

The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 100 dwellings.

This application for the approval of reserved matters follows the granting of an outline planning permission in April 2015 for residential development of up to 100 dwellings (13/00970/OUT). Details of access from the highway network were approved as part of the outline consent.

The application site lies within the Green Belt and is also within an area of landscape restoration as defined by the Local Development Framework Proposals Map. The Haying Wood within the site is protected by Tree Preservation Order No. 1.

The 13 week period for the determination of this application expired on 5th July. The applicant has agreed to extend the determination date until 17th August 2018.

RECOMMENDATION

Subject to the awaited comments of the Highway Authority and Landscape Development Section on the revised layout received, PERMIT

- 1. Approved plans/documents**
- 2. Prior to commencement of the construction of the dwellings details of the house types and location of the affordable housing units at the level stipulated within the relevant S106 Agreement shall be agreed by the Local Planning Authority (LPA).**
- 3. Prior to commencement of the construction of the dwellings details submission and approval of all external facing materials and hard surfacing materials.**
- 4. Prior to commencement of the construction of the dwellings full details of the pedestrian/cycle links from the development onto Hollywood Lane shall be agreed by the LPA and implemented prior to occupation of any of the dwellings.**
- 5. Approval of tree protection plans (including of hedgerows)**
- 6. Approval of a schedule of works to retained trees**
- 7. Prior approval of further landscaping details (planting numbers, density and sizes), including replacement woodland planting to supplement the approved Strategic Landscape Masterplan.**
- 8. No levels alterations within RPAs of retained trees unless prior written consent obtained**
- 9. Approval of an Arboricultural Method Statement for all works within RPAs of retained trees**
- 10. Approval of proposals for boundary treatment**
- 11. Prior approval of revised internal access road details providing 6m internal access road junction radii.**
- 12. Prior approval of surfacing materials and surface water drainage of private, parking and turning areas.**
- 13. Provision of visibility splays.**
- 14. Private drive to have a minimum length of 6m.**

Reason for Recommendation

The principle of the use of the site for residential development has been established with the granting of the outline planning permission. Subject to the comments of the Highway Authority and Landscape Development Section, the design and layout of the proposal are considered acceptable in accordance with the aims and objectives of the National Planning Policy Framework and the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document. There would be no material adverse impact upon highway safety or residential amenity as a consequence of the

internal layout. There are no other material considerations which would justify a refusal of this reserved matters submission.

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

Amendments have been sought from the applicant and further information has been requested and received.

Key Issues

1.1 The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 100 dwellings. The principle of the residential development of the site has been established by the granting of outline planning permission 13/00970/OUT for up to 100 dwellings in April 2015.

1.2 The outline consent for the site was granted subject to a number of conditions that set out what should be included within any reserved matters submission. Such conditions will be referred to within the appropriate sections below. The outline planning permission also includes further conditions requiring other matters to be agreed before development commences (i.e. before the construction of dwellings) including details of the method of remediation of the burning spoil heap and the need to undertake further investigation, risk assessment and remediation of contaminated land. Such conditions haven't yet been satisfied however this would not prevent the determination of this application notwithstanding the views expressed to the contrary by Keele Parish Council and in representations received.

1.3 The issues for consideration, taking into consideration above, are:-

- Is the proposal acceptable in terms of its design and impact on the form and character of the area, including impact on trees within and adjoining the site?
- Would there be any adverse impact on residential amenity?
- Is the internal road layout and parking provision acceptable in highway safety terms?
- Is the affordable housing layout acceptable?

2.0 Is the proposal acceptable in terms of its design and impact on the form and character of the area, including impact on trees within and adjoining the site?

2.1 A condition of the outline planning permission restricted the area within the wider site where the residential development can take place to that shown on the approved Master Plan. The submitted plans show that the layout as proposed within this reserved matters application accords with the requirements of this condition.

2.2 A further condition of the outline planning permission stipulated that any reserved matters application should be supported by a landscape led final Master Plan, supported by a detailed arboricultural survey. The condition indicates that a woodland buffer should be retained around the ponds, between the high and low density housing, and between the site and Hollywood Lane. In addition the condition required the retention of more important tree specimens should occur where possible. Another condition requires the submission of supporting information with any reserved matters application that demonstrates the impact of the proposed development on the trees within the site that are protected by TPO1.

2.3 Earlier this year a significant number of trees were felled on the site, the applicant indicating that this was to facilitate the additional site investigation works that were necessary to satisfy the contaminated land conditions on the outline planning permission. The application was supported by an Arboricultural Impact Assessment (AIA) and Method Statement (AMS) and a Strategic Landscape Master Plan has been provided which to some extent reflects the tree removal, but not satisfactorily as far as the Landscape Development Section (LDS) was concerned. Subsequently a revised Landscape Master Plan has been submitted, providing additional information, and the layout plan

have been amended in response to the comments of the LDS and to address concerns they have expressed. The further comments of the LDS to such additional information/amended plans are being sought and will be reported. .

2.4 At this point in time, therefore, it is difficult to assess whether the layout as proposed is acceptable with respect to its impact on existing trees and the adequacy of additional tree planting proposed. It is, however, apparent that in order to achieve a woodland buffer in the locations specified in the condition of the outline planning permission tree planting will be necessary. To ensure that the development is acceptable any such tree planting would need to go some way towards replacing the trees that are lost and would need to constitute an enhancement of the area. The latest layout plan shows that trees will be planted in the area to the north west of the ponds in the location of the burning spoil heap where currently no trees survive. The layout also shows two 'fingers' of tree planting that extend in a westerly direction off Hollywood Lane separating areas of housing within the site. A view will be reached as to whether such planting is acceptable upon receipt and consideration of the additional information referred to above.

2.5 The relevant policy context against which the acceptability of the layout of the scheme should be assessed, setting aside the issue of the impact on trees referred to above, is set out at paragraphs 2.6 to 2.1.

2.6 Paragraph 124 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. At paragraph 130 it states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

2.7 Policy CSP1 of the Core Spatial Strategy (CSS) lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the NPPF.

2.8 Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. R3 of that document states that new development must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

2.9 Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are

- a. To respond to the unique character and setting of each settlement*
- b. Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality.

2.10 RE2 of that document states that new development associated with existing villages should retain, enhance and incorporate some of the existing features and characteristics of the settlement pattern, wherever possible.

2.11 RE5 states that new development in the rural area should respond to the typical forms of buildings in the village or locality. RE6 states that elevations of new buildings must be well composed, well-proportioned and well detailed. At RE7 it states new buildings should respond to the materials, details and colours that may be distinctive to a locality.

2.12 The proposed layout comprises 100 dwellings comprising the following mix:

- 4 five bed detached houses
- 36 four bed detached houses
- 16 three bed detached houses
- 26 three bed semi-detached houses
- 18 two bed terraced houses.

The dwellings all two storeys of traditional design, predominantly constructed in brick and tile with some use of render and hanging tiles. Included in the design of some of the properties are projecting gables, projecting single storey additions on front elevations with lean to roofs, and pitched roof bay windows. There is a consistency in the design approach to the different house types proposed and it will be viewed as a single, cohesive development.

2.13 The proposed houses are largely accessed via a series of cul-de-sacs off a single access point off Pepper Street as approved in the outline planning permission. A further small access is, however, proposed off Pepper Street serving three detached dwellings. An area where landscaping can take place is included separating the dwellings that front onto Pepper Street from Pepper Street.

2.10 A requirement of the Section 106 agreement that was entered into prior to the grant of the outline planning permission is that a play area is provided on the site. This is currently shown adjoining the larger of the two ponds within the development. It is therefore sited within the heart of the development, albeit not in a central location, and will be overlooked by a number of properties. More detail has recently been received which seeks to demonstrate that the play area meets the standards set out in the Open Space Strategy. The views of the LDS are awaited on the adequacy of the proposed play provision and whether the position by the pond raises any safety issues that can't be addressed by suitable boundary treatment or other mitigation measures.

2.11 Overall it is considered that the house types and design as proposed could be considered acceptable if it is demonstrated that this results in the retention of the better quality trees that remain on the site and that adequate replacement tree planting can be achieved.

3.0 Would there be any material adverse impact on residential amenity?

3.1 The NPPF states within paragraph 127 that planning decisions should ensure that developments, amongst other things, create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

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

3.3 There are a number of existing dwellings on Pepper Street facing towards the site. The proposed dwellings are sufficiently far enough away and are separated by the highway to conclude that no adverse impact on the residential amenity of the occupiers of these dwellings would arise from the proposed layout.

3.4 The guidance set out in the SPG regarding separation distances between dwellings is achieved within the development. In addition the layout accords with the guidance regarding garden length/area.

3.5 In conclusion the layout achieves an acceptable relationship between the proposed dwellings and suitable private garden space.

4.0 Is the internal road layout and parking provision acceptable in highway safety terms?

4.1 As indicated above the means of access to the site was determined at outline stage, with vehicular access provided off Pepper Street. The principle of a development of this scale in terms of its impact upon the highway network has therefore been agreed. The provision of the additional access onto Pepper Street serving the three dwellings referred to above does not give rise to concerns about highway safety.

4.2 Further information has also been submitted demonstrating that a refuse lorry can manoeuvre within the proposed access roads. In addition storage areas have been provided in the revised layout where waste and recycling receptacles can be stored on collection days for those dwellings that are served off a private drive.

4.3 Two parking spaces are proposed for the two and three bedroom dwellings and at least 3 spaces are provided for the four and five bedroom dwellings which accords with policy. The garages aren't required to achieve sufficient parking spaces within the plots and as such it is not considered that a condition requiring the retention of the garages for the parking of vehicles, as recommended by the Highway Authority, can be justified.

4.4 The layout also shows where a pedestrian/cycleway link onto Hollywood Lane, which is a BOAT (byway open to all traffic), can be provided, as required by condition of the outline planning permission. Full details haven't been included within the submission, however, and as such a condition will be required to address this. The BOAT will not be adversely affected by the proposed layout.

4.4 Overall there proposal does not raise any highway safety issues and is acceptable in this regard.

5.0 Is the affordable housing layout acceptable?

5.1 A Section 106 planning obligation that was entered into when outline planning permission was granted requires the provision of affordable housing within this development. The level of affordable housing secured (15%), however, did not accord with policy as the applicant demonstrated that the development would be unviable if the policy compliant percentage was secured in addition to the education contribution that was required to satisfy policy.

5.2 Subsequently an application was received under Section 106BA of the 1990 Town and Country Planning Act which enabled, for a limited period, the revision of the affordable housing contribution requirement of a planning obligation. The outcome of that process was a further reduction in the level of affordable housing provision within the development to 6% for a 4 year time limited period (from the date of the planning permission). That period has not lapsed and the level of provision has therefore remains at 6% although it is likely to revert to 15% before the construction of the dwellings commence. The applicant, however, is maintaining that affordable housing provision above 6% would render the development unviable and has requested that the original S106 is varied. The case advanced by the applicant that seeks to demonstrate their claim is currently being independently assessed by the District Valuer and will be the subject of a separate report to Planning Committee.

5.3 The 6 affordable houses (as required by the S106) that have been identified are a pair of 3 bed semi-detached dwellings and a block of four 2 bed terraced properties. The type of dwellings identified are considered to be acceptable as affordable housing units within this development and as they are not all grouped together, they are suitably located. However until the further viability case reaches a conclusion and the level of affordable housing is fixed no approval can be given to the proposed affordable housing units. A condition is therefore necessary that requires the agreement of the house type and location of the number of affordable housing units as stipulated within the relevant Section 106 Agreement to ensure that if it is not varied the Local Planning Authority approves the affordable housing provision within this development.

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](#)

Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy T16: Development - General Parking Requirements
Policy T18: Development – Servicing Requirements
Policy C4: Open Space in New Housing Areas
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N4: Development and Nature Conservation – Use of Local Species
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Considerations
Policy N21: Area of Landscape Restoration

Other Material Considerations include:

National Planning Policy

[National Planning Policy Framework](#) (July 2018)

[Planning Practice Guidance](#) (March 2014)

Supplementary Planning Guidance/Documents

[Affordable Housing SPD](#) (2009)

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

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

[Newcastle-under-Lyme Open Space Strategy](#) – adopted March 2017

Relevant Planning History

13/00970/OUT	Residential development of up to 100 dwellings including means of access – Permitted.
15/00359/DOAHR	Application under Section 106BA of the Town and Country Planning Act 1990 to revise the affordable housing contribution secured within the planning obligation entered into in association planning permission 13/0970/OUT for residential development - Permitted

Views of Consultees

Keele Parish Council has grave concerns on the following grounds:

- An application should be accurate, complete and up-to-date and should square with realities on the ground. It doesn't do any of these.

Accuracy

- Planning permission shouldn't be given for a development cannot be delivered because the applicant doesn't own or have an option on part of it.
- The layout is close to and in one case over the railway tunnel which the Railway Authority forbade.
- They are at a loss to understand why no public access to the former tip area has been accepted since it was agreed when granting outline planning permission that once the spoil heap site has been remediated it would become a green field amenity.

Complete and up-to-date

- Major issues relating to contamination of the site as a result of its former industrial use have not been satisfactorily addressed.
- 2013 ground survey reports have been resubmitted.
- There is no mention of fencing off of the old marl hole site, to which public access needs to be restricted, and it is shown as public open space.
- It was stated by the Planning Department when dealing with the outline planning application, that a detailed survey of contamination on the site was not required given the preliminary nature of the application. Now that reserved matters are being addressed it is now both reasonable and necessary that this more detailed investigation take place.
- Without thorough investigation of contamination issue the public have no confidence that contamination issues have been fully addressed and remediated.
- A financial bond should be held by the Borough to cover the cost of remediation in the event of the developer withdrawing.

Realities on the ground

- Nowhere in the application does it refer to the buildings on site having already been demolished. This makes redundant some of the ecological reports and limits the value of the Archaeological report. The Local Planning Authority (LPA) should ask for a more accurate description of the site as it now is.
- The application states that the LPA had confirmed that tree loss on the site was anticipated and that the applicant was encouraged to retain as many trees as possible where practical to do so. This wasn't done and many of the trees on the site have been cut down without prior permission from the LPA.
- Despite offers from Keele Parish Council to work with the developer they have had no reply and there has been no community liaison.
- Inappropriate development in the Green Belt was justified due to the identified very special circumstances of remediation of contaminated land including the burning coal tip. The layout includes development on land that was not previously in industrial use and therefore not contaminated. Such land should continue to be regarded as part of the Green Belt and should be excluded from the proposal.
- In view of the unknown future duration of and potential for generation of methane in the landfill to the south west of the envisaged development it is considered prudent to place a buffer between the edges of the landfill and the area of housing to be developed.

Silverdale Parish Council would welcome a belt and braces mining industry led project, which should eliminate potential fire and associated environmental pollution risk to residents for the foreseeable future. The proposal however falls below their expectations

1. There is no mention of the threat to life posed by the two possible methane issues: 1) from the colliery spoil or any underlying old workings; and 2) from decomposition of material in the landfilled former marl hole. They remind the owners about the explosion that occurred at Loscoee, Derbyshire, in 1986, when a house adjacent to a landfill was completely destroyed as a result of migration of methane out of the landfill which also sets out the appropriate measures to be taken when considering gas migration from existing or proposed landfills.
2. They are concerned that colliery spoil is to be reinstated and re-compacted. They would want to know the chemical composition of this material and an explanation of why it cannot be permanently removed from the site and replaced by less hazardous material to be used for

compacting and eliminating voids or whether a long term engineering solution might prove less risky for residents in the long term.

3. They therefore believe a more forensic approach to the origin of the fire is required with a greater range of professional expertise, from for example the British Geological Survey covering non-coal mining hazards as well as the Coal Authority and its scientists.

The Parish Councils have been notified of the amended plans and any additional comments received from them will be reported.

Staffordshire County Council as the **Rights of Way Authority** advises that the application document does not recognise the existence of Byway Open to All Traffic Keele 1 Parish which runs through the proposed application site inside the northern boundaries. It appears that the development will directly impact on this. It is suggested that the Highway Authority should be consulted.

The **Highway Authority** has no objections subject to the following conditions:

- Prior approval of revised internal access road details providing 6m internal access road junction radii.
- Prior approval of surfacing materials and surface water drainage of private, parking and turning areas.
- Provision of visibility splays.
- Private drive to have a minimum length of 6m.
- Garages to be retained for the parking of vehicles.

The Highway Authority has been consulted on the revised layout plan and any additional comments received will be reported.

United Utilities recommend conditions regarding drainage.

The **Environmental Health Division's (EHD's) contaminated land officer** has no objection in principle but the proposed layout intends to make more substantive use of the southern area of the site, for which a revised site investigation is likely to be necessary. No comments on other matters have been received from EHD so it must be assumed that they have none to make as the due date has passed.

The **Education Authority** states that the development falls within the catchments of St John's CE (VC) School and Madeley High School. A Section 106 Agreement was signed when the outline planning permission was granted, and the education contribution amount and terms should be calculated in line with this. If there is to be variation to the number of affordable dwellings then the education contribution will need to be recalculated for secondary could increase.

The **Crime Prevention Design Advisor** says that there are many positives to be drawn in terms of the layout but there are a couple of aspects that undermine this:

- Rear garden boundaries around the periphery of the development will back onto un-overlooked public space and could therefore be more vulnerable to intrusion.
- The screen fence will be too low for a rear boundary for security purposes.

The **Landscape Development Section** comments that considerable tree loss and damage to trees has occurred on this site, some of these trees are affected by Tree Preservation Order ref TPO1, some are shown as retained on the outline permission and some are shown as retained in the applicant's latest submission.

They request that no further works or access by vehicles occur on this site until a programme of protection and remediation has been agreed and implemented.

In addition before comments can be made the following information should be provided:

- Up to date tree survey with remaining trees assessed as individuals.

- Updated AIA (including assessment of the effect of levels alterations).
- Full of assessment of recent damage caused.
- Detailed proposals for remediation and restoration of damaged areas.
- Schedule of works to retained trees.
- Future Tree Protection for remaining trees.
- Proposals for replacement trees for those felled.
- Updated Tree Protection Plans.
- Full assessment of impact upon hedgerows

Notwithstanding the above they have concerns about the layout submitted:

- They would not consider that this layout is tree or landscape led as required by planning condition 4. Separation between high and low density areas is poor, woodland buffer around the ponds has been in part destroyed and many important tree specimens have been damaged or lost.
- The layout is much less favourable than the outline layout
- No levels information or assessment on the impact of retained trees has been provided.
- They could not support the encroachment of this development into the Root Protection Areas of retained TPO'd trees.

The Landscape Development Section have been invited to comment on the additional information now provided

The **Coal Authority** has no objection.

The **Waste Management Section** in response to the revised plans advises that they still have concerns. The swept path analysis focusses on areas of shared access which they won't be driving on unless they are adopted. Confirmation as to which are the shared access roads are to be adopted as otherwise they would need to be legally indemnified against any claims of damage to surface or to overhanging trees etc. The issues about collection points and containers being likely to be left out at collection remain. There are particular concerns about bins being left out at collection points by plots 38-42 and 46-48, and the complaints and negative visual amenity this designs into the development.

Staffordshire County Council as **Minerals and Waste Planning Authority** has no comment.

The **Housing Strategy Section** has not responded to the consultations and as the due date has passed it is assumed that they have no comment.

Network Rail's comments are awaited.

Representations

Five representations have been received raising the following concerns/objections:

- The site plan is inaccurate as it includes land not in the applicant's ownership.
- The plan shows house are to be built over a railway tunnel which the Railway Authorities have previously objected to.
- It would be negligent to build family houses so close to two ponds.
- No provision has been made to deal with the former landfill site, and is included as public open space.
- The Ground Survey report is out of date. The underground fire continues to burn and it is essential that such a survey is done before it is opened up.
- The Ecology Report is out of date.
- The applicant has removed a larger number of trees from the site.
- Local doctors and schools are already full, the infrastructure cannot take any more houses.
- The scale of the proposed development far exceeds the requirement of new housing stock needed for Keele.

Applicant's/Agent's submission

The application is accompanied by a Design and Access Statement

All of the application documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00262/REM>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

24th July 2018