

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

The sites is located within the Green Belt, and an area of Landscape Restoration as defined within the Local Development Framework.

The statutory 8 week determination period for the application expired on the 28 May 2015.

A decision on this application was deferred at the meeting of the Committee held on 13th May 2015 to allow Members to visit the application site.

RECOMMENDATION

PERMIT subject to the following conditions;

- 1. Time limit**
- 2. Submission of materials**
- 3. In accordance with the approved plans**
- 4. Submission of noise assessment**
- 5. Contaminated land investigation and risk assessment to be submitted**
- 6. Tree protection in accordance with BS5837:2012 and submitted drawing**
- 7. Development in accordance with Arboricultural Method Statement for tree protection**
- 8. Prior approval of landscaping proposals**
- 9. Prior approval of tree and landscape management plan to address issues concerning the long term future of the woodland & replacement planting**
- 10. Arboricultural site monitoring schedule**
- 11. Implement recommendations within the Phase 1 Extended Habitat Survey received with the application**
- 12. Prior approval and implementation of sewage plant equipment on site**

Reason for recommendation

The development is inappropriate development within the Green Belt. There is, however, an extant outline planning permission for the residential development of this plot and a reserved matters application could lawfully submitted at any time. Such a 'fall back' position amounts to very special circumstances required. Further, the development by virtue of its design, scale and materials, would not harm the character of the rural area, and there would be no adverse impact to highway safety or trees. The development is considered to accord with Policies N12 and T16 of the Local Plan, Policy CSP 1 of the Core Spatial Strategy and the aims and objectives of the National Planning Policy Framework.

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

The application seeks planning permission for the erection of a detached dwelling on a site off Birch Tree Road. The application site is located within an area of Green Belt, therefore the key consideration with regard to the principle of development is whether the proposal represents

inappropriate development within the Green Belt. In addition it is within a landscape maintenance area as indicated on the Local Development Framework Proposals Map.

The key issues to consider as part of the development are as follows;

- Is the development inappropriate development within the Green Belt
- Impact of design upon the character of the area
- Impact upon the amenities of neighbouring residents
- Highway implications
- Impact of the proposal on trees
- Impact upon protected species
- Any other material considerations
- If so, are any very special circumstances in place to outweigh harm to the Green Belt

Is the development considered appropriate development in the Green Belt?

Paragraph 87 of the National Planning Policy Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Since the introduction of the NPPF in March 2012, only “due weight” should now be given to relevant policies of existing plans according to their degree of consistency with the NPPF; the closer the policies in the plan to the policies in the framework, the greater the weight that may be given.

Policy S3 of the Local Plan states that development for sport and recreation uses of a predominantly open character, whether formal or informal, or for other uses of land that preserve the openness of the area, may be located in the Green Belt so long as it does not disrupt viable farm holdings. It goes on to state that any buildings must be limited to those essential to the use and must be sited to minimise their impact on the openness of the Green Belt.

The construction of new buildings in the Green Belt is inappropriate development, unless they are one of the exceptions listed in paragraph 89 of the NPPF. The proposal does not fall into any of the exception criteria listed, therefore the proposed development must be considered as inappropriate development within the Green Belt. As such, the key question is whether there are any very special circumstances in favour of the development.

The design of the development and impact on the character of the area

Policy CSP1 of the Core Spatial Strategy outlines how the design of new development is assessed which includes amongst other requirements the need to promote and respect the areas character and identity.

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.

The proposed dwelling would be split level, with a two storey elevation facing onto Birch Tree Lane. The dwelling would be of contemporary design, utilising large glazed elements to both the front and rear elevation.

The ridge height of the dwelling would be 10.9m from the nearest ground level. Reference has been made to the dwelling measuring 14m – this would be the height of the dwelling when measured from the garage area, the bulk of the dwelling is visually broken up by the stepped design. The scale of the proposed dwelling is not considered to be too large for the size of the plot, or in relation to other properties on the street.

The dwelling would be set approximately 7m into the site, with the site entrance and driveway taken from Birch Tree Lane. The other properties on Birch Tree Lane are set a similar distance from the road. Concerns have been raised with regard to positioning of the dwelling within the site, however it is considered that the proposal would be in keeping with the character of the area.

The proposed dwelling would be fabricated in render with a slate roof to complement the contemporary design. In order to ensure that appropriate materials are used for the development, it is considered that materials would need prior approval from the Local Planning Authority.

Birch Tree Lane is made up of detached dwellings within substantial plots. There is a number of single storey bungalow accommodation, some split level dwellings and also two storey properties. There is no defined character on the street, with some dwellings being very contemporary in their design, such as Glen Falls. As there is no defined character, it is considered that the design of the proposed split level dwelling would not be out-of-keeping with the area.

The proposed dwelling is considered to be of appropriate design, and would be in keeping with the character of the area and would not adversely affect the street scene.

Is the impact on residential amenity acceptable?

The Framework states within paragraph 9 states that pursuing sustainable development involves seeking positive improvements in peoples quality of life, including improving the conditions in which people live, work, travel and take leisure. The impact upon the amenity of surrounding residents has to be taken into consideration. Paragraph 17 sets a core planning principle that planning should seek to secure a good standard of amenity for all existing and future occupants of land and buildings.

The Council's Supplementary Planning Guidance; Space around Dwellings seeks to ensure that new development retains sufficient spacing in order to prevent an adverse impact upon the amenities of neighbouring residents.

A distance in excess of 50m would be retained between the proposed dwelling and neighbours to the rear; Foxdene and Woodycrest. A distance of 25m would be retained between the side elevation of the proposed dwelling and Craggen to the north-east. The distances would be in compliance with the council's SPD and as such the proposed dwelling would not adversely affect the amenities of any of these neighbouring residents.

The rear amenity space proposed to the dwelling will be somewhat limited due to the trees to the rear of the site, however the proposal includes the addition of decking, which would provide a reasonable useable space to the occupiers of the property. The total area of the rear amenity space would exceed the minimum standards within the SPD.

Concerns have been raised with regard to the positioning of the proposed dwelling in relation to the shared boundary with Misty Heights. Birch Tree Lane slopes upwards to the north east, therefore Misty Heights is set at a lower level than the application site, which is also a single storey dwelling. The proposed garage elevation would be adjacent to the boundary with Misty Heights, approximately 8m from the corner of Misty Heights. The spacing between the properties is considered to be sufficient in order to prevent significant impact upon the amenities of this property in terms of space, light, outlook and privacy.

Neighbours have raised a number of concerns with regard to the sewage treatment on site. The application form states that a Klargest Domestic Treatment plant would be used on site, however no additional details have been provided at this stage. As its location may affect protected trees it is considered necessary to request additional details are provided for prior approval and implementation via condition. Concerns expressed about whether the siting of the treatment plant is in accordance with the manufacturers installation instructions would be addressed through Building Regulations and is not a planning matter.

Are there any highway safety issues?

The access point would be taken from Birch Tree Lane which is a private road. As such, the Highway Authority raises no objections to the development, however notes that visibility would be restricted in one direction due to exiting evergreen planting to the front of Misty Heights. Given the limited vehicular movements on Birch Tree Lane it is considered that such restrictions to visibility will not result in a highway safety concern that would justify refusal of planning permission.

Several objections have been raised with regard to the road being held in private use, and that an agreement would have to be reached with the neighbouring properties to agree the access, this is between the land owners, and as such is not a planning matter for the consideration of the Local Planning Authority.

Is the impact on trees and the landscape acceptable?

The application site contains a number of protected trees under T62a, and the development would result in an impact upon those trees. However as stated above, the application site has the benefit of an extant consent for a dwelling, and as the consent was granted prior to the TPO being placed on the site, the planning permission is given precedence over the impact upon the trees.

The submitted information demonstrates that the development can take place without encroachment into the RPAs of the retained trees. The council's Arboriculturalist has viewed the proposal and raises no objections to the development.

Will the development have an unacceptable impact on protected species?

An extended Phase 1 Habitat Survey was submitted with the application. A badger sett is known to be located to the north-western corner of the site, the information submitted states that the sett does not display any evidence of recent use, with an active wasp nest blocking one of the entrances. Recommendations have been made to mitigate any impact upon badgers by using protective fencing during the build process, excavation works are carried out at night, exposed pipe work should be capped, and topsoil should be stored away from the sett. Also, due to the loss of foraging places for badgers within the site, additional foraging areas should be created within the wider landscaping scheme.

Other Matters

A number of residents have raised concerns with regards to the proposed dwelling and its proximity to the proposed HS2 route. From the draft information it appears that the site would be just beyond the buffer of the over ground HS2 route, and as such may be impacted upon by the development in the future, however this is unknown at this point.

If inappropriate, are there the required very special circumstances to justify approval?

As indicated above the proposal involves inappropriate development in Green Belt terms. Accordingly the Authority has to now to weigh in the balance any elements of harm associated with the use against any other material considerations.

The NPPF states in paragraph 88 that when considering planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other circumstances.

Inappropriate development by definition is harmful to the interests of the Green Belt. However beyond that no element of "other harm" has been identified associated with the change of use of land.

Application 12/00180PLD established that the site had an extant consent for outline permission for a dwelling on the site (application reference NNR1378) and that there was no time limit in place for the submission of reserved matters. The principle of residential development of this site has therefore been established.

The extant consent is considered to be a genuine 'fall back' position and such a matter is considered to be the a very special circumstance required that justifies granting planning permission.

In light of the very special circumstance of the extant consent, it is considered that the principle of residential development is accepted.

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 S3: Development in the Green Belt
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

14/00784/FUL	Detached dwelling Withdrawn
12/00180/PLD	Application for certificate of lawful development for proposed development of Plot 37 Positive issued 27/3/2012
NNR1378	Erection of dwellinghouses Approved 1956.

Views of Consultees

Whitmore Parish Council: Object on the following grounds;

- Contrary to Green Belt policy
- Development has no right of access onto Birch Tree Lane.
- Close to the boundary shared with Misty Heights – this may cause issues with drainage.
- Birch Tree Lane is narrow and there are concerns with regard to access / parking
- The scale is inappropriate and out of keeping with the character of the area

Landscape Development Section: No objections subject to the development taking place in accordance with the tree protection measures and arboricultural method statement, submission and approval of landscaping plan, approval of tree landscape management plan, and an arboricultural site monitoring schedule

Highways Authority: No objections to the development

Environmental Health: No objections subject to conditions for contaminated land and the submission of a noise assessment. An informative regarding the importation of waste should also be attached to the decision notice.

County Ecologist: Offer no comments

Staffordshire Badger Conservation: Comment that they have not be able to enter the site, however request that the recommendations from the badger report are implemented.

The views of **Staffordshire Wildlife** been sought, however as no comments have been received it is assumed they have no comments to make.

Representations

Eight letters of objection have been received to date. A summary of the comments is provided below, however the full documents can be viewed on file.

- Inappropriate development within the Green Belt – no very special circumstances in place to outweigh harm to the Green Belt
- Balance of harm outweighs any benefits of granting planning permission
- Area blighted by HS2 route
- Loss and removal of trees subject to a tree preservation order (T62)
- Impact upon the amenities of residents in contrary to Human Rights Act
- Concerns over access and highway safety
- Scale of dwelling is out of keeping with the character of the area
- Access should be from Snape Hall Road
- Concerns during the construction process with regard to parking HGVs on Birch Tree Lane
- Neighbour Misty Heights did not receive notification letter – a letter was sent to the property on the 8 April 2015
- Site is within an Area of Outstanding Natural Beauty
- Ecological impact from the loss of trees especially upon habitats for owls, badgers, bats and snakes
- Over-shadowing to neighbouring dwelling Misty Heights
- Concerns over the location of sewage treatment plant to the proposed dwelling
- Neighbours were not informed about the lawful development certificate
- Plot 37 have never contributed to the upkeep of the private road
- Boundary treatment would not screen the development from Birch Tree Road
- Where will services come from?
- Numerous houses in the area for sale already
- Plot 37 may be subject to a statutory blight notice dependent upon the HS2 route
- Weather conditions may have meant the ecological survey was not conducted at premium time
- Concerns regarding the proposed sewage treatment on site and the discharge of water onto neighbouring properties
- Owners of Birch Tree Road will not accommodate the development

A number of attachments were also included in the submission including the following;

- Photographs showing the site without a dropped kerb
- Photographs of the application site
- Photographs showing local wildlife including fawn and deer
- Details of a Klargest Domestic Treatment Plant & installation and guidance notes
- Land registry search details
- Land registry plan
- Photograph of dwelling High Trees during the construction phase
- Letter from the highway authority confirming that the road is unclassified and in private ownership
- Confirmation of the approved lawful development certificate

Applicant/agent's submission

The application is supported by a Design and Access Statement 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/1500281FUL

Background Papers

Planning File

Development Plan

Date report prepared

4th June 2015