on the penultimate afternoon (**Document ID 36**). However it transpired that the participant, Mr Brenner, was one of the witnesses for the Rule 6 Party who had not been able to attend earlier in the Inquiry to give evidence on their behalf. It was agreed at the start of the Inquiry that his evidence and that of another witness unable to attend, Ms Corfield, would be treated as written representations. Mr Brenner's appearance therefore came as a surprise to the Appellant who had not had the opportunity to prepare questions (**Document ID 37/2, Footnote 63**). Rule 6 Parties do have a responsibility to conduct themselves fairly and Mr Brenner was giving evidence as a professional surveyor as well as a resident. The Appellant did therefore suffer prejudice. In the circumstances I consider that Mr Brenner's oral evidence should be treated as a written representation with reduced weight accorded to it insofar as it was not able to be tested through cross-examination. The Appellant was satisfied that this would resolve the issue of fairness.
6. An amended layout drawing and elevations were submitted during the course of the Inquiry which shows the two pairs of garages closest to the western boundary with hipped roofs in place of gables (**Plan B**). No objection was raised to substituting these drawings and in my opinion no prejudice would be caused to any party by doing so.
7. Following the close of the Inquiry the main parties' written views were sought on three matters (**Document ID 40**). The first is factual and the second and third have been reported and taken into account in my Conclusions.
  - 7.1 The main parties were asked whether the site access plan had been incorrectly numbered in the agreed list of conditions (**Document ID 34**). For the avoidance of doubt the correct drawing number is agreed as 0377-F01B, as listed in the Statement of Common Ground (SCG) (**Document CD 2, Section 6**).
  - 7.2 The main parties were asked whether the County Monitoring Fee in the Planning Obligation by Agreement (the Section 106 Agreement) would comply with Regulation 122 of the Community Infrastructure Levy Regulations, taking account of the recent High Court judgement *Oxfordshire County Council v Secretary of State for Communities and Local Government, Cala Management Ltd and Others* ([2015] EWHC 186 (Admin)).

- 7.3 The main parties were asked to comment on how the *2012-based Household Projections for England 2012-2037*, which were released after the close of the Inquiry would affect their case.

## APPEAL RECOVERY

8. The appeals were recovered by the Secretary of State for Communities and Local Government for his own determination on 17 June 2014 (**Document BD 2**). The reason for this direction was that Appeal A involves significant development in the Green Belt (GB) and Appeal B would be more efficiently and effectively dealt with it. The Council has raised no objection on GB grounds and the Appellant requested that the recovery be re-considered. This request was declined.

## THE SITE AND SURROUNDINGS

9. The SCG provides a brief description of the sites and surroundings (**Document CD 2**). The relationship of the two sites, the position of Keele Conservation Area (the CA) and the extent of the GB and other nearby designations is usefully shown on the map at **Document POE 3, Figure 3**. There are aerial photographs and photographs of the sites and surroundings in the Design and Access Statements (**Documents 1.21; 1.24**) and also in the evidence (**Documents CD 1.21; CD 1.24; POE 1, Appendix 1; POE 3, Figures 5, 10, 11 and 13; POE 9, Appendix A**)

### The Hawthorns site

10. The appeal site comprises a roughly triangular shaped area of land bounded on its southern side by The Village<sup>1</sup> and its eastern side by Quarry Bank Road. The western boundary abuts open fields and the whole site is washed over by the GB. The land has a complex topography but rises up to a high point in the northern corner with a ridge along the western side. It is currently occupied by Keele University as a residential campus although there are also management buildings on the southern part of the site, including a shop, restaurant, conference suite and administrative offices<sup>2</sup>. The residential accommodation is mainly in two, three and four storey blocks although there are also some semi-detached houses. The built development stands within a green setting with many of the trees protected by a Tree Preservation Order (TPO) either as single specimens or groups. Towards the centre of the site is a grassed depression studded with trees, which is known as The Bowl. The southern boundary with The Village is fringed with mature protected Limes and Holly trees and along Quarry Bank Road there are large mature Sycamores, which are also protected.

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<sup>1</sup> It is not clear exactly where Station Road becomes The Village. It may be at the junction with Highway Lane, in which case part of the site would front one road and part another. For ease of reference I have referred to the whole of the site fronting The Village.

<sup>2</sup> The modern University buildings on the southern part of the site were referred to in a number of different ways. The building adjacent to The Villa was called the Management Centre but this was also a term used more generally for the whole building group. I have termed the building adjacent to The Villa "the conference suite" and the building to the north where the shop, restaurant and other facilities are found "the social/ services building".

11. The CA was designated in 1989 and includes a large part of the village, including the southern part of the appeal site. There are three buildings considered to be of local historic interest, Hawthorns House, The Villa and its associated Barn. Hawthorns House is a two storey former farmhouse built in the late 18<sup>th</sup> or early 19<sup>th</sup> century. It stands well back from The Village behind a large area of treed open space. There is a grassed walled garden on its eastern side and various extensions and outbuildings to the rear. At the front there is a large paved area whilst there are hard surfaced turning and parking areas on the western side. The Villa is a brick built mid-19<sup>th</sup> century house with a low roof, asymmetric gables and tall decorative chimneys. It is in the southern corner of the appeal site and is joined to the three-storey modern conference suite by a single storey link building. The Barn is a small building close by, which appears to be of similar age to The Villa.
12. Opposite the main entrance to the appeal site is the village hall and behind this is a Grade II listed former 17<sup>th</sup> century farmhouse, which fronts onto Pump Bank. On the southern side of Station Road, to the north of the site entrance, is a signpost which is also Grade II listed. Between the appeal site and the junction of Quarry Bank Road and The Village are a number of buildings of interest, including The Sneyd Arms public house. Within this vicinity there are also a number of statement buildings with attractive polychromatic brickwork, including Keele Farmhouse and the Old School House. St John's church is a fine building occupying elevated ground and surrounded by extensive open space. Further to the south again, but still in the CA, is the listed Keele Lodge and gate piers and the western end of Keele Park. This is the entrance to the drive leading into the main University grounds. St John's Primary School is on the eastern side of Quarry Bank Road, outside the CA.

### **The Barnes site**

13. The proposed student accommodation and car parking would be at the northern end of the University campus. Although it would not be in the GB it would be within the mid 18th century historic park and garden that surrounds Keele Hall, a Grade II\* listed mansion and its Grade II listed Clock House. The proposed accommodation blocks would be within an area currently occupied by modern halls of residence of varying height. Immediately to the south is one of the main access routes into the campus and beyond that, on higher ground, are the imposing modern buildings within the Keele University Science and Business Park.
14. Block 1 would be sited on land where some young tree planting has taken place. Block 2 would be on a lower part of the site, which was previously occupied by the day nursery. This has been demolished and a new nursery has been erected on adjacent land. A large mature tree, which is subject to a TPO, would remain to the west of Block 2.

### **PLANNING POLICY**

15. The development plan comprises the saved policies of the Newcastle-under-Lyme Local Plan 2011 adopted in 2003 (the LP) and the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 adopted in 2009 (the CS). A Joint Local Plan with Stoke-on-Trent City Council is being prepared but this is still at an early stage and is not expected to be adopted until late 2018 (**Document ID 27**).

16. In terms of designations on the LP Proposals Map, The Hawthorns site is within the GB and part of it is within the CA. Keele does not have a Village Envelope but the village is subject to a GB infilling designation. The whole area, including the Barnes site is designated as an Area of Landscape Maintenance. A useful plan is at **Document POE 2, Diagram 1**.
17. Those policies considered by the Council and Appellant to be relevant are listed in the SCG (**Document CD 2, Section 4**). Whilst all have been taken into account, the most pertinent to this appeal are as follows:
18. **Saved policies in the LP (Document CD 7)**
  - 18.1 **Policy S3** does not permit development in the GB other than for a limited range of purposes. These include infilling within the village of Keele, providing the gap makes no material contribution to the amenity of the locality.
  - 18.2 In order to protect the countryside and promote sustainable locations **Policy H1** sets out requirements for residential development. These include that the site is within the urban area or one of the Village Envelopes defined on the Proposals Map. **Policy E8** permits development at Keele University and Keele Science Park, provided it is for a limited range of uses, including staff and student residences.
  - 18.3 **Policy C4** concerns provision of publicly accessible open space in new housing areas. Contributions are also acceptable in appropriate circumstances. **Policy C22** seeks to protect important community facilities, subject to viability considerations.
  - 18.4 **Policy N3** seeks to avoid or minimise harm to wildlife and, where appropriate, aims to enhance the natural heritage of the Borough. **Policy N4** encourages native species planting in landscaping schemes. **Policy N17** encourages development to be informed by, and sympathetic to, landscape character and quality. **Policy N19** seeks to maintain the high quality and characteristic landscapes within the Landscape Maintenance Areas. Particular consideration will be given to siting, design and scale, materials and landscaping to ensure they are appropriate to the character of the area.
  - 18.5 **Policy N12** aims to resist development that involves the removal of visually significant trees unless the need for the development justifies the loss and it cannot be avoided by appropriate siting and design. If tree loss is justified by the development then replacement planting of an appropriate scale will be expected. **Policy B15** seeks to retain trees and landscape features that contribute to character and appearance and are part of the setting of a conservation area. Where consent is given for their removal appropriate replacements are expected.
  - 18.6 **Policy B5** resists development that would adversely affect the setting of a listed building. Under **Policy B8** the conservation of locally important buildings is encouraged through their retention, maintenance, appropriate use and restoration.

18.7 **Policy B9** resists development that would harm the special character or appearance of a CA. **Policy B10** sets out various criteria to ensure that the statutory requirements are met. These include protection of open spaces, trees and other landscape features important to the character, appearance or historic value to the area. Matters such as the form, scale, and materials of development should respect the characteristics of buildings in the area. **Policy B11** states that consent to demolish a building in a CA will not be granted unless certain provisions are met. These include that detailed plans for redevelopment have been approved. **Policy B13** relates to design of development within a CA area. **Policy B14** includes provisions relating to the effect on the setting of a CA and also the effect of development adjacent to a CA.

## 19. Policies in the CS (*Document CD 6*)

19.1 The housing requirement is based on the now revoked Regional Strategy. **Policy SP1** sets out the spatial principles of targeted regeneration and primarily directs new housing towards sites within the main urban and renewal areas. New development is prioritised in favour of previously developed land where it can support sustainable patterns of development. **Policy SP2** sets out the spatial principles of economic development, including investment in Keele University.

19.2 Amongst other things, **Policy ASP6** places a maximum of 900 dwellings of high design quality primarily located on brownfield land within the village envelopes of key rural service centres to meet local requirements. The policy also includes a positive approach to improve accessibility in accordance with the Local Transport Plan.

19.3 **Policy CSP1** seeks to ensure that new development is well designed and reflects the character, identity and context of the unique townscape, landscape and built heritage of the Borough. **Policy CSP2** aims to preserve and enhance the character and appearance of the historic heritage in the Borough. **Policy CSP4** aims to protect, maintain and enhance the quality and quantity of the area's natural assets, including those relating to Biodiversity Action Plan (BAP) areas.

19.4 **Policy CSP6** relates to the provision of affordable housing, which generally amounts to 25% of housing provided on sites of 5 dwellings or more in the rural areas. **Policy CSP10** makes provision for the consequences of development where necessary in terms of the provision of infrastructure and community facilities. It refers to mitigation and the use of planning conditions or planning obligations.

## APPEAL PROPOSALS

20. The Appeal A proposal comprises an inter-related scheme in two parts. The Hawthorns site would be redeveloped with 92 dwellings and would provide funding for the new University accommodation adjacent to the Barnes halls of residence on the main campus. Whether or not this would provide all the necessary funding is unclear but there is no evidence that any shortfall would not be available from other sources. The securitisation mechanism in this case

means that the new halls of residence would be provided before The Hawthorns site is released for development (**Document ID 32**).

21. As matters stand at the moment it would not be viable for affordable housing or education and highways contributions to be made in connection with the redevelopment of The Hawthorns site. The evidence for this conclusion was provided in the Appellant's Viability Assessment (June 2013) and Update (October 2014) by Savills (**Documents ID 17/1 and ID 17/2**). This work was reviewed by the District Valuer. On the basis of an Existing Use Value of The Hawthorns site as student accommodation of around £5.4 m, the Residual Land Value (RLV) of a policy compliant scheme, even if it were £3.4 m as suggested by the District Valuer, would not be sufficient for an arm's length transaction to take place. The difference between the RLV of the two parties relates in large part to sales values. Even if no contributions were made at all, the District Valuer concluded that the RLV would only be £5.2 m<sup>3</sup>. The Appellant however has said that the development would be undertaken on that basis. The Section 106 Agreement includes an overage clause and a review mechanism whereby contributions towards affordable housing, education and highways would be made if the RLV were to increase sufficiently.
22. Appeal B relates to the demolition of buildings within the CA. Separate applications for such works are not required under current legislation but were necessary when these applications were made. It was agreed by all parties that there would be insufficient justification for allowing Appeal B unless Appeal A was also allowed. However the Council had no specific objection to granting consent for Appeal B other than that relating to a satisfactory replacement.
23. Before the applications went to Committee some amendments were made. These included reducing the car parking provision on both parts of the development; increasing the retained trees on the north-western boundary of The Hawthorns site; extending and linking footpaths through The Hawthorns part of the site and introducing bay windows to increase surveillance. These changes are detailed in the SCG (**Document CD 2, Section 3**).

## THE CASE FOR THE APPELLANT: KEELE SEDDON LTD

*The main points are:*

24. The appeals relate to a major joint venture between the University of Keele and Seddon Homes. Their objective is to bring about an important improvement in the student accommodation at the University. Their effect would include not just the creation of high-quality new blocks at Barnes but the replacement of the outdated and out-of-keeping campus development at The Hawthorns by 92 family homes, restored historic structures and associated facilities.
25. There is little dispute that the education benefits are important, and cannot be achieved other than by virtue of the cross-funding created by the re-development of The Hawthorns site (**Documents POE 6, Paragraph 3.13, ID 32**).

<sup>3</sup> The Appellant's assessment was that a policy compliant scheme would only result in a RLV of about £626,000 or about £2,767,000 without the contributions.

There is also no dispute that the Government has put the achievement of a substantial increase in housing delivery at the centre of national planning policy, and that in the Council's area, there is a considerable shortfall against the 5 year housing land supply requirement, with no plan-led solution in sight (**Document ID 27**).

26. The main issue is whether any harm to the CA, urban design objectives or the value of the tree resource due to The Hawthorns re-development would so significantly and demonstrably outweigh the substantial benefits of the overall proposal that permission should be refused. The answer to that question is clearly in the negative. Notwithstanding recovery by the Secretary of State on GB grounds, there is no GB objection by the Council. Indeed, it is agreed between the Council and the Appellant that the proposal would not be inappropriate development. This is a case where GB re-development would bring with it an educational, commercial and social benefit unique to the area, which could not be achieved in another way.

### The decision making process

27. The overall planning judgment is the statutory priority to be afforded to development in accordance with the development plan, unless material considerations indicate otherwise. The planning appeal also requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the CA. The CA test is freestanding and different from, but complementary to, the paragraphs in the Framework that deal with heritage assets. Substantial weight should be given to any finding as to the preservation or enhancement of the CA's character and appearance (**Document POE 4, Paragraph 3.12**). However, in cases where local authorities are unable to demonstrate a 5 years' supply of deliverable housing sites, Paragraphs 47 and 14 of the Framework combine to apply a new overall balancing exercise.
28. There is no dispute that, due to the Council's inability to demonstrate a 5 year housing land supply, Paragraph 14 is engaged. In such cases, national policy deems parts of the development plan to be out of date, namely policies for the supply of housing. What follows is that in such cases, permission should be granted unless the adverse effects of doing so would *significantly and demonstrably* outweigh the benefits, or particular policies in the Framework indicate that development should be restricted. There is little difficulty with the application of the first part of the bullet point – '*significantly and demonstrably*' means just that. It follows that a development which gives rise, on balance, to just a bit more harm than benefit is regarded as a development to which permission should be granted as sustainable development. That underlines how pro-development Paragraph 14 is, in line with the need to substantially increase the supply of housing, which is a cardinal principle of the Framework.
29. The exclusion from the presumption in Paragraph 14 'knocks out' developments, including those which might not cause harm to a significantly and demonstrably greater degree than their benefits. Footnote 9 provides a non-exhaustive list of policy areas in the Framework. However this does not mean that wherever such a policy area is relevant the presumption in favour of sustainable development should be disapplied. If that were so it would rob developments affected by those policies of the benefit of the presumption,

regardless of whether on the facts of the case those policy areas disclosed an objection, or were strongly supportive. This case has centred on heritage issues in relation to Footnote 9. If there is no heritage objection then there is no reason for the proposal to be removed from the ambit of Paragraph 14.

30. Paragraph 133 of the Framework says that developments that would cause substantial harm to heritage assets, and cannot be justified by reference to the specific exceptions in the paragraph, should be refused. Even allowing for a residual overall balancing exercise where benefits are weighed against a breach of Paragraph 133, such is the force of the requirement to refuse planning permission that the policy effectively rules out most development that fails the test in Paragraph 133.
31. That is not though the case in relation to Paragraph 134. If less than substantial harm would be caused to a heritage asset, then policy says it must be weighed in the planning balance. The paragraph does not contain its own set of balancing points, or represent a self-enclosed test, but merely indicates that such a finding of fact goes into the overall planning balance. There is no indication thereby that in such a case, permission should be refused or development restricted. That is fundamentally different from Paragraph 133 which says that permission should be refused. That is not the case in Paragraph 134, which states that the less than substantial harm goes into a balance against the public benefits of the scheme. If that is failed, Paragraph 134 does not say that permission should be refused. There is a real, rather than artificial, distinction between those two paragraphs<sup>4</sup>.
32. The point can be tested by reference to the other, relatively few, cases in the Framework which say that permission should be refused. These broadly relate to the list in Footnote 9 and all require decision makers not just to weigh harm in a balance, but to refuse or withhold planning permission if their tests are not met. They are particular policies which 'restrict' development, rather than policies which say that non-compliance should be weighed against benefits. It would be absurd if developments which brought very substantial sustainability benefits at a very small negative cost to a CA should be treated in the same way as a development which destroyed a Listed Building, or a major development in the AONB which lacked any public justification. For these reasons, Paragraph 133 is not a Footnote 9 policy.

## Housing need

33. It is agreed that the Council cannot demonstrate a 5 years' supply of housing (**Document POE 2, Paragraph 4.1.3**). The matter was also recently confirmed in the Gateway Avenue decision (**Document ID 16**). The most up to date assessment is that the Council has between 3 and 4 years' supply as confirmed in the May 2014 Annual Monitoring Report. That is a substantial shortfall. There is agreement between the Council and the Appellant that substantial

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<sup>4</sup> Inspector's Note – Mr Warren's closing remarks on the matter of Footnote 9 and Paragraph 134 of the Framework do not accord with the answer to my question on the matter by Mr Gratton. This has been pointed out in the Council's evidence at Paragraph 72 below. However Mr Warren's justification for advancing a different position was that the correct interpretation of planning policy is a matter of law not planning judgement (*Tesco Stores Ltd v Dundee City Council* [2012])

weight should be given to the ability of the appeal proposals at the Hawthorns to contribute 92 family houses towards that deficit. The *2012-Based Household Projections for England 2012-2037* indicate that by 2021 the number of households in the borough will increase by 7% from the currently projected level. The absence of a deliverable 5 year supply of new housing sites does not assist in meeting this need in the short term and the challenges facing the Council in terms of meeting housing needs beyond that date will now become more acute with the projected increase in households up to 2021 and beyond. The new Strategic Housing Market Assessment is at a formative stage and will be subject to change and review before being used to inform policy and strategy in the emerging joint Local Plan. The need is therefore even more acute than previously acknowledged and adds to the case for permission to be granted (**Document ID 40**).

34. The Council suggested that if the appeal proposal was found to cause harm, the fact that an alternative scheme might also meet the housing need without causing such harm should be taken into account and weighed against the benefit to the housing need. However the benefit of meeting housing need is a benefit of this scheme and has to be weighed properly in the balance. If a particular harm which would be caused by a development could readily be overcome by a re-design that is something which might underpin the harm finding but it does not diminish the weight to be given to a quite different, beneficial, aspect of the proposal.
35. It follows that the Paragraph 14 balance starts heavily freighted with benefits. Clearly, the adverse effects of the grant of permission would have to be very severe indeed to be afforded sufficient weight to outweigh such benefits *significantly and demonstrably*.

## Character and appearance

### Trees

36. It is accepted that the proposal would give rise to some harm to trees. However the harm, while material, is not so great as to weigh heavily in the balance, let alone to dictate refusal on its own. Indeed that proposition is not advanced by the Council, which did not call arboricultural evidence but refers to tree loss in the context of heritage and design. It is necessary to consider the mitigation provided by new planting and also the overall residual position with regard to trees. This would remain a very "well-treed" site.
37. The factual position on tree stock, loss and replanting is set out in agreed form (**Document ID 7**). There are 298 trees on the site. 161 would be removed, and 125 replaced giving a net loss of 36 trees. 27 Grade A or B trees would be removed, which equates to 9% of all the trees on the site and the 5 Grade A trees to be removed equate to 1.7% of trees on the site and 13% of the 38 Grade A trees on the site. 22 of 89 Grade B trees would be removed (25%). Of the 107 TPO trees on the site, 20 would be removed (18%). Of the trees in the CA, 47 of 86 would be removed (54%). 15 of those trees (17%) are individual trees, the rest are in groups.
38. There would undoubtedly be some harm as a result of the proposal due to the loss of trees, particularly the higher grade trees in and on the edge of the CA. Due weight must be given to this. It is right to observe that there would be no

harm to ancient woodland or aged/veteran trees (**Document POE 5, Paragraphs 3.12, 4.20-4.28**). Nothing in the Framework suggests or requires particular weight to be given to harm of this kind.

39. The site would remain one characterised by the abundance of trees. The northern boundary, and The Village and Quarry Bank Road boundaries, would all remain characterised by substantial groups of trees, something that the planting proposals will supplement. New trees outside the CA could be protected by a TPO if the Council considered that necessary. Within the site, there would remain important groups of trees at The Bowl and in the green space in front of Hawthorns House (**Document POE 5, Paragraphs 5.31-5.39**). It is intended to plant extra heavy standard trees. Whilst these may take three years or so to begin to grow, the intended planting would have an immediate effect of quality and substance (**Document POE 5, Paragraphs 5.27-5.30**). There would be over 260 trees on the site once the replanting proposals are completed.
40. The issue of Root Protection Areas (RPA) was subject to some discussion and the Parish Council criticised the circular depiction on the layout. New drawings were prepared which showed the RPA as a polygon of equivalent area to more accurately reflect likely root distribution as referred to in BS 5837: 2012: *Trees in relation to design, demolition and construction* (**Documents CD 28; ID 15; ID 19**). Although the RPAs did not include the public highways, in reality roots can go under roads, so the depiction is a worst case scenario. The Parish Council consider that 17 trees do not have correctly drawn RPA. However their expert arboricultural evidence was not that any of those trees would be likely to fail or die as a result as was erroneously submitted in its closing points (**Documents ID 19; Document ID 39/2, Page 6**). Tree protection measures would be covered by condition. Other than with 3 trees which already grow in constrained conditions, there is no evidence to suggest that the retained trees would not continue to grow or would be compromised by the inability to appropriately position tree protection fences (**Document ID 19**).
41. The Parish Council suggested that one or more trees might be the subject of pressure to fell or prune by future residents. The Corsican pine (Tree 6758) is sufficiently set off at an oblique angle to the proposed houses, in a sheltered part of the site, not to give rise to justifiable concerns (**Documents ID 19, plan; ID 24**). The Lime trees in front of some of the semi-detached houses proposed fronting The Village would be some 10 metres away from the houses. Although these trees have epicormic growth low on the trunk they would be more than far enough away for there to be no detrimental impact on living conditions (**Document ID 19, plan**).
42. The figures for retained, lost and newly planted trees form a reliable basis for judgment (**Document ID 7**). From outside the site, there would be little overall difference in perceptible tree cover or the balance of buildings to landscape. Within the site, there would be a change. This would perhaps be most perceptible at the entrance to the site because the highways location of the access has been dictated by the Highway Authority. If that area had been revised there would have been a very different access and this was never suggested to the Appellant during the course of the application. However, even that area would retain many good examples of trees, and the finding on

overall degree of harm should reflect that (**Document POE 5, Paragraphs 5.35-5.37**).

### **The Conservation Area**

43. The sole focus of the third reason for refusal concerning heritage relates to the space in front of Hawthorns House and the loss of trees. The CA was designated in 1989. It contains much that is agreed to be negative as well as positive. For example the campus buildings that cluster around, and are currently attached to, Hawthorns House. It cannot be assumed that everything in the CA is of great importance to its significance. Until this appeal the Council had not commissioned any form of CA Appraisal. However there is a large measure of agreement that the significance of the CA derives principally from the way it reflects the decisive influence of the Sneyd family on it in the 19th century. The remodelling of the village in Victorian times, including major changes to the road network and the construction of many buildings, endures as the legacy of the Sneyd intervention and gives rise to the CA's primary significance (**Document POE 4, Section 4**).
44. The appeal site contains three valued buildings, Hawthorns House, The Villa and its associated Barn. The fabric and the setting of these buildings have been compromised by the 20<sup>th</sup> century campus development. However, they are not designated heritage assets. The Council's assessment appears to have been based on the erroneous assumption that they all were, including the area outside Hawthorns House (**Document POE 1, Paragraph 5.2.6**).
45. The area in front of Hawthorns House has only moderate significance for the CA at best. Its importance has been overstated by the Council and Parish Council.
  - 45.1 The character of the entire campus area, including this land, is agreed to be institutional. The grassed area outside Hawthorns House (running to the main entrance of the site) contains paths, lighting, and other campus paraphernalia such as bins and signs. It reads as what it is, part of the campus, and is fringed with buildings that have a strong institutional character. This is a private area without formal public access and it is unrealistic to regard it as the "garden" or "parkland" to Hawthorns House. It is very much a remnant that makes a small positive contribution to the CA by being open. Its contribution as 'setting' to the unlisted Hawthorns House is circumscribed in this way.
  - 45.2 The grassed area is visually confined by the substantial planting along the boundary with The Village. There are a few glimpsed views from the public domain but these do not play an important role in the overall character and appearance of the area.
  - 45.3 The setting of Hawthorns House to its principal elevation is partly wooded with trees that would largely remain. However it has an unsympathetic area of hardstanding outside it, due to the operational decisions made by the University over the past 50 years.
  - 45.4 The area's use has changed over time, as has its connection with Hawthorns House. The 1924 Ordnance Survey map referred to in the

1950s sales particulars shows the belt of trees where the three pairs of semi-detached houses are proposed, as belonging to The Villa rather than Hawthorns House (**Documents ID 3; ID 4**).

46. The remainder of the appeal site area within the CA is harmed by the campus development at present. At best it could be seen as making a neutral contribution to the significance of the designated asset. Similarly, the rest of the appeal site does not overall play a positive role as setting to the CA. Its institutional character, the massive and jarring architectural forms of the accommodation blocks and the campus style landscaping, do nothing to help or underpin what is special about the CA. As the Council accepted, such a scheme would not be granted permission now, in the setting of the CA. The Council's reference to the rural setting of the village only applies beyond the appeal site as is confirmed in views towards and away from the northern boundary.
47. The Council's *Rapid Conservation Area Appraisal* identified 9 characteristics of the CA that combine to form its character, appearance and significance (**Document POE 1, Paragraph 2.6.4**). It was agreed that most would not be negatively impacted by the proposal. In fact the impact analysis showed many large beneficial effects as a result of development (**Document POE 1, Paragraph 5.3**). However the analysis broke down when only "temporary" value was ascribed to these gains. In fact demolition of the campus would be a permanent benefit. The correct analysis is to ask whether the new proposal would detrimentally affect what is of significance to the CA.
48. Taking an overall balanced view of the scheme's effects on the trees and the 3 buildings and their immediate surroundings it is concluded that:
  - 48.1 There would be some harm to the CA due to the loss of some trees, including a couple of groups of valuable trees. That harm would be limited to moderate at worst.
  - 48.2 There would be some limited harm due to the way the open space in front of Hawthorns House would be curtailed.
  - 48.3 There would be a major benefit to the CA by removing the unsympathetic excrescences to the key buildings, and by clearing the campus development away from its setting and replacing it with a residential character more in keeping with the rest of the village.
  - 48.4 There would be a small to moderate benefit from the creation of new townscape along The Village. This would tie the site more conspicuously into the fabric of Keele village by linking development along one of the two or three primary routes for the first time since the 1950s.
  - 48.5 There would be no overall harm to what is of significance to the CA, the 19th century planned village, or the surviving remnants of earlier times. Some aspects would markedly improve and others may be harmed.
49. The answer to the statutory question posed in Section 72 of the 1990 *Planning (Listed Buildings and Conservation Areas) Act* is that the character and appearance of the area would be preserved. There would be no overall harm

in policy terms, to engage even Paragraph 134 of the Framework, let alone Paragraph 133. Even if a different view was taken, and one assumed some overall harm, it would be difficult even after Barnwell Manor to give substantial weight to more than a limited element of harm. Also Paragraph 134 of the Framework puts the harm into a planning balance which is dominated by the benefits that the scheme will bring. A finding of no overall harm would also accord with common sense and with the expert views of the Council's own Conservation Working Group and the Conservation and Design Officer (**Documents CD 1.26, Page 9; CD 1.27, Page 6; ID 25**).

## **Design**

50. It was confirmed that the Council does not suggest that Paragraph 64 of the Framework is engaged here even if all of its design criticisms were accepted. The Council's witness was candid that his design critique would not amount on its own to a reason for turning the development away. Rather, it was contended that the points made would ideally have influenced the design at an earlier stage. Care should therefore be taken not to overstate the type of criticisms that the Council maintain. The Council in closing its case submitted that urban design was one of the two principal arms of its objection (**Document ID 38, Paragraph 21-34**). However its witness was absolutely clear that it had a far inferior status as an objection to its heritage points. The Council's submissions should therefore have an important caveat entered against them.
51. The MADE design review did not suggest that permission should be refused (**Document CD 1.26, Page 83**). Some changes were made to the scheme post-application in discussion with the Council's officers (**Document POE 3, Paragraphs 5.9; CD 2, Paragraph 3.1**). The weight to be given to the observations of MADE members ought to be tempered to some extent by the fact that, notwithstanding the experience of some Panel members, they had not been to the site. This is not an entirely straightforward site to assess, with its differences in level and tree constraints.
52. The design criticisms do not amount to very much and relate to matters over which reasonable people could easily differ:
  - 52.1 The layout of the site would not be alien to the area. It was developed taking into account the very strong advice from Council officers that there should not be a through-route from The Village to Quarry Bank Road. It features a main road with a loop containing an interesting and valuable landscaped feature around The Bowl and several cul-de-sacs. There are also several minor accesses serving small pockets of housing. The village already has a number of cul-de-sacs. Indeed apart from the main triangle of roads, it is mainly cul-de-sacs. The site, due to its shape and layout is necessarily self-contained.
  - 52.2 The size, scale, massing and height of the houses proposed would all be in keeping with the residential context of the village.
  - 52.3 There would be some more development visible from off-site compared to the existing position. However the campus is already prominent in views from The Village and a bit from Quarry Bank Road.

52.4 Buildings would be seen from public viewpoints to the north and west. There is a footpath running north-south across the adjoining field which affords views. There are also limited views from the bypass and on the Station Road approach to Keele (**Document POE 3, Figure 9**). However, there is no landscape objection by the Council. The current buildings are prominent in some of those views at the moment (particularly in the winter), and it is the highest and most uncompromising of the blocks which can be seen (**Document POE 3, Figure 10.3**). Although the houses and garages proposed in that area would be marginally closer to the boundary and therefore to the ridge, they would be lower than the existing 3 storey blocks with their roof top apparatus, and would have a quite different appearance. There would be very little overall change affecting landscape character or views (**Document POE 3, Sections 8 and 9**). The appeal site would be a fully developed site as it currently is, with clear views of some buildings from the area to the north and west. However in terms of character, the residential development would be much more in keeping with a village environment.

52.5 The architectural treatment would be respectful without being overly reverential. The houses would be modern and laid out in a varied pattern according to townscape judgments with semi-detached houses fronting the road and detached houses in the lower density parts of the site. They would pick up elements of the vernacular designs in the village to reflect local character (**Document ID 21; POE 3, Paragraphs 3.15-3.16**).

52.6 The layout would be permeable for pedestrians as clearly accepted by the Council's Design Officer (**Document ID 25**). The Council agreed that the village and its amenities would not be beyond walking distance for any resident, and that no one would be confused or lost when navigating the layout.

53. The design criticisms therefore add nothing of substance to the heritage points. Overall, whilst there would be a large-scale change in the character of the site within its boundaries, and a much lesser consequential change in views from outside, the balanced outcome would be positive – a well designed scheme of family housing, on a site with some 262 trees, the majority of them retained larger specimens, and 3 improved historic buildings.

## Green Belt

54. The proposal is for the complete re-development of a previously-developed site in the GB. Applying Paragraph 89 of the Framework, the issue is whether the development would have a greater impact on the openness of the GB and the purposes of including land within it than the existing development. The Council accepts that it would not and therefore that the proposal is not inappropriate development in the GB. The Parish Council did not challenge the judgment that the *purposes* of including the land in the GB would not be affected at all.

55. The judgment regarding openness depends on a mix of quantitative and qualitative points as was accepted in the recent Garston appeal decision (**Document CD 16, DL Paragraph 8 and IR Paragraphs 105-108**). In this case the development would not impact on openness for the purposes of GB for the following reasons (**Document POE 6, Paragraph 5.28**):

- 55.1 The built footprint on the site would reduce by 163 square metres (sq m). Given that it is the extent of built form that is the key to the preservation of openness, this is of particular importance.
- 55.2 The built floorspace on site would reduce by 3,668 sq m.
- 55.3 The built volume, which is a measure of 3 dimensional effect, would reduce by 4,071 cubic metres.
- 55.4 The area of buildings and hard surfaces would increase by 1,548 sq m due to the additional footpaths and drives in the residential scheme.
- 55.5 The effect of the built form on site, seen either from within or without, would be very similar. Larger and taller buildings, which in most views read as a mass, would be replaced with more buildings of a different, lower profile and lesser primary scale and massing.
- 55.6 There would be areas of the site that are currently free of development and would have houses on them. However, those areas do not play a particularly important role in the perception of the site, which is from all relevant viewpoints a developed site with many large buildings on it. The fact, for instance, that the bottom south west corner of the site would have a handful of houses behind retained substantial boundary trees would have no material effect on the way the site would be perceived.
56. For these reasons the development would not be inappropriate development in GB terms. If however a contrary view is taken, the proposal comes ready-made with a very special circumstances case. The development at The Hawthorns would make the beneficial development at Barnes possible, along with the many benefits that it would bring. That would be a facet of the development which would be unique to this scheme, and would be 'very special' in the sense used in GB policy.

### **Affordable Housing**

57. It is accepted by the Council that the proposals would not be able to afford to pay for affordable housing. That has been confirmed through a revised financial viability appraisal and the review on behalf of the Council by the District Valuer (**Documents ID 17; ID 18**). The latter reaches the clear conclusion that the scheme would be unviable as far as affordable housing and other contributions are concerned, even allowing a much higher figure for some of the revenue assumptions. The conclusions of the viability work have not been challenged. It is robust and should be accepted.

### **Sustainable development**

58. The development would, taken in the round, amount to sustainable development. The majority of the points already made relate to the three dimensions of sustainable development. In addition to those points, regard should be had to the following benefits, which have been accepted by the Council:

- 58.1 The highly sustainable transportation links from the site (**Document CD 1.11, Section 5**).
- 58.2 The proposed re-use of previously developed land in accordance with Paragraph 111 of the Framework.
- 58.3 The public benefit of formal, accessible, open space in a village which currently has none.
- 58.4 The provision of family housing.
- 58.5 The very significant benefits to education and the local economy due to the benefits of the Barnes part of the scheme (**Document POE 6, Paragraphs 8.6-8.12**). These are embedded in the development plan through saved LP Policy E8 and CS Policy SP2.
59. There would be economic benefits of 92 family homes compared to students on 37 week leases. There was no evidence at all that The Hawthorns is occupied much outside the 37 week period (**Document POE 6, Paragraph 8.8**).
60. Returning to Paragraph 14 of the Framework, it is notable that the presumption in favour of sustainable development is said to mean the grant of permission unless adverse effects significantly and demonstrably outweigh the benefits. That is a significant shift in the definition of sustainable development, tilting the fulcrum in favour of the delivery of housing, which is so central to the Framework and the achievement of a sustainable pattern of development across the country. This scheme would accord entirely with that policy aim.

### Miscellaneous points

61. There would be no breach of the Habitats Regulations. There has been a bat survey and bat mitigation proposals have been submitted and accepted. Natural England has seen this work and does not object (**Documents CD 1.26, Pages 13-14; ID 31**). The Regulations make clear that this is not a case where Appropriate Assessment would be required (**Document ID 5**).
62. The southern part of the site is a BAP priority habitat as "deciduous woodland" (**Document ID 1**). However the area now can hardly be described in that way. There has been no evidence of any particular ecological value of the trees in that area which would be lost. No identifiable harm would be caused to ecological interests aimed to be protected by the BAP notation.
63. Staffordshire County Council has negotiated education and transport contributions, which would be payable through the Section 106 Agreement. The balance would be payable if viability improved on a review, but in any event both payments would be subject to viability considerations in policy terms (**Documents CD 8.3, Page 14; ID 29**).
64. The pumping station can be located in a place which would not cause harm to roots of trees or a material impact in visual terms (**Document ID 33**).
65. There should be a link between The Hawthorns and Barnes developments, as discussed, by way of a Grampian-style condition. This recognises the essential

link between the two parts of the scheme, and also explains why a 'split decision' would not be appropriate.

## **THE CASE FOR THE COUNCIL: NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

*The main points are:*

66. The development of the student accommodation blocks at Barnes is uncontroversial. The Reason for Refusal which dealt with that development was not supported by evidence from the Council and the Council's objections relate solely to the proposed redevelopment of The Hawthorns site. The Appellant emphasises that the scheme enjoyed the support of the Council's officers and that the refusal of permission was contrary to their recommendation. However, as is always the case in such circumstances, it is the expert evidence provided on behalf of the Council and the submissions which flow from that evidence, which form the Council's case. That case stands to be assessed on its own merits, irrespective of the officer's recommendations.
67. Furthermore, the Secretary of State must consider all the evidence which has been brought before the Inquiry, including that from the Parish Council and local residents.

### **Policy Matters**

68. Whilst the presumption in favour of sustainable development is expressed to be the central principle underlying the Framework, the only place within that document where that principle is given effect with respect to decision taking is in Paragraph 14. There is no other paragraph in the Framework that sets out how the decision-maker is to use the presumption in Paragraph 14 in the actual making of development control decisions. This is important, because the presumption must not be taken as a catch-all to justify development.
69. A central objective of the Framework is to "*significantly boost the supply of housing*". This is accepted as a general principle but it is necessary to understand exactly how it takes effect as a matter of policy. The policy mechanism by which a significant boost to the supply of housing is to be brought about is through the operation of Paragraph 47. There is no other paragraph in the Framework that sets out a specific mechanism, or policy consequence, of the desire to significantly boost the supply of housing. Paragraph 47 is not a catch-all justification for development.
70. It is common ground that there is not a five-year supply of housing land and the 2012-based Household Projections do not alter the Council's position on the matter (**Document ID 40**). By operation of Paragraph 49, Paragraph 14 thus is engaged (**Document ID 27**). Accordingly, Paragraph 14 gives effect to the presumption in favour of sustainable development by applying the guidance as to when planning permission ought to be granted.
71. Nevertheless, two significant observations need to be made about Paragraph 14. First, the policies in the recently adopted CS relating to design and the conservation of heritage assets are consistent with the Framework and remain in full force. Second, the two limbs of the decision taking section of Paragraph 14 are alternative to, and independent of, each other. The decision-maker must therefore consider whether any adverse impacts of granting permission

would significantly and demonstrably outweigh the benefit. That consideration must be taken in the light of all the relevant policies of the Framework. Furthermore, into that balancing exercise must be taken all the matters in favour and against the development. These include the impact on heritage assets, despite the fact that impact on heritage assets is of itself, and entirely separately, capable of justifying a refusal of planning permission.

72. As an entirely separate exercise, the Secretary of State must consider whether there are any specific policies in the Framework that indicate that development should be restricted. Footnote 9 gives some examples of the types of policy which should be considered, including designated heritage assets. The Appellant's planning witness explicitly confirmed that the policies covered by Footnote 9 includes not just Paragraph 133, which deals with a situation where there is substantial harm to a designated heritage asset but also Paragraph 134, which deals with a situation where there is less than substantial harm to a designated heritage asset.
73. This must be correct because the Footnote deals with "*those policies*" (plural) "*relating to*" designated heritage assets. It does not draw an artificial distinction between those policies. Nor can any particular reliance be placed upon the words "*should refuse consent*" in Paragraph 133. This is because, in reality, both paragraphs provide for a balancing exercise. It is possible for permission to be granted, in certain circumstances, for development which does substantial harm to a designated heritage asset. Equally, it is possible for permission to be refused, in appropriate circumstances, for development which does non-substantial harm to a designated heritage asset. In all the circumstances, it is clear that both Paragraphs 133 and 134 are specific policies of the sort identified in Footnote 9, which are capable of restricting development. They both, therefore, fall within the second limb of the decision taking provisions of Paragraph 14.

### Benefits of the Scheme

74. The Council acknowledges that there are certain benefits. 92 housing units would make a contribution to overall housing supply. It would bring with it the commensurate New Homes Bonus.
75. There may be a measure of additional custom and support for the limited range of existing facilities. However the measure, or even the existence, of this benefit is very uncertain. There are already students in occupation of the existing University blocks and they will spend some proportion of their money in Keele village. It was suggested by the Appellant that they would only do so during term time. However there is an increasing trend towards year-round occupation by students of their accommodation. It is in the economic interests of the University to utilise their accommodation to the full, even in student vacations, with such matters as courses and football tournaments. Moreover, whilst permanent residents might be thought to spend more money in their local area than students, the plain fact is that there would be fewer of them. The Appellant said the site population would fall from 770 people, most of whom would be students or adults to 583 people, of whom a considerable proportion would presumably be children (**Document POE 6, Paragraph 10.5**).
76. It is also suggested that the possible provision of a shop should be regarded as a benefit. Once again, this is a very uncertain benefit indeed. The existing

University shop is subject to an ongoing tendering exercise. Moreover, there is no guarantee that any subsidy would be forthcoming from either the University or the joint-venture. It is well known that the economics of small shops are often dependent upon such subsidy. This is particularly the case where the shop itself would not be located in a particularly attractive location within Quarry Bank Road where there would be limited opportunity to secure passing trade.

77. A modest quantity of public open space would be provided. To the extent that this would be available to, and would be used by, existing residents of the village, it can be seen as a benefit. However the weight to be attributed to that benefit is tempered by the fact that there is no evidence to suggest that there is an existing deficiency of a public open space in this settlement. Furthermore, it is readily apparent from an examination of the layout, that the public open space would be highly fragmented, consisting in a number of areas of very small and oddly shaped areas. There are some areas which are thin slivers hard against the boundary of the site (**Document POE 2, Paragraph 4.3.5.4**). In practical terms, this is thus likely to reduce the attractiveness of these areas of public open space and thus the benefit to be attributed to them.

## Disadvantages of the scheme

### Urban design

78. Detailed evidence on behalf of the Council was given by an urban designer who leads a team in a well-respected practice, which specialises in these matters. By contrast, it emerged that the Appellant's assessment was by a witness who did not have a specialist urban design qualification. Furthermore, and of great significance, is the fact that the analysis of the deficiencies of the design are supported by the MADE Design Review Panel, who were appointed to review the scheme at application stage. MADE is the Panel specifically provided for in this area by Paragraph 62 of the Framework, which concerns the arrangements for local design review. The Panel members, who reviewed this scheme, are distinguished and highly experienced architects and urban designers. Their comments are a fundamentally important part of the process of assessment. The Appellant sought to make much of the fact that the MADE Panel itself had not undertaken a site visit. Whilst it might be preferable for such a visit to be done, it did emerge that the Panel had been provided with photographs of the site. Moreover, the nature of the criticisms advanced by MADE is such that they can readily be discerned from an analysis of the layout plan.
79. The Appellant sought to downplay the significance of the words actually used by MADE in expressing its concerns. The criticism was very strongly put and said that the scheme was "*in some respects, reminiscent of the worst kinds of volume house-builder layouts*" and that work needed to be done "*to ensure that it serves as part of an expanded village, rather than being seen as a separate housing estate*" (**Document CD 1.26**). These words really speak for themselves. A development of this scale is capable of affecting the character of the entire village (**Document POE 2, Diagram 2**). The MADE review included a number of detailed criticisms (**Documents POE 2, Paragraph 4.3.4.2; ID 14**).
80. There are several weaknesses of the scheme. These include the similarity of house types which would be at odds with Building for Life principles (**Document ID 26, Page 6**). More fundamental would be the excessive and incoherent use

of cul-de-sacs as the basic form of urban design. Indeed, MADE went so far as to say that the development “*consists of*” a series of cul-de-sacs. This is not a forward-looking method of urban design, and as MADE comments, “*will make the development illegible and lead to people having to take convoluted routes*” (**Document POE 2, Sections 4 and 5**). The Appellant suggested that there was some equivalence between Highway Lane as a cul-de-sac, and the cul-de-sacs within the site, in particular the one which leads to the northern tip of the site. However it was later accepted that there is no real equivalence between a farm track upon which there is some ribbon development in large and irregular plots and the estate style cul-de-sacs proposed at the appeal site. Furthermore, the Appellant accepted that the proposed access road, with its circular reversed P configuration around The Bowl, was a feature which was entirely absent from anywhere else in the village.

81. MADE further anticipated the concerns that some had expressed about a through route and explained that traffic calmed connections could have been an alternative to unconnected cul-de-sacs. Most of the houses only have one access point for vehicles and pedestrians cannot exit the site through the natural desire line point of egress, namely past The Villa (**Document POE 2, Diagram 15**). It is indeed the case that, as MADE put it, “*pedestrian movement across the site is unnecessarily contrived.*”
82. It is important to put these criticisms into context. They might not, of themselves, justify a refusal of permission. Nevertheless, the proposal transgresses important aspects of local plan policy, such as the requirements in Policy CSP1 of the CS that development should contribute positively to the identity and heritage of the area, that it is easy to move through and around and that the public and private spaces are safe and attractive, easily distinguished and accessible.
83. Moreover, it is important to understand that the objective of both development plan policy and the Framework is not to secure “adequate” designs, but instead to secure “excellence”. Paragraph 56 of the Framework indicates the importance that national policy attributes to quality design. It is described as being “*a key aspect of sustainable development*” and Paragraph 58 indicates that the intention of good design should be to “*optimise*” the potential of the site to accommodate development.
84. The same approach is adopted by local plan policy. The explanatory text to Policy CSP 1 in the CS makes plain that the key principles underlying local plan policy include “*the promotion and procurement of design excellence*”. This objective is not served by the promotion of a scheme which has such serious design defects, even if it can be said that they may not justify refusal on their own. The design defects of the scheme weight heavily in the balance against the grant of permission.

### **Heritage Assets**

85. The second aspect of the Council’s case is the effect on heritage assets. As noted above, this is of relevance, not just in the overall planning balance, determined under the first limb of the decision-making section of Paragraph 14 of the Framework, but also as policies in respect of designated heritage assets are capable of being policies restricting development and thus justifying refusal under the second limb of the decision-making section of Paragraph 14.

86. The issues concerning heritage in this appeal relate both to the designated asset of the CA and the non-designated assets of The Hawthorns, The Villa and the Barn. In assessing the respective cases on heritage assets, it is important to note that the starting point is that there is no CA Appraisal. Furthermore, and in contravention of the advice set out in Paragraphs 128 and 129 of the Framework, at the time of the Council's decision there was no proper assessment before it of the significance of the heritage asset and the impact of the development upon the significance of that asset. The only source of information provided by the developer was the two pages of generalised comment in the Design and Access Statement (**Document CD 1.24, Pages 23-24**). The Appellant agreed that this did not constitute an adequate statement of significance for the purposes of assessment against the policies in the Framework. The only issues identified were the architectural style of The Hawthorns and The Villa.
87. Accordingly, the only proper assessments are those provided in the respective evidence of the two heritage expert witnesses. The Appellant's assessment was seriously deficient in a number of respects and the analysis was seriously limited. The only significance attached to the CA derived from those elements which related to the remodelling of the village in the 19th century under the influence of the Sneyd family (**Document POE 4, Paragraph 4.17**). There was confusion about the importance or otherwise of significant aspects of the heritage assets. In particular, it was unequivocally stated in the Appellant's written evidence that the open space in front of The Hawthorns, particularly where it abutted The Village, was of no value to the significance of the CA. Indeed, it was actually considered to be a detractor from the CA (**Document POE 4, Paragraphs 4.5, 4.18, 6.5**).
88. By contrast, in the Appellant's oral evidence it was suggested that the open space had "*some value*." Furthermore, it was not known whether the changes that were considered to have robbed the open space of any value to the significance of the conservation area, had taken place prior to CA designation in 1989. However all of those changes had in fact taken place by this date so that those who drew up the CA boundaries, which have clearly been carefully drawn, considered the open space in its current state to be worthy of inclusion in the CA. Further evidence by the Appellant stated that the area of open space in front of Hawthorns House did in fact make a contribution to the character and appearance of the village (**Document POE 3, Paragraphs 6.40 and 8.13**).
89. The Appellant's heritage evidence provides the starting point for the analysis of whether or not the scheme does any harm to the significance of the CA. Accordingly if it is wrong about the irrelevance of the open space, then the whole analysis is flawed. The Appellant considered that the effect of the new development on the views of the CA, particularly when seen from the west, would be equivalent to that of the existing University blocks. However the credibility of the written assessment of the impact of the development on the significance of the CA is considerably undermined by the fact that the written analysis does not set out where the setting of the CA actually lies.
90. By contrast the Council's assessment concluded that the significance of the CA was much more widely based than simply its existence as a 19<sup>th</sup> century remodelled village. It included a *Rapid Conservation Area Appraisal* and

identified a much more full and considered list of features of significance, against which this development properly should be considered (**Document POE 1, Paragraph 2.6.4 and Appendix 1**). The Council's assessment has considered the aspects of the development that would impact on the CA, including a Heritage Impact Assessment, which considers both the beneficial and adverse impacts arising from the development (**Document POE 1, Paragraph 5.3 and Appendix 2**). There are though two particular features of the development which are assessed as doing significant harm both to the CA and to the non-designated heritage assets.

91. The first harmful feature is the impact upon the open space in front of The Hawthorns. This makes a valuable contribution in defining the character and appearance of the settlement and in giving significance to the CA (**Documents POE 1, Paragraphs 5.5.3.1-2 and Appendix 1, Page 24**). The fact that there have been changes in the nature of the open space, from an orchard to a form of parkland to an informal open space crossed by pathways, does not detract from that contribution. It is plain that those who decided on the boundaries of the CA did not think so either. Moreover, the fact that some part of the frontage to The Village may once have been in the ownership of The Villa rather than The Hawthorns, changes very little. Analysis of the documents submitted by the Parish Council makes plain that the ownership of the Keele Estate in the sale particulars of 1951 included both land parcel 222 and part of land parcel 234, which abutted The Village (**Document ID 3**).
92. Considerable harm would be done to this area. Some 40% of the open space would be lost, the original access route to The Hawthorns would be lost and the area immediately in front of the house would be bisected by a regular access route. A considerable number of trees would be felled, three pairs of semi-detached houses would be inserted and the walled garden, which is readily discernible as a feature on the ground today, would be built over with residential units (**Document POE 1, Paragraphs 5.5.3.4-5.5.3.7 and Appendix 7**). Such matters bring about considerable harm both to the setting of the non-designated asset of The Hawthorns itself, but also to the significance of the CA as a whole. There has been some aspect of change to the area in front of The Hawthorns already. However the English Heritage guidance: *The Setting of Heritage Assets* makes clear that even where there has been some degradation to a setting, further degradation should not be encouraged, simply because some damage has already been done (**Document CD 18, Page 8**).
93. The second harmful feature is the additional damage to the setting of the CA caused by the new housing, particularly with respect to the western boundary of the site. The Appellant accepts that the CA has a rural setting and that the appeal site forms part of the setting, which extends much further. The largely rural setting around the historic village is a feature of significance for the CA as a whole (**Document POE 1, Paragraph 2.6.4**). The effect on this rural setting of the development would be marked, and in assessing the changes, the need not to further degrade the heritage asset's setting must always be borne in mind.
94. The housing and associated garages would be pushed right out to the ridgeline on the western boundary of the site. A number of trees would be lost, including considerable clumps in the northern and the south-western tips of the site. Those areas of greenery would be replaced by housing (**Documents POE 1, Paragraph 5.5.2; ID 12; ID 13**). The effect would be considerable and

there would be substantial harm both to the designated and non-designated assets.

### **Planning Balance**

95. The Council's objections are more than sufficient to indicate that permission should be refused. They are so strong that, when considered against the policies of the Framework taken as a whole, and its emphasis on securing sustainable development, they can fairly be said to "*significantly and demonstrably*" outweigh the benefits. The absence of a five year housing land supply does not justify a development of mediocre design, which does substantial harm to designated assets. On the first limb of the decision-taking provisions of Paragraph 14, planning permission should be refused.
96. Furthermore, the harm to a designated heritage asset, about which policies in the Framework specifically restrict development, also suggests that by reason of the second limb, permission should also be refused.

### **THE CASE FOR THE RULE 6 PARTY: KEELE PARISH COUNCIL**

*The main points are:*

97. It is surprising that there have been a number of significant changes to the scheme during the appeal process. However none have been substantial enough to remove the objections. This is not a case of the village objecting to any proposals from the University. Five of the eleven members of the Parish Council are former graduates or employees of Keele University and have a personal interest in the long-term success of the institution. It has always tried to work with the University and not against it. When the original application was turned down, the Parish Council wrote to the University offering to meet in an attempt to find a mutually acceptable solution. That did not happen and indicates that it is not interested in local opinion or open to re-consideration of its plans.
98. The objections to the proposed development are not an objection to any development on the site. Indeed, some housing development would be welcomed. However it is the extent and nature of the proposed development that is opposed. This would be a suburban development on a GB site, part of which is in the CA at the centre of the village. It is not just inappropriate but also against national planning policy.

### **Inappropriate development in the GB**

99. In considering the matter of openness it has been agreed that there are quantitative measures and much harder to measure qualitative measures. The Appellant said that floorspace is an important quantitative indicator of openness in the GB. But it has been very difficult to ascertain exactly what the floorspace figures for the proposed development are, as they have changed since the original application and during the appeal process. The gross external floor space is said to be 13,997 sq m, but later evidence was that this referred to gross internal floorspace so the external floorspace must be more (**Documents POE 6, Page 24; ID 22**). The figures for existing floorspace are estimates and it therefore remains uncertain about the actual increase of the proposed development. If the comments made by consultees during the

planning process were based on incorrect information then their relevance should be questioned or discounted.

100. Building footprint is another quantitative measure of openness, and there will be an increase in the number of buildings on the site from 34 to 144. This will increase the footprint and reduce openness by creating an urban environment and reducing visual permeability.
101. Open space is a key element of openness. The current open space in front of Hawthorns House connects it with both The Village and The Villa. This space is highly valued by residents of the village and in qualitative terms the construction of houses in this area would significantly impact the openness of the GB. This area provides an avenue of trees on entry to Keele along Station Road and The Village. It provides the setting for the rural village, which would be destroyed by building the proposed houses in this area.
102. Although emphasis has been placed on the retention of some open space in this area, an area of grass surrounded by roads and houses with no views through to trees and vegetation cannot be compared to the current space. The Appellant's argument that there would be no encroachment on to undeveloped land is disputed. If the proposals had retained the existing building line with regard to the boundaries of the site the development would have been far more acceptable.
103. The proposed development conflicts with Paragraph 79 of the Framework, which says that the fundamental aim of GB policy is "*to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.*" This proposal creates unwanted urban sprawl in the GB and violates existing openness.

#### **The effect on the character of the CA**

104. There was much discussion about Paragraph 14 of the Framework and how Footnote 9 should be interpreted. However this fails to recognise that the basis for this decision should be the *Planning (Listed Buildings and Conservation Areas) Act 1990*, which is very clear with regard to the duty to preserve or enhance the character or appearance of the CA. This should be the starting point for determination of the appeal and it should be considered whether proposals "conserve or enhance" before considering levels of harm. The Act is the law and the Framework is policy.
105. The proposal would build on the only significant area of open space within the CA and destroy the open vista presently enjoyed from The Village to Hawthorns House. This would also have a significant impact on the setting and relationship of the historic buildings. It is hard to see how this can either preserve or enhance the character of the CA.
106. Both the Council's and Appellant's heritage expert witnesses agreed that the setting of heritage assets is important, but came to very different conclusions about their current setting. The Appellant appeared to be of the opinion that the other buildings on the appeal site devalued the CA. It is hard to support this opinion as the buildings were already in existence when the CA was designated in 1989. The Appellant was unsure if the narrow paths across the open area were in existence at that time, and believed these had altered its

character so significantly that it would not be further devalued by the building of houses within the open space. This is not a view that is shared.

107. To build in a designated CA is against both the letter and the spirit of the law and national planning policy and this alone provides grounds for rejecting this appeal<sup>5</sup>. The conclusion of the Council that the adverse impacts of the specific proposal under appeal on the designated CA and the village generally are unacceptable and outweigh the beneficial impacts, is fully endorsed (**Document POE 1, Paragraph 6.2.2**). If the application had not included development in the CA, but had restricted development to areas of the appeal site already developed beyond its boundary, it would have been far more acceptable to residents of the village.

### Loss of trees

108. Trees were an integral part of the 19<sup>th</sup> century remodelling of the village. The proposal would result in a large loss of the trees on site, many of which would be Grade A or B value. 161 out of 298 (54%) would be removed, and within the CA 47 out of 86 (55%) would be felled (**Document ID 7**). These trees make an important contribution to the character of the CA and their loss would harm its quality and character, which conflicts with the legal duty to preserve or enhance. There would be an extreme loss of amenity from the removal of trees around the entrance to the site (**Document POE 9, Paragraph 6.12**).
109. It is proposed to replace the 161 trees with only 125 new trees, thus indicating a long term loss of tree cover on the site (**Document ID 7**). Of the replacement trees, only 40 are expected to grow to a height of over 9 metres in a 25 year period so any replacement of lost tree cover would be very slow. The character of the landscape would be altered as two thirds of the proposed replacement trees would be new species not currently found on the site. Not only would tree cover in the area be reduced, its character would be vastly altered and with very little chance of the tree population returning to the current level of cover and amenity it gives. Within the CA this alteration would have a negative impact with the removal of old historic trees and the introduction of a 'standard set' of early 21st century trees with names such as 'streetwise' (**Document POE 5, Drawing 4**). This would be harmful to the CA and compromise its original context.
110. The use of extra heavy standard trees would be a major risk to the long term prospects for tree cover within The Hawthorns site. Trees of such size require specific, thorough and detailed care, including a good planting technique and regular watering often for a prolonged period. The prospect of many of these trees dying due to lack of maintenance or vandalism is high.
111. The issue of the shape of RPAs remains of concern. It has really only been addressed by the Appellant as a result of the Parish Council's concerns at the Inquiry even though representations about it were made early in the planning process. Although amended RPAs have now been shown there are 17 trees where the RPA still does not reflect the requirements for protection in compliance with the recommendation in Paragraph 4.6.2 of BS 5837:2012.

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<sup>5</sup> Inspector's Note – Although I have recorded the Parish Council's comment, it is not the case that new building in a CA is unlawful or contrary to national policy.

This says that “*modification to the shape of an RPA should reflect a soundly based arboricultural assessment of likely root distribution*” (**Documents CD 28; ID 15; ID 19**).

112. The requirement for RPAs to support retained trees has been pushed to the limit for the Lime trees on The Village frontage (Tree Nos 6646 and 6651). The Appellant indicated that a large amount of the RPA would be covered by the infill to raise the proposed houses by 1.62 m above the current levels. The RPA is shown to extend to the back of the semi-detached houses and so the steps up to them would intrude into this area (**Documents POE 5, Drawing 3 Sheet 2; ID 19**). The Appellant’s tree expert did not propose other than standard construction methods for these steps. The prospect of being able to protect the soil below this as a ‘living’, biologically active oxygenated and well hydrated soil has not been explored and could be impossible.
113. The result of multipronged chipping away at the living space of these trees is likely only to be seen after several years. Unfortunately this is true for many of the trees on the site whose ‘living space’ would be severely cut back and their vitality could suffer as a consequence. The loss of so many trees would destroy the arboreal ambience which is a key landscape feature of the village.

### Design and layout

114. The Council’s design evidence is endorsed. One of the characteristics of Keele village is the diversity of the existing buildings. The “showcase” buildings built during the 19<sup>th</sup> century remodelling of the village use different building materials (stone, brick, render) and even those using the same material are varied by different designs in the brickwork, different coloured rendering or uniquely shaped windows. The design of the proposed housing would not reflect or enhance the nineteenth-century Sneyd estate housing, which dominates the street scene in the centre of the village. Only token changes have been made to standard designs that are in use throughout the country. As a result the designs would be all too similar and the homogeneity of 92 new houses would be excessive.
115. It is to be regretted that there are no details as to the quality of the houses that would be built. It would have been expected that houses would have been designed in accordance with the Code for Sustainable Homes or a similar standard. It is extremely disappointing that the University, which makes high claims to promote sustainability in all that it does, did not use this site for a practical demonstration of those values. Keele village would then be a model village including both 19<sup>th</sup> and 21<sup>st</sup> century elements.

### Other matters

116. The Appellant has placed great emphasis on the economic harm to the University and the wider community if this appeal is refused (**Document POE6, Paragraph 6.4**). This appears to be presented as “*very special circumstances*”, yet nowhere in the application is there a claim for any such circumstances. If this is not claimed then it cannot be a reason to allow the appeal.
117. The benefits to the University are clearly apparent. However the success of the University will not be dependent on the provision of these halls of residence and it will continue to prosper with or without them. The main

benefits therefore appear to be private rather than public, and it is very disappointing that there is no intention to make any contribution to the community, for example, to the village hall.

118. Rule 6 Party status was requested because of the strength of local opposition to the current proposal. Paragraph 188 of the Framework points out that consultation needs to begin early in the design process to be effective. This was not the case because consultation only started when key decisions, such as the number of houses and the area of the site to be developed, had already been made. Local people are united in objecting to this particular plan even if they favour development of some sort, and this too should carry weight within the decision.
119. The land at the front of The Hawthorns site tends to collect standing water and it is proposed to raise the level of the land on which the 6 semi-detached houses would be located. There is a culvert running through the site and it is unclear how this would be dealt with. In addition a new pumping station is to be provided but no detail of where this would be or whether it would have an impact on the CA (**Documents CD 1.26, Page21; POE 7, Section 3.3.5**).
120. The 2012-Based Household Projections for England 2012-2037 indicate that the size of households in the United Kingdom is decreasing. This would support the case for a smaller development to meet local housing needs. The age of households is increasing and so single storey dwellings and apartments are important. Apartments could provide accommodation for several households without significantly increasing the current built footprint. At a recent Strategic Housing Market Assessment workshop there were some different projections relating to population forecasts, including lower household formation in the Borough between 2001 and 2011. It also identified growth in the student population and there is concern about being able to control the occupation of the new houses by students, especially as the number of campus rooms would be reduced as a result of the redevelopment of The Hawthorns. The Planning Practice Guidance indicates that wherever possible local needs assessments should be informed by the latest available information. The 2014 5 year housing land supply assessment is based on outdated data from 1971-2001. The 2012 population projections show that those in the CS were over estimated (**Document ID 40**)

## OTHER ORAL REPRESENTATIONS TO THE INQUIRY

*The main points are:*

121. **Mrs E McAvan** is Headteacher at St John's CE (VC) Primary School, which is on the eastern side of Quarry Bank Road. She made clear that the school is not objecting but has concerns that should be addressed. Her representations are at **Document ID 9** and she also wrote in at application stage (**Document BD 3**). The school supports the County Council's request for a contribution towards primary education to meet the demand for school places from the development. The school currently has a role of 192 children and capacity for 196. Any further expansion would need to take account of the banked topography and should not diminish the small playground.
122. There is concern on safety grounds about the closure of the existing car park prior to the provision of the new one. The displacement of parking to locations

such as Church Bank would result in children having to walk along a road with no pavement. The new drop-off area would need to be for school use only at peak times otherwise it would not be effective in providing a replacement for the existing parking facility that is being lost through redevelopment. A one-way traffic management system and traffic calming measures beyond the school would be essential for safety reasons. Delivery times for the shop should be restricted so as not to coincide with school peaks.

123. **Mr M Blondell** is a student of Keele University who has occupied accommodation at the Hawthorns. His representations are at **Document ID 10**. The proposal would result in a net loss of student accommodation and the cheapest stock at The Hawthorns would be replaced by its most expensive at Barnes. Keele University is the 20th in the country and the first that did not require knowledge of Latin to study. This was to allow local people from working families to attend. However the current scheme would prioritise profit over accessibility and go against the University's professed ethos and history. When the proposal was considered by the Students' Union at planning application stage there was a unanimous vote against it.
124. **Ms W Naylor** is a Borough Councillor for the local ward but was speaking as a resident of over 30 years. Her objections are at **Document ID 11**. Local people are generally not opposed to some form of redevelopment but there are a large amount of objections to this particular scheme. There was some consultation with the local community, which made clear that a large number of trees would be felled, a large number of houses would be built and a closed estate would be created. There was little interest in changing the scheme to take account of the community's views. Drainage and flooding would be a problem, especially with the loss of trees and the increase in hard surfacing. It is unclear whether the six semi-detached houses fronting The Village would be raised to take account of the water collecting in this area. The design of the houses would not reflect the brick and tile architecture prevalent in the village. The proximity of new houses to trees would result in new occupiers applying to have them removed. The University has other land that it could use to fund top quality student accommodation.

## WRITTEN REPRESENTATIONS

### *To the Appeals*

*These are at Document BD 4. The main points are:*

125. **Mr G Blake** is a resident and student of Keele University. He objects to the poor level of consultation by the University with the student body. On voting for the proposal put forward it was unanimously rejected. There is a very positive and mutually beneficial relationship with the village which would be lost if the proposals went ahead. The new Barnes blocks would be large and unsightly and the proposal would result in less and more expensive accommodation. Other local objections are supported, including the concern about loss of trees and reduction in green space, increase in vehicular traffic and lack of additional amenities for new and existing residents.
126. **Mr and Mrs J Wright** are residents of the village. The scheme would more than double the size of the village but additional amenities and infrastructure have not been included. The school would be insufficient in size to cater for

the new population. Trees would be destroyed. Village roads are not designed for the traffic volume that would be generated. The proposal was rejected by democratic vote and that decision should be respected.

127. **Professor C M Hackney** does not consider it appropriate to build an urban housing estate, which would entail the loss of more than 160 trees and green space, in the middle of Keele village. Development by the University should be on the main campus.
128. **Dr and Mrs R Studd** are residents of the village. The accommodation at The Hawthorns is in poor condition and should be replaced or an alternative use found for the site. Market housing would be an appropriate alternative but the GB status of the site and the inclusion of part of the site in the CA should be recognised. The number of houses would be too high and they should not be located on land that has never been developed and periodically floods, close to The Village. The inclusion of 25% affordable housing contradicts the need for lower density, higher quality housing and could be provided in the campus part of the development. The design of houses on The Hawthorns site would be pastiche and of little architectural merit. The eco standards fall far short of what ought to be expected from a University site.
129. **Mr D Casey and Ms S Gates** are the proprietors of the Sneyd Arms public house in the village. They object to the size of the development, loss of trees and impact of the poorly designed modern houses on the historical and picturesque village. The students add to the vibrancy of the village and contribute to a socially diverse community. The University has failed to make any contribution to village facilities. Most of the pub's business comes from the students, their families and conference guests and this would be lost with the redevelopment. New homeowners would not use the pub as often as students and there would be insufficient local village trade to sustain the business without the students. During construction there would be a loss of trade because this would no longer be a quiet village rural pub. The closure of the pub would result in the loss of an important community asset and loss of local employment.
130. The proposed new car park would be insufficient in size and the pub car park would be used. This would mean nowhere for regular patrons to park leading to loss of trade. In addition this is likely to be an issue during construction when Quarry Bank Road becomes obstructed.
131. **Mr P Brenner MRICS** is a local resident and a Chartered Surveyor with over 30 years experience of development and construction. He referred to his experience of dealing with large scale development projects of various kinds. He made a written contribution to the Parish Council's evidence and submitted a written response to the appeal. There was also an oral submission, which I have referred to in Paragraph 5 above (**Documents POE 7, Evidence Proof 3; BD 4; ID 36**). For ease of reference his comments have been included together here and the main points are set out below.
132. A sympathetic redevelopment of The Hawthorns would be welcomed. Central to this however would be retention of the open area at the front of the site, which is treated by students, residents and villagers as an area for recreation. For generations it has been a "village green" which provides the village with a rural character. About 40% of the appeal site is within the conservation area

and is a recognised area of natural beauty. The proposed buildings and significant loss of trees would have a detrimental effect on the historic character and village setting. The changes in levels and proposed dwellings fronting The Village would have an unacceptable impact on the street scene.

133. There are limited local services in the village. The proposal would not exploit the unique relationship between the village and the University or promote the long term sustainability of the village. There would be insufficient infrastructure to support a development of this scale and it could lead to the closure of the public house, which is an important community asset. The viability of the new shop is questionable without the custom of students and visitors. Its location would not be sufficiently prominent or visible to attract passing trade.
134. Much of the existing character of the appeal site is derived from buildings nestled between trees that have existed for many years. The new houses would not be on the existing footprint but instead would dissipate development around the site. It would push buildings further into the GB and result in the loss of a large number of trees, many of which are protected. This would have an unacceptable visual and ecological impact on the GB and CA. The application included no 3 dimensional perspectives which would normally be expected in order to understand what is proposed. The overall footprint of the new development would appear to be greater than the existing and no very special circumstances have been put forward to justify the development.
135. The proposal would be excessive in size and density relative to the village and is not required to meet local rural housing needs. The layout would be poor with a disregard for its surroundings and reminiscent of a post-war social housing estate. It would be urban in character and not integrate successfully with the rural village. The road system would be confusing and illogical and the green spaces would be created as islands surrounded by roads. They would not be of benefit to the wider community. Additional traffic would be excessive in comparison with the existing situation.
136. Mr Brenner put forward his own suggestions as to how the site could be developed, which should be focussed on community involvement. The proposal would not sit well with the environmentally conscious credentials that the University advocates. There are other opportunities for the University to generate the capital it needs to facilitate the provision of new student accommodation. Also there are other opportunities for providing student accommodation without the University utilising its own capital, for example through private developers. These alternatives have not been explored.
137. **Ms J Corfield BSc DipArch RegArch PGDiplBConsAA IHBC** also made a written response, which was attached to the Parish Council's evidence. However it was not delivered orally and could not be tested through cross-examination. It has therefore also been treated as a written submission (**Document POE 7, Evidence Proof 1**). Ms Corfield is a Keele Parish Councillor and a registered architect. She has worked for English Heritage and as a Conservation Officer and the main points in her written evidence are as follows.
138. The CA was designated in 1989 primarily because of its historic associations. It has high historical and evidential value due to its long historical associations

and its structure as an estate village designed and controlled by the Sneyd family. Buildings have high aesthetic value, sharing common details that show the controlling influence of the estate. The presence of the University provides communal value and strong associations for the students who live there. Trees are an important and dominant characteristic and their screening effect provides the perception of the place as essentially rural.

139. The Hawthorns and the churchyard provide the two open spaces. There would be the opportunity to provide a village green opposite the village hall, which would retain the green nature of The Village approach. The openness of the GB and the existing parkland setting could be preserved by retaining trees and clustering dwellings amongst them. Ribbons of suburban estate type houses should be avoided. Houses should not directly front the road but should be screened by the trees to retain the open approach that currently exists until the core of the settlement is reached. The impact of the new development would thus be reduced and the setting of the listed and locally listed buildings undisturbed. Where traditional details are used they should be of good quality and not appear as poor copies. Fences should be avoided and should be replaced with estate railings and hedges to replicate existing details and give a sense of coherence.
140. **Mrs C Brenner** is a local resident and objects to the demolition of buildings until an acceptable replacement has been granted permission. She supports the Council's reasons for refusal in relation to the redevelopment proposal.

#### ***To the Planning Application and Conservation Area Consent Application***

141. There were a large number of objections to the applications from **local people**, including a **petition** with 334 signatures. These are in the Questionnaire (**Document BD 3**). Most of the objections related to The Hawthorns redevelopment and those points that have already been recorded in the paragraphs above have not been repeated. Additional points are as follows:
- 141.1 The trees that would be removed include a fine protected Wellingtonia, which is a commemorative tree for Professor Paul Rolo planted in November 1982 at The Hawthorns to mark his retirement.
- 141.2 The conference suite does not have to be demolished. It could be converted, perhaps to sheltered accommodation or a new village hall. There is no guarantee that there would be no significant impact on the maternity bat roost.
- 141.3 Fencing and walls, including to individual properties, would have an adverse impact on the openness of the site.
- 141.4 There are currently open views through the site, for example between Quarry Bank Road and Station Road. Planning permission was recently refused on appeal for a new bedroom above a garage to a property in the village. It was considered that this would harm the openness of the GB. It is hard to understand how, if that was the case, 92 houses could be considered acceptable.

141.5 Many objectors mentioned traffic and highway issues.

- At peak times there are already traffic problems. These would be exacerbated leading to more congestion and pollution. The traffic survey was not representative because it was done at exam times.
- The increased traffic could cause harm to the safety of pedestrians, including children, due to the narrow footpaths and the fact that speed limits are not always respected.
- There are few local employment opportunities and most residents commute by car. This would be likely to apply to new residents too.
- There should be more than one entrance into the site to avoid the concentration of vehicular movement at a single point.
- The Highway Lane junction already has poor visibility due to the parked cars. The increased traffic from the new access, which would be opposite, would make matters more dangerous.
- The by-pass was built to remove traffic from the historic village and this scheme would reverse that objective.
- Parking is already a problem in the village and this would worsen due to the insufficiency of on-site parking for new dwellings.

141.6 There is concern that the new dwellings would be purchased on a "buy to let" basis and then used by students as houses of multiple occupation thus significantly increasing the population on the site.

141.7 There should be more apartments to accommodate the elderly population of the village. This would provide more residential units on a smaller footprint using communal open spaces.

141.8 The village school is currently at capacity and would not have sufficient space to expand and accommodate the children from a development of this size.

141.9 The village hall would be too small to serve such a large increase in population.

142. Some objectors also raised concerns about the new student accommodation at Barnes. It was felt that the accommodation blocks would be excessive in scale and harm the present spacious character of the site and result in loss of trees. They would interrupt the skyline when viewed from Newcastle. The architecture would be rather brutal in appearance.

143. There was also a letter of support on the basis that Keele village needs new life rather than being an adjunct of the University.

## Consultation Responses

These are at **Document CD 1.26 and BD 3**. The main points are:

144. **Staffordshire County Council as Highway Authority** raised no objections, subject to various conditions relating to The Hawthorns site about such matters as access, visibility splays and the retention of garages for parking purposes. A contribution to sustainable transport was also sought. As **Education Authority**, the County Council pointed out that about 62% of the pupils at St John's primary school do not live in the catchment and this reflects the duty to promote parental preference. Nevertheless when the school is considered with other primaries in the geographical area, there would be a capacity issue. Madeley High School has limited secondary school places available. An educational contribution was therefore sought. The County's **Landscape Archaeologist** recommended an archaeological evaluation for The Hawthorns site following demolition. Also a building recording survey should be carried out prior to any works to historic buildings. A condition was recommended accordingly.
145. **The Environment Agency** has raised no objections, subject to conditions relating to drainage, contamination and requiring development in accordance with the Flood Risk Assessment. **Severn Trent Water** raised no objections, subject to details for the disposal of foul and surface water drainage.
146. **English Heritage** made no comments on the proposal.
147. **The Conservation Advisory Working Party** raised several issues and suggested alternative solutions, including replacing the semi-detached properties at the front of the site with a few larger properties set amongst the trees. Following the submission of the amendments no objections were raised, although it was requested that the school drop-off parking area should operate as a one-way system and the spaces be set diagonally.
148. **Natural England** advised that the proposal would be unlikely to affect any statutorily protected sites or landscapes. There would be likely to be an effect on bats due to damage or destruction to a breeding site or resting place but the proposed mitigation would be acceptable. A condition requiring a detailed mitigation and monitoring strategy was suggested. Consideration was not given to licensing.
149. **The Staffordshire Wildlife Trust** considered that there was inadequate reasoning of alternatives to justify the demolition of the two buildings used by bats as required by the Habitats Regulations. Although only one beech tree appeared to be a suitable roost site, ecological supervision would be needed for the tree work, including pruning and thinning in case bats were present. Some of the felled timber should be incorporated into the landscaping scheme to benefit other wildlife, including hedgehogs.
150. **CPRE** considered there were some merits in the proposal, for example that the housing would accord with the architectural style of the village. However it would not accord with the University's Masterplan which stated that the land would be used for educational or linked purposes. There was objection to the reduction in the number of student rooms. Also the site is at the edge of the village and the proposal would further disperse development within the GB.

151. **The MADE Design Review Panel** would have preferred to review the proposal prior to the application being made in order to inform the final design.

151.1 The Hawthorns element

- The reflection of local vernacular in house design was commended.
- The retention and integration of historic buildings was welcomed.
- The layout was not so positively viewed. It would be incoherent, inward looking and fail to contribute to the development of the village. In some respects it would be reminiscent of the worst kind of volume house-builder layouts.
- The houses facing The Village would reflect local patterns.
- The predominance of cul-de-sacs and lack of connection to the wider village was not favoured. Better connections through the site would have aided legibility.
- Open spaces would be poorly connected and pedestrian movement across the site and into the village would be contrived.
- The opportunity to connect the drop-off facility to a play space had been missed.
- The parking court was unlikely to be used and The Hawthorns parking area should be broken up with planting.
- Building for Life 12 principles should be employed.

151.2 The University Campus element

- Overall there was an absence of a spatial Masterplan for the campus and the risk of ad hoc development leading to an incoherent and illegible collection of buildings.
- With Block 1 there was confusion about which was the front and rear of the building and how the two would connect. The addition of further parking to the large existing car park was not favoured.
- Block 2 would not be successful in enclosing the street and the car parking area may appear intrusive.
- The appearance, height, scale and massing of the new buildings would be appropriate.

## PLANNING CONDITIONS

152. The Council and Appellant produced a list of agreed conditions (**Document ID 34**). The conditions were discussed in detail at the Inquiry and I have also considered the input of the Rule 6 Party. I have suggested various changes in the interests of precision and enforceability and otherwise to accord with the provisions of the Framework and Planning Practice Guidance. The conditions that I recommend, if the Secretary of State is minded to allow the appeals, are contained in the Schedules at Annex 3 and Annex 4. The numbering does not accord with that within the **Document ID 34** list as some conditions have been deleted. For the avoidance of doubt the condition numbers in this section of the Report and hereafter concur with those in the Annexes.
153. The main appeal comprises two separate elements relating to The Hawthorns site and the University Campus (Barnes) site. Whilst these are part of the same proposal they are separate sites and involve different types of development. Whilst some of the same conditions are appropriate to both

elements, others are not. In the circumstances it seems most appropriate to divide the conditions into two parts, each relating to its individual element.

154. The link between the two parts of the scheme will be considered further in the Conclusions section of the Report. **Condition 1** sets out the implementation provisions for both parts of the scheme. As the 92 new dwellings at The Hawthorns would contribute to the agreed 5 year housing land supply deficit a shorter 2 year implementation period is considered justifiable. All of the houses could be delivered within the next 5 years if the 2-2.5 year development programme anticipated by the Appellant is realised. The Appellant is content with an 18 month start time for the Barnes part of the scheme on the basis that it is envisaged that the new student accommodation would be needed relatively quickly. The pre-commencement conditions are such that this timescale would seem realistic.

### ***Appeal A: Conditions specific to The Hawthorns element***

155. Whilst the appeal proposals are not considered by the Appellant to involve “enabling” development, the redevelopment of The Hawthorns would provide funding for the new student accommodation on the University Campus. If this is a benefit to which any material weight is attached, there would need to be a condition linking the two. This is set out in **Condition 2** and its justification is further reflected in my Conclusions.
156. **Conditions 3 and 4** relate to access provision and sight lines. These are required in the interests of highway safety. **Condition 5** concerns the gradient of private driveways. In view of the sloping topography of the site it is necessary to ensure that new occupiers can safely reach their properties, especially in icy weather conditions.
157. Although landscaping information has been provided by the Appellant this was an appeal document. A more detailed scheme is necessary and the planting along the north-western boundary in particular should be more carefully considered. There was considerable debate at the Inquiry about tree protection and RPAs. In the circumstances it is necessary to require a new Arboriculture Method Statement with details of tree protection methodology and special engineering works that would be employed to ensure the continued health of the retained trees. **Conditions 7 and 8** cover these matters in the interests of visual amenity.
158. The scheme includes a number of open spaces, which are intended to be accessible to the existing community as well as new occupiers. Play facilities would also be included, probably within the area known as The Bowl. **Condition 9** requires details and a timetable for provision and is necessary in accordance with Policy C4 of the LP. Maintenance arrangements are provided in the Section 106 Agreement. **Condition 10** relates to boundary treatments. This matter is considered further in my conclusions. Notwithstanding those provisions shown on the Appellant’s landscape plan submitted with the appeal (Drawing No D4478.006A) the matter of boundary treatments should be reconsidered in view of the GB location and openness issue. I have also added an implementation clause.
159. **Condition 11** would remove permitted development rights for extensions, including to the roof, and garden development such as outbuildings. This

seems to me a necessary restriction given the density of development and its GB location. However the Council has also suggested removing the right to erect satellite dishes. This seems difficult to justify on the grounds of openness and even taking account of the location of part of the site within the CA. A similar restriction is unlikely to apply to most other houses in Keele village and therefore there seems little reason to require it here.

160. In view of the findings of the desk-based archaeological assessment and the views of the County Archaeologist, it is considered necessary to require an archaeological investigation (**Documents CD 12; BD 3**). This would be covered by **Condition 12**. The proposal includes the removal of various extensions to the side and rear of Hawthorns House, which would expose various parts of the building. In view of its local importance and position within the conservation area, it would be appropriate to require details of how these would be dealt with under **Condition 13**.
161. **Conditions 14-17** concern contamination and remediation if it proves necessary. The assessment submitted with the application identified some areas of made ground and I understand that ash residues may be present in The Bowl (**Document CD 1.4**). Bearing in mind the future residential use, including the provision of gardens, it is considered that the requirements are a reasonable and necessary precaution. I have reworded some of the clauses of the conditions and have rationalised the timetabling.
162. The Appellant anticipates that the site would take 2-2.5 years to build out. In view of its location within the village there is likely to be a not insignificant period of inconvenience and disruption to those living close by. Whilst this cannot be prevented it can be controlled through the submission of a Construction Method Statement as detailed in **Condition 18**. The Council's suggested condition refers to the control of noise and vibration. Unfortunately construction sites are not the quietest of places and there is insufficient information to devise a requirement that would establish acceptable limits for the emission of noise or vibration. Without this the condition would be imprecise and difficult to enforce.
163. **Conditions 19 and 20** cover matters of flooding and drainage. The appeal site is within Flood Zone 1 and therefore there is low risk of flooding from fluvial or tidal sources. The Flood Risk Assessment identifies that the highest risk is from surface water flooding resulting from intense summer downpours (**Document CD 1.5**). In order to counter the effects of increased surface water run off, taking account of climate change, it recommends that a 50% reduction in overland flows from current levels would be appropriate through use of on-site infiltration, storage and attenuation. The conditions comply with advice from the Environment Agency. **Condition 21** concerns foul drainage. A new wet well pump is proposed within the parking area to the rear of the proposed houses fronting The Village. In order to minimise the risk of pollution it is reasonable to require the details to be provided for approval (**Document ID 33**).
164. The conference suite, which is proposed for demolition, has been identified as the site of a maternity bat roost. Another building, which is to be demolished, is also identified as having bat presence. Natural England was satisfied that, with the mitigation proposed, the Habitats Regulations would not be breached. One beech tree has been identified as having roosting potential but it is not

intended for felling. Main foraging routes were found to be over farmland to the south (**Document ID 31**). Natural England recommended a condition requiring a bat mitigation and monitoring strategy and **Condition 22** is therefore a reasonable and necessary requirement.

165. At present the University car park off Quarry Bank Road is used by parents dropping off children to the primary school opposite. It is important that the new drop-off facility, which is being proffered as one of the benefits of the scheme, would be provided at an early stage in order to ensure young children would have a safe point of delivery to school. The existing campus shop would be replaced by a new shop, which is also considered to be a scheme benefit. Again the timing of this facility needs to be agreed with the Council. **Condition 23** covers these matters. The timetable for provision of the open spaces and children's play space would be covered by **Condition 9**.
166. **Condition 24** requires details of external materials and is necessary in order to ensure that the development harmonises with its surroundings, including the CA. The site has various topographical changes but the plans did not include satisfactory site sections to show how ground levels would be changed and how the new buildings would address the variations in gradient. In order to ensure that the development integrates satisfactorily with its host environment, including the GB countryside to the west, these details will be very important. **Condition 25** covers this matter. **Condition 26** specifies the approved drawings in the interests of proper planning and for the avoidance of doubt.
167. The Rule 6 Party wished to see a condition to prevent the establishment of houses in multiple occupation. The concern was that the new houses would be purchased on a "buy-for-let" basis and then leased out to students. However such a use is now in a separate Use Class to a dwelling house (Class C4) and so planning permission would be needed for such a change. A condition would thus be unnecessary.

#### ***Appeal A: Conditions specific to the University Campus (Barnes) element***

168. **Condition 2** concerns landscaping and this would also include new tree planting. The use of the words "substantial" in relation to the new trees however is difficult to define and would not meet the test of precision. A 3 month period for landscaping details to be provided is reasonable in view of the reduced implementation period. **Condition 3** concerns tree protection and I have re-worded the 2 suggested conditions for greater concision and also so that the wording is similar to that used on The Hawthorns site.
169. **Condition 4** requires details of external materials and is necessary in order to ensure that the development is in keeping with its surroundings. The Appellant anticipates that this part of the development would take about 18 months to build out. The new buildings would be close to existing student accommodation and there would be a period of inconvenience and disruption to those occupiers. Whilst this cannot be prevented it can be controlled through the submission of a Construction Method Statement as detailed in **Condition 5**. The Council's suggested condition refers to the control of noise and vibration. For the same reasons as given in Paragraph 161 above such a requirement would not be appropriate.

170. **Conditions 6-8** cover matters of flooding and drainage. The appeal site is within Flood Zone 1 and therefore there is low risk of flooding from fluvial or tidal sources. The Flood Risk Assessment identifies that the risk from other sources, including surface water, is also low. It is however recommended that an assessment of the capacity of existing drainage infrastructure is made to deal with the additional flows arising from the development (**Document CD 1.16**). In order to counter the effects of increased surface water run off, taking account of climate change, it recommends that existing runoff rates should not be exceeded. The conditions comply with advice from the Environment Agency.
171. **Condition 9** specifies the approved drawings in the interests of proper planning and for the avoidance of doubt.
172. The Council's Landscape Officer considered that minor adjustments to the proposed footpaths and bin stores would result in more trees being retained. The suggested condition refers only to Block 2 and, as far as can be ascertained from the available information, the group of trees in question are graded as having moderate quality and value. However it is unclear what changes are being suggested to enable the trees to be retained or the practicality of doing so. This is a full application and it seems to me that the suggested condition lacks precision and should not be imposed. In any event my site observations confirmed that this would not be necessary in order for the development to go ahead.
173. The Council has also suggested a number of conditions to deal with potential contamination. The site of Block B was previously occupied by a children's nursery, which has since been demolished. There is no specific evidence of contamination and the conditions seem unduly onerous and unnecessary. It was also suggested that full details of recycling and refuse storage arrangements should be submitted. However the submitted plans show sufficient detail to make this an unnecessary requirement.
174. The need for a condition requiring a Travel Plan was discussed. However most students living in the new accommodation blocks would be educated on the campus site. There is in any event a very good public transport service that operates already. Apart from during the construction phase the development would not give rise to new employment and so a Travel Plan does not seem appropriate in this case.

### **Appeal B**

175. This relates specifically to the demolition required for the development to go ahead. Policy B11 in the LP includes a criterion that consent should not be given to demolish a building within a conservation area unless detailed plans for redevelopment have been approved. It is thus necessary to include a condition to this effect.

### **PLANNING OBLIGATION BY AGREEMENT**

176. The Section 106 Agreement is made between the landowner, developer, Borough Council and County Council (**Document ID 35**). It is dated 13 February 2015 and the Secretary of State can be satisfied that the document is legally correct and fit for purpose. I consider whether the obligations are in

accordance with the statutory provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in Paragraph 204 of the Framework in my Conclusions. A CIL compliance schedule was prepared jointly by the Appellant and Council (**Document ID 29**). There is a "blue pencil clause" in the S106 Agreement which enables the Secretary of State to strike out contributions that do not meet the tests for planning obligations set out at Regulation 122.

177. Contributions would be made towards primary and secondary education. The latter payment of £132,976 towards secondary education would be made on the commencement of development. The contribution of £209,589 towards primary education would be subject to the overage provisions discussed below. Schedule 7 includes provision for the maintenance of the public open spaces. These are identified on an attached plan and include the land in front of Hawthorns House and The Bowl as well as a number of other areas.
178. There are three contributions relating to affordable housing, primary education and transport, which are subject to an overage clause and payable if there is sufficient increase in the value of the site over time. This is on the basis that the site cannot support these payments at present on the grounds of viability. There are several triggers for the submission of new viability assessments set out in Schedule 3. The first is if development has not commenced within a year, the second is following the disposal of the 80<sup>th</sup> dwelling and each year thereafter until all properties are disposed of. In addition, a final account is to be prepared after the disposal of the 92<sup>nd</sup> dwelling. The overage provisions come into effect if the RLV (allowing for the contributions) exceeds the Existing Use Value. There is also a provision if some, but not all, of the contributions could be paid. In such circumstances the order that the contributions would be paid would be education, affordable housing and then transport.
179. The Council seeks on-site affordable housing wherever possible, but a commuted payment can be acceptable on the basis of broad equivalence (**Document CD 8.3**). The affordable housing sum is worked out by a formula in Schedule 2. It is based on 25% of the total number of dwellings, which would be 23 units. The payment is based on the sales values of the identified 2 and 3 bedroom dwellings and the schedule includes a worked example. The Overage Education Sum would be £209,589 and this is based on the cost of providing for the primary education needs of the development. The basis for working out the payment is set out in the *Education Planning Obligations Policy* (**Document CD 8.3**). The County Council undertakes annual capacity projections that form the basis for deciding whether there would be sufficient space to accommodate additional children from new housing developments (**Document 1.26, Page 21**). The Newcastle Urban Transport Strategy Sum would be £99,003. This is worked out on the basis of trip generation. The Council's document *Transport and Development Strategy* covers a period between 2008 and 2013 (**Document ID 28**). It seeks to promote sustainable travel and has an ongoing rolling programme and the document is currently being reviewed.
180. Provision is made for a Monitoring Fee of £437.50, which is payable to the County Council. Further information was invited on this and I consider the responses in my Conclusions (**Document ID 40**)

## CONCLUSIONS

*The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions.*

181. Taking account of the oral and written evidence and my site observations, the main considerations in this appeal are as follows:
- **Consideration One:** Whether the proposed development of The Hawthorns site is needed to meet the housing requirements of the Borough and contribute to any short term housing land supply deficit.
  - **Consideration Two:** Whether the proposed development of The Hawthorns site is inappropriate development in the GB.
  - **Consideration Three:** The effect of the proposed development at The Hawthorns, including the loss of trees, on heritage assets.
  - **Consideration Four:** The effect of the design and layout of the proposed development at The Hawthorns on the character and appearance of the area
  - **Consideration Five:** Whether there is sufficient justification for the lack of affordable housing provision and contributions towards mitigating impacts, including education provision.
  - **Consideration Six:** Other Matters
  - **Consideration Seven:** Whether any conditions and obligations are necessary to make the development acceptable.
  - **Consideration Eight:** Overall conclusions and planning balance.

### **Consideration One: Whether the proposed development of The Hawthorns site is needed to meet the housing requirements of the Borough and contribute to any short term housing land supply deficit**

182. There is no dispute that the Council cannot demonstrate a 5 year supply of deliverable housing sites as required by the Framework. The present requirement in the CS, which was adopted in 2009, is based on old Regional Strategy projections. The new joint Local Plan is currently at a very early stage and is not expected to be adopted until the end of 2018. Its housing requirement will be based on more up-to-date household projections and an objective assessment of housing needs will be underpinned by a new Strategic Housing Market Assessment. However at the moment this work is at an early stage and any figures referred to at the workshop attended by the Parish Council have not been subject to scrutiny and cannot be relied upon. [15; 70; 120].
183. A recent appeal decision (12 January 2015) for residential development at Baldwin's Gate, Newcastle-under-Lyme confirmed that a 5 year supply could not be demonstrated. On the basis of the Council's latest monitoring information this stands at 3-4 years. Whilst the 2012-based household projections have now been issued, the Council has confirmed that it does not wish to change its position at the present time. Although the size of households nationally may be decreasing and the age of households

increasing, in the Borough the new projections suggest that households will continue to increase. It seems unnecessary to consider the matter further here because, regardless of the new household projections, the Council accepts that it cannot demonstrate a 5 year supply of deliverable housing sites. Even if there is a supply of 4 years, this is still a serious and significant deficit and means that homes are not being provided for those that need them [7; 33; 70; 120].

184. Paragraph 47 of the Framework seeks to boost housing delivery significantly. There is a reasonable probability that the 92 homes proposed at The Hawthorns would be completed within the next 5 years and the Appellant has not objected to a shorter implementation period. Paragraph 49 of the Framework establishes that housing applications should be considered in the context of the presumption in favour of sustainable development. It goes on to say that relevant policies for the supply of housing should not be considered up-to-date if a five year supply of deliverable housing sites cannot be demonstrated. That is the case here [33; 154].
185. Saved Policy H1 in the LP seeks to direct housing to sustainable locations and to protect the countryside. Whilst this is an objective that should be supported, it relies on settlement boundaries that cannot be considered up-to-date. This is not only because the LP was seeking to accommodate housing requirements up to 2011 but also because those requirements were even older, being based on the old County Structure Plan. In the CS, Policy SP1 sets out the spatial principles for targeted regeneration and Policy ASP6 contains the spatial policy for the Rural Area. Insofar as these policies restrict development to the main urban areas and key rural service centres they restrict housing supply and are therefore out-of-date. This means that although there would be conflict with the aforementioned policies as Keele is not a village with an envelope, they would be reduced in weight by virtue of Paragraph 49 of the Framework [18; 19].
186. It is therefore concluded that the proposed redevelopment of The Hawthorns would contribute to the short term housing land supply deficit. This would be an important benefit that weighs in favour of the scheme [33; 74].

**Consideration Two: Whether the proposed development of The Hawthorns site is inappropriate development in the GB.**

187. There is no dispute that the appeal site is within an area that is washed over by the GB. Saved Policy S3 in the LP sets out the presumption against new development, save for a limited number of purposes. One of these relates to the village of Keele where residential development of one or two dwellings within a small gap would be acceptable, provided it does not contribute to the amenity of the area. The appeal development would clearly not meet this provision. However this policy is not consistent with the Framework in that under Paragraph 89 the construction of new buildings on previously developed sites is not inappropriate provided it would not have a greater impact on the openness of the GB and the purpose of including land within it than the existing development. Taking account of Paragraph 215, the Framework policy would outweigh Saved Policy S3 in the LP [18].
188. The site at present is occupied by two, three and four storey buildings in use as student accommodation and various management and administrative

functions. There is no dispute that the site comprises previously developed land although it does include large green spaces between the developed areas and adjacent to its boundaries. Although the Council has not objected on grounds of inappropriateness, this is a matter that has been contested by the Parish Council on the grounds that there would be a significant loss of openness. There is no dispute that there would not be a breach in GB purposes [10; 54].

189. Paragraph 79 of the Framework confirms the long standing principle that GBs are of great importance and that their essential characteristics are their openness and permanence. When considering openness there are both quantitative and qualitative measures and reference was made to a recent appeal decision by the Secretary of State relating to a residential development on GB land at the Building Research Establishment campus in Hertfordshire. The current proposal would result in an increase in built development, taking account of the roads, footpaths, driveways and hard surfacing. However the most useful quantitative measures in a consideration of openness seem to me to relate to the footprint and volume of the buildings themselves. On the evidence there would be a significant reduction. The number of buildings would increase but they would occupy less space on the site and would be generally smaller and lower than what exists at present [55; 99; 100].
190. There would be buildings on parts of the site where none currently exist, for example within the area next to the western and south western boundaries. Even so, apart from a few garages, the new houses would be well set back from the site perimeters. There is good tree screening and where this would be removed there are plans for new planting. Overall, when the site is viewed from the rural land to the west, including the public footpath that runs across the adjoining farmland, it is difficult to imagine that the observer would gain the overall impression that there had been a material loss of openness or detrimental change in character [52; 55; 101; 102; 150].
191. It is acknowledged that there would be a greater spread of development across the site and that visual permeability would be reduced in some places. However from many viewpoints the existing spaces between one residential block and its neighbour are not apparent due to their relative positioning. The impression is of a mass of three and four storey development especially within the north eastern part of the site. When considering the issue of openness it is necessary to view the site as a whole. In quantitative terms it is clear that the open character of the site would be preserved. In qualitative terms there is greater subjectivity. However considering the site overall it is my judgement that openness would not be materially diminished by the proposed development [55; 100; 134; 141].
192. In the circumstances it is concluded that the appeal scheme would not be inappropriate development in the GB. There is therefore no need to consider the matter of very special circumstances. However if the Secretary of State disagrees with my conclusion I address this matter further under Consideration Eight.

### **Consideration Three: The effect of the proposed development at The Hawthorns, including the loss of trees, on heritage assets.**

193. The CA was designated in 1989 and includes the southern part of the appeal site. It contains three buildings of local importance, Hawthorns House, The Villa and its associated Barn. The Design and Access Statement accompanying the planning application included a Statement of Significance. However to my mind this is a rather superficial piece of work and does not address Paragraph 128 of the Framework, which not only requires a description of the significance of any heritage assets affected but also the contribution made by their setting and the potential impact of the proposal on their significance. It is fair to record that the Council has not undertaken a formal CA Appraisal itself and when it determined the application did not have the information about the historic environment that would accord with Paragraph 169 of the Framework. The main evidence on which the Secretary of State can rely when assessing the significance of the heritage assets and the effect of the appeal proposal upon them, is that provided by the heritage witnesses to the Inquiry. This includes the *Rapid Conservation Area Appraisal*, which was undertaken by the Council's heritage expert for the purposes of the appeal [11; 43; 86; 90].
194. The statutory background is provided by the *Planning (Listed Buildings and Conservation Areas) Act 1990*. The Council does not allege that any statutorily listed building or its setting would be affected. There is a Grade II listed house in Pump Bank but its setting in a northern direction is already curtailed by the adjacent village hall. The listed Milepost is a roadside feature on the opposite side of The Village, but the appeal site at this point would retain the existing mature Lime trees along the frontage and the younger Limes behind. The context of the listed Milepost would therefore remain unchanged. Section 72 of the Act sets out the general duty with regards to conservation areas, which is that *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*. It should be noted that in terms of the Act there is no statutory duty that relates to the setting of a conservation area or to the protection of locally listed buildings [12; 104].

#### ***The significance of the heritage assets***

195. The Framework requires consideration of the impact of a proposal on the significance of a designated heritage asset and makes clear that significance can be harmed or lost through alteration or destruction of the asset or development within its setting. The designated heritage asset in this case is the CA. The Framework also requires consideration of the effect of a proposal on the significance of a non-designated asset, which should be balanced in terms of the significance of the asset and the scale of any harm or loss. The non-designated assets in this case are The Hawthorns, The Villa and its associated Barn. These contribute to the significance of the CA but they also have significance in their own right. Whilst the relevant development plan policies pre-date the Framework, they are generally consistent with its objectives. These include saved Policies B5, B8, B9 and B10 in the LP and Policy CSP2 in the CS [18; 19; 44].
196. Keele village dates back to Norman times but by the mid-19<sup>th</sup> century it was controlled by the Sneyd family who had built the listed Keele Hall to the east, which is now within the University Campus. The village is centred on a historic

core around the junction of Quarry Bank Road, The Village, Keele Road and Three Mile Lane. Plots in the CA are generally irregular in shape, size and orientation resulting from an informal pattern of organic growth. An element of planning was introduced through the remodelling of the village in Victorian times by Ralph Sneyd who erected new showpiece buildings and realigned the road that is now The Village. Much of the special interest and significance of the CA today derives from this period of history when Keele became a model estate village within an agricultural landscape [43; 87; 90; 138].

197. The church is a dominant feature within a prominent elevated position and there are other notable buildings, mostly of local importance, that originated from this period. These include the Sneyd Arms public house, Keele Farmhouse and the Old School House as well as The Villa on the appeal site. These buildings were designed to look important and they are distinguished by their distinctive architecture, including low roofs punctuated by asymmetrical dormer gables, prominent chimneys and polychromatic brickwork. The Hawthorns is something of an anomaly in its design and form and seems to have originated as a farmhouse that stood well back on its site within farmland to the north of the village [12; 43; 90; 139].
198. Trees, greenery and boundary hedges make an important contribution to the rural character of the CA, including along its approaches. There are also significant open spaces, most notably the area around the Grade II\* listed church and the western end of Keele Park, which is part of the Grade II Registered Park and Garden. In addition various other private spaces make a contribution such as the spacious gardens of various houses outside the historic core and the open land in front of The Hawthorns [10; 12; 90; 138].
199. It was generally agreed between the parties that the setting of the CA could be relatively widely drawn to include the agricultural landscape in which it is experienced. The remainder of the appeal site forms part of its setting. The green open spaces and mature trees within The Hawthorns site provide a green backdrop that contributes positively to significance. I turn now to consider what effect the appeal proposal would have on the significance of the heritage assets and whether the CA area would be preserved or enhanced by the proposed development. It is also necessary to consider whether any identified harm to the designated asset would be substantial or less than substantial in terms of Paragraphs 133 and 134 of the Framework [46; 89].

### ***The demolition of the existing campus buildings***

200. All buildings on the appeal site except Hawthorns House, The Villa and its associated Barn would be demolished. It does not seem to me that any of the institutional development, which is utilitarian in design and relatively uncompromising in appearance, contributes positively to the CA. In terms of scale and form there is little that reflects the features that characterise the estate village. Some local objectors considered that the conference suite should be retained and converted. However the Council has raised no objections to the proposed demolition of this or the social/ services building, which I consider to be modern intrusions that detract from the CA at this point. Furthermore in my opinion their proximity diminishes the open character and setting of The Villa and Hawthorns House. The removal of these buildings from within the CA and the accommodation blocks from within its setting would

undoubtedly be a benefit in terms of the significance of the designated and undesignated heritage assets [45; 46; 90; 141].

### ***The renovation of the undesignated heritage assets***

201. Hawthorns House would be retained, renovated and converted to two apartments. Whilst I do not know its structural condition its present appearance is shabby and uncared for. The Council complained that details of the refurbishment were not included but this is not a listed building and there is no reason why the matter could not be satisfactorily controlled by a planning condition. The extensions and additions to the side and rear would be removed. However the evidence suggests that some of these elements may have been built contemporaneously to the main house or as an early addition. Their removal would diminish the historic and architectural interest of the undesignated heritage asset to some degree [47; 90].
202. On the other hand the front elevation, with its impressive entrance porch, and the eastern elevation, with its bay window, would be retained and refurbished. I consider that overall the proposal would improve the appearance of Hawthorns House, provided any exposed elevations were appropriately finished. This could be secured by a planning condition. Furthermore at present the building appears to be underused. The proposal would introduce a new active use that would be likely to ensure its viability in the longer term. For all of these reasons it seems to me that the benefits would outweigh the disadvantages and that The Hawthorns would continue to contribute positively to the significance of the CA as a whole [47; 90].
203. The Villa would be converted into a dwelling, thus re-introducing its original use. Although there are no detailed specifications the submitted drawings suggest that there would be little external intervention or change to the fabric of the building. The setting of the building would be improved by the removal of the modern single storey link and the inharmonious conference suite to the rear. Although there would be new houses to the north and west, these would be less imposing features and the increased sense of openness would improve the building's setting, in my opinion. The Barn would be refurbished and converted into a garage for The Villa thus re-establishing the likely historical association which originally existed between the two. Although there would be new houses to the north, these would have less visual impact than the social/ services building, which is an oppressive feature that dominates and detracts from the setting of The Barn [47; 90].
204. In the circumstances the renovation and re-use of the undesignated heritage assets is considered to be a significant benefit of the appeal scheme.

### ***The effect on the setting of Hawthorns House***

205. There was a great deal of debate at the Inquiry about the significance of the open area of land in front of The Hawthorns both in terms of the setting of that undesignated asset and also in terms of its contribution to the significance of the CA. Looking at the historical records it is clear that the appearance and function of this space has changed considerably over time from farmland to something more domestic and formal when the Sneyd remodelling took place in the 19<sup>th</sup> century. This entailed tree planting around the house and along the boundary with The Village, with an orchard established in between. There was

some dispute about whether the frontage trees were within the ownership of Hawthorns House or The Villa. However the evidence suggests this changed over time. More importantly the character of this area has undoubtedly changed over the last 60 years with the establishment of the University campus. Modern interventions include the erection of the social/ services building on part of the eastern section of the open space; the installation of hard surfaced parking areas and modern additions to the rear of the building; paved surfacing outside the front door and two intersecting footpaths across the grassed open space, along with litter bins and lighting [**11; 45; 88; 91; 106**].

206. For the above reasons the setting of Hawthorns House has been damaged but in my opinion it has not been destroyed. English Heritage guidance makes clear that further degradation of the setting of a heritage asset is not justified simply because some damage has already been done. Indeed it is noteworthy that by 1989 when the CA was designated, most modern interventions existing today had been carried out. Orchard trees no longer exist but the mature Limes along The Village frontage remain and the horse chestnut avenue marks the former route of the driveway to the farmhouse. There are some fine trees within this open space and its character as a front garden can still be distinguished. The walled garden to the east of the house can also be identified, albeit in remnant form. The bay window on this elevation allows what may have been a planned view across towards the spire of St John's Church, on elevated ground. To my mind there is sufficient of heritage value remaining to contribute positively to the significance of the CA. Although it is acknowledged that the mature Lime and Holly trees along The Village frontage provide a screen when observed from public viewpoints, there are still glimpses of Hawthorns House between the trees and more prolonged views when the deciduous trees are devoid of leaf [**11; 45; 91; 92; 106**].
207. The appeal proposal would in my opinion have a dramatic and adverse impact on the qualities that have been outlined above. Most importantly, the size of the open space in front of Hawthorns House would be substantially reduced through the erection of the 3 pairs of semi-detached houses facing towards The Village. Furthermore the rear boundary of these residential properties would be adjoined by a roadway and a parking area. Roadways would also run along the northern and eastern edges of the open space. Although the removal of the imposing social/ services building would be a benefit, the proximity of the roadway and houses to the eastern elevation with its bay window looking towards the church, would be a serious disadvantage. In my opinion the remaining open space would retain little functional relationship with Hawthorns House and its significance in terms of providing a setting for the undesignated heritage asset heritage would be largely lost. This would also diminish the contribution of Hawthorns House and its setting to the significance of the CA. Whilst a treed open space would remain, its reduction in size and functionality would result in a serious loss of significance to the designated heritage asset [**45; 92; 105**].

### ***The effect on trees***

208. Trees and green vegetation make an important contribution to the significance of the CA, both within the designated area and within its setting. These include the 298 trees on the appeal site. Many of the trees in the CA date back to the 19<sup>th</sup> century and the Sneyd intervention although there is little

evidence that the site contains any ancient woodland or veteran trees. Also of importance are those trees planted by the University when the campus was being established in the 1960's and thereafter. These include smaller ornamental varieties within both the CA and the wider site [37; 38; 90; 108].

209. In total 161 of the 298 trees on the appeal site would be felled, including 107 protected by a TPO either as individual specimens or tree groups. On the whole those around the site boundaries would be retained. These include the important protected Lime and Holly trees along The Village frontage and the mature Sycamores along the boundary with Quarry Bank Road. There would be more losses along the western boundary but these are generally mixed species groups of younger specimens, graded Category C and hence of lower quality. In any event it was agreed at the Inquiry that some of these would not need to be removed for the development to go ahead. There are also some good trees in the vicinity of The Bowl, most of which would be retained [10; 37; 39; 108].
210. The campus buildings on the site stand within the trees, often in relatively close proximity. Unless redevelopment were to be on exactly the same footprint it is inevitable that tree losses would occur. Such an approach would not necessarily result in an efficient development of this brownfield site and may be impractical unless high rise development was to be entertained. It seems unlikely that such a development would be found acceptable in terms of the CA, where low rise buildings are a characteristic feature [134].
211. Bearing this in mind, it seems to me that the most important tree losses would be those occurring within the CA itself. In particular these would be necessary to accommodate the northwards movement of the access road and the six semi-detached houses facing towards The Village. Felling would include 6 of the 10 mature Horse Chestnut trees that form a visually impressive avenue flanking the present access road into the site. These are protected by a TPO and classified as category B trees. The loss would have considerable effect on the group value of these mature specimens. In addition the protected Wellingtonia would be felled. This is also a category B tree, which was planted as a memorial tree to Professor Paul Rolo and clearly has communal heritage value to those living in the village [38; 42; 108; 141].
212. The construction of the 6 new dwellings would result in a number of tree groups, including Holly, Hawthorn and Willow being removed. These are all classed as Category C and thus have lower quality and value. Of more importance would be the removal of the group of 5 protected Horse Chestnuts, which are Category A trees and therefore of high quality and value. These are relatively close to the aforementioned Horse Chestnut avenue and together provide a prominent and visually important landscape feature close to the front of the site. Three other protected trees of good quality in this vicinity would also be removed, two Pines and a Norway Maple. Whilst it is acknowledged that some of the important trees within this part of the CA would remain, sufficient would be lost to have a substantial adverse impact on the character of this visually important landscaped open space [38; 42; 101; 108].
213. There was a considerable amount of discussion at the Inquiry about whether the RPAs indicated by the Appellant were realistic. Following discussion between the two tree experts these were re-drawn as polygons rather than

circles and no rooting area was shown beneath any public highway. However on the latter point it was the Appellant's position that rooting systems can and do penetrate beneath hard surfaced areas and that it was a worst-case assessment to discount them completely. I remain unconvinced that the area beneath the adjoining roadways would be a hospitable environment in which the trees' rooting systems would be likely to flourish. I do however agree with the Appellant that the northern section of Quarry Bank Road, which is unsurfaced, would provide more favourable rooting conditions. There seems little reason why tree roots from at least 3 of the Sycamores close to the eastern site boundary should not extend beneath it [40; 111].

214. The final position was that the Rule 6 Party considered that 17 of the trees shown for retention would have insufficient protection of the RPA to comply with BS 5837: 2012. Most were trees protected by a TPO, including several Grade A and B Sycamores along Quarry Bank Road, 3 of the remaining Horse Chestnuts in the group affected by the realigned access, 2 of the Limes on the site frontage and several trees within the site [40; 111].
215. A detailed Arboricultural Method Statement has not been submitted but this could be secured by a planning condition. It is however important to be satisfied that tree protection methodology would be feasible because putting even more trees at risk would not be an acceptable outcome, especially as most of those in question are protected and about half are within the CA. In this regard it is relevant to note that the Parish Council's tree expert did not claim that these 17 trees would not survive construction or that the extent of damage would necessarily adversely impact on their long term health. Indeed, whilst BS 5837:2012 advises a default position whereby construction takes place outside the RPA, it also entertains the possibility of a technical solution if this cannot be avoided [40; 157].
216. The areas of encroachment would be mainly beneath new footpaths, parking areas and access roads and in some places would be relatively small. In some circumstances careful root-pruning may be sufficient. In others no-dig technologies could be employed. There would also be areas of soft landscaping to provide compensatory RPAs. Other than in respect of the 2 Limes at the front of the site I am satisfied from the evidence that, with suitable methodology and careful supervision, the health of the aforementioned trees would be unlikely to suffer. Furthermore, apart from 3 trees where the RPAs are already heavily constrained, the trees would continue to grow and prosper and make an important contribution to the CA and the character of the area generally [40].
217. I do however have considerable concern about the future health of 2 large protected Limes on The Village frontage. This is because the road and the trees are at a higher level and there is a bank down to the lower land within the site itself. The proposal would include building the 6 frontage houses on a raised platform and constructing steps down from the pedestrian gateways and up to the front door. The revised polygon shaped RPAs are shown to include all of the front gardens up to the front wall of the dwellings themselves, which would be about 10.5 metres from the trunks. Even with a circular RPA extending into the road, the RPA of these 2 trees would extend across much of the garden areas of these properties. The technical drawings show the use of

no-dig construction methods for the descending steps from the road and a block paved raft on the level ground [112].

218. However there was no indication that the ascending steps would be treated in any special way, apparently on the basis that the Appellant expects there to be little root penetration into this area. This seemed to be on the basis that the Lime trees in question would draw some of their nutrients and oxygen from rooting systems under the adjoining roadway. I have already expressed my doubts about this supposition and if it is not correct, as contended by the Parish Council's tree expert, then a significant part of the RPAs would be likely to be within the area occupied by the ascending steps. These are very important trees in terms of their public amenity value and their contribution to the significance of the CA. It is not unreasonable to take a precautionary approach in this situation and, in the circumstances, the future long term health of the 2 protected Limes is a considerable concern [112].
219. Inevitably in a well treed site such as this there would be trees that are within rear gardens or proximate to new dwellings. However it seems to me that one of the reasons that new occupiers would be likely to be attracted to the new development would be for this very reason. Rather than being perceived as a disadvantage the treed setting and green environment is likely to be viewed as a benefit and one which would be greatly valued by those who choose to live here. New residents would be aware of the protected status of many of the trees before purchase and, apart from in one place, I consider it unlikely that the Council would find it difficult to resist requests for radical pruning or felling of protected trees [41; 124].
220. The place where I have concerns again relates to the semi-detached houses at the front of the site. The Limes in question are large mature specimens with canopies that would spread well into the front garden areas. One of the features of these trees is their epicormic growth, which sprouts thickly from the lower parts of the trunks. Regular pruning would be necessary to keep this under control although the Council's consent is likely to be needed each time in view of the protected status of the trees. In summer, when the trees are in full leaf, the front gardens would be overshadowed for parts of the day especially taking account of the orientation of the site. Furthermore, the sole window to the living rooms of these houses would face in this direction. In my opinion the trees would give a rather oppressive outlook in the summer months. This adds to my other concerns about the suitability of the development on this part of the site [41].
221. It is appreciated that the proposal includes 125 replacement trees and that these would provide some mitigation for tree losses within and around the site. Extra heavy standards are intended, which would generally be 4-5 metres in height, although little growth would be likely during a 3-4 year period of establishment. The success of the new planting would depend on good soil preparation and a careful maintenance programme, including a rigorous watering regime. Without such aftercare there is a likelihood that the trees would fail to prosper and provide the mitigation that is anticipated by the Appellant. Also, where such trees are in private gardens, proper maintenance regimes could be difficult to enforce [39; 110].

222. Around the new entrance to the site a number of Lime trees would be planted and these would complement the existing Limes along the road frontage. Although they may be relatively quick growing once established it would still be many years before they would reach the height of the existing frontage trees. There would also be new Limes and an oak in the open space between Hawthorns House and the semi-detached frontage houses, but again they would take many years to reach maturity. Overall the number of new trees would be significantly less than those that would be lost. I have little doubt that the mature sylvan setting, which is important in terms of significance, would be substantially and harmfully eroded even in the long term. Furthermore the context in which the new trees would be experienced, especially in terms of the open space within the CA, would be significantly diminished for the reasons given above [37; 109].

***The effect of the scale, form and layout of development***

223. The urban design issues are dealt with under Consideration Four. The Council's heritage objections in the reason for refusal were limited specifically to the encroachment into the key open space in front of Hawthorns House and loss of good quality trees. However as the setting of the CA includes the whole site, it is relevant to briefly consider the effect of the new housing on the significance of the designated heritage asset. I have already considered the effect of new development to the east and south of Hawthorns House and found it to be harmful [43; 92].
224. In the Design Review by MADE the semi-detached houses at the front of the site were viewed positively in townscape terms. Prior to the Sneyd remodelling the houses along Pump Bank bordered either side of the main road through the village. However apart from The Villa and the buildings further to the east, the undeveloped frontage along this side of The Village has been a feature since the mid 19<sup>th</sup> century. The diminution of the space in front of Hawthorns House by the insertion of these houses would be an important negative factor and I do not consider that this would be compensated by extending the frontage development as envisaged in the appeal scheme. There may be some social benefit in integrating the new development with the remainder of the village in this way. However there is already social benefit from the enjoyment of the open space in front of Hawthorns House. The evidence suggests that historically this area has been used by villagers for recreation purposes, although it is accepted that this is on a permissive basis in view of the private ownership of the land [48; 131].
225. I have no doubt that the appeal scheme would be viewed as an estate development. It would undoubtedly be large in scale and add considerably to the existing modest sized village. However this would be countered by the removal of the incongruous and imposing accommodation blocks, which I have already identified as significant detractors. It is acknowledged that there would be a greater spread of development across the site, including on the western and south-western sides where the existing accommodation blocks are further set back from the boundary with the adjoining farmland. However the visual consequences would not be readily apparent from within the CA. This is because the wider rural setting is provided by the farmland rather than the site itself and there would be no encroachment of development beyond the site boundaries. Views of the farmland from within the CA or views of the CA from

the farmland would change little even taking account of the tree loss. In these terms the effect of the new built form, when compared with what currently exists, would be largely neutral [46; 93; 94; 135].

## Conclusions

226. The designated heritage asset in this case is the CA. For the reasons given above the appeal proposal would result in some benefits, including the refurbishment of Hawthorns House, The Villa and its associated Barn, all of which are undesignated assets that contribute to significance. The existing campus buildings, both within the CA itself and within its setting are incongruous detractors and their removal would also be a benefit. However there would also be considerable harm, including the unacceptable diminution of the open space in front and to the side of Hawthorns House, which also provides the setting to Hawthorns House. Whilst new tree planting would be undertaken this would not compensate for the loss of mature species, many of which are protected by a TPO, especially within the front part of the site and around the existing access.
227. There was considerable debate at the Inquiry about whether any harm to the designated heritage asset would be substantial or less than substantial in terms of Paragraphs 133 and 134 of the Framework. Paragraph 132 indicates that the more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. In this case the significance of the CA as a whole would not be destroyed. Furthermore there are benefits as well as harm. The latter is relatively specific and relates to the front part of the site around Hawthorns House. Overall in my opinion this would result in less than substantial harm to the CA as a whole. In the circumstances it is necessary to weigh this harm against the public benefits and to consider whether the appeal scheme would preserve or enhance the character or appearance of the CA. I return to this under Consideration Eight.

## Consideration Four: The effect of the design and layout of the proposed development at The Hawthorns on the character and appearance of the area

228. Policy CSP1 in the CS requires well designed development that reflects the character, identity and context of the unique townscape, landscape and built heritage of the Borough. The supporting text indicates that the promotion and procurement of design excellence is a key principle. Paragraph 56 of the Framework indicates that good design is a key aspect of sustainable development. Paragraph 56 sets out a number of things that developments should achieve, including optimising the potential of the site to accommodate development and incorporate green and other public space. Paragraph 63 says that great weight should be given to outstanding and innovative designs. Paragraph 64 indicates 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 [19; 83; 84].
229. When deciding the application against its Officer's recommendation, the Council appeared to rely particularly on the comments of the MADE Design Review Panel. It became apparent that the Panel did not visit the site and although members are undoubtedly highly experienced and had photographs to look at, I consider that this is a shortcoming. A further review of the

scheme was undertaken by the Council's professional witness, who gave evidence on its behalf. He did however make clear when questioned that the urban design objections would not be sufficient in themselves to justify a refusal of planning permission and that the design was not considered so poor as to fall within Paragraph 64 of the Framework [50; 51; 82].

230. The urban design matters are to some extent interlinked to the GB openness issue in Consideration Two and the heritage issue in Consideration Three. Points already made there will not be repeated. One of the main criticisms is that this would be an inward looking suburban form of development which would be poorly integrated with the village. To some degree I would agree with this in that the layout would be mainly from a single access with houses grouped along a series of cul-de-sacs. However this is a sizeable site, which comprises somewhere between a third and a half of the existing village. It could not be expected to necessarily mirror the spatial characteristics of its host environment, which has grown organically over many centuries. Indeed the existing campus site fails in most respects in this regard [52; 53; 80; 81; 135; 151].
231. Furthermore there are a number of constraints which have to be borne in mind. The Council's planning advice to the Appellant was that through routes would not be favourably considered, so a main single point of access would be the obvious solution. The shape of the site presents difficulties as it is a triangular shape that narrows to a point at its northern end. In addition there is a complex topography, an abundance of trees and The Bowl in the centre, which is a feature that it is important to retain. The designer has attempted to secure integration with The Village streetscape by including the 6 semi-detached houses at the frontage. Unfortunately these have unacceptable consequences in terms of heritage issues for the reasons given previously. I am sure that other alternative layouts could be achieved but I consider it rather unfair to describe the proposal as a poor example of a volume-builder layout as MADE and some objectors suggest [52; 135; 151].
232. There would be a good range of house types, which would be sufficiently different to provide an interesting and attractive townscape and a sense of place. The designs have sought to pick out detailing from the local vernacular, especially the more modest properties rather than the statement architecture. Building for Life 12 recommends against too many similar or identical house types but I do not consider this applies here. This does not seem to me to be pastiche architecture. MADE in fact commented positively on the external appearance of the new dwellings [52; 80; 114; 115; 124; 128; 151].
233. Overall there would be a reasonable provision of amenity space, including around The Bowl. This would be publicly accessible, unlike now, and the provision of a children's play area would be a benefit in a village where none currently exists. Whilst some spaces would be smaller than others they would not be so fragmented as to be unusable. The retention of trees and new planting proposed for these areas would make them reasonably attractive and generally functional, in my opinion [77].
234. MADE and the Council were critical about legibility. The main route into the site encircles The Bowl in a reverse P shape. Whilst such a layout may not be evident elsewhere in the village, The Bowl is a unique feature in its own right.

I do not agree that the layout would be confusing or illogical. The main cul-de-sac would continue north to penetrate the narrow part of the site. There would then be two further routes into the eastern part of the site as well as two secondary accesses serving small groups of houses off Quarry Bank Road. It would seem relatively straightforward to negotiate to destinations within the site. There would be pedestrian routes through the development although I would agree that some are a bit convoluted. Permeability could also be improved in terms of external links, particularly those between the northern part of the site and Quarry Bank Road and in the vicinity of The Villa [52; 80; 81; 151].

235. However when considering any shortcomings in terms of urban design it is relevant to consider the contribution that the existing campus development makes to the character and appearance of the area. There is little harmony between it and the remainder of the village in terms of scale, appearance and layout. Taking the appeal proposal in the round it is concluded that the design and layout of the proposed development would not have an adverse effect on the character and appearance of the area. Other than in heritage terms it would therefore comply with Policy CSP1 in the CS and relevant policies in the Framework relating to design matters.

**Consideration Five: Whether there is sufficient justification for the lack of affordable housing provision and contributions towards mitigating impacts, including education provision.**

236. The application was accompanied by a viability assessment and this was updated at appeal stage. The Appellant's viability work was reviewed by the District Valuer. The conclusion, on the basis of a residual valuation, was that the scheme, at today's costs and values, would not be viable with contributions towards affordable housing, education and transport. There was a difference between the viability work of the two parties, largely due to the assessment of sales values but this did not affect the overall conclusion [21; 57].
237. Notwithstanding the viability issue, the Appellant has agreed to make an upfront payment towards secondary education through the Section 106 Agreement. This document also contains an overage provision whereby contributions towards affordable housing, primary education and transport would be paid if the residual land value rises sufficiently [63; 177; 178].
238. Policy CSP6 in the CS includes a provision that new residential development in rural areas will be required to contribute towards affordable housing at a rate of 25% of the total dwellings provided. Policy CSP10 in the CS seeks to ensure that development proposals include provision for infrastructure and community facilities to avoid placing an additional burden on existing facilities. However these policies need to be read in the light of subsequent policy in the Framework which makes clear that the scale of obligations and policy burdens should not threaten the ability of a development to be delivered viably [19].
239. It is necessary to consider whether the obligations that have been made meet the statutory requirements in Paragraph 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in Paragraph 204 of the Framework in order to determine whether or not they can be taken into account in any grant of planning permission. The requirements are that the obligations must be necessary, directly related and fairly and reasonably related in scale and

kind to the development in question. It is noted that the Section 106 Agreement contains a clause that the obligations are conditional on the Secretary of State finding that they comply with the CIL Regulations [176].

240. Staffordshire County Council as Education Authority submitted evidence that, based on forward looking projections of capacity, there would be insufficient space to accommodate either primary or secondary school age children from the development. St John's Primary School is in Quarry Bank Road and very conveniently located to the site. Its site does have topographical constraints and there is concern by the school about the size of the playground. However there is no evidence to suggest that the appropriate new accommodation could not be provided either here or at Madeley High School. The basis for the contributions is explained in the *Education Planning Obligations Policy* [120; 143; 179].
241. There is no dispute that there is a need for affordable housing to meet the requirements of those who cannot access the main housing market. Whilst it would be preferable to provide the affordable housing on-site, this would not be possible in this case for viability reasons. As the on-site provision depends on further assessments being carried out during the construction period it would be reasonable here for provision to be made through a financial contribution. The calculation of the commuted payment is set out in Schedule 2 of the Section 106 Agreement. Whether this would be of "broadly equivalent value" to that of on-site provision has not been assessed. However it would be based on the sales value of specified 2 and 3 bedroom homes on the site, which seems a reasonable approach and has been agreed with the Council [178].
242. The basis for the Newcastle Urban Transport Strategy Sum is set out within the *Transport and Development Strategy*, which was drawn up to cover the period between 2008 and 2013. It seeks to promote sustainable travel with a tariff system which is based on the impact that new car trips generated by development will have on the highway network. The funding will deliver schemes that are part of a planned strategy for the area. However the strategy is set up to cover the period to 2013 and relates to anticipated development within this period and refers to the key transport issues and challenges in the Local Transport Plan 2006-2011. It may well be that undelivered schemes have been rolled forward and new ones have been added. Whilst I was told that a review of the document is being prepared this has not yet happened. Whilst a contribution towards sustainable travel would not be unreasonable, it is not possible to be confident that the amount of money being sought has a sound and transparent basis. In the circumstances, I am unable to conclude that it is fairly related to the scale of development proposed on the appeal site [179].
243. Schedule 7 of the Section 106 Agreement requires a scheme to be provided and agreed by the Council for the maintenance of public open spaces. These are defined on an attached plan and include The Bowl and land in front of Hawthorns House as well as smaller amenity areas. These spaces are considered a benefit of the scheme by the Appellant because at present The Hawthorns comprises private land. The future management of these spaces would clearly be important not only to ensure that they continue to provide a public amenity in perpetuity but also so that they provide an attractive facility

for those living on the development and contribute to the character and appearance of the village and its CA.

244. Following the close of the Inquiry the 3 main parties were consulted on the applicability of the County Monitoring Fee, in view of the recent High Court judgement *Oxfordshire County Council v Secretary of State for Communities and Local Government, Cala Management Ltd and Others* ([2015] EWHC 186 (Admin)). I have considered the representations received on the matter, particularly from the County Council who sought to justify compliance with the requested sum. Unlike the Oxfordshire case, the Monitoring Fee is relatively small in comparison to the number of houses proposed. The obligations to be monitored relate to education and transport. However I have concluded that the transport payment can not be justified in terms of the statutory and policy tests in the CIL Regulations and Framework respectively. The £437.50 is intended to cover both and therefore would not be correct if only the education contribution had to be monitored [7].
245. Even so the County Council has not indicated what special costs would be involved in this case over and above what would be expected in terms of carrying out its statutory functions and duties as Education Authority. It is noted in passing that the Borough Council has not asked for a similar fee in relation to monitoring the affordable housing and open space contributions. Whilst the Oxfordshire judgement does not say that a monitoring fee is not justifiable in principle, in this case the Monitoring Fee is not necessary or reasonable for the reasons set out above [7; 180]
246. In conclusion it is considered that the obligations relating to education, affordable housing and open spaces would be in accordance with Regulation 122 of the CIL Regulations and Paragraph 204 of the Framework and can be taken into account if the Secretary of State decides to grant planning permission. The obligations relating to the Newcastle Urban Transport Strategy Sum and the County Monitoring Fee would not meet the necessary tests and cannot therefore be taken into account.

## **Consideration Six: Other Matters**

### ***The accommodation blocks on the University Campus***

247. The appeal proposal also includes the erection of 2 accommodation blocks, both with associated car parking, within the northern part of the main University Campus site. These would be on land adjacent to the existing Barnes halls of residence, which are between 2 and 4 storeys in height. The new blocks would be substantial buildings of 4 and 5 storeys in height. Both would however take advantage of the sloping nature of the site and would not dominate the skyline in the wider view. In terms of scale and design they would integrate successfully with their surroundings, including the large modern four storey buildings on elevated ground to the south of the main spine road within the University's Science and Business Park and the Modern curved School of Medicine to the north. Whilst the Council originally objected on grounds of the wider visual impact on the surrounding rural landscape, this was not defended at the Inquiry and no evidence was submitted. The Rule 6 Party also gave no evidence on the matter. The comments of the MADE Design Review Panel are noted but overall this part of the proposal would not

adversely affect the character or appearance of the campus site or its wider environs [4; 13; 14; 66; 125; 142; 151].

248. The site is not within the GB but it is within the 18<sup>th</sup> century Historic Park and Garden that surrounds the Grade II listed mansion, Keele Hall and its listed Clock House. However the site is at the northern end of the parkland and is within a part where modern campus architecture of considerable scale is prevalent. It is therefore considered that the significance of the historic parkland landscape would not be materially diminished. Whilst some trees would be removed to accommodate Block 1, these are relatively new thicket planting and have no heritage significance. Around Keele Hall itself there are significant belts of woodland and, taking account of the intervening distances, buildings and vegetation, I am satisfied that the significance of the listed buildings and their setting would be preserved. There is a conservation area around Keele Hall and to its south but for similar reasons there would be no harm to the significance of this designated heritage asset. [13; 14].
249. The two parts of the appeal proposal are closely linked because the redevelopment of The Hawthorns site is intended to contribute to the funding of the new accommodation blocks on the Barnes site. Objections have been raised on the grounds that the new accommodation would not provide as many bedspaces as on The Hawthorns site. Furthermore there is concern, especially from student objectors, that this would be much more expensive accommodation which many could not afford. Whilst these points are acknowledged, the type and cost of accommodation and where and how it is provided is a matter for the University through its Accommodation Strategy. This seeks to deliver accommodation to suit the broad range of needs and expectations of those studying at the University [24; 123; 125].
250. Policy E8 in the LP is permissive of development at the University for a number of uses, including staff and student residences. Policy SP2 in the CS includes a provision that encourages investment in the University and Science Park. The appeal proposal would accord with both policies. Keele University is a large and important sector in the local economy. The development package, which is a joint venture between the University and the Housebuilder, would provide higher quality accommodation within the main campus, in accordance with the Accommodation Strategy. Whilst the student housing at The Hawthorns may be at the cheaper end of the spectrum that does not mean that it is fit for purpose or in accordance with the University's Mission to provide a high quality educational experience for students. Objectors contended that there would be other ways for the University to raise the necessary funding without selling off The Hawthorns site but there is no evidence of what other assets would be available to fund this project. Subject to a condition that ensures that the two parts of the scheme are linked together, the new student accommodation can be treated as an educational and economic benefit that is supported by development plan policy [18; 19; 24; 25; 58; 117; 155].

### **Public consultation and local facilities**

251. Many local people, including students, do not consider that they have been properly consulted or that the University has listened to their objections or changed the scheme to take account of community views. However there was clearly engagement with the Council and as a result various changes were

made prior to consideration by the Planning Committee. There was particular local concern that the scheme should have contributed more to local facilities, which are considered insufficient to support the additional population. The village hall was given as an example of where funding for improvements could have been offered. However in order to be taken into account in the grant of planning permission any funding through a planning obligation would need to pass various tests, including that it is necessary and directly and fairly related to the development in question. There is no policy basis for requiring improvements to the village hall and no Council document to set out how a fairly related sum would be worked out. Furthermore, I was not told of any funded project to which any contribution would be put. In the circumstances it could not be concluded that such a contribution would be necessary in order for the development to go ahead [23; 97; 98; 118; 124; 125; 136].

252. There was also a belief that the village pub would be unable to survive without the regular custom of the students and their visitors. However if this is an important local social facility and community asset then it is difficult to understand why it is so dependant on student trade. If village residents support the pub then the development would reinforce this by providing an additional source of custom. Indeed the letter of support made the very point that the village needs new life rather than just being an adjunct of the University [129; 133; 143].
253. There is a small shop within the social/ services building and this also provides a useful facility for those living in the village outside the campus. The appeal proposal includes a local shop at the southern end of the site, facing towards Quarry Bank Road. The land does slope down into the site at this point and there was some concern that the shop would not be sufficiently visible or prominent to attract passing trade. However the shop is not intended as a destination retail use but rather to serve a local top-up function for those living in the village, including on the new development. Nevertheless the evidence is insufficient to be confident about its future viability or whether a subsidy would be forthcoming to get it off the ground. It would replace a facility that already exists on the site and whilst the timing of its provision could be subject to a planning condition it is a neutral factor in the overall balance [133; 165].

### **Ecology**

254. There is a maternal bat roost within the roof of the conference suite and also a transient roost in another building which would be demolished as part of the scheme. A mitigation strategy has been put forward, including the provision for a new roost in the roof space of The Barn. Natural England has no objection to the proposal on ecological grounds and in any event a licence would have to be applied for in due course. There is no reason why such a licence should not be approved and in any event a bat mitigation and monitoring strategy could be the subject of a planning condition. In the circumstances there would be no harm to the protected species and the Habitats Regulations would not be offended [61; 147; 148; 163].
255. The southern part of The Hawthorns site is designated a BAP priority habitat as deciduous woodland. Policy CSP4 in the CS seeks to protect, maintain and enhance the quality and quantity of the area's natural resources, including the BAP areas. Whilst the area in question does contain many trees it is within the

context of a campus environment and could not be described as “woodland”. There is no evidence of any special ecological interest ascribed to this area other than the roosting potential for bats in one beech tree, which would be retained. Although trees would be felled there would also be replacement planting. In ecological terms there is no evidence of harm occurring in terms of the BAP priority habitat or conflict with Policy CSP4 in this respect [19; 62].

256. Whilst the whole area is designated as an Area of Landscape Maintenance there was no evidence that the proposal would be harmful in this respect or conflict with saved Policy N19 in the LP. The Council has raised no specific landscape objections to the appeal proposal [18; 52].

### ***Flooding and drainage***

257. The Flood Risk Assessment for The Hawthorns identifies surface water flooding from intense summer downpours as the main flood risk. The surface water drainage system would employ sustainable drainage techniques which would be designed to attenuate surface water runoff to 50% of its present level, including an allowance for climate change. Planning conditions could not only require full details of the scheme to be approved but also details of future maintenance and management. This is very important to ensure that the system would remain functional and effective over the lifetime of the development [119; 163].
258. Foul sewage would flow into the existing sewer and a new wet well pump would be provided under the parking area to the rear of the frontage houses. A planning condition could ensure that an effective foul drainage system would be provided. Neither the Environment Agency nor Severn Trent Water has raised objections in this regard [119; 124; 128; 145; 163].

### ***Highway safety and parking including for the school***

259. The main access to the site would be off The Village with two smaller accesses off Quarry Bank Road. In terms of accessibility for non-car modes, the site is well located. The primary school is very close and the village has a local pub and village hall. A new shop is proposed as part of the development, although as I have commented there is no guarantee this would materialise. Keele University campus is within walking and cycling distance and within its site there are many employment opportunities. The village is served by several bus services with relatively quick and frequent services to Newcastle-under-Lyme. There are also bus services to Stoke-on-Trent where travellers can catch the train on the West Coast mainline. It seems to me that there would be many opportunities to undertake shopping, employment, school and leisure trips by modes other than the private car [58; 141].
260. A Transport Assessment was submitted which showed that there would be an increase of around 41 trips in the morning peak and 44 trips in the evening peak. There is little evidence to support the view of some objectors that the results were flawed because the traffic survey was undertaken during an exam period. Traffic modelling was undertaken showing base flows, which included traffic growth and planned development at the Science and Business Park. The “with development” scenarios in 2020 showed all local junctions, including at the new site access, operating well within capacity with little or no additional queuing as a result of the appeal scheme [134; 141].

261. The Village is subject to a 30 mph speed restriction and whilst I can understand concerns about speeding vehicles this is a matter for law enforcement. Visibility from the Highway Lane exit may be impeded by parked cars but there is no reason why the situation would be made worst by the new junction arrangements. Indeed insofar as these kerbside spaces are being used by students, the situation may improve as the new dwellings would be provided with parking facilities on the site. Staffordshire County Council as Highway Authority has raised no objections to the scheme and does not contend that the local road network would not be able to safely accommodate the traffic generated. I do not consider that the evidence indicates that the appeal proposal would cause unacceptable risk to highway safety [**125; 135; 141; 144**].
262. There has been much local concern about the parking arrangements for the school. At present there is no dedicated drop-off facility and parents use the University car park opposite the school entrance for this purpose. As I understand it this is not a formal arrangement and in fact this is private parking for the University. It seems to me that the proposed drop-off parking, which would be specifically for this purpose, would be a benefit both in terms of convenience and safety. Details and timing of its provision could be secured by a planning condition. I appreciate that there would be inconvenience and disruption to parents and pupils during the construction period. However one of the purposes of the Construction Method Statement, which could be controlled by a planning condition, would be to help mitigate this impact. In this regard addressing where operatives can park and where loading and unloading should occur would be particularly important [**122; 130; 147; 162**].

**Consideration Seven: Whether any conditions and obligations are necessary to make the development acceptable.**

263. The planning obligations have already been dealt with under Consideration Five above. The planning conditions are set out in Annex Three and Four. Justification has been provided in **Paragraphs 152-175** and there are also references to specific conditions, where relevant, in my Conclusions. It is considered that the conditions are reasonable, necessary and otherwise comply with the provisions of Paragraph 206 of the Framework and the Planning Practice Guidance for the reasons given. I recommend that they are imposed if the Secretary of State decides to allow the appeals.
264. The Secretary of State will be aware that after 6 April 2015 the transitional arrangements under Regulation 123(3) of the CIL Regulations relating to pooled contributions cannot lawfully be used, except in very limited circumstances, to fund infrastructure that could be funded by CIL. The Council does not as yet have a CIL charging schedule in place. In the circumstances, if the Secretary of State is minded to allow the appeal he will need to be satisfied that the transport and education contributions would not offend the "five-obligation limit". If there are already five planning obligations for the project in question, then the planning obligation relating to that project could not constitute a reason for granting planning permission.

**Consideration Eight: Overall conclusions and planning balance.**

265. The statutory requirement is that a proposal must be determined in accordance with the development plan unless material considerations indicate

otherwise. For the reasons given in Considerations One and Three the scheme would not accord with the development plan read as a whole in terms of the location of housing and heritage assets. If the Secretary of State does not agree with my GB conclusion then there would also be conflict with GB policy. This is considered in Paragraph 273 below. I now turn to consider whether there are material considerations that indicate that planning permission should nevertheless be granted.

266. The Framework establishes that sustainable development should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 49 advises that housing applications should be considered in the context of the presumption in favour of sustainable development. However it goes on to say that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a 5 year supply of deliverable housing sites. That is the case here and in such circumstances the housing supply policies in the LP are not up-to-date, including those relating to the location of housing. The weight to be given to the policy conflict is therefore reduced. In such circumstances the relevant policy comes from Paragraph 14 of the Framework. Paragraph 14 contains two limbs and it is clear from the use of the word "or" that they are alternatives.
267. The first limb requires a balance to be undertaken whereby permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The second limb indicates that the presumption should not be applied if specific policies indicate development should be restricted. If the Secretary of State does not agree with my GB conclusion, the second limb would apply. Footnote 9 however gives other examples, including those policies relating to designated heritage assets. I have concluded under Consideration Three that the proposal would be harmful in these terms. There was some debate about whether the restriction applies only to cases of substantial harm under Paragraph 133.
268. However the Council makes a persuasive point that Footnote 9 refers to policies in the plural, which would mean the inclusion of circumstances where there is less than substantial harm as well. It seems to me that if the second limb was only expected to apply to heritage assets where there was substantial harm it would have said so. Whilst Paragraph 134 of the Framework, which relates to less than substantial harm does include a balance to be undertaken so does Paragraph 133, albeit that this is more stringent as one would expect. In the circumstances the presumption does not apply in this case and it is necessary to balance benefits and harms in accordance with Paragraph 134 of the Framework. However if the Secretary of State does not agree with my analysis, I consider the second limb to Paragraph 14 of the Framework in Paragraph 274 below [30; 31; 32; 72; 73].
269. Paragraph 47 seeks to boost significantly the supply of housing. The Council has a shortfall in the 5 year supply of deliverable sites and The Hawthorns element of the appeal scheme would make an important contribution towards remedying this deficit. Whilst no contribution towards affordable housing would be made initially, there is provision for this to happen should land values increase over the course of the development period. These are matters that can be afforded considerable weight.

270. There are various other benefits that would arise from The Hawthorns element of the appeal development. It would re-use previously developed land and result in the removal of the unattractive campus accommodation blocks and administrative buildings, which are significant detractors to the CA. It would result in the refurbishment and re-use of Hawthorns House, The Villa and its associated Barn, which are undesignated heritage assets. There would also be provision of publicly accessible open space, including a children's playground. A dedicated drop off parking facility would be provided for the primary school. There would be a new permanent population that would support existing facilities in the village such as the existing pub, church and village hall. Although there are students at the site at present the evidence indicates that on this part of the University campus the occupation of accommodation is generally limited to term time. All of these benefits can be afforded significant weight [59; 75].
271. The housing development would also provide funding towards the new student accommodation proposed at the main University Campus. There is little evidence that other funding would be available and this part of the scheme has specific support through development plan policy. The University is very important to the local economy and therefore this would be a benefit of significant weight.
272. However against these benefits must be weighed the harm. This relates solely to The Hawthorns part of the scheme although the Appellant made clear that a split decision would not be acceptable. The housing development would be on a site within the village of Keele, which does not have a settlement envelope. In the circumstances it would not comply with Policy SP1 in the LP and Policy SP1 in the CS. However the weight to be afforded to this policy conflict is reduced because the policies are not up-to-date in view of the housing land supply deficit.
273. The harm that would ensue would primarily relate to the heritage assets. Paragraph 132 of the Framework makes clear that heritage assets are irreplaceable and that any harm or loss should require clear and convincing justification. I have identified harm to the significance of both the designated and undesignated heritage assets. Although the harm to the CA would be less than substantial in terms of Paragraph 134 of the Framework that does not mean that it would be unimportant or of little consequence. On the contrary I consider that it should have very great importance and weight. This reflects the duty under Section 72 of the *Planning (Listed Buildings and Conservation Areas) Act 1990*. In my judgement the aforementioned advantages are insufficient to outweigh the irreversible and serious harm that would be caused to the CA. I therefore conclude that the appeal proposal would fail to preserve the character and appearance of the CA and would be contrary to Policies B9, B10 and B15 in the LP and Policy CSP2 in the CS. These policies are up-to-date and consistent with the Framework. For these reasons it is considered that Appeal A should not succeed.
274. The Secretary of State may however disagree with my conclusions regarding the GB and may consider that the proposed development at The Hawthorns would be inappropriate development due to the spread of built form outside the existing built envelope. If this is the case then Footnote 9 would apply and the Framework policy is that such development should not be granted

permission unless the harm by inappropriateness and any other harm is clearly outweighed by other considerations. This again is a balancing exercise and added to the harm to heritage assets would be harm to the GB. The negative impacts would be even greater and would not be outweighed by the benefits. Very special circumstances would therefore not exist and Appeal A should not succeed.

275. The Secretary of State may disagree that this is a case where the presumption in favour of sustainable development does not apply and that the correct test in Paragraph 14 of The Framework is the first limb of that policy. The Framework establishes that there are three dimensions to sustainable development and that these are interrelated. The proposal would satisfy the economic role and in many ways the social role as well for all of the reasons already rehearsed. However its failure to protect and enhance the historic environment is a very serious shortcoming. Even recognising the importance of the contribution of the housing element of the scheme, the heritage impacts would in my judgement significantly and demonstrably outweigh this and the other benefits, when assessed against the policies in the Framework taken as a whole. For this reason the appeal proposal would not be sustainable development and Appeal A should not succeed.
276. Appeal B relates solely to the demolition of the existing buildings in the CA. Although both the conference suite and the social/ services building are detractors, if Appeal A is dismissed there would be no satisfactory replacement scheme. In the circumstances the demolition works would be contrary to saved Policy B11 in the LP. There was no dispute from the main parties that in such circumstances it would not be appropriate for conservation area consent to be granted.

## **RECOMMENDATIONS**

277. For all of the reasons given above, I recommend that Appeal A is dismissed. However if the Secretary of State disagrees and wishes to grant planning permission, I commend to him the conditions in Annex Three.
278. I recommend that Appeal B is dismissed. However if the Secretary of State disagrees and wishes to grant conservation area consent, I commend to him the condition in Annex Four.

*Christina Downes*

INSPECTOR

## **ANNEX ONE: APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Andrew Fraser-Urquhart

Of Counsel instructed by the Borough Solicitor

*He called:*

Mr J Hinchliffe BA(Hons) B  
Planning MSc MRTPI IHBC  
ICOMOS

Heritage Consultant at Hinchliffe Heritage

Mr J Phipps BA DipArch MSc

Director of Lathams

\*Mr G R Benson MA BPhil

Head of Planning at Newcastle-under-Lyme

MRTPI

Borough Council

\*Mrs R Killeen BSc MTP MRTPI

Senior Planning Officer at Newcastle-under-Lyme Borough Council

*\*Contributed to the conditions and obligations round table sessions*

### **FOR THE APPELLANT:**

Mr Rupert Warren

Of Queen's Counsel, instructed by Mr P Gratton

*He called:*

Mr P Gratton BA(Hons) MPhil  
MRTPI

Principal of Gratton Planning Services

Mr F Hesketh BSc(Hons)

Director of TEP Limited

MICFor CMLI CEnv MCIEEM

Mr I Grimshaw BA(Hons)

Director of TEP Limited

MA(LM) MSc CMLI MRTPI

Miss H Kelly BSc MIFA

Principal Consultant of PEP Limited

### **FOR THE RULE 6 PARTY:**

Dr Robin Studd BA PhD

*He called:*

Ms V Newman BA(Hons) MBA

Chair of Keele Parish Council

Mr D Bailey BSc(Hons)

Arboriculturalist and Owner of Old Oak

MArborA CertArb(RFS)

Tree Care

### **INTERESTED PERSONS:**

Mrs E McAvan

Headteacher of St Johns CE(VC) Primary School, Keele

Mr E Blondel

Student of Keele University and resident of The Hawthorns

Ms W Naylor

Local Councillor but speaking as a local resident

Mr P Brenner

Local resident

## ANNEX TWO: DOCUMENTS

### CD: Core Documents

|         |                                                                                  |
|---------|----------------------------------------------------------------------------------|
| CD 1    | Details of the planning application (ref: 13/00424/FUL)                          |
| CD 1.1  | Application forms and covering letter                                            |
| CD 1.2  | Planning statement                                                               |
| CD 1.3  | Letter from University Vice Chancellor                                           |
| CD 1.4  | Site investigations report                                                       |
| CD 1.5  | Flood risk assessment (Hawthorns)                                                |
| CD 1.6  | Ecological surveys and impact assessment (Hawthorns)                             |
| CD 1.7  | Delivery information on bats (Hawthorns)                                         |
| CD 1.8  | Tree survey report (Hawthorns)                                                   |
| CD 1.9  | Arboricultural impact assessment (Hawthorns)                                     |
| CD 1.10 | Viability assessment (Hawthorns)                                                 |
| CD 1.11 | Transport assessment (Hawthorns)                                                 |
| CD 1.12 | Archaeological assessment                                                        |
| CD 1.13 | Ecological surveys and impact assessment (Barnes)                                |
| CD 1.14 | Tree survey report (Barnes)                                                      |
| CD 1.15 | Arboricultural impact assessment (Barnes)                                        |
| CD 1.16 | Flood risk assessment (Barnes)                                                   |
| CD 1.17 | Site investigation report (Barnes)                                               |
| CD 1.18 | LVIA (Barnes)                                                                    |
| CD 1.19 | Sustainability assessment (Barnes)                                               |
| CD 1.20 | Application plans (Barnes)                                                       |
| CD 1.21 | Design and access statement (Barnes)                                             |
| CD 1.22 | Amended plans and further information prior to determination (Barnes)            |
| CD 1.23 | Application plans (Hawthorns)                                                    |
| CD 1.24 | Design and access statement (Hawthorns)                                          |
| CD 1.25 | Amended plans and further information prior to determination (Hawthorns)         |
| CD 1.26 | Key consultee comments                                                           |
| CD 1.27 | Officer report to planning committee (29/10/13)                                  |
| CD 1.28 | Supplementary officer report to planning committee (19/11/13)                    |
| CD 1.29 | Supplementary officer report on CAC application to planning committee (10/12/13) |

|         |                                                                                                                                              |
|---------|----------------------------------------------------------------------------------------------------------------------------------------------|
| CD 1.30 | Decision notice                                                                                                                              |
| CD 2    | Statement of Common Ground                                                                                                                   |
| CD 3    | List of planning conditions agreed between the Council and Appellant                                                                         |
| CD 4    | Definitive drawings schedule                                                                                                                 |
| CD 5    | National Planning Policy Framework                                                                                                           |
| CD 6    | Extracts from the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009)                                     |
| CD 7    | Extracts from the Newcastle-under-Lyme Local Plan 2011                                                                                       |
| CD 8    | Supplementary planning guidance                                                                                                              |
| CD 8.1  | Newcastle-under-Lyme and Stoke-on-Trent <i>Urban Design Guidance</i>                                                                         |
| CD 8.2  | Newcastle-under-Lyme <i>Space around Dwellings</i> (2004)                                                                                    |
| CD 8.3  | Newcastle-under-Lyme <i>Developer Contributions SPD</i> (2007) and Staffordshire County Council <i>Education Planning Obligations</i> (2012) |
| CD 8.4  | Newcastle-under-Lyme <i>Affordable Housing SPD</i> (2009)                                                                                    |
| CD 8.5  | <i>Register of Locally Important Buildings and Structures in Newcastle-under-Lyme SPD</i> (2012)                                             |
| CD 9    | Screening Opinion (18/4/13)                                                                                                                  |
| CD 10   | Tree Preservation Order (Hawthorns)                                                                                                          |
| CD 11   | Draft Section 106 Agreement                                                                                                                  |
| CD 12   | Five year housing land supply assessment (1/4/14-31/3/19)                                                                                    |
| CD 13   | Appellant's response to MADE Report (CD 1.26)                                                                                                |
| CD 14   | Secretary of State's appeal decision relating to mixed use development at Droitwich Spa (APP/H1840/A/13/2199085)                             |
| CD 15   | Planning Officer's Report relating to proposed residential development at Pepper Street, Newcastle-under-Lyme                                |
| CD 16   | Secretary of State's appeal decision relating to 100 dwellings at Garston, Watford (APP/B1930/A/13/2207696)                                  |
| CD 17   | Updated viability assessment (Hawthorns)                                                                                                     |
| CD 18   | <i>The Setting of Heritage Assets</i> – English Heritage (October 2011)                                                                      |
| CD 19   | <i>Listing Selection Guide Domestic 3: Suburban and Country Houses</i> – English Heritage (2011)                                             |
| CD 20   | <i>Understanding Place: Designation, Appraisal and Management</i> – English Heritage (March 2011 with revision note June 2012)               |
| CD 21   | <i>Understanding Place: Historic Area Assessments in a Planning and Development Contexts</i> – English Heritage (June 2010)                  |
| CD 22   | <i>Guidance on the Management of Conservation Areas</i> – English Heritage (2006)                                                            |
| CD 23   | <i>Seeing the History in the View</i> – English Heritage (May 2011)                                                                          |
| CD 24   | <i>Conservation Principles</i> – English Heritage (2008)                                                                                     |

|       |                                                                                                     |
|-------|-----------------------------------------------------------------------------------------------------|
| CD 25 | ICOMOS <i>Venice Charter</i> (1964)                                                                 |
| CD 26 | ICOMOS <i>Washington Charter</i> (1987)                                                             |
| CD 27 | ICOMOS <i>Guidance on Heritage Impact Assessments for Cultural World Heritage Properties</i> (2011) |
| CD 28 | BS5837: 2012 <i>Trees in Relation to Design, Demolition and Construction</i>                        |

#### **BD: Background Documents**

|      |                                                                               |
|------|-------------------------------------------------------------------------------|
| BD 1 | Council's notification of the appeal and Inquiry and list of persons notified |
| BD 2 | Secretary of State's recovery letter (20 December 2013)                       |
| BD 3 | Questionnaire                                                                 |
| BD 4 | Letters received in response to the appeal notification                       |
| BD 5 | A3 booklet of application drawings                                            |

#### **POE: Proofs of Evidence**

|       |                                                                                                                                                                                      |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| POE 1 | Proof of Evidence and Appendices of Mr Hinchliffe                                                                                                                                    |
| POE 2 | Proof of Evidence and Appendices of Mr Phipps                                                                                                                                        |
| POE 3 | Proof of Evidence and Appendices of Mr Grimshaw                                                                                                                                      |
| POE 4 | Proof of Evidence and Appendices of Ms Kelly                                                                                                                                         |
| POE 5 | Proof of Evidence and Appendices of Mr Hesketh                                                                                                                                       |
| POE 6 | Proof of Evidence and Appendices of Mr Gratton                                                                                                                                       |
| POE 7 | Proof of Evidence and Appendices of Ms Newman relating to the appeal against the refusal of planning permission and incorporating written submissions by Ms Corfield and Mr Brenner. |
| POE 8 | Proof of Evidence and Appendices of Ms Newman relating to the appeal against the refusal of conservation area consent                                                                |
| POE 9 | Proof of Evidence and Appendices of Mr Bailey                                                                                                                                        |

#### **ID: Inquiry Documents**

|      |                                                                                                                                          |
|------|------------------------------------------------------------------------------------------------------------------------------------------|
| ID 1 | Plans showing the BAP Priority Area, submitted by Mr Hesketh                                                                             |
| ID 2 | Plan showing the house types proposed for The Hawthorns site, submitted by Mr Grimshaw                                                   |
| ID 3 | The Hawthorns sale particulars and plans (1951), submitted by Ms Newman                                                                  |
| ID 4 | Annotated 1924 map with parcel numbers and size, submitted by Ms Kelly                                                                   |
| ID 5 | The Conservation of Habitats and Species Regulations 2010, submitted by Mr Warren                                                        |
| ID 6 | List of trees at The Hawthorns where the Appellant is considered to have wrongly drawn the Root Protection Areas, submitted by Mr Bailey |

- ID 7 Agreed position between Mr Hesketh and Mr Bailey on the trees that would be affected by The Hawthorns redevelopment proposal
- ID 8 Extract from the New Oxford Dictionary of Biography (2005) relating to Andrew Thompson, 19<sup>th</sup> century land agent for the Sneyd Estate, submitted by Mr Newman
- ID 9 Statement delivered orally to the Inquiry by Mrs E McAvan
- ID 10 Statement delivered orally to the Inquiry by Mr E Blondel
- ID 11 Statement delivered orally to the Inquiry by Ms W Naylor
- ID 12 Photographic illustrations of the proposed development from the south, submitted by Mr Hinchliffe
- ID 13 A3 copies of Mr Hinchliffe's Appendices 5-7
- ID 14 A1 layout plan annotated by Mr Phipps to show areas of open space, lines of movement and character/ materials of individual buildings
- ID 15 E-mails between Mr Hesketh and Mr Bailey concerning root protection areas, including 4 plans by Mr Hesketh and a further note on the subject by Mr Bailey (relates to ID 6)
- ID 16 Appeal decision relating to residential development on land at Baldwin's Gate Farm, Baldwin's Gate, Newcastle-under-Lyme (Ref: APP/P3420/A/14/2218530)
- ID 17 Viability assessment of 11 June 2013 and Update of 24 October 2014 by Savills on behalf of the Appellant
- ID 18 Valuation advice provided to the Council by the DVS (6 February 2015)
- ID 19 Statement of Common Ground on tree matters between the Appellant and Rule 6 Party
- ID 20 Appeal decision relating to a dwelling on land adjoining 28 The Village, Keele, submitted by Ms Newman
- ID 21 Document of proposed house types, submitted by Mr Warren
- ID 22 Floor area and footprint calculations, submitted by Mr Warren
- ID 24\* Photograph of two Scots pine trees, submitted by Mr Bailey
- ID 25 Urban Design and Conservation Area Service comments on the planning application, submitted by Mr Warren
- ID 26 Building for Life submitted by Mr Phipps
- ID 27 Note on how the Council is addressing the housing land supply position, submitted by Mr Fraser-Urquhart
- ID 28 Transport and Development Strategy (NTADS), submitted by Mr Fraser-Urquhart
- ID 29 Joint CIL compliance statement by the Appellant and the Council
- ID 30 Information provided by Savills regarding the valuation evidence, submitted by Mr Warren
- ID 31 Note on bats, submitted by Mr Warren
- ID 32 Note on securitisation, submitted by Mr Warren

- ID 33 Information on the pumping station, submitted by Mr Warren
- ID 34 List of conditions agreed between the Council and the Appellant
- ID 35 Planning Obligation by Agreement (13 February 2015)
- ID 36 Statement delivered orally to the Inquiry by Mr Brenner
- ID 37 Written opening and closing submission of Mr Warren
- ID 38 Written closing submission of Mr Fraser-Urquhart
- ID 39 Written opening and closing submission of Ms Newman
- ID 40 Correspondence following the close of the Inquiry

*\*Document ID23 is now Plan B*

## **PLANS**

- A Application plans (Note that Document ID 21 contains the house type drawings)
- B Amended site plan and elevations showing plot numbers and hipped roof garages to Plots 21-24 (P3521-103J)

Richborough Estates

**ANNEX THREE: CONDITIONS FOR CONSTRUCTION OF STUDENT ACCOMMODATION BLOCKS AT KEELE UNIVERSITY CAMPUS AND RESIDENTIAL DEVELOPMENT AT THE HAWTHORNS, KEELE (APP/P3420/A/14/2219380)**

**Conditions specific to The Hawthorns element of the appeal proposal**

1. The development shall begin no later than the expiration of 2 years from the date of this decision.
2. No occupation of the dwellings hereby permitted shall take place until the student accommodation at Barnes hereby permitted has been completed.
3. The development hereby permitted shall not be brought into use until the visibility splays shown on Drawing No. 0377-F01 Revision B have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level.
4. No other development shall take place until the redesigned access off The Village and the new accesses off Quarry Bank Road, parking, servicing and turning areas have been provided in accordance with Drawing No. P3521-106 Revision C.
5. The private drives shall have a gradient not exceeding 1:10 for a minimum distance of 5m rear of the highway boundary.
6. All garages shall be retained for the purpose of parking of motor vehicles and shall at no time be converted to living accommodation.
7. Within 3 months of the commencement of the development hereby permitted a landscaping scheme, generally in accordance with TEP Drawing No: 478.006A, to include larger growing species of trees and replacement tree planting along the north-western boundary of the site to mitigate the removal of existing trees, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season after completion of the development, or within 12 months of the commencement of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.
8. No development shall take place (including demolition) until a new Arboriculture Method Statement (AMS) for works within Construction Exclusion Zones, incorporating full details of the Root Protection Areas of the trees to be retained, a Tree Protection Plan, and details of all special engineering works within these Root Protection Areas, all in accordance with BS 5837:2012 shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved AMS.

9. No development shall take place until details of the proposed on-site open space and play facilities, including a timetable for provision, have been agreed in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details and timetable.
10. No development shall take place until details of the proposed means of boundary treatment and a timetable for their provision have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and timetable.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that order with or without modification) no extensions or outbuildings under Schedule 2, Part 1, Classes A, B and E shall be carried out.
12. No development shall take place until a written scheme of archaeological investigation (the Scheme) shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication. The Scheme shall thereafter be implemented as approved.
13. No development shall take place until details of the treatment of any newly exposed elevations of Hawthorns House have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
14. No development shall take place (apart from works of demolition) until a further investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development. The report of the findings shall include:
  - a. A survey of the extent, scale and nature of any contamination;
  - b. An assessment of the potential risks to:
    - Human health;
    - Property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes;
    - Adjoining land;
    - Ground and surface waters;
    - Ecological systems; and,
    - Archaeological sites.
  - c. An appraisal of remedial options, and proposal of the preferred option(s). This work shall be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

15. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site does not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
16. The remediation scheme shall be carried out in accordance with the approved details. Following completion of the remediation measures a verification report shall be submitted and no development shall take place (apart from works of demolition) until that report has been approved in writing by the Local Planning Authority.
17. In the event that contamination is found at any time when carrying out the development hereby permitted that was not previously identified it shall be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be undertaken in accordance with the requirements of Condition 14. Where remediation is necessary a remediation scheme shall be prepared and carried out and a verification report submitted, in accordance with the requirements of Conditions 15 and 16.
18. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
  - a. The parking of vehicles of site operatives and visitors;
  - b. Loading and unloading of plant and materials
  - c. Storage of plant and materials used in constructing the development;
  - d. Wheel washing facilities;
  - e. Measures to control the emission of dust and dirt during construction;
  - f. A scheme for recycling/disposing of waste resulting from demolition and construction works.
19. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) reference NG/C14524 Revision D produced by Atkinson Peck dated 18 June 2013. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme.
20. No development shall take place until drainage plans for the disposal of surface water, including an assessment of the hydrological and hydrogeological context of the development and the FRA have been submitted to and approved in writing by the Local Planning Authority. The drainage strategy shall demonstrate that the surface water run-off generated up to and including the 100 year plus climate change critical storm and its associated run off will not exceed the run-off from the site in an undeveloped form, and that there will be a 50% net reduction in surface water discharge from the site from current levels. The scheme shall be implemented in

accordance with the approved details before the development is completed. The scheme shall also include:

- a. Details of how the scheme shall be maintained and managed after completion;
  - b. The results of infiltration testing to confirm the viability of using the infiltration techniques in the final drainage scheme design.
21. No development shall take place until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the first dwelling is occupied.
  22. No development shall take place until a detailed mitigation and monitoring strategy for protected bat species has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved strategy.
  23. No development shall take place until the details and timing of the provision of the shop and drop-off facility for the school have been submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken thereafter in accordance with the approved details and timetable.
  24. No development shall take place until details of all facing and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
  25. No development shall take place until details of existing and proposed ground levels and ground floor slab levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
  26. The development shall be carried out in accordance with the following drawings: P3521-100; P3521-105; P3521-103J; P3521-106C; 3546.14A; 3546.16A; P3521 (The Shop); P3521-123; P3521 (Pitched vs Hipped Garage Roof); P3521 (Hipped Garage Roof); P3521 Rev A (Chelford); P3521 Rev A (Marsden); P3521 (Alston); P3521 (Bowland); P3521 (Edenfield); P3521 (Gawsworth); P3521 (Ackworth); P3521 (Oakworth); P3521 (Mottram); P3521 (The Villa – Existing Plans); P3521 (The Villa – Existing Elevations); P3521 (The Villa – Proposed Plans); P3521 (The Villa – Proposed Elevations); P3521 (The Hawthorns – Existing Plans); P3521 (The Hawthorns – Existing Elevations); P3521 (The Hawthorns – Proposed Plans); P3521 (The Hawthorns – Proposed Elevations); P3521 (The Hawthorns – Double Garages).

### **Conditions specific to The University Campus (Barnes) element of the appeal proposal**

1. The development shall be begun not later than the expiration of 18 months beginning with the date of this permission.

2. Within 3 months of the commencement of the development hereby permitted a landscaping scheme to include tree planting to mitigate the loss of existing trees, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved scheme shall be carried out in the first planting and seeding season after completion of the development, or within 12 months of the commencement of the development, whichever is the sooner and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.
3. No development shall take place until an Arboriculture Method Statement (AMS) for works within Construction Exclusion Zones, incorporating full details of the Root Protection Areas of the trees to be retained, a Tree Protection Plan, and details of all special engineering works within these Root Protection Areas, all in accordance with BS 5837:2012 shall have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved AMS.
4. No development shall take place until details of all facing and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
5. No development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by, the Local Planning Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:
  - a. The parking of vehicles of site operatives and visitors;
  - b. Loading and unloading of plant and materials
  - c. Storage of plant and materials used in constructing the development;
  - d. Wheel washing facilities;
  - e. Measures to control the emission of dust and dirt during construction;
  - f. A scheme for recycling/disposing of waste resulting from demolition and construction works.
6. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) reference ST10458-00184 Report No. 004 produced by Wardell Armstrong dated May 2013. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme.
7. No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
8. No development shall take place until drainage plans for the disposal of surface water, including an assessment of the hydrological and hydrogeological context of the development and the FRA have been submitted to and approved

in writing by the Local Planning Authority. The drainage scheme shall limit the surface water run-off generated by the 100 year plus climate change critical storm following the corresponding rainfall event so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site. The scheme shall be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- a. Details of how the scheme shall be maintained and managed after completion;
  - b. The results of infiltration testing to confirm the viability of using the infiltration techniques in the final drainage scheme design.
9. The development shall be carried out in accordance with the drawings set out in Paragraph 6.1 of the SCG.

**ANNEX FOUR: CONDITIONS FOR DEMOLITION PROPOSED IS EXISTING STUDENT ACCOMMODATION BLOCKS AND MANAGEMENT BLOCK AT THE HAWTHORNS, KEELE (APP/P3420/E/14/2219712)**

1. Prior to the commencement of the demolition referred to, details of the treatment of the cleared site following that demolition, including a programme for the implementation of that treatment, shall be submitted to and have been approved in writing by the Local Planning Authority. The aforesaid approved details shall thereafter be implemented.

*End of conditions*



## Department for Communities and Local Government

### RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

##### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.