

The Application is for the relocation of the access driveway and the change of use of the associated area to residential.

The site lies within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The application has been brought before the Planning Committee at the request of two Councillors on the grounds of road safety and inappropriate development to an already developed property.

A decision on the application was deferred at the meeting of the Committee held on 28th October to enable the applicant to explore alternative options for providing a safe access within the existing curtilage. A decision was deferred again at the meeting of the Committee held on 18th November to enable the extent of the visibility splays that can be achieved at the alternative new access to be established.

The 8 week period for this application expired on 30th October 2014.

RECOMMENDATION

Subject to the outcome of the arranged site meeting to assess visibility at an alternative new access within the curtilage of the dwelling EITHER

(A) Refuse on the grounds that the development involves encroachment into the open countryside contrary to policy resulting in an unacceptable visual impact on the landscape which is not outweighed by highway safety benefits and an alternative access with an acceptable visibility can be provided within the existing curtilage of the property;

OR if it is demonstrated on site that an access with suitable visibility splays cannot be achieved without encroachment into the open countryside

(B) Permit (subject to conditions relating to the following:-

- **Standard time limit**
- **Approved plans**
- **Removal of permitted development rights for outbuildings on area around the access.**
- **The land between the 1.2m high timber picket fence and existing post and rail timber fence is not domestic garden, for the avoidance of doubt.**
- **Landscaping scheme including details of removal and reinstatement of hedgerows**
- **Details of boundary treatments**
- **Provision of visibility splays prior to the commencement of the construction of the access.**
- **Provision of access, driveway, parking and turning areas in accordance with approved drawings**
- **Closure of existing site access**
- **Details of surfacing materials for driveway**

Reason for Recommendation

A site meeting has been arranged to establish what visibility splays can be achieved at an alternative, new access within the existing domestic curtilage and in the absence of such information at this time it is not possible to reach a recommendation as to whether the proposal should be refused as the new

access has not been justified on highway safety grounds or permitted because the new access provides highway safety improvement as the only suitable replacement of a substandard access.

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

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

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

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

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

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy N21: Area of Landscape Restoration
Policy T16: Development – General Parking Requirements

Other Material Considerations include:

National Planning Policy Framework (NPPF) (2012)

National Planning Practice Guidance (NPPG) (2014)

Relevant Planning History

09/00714/FUL	Two storey rear extension and ground floor side extension	Approved
10/00571/FUL	Replacement two storey four bedroom dwelling	Approved
12/00058/FUL	Erection of detached double garage	Approved
14/00761/FUL	Relocation of access driveway and associated change of use of the area to residential	Withdrawn

Views of Consultees

Madeley Parish Council objects on the following grounds:

- Loss of open and viable agricultural land
- Unnecessary development as the existing entrance could be altered to achieve increased safety for vehicles.
- Action in being taken at the moment by agencies including Staffordshire Police and a Community Speedwatch to address speeding vehicles on Bar Hill which should reduce the hazards around the current access.
- There was a similar application by a neighbour in 2013 that was dismissed on appeal by the Inspector who referred to the unsustainable location and the harm to the character of the open countryside.
- The development is unnecessary and inappropriate.

The **Highway Authority** has no objections to the proposed development subject to conditions regarding visibility splays, provision of the access, driveway, parking and turning areas in accordance with the approved plans, the existing site access to be permanently closed and the access crossing reinstated as hedgerow, and the submission of details of the surfacing materials and surface water drainage for the driveway. It is stated that the existing access serving Sandfield House is substandard

because it has restricted visibility. The design of the proposed access provides betterment in relation to highway safety as visibility splays are being provided in accordance with recorded traffic speeds on the A525 Bar Hill. In addition a turning head is proposed which will allow delivery vehicles and visitors to enter and exit the site in a forward gear.

Further views of the Highway Authority were received in response to the submissions received by the applicant and in representations. Regarding the applicant's submission in respect of the alternative new access within the curtilage of the dwelling, the comments of the Highway Authority are as follows:

- The BT pole can be relocated. It is noted that there are no wires yet connected to the pole and so the applicant should discuss relocation of the pole with BT as soon as possible.
- It will be acceptable for a telegraph pole to be located within the visibility splay in this case.
- The drawing proposes a driveway of 1:30 gradient. It can be designed to a steeper gradient up to 1:10. This would lessen the requirement to reduce ground levels across the site frontage.
- Drawing Fig A which shows the alternative new access does not appear to be to scale and the full extent of the visibility splays are not shown. No comment can be given on the note that 40m of land would need to be purchased/negotiated to provide the visibility splays.
- The visibility splays would appear to require the removal of a section of hedgerow that would need to be replaced rear of the splay.
- Whilst desirable, a turning head is not an essential requirement and there does appear to be sufficient space within the site curtilage for vehicles to turn. The vast majority of properties on Bar Hill already reverse out on the highway.
- In conclusion, the existing access has restricted visibility and the proposed access as broadly detailed on drawing Fig. A will provide an improvement to the existing access in relation to visibility and highway safety as there would be an overall betterment to the existing access arrangements.

Regarding the representations received, the comments of the Highway Authority are as follows:

- The visibility splay of 54m to the east of the property is ideally required given the speed survey results. However, given the restricted visibility at the existing access any improvements to visibility would provide betterment in relation to highway safety.
- The only accurate way to establish the extent of the visibility splay would be for the applicant to set out the splay on site. From the submitted drawing it does not appear to encroach over third party land and there is an existing verge area adjacent to the carriageway. It should be noted that guidance within Manual for Streets 2 states that the splay can be measured to the nearside edge of the vehicle track which would allow the splay to be off-set a distance of 0.5m from the carriageway edge.
- Whilst desirable, a turning head prior to gates is not an essential requirement.

The **Landscape Development Section** states that permission under the hedgerow regulations is not needed for the removal of the hedgerow on the grounds that the reason for the works is "to get access in place of an existing opening" and that the developer "intends to plant a new stretch of hedgerow to fill the original entrance". An appropriate landscaping condition is recommended to secure full landscaping details for removal and reinstatement/replacement of hedgerows and other boundary treatment.

Representations

21 letters of objection have been received and from Madeley Conservation Group. A summary of the comments made is as follows:-

- The site notice states that the proposed development does not accord with the provisions of the development plan in force in the area. If the LPA decides against the development plan then questions will be asked.
- There is no satisfactory explanation as to why the existing access cannot be improved.

- The proposed new access will be opposite properties that have cars parked outside on the road as they have no off-road parking. This would be more dangerous than the existing situation.
- An application on adjacent land was dismissed at appeal on the grounds that the destruction of at least 5m of hedgerow would be significant and the engineering works and visibility splays would harm the character and appearance of the surrounding area and the same applies here.
- Changing the use of the land would reduce the open agricultural land.
- The primary objective of this application seems to be to incorporate adjacent agricultural land into the domestic curtilage.
- Noise of development will be potentially disturbing to the quiet area.
- It appears that it would not be feasible to achieve and guarantee maintenance of the visibility splays as more than half is not in the ownership of the applicants.
- Should a change of use be granted, the LPA would have no control over the placement of domestic paraphernalia.
- There is inconsistency between the comments of the Highway Authority in relation to this current proposal and the previous withdrawn application. The questions that they posed remain the same.
- In pre-application correspondence between the agent and the LPA, the agent stated that "The owner has previously stated that the leftover strip currently has no agricultural use, and has no intention for the land to be used as agricultural land". It is asked whether if members of the public decided to acquire parcels of agricultural land randomly with no intention for the land to be used as agricultural land and used this as justification to convert agricultural land to residential land, what would the open countryside look like?
- The Landscape Officer's comments stated that no objection would be raised to the proposal should the affected section of hedgerow be entirely within or on a domestic boundary. None of the affected hedgerow is on a domestic boundary.
- The Highway Authority has stated that the existing access is substandard but in 2010 the Highway Authority gave full support for the access subject to conditions which have been met. Since that decision was made, there has been no change to the size of the property, the number of residents or the number of vehicles using it. Many things in the countryside would be considered to be 'substandard' by modern standards, but that was the situation when the applicants chose to develop the site.
- The Highway Authority does not state that the relocation of the access is essential or necessary.
- The application states that for ten years, the applicant has explored ways to improve the entrance but nothing has been done except to allow the hedge to grow very high making visibility worse.
- It would be possible to relocate the access to the east within the existing garden and give better visibility in both directions.
- No proper assessment has been made as to how this change would benefit other residents and road users. Recently, there was a collision between two vehicles passing where there is on-road parking and this occurred at the spot where the new entrance is proposed. There have been no such accidents at the current entrance where the road is free of parked vehicles.
- Notwithstanding what is set out in the report the Committee did not agree to defer the decision to enable the applicant alternative options for providing a safe access within the existing curtilage. What Committee asked for was evidence as to what had been already done to improve the existing access.
- The report does not acknowledge that the visibility splays that are required to the proposed access involves land not in the applicant's ownership.
- The argument advanced by the applicant that an access within the residential curtilage is unviable because it involves land not in the applicant's ownership and in which the applicant holds no ties and would involve purchasing/negotiating with the land owner to the East land for a distance in excess of 40m is flawed. Logically if the proposal remains as submitted then 50m of land to the East would have to be purchased.
- A viable new access can be provided within the curtilage that ensures safety and avoids encroachment into the open countryside with benefits summarised as follows:
 - Land either side is in the ownership of the applicant.

- Repositioning the gates 6m from the highway will result in a larger garden than at present.
- Room for a turning head if required.
- Ground levels are the same as the proposed new access.
- The existing drive can be grassed over resulting in no loss of garden facility.
- The hedge to be removed would be within the residential curtilage.
- The access onto the highway would be at a point where there are no parked vehicles.
- Would be perfectly aligned with the proposed new garage.

Four letters of support have been received. It is stated that the A525 is a dangerous road and the driveway to Sandfield House is very unsafe. This application would move it to where there is much better visibility and it would be a much safer option for everyone. It would only require small alterations to the land and hedging. Also, having a more obvious entrance on that side of the road would make motorists slow down which would certainly be welcomed. It is not considered that the proposal would have any great impact on the countryside.

Applicant's/Agent's submission

A Design and Access Statement has been submitted which concludes that the existing visibility splay to the existing access is considerably below the required standards. It is therefore considered that the driveway access is a material consideration on the grounds of safety and to comply with Staffordshire County Council's Residential Design Guide.

A Transport Statement has been submitted and a summary is as follows:

- The ground level either side of the existing access from Sandfield House is considerably higher than the level of the road, obstructing visibility.
- Visibility is also limited by the hedging which is close to the kerb line as there is no footpath on this side of the road.
- The existing visibility splay is considerably below the required standards and for vehicles travelling in a westbound direction, the visibility splay is effectively zero.
- The required works to enable the existing access driveway to be upgraded would require the removal and cutting back of the hedge and the surrounding ground level would have to be lowered for a considerable distance.
- This would require considerable works to be undertaken on land which does not belong to the applicant.
- Therefore on the grounds of safety and to comply with Staffordshire County Council's Residential Design Guide a new access driveway is to be provided to the eastern part of the site to enable the construction and maintenance of the required visibility splays.
- The line of the visibility splay should be kept free of all obstructions in the vertical plane measured from the driver's eye-height of no less than 1.05m above the road surface to a point no less than 0.6m above the road surface in accordance with Staffordshire County Council's Residential Design Guide and the Manual for Streets document.

A letter has been received clarifying points raised in letters of representation. The following points are made:-

- The applicant is applying for the change of use of land for the construction of an improved relocated driveway, to provide a permanent safe access solution to exclusively serve a single existing family home on land within the client's ownership. At no point has the applicant attempted to, or even expressed a desire to, build additional dwellings on their land.
- The works will include the making good, infilling and improvement of the existing hedgerow and associated landscaping with respect to the surrounding area and open countryside.
- A large proportion of the representations state that "The proposed development does not accord with the provisions of the development plan in force in the area in which the application relates" and object on these grounds. This is a statement of fact but the safety of local residents in terms of improving access, should overcome policy.
- The applicant has openly and willingly worked with the Local Authority to achieve a solution which is deemed appropriate and in accordance with the local character. No buildings or outbuildings will be placed within the change of use land and whilst some elements of the

hedgerow will be removed, the client is proposing to infill, replant and improve the existing hedgerow.

- Previous applications for a new dwelling and access made by a neighbour and referred to in some responses are not related to this application.
- A number of responses question what can be done to improve the existing access. Expert opinion in the transport assessment and design and access statement clearly defines and documents expert opinion. For the past ten years the applicant has attempted to live with the existing access and has explored ways to improve it, including a convex mirror and additional road signage, all of which proved not to be acceptable or a long term solution. Further, it would not be logical to look to remove a large section of working agricultural land not in the applicant's ownership, when the proposed solution is on unused land within the client's ownership.
- The applicant has already stated that he would not challenge any reasonable planning conditions being applied to any permission.

Further information has been provided by the applicant's agent as follows:

- The applicant has maintained a clear and open dialogue with the Council throughout and has agreed that confidential pre-application advice be made publicly and freely available.
- Improvements to the existing driveway is an unviable option for the following reasons:
 - Works to achieve the required standards and visibility splays would involve the removal and cutting back of the hedge and lowering of surrounding ground levels for a considerable distance.
 - Considerable works would be required on land which does not belong to the applicant and in which the applicant owns no ties and would involve purchasing/negotiating with the land owner to the East for a distance in excess of 55m.
 - The land needed to be purchased to implement the required visibility splay is active working agricultural land.
 - A BT pole (recently installed) will interfere with the visibility splay to the east (i.e. visibility splay for on-coming traffic travelling west on the access side of the road).
 - It would result in the loss of amenity space to the 4 bedroom house.
 - A retaining wall and turning head would be required proving expensive.
 - Requires re-grading of existing driveway to achieve necessary highway standards.
 - Is financially unviable.
- An alternative, new access within the curtilage is also unviable for similar reasons set out above, with the following amendments/additional reasons:
 - Would involve purchasing/negotiating with the land owner to the East for a distance in excess of 40m.
 - Existing established garden and landscaping would be destroyed.
 - Poor and unacceptable design
 - Visibility splays require additional land/permission to West and East.
 - Introduces greater amounts of engineered elements into the rural location.
 - Would result in the loss of greater amounts of existing hedgerow than the design of the access applied for.
- The application proposal incorporates the following positive aspects:
 - This is achieved on unused land within the applicant's ownership.
 - There are clear highway safety benefits to all users of the A525, verified by the Highway Authority and an independent transport consultant.
 - Visibility splays can be provided in accordance with the recorded traffic speeds. A turning head will allow vehicles to enter and leave in a forward gear.
 - The access is located within a natural splay of the existing hedge, resulting in less work to the hedgerow.
 - A landscaping plan will be provided incorporating necessary infilling and improvement works to the existing hedgerow to ensure minimum impact upon the landscape.
 - The remaining land will remain as agricultural land.
 - There would be no challenge to any reasonable planning conditions.

Key Issues

Permission is sought for the relocation of the access driveway that serves the property and the change of use of the associated area to residential curtilage.

The site is within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map. It is considered that the key issue to be addressed in consideration of this application is whether the proposed encroachment into the open countryside is acceptable, having regard to matters of highway safety and visual impact.

The proposal would involve the extension of the domestic curtilage of the property out into the open countryside by approximately 18m. A new driveway is proposed to the east of the dwelling which would run parallel to the side elevation of the house and would curve to the rear to provide access to a proposed garage, granted planning permission in 2012 (12/00058/FUL). A turning head is proposed to the front of the house.

Both the development plan and the NPPF aim to protect the open countryside from encroachment. The NPPF also states that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

The Design & Access Statement that accompanies the application states that the existing visibility splay is considerably below the required standards. It argues that the new access will improve visibility and that highway safety is a material consideration.

The current access is to the west of the dwelling. The existing visibility is significantly below the required standards due to the fact that the ground level either side of the existing access is considerably higher than the level of the road and there is a hedgerow close to the kerbline. A Transport Statement submitted with the application has stated that improvements to the existing access would require the surrounding ground levels to be lowered for a considerable distance which would require works to be undertaken on land which does not belong to the applicant. In addition, the works would require the removal of the boundary hedge. Your Officer agrees that improvements to the existing access appear difficult to achieve.

A decision on this application was deferred at the meeting of the Committee held on 28th October to enable the applicant to explore more fully alternative options for providing a safe access within the existing curtilage. The applicant's agent submitted additional information which was reported at the meeting of the Committee held on 18th November along with the comments of the Highway Authority on both that information and on the representations received. At that meeting, a decision was deferred a second time to enable the extent of the visibility splays that can be achieved at the alternative new access to be established. A site meeting has been arranged for 1st December and therefore your Officer intends to report any further information in a supplementary report to Members.

The information obtained at the site meeting in respect of the visibility splays that can be achieved at the alternative, new access will provide the basis upon which an informed recommendation can be reached as to whether there is a highway safety justification to encroach into the open countryside. Consideration is given below to the two scenarios that could arise dependent upon what is established on site:

(a) If it is demonstrated that a safe and suitable access cannot be provided within the curtilage of the dwelling:

The new access to the east of the site would enable the provision of the visibility splays that are required given the traffic speed established in the speed survey that has been undertaken. The Highway Authority has no objections to the proposal subject to conditions and has advised informally that although there have been no recorded accidents in the vicinity, visibility from the existing access is substandard and therefore the proposal would result in betterment in terms of highway safety.

The site lies within an Area of Landscape Restoration and NLP policy N21 states that within such areas it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape. To achieve the required visibility splay, some of the existing hedgerow along the boundary with the highway will have to be relocated and no objections have been raised by the

Landscape Development Section subject to a condition seeking full landscaping details for the removal and reinstatement of such hedgerows.

Many of the representations that have been received refer to an application on adjacent land that was dismissed at appeal (Ref. 12/00694/FUL). In considering that appeal the Inspector concluded that the creation of a new access would introduce an engineered feature into the landscape and result in the loss of at least 5m of a mature and visually attractive hedgerow and would materially harm the character and appearance of the surrounding area. It should be noted that the application which was subject to the appeal differs from the current proposal however, in that it was for a new dwelling whereas this is an application for a new, safer access in association with an existing dwelling. It cannot be assumed, therefore, that the Inspector would have reached the same conclusion if presented with a case that the access was required to improve highway safety.

Representations have also been raised on the grounds of a perceived inconsistency between the comments of the Highway Authority in relation to this current proposal and the previous withdrawn application. The Highway Authority objected to the application that was withdrawn on the grounds of insufficient information. Additional information was requested including details of visibility splays and clarification as to why the existing access cannot be improved. This information has now been submitted in a Transport Statement that accompanies the application and on the basis of that information; the Highway Authority has no objection.

As indicated above the formation of the new access involves an encroachment into the open countryside and an enlargement of the existing residential curtilage of the property. In response to concerns expressed prior to the submission of the application the extension of the domestic curtilage has been limited to that necessary to provide the new access other than a small amount of additional land in the south west corner to achieve a straight boundary fence line. An additional strip of land beyond to the east of the access, which is in the applicant's ownership, has been excluded from the extended residential curtilage to minimise the amount of encroachment arising. For the avoidance of doubt it is considered that a condition should be imposed which states that this area of land does not form part of the domestic curtilage.

In conclusion, if it is established that a safe and suitable access cannot be provided within the curtilage of the dwelling then it is considered that although the proposal would involve an encroachment into the open countryside, given the highway safety benefits and the lack of any significant adverse impact upon the landscape, it is not considered that an objection could be sustained.

(b) If it is demonstrated that a safe and suitable access can be provided within the curtilage of the dwelling;

If following the meeting on site it is established that an access can be provided within the existing domestic curtilage that achieves visibility of an acceptable standard then it is considered that there is no justification for the access proposed in this application. As indicated above the proposed access is not within the existing domestic curtilage and involves an encroachment into the open countryside. The associated visual impact that arises from the introduction of the access into the landscape would not be outweighed by the highway safety benefits and if a suitable access can be achieved without encroachment into the open countryside.

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

26th November 2014