

The Application is for a Certificate of Appropriate Alternative Development, under Section 17 of Part III of the Land Compensation Act 1961, as amended by the Localism Act, at Fairfield House, Bar Hill Road, Onneley. The application has been submitted following the Department of Transport's acceptance of a Blight Notice and thus to compulsorily purchase the property and land to develop it as part of the High Speed Two Infrastructure project (HS2). The applicant has suggested that the erection of two dwellings is an appropriate alternative to the use of the site for purposes associated with HS2.

The site is within the open countryside outside of any defined village envelope and within an area of Landscape Enhancement (policy N20) all as defined on the Local Development Framework Proposals Map.

**The two month statutory determination period expires on 10<sup>th</sup> July 2017.**

### **RECOMMENDATION**

**(A) That a positive Certificate be issued indicating that it is the opinion of the Local Planning Authority that planning permission would have been granted for the following development, in addition to the development for which the land is to be acquired, if it were not proposed to be acquired by the Authority possessing compulsory purchase powers;**

- (i) Construction of two dwellings, up to two storey in height, with a footprint as indicated on the submitted plan**
- (ii) Construction of two buildings for use falling within Class C4 (small houses in multiple occupation)**
- (iii) Construction of a building/s for uses falling within Class B1 (b) and (c) (research and development and light industry)**
- (iv) Any other uses which, should the comments of the County Council not be received prior to the meeting, your Officer considers appropriate to include**

**(B) That planning permission would have been granted for the above development, at the relevant date or if permission granted after the relevant date, subject to the conditions relating to the following which may have an impact on the value of the land:**

- 1. Widening of the access and provision of vehicle visibility splays.**
- 2. Provision of suitable noise attenuation measures and restriction on hours of use for any Class B1 use of the site.**
- 3. Any conditions relevant to developments identified following receipt of the comments of the County Council**

**And such certificate shall include a statement of the Council's reasons for the above opinion, which shall be based upon the content of this report, and that your officers should have delegated authority to ensure that the Certificate to be provided meets the statutory requirements**

### **Reason for Recommendation**

Two dwellings, two small houses in multiple occupation, and low key rural employment uses falling within Class B1 (b) and (c) all would be considered as appropriate alternative development of the site. The site could be accessed safely; without unacceptable visual impact and ensuring appropriate living conditions for existing and future residents. The comments of the County Council are awaited and need to be taken into account by the Local Planning Authority in its decision, but their views on a similar application for the adjoining site are known

## **KEY ISSUES**

The application is for a Certificate of Appropriate Alternative Development, under Part III of the Land Compensation Act 1961, on land at Fairfield House, Bar Hill Road, Onneley. In circumstances where land and property is to be compulsorily purchased, the certificate procedure provides a mechanism for indicating the descriptions of development (if any) for which planning permission can be assumed i.e. those which an owner might reasonably have expected to sell his land for in the open market if it had not been publicly acquired. The right to apply for a certificate arises at the date when the interest in land is proposed to be acquired by the acquiring authority. The acquiring authority in this case is HS2 and it is to be acquired for purposes associated with the HS2 project. The 'relevant date' in this case was 3<sup>rd</sup> May 2016.

The application is not a planning application. The permissions or use indicated in a certificate of appropriate alternative development can briefly be described as those with which an owner might reasonably have expected to sell his land in the open market if it had not been publicly acquired.

The LPA should come to a view, based on its assessment of the information contained within the application and of the policy context applicable at the relevant date, the character of the site and its surroundings, as to whether such a development suggested in the application or any other development would have been acceptable to the Authority (even if not specified in the application). If it is giving a positive certificate (one that indicates that planning permission would have been granted for one or more classes of development in respect of the application site, in addition to the development for which the land is being acquired), the LPA must give a general indication of the conditions and obligations to which planning permission would have been subject. As this process forms part of a valuation process the general indication of conditions and obligations should focus on those matters which affect the value of the land. Conditions relating to detailed matters such as approval of external materials would not normally need to be indicated, unless such detailed matters do affect the value of the land.

In this case there has been no change in policy since the relevant date (3<sup>rd</sup> May 2016) and as such the current Development Plan is applicable to the assessment of the suggested appropriate alternative development and all the development that is appropriate alternative development as required by the legislation.

The main issues to consider are as follows:

- Is the construction of two dwellings, and/or any other development acceptable in principle on this site in consideration of the policy context?
- Would development of the site be acceptable in consideration of the site and its surroundings?

**Is the construction of a single dwelling, and/or any other development acceptable in principle on this site in consideration the policy context?**

### *Residential development*

The application site lies within the Rural Area of the Borough, outside of the village envelope of Madeley, in the open countryside.

Core Spatial Strategy (CSS) Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say 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.

CSS Policy ASP6 states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural

Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

Furthermore, Policy H1 of the Local Plan indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within one of the village envelopes.

The site as garden would be defined as greenfield land and, as indicated above, it is not within a village envelope and nor would the proposed dwelling serve an identified local need as defined in the CSS. The policies referred to above therefore don't offer support for the principle of residential development on the site.

The Local Planning Authority (the LPA), by reason of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its requirements with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%.

The Local Planning Authority is currently unable to robustly 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).

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 (as defined in paragraph 47). As the Borough does not have a 5 year supply of housing land, by operation of paragraph 49, paragraph 14 of the NPPF applies.

Paragraph 14 indicates that at the heart of the Framework is a presumption in favour of sustainable development and that this means, for decision-taking, 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 as a whole; or
- specific policies in the Framework indicate development should be restricted.

Looking at the second limb, examples are given of 'specific policies' in the footnote to paragraph 14 such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation nor is it contrary to any other restrictive policies set out in the NPPF. As such the second limb does not apply in this case. The 'weighted' balancing exercise set out in the first limb therefore applies in this case.

The site is approximately 625m to the village envelope boundary of Madeley and approximately 1.75km from the centre of Madeley (containing the shops, secondary school and the Madeley Centre) which could be safely reached on foot on pavements for the entire route and are within the 2Km threshold that is sometimes referred to as the preferred maximum walking distance for commuters and the users of education facilities. Within the village there are some facilities such as the Sir John Offley Primary School and All Saints Primary School considerably closer than 1.5km from the site. The occupiers of the new development would, therefore, have reasonable choice of modes of transport and it is likely that they would support the services and facilities that are available in the village. In its consideration in 2016 of a similar application with respect to the adjoining property only some 20 metres or so closer to the village centre the same position was accepted. The development is therefore acceptable in respect of its location. In addition, no adverse impact has been identified, as explained below, that would significantly and demonstrably outweigh the benefits of this proposal which are the modest contribution to the supply of housing that is made and the economic benefits associated with the construction and occupation of 2 dwellings.

*Other development*

Given that the site is not within an existing centre on the edge of a centre and policies of the Development Plan do not support 'main town centre' uses in such a location it is considered that the use of the site for any of the uses falling within Class A, Class B1a (offices), Class C1 (hotels) and Class D2 (assembly and leisure) are not appropriate on this site. Whilst not strictly 'main town centre uses' it is not considered that Class D1 (non-residential institutions) would be appropriate alternative uses by virtue of the size of the site and the site's location outside of an existing centre.

Taking into account the size of the site and the proximity of other dwellings uses falling within Class B2 (general industrial) and Class B8 (storage and distribution) would not be appropriate for this site. The restricted size of the site makes it unsuitable for uses falling within Class C2 (residential institutions) and Class C2A (secure residential institutions).

Policy ASP6 and the NPPF supports rural enterprise in the open countryside in locations where local workforce is available. Given the relatively close proximity of the site to Madeley it is considered that uses falling within Class B1(b) (research and development) and B1(c) (light industrial) would be appropriate and supported by policy as it could be of a small scale. Uses falling into class B1 are uses that can be carried out in any residential area without detriment to the amenity of that area and as such the proximity of the existing residential properties adjoining the site would not prevent permission being granted.

The only other use that is considered would be an appropriate alternative use is a use falling within Class C4 (small houses in multiple occupation) given the similarity of such a use to Class C3 (residential).

The Borough Council also needs to consider whether any type of development which the County Council would normally be the responsible Local Planning Authority would be appropriate – such as waste and mineral development. The County Council has previously indicated that having regard to the policies and proposals within the Minerals and Waste Plans, the location of the adjacent site, its extent and the proximity to other residential development it was reasonable to conclude that the extraction of any underlying mineral resource from that site and the development of a waste management facility on that site would not be appropriate. Whilst the comments of the County Council on this current application are awaited there is no reason to expect that they will express a different view here.

### **Is the development of the site acceptable in consideration of the site and its surroundings?**

There are a number of factors that need to be addressed in this regard.

#### *Impact on the character and appearance of the site and its surroundings*

The site falls within an Area of landscape enhancement and as such saved policy N20 of the Local Plan applies. The policy indicates that proposals that will enhance the character and quality of the landscape will be supported and that within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

Saved policy N12 indicates that the Council will resist development that would involve the removal of any visually 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.

The site forms part of a large garden area of Fairfield House. There is mature hedgerow, a number of mature trees around the periphery and predominantly orchard/garden trees within, the site. Whilst a number of trees would be lost and some hedgerow removed to enable the widening of the access, two buildings and access to them could be sited and constructed without loss of any significant landscape feature and without any adverse impact on the character and quality of the landscape.

The siting of the dwellings would be to the rear of Fairfield House but a similar distance from the highway as the dwellings either side of the site and if suitably designed would be in keeping with its setting.

*The acceptability of the development in respect of amenity.*

Two dwellings could be constructed on the site that would not result in any material loss of amenity or result in an overbearing impact on the adjoining residential property whilst also ensuring that the occupiers of the buildings, if in residential use, would have acceptable living conditions.

As indicated above, Class B1 uses are, by definition, uses which can take place in a residential area without adverse impact on residential amenity. Subject to careful control over any the design of any building, to ensure appropriate noise mitigation, and hours of operation it is considered that low key employment development could take place without adverse impact on residential amenity.

*The acceptability of the development in highway safety terms.*

The Highway Authority has objected due to a lack of details of the proposed vehicle visibility splays at the access and in the absence of a speed survey to determine the required visibility splays.

Given that visibility is good in both directions at the access and in recognition of the observed speeds of vehicles along the road, appropriate visibility splays could be achieved on land within the applicant's ownership and control. Given that this is not an application for planning permission the applicant is not required to provide such information and in the circumstances it would be inappropriate to require the information that has been requested by the Highway Authority or to issue a negative certificate on the basis that development would not be appropriate due to highway safety issues.

If the development on the site is for employment purposes it will be necessary to ensure that suitable parking and turning facilities are provided. The site is physically capable of accommodating a parking area and turning facility without the loss of visually significant trees. It would not be appropriate for large vehicles to access the site but that could be controlled by the use of a condition and as such does not provide justification for ruling out low key employment uses as appropriate alternative development.

**Summary**

Development of the site as for 2 dwellings falling within Class C3, as 2 small houses in multiple occupation falling within Class C4 and uses falling within Class B1 (other than offices) would be acceptable in consideration of the site and its surroundings.

## **APPENDIX**

### **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](#)

Strategic Aim 16:	To eliminate poor quality development;
Policy SP1:	Spatial Principles of Targeted Regeneration
Policy SP2:	Spatial Principles of Economic Development
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 \(NLP\) 2011](#)

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 Consideration
Policy N20:	Area of Landscape Enhancement

[Staffordshire and Stoke-on-Trent Minerals Local Plan 2015 – 2030](#) – within a mineral safeguarding area for bedrock sand and gravel

#### [Staffordshire and Stoke-on-Trent Joint Waste Local Plan 2010 – 2026](#)

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

#### [National Planning Policy Framework \(NPPF\) \(2012\)](#)

[DCLG's Guidance on Compulsory Purchase Process and the Criche Down Rules for the Disposal of Surplus Land Acquired by, or Under the Threat of, Compulsion \(2015\)](#)

#### Supplementary Planning Guidance/Documents

#### [Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

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

[Planning for Landscape Change - SPG to the former Staffordshire and Stoke-on-Trent Structure Plan](#)

#### Relevant Planning History

None relevant

#### Views of Consultees

**Madeley Parish Council** has no objections.

The **Highway Authority** object on the basis that there are no details of the proposed vehicle visibility splays.

The **Landscape Development Section** indicates that there are many trees on and adjacent to the site that would be affected by the proposed buildings and access and request an Arboricultural Impact Assessment to BS5837:2012 before comments can be provided.

The **Environmental Health Division** has no objection.

The **County Planning Authority as Minerals and Waste Planning Authority** have very recently been consulted as required. In responding to a similar application (16/00510/AAD) on immediately adjoining land the County Council in July 2016 indicated that having regard to the policies and proposals within the Minerals and Waste Plans, the location of that site, its extent and the proximity to other residential development it was reasonable to conclude that the extraction of any underlying mineral resource from the site and the development of a waste management facility on the site would not be appropriate

Representations

None

Applicant/agent's submission

The applicant has submitted a supporting statement which can be viewed on the Councils website at <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00405/AAD>

Background Papers

Planning Policy documents referred to

Date report prepared

9<sup>th</sup> June 2017