

The application is for full planning permission for a detached dwelling and associated access.

The application site is located off Eastwood Rise in Baldwin's Gate. The site lies within the open countryside and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map. Trees within the site are protected by Tree Preservation Order T7/8

The statutory 8 week determination period for the application expires on 30 June 2015

RECOMMENDATION

(a) to the applicant entering into a Section 106 obligation by no later than 30th June unless the applicant agrees to extend the statutory determination period until 31st July, in which case by that later date, that cedes any right to construct a bungalow on this site pursuant to planning permission TP3226;

PERMIT subject to the following conditions;

- 1. Time limit**
- 2. Submission of materials**
- 3. In accordance with the approved plans**
- 4. Drainage works for the disposal of both surface water and foul sewage shall be carried out in accordance with the details approved in relation to Application Ref. 06/01088/FUL, or alternative details to be submitted to and approved in writing by the Local Planning Authority**
- 5. No occupation of dwelling until the access, parking and turning area have been provided on site**
- 6. No permitted development rights for the conversion of the garage area**
- 7. Tree protection in accordance with BS5837:2012 and submitted drawing**
- 8. Development in accordance with Arboricultural Method Statement for tree protection**
- 9. Prior approval of landscaping proposals**
- 10. Prior approval of tree and landscape management plan to address issues concerning the long term future of the woodland & replacement planting**
- 11. Arboricultural site monitoring schedule**
- 12. Implement recommendations within the Phase 1 Extended Habitat Survey received with the application**

(b) That in the event of such an undertaking not being secured within the timescale indicated that the Head of Planning be given delegated authority to refuse the application on the grounds that without such an undertaking the possibility of two dwellings being built upon the plot would exist and that would be contrary to a number of policies on residential development and development within the countryside or, if he considers it appropriate, to extend the period of time within which the unilateral can be secured.

Reason for recommendation

Although the proposal conflicts with current policy guidance relating to development within the countryside and with current policies on housing provision, as there was in 2007, there is a fall-back position available to the landowner in the form of an extant permission without time limit for a bungalow on the site and there are no other material considerations which would justify a refusal of planning permission. Given the size of the site and the possibility that it might be subsequently claimed that permission still exists for a further dwelling on the site it is recommended that a planning obligation be used to avoid this occurring. There is no substantive basis for coming to a different view on this application from that which was reached previously.

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

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

KEY ISSUES

Full planning permission (06/01088/FUL) was granted in 2007 for a detached dwelling on this site and this was later granted a new planning permission (06/01088/EXTN) to extend the timeframe to implement the permission. Both these permission are no longer capable of implementation. Application 12/00301/FUL also granted permission for a detached dwelling on site and this permission remains extant until January 2016.

When the previous applications were determined planning policy framework did not support a new dwelling in this location and this remains the case as the policy context has not materially changed. In permitting the applications in question, however, policy was not the determining factor. The acceptability of the principle of this proposal relates back to permission in 1964 (TP3226) and a subsequent certificate of proposed lawful development granted in 2002. This was issued on the basis that application TP3226 which granted permission for the erection of bungalows is extant without time limit. Your officer is not aware of any case law or rulings since the approval of application 12/00301/FUL that would alter this position. As such the principle of residential development of this site has been established.

The current application is identical to that permitted under reference 12/00301/FUL and the application, if permitted, will allow additional time for its implementation. The impact of a two-storey dwelling on the site was previously assessed in terms of impact on the street scene and on the surrounding landscape, impact on residential amenity, impact on trees, and highway safety and considered to be acceptable. There has no material change in planning circumstances to justify a different conclusion at this time however to assist the consideration of the application these matters will be addressed below.

Impact on the Street Scene

The area is characterised by large modern properties of varying styles. Eastwood Rise slopes steeply and several properties are split level and are built into the hillside. There is a mix of bungalows and two and three storey dwellings therefore. The proposed dwelling would be two-storey and would be relatively simple in its design. It would be sited centrally within a large plot and is surrounded by extensive mature landscaping. The impact on the street scene would not be significant.

As previous conditions relating to materials and landscaping have been approved for this scheme previously and the same information has been proposed in this location, it is considered that these details are acceptable. Compliance conditions in this regard would therefore be included.

Landscape impact

The site is within a Landscape Maintenance Area as designated in the Local Plan. Policy N19 of the Local Plan 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.

The site is screened from the surrounding countryside by mature landscaping from most directions and would be seen in the context of the existing established development at Madeley Park Wood. Therefore it is not considered that the proposed dwelling would harm the character or quality of the landscape so as to justify a refusal, particularly in the context of the previous permissions on this site.

Residential amenity

Eastwood Rise and the access to the site slopes down steeply and the dwelling would be sited on levelled land in the centre of the site. The properties to either side are raised up above the site of the

proposed dwelling and they are a significant distance away. It is not considered that there would be any significant impact on the privacy of the neighbouring properties.

Impact on trees

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge 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 appropriate, developers will be expected to set out what measures will be taken during the development to protect trees from damage.

There are a large number of mature trees within the application site and the trees to the north-east of the site are protected by TPO T7/8. Whilst it is proposed to remove three trees at the entrance to the site, the vast majority will remain. The Landscape Development Section is satisfied that the proposal does not raise any adverse issues in respect of impact on these trees.

Highway safety

Access to the site is via an existing driveway off Eastwood Rise. An integral double garage is proposed and sufficient parking and turning areas would be provided. It is not considered that the development would have an adverse impact on highway safety and as such, a refusal on highway grounds would not be sustainable.

Other matters

The up to date phase 1 habitat survey and ecological scoping report indicate that no adverse impact upon protected species or wildlife would ensue as a result of the proposals as long as the development does not encroach upon the woodland area and semi-mature/mature trees.

Due to the existence of an extant permission on the site which could potentially lead to a further dwelling on the site, it is considered necessary to request a legal agreement to prevent this. This is something that has been done as part of the previous approvals and it would protect the authority from further development in an intrinsically unsustainable location. An appropriate timeframe would be given to the applicant to provide this.

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 ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Considerations
Policy N19: Landscape Maintenance Areas

Other material considerations include:

National Planning Policy Framework (March 2012)
Planning Practice Guidance (2014)
Supplementary Planning Guidance: Space about Dwellings (July 2004)
Newcastle-under-Lyme and Stoke on Trent Urban Design Guidance (adopted December 2010)
EC Habitats Directive
The Conservation of Habitats and Species Regulations 2010

Relevant Planning History

- 1963 TP1721 Permit – residential development.
- 1964 TP3226 Permit – proposed bungalows, roads and sewers Plots 24-47, 72-76.
- 2001 01/00856/PLD Permit – Certificate of Lawful Use or Development for Plot 32.
- 2002 02/00068/PLD Permit – Certificate of Lawful Use or Development for Plot 33.
- 2002 02/00310/PLD Permit – Certificate of Lawfulness of proposed erection of dwelling house in accordance with planning permission TP3226.
- 2007 06/1088/FUL Permit – detached dwelling.
- 2010 06/1088/EXTN Permit – application to extend the time limit for implementing planning permission 06/1088/FUL for detached dwelling.
- 2012 12/00301/FUL – Permit - detached dwelling

Views of Consultees

Whitmore Parish Council have no objections to the planning application, however draw the planners attention to the PCs comments on the last application (12/00301/FUL) regarding drainage as the bottom half of the site becomes heavily waterlogged. Conditions No.8 and 9 of 12/00301/FUL should be attached to any consent.

Landscape Development Section have no objections and request conditions to secure details of work within Root Protection Areas, additional tree planting to mitigate the loss of trees to be removed and consideration of an alternative to the proposed lawn grass seeding of the steep embankments given that it will be difficult to safely cut and manage.

Highways Authority has no objections to the proposed development

Environmental Health has no objections to the development

Representations

None received to date

Applicant/agent's submission

The application is supported by a Design and Access Statement, an Extended Phase 1 Habitat Survey and an Arboricultural Impact Assessment. All of the application documents can be viewed at the Guildhall or using the following link.

www.newcastle-staffs.gov.uk/planning/15003376FUL

Background Papers

Planning File
Development Plan

Date report prepared

4th June 2015