

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 133 dwellings.

This application follows the granting of an outline planning permission at appeal in September 2016 for a residential development of up to 138 dwellings (14/00948/OUT). The access from the highway network was approved as part of the outline consent.

The site measures 4.99 hectares and is located to the south-east of Walley's Quarry landfill site. The site is within the Newcastle Neighbourhood as designated on the Local Development Framework Proposals Map and is within the urban area. Trees within the site are protected by Tree Preservation Orders Nos. 2 and 85.

The 13 week determination period for this application expired on the 11th November 2019 and an agreement to extend the determination period will now be sought from the applicant.

RECOMMENDATION

Subject to confirmation from the Environmental Health Division that they have no objections, PERMIT subject to the following conditions;

- 1. Link to outline planning permission and conditions**
- 2. Approved plans/documents**
- 3. 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).**
- 4. Submission and approval of all external facing materials and hard surfacing materials.**
- 5. Boundary treatments as submitted**
- 6. Soft landscaping scheme as submitted**
- 7. Provision of access, internal roads, private drives and parking areas prior to occupation.**
- 8. Provision of visibility splays prior to occupation.**
- 9. Prior approval of surfacing material and means of surface water drainage for the private drives, parking and turning areas.**
- 10. Provision of a 3m wide footway/cycleway linking the internal site roads to the bus stop on Keele Road in accordance with details to be agreed.**
- 11. Private drives to have a minimum length of 6m between the highway boundary and the garage door.**
- 12. Garages to be retained for the parking of motor vehicles and cycle.**
- 13. Construction Management Plan.**
- 14. Amendments to play area.**
- 15. Approval of an Arboricultural Monitoring Schedule.**
- 16. Trees shown to be retained shall be retained and protected throughout the construction phase in accordance with the Arboricultural Impact Assessment.**
- 17. Approval of alignment of utilities.**
- 18. Provision of measures to secure parking courts.**
- 19. Construction work to be completed in accordance with BS5837:2012 and the Arboricultural Method Statement provided.**
- 20. Implementation of Landscape Management Plan**
- 21. Waste storage and collection arrangements.**

Reason for Recommendation

The principle of residential development has been established with the granting of the outline planning permission. Subject to the comments of the Environmental Health Division, the design and layout of

the proposal is considered acceptable and 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

Further information has been sought from the applicant and this further information has been 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 133 dwellings. The principle of residential development on the site has been established by the granting of outline planning permission at appeal, 14/00948/OUT, for up to 138 dwellings. Details of the access to the site, which is from the access road serving the former scrapyard and the adjoining residential development, were approved as part of the outline consent.

1.2 The development, as proposed, must accord with the outline planning permission which includes conditions relating to contaminated land and the need to undertake an assessment and mitigation of any risk to the development from the generation and migration of landfill gas, mine gas and ground gas.

1.3 This application follows an earlier application for the approval of reserved matters, reference 18/00656/REM, which was to be determined at Planning Committee on 16th July but the application was withdrawn before the meeting. That application was recommended for refusal due to concerns regarding:

- Failure to demonstrate that the site was safe and stable in the absence of an appropriate assessment of the risks to the development posed by past coal mining activity.
- Loss of visually significant and protected trees.
- Failure to demonstrate that the site layout enables appropriate servicing of the proposed development and therefore did not result in issues of highway safety and residential amenity.

1.4 Whilst the proposed layout includes an access that could extend into the strip of land behind the scrap yard adjacent to Gadwell Croft the application does not, and could not, include proposals to develop that strip of land.

1.5 The key issues to be addressed, taking into consideration the above, are:-

- Coal mining legacy
- Design and impact on the form and character of the area, including impact on trees within and adjoining the site
- Residential amenity
- Highway safety
- Affordable housing

2.0 Coal mining legacy

2.1 In recognition that the site is within the defined Development High Risk Area and that the Coal Authority records indicated there are coal mining features and hazards within the application site and surrounding area a condition (5) was imposed on the outline planning permission requiring that a scheme of investigations be undertaken prior to the submission of reserved matters. In addition the condition specifies that the reserved matters application should be supported by a report outlining the findings of the investigation, and that a scheme of treatment for the mine entry and a layout plan

which identifies appropriate zones of influence for the entry and fissures and defined 'no-build' zones should be included.

2.2 The previously withdrawn reserved matters application was not supported by a Coal Mining Report which demonstrated that the layout, as proposed in that application, took account of a recorded mine entry within the site and the Apedale Fault which crosses it. Further site investigations were subsequently carried out on behalf of the applicant and the findings resulted in the need to revise the layout of the site to the extent that it could not be accepted as part of that application and the application was subsequently withdrawn.

2.3 The Coal Authority in response to the current application initially stated that a plan referenced in the submitted Geological Fault and Mine Entry Investigation Report that shows the fault location was not included in the submission and in its absence they could not comment upon whether the proposal accords with the requirements of condition 5 of the outline planning permission. That plan has now been received and the Coal Authority has confirmed that they have no objections.

3.0 Design and impact on the form and character of the area, including impact on trees within and adjoining the site

3.1 Paragraph 124 of the National Planning Policy Framework (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.

3.2 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.

3.3 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.

3.4 R12 of the SPD says that residential development should be designed to contribute towards improving the character and quality of the area. It goes on to say that proposals will be required to demonstrate the appropriateness of their approach in each case. Development in or on the edge of existing settlements should respond to the established urban or suburban character where this exists already and has definite value. Where there is no established urban or suburban character, new development should demonstrate that it is creating a new urban character that is appropriate to the area.

3.5 R14 of the SPD indicates that developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/or eaves lines, rhythms, materials, or any combination of them.

3.6 The proposed layout comprises 60 detached dwellings (47 three bed + study and 13 three bed); 34 semi-detached dwellings (all three bed); and 39 dwellings in blocks of 3 (33 three bed and 6 two bed). The dwellings are predominantly two storeys, with 31 of the proposed dwellings having accommodation in the roof space (2.5 storeys). All the dwellings are of traditional design with pitched roofs and are mainly constructed in brick with a limited number of rendered properties. Design features include projecting porches, door canopies, integral garage's, and projecting gables. The 2.5 storey dwellings have dormer windows in the roof.

3.7 Overall it is considered that the house types and design, as proposed, are acceptable.

3.8 A significant number of dwellings front onto the internal looped access route through the site, however there are also a number dwellings served off long private drives. Many of the dwellings have

parking spaces located at the front of the houses however there remains opportunity for landscaping to break up the appearance. An equipped play area is proposed within the development. In addition there are areas of incidental open space including an area containing a landscaped bund which is sited between the proposed dwellings and the boundary with the Walley's Quarry landfill site and an area adjoining the Keele roundabout. The bund, which has a fence on top, is a requirement of a condition of the outline planning permission and is, in footprint, largely as shown on the indicative plan forming part of the outline application. Whilst some parts of the bund are very steep, particularly where it faces into the development, the submission indicates that it can all be planted and as such will be a green feature of the site. It is considered to be acceptable in appearance.

3.9 There are a number of protected trees that are located within and adjoining the site and the layout in the previously withdrawn application did not appropriately take these trees into account resulting in a number of them needing to be felled. The layout as currently proposed addresses this issue and the advice now received from the Landscape Development Section (LDS) is that all trees where appropriate and necessary can be retained and properly incorporated into the development.

3.10 It is now accepted that, subject to the conditions recommended by the LDS, the proposal will not have an adverse impact on trees to the detriment of the appearance of the wider area.

3.11 Overall the design of the proposed scheme is acceptable and would accord with the design principles set out in the Council's Urban Design Guidance SPD and the NPPF.

4.0 Residential amenity

4.1 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

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

4.3 The layout and orientation of the proposed development is sufficiently distant from existing properties to avoid any adverse impact on living conditions. In addition the layout achieves appropriate separation distances between the proposed properties and sufficient private amenity space, in accordance with the Council's SPG.

4.4 A condition (13) of the outline planning permission requires design measures, supported by an appropriate noise assessment, which achieves specified noise levels and that such measures shall include details of an acoustic barrier/bund adjacent to the adjoining landfill operations. Such a condition is in recognition that noise from the adjoining highway could adversely affect amenity as well as noise from Walley's Quarry.

4.5 The application is supported by Noise Mitigation Scheme and the advice received from the Environmental Health Division (EHD) is that further information is required given the recommendation is to keep windows shut in areas of the development to achieve appropriate internal noise levels in habitable areas in light of current guidance which requires an assessment of overheating. The required assessment is being prepared by the applicant and it is anticipated that further information in this regard will be reported prior to the meeting.

4.6 The proposal includes an equipped play area which, the LDS advises, is generally acceptable subject to adjustments that can be achieved through the use of conditions. The adjustments relate to the position of the playground equipment; protection of users from the road; inclusion of a minimum of six play experiences; provision of a bin and signage; and incorporation of replacement tree planting. The maintenance of all areas of public open space has been secured through the planning obligation that was entered into when planning permission was granted on appeal.

4.7 In conclusion, subject to confirmation from EHD that issues of noise and overheating have been suitably addressed, it is considered the layout achieves living conditions for its occupants in accordance with the guidance and requirements of the NPPF.

5.0 Highway Safety

5.1 At least two parking spaces are proposed for each dwelling, with the larger dwellings having more spaces. The proposed level of parking is considered to be acceptable.

5.2 To improve accessibility to and from the development by modes of transport other than the private car it is important that a foot/cycle path link is provided directly onto Keele Road close to the bus stops. The layout does provide such a link and subject to it being widened to 3m so that it is suitable for pedestrians and cyclists, which could be secured by the imposition of a condition, it is acceptable.

5.3 Further information was been requested during the application process and in response to such information the Highway Authority is now satisfied that it has been demonstrated that a refuse lorry can manoeuvre safely within the development.

5.4 The Waste Management Section has also raised concerns about the long private drives which results in the need to provide collection points. Whilst this is not ideal, it is not considered that there are planning grounds to justify objection to the private drives, subject to the inclusion of waste bin collection points. Such collection points can be accommodated and are shown on the layout plan, although no details showing their appearance have been provided and this would need to be agreed through condition.

5.5 The concerns about the levels difference between the site and the Keele roundabout are noted, however as residential development of this site has been accepted in principle and in the absence of objection from the Highway Authority on the grounds of highway safety it is considered that this does not justify the refusal of this application.

5.6 In consideration of issues of crime and disorder and highway safety it is appropriate to ensure that rear parking courts are secure. This can be dealt with by condition.

6.0 Affordable housing provision/layout

6.1 When the application was determined it was demonstrated that the development would not be viable if the policy compliant level of affordable housing of 25% provision was secured. As such, the planning obligation entered into when outline planning permission was granted on appeal requires 20% provision of affordable housing within this development if substantial commencement has taken place within 18 months from the date of the consent.

6.2 As the consent was granted on 14th September 2016, more than 18 months ago, and substantial commencement has not taken place the planning obligation requires a reappraisal of the developments viability to establish whether provision of affordable housing remains at 20% or whether such provision could be increased up to a maximum of 25%. As the reappraisal has not, as yet, been undertaken the precise level of affordable housing units is not known and as such it will be necessary to include a condition which requires approval of the affordable housing units within the development.

6.3 The Local Planning Authority is not involved in the process of Government housing subsidies and as such the assurances sought in representations cannot be provided through this planning application process.

7.0 Matters raised in representations not addressed above

7.1 A response to issues and concerns raised by representations, which have not been addressed above, is provided as follows:

- There is no planning policy basis upon which the Council could secure details of the contribution this development is making to the reduction in CO₂ emissions.
- The Lead Local Flood Authority (LLFA) has confirmed that the proposed drainage layout includes space for attenuation storage and has no objections subject to a condition requiring submission, approval and implementation of a detailed surface water drainage scheme for the site. A condition was imposed on the outline planning permission requiring the details of a

satisfactory surface water drainage design to be submitted, approved and implemented and as such it is not necessary to impose such a condition at this stage. The developer should, however, be advised of the details that the LLFA indicate are to be included in such a surface water drainage scheme.

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
Policy CSP6: Affordable Housing

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

Policy T16: Development – General Parking Requirements
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character – General Considerations
Policy C4: Open Space in New Housing Areas

Other Material Considerations include:

National Planning Policy

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

National [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)

Relevant Planning History

18/00656/REM	Reserved Matters application (appearance, landscaping, layout and scale) for residential development comprising 138 dwellings, public open space and associated works pursuant to outline consent 14/00948/OUT - Withdrawn
15/01085/OUT	Residential development of up to 138 dwellings with details of access and proposed landscape bund (resubmission of planning application 14/00948/OUT) – Refused.
14/00948/OUT	Residential development of up to 138 dwellings – Refused but subsequently allowed on appeal

Views of Consultees

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

- Provision of access, internal roads, private drives and parking areas prior to occupation.
- Provision of visibility splays prior to occupation.
- Prior approval of surfacing material and means of surface water drainage for the private drives, parking and turning areas.
- Provision of a 3m wide footway/cycleway linking the internal site roads to the bus stop on Keele Road in accordance with details to be agreed.

- Private drives to have a minimum length of 6m between the highway boundary and the garage door.
- Garages to be retained for the parking of motor vehicles and cycle.
- Construction Management Plan.

The **Coal Authority** initially requested further information to enable them to comment fully on the current application in light of the requirements of condition 5 of the outline consent but have now confirmed that they have no objections to the application.

The **Environmental Health Division** has requested further information concerning the requirement identified in the submitted noise assessment to keep windows shut in areas of the development to achieve appropriate internal noise levels in habitable areas in light of current guidance which requires an assessment of overheating.

The **Crime Prevention Design Advisor** is pleased to note that the applicant has sought to address crime prevention within the design layout of the proposal and list a number of elements that have crime prevention relevance and accord with Secured by Design guidance and principles. Some aspects of the layout warrant some reconsideration or amendment as follows:

- Rear parking courts are generally considered undesirable as they can be poorly overlooked, subject to misuse, provide criminal opportunity and can prove inconvenient for residents.
- Some of the rear access paths are not gated at the front of the building line.
- Consideration should be given to use of external defensive planting/hedging to supplement certain rear/side garden boundaries.

The **Landscape Development Section** states that additional information provided and alterations to the proposed layout as now proposed means that the protected trees on this site have now been fully considered. A number of protected trees are now shown to be retained and protected and sufficient justification has been submitted which demonstrates that the trees to be lost either cannot be safely retained or has been reclassified as category C. A native hedgerow with hedgerow trees is now to be planted along the Keele Road boundary as a part of the landscaping proposals for the site which is welcomed.

Adjustments to the proposed play area are suggested which can be secured by condition. Other conditions that are recommended relate to the following:

- Approval of an Arboricultural Monitoring Schedule
- Trees shown to be retained shall be retained and protected throughout the construction phase in accordance with the Arboricultural Impact Assessment.
- Approval of alignment of utilities
- Construction work to be completed in accordance with BS5837:2012 and the Arboricultural Method Statement provided
- All landscape management to be completed in accordance with management plan provided.

Further to the revised planting plans they consider that it now appears that additional replacement tree planting for felled trees affected by the Tree Preservation Order has been provided.

The **Waste Management Section** has raised the following concerns:

- As waste vehicles will not drive onto the surface marked 'private drive block paving' certain of the plots will not get collections from the front of the property and containers will need to be brought to the nearest point on the adopted highway. Such arrangements are difficult to maintain and can lead to containers being left out causing nuisance, blocking pavements, affecting visibility at junctions etc.
- They will not drive over unadopted highway and it is unclear whether other sections of the roads will be adopted and whether the problems referred to above will arise for these properties also.

The County Council's **School Organisation Team** advise that a Section 106 Agreement was signed when outline planning permission was granted, and the education contribution amount and terms will need to be calculated in line with this.

The County Council as **Mineral and Waste Planning Authority** has no comments.

The **County Archaeologist** indicates that the Historic Environment Record has identified that there is likely to be only limited archaeological potential in this area and no historic environment concerns are raised regarding the proposed development.

The **Lead Local Flood Authority** has no objection subject to a condition requiring submission, approval and implementation of a detailed surface water drainage scheme for the site.

The **Environment Agency** has no objections.

No comments have been received from the **Housing Strategy Section, Policy Section, Newcastle South LAP** or **Silverdale Parish Council** by the due date and therefore it must be assumed that they have no observations.

Representations

2 representations have been received from the Thistleberry Residents Association. The concerns/comments raised are summarised as follows:

- It is unclear how many houses are being applied for, 133 or 138. It also needs to be clear that the application does not include the strip of land behind the scrap yard, adjacent to Gadwell Croft.
- The dwellings will be, presumably, gas centrally heated which will mean that these houses would be out of date as soon as they are completed. The contribution this development is making to the reduction in CO₂ emissions should be known and should have been addressed at outline planning permission stage.
- The differential height between the site and Cemetery Road hasn't been appropriately dealt with and due to the inadequate safety barrier there is a likelihood that cars will fly through the barrier into gardens is high.
- The Coal Authority still objects.
- The SUDS implemented on the adjoining development failed to address the issue of flooding from the Burgess Brook and more development on this site will exacerbate this situation if the SUDS have not been properly installed in the first instance. The application should be refused.
- The Planting Plan and Management Plan of the open spaces appear impressive of paper but there is concern that if the plan is implemented it will either be very costly for residents or it won't be implemented at all. This issue needs to be resolved at this stage.
- The Apedale Fault remains an issue and surely is a risk. Unless there is a guarantee against subsidence/slippage the application should be refused.
- The issue of land contamination needs to be appropriately addressed.
- All prospective residents should be assured of their safety given the proximity to the adjoining landfill site and should be made well aware of its location. The development is unacceptable in terms of nuisance and hygiene.
- The width of the roads would preclude easy passage for buses as parking is already an issue on the current estate.
- The application raises very important questions regarding flaws and issues, some of them fundamental, which should have been resolved at the outline planning stage. The adjudication of this application is the last chance for this Council to fulfil its Due Diligence and Duty of Care obligations to all concerned.
- If Newcastle Borough Council owns the land then it is questionable as to whether they should be determining the application.
- Assurances are required that any national government subsidies intended to make some of these houses affordable are passed on to the purchasers.

- The application is not in line with the outline permission, which included an attenuation pond. Without this, or other suitable drainage demonstrating that the impact regarding flooding is negligible, the application should be refused.
- Due to the former scrapyard site being subject to significant ground engineering work, the application should not be determined until sufficient and up to date information on the ground conditions at the site have been submitted.

Applicant's/Agent's submission

The application is accompanied by:

- Noise Mitigation Scheme
- Aboricultural Impact Assessment and Method Statement
- Geological Fault and Mineshaft Investigation Report
- Landscape Management Plan

All of the application documents are available for inspection at Castle House and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00623/REM>

Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

20th November 2019