

The application is for full planning permission for the erection of 5 bungalows at Slacken Lane, Kidsgrove.

The site lies within the urban area as defined on the Local Development Framework Proposals Map.

The application has been called in to be determined by planning committee by two councillors for the following reasons:

- Loss of amenity
- Over development - detrimental to the local environment and the abundance of wildlife in the area
- Access – off a footpath beyond the wide part of Slacken Lane, and would require widening and adoption.
- Flooding issues on Slacken Lane
- Waste collection issues
- Would affect possible development of adjacent sites
- Butt Lane is becoming over developed as a whole and that persistent development is putting severe pressure on the A34, Congleton Road.

The 8 week period for the determination of this application expired on the 8th November 2013.

RECOMMENDATION

a) Subject to the applicant entering into a Section 106 obligation by 28th February 2014 to secure the following:-

- i. A financial contribution of £3,000 towards the Newcastle (urban) Transport and Development Strategy**

Permit subject to conditions relating to the following matters:-

1. Standard time limit condition
2. Approval of materials
3. approval of finished floor levels
4. Approval of boundary treatments
5. Foul and surface water drainage works shall be completed prior to any occupation of the development commencing
6. Prior approval of off site highway works, including improvements to the junction of Slacken Lane and Congleton Road and surfacing of the access a minimum distance of 10m from the junction with Congleton Road
7. Prior approval of revised access details indicating the widening of the south east section of Slacken Lane to a width of 6m as broadly detailed on Mayer Brown drawing No X/PBSlackenLn.1/01
8. Development shall not be brought into use until the access, parking and turning areas have been provided in accordance with the approved plans
9. Prior to first occupation of the dwellings the unmade section of Slacken Lane from the Junction with Congleton Road through to the site access shall be reinstated by grade and level with compacted stone in accordance with details to be submitted to and approved in writing by the LPA
10. Condition to limit Construction hours
11. Prior approval of dust mitigation measures
12. Prior approval and implementation of waste storage and collection arrangements
13. Contaminated land conditions
14. Implementation of the recommendations of the submitted noise assessment
15. Prior approval of a landscaping condition

(b) Failing the securing of the above planning obligation by the 28th February 2014, that the Head of Planning and Development be given delegated authority to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on achieving sustainable forms of development, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

This application, through the removal of the dwelling to the rear of the site, overcomes the previous reason for refusal of application reference 13/00266/FUL. The development, provided appropriate conditions are included, would have an acceptable impact upon residential amenity, highway safety, waste management and flood risk. The application is therefore considered to be a sustainable form of development which complies with Policies ASP 5, CSP1, CSP3 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006 -2026, Policies T16, H1 and N12 of the Newcastle-under-Lyme Local Plan 2011, and the objectives of the NPPF.

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 Local Planning Authority has liaised with the agent throughout the application process, and the applicant has been able to overcome previous issues with the application, therefore the application is considered to be a sustainable form of development.

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 SP2 Spatial Principles for Economic Development
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 CSP10 Planning Obligations

Newcastle-under-Lyme Local Plan 2011

Policy H1 Residential development: sustainable location and protection of the countryside
Policy H3 Residential development – Priority to brownfield sites
Policy T16 Development: General Parking Requirements
Policy T18 Development – Servicing Requirements
Policy N3 Development and nature conservation – Protection and enhancement measures
Policy N12 Development and the protection of trees
Policy N13 Felling and pruning of trees
Policy N14 Protection of landscape features of major importance to flora and fauna

Other material considerations include:

National Planning Policy

National Planning Policy Framework (March 2012)

Supplementary Planning Guidance

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (Nov 2010)
Space around Dwellings Supplementary Planning Guidance (July 2004)
Developer Contributions Supplementary Planning Document (October 2007)

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

Newcastle (urban) Transport and Development Strategy (NTADS)

Circular 11/95 The use of conditions in planning permissions

Relevant Planning History

| | | |
|--------------|-----------|----------------------------------------------------------------------|
| 76/03196/OUT | Permitted | Proposed ex-servicemens social club |
| 00/00419/OUT | Refused | Residential development (Amended highway information) |
| 10/00437/PLD | Permitted | Certificate of lawfulness for a proposed ex service mens social club |

Views of Consultees

The **Staffordshire County Council Flood Risk Officer** indicated in previous consultations the proposed development does not currently drain to the adjacent culverted watercourse and the County Council's recent hydraulic modelling for the Kidsgrove Surface Water Management Plan (SWMP) has shown the culvert to be at capacity, therefore any further connections would increase the flows in the culvert and exacerbate a surface water flooding problem which already exists downstream. With regards to the updated drainage scheme for the proposed development; by connecting the surface water drainage to the United Utilities combined sewer to the North East of the development, this is now considered feasible on a level and capacity basis. Therefore they have removed their initial objection on a flood risk basis and now has no objections to the application. .

The **Environment Agency** is yet to comment on the application. Any comments received will be reported to the Planning Committee

The **Highway Authority** has no objections subject to conditions relating to:

- Development not commencing until details of off site highway works, including improvements to the junction of Slacken Lane and Congleton Road and surfacing of the access a minimum distance of 10m from the junction with Congleton Road, have been submitted and approved in writing
- Notwithstanding submitted plans, no development shall commence until revised access details indicating the widening of the south east section of Slacken Lane to a width of 6m as broadly detailed on Mayer Brown drawing No X/PBSlackenLn.1/01
- Development shall not be brought into use until the access, parking and turning areas have been provided in accordance with the approved plans
- Prior to first occupation of the dwellings the unmade section of Slacken Lane from the Junction with Congleton Road through to the site access shall be reinstated by grade and level with compacted stone in accordance with details to be submitted to and approved in writing by the LPA

They request a £3000 contribution to NTADs.

They further advise:-

- that if the footpath becomes damaged as a result of vehicular use they reserve the right to take legal action against the developer and property owners to request the reinstatement of the footpath
- It is the applicant's responsibility to ensure they have vehicular access rights to serve this proposed development and to widen the road.

The **Environmental Health Division** advises that a noise assessment has been submitted and that the implementation of the recommendations will secure appropriate internal noise levels, as such there are no objections subject to conditions relating to:

- Construction hours
- Dust mitigation measures
- Waste storage and collection arrangements
- Contaminated land conditions
- Implementation of the recommendations of the submitted noise assessment

The **County Council Rights of Way** Section has not commented on this application, however previously commented on 13/00266/FUL that Public Footpath No 10 (Kidsgrove:

Hardingswood) runs along the access track (Slacken Lane). The footpath constitutes the full width of the track and the width of the path cannot be restricted as a result of the application proposal. The applicant must be made aware that cars cannot be parked on the footpath.

The **Waste Management Section** of the Council has concerns over the access to the proposed properties off Slacken Lane which is an unadopted road, which is narrow and in a generally poor state of repair. Servicing these properties would require a collection point to be agreed close to the main Congleton Road. Recommend a prior to commencement condition for approval of details of recyclable materials and refuse storage and collection close to the main Congleton Road.

United Utilities had no objections to the previous application 12/00266/FUL for five dwellings. They stated in their response that if possible the site should be drained on a separate system with only foul drainage connected to the foul sewer. Surface water should discharge to the soakaway/watercourse/ surface water sewer and may require consent of the Local Planning Authority. If the surface water is allowed to be discharged to the public surface water sewerage system they may require the flow to be attenuated to a maximum discharge rate determined by United Utilities. A separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999.

In response to the proposal to drain to the United Utilities combined drain they indicate that it would be necessary to provide a clear written statement that the culvert is flooding with evidence of when this occurs along with confirmation that no connection will be allowed as they are concerned that the wider area may become available for development and therefore discharging any surface water flows from "Greenfield" sites in to a combined sewerage system when the existing area is naturally drained is in direct conflict with the Surface Water Management hierarchy and Part H of The Building Regulations.

Kidsgrove Town Council has objected to the application on the following grounds:

- Loss of amenity
- Over development – the development of this site would be detrimental to the local environment and the abundance of wildlife in the area.
- Inappropriate development – number of bungalows proposed is not in keeping with area
- Insufficient access arrangements
- Landscaping - Lack of public spaces, the properties have only been allocated rear gardens with no provision for any soft landscaping to fronts of the dwellings to improve their appearance.
- Flooding – there are several issues relating to flooding both on the proposed access road, Slacken Lane, and on the site itself. A full flood risk assessment should be carried out.
- Refuse – refuse collection vehicles would not be able to get across Slacken Lane to the site and therefore consideration for how the refuse from the bungalows will be collected must be considered, before any application is approved, as this potentially causes an environmental impact on the surrounding areas.

The Council is also of the opinion that Butt Lane is becoming over developed as a whole and that persistent development is putting severe pressure on the A34, Congleton Road.

The **Canal and River Trust** has responded stating that they have no comments to make

The **Landscape Development** indicate that it would appear the access driveway for this site is within the root protection area of trees to be retained and the information provided is not

sufficient to show the impact of the development and its construction on overhanging trees along the access route and within the site. It is advised that should the development be approved a landscaping condition should be included on any approval to soften the visual impact of the development from the open space beyond

Representations

25 separate representations have been received which include a collective representation from residents, representations from Councillors Kyle Robinson and Silvia Burgess, and Joan Walley MP. The key points raised are summarised below:

- The access is too narrow and would not allow for any pavement.
- The road is unadopted and residents have to maintain it.
- Conflict between increased vehicular movements and pedestrians using the public footpath.
- Increase in traffic would cause problems joining the A34 from Slacken Lane.
- Loss of public amenity.
- Destruction of important open space and wildlife area.
- Over development of the local area.
- Number of windows overlooking existing properties is of concern.
- Slacken Lane includes a hidden culvert if damaged will lead to flooding.
- One of the conditions for building the bungalow "The Shires" was that the public footpath should not exceed 10 foot in width.
- Danger of more traffic is of concern.
- Maps and plans submitted do not reflect land ownership and the true width of Slacken Lane outside the site.
- Increase in noise, traffic pollution and deliveries will cause disturbance to existing residents.
- Lack of green space in the area.
- Concern that the land is waterlogged which could be exacerbated if developed.
- Localised flooding problem particularly with standing water in the lane.
- Ongoing inadequate surface water drainage facility problem with flooding.
- Refusal of planning permission issued in 1974 on the land in question, refused for reasons of deficiency of adequate surface water drainage facilities and inadequate access.
- The proposal that the footpath and curb across the junction of Slacken Lane with Congleton Road be removed to accommodate a new turn-in, would effectively channel surface rain-water running down the hill and along the A34, directly into the lane and towards existing Slacken Lane properties without any provision for drainage.
- Local infrastructure cannot cope with increase in development already permitted.
- If this application is approved it will open the gates for the larger area beyond to be developed.
- The Local Authority should look at the Wildlife and Countryside Act 1981 (amended by the Environmental Protection Act 1990) and the Conservation Regulations 1994 before making any future decisions on planning approval.
- Losing important social beneficial uses.
- Introducing unnatural features to the landscape.
- Loss of important trees, hedges and other vegetation and habitats for wildlife.
- Conflict with character of the area.
- Better alternative sites available in the Borough.
- Primary schools in the area are already over subscribed.
- No clear waste collection plans.
- The development of the brown field site known as "Bluebell Croft" (off Old Butt Lane) has only recently been completed in its' first phase and further building work on

adjoining land has been approved. The impact of the volume of additional traffic generated by this new estate on local roads and, in particular, at the junction of Old Butt lane with Congleton Road and Slacken Lane has yet to be assessed.

- Butt Lane has already completed its quote for new build.
- We need to retain our green space. To this end, an independent survey by Staffordshire Wildlife Trust to verify the range of species of both flora and fauna in this locality would be appreciated.
- The plans do not recognise that land to rear of 34 Pickwick Place is owned by the resident at 34 Pickwick Place.
- The site is land locked, and has never enjoyed any rights of access to any property on this land. Feel that the approval of the application would be granting rights for use of the lane currently not in existence to the six new bungalow owners (and the necessary construction crew) without the obligation of responsibility.
- The representations include a log of the use of the footpath along Slacken Lane which was completed by 31 individuals.

Applicant/agent's submission

A Design and Access Statement, utilities information, a contaminated land phase 1 desk study, an Arboricultural implications assessment, a Drainage Plan, a Flood Risk Assessment and an acoustic report have been submitted along with the requisite plans and application form.

These documents are available for inspection at the Guildhall and at www.newcastle-staffs.gov.uk/planning/SlackenLane

KEY ISSUES

This is an application for full planning permission for 5 No. bungalows and the formation of new accesses at Slacken Lane, Butt Lane, which is within the urban area of Kidsgrove as indicated by the Local Development Framework Proposals Map.

The site forms an arc around No. 17 Slacken Lane and five bungalows are proposed to the south east of No. 17 Slacken Lane. The previously proposed dwelling to the rear of No. 17 Slacken Lane has been removed from this proposal.

The reason for refusal of the 6 dwelling scheme was as follows:

“The unacceptable design, orientation and close proximity to the site boundary of the dwelling to the rear of No. 17 Slacken Lane would adversely impact upon any development of adjoining land for residential purposes, materially reducing the number of dwellings that can be constructed. Such an adverse impact is contrary to the principles of good design , which significantly and demonstrably outweighs the benefits of the development on the supply of housing land and as such there isn't a presumption in favour of this development as set out in paragraphs 14, 49, 56 and 57 of the National Planning Policy Framework.”

Slacken Lane is an un-adopted road and has a public right of way running along and adjoining the site's frontages.

The key issues in the determination of this application are considered to be:

- The principle of residential development of the site
- Flood Risk
- Highway Safety and access issues

- Design and impact on the character of the area
- Impact upon residential amenity
- Impact on trees and hedgerows
- Waste and recycling storage and collection arrangements

The principle of residential development of the site

The site is within the urban area, as identified on the Local Development Framework Proposals Map. The site is currently un-developed, however works commenced on an ex servicemens club some years ago, and a certificate of lawful development was granted in 2010 confirming that it could be lawfully completed, meaning that the site has the potential to be developed into an ex servicemens club without the need for further planning permission.

Area Spatial Policy 5 of the Core Spatial Strategy seeks to provide 600 dwellings in the Kidsgrove area over the plan period to 2026. The National Planning Policy Framework specifies that housing applications should be considered in the context of the presumption in favour of sustainable development. In this case, the creation of 5 residential units in Butt Lane Kidsgrove with access to a good range of local facilities and reasonably good transport links to both Kidsgrove and Newcastle Town Centre, is considered to be a sustainable development.

The delivery of this site is taken into account within the calculation for the Borough's five year housing supply and given the Council is currently unable to demonstrate a five year supply of housing land a refusal of planning permission could, depending upon the reason for that decision, result in further shortfall in this supply.

The National Planning Policy Framework (NPPF) advises, at paragraph 14, that 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. The NPPF indicates that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

There is a presumption in favour of this development, therefore, unless any adverse impacts of the development significantly and demonstrably outweigh the benefits of the development on the supply of housing land. Such impacts are addressed below.

Flood Risk

A Flood Risk Assessment has been submitted with the planning application which has been considered by the Staffordshire County Council Local Flood Authority who initially objected to the application on the basis that satisfactory drainage solutions were not achievable with the proposal to drain to the culvert due to it being at maximum capacity.

Following further discussions with the Flood Risk officer and the applicant, the applicant has been able to locate a United Utilities combined drain on neighbouring land, which the Flood Risk Officer has no objections to being utilised. The Flood Risk officer therefore recommends that the planning application is acceptable provided the development is drained to the combined United Utilities drain on adjacent land which is outside of the applicant's control.

The applicant has submitted evidence in the form of emails from United Utilities and the land owner of the neighbouring land, which imply their agreement in principle to the development

being drained to the United Utilities drain on neighbouring land. United Utilities has stated that they would be obliged to obtain a clear written statement that the culvert is flooding with evidence of when this occurs along with confirmation that no connection will be allowed. United Utilities has concerns that the wider area may become available for development and therefore discharging any surface water flows from "Greenfield" sites in to a combined sewerage system when the existing area is naturally drained is in direct conflict with the Surface Water Management hierarchy and Part H of The Building Regulations. The comments of the Staffordshire County Council Local Flood Authority effectively confirms that no connection to the culvert would be allowed and have evidence of flooding and in light of this it is considered that United Utilities would agree to the surface water drainage being connected to their drain on neighbouring land.

In conclusion it is considered that acceptable drainage could be achieved for this development, however with it involving off site works, these works would be required (via condition) to be completed prior to the first occupation of the development.

Highway safety and access issues

The previous application was not refused on issues of highway safety or access. There have been no material changes in planning circumstances to conclude that any highway matters arising from the development could not be dealt with by condition as with the previous application.

The Highway Authority comments that should the application be approved, a contribution of £3,000 in the form of a unilateral undertaking is required, to contribute towards the Newcastle (urban) Transport and Development Strategy (NTADs). The reduction in the amount sought from the previous scheme reflects the reduction in the number of dwellings proposed from 6 to 5.

Overall, provided that the applicant enters into a unilateral undertaking to secure £3,000 towards NTADs, the development is considered to be acceptable in terms of highway safety and as such there are no adverse impacts arising, in this regard, which would prevent the granting of planning permission.

Design and impact on the character of the area

The previous scheme was refused due to the unacceptable design, orientation and close proximity to the site boundary of the dwelling to the rear of 17 Slacken Lane, which was considered to adversely impact upon any development of adjoining land for residential purposes, materially reducing the number of dwellings that can be constructed. As the dwelling to the rear of the site has been removed from this application, this overcomes the previous reason for refusal on design grounds. There have been no material changes in planning circumstances that would justify the refusal of the proposed five bungalows which were considered to be acceptable in the previous application.

Therefore, in terms of design and impact upon the character of the area, it is considered that this is acceptable on design grounds.

Impact upon residential amenity

It is important to assess how a proposed development will impact upon existing residents and proposed occupants of new development, to ensure they benefit from acceptable residential amenity standards. The previous proposal was not refused on the basis of its adverse impact on residential amenity and there have been no material changes in planning

circumstances to conclude that the current proposal, which has the same relationship with existing dwellings, would now be unacceptable in this regard.

The Environmental Health Division of the Borough Council recommends that the noise levels identified in the submitted noise assessment need to be achieved for all dwellings should the application be approved.

Impact on trees and hedgerows

The previous application was considered acceptable in this regard and there have no material changes in planning circumstances to conclude differently.

Waste and recyclable materials storage and collection

From a waste management perspective the waste management division has concerns over the access to the proposed properties off Slacken Lane which is an un-adopted road, which is narrow and in a general poor state of repair. However they would have no objections to the development provided a waste collection point is agreed prior to the commencement of the development close to the junction of Slacken Lane and Congleton Road. A suitably designed waste collection point could be secured by a negatively worded, or Grampian, condition which would require it to be agreed and provided before occupation of the dwellings.

Background Papers

Planning file
Planning documents referred to

Date report prepared

9th January 2014