

The application seeks full planning permission for the erection of 10 bungalows on land at Barrie Gardens in Talke.

The application site lies on the edge but within the major urban area of Talke which has no specific land use designations, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.47 hectares

**The statutory 13 week determination period for the application expired on 23<sup>rd</sup> January 2016.**

**RECOMMENDATION**

- A. Subject to the County Council Flood Risk Team raising no objections to the application, and**

**Subject to the applicant then entering into a Section 106 agreement by 3<sup>rd</sup> February 2017 (requiring that they first agree in writing to extend the statutory determination period to the 8<sup>th</sup> February 2017) and to secure a financial contribution for the enhancement and maintenance of the open space the amount of which and the location where it will be expended will be reported to the Committee.**

**Permit, subject to conditions relating to the following: -**

- 1. Standard Time limit for commencement of development**
  - 2. Approved plans**
  - 3. Development to be occupied by those aged 55 and over**
  - 4. Materials**
  - 5. Finished ground and floor levels and retaining wall design details**
  - 6. Boundary treatments**
  - 7. Tree protection**
  - 8. Landscaping of the site and the surrounding open space**
  - 9. Contaminated land conditions**
  - 10. Construction Method Statement (Highways and Environmental matters)**
  - 11. Internal noise levels**
  - 12. Construction hours**
  - 13. Approval of recyclable materials and refuse storage**
  - 14. Provision of access, parking, servicing and turning areas prior to occupation.**
  - 15. Prior approval of surfacing materials and surface water drainage for the access road and parking areas, and the delineation of visitor parking bays; and implementation of approved details**
  - 16. Off-site highway works including the provision of a 2m wide footway linking the site with Lynn Avenue and provision and delineation of 5 parking spaces at the rear of 1 to 9 Barrie Gardens.**
  - 17. Proposed coal mining precautionary measures**
  - 18. Intrusive site investigations and remedial works implementation**
  - 19. Prior approval of details for storage and collection arrangements for recycling and refuse and implementation of approved details**
- B. Should the matters referred to in (A) above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development fails to secure the provision/maintenance of off-site public open space or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

**Reason for recommendation**

Whilst the development is not located on previously developed land, it is located within a sustainable urban area and given that there is a strong presumption in favour of sustainable development in the context of the Council's inability to be able to demonstrate a 5 year supply of deliverable housing it is considered that the development is acceptable in principle. The design of the scheme, impact on neighbouring amenity levels, trees, highway safety and land stability/ previous coal working matters are considered acceptable subject to conditions. However, if objections are received about drainage/ flood risk issues and/ or an appropriate financial contribution is not secured for public open space then the development would be contrary to policies of the development plan and the aims and objectives of the National Planning Policy Framework (NPPF).

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

Following the withdrawal of the previous application the applicant has successfully addressed concerns which were raised by consultees and your officers at the time of that application. Subject to the outstanding matters being resolved it would represent a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

#### **1.0 KEY ISSUES**

1.1 The application seeks full planning permission for the erection of 10 bungalows (five pairs of semi-detached properties) on land at Barrie Gardens in Talke. The application is a resubmission of a previous application for 13 bungalows, application reference 15/00956/FUL, which was withdrawn primarily to address concerns raised by the Coal Authority about the impact of previous coal mining activities and land stability issues.

1.2 The application site, of approximately 0.47 hectares in extent, is currently in use as incidental open space and as such it does not meet the definition of previously developed land but is located within the urban area of Newcastle which has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

1.3 Whilst the site is an area of open space it is not identified as such in the North Staffordshire Green Space Strategy.

1.4 The main issues for consideration in the determination of this application are accordingly:-

- Is this an appropriate location for residential development?
- Does the application satisfactorily address coal mining and land stability matters?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?
- Would the proposed development have any material adverse impact upon highway safety?
- Flood Risk and Sustainable Drainage
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

#### **2.0 Is this an appropriate location for residential development?**

2.1 Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

2.2 Saved local plan policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to

services and service centres by foot, public transport and cycling. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 The land is located on the edge but within the major urban area adjacent to an existing and established housing area. The site therefore has to be recognised as a sustainable area for new housing with a regular bus service (between Kidsgrove and Newcastle) on Coalpit Hill and a public house and church within 500 metres walk of the site.

2.5 The site appears as an area of open space that objectors have stated is used by residents. However, the site is not identified within the North Staffordshire Green Space Strategy and therefore is not required to meet the level of required greenspace within the locality due to there being other local areas nearby which contribute to achieving the standard required. For this reason it is not considered that the land can be protected for open space purposes.

2.6 Paragraph 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. At paragraph 14, the Framework also states that unless material considerations indicate otherwise where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole.

2.7 The Local Planning Authority is currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a location which is close to services and facilities and promotes choice by reason of its proximity to modes of travel other than the private motor car.

2.7 On the basis of all of the above, it is considered that the principle of residential development in this sustainable location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

### 3. Does the application satisfactorily address coal mining and land stability matters?

3.1 Paragraph 120 of the NPPF advises that “To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.”

3.2 A large proportion of the application site is located within a high risk coal mining area and the application is supported by a coal mining risk assessment and a summary of mine entries document. The risk assessment identifies that there are two mine entries (shafts) within the application site.

3.3 The Coal Authority objected to a previous application for 13 dwellings on the site due to three of the dwellings being proposed directly over the two shafts. The previous application was withdrawn due to that objection so that the applicant could address such concerns and this has resulted in a reduction in the number of dwellings within this application, and the siting of the dwellings as currently proposed has been adjusted accordingly.

3.4 A number of objections have been received from residents regarding the suitability of the land for building due to the location of the mine shafts and the stability of the land. The Coal Authority however have now raised no objections following the submission of further information which they

consider to be broadly sufficient for the purposes and meets the requirements of the planning system in demonstrating that the application site is, or can be made, safe and stable for the proposed development, subject to a condition for the submission and approval for further site investigation works and any remedial works. An additional condition which secures the proposed precautionary measures included in the letter dated 17 October 2016 from Couch Consulting Engineers Ltd is also considered necessary. On the basis of this advice it is the view of your officers that the applicant has satisfactorily demonstrated that a safe development can be secured in accordance with the NPPF.

#### 4.0 Would the proposed development have a significant adverse impact on the character and appearance of the area?

4.1 The application site has residential dwellings on three sides. The cross sections of the site submitted with the application show that the existing dwellings beyond the western boundary on Walton Grove are in the region of 8.5 metres lower than the existing ground level of the site. Existing dwellings to the north and east are also on lower lying land although the levels difference are not as significant.

4.2 The character of the area is primarily of two storey terrace dwellings on Barrie Gardens and two storey semi-detached dwellings on Lynn Avenue and Walton Grove. The proposed dwellings would be semi-detached bungalows which would contrast with the existing dwellings.

4.3 The application indicates that “the design for the appearance of this proposal is one that has been derived from taking the traditional bungalow, its proportions and design features, and giving them a modern twist”.

4.4 The proposed dwellings would have a staggered building line with differing ridge heights which creates design interest whilst also seeking to address the levels difference of the site and locality. The finished ground levels will need to be controlled to ensure that the development has an appropriate appearance. Furthermore, whilst there are no bungalows within the immediate locality it is considered that the elevated nature of the land and the topography of the area are matters that help to justify bungalows in this instance. The general appearance and layout of the proposals are also considered acceptable subject to conditions which secure the submission and approval of appropriate facing materials and additional levels information for all retaining structures which shall include the appearance, height and location. The impact of the ground levels and the retaining structure on existing trees would need to be addressed through condition. A further condition regarding any replacement planting to be included in any submitted landscaping scheme would also need to be submitted for approval. Style and height of boundary treatments should also be submitted for approval. Subject to these conditions it is considered that the proposed development would not have a significant adverse impact on the character and appearance of the area in accordance with policies of the development plan and the NPPF.

4.5 The removal of the three dwellings, due to the location of the coal mining shafts, results in an area of the site being undeveloped. This is likely to be left open and could serve the same purpose as it does now. However, some planting may be proposed as part of any landscaping scheme to be secured by condition.

#### 5.0 Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?

5.1 Paragraph 17 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

5.2 Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on development including the need for privacy, daylight standards, and environmental considerations.

5.3 As discussed the site is elevated compared to existing residential dwellings but by virtue of the separation distances and the siting and orientation of the proposed dwellings and their relationship with existing neighbouring properties the proposed development would comply with the guidance of

the SPG and would not result in a significant loss of amenity to the occupiers of the neighbouring dwellings. Therefore it would meet the guidance and requirements of the NPPF in this regard. Furthermore, each of the proposed dwellings would have a satisfactory level of private gardens

#### 6.0 Would the proposed development have any material adverse impact upon highway safety?

6.1 The application site is served off an un-adopted piece of land which can be accessed off both Lynn Avenue and Barrie Gardens. The piece of land is under the applicant's ownership and forms part of the red edge application site.

6.2 A Technical Note – Traffic and Transport Review has been submitted to support the application which describes the piece of un-adopted highway as a car parking court which serves properties on Barrie Gardens. No spaces are laid out but generally cars park around the edges to allow traffic flow through this land.

6.3 A car parking survey has been conducted which established that the existing parking court will need to retain sufficient space to accommodate a maximum of 3 vehicles for existing properties. The proposed plan shows that 5 vehicles can be parked in the car parking court which would not impede vehicle movement to the proposed dwellings, including that of a refuse vehicle. In addition the proposed dwellings would have a further 23 car parking spaces.

6.4 Policy T16 of the local plan sets out that for a two bedroom property a maximum of 2 spaces should be provided. Therefore the proposed development provides an overprovision of car parking by three spaces.

6.5 The Highways authority has raised no objections subject to conditions. As discussed the site is within a sustainable location and your officers consider that two of the spaces could be lost for the proposed dwellings and replaced with soft landscaping, details of which can be secured via a condition for a wider landscaping scheme for the development. Subject to this and the other conditions advised by HA it is considered that the proposals would not lead to any significant highway safety concerns and is in accordance with policy T16 of the local plan.

#### 7.0 Flood Risk and Sustainable Drainage

7.1 The NPPF at Paragraph 103 indicates that when determining planning applications local planning authorities should ensure that development would not lead to flood risk elsewhere.

7.2 The County Council Flood Risk team have been consulted on the application and have raised objections due to the absence of a Drainage Strategy/ Flood Risk Assessment which means they are unable to assess whether the proposed design would meet the non-statutory technical standard.

7.3 The applicant has now submitted a drainage plan and a further consultation has been undertaken. Subject to them raising no objections, along with any conditions, the application has demonstrated that the proposal would not lead to flood risk elsewhere in accordance with the NPPF.

#### 8. What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

8.1 The proposed development does not meet the threshold for the requirement for affordable housing and the application indicates that the bungalows are to be occupied by persons who are over the age of 55. On this basis there would be no education contribution required from this development. A condition restricting the dwellings to over 55's is therefore considered necessary.

8.2 The Landscape Development Section (LDS) have requested a contribution towards the improvement and maintenance of off-site public open space. They indicate that the locality is poorly served in terms of play area provision and they seek a financial contribution equating to a total of £29,430. However given that the dwellings would be for over 55's it is arguable whether the contribution sought is "fairly and reasonably related in scale and kind to the development." Further consideration is being given to this, and a supplementary report will be provided to the Committee.

## **APPENDIX**

### **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 ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP10	Planning Obligations

#### Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N4	Development and Nature Conservation – Use of Local Species
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

### **Other material considerations include:**

#### National Planning Policy

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

#### Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Space Around Dwellings SPG (SAD) (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2016 – Version 1.7

#### Relevant Planning History

15/00956/FUL 13 single storey 2 bed residential units Withdrawn

#### Views of Consultees

**Kidsgrove Town Council** and **Severn Trent Water** have not responded and it is assumed that they have no comments or observations to make on the application.

The **Landscape Development Section** raises no objections subject to conditions regarding tree protection and landscaping. However further clarification on levels and retaining structures is advised. A public open space contribution is also requested and further information on this matter will be submitted prior to the committee meeting.

The **Education Authority** states that the development falls within the catchments of St. Saviour's CE(VC) Primary School and The Kings CE(VA) School. It is advised that this development is proposed to provide 10 dwellings for the over 55's. Provided it was a condition of the planning permission that the dwellings could only be occupied by the over 55's, there would be no education contribution required from this development.

The **Environmental Health Division** raises no objections subject to conditions regarding contaminated land, construction hours, construction method statement, noise levels and refuse storage and collection arrangements.

The **Highway Authority** raises no objections subject to conditions that the access, parking, servicing and turning areas have been provided; surfacing, drainage and delineation of spaces, provision of off-site parking and footway works, and the submission and approval of a Construction Management Plan. They raise no objections to the revised plans also.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objection. In the interests of basic security measures it is recommended that all doors and windows are installed to the standard for minimum security of PAS 24. It is also recommended that gardens are enclosed by approx. two metre high solid fencing and that access control exists down the sides and rear of the dwellings. Most residential burglaries occur via access to the sides and rear of 2 properties. Further details regarding good practise can be found at [www.securedbydesign.com](http://www.securedbydesign.com)

**Staffordshire County Council Flood Risk Team** has stated that in the absence of a Drainage Strategy/ FRA they are unable to assess whether the proposed design will meet the non-statutory technical standards for sustainable drainage systems and the implications for flood risk on site and downstream. They therefore recommend that planning permission is not granted until an acceptable Drainage Strategy/ Flood Risk Assessment has been submitted.

The **Coal Authority** raises no objections following the submission of further information since the previous planning application. They concur with the recommendations of the submitted Phase 1 Geo-Environmental Report (July 2015, prepared Sladen Associates); that both actual and probable shallow mine workings potentially pose a risk to both public safety and the stability of the proposed development. Consequently, intrusive site investigation works should be undertaken in order to establish the exact situation regarding them. Conditions can therefore be imposed to ensure that further site investigation is undertaken with any identified remedial works being undertaken. They would expect the proposed development to be carried out in accordance with the proposed precautionary measures included in the letter dated 17 October 2016 from Couch Consulting Engineers Ltd.

The **Waste Management Section** raises no objections subject to a condition full and precise details for storage and collection arrangements for recycling and refuse is agreed prior to development taking place.

### Representations

Nine letters of representation have been received raising the following objections;

- Loss of green open space for kids to play,
- Increased traffic congestion on neighbouring streets,
- Previous coal mining activities have made the site unsafe to build on,
- Pollution from building houses,
- Loss of a view,
- Loss of light to neighbouring properties,
- Access to the site during winter would be difficult,

### Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Survey and Impact Assessment
- Flood Risk Assessment
- Transport Statement
- Phase 1 Geo-Environmental Report & Coal Mining Risk Assessment
- Summary of mine entries document

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00874/FUL>

### Background Papers

Planning File  
Development Plan

### Date report prepared

21<sup>st</sup> December 2016