

This application seeks to vary condition 2 of planning permission 18/00314/FUL which granted consent for the erection of five residential dwellings, access and associated works. Condition 2 lists the approved drawings and the variations sought seek to substitute amended plans to illustrate the removal and replacement of the hedgerow along Mucklestone Road and revised boundaries to Plots 77 and 78.

The site forms part of a wider site that was granted outline consent in September 2015 for residential development of up to 78 units including provision of affordable housing, public open space and vehicular and pedestrian accesses (Ref. 15/00202/OUT). Details of the accesses from the highway network were approved as part of the outline consent. Approval of the reserved matters for the larger part of the wider site was granted last year (Ref. 18/00315/REM).

The application site lies on the south-west side of Mucklestone Road which is a B classified road, outside the village envelope of Loggerheads and within the open countryside and an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

Trees within the site are the subject of Tree Preservation Order (TPO) no.147.

**The 8 week period for determination of this planning application expires on 19<sup>th</sup> July 2018.**

#### **RECOMMENDATION**

- A. Subject to the applicant agreeing to extend the statutory period to 19<sup>th</sup> August and entering into a planning obligation by 16<sup>th</sup> August that preserves the Council's position in respect of obligations secured prior to the grant of permission 18/00314/FUL, PERMIT the variation of condition 2 to list the revised plans and subject to the imposition of all other conditions attached to planning permission 18/00314/FUL that remain relevant at this time.**
- B. Failing completion by the date referred to in the above resolution (A) of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the planning application on the grounds that in the absence of a secured mechanism the development would fail to secure the provision of adequately maintained public open space, appropriate provision for required education facilities and measures to ensure that the development achieves sustainable transport outcomes; or, if he considers it appropriate, to extend the period of time within which such obligations can be secured.**

#### **Reason for Recommendation**

The proposed changes would have no adverse impact on the character and appearance of the area. The previous permission was granted following the entering into of a Deed of Variation to the original Section 106 agreement for the wider site and therefore a further Deed of Variation is now required. Subject to this and the imposition of the same conditions as were imposed on 18/00314/FUL that remain relevant at this time, the proposal is considered to be acceptable.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

#### **Key Issues**

This application seeks to vary Condition 2 of planning permission 18/00314/FUL which granted planning permission for the erection of five residential dwellings, access and associated works. Condition 2 lists the approved drawings and the variation sought seeks to substitute amended plans

to illustrate the removal and replacement of the hedgerow along Mucklestone Road. Minor revisions to the proposed boundaries to Plots 77 and 78 are also proposed to allow access for hedgerow maintenance. This particular change is not considered to raise any issues. The development is currently under construction.

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

- Is the removal and replacement of the boundary hedgerow acceptable in terms of its impact on the character and appearance of the area?
- Is a planning obligation required?

Is the removal and replacement of the boundary hedgerow acceptable in terms of its impact on the character and appearance of the area?

The original plans showed the retention of the majority of the hedgerow along the Mucklestone Road frontage of the site with the removal of just a small section for the creation of the access. During the construction works, the entire length of hedgerow was removed to enable construction of the new roadside footway which was an inevitable consequence of the requirement for such a footway.

The revised plans show the removal of the hedgerow and the planting of a new native hedge set back to enable the construction of the footpath. The Council's Landscape Development Section raises no objections and given that a replacement hedgerow will be planted comprising native species, it is not considered that there would be any adverse impact on the character and appearance of the area. A condition is considered necessary requiring the planting of the hedgerow in the first possible planting season and requiring the replacement of any failed plantings for a period of 5 years.

Is a planning obligation required?

In law the consequence of the granting of an application to vary a condition of a planning permission would be the creation of an entirely new planning permission rather than an amendment of the existing one. The original outline consent for the wider site, Ref. 15/00202/OUT, was granted following the completion of a Section 106 agreement and the most recent consent, Ref. 18/00314/FUL, was only issued after a Deed of Variation of that Section 106. Subject to the applicant entering into a further Deed of Variation, the Council's interests would be protected.

## **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 CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets

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

Policy N3: Development and Nature Conservation – Protection and Enhancement Measures  
Policy N4: Development and Nature Conservation – Use of Local Species  
Policy N17: Landscape Character – General Considerations  
Policy N21: Areas of Landscape Restoration

[Loggerheads Neighbourhood Plan 2013-2033 \(passed referendum 10th January 2019\)](#)

Policy LNPP1: Urban Design and Environment  
Policy LNPP2: Local Character & Heritage

### **Other Material Considerations include:**

[National Planning Policy Framework \(2019\)](#)

[Planning Practice Guidance \(NPPG\)](#)

[Supplementary Planning Guidance](#)

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

[Relevant Planning History](#)

15/00202/OUT Residential development of up to 78 units including affordable housing, public open space and vehicular and pedestrian accesses - Approved 3rd Sept 2015, following completion of legal agreement 28th August 2015

16/00784/REM Application for the approval of the details for layout, internal access arrangements, scale, appearance and landscaping details relating to outline planning permission 15/00202/OUT for residential development of up to 78 units – Approved

18/00314/FUL Erection of five residential dwellings, access and associated works – Approved

18/00315/REM Reserved Matters application for layout, internal access arrangements, scale, appearance and landscaping details for 73 dwellings - Approved

[Views of Consultees](#)

The **Landscape Development Section** has no objections.

**Loggerheads Parish Council** has no objections but states that a replacement mature hedge along the front of the site is critical.

[Representations](#)

None received

Applicant's/Agent's submission

The application forms and plans have been submitted. These documents are available to view via the following link:

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00409/FUL>

**Background Papers**

Planning files referred to  
Planning Documents referred to

**Date report prepared**

2<sup>nd</sup> July 2019