

LAND ADJOINING THE OWL HOUSE, TOWER ROAD, ASHLEY
MRS B FLACKETT

14/00854/FUL

The application is for full planning permission for the erection of a detached bungalow and the formation of new access off Birks Drive. The footprint of the bungalow measures 14 metres by 9 metres with a roof ridge height of 6.2 metres.

The application site is located beyond the village envelope of Loggerheads as specified on the Local Development Framework Proposals Map. There are also protected trees in the vicinity.

The 8 week period for the determination of this application expires on the 7th January 2014.

RECOMMENDATION

Permit subject to conditions relating to:

1. **Time Limit.**
2. **Plans.**
3. **Prior approval of external facing materials.**
4. **Tree and hedgerow protection measures.**
5. **Landscaping.**
6. **Construction hours be limited to 7am to 6pm Monday to Friday and not at any time on Sundays or Bank Holidays or after 1pm on any Saturday.**
7. **Report of unexpected land contamination and gas remediation.**
8. **Provision of access, parking and turning areas.**
9. **Prior approval of surfacing and drainage provision.**
10. **Removal of permitted development rights for dormer windows and roof lights on the rear elevation of the property.**

Reason for Recommendation

Proposals for a detached dwelling house on this site have previously been refused by the Authority in 2011 (under planning application reference number 11/00225/OUT), due to conflict with prevailing housing distribution policies seeking to direct development to the most sustainable locations using previously developed land, which was upheld at appeal. However the planning application now made must be considered in the context of current planning policy and circumstances. Since the adoption of the National Planning Policy Framework March 2012 and in the context of the Council's inability to demonstrate an up to date 5 year plus 20% supply of deliverable housing sites currently standing at 3.12 years, and acknowledging the proximity to existing local services it is no longer appropriate to resist the development on the grounds that the site is within the rural area outside of a recognised rural service centre. The negative impacts of the development – principally the site being Greenfield land outside of a rural service centre or village envelope and the loss of some greenery to accommodate the dwelling within the locality do not significantly and demonstrably outweigh the benefits of the development which relate to boosting housing land supply. Accordingly there has been a material change in circumstances and permission should be granted.

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

The development is considered a sustainable form of development and complies with the aims and objectives of the National Planning Policy Framework.

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

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006 -2026 (adopted 2009) (CSS)

Policy SP1	Spatial principles of Targeted Regeneration
Policy SP3	Spatial principles of Movement and Access
Policy ASP6	Rural Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential development: sustainable location and protection of the countryside
Policy N12	Development and the protection of trees
Policy T16	Development – General parking requirements
Policy T18	Development servicing requirements

Other Material Considerations

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Supplementary Planning Documents/Guidance

Space Around Dwellings SPG (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD

Relevant Planning History

11/00225/OUT	Erection of detached house	Refused	2011
<i>An appeal for that application was subsequently dismissed in 2012.</i>			
73/06120/TP	Erection of a detached dwelling	Withdrawn	1973
64/03177/TP	Erection of bungalow	Refused	1964

Views of Consultees

Loggerheads Parish Council comment that this new application for the erection of a bungalow poses the same issues as previous applications, nothing has changed. Previous applications were refused and dismissed at appeal in 2012.

The **Highway Authority** had until the 5 December to comment on the proposal. No comments have been received it is therefore assumed they have no comments to the proposal. In response to the application in 2011 (11/00225/OUT) they had no objections subject to conditions relating to the provision of parking, turning and servicing within the site curtilage; means of surface water drainage and surfacing materials.

The **Environmental Health Division** has no objections subject to conditions relating to:

- Construction hours being limited to 7am to 6pm Monday to Friday and not at any time on Sundays, Bank Holidays or after 1pm on any Saturday.

The **Landscape Development Section** has some concerns about the very limited space that will be available for lawn/garden area due to shading caused by existing tree cover.

They confirm that appropriate adherence to BSS5837:2012 the proposed building could be constructed without detrimental impact on trees which are protected by Tree Preservation Order number T7/9.

Construction access on this site is extremely tight and machinery and plant will need to access the site via restricted space. Careful planning and management of works is required to ensure that retained trees (including their roots) are not damaged during the construction process. The arboricultural consultant has given some sensible indication as to how this can be achieved however it is suggested that additional site specific information is provided. Therefore the following planning conditions would be appropriate:

- Tree Protection in accordance with BS5837:2012 and the information provided in the arboricultural report.
- Additional site specific detail (BS5837:2012 Construction Method Statement) providing detail of position of compound, scaffolding, materials storage and description of methods and plant used to get materials onto and off this restricted site.
- Schedule of works to retained trees (e.g. access facilitation pruning).
- Arboricultural site monitoring schedule.

Representations

12 letters of representation have been submitted raising the following concerns:

1. The proposal is at odds with the prevailing character of the area which comprises of dwellings in large sized plots in a semi-woodland setting.
2. An additional dwelling on the plot would further exacerbate the poor condition of Birks Drive and or lead to further vehicles using Tower Road which is already heavily used due to the condition of Birks Drive.
3. A decision to approve the proposal goes against the appeal decision previously made against a proposal for a dwelling on the site.
4. The dwelling would appear squashed onto the site and would spoil the open feel of the area.
5. The un-adopted access of Tower Road and Birks Drive would be put under even more pressure further deteriorating its condition.
6. The application would set precedent for other similar developments in the area which relate to garden grabbing.
7. Tree loss will damage the character of the area.
8. The application is damaging to flora and fauna.
9. A dwelling in the location proposed would spoil the open feel of the area.
10. Works to allow access to the site have already commenced with certain trees and hedgerow removed.

Applicant/agent's submission

A Design and Access Statement, Tree Report has been submitted. These documents are available for inspection at the Guildhall and via the following link www.newcastle-staffs.gov.uk/planning/1400854FUL

Key Issues

The application is for the erection of a detached bungalow and the formation of a new access off Birks Drive. The footprint of the dwelling measures 14 metres by 9 metres with a roof ridge height of 6.2 metres. There are protected trees in the vicinity.

There have been previous unsuccessful attempts to secure planning permission for a new dwelling on the site. The most recent was planning application reference number 11/00225/OUT, considered by the Authority in 2011. The application was refused on the grounds that the development of this greenfield site within the open countryside would be contrary to the objective of maximising the re-use of previously developed land, in sustainable locations as supported by national planning policy (prevailing at that time) and the Councils own Development Plan. That decision was upheld at appeal, February 2012. The planning Inspector who determined that appeal agreed that the proposal *would significantly harm the Council's strategies for targeted regeneration and sustainable development in the borough.*

She also acknowledged that *whilst this is a small scale proposal for a single dwelling, there are many other similarly sized gardens within this area which, if a precedent were set should this appeal be allowed, could be developed causing further, widespread harm to the Council's regeneration strategies*. The National Planning Policy Framework was still in draft format at that time and was not fully adopted until March 2012 and the Inspector.

In light of the application now submitted, the Authority must assess current circumstances with regard to any changes in national planning policy or other material factors in order to determine if refusal of planning permission is still appropriate taking into account the previous determinations referred to.

The main issues for consideration in the determination of this application therefore are:

1. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
2. Is the design and appearance of the development acceptable?
3. Is the impact to trees acceptable?
4. Are adequate residential amenity levels provided?
5. The acceptability of access in highway safety terms; and
6. Do any adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

1. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

The site was originally part of the garden area serving the Owl House but is now considered to be a separate planning unit in its own right. For development management purposes the land is greenfield. The site is located within an attractive area of low density residential development built mainly in the 1960's and 1970's in a woodland setting, approximately 1km from most of the facilities in the key rural service centre of Loggerheads. The two possible routes from the site to those facilities both involve a considerable distance along unmade and unlit roads of some gradient where there is an absence of street lighting. An hourly bus service on Newcastle Road is available as an alternative to motor car use but it is very likely that the occupiers of the proposed dwelling would depend on a car for most journeys. However relative to many other sites outside of Rural Service Centres it is closer to village services than many of the existing properties within the Loggerheads village envelope boundary. It cannot be said to be in an isolated location.

Policy SP1 of the Core Spatial Strategy (the CSS) seeks to direct new housing towards sites within identified urban centres and targeted regeneration areas to make sure that investment opportunities and population are not drawn away from where they are needed to areas that are more immediately attractive for development. Policy ASP6 of the CSS seeks to restrict new housing development in rural areas to brownfield land within the village envelopes of key rural service centres to meet identified local requirements. The development plan also consists of saved Local Plan policy H1 which directs new housing to the urban areas and village envelopes.

The NPPF, however, states at paragraph 49 that *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*

The Borough is currently unable to demonstrate a five year supply of deliverable housing sites as required by paragraph 47 of the NPPF and as such, taking into consideration paragraph 49, policies such as NLP H1 with its reference to the village envelope, and policy CSS ASP6 with its reference to Rural Service Centres have to be considered to be out of date, at least until there is once again a 5 year housing land supply.

Paragraph 14 of the NPPF details that at the heart of the Framework is a presumption in favour of sustainable development, and for decision taking this means, unless material considerations indicate otherwise, that where the development plan is absent, silent or relevant policies are out-of-date, as in this case, granting permission unless:-

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

The Council has taken the view in consideration of recent applications in similar locations that due to the public transport opportunities and services that development would be sustainable. As such and in accordance with paragraph 14, there is a presumption in favour of this development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Such impacts are explored below.

In reaching this conclusion it is noted that when the appeal on the previous application was dismissed the LPA was also in a position where it did not have a five year housing land supply. The Inspector gave limited weight in view of the draft status of the NPPF at that time. As such the policy context for the determination of this application therefore is materially different to the appeal.

2. The acceptability of the design and appearance of the development

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape and landscape including its rural setting and the settlement pattern created by the hierarchy of centres. The Councils Urban Design SPD provides further specific detailed design guidance in complement to this provision.

The site does not have a specific landscape character designation in terms of the Development Plan. The area is characterised by low density residential development with a variety of housing styles within generally large plots situated in the context of established tall trees and hedgerows.

The plot, due to the presence of mature trees and hedgerow, is almost entirely shielded from view from both Birks Drive and Tower Road with limited views where the access would be created. Due to the size of the application site and the size of the plot which has been retained for the Owl House, it is not considered that the proposal would have a detrimental impact upon the character of the area. The dwelling proposed is of an appropriate scale. There are some concerns regarding the appropriateness of the materials envisaged which comprise of a mixture of stone and brickwork however these can be properly addressed by planning condition to ensure quality standards are met.

3. Is the impact to trees acceptable?

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

expected to set out what measures will be taken during the development to protect trees from damage.

The applicant proposes to remove a number of trees from the site which are not suitable for retention following consideration of an independent tree report. The Councils Landscape Development Section, following an assessment of the submitted information has no objections subject to conditions. Certain works to clear dead and unwanted plantings to tidy up the land and enable access have already been undertaken but these particular works do not cause concern with respect to tree preservation matters. Accordingly subject to planning conditions the requirements of policy N12 can be satisfied.

4. Would the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook.

The SPG recommends that a distance of at least 10.7 metres be maintained between single storey buildings where one of the properties concerned does not have any principal windows. The proposed dwelling has been designed so that there are no principal windows overlooking the Owl House. A distance of 12 metres separates the proposed dwelling from the existing neighbouring property. It is considered necessary that permitted development rights are removed for dormer windows and roof lights on the rear roof slope of the proposed dwelling to ensure adequate levels of privacy are maintained.

5. Highway safety issues

Although no comments have been received from the Highway Authority with respect to the current application they have previously had no objections to a dwelling on the site and there have been no significant changes in circumstances to warrant a different conclusion inclusive of regard to the condition of Birks Drive and Tower Road. This is because adequate visibility can be provided for the access sought and the vehicle movements associated to a further single additional dwelling would not have a significant detrimental impact on existing public safety levels. Subject to standard conditions relating to the formation of the proposed access, parking and turning area provision, drainage and surfacing details prior to occupation the impact to highway safety is acceptable.

6. Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

In consideration of the above points, the development would result in some local impact on the character and appearance of the area in that a portion of open greenery would be lost to accommodate a dwelling. However, there is no demonstrable harm to the visual appearance of the area inclusive of the potential for tree loss and the proposal otherwise represents sustainable development which would make a contribution towards addressing the undersupply of housing in the Borough. Overall, the impacts which arise, namely the development of greenfield land, outside of the village envelope of Loggerheads, do not significantly and demonstrably outweigh the benefits of the proposal. It is therefore considered that the proposal accords with the requirements of paragraph 14 of the NPPF as well as the overarching aims and objectives of the NPPF. On this basis planning permission should be granted.

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

17 December 2014.