

Application **20/00293/FUL** seeks to vary condition 1 of planning permission 19/00409/FUL which granted permission for the erection of five residential dwellings, and application **20/00294/FUL** seeks to vary condition 2 of planning permission 18/00315/REM which granted reserved matters consent for 73 dwellings. Both seek to incorporate revised drawings to show the inclusion of a footpath link and bridge through the woodland and the omission of the proposed extension to the footpath on the road frontage.

The sites together form 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).

The application sites lie 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 sites are the subject of Tree Preservation Order (TPO) no.147.

The 8 week period for determination of 20/00293/FUL expired on 17th June and the 13 week period for determination of 20/00294/FUL expired on 22nd July but an extension of time to 11th December has been agreed for both applications.

RECOMMENDATION

A) Application 20/00293/FUL be refused for the following reasons:

- The omission of the proposed extension to the footpath on the Mucklestone Road frontage would reduce pedestrian connectivity and ease of linkages to the shops and services of Loggerheads and would have an adverse impact on highway safety.
- In the absence of a secured planning obligation the development would fail to secure the provision of affordable housing which is required to provide a balanced and well-functioning housing market, adequately maintained public open space, appropriate provision for required education facilities and measures to ensure that the development achieves sustainable transport outcomes

B) Application 20/00294/FUL be refused for the following reason:

- The omission of the proposed extension to the footpath on the Mucklestone Road frontage would reduce pedestrian connectivity and ease of linkages to the shops and services of Loggerheads and would have an adverse impact on highway safety.

Reason for Recommendation

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The highway safety benefits of the footpath extension and the improvements to accessibility to village facilities are considered significant and, therefore, the loss of the footpath connection is considered to be unacceptable. The previous permission was granted following the entering into of a Section 106 agreement and therefore a Deed of Variation would be required.

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

Additional information has been sought and submitted to overcome concerns regarding impact on trees but it is not considered that the applicant can overcome the principal objections to the loss of the proposed extension to the footpath on the road frontage.

Key Issues

Application 20/00293/FUL seeks to vary condition 1 of planning permission 19/00409/FUL which granted permission for the erection of five residential dwellings, and application 20/00294/FUL seeks to vary condition 2 of planning permission 18/00315/REM which granted reserved matters consent for 73 dwellings. Both seek to incorporate revised drawings to show the inclusion of a footpath link and bridge through the woodland and the omission of the proposed extension to the footpath on the road frontage.

The sites together form 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).

The application sites lie 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.

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The applicant states that the reasons for the amended drawings are as follows:

- To revert to the principle of a footpath link within the site, rather than a small extension to the existing footpath along the Mucklestone Road frontage as shown on the Masterplan approved at Outline Stage.
- The footpath link was previously removed at reserved matters stage on the grounds that the route of the footpath shown on the original Masterplan would have required a bridge with a span of approximately 30m which would have had implications for visual amenity and for the protected trees.
- The new proposal to reintroduce the link and bridge follow an alternative route through the existing woodland which will reduce the likely bridge span to approximately 15m. The route has also been specifically chosen to follow a natural gap between trees to minimise any impact and enhance the visual amenity of the POS/Woodland setting.
- The proposed route will decrease the travel distance between both phases (and the residents of the estate opposite) allowing for easier and safer access to the Play Areas on Phase 1.
- The new link will be more environmentally beneficial than the original proposal as the impact on the protected tree area will be reduced and the overall carbon footprint will be reduced by using sustainably sourced materials to construct the new path and bridge.
- The revised proposal does not involve the removal of the existing footway along the Mucklestone Road frontage (only the small proposed extension along the frontage of POS up to the access to Plots 74 -78), thus the existing important route providing pedestrian connectivity and linkages to the shops and services of Loggerheads is maintained.
- Under the new proposals, the residents in Plots 74 - 78 will have an enhanced connectivity route, avoiding the busy road frontage for part of the route to the shops and services.
- The new route will also alleviate the requirement for potential large scale retaining works along the Mucklestone Road frontage that would inevitably result in the removal of protected trees.

The main issues for consideration in the determination of these applications are:

- Is the proposed footpath link and bridge through the woodland acceptable, particularly with regard to impact on the trees?
- Is the omission of the proposed extension to the footpath on the road frontage acceptable, particularly with regard to accessibility to village facilities?

- Is a planning obligation required?

Is the proposed footpath link and bridge through the woodland acceptable with regard to impact on the trees?

The original scheme for the wider site included a footpath link and bridge through the woodland to link the two areas of the site. The subsequent reserved matters application, Ref. 18/00315/REM, omitted the link on the grounds that the applicant considered that the bridge would need to have a span of approximately 30m and that such a significant structure would have implications for the use and the visual appearance of the area as well as potentially trees in the stream corridor. In assessing that scheme, Officers acknowledged that the loss of the link was disappointing but accepted that given the potential impact of the scale of the bridge that would be required (both on the trees and the visual amenity of the area), on balance it was considered acceptable.

The revised plans propose an alternative route for the link through the woodland which would reduce the likely bridge span to approximately 15m. This would be more appropriate in terms of impact on visual amenity. Regarding the impact on the protected trees, further to the submission of additional information, the Council's Landscape Development Section raises no objections subject to the imposition of conditions.

The addition of the proposed footpath link and bridge is therefore considered acceptable.

Is the omission of the proposed extension to the footpath on the road frontage acceptable, particularly with regard to accessibility to village facilities?

There is currently no footway on the south-western side of Mucklestone Road along part of the site frontage. The original outline application for the wider site (Ref. 15/00202/OUT) and the subsequent detailed applications included the provision of a 2m wide footway along the site frontage linking existing footways. The footway would avoid occupiers of the dwellings on the smaller part of the site wishing to walk to the facilities of Loggerheads village centre having to cross the road to use the footway on the north-eastern side of the road before crossing back. This link has always been considered by the Council as important in assisting pedestrian connectivity and improving linkages to the shops and services of Loggerheads. The agenda report for the outline application stated as follows:

In terms of the accessibility of the site to the services within the village, the introduction of a footway along the site frontage will provide a continuous pedestrian link to the A53 and centre of Loggerheads. This will improve linkages from the site to the village, will help to reduce the requirement for residents to use their car and to ensure a sustainable development.

The current applications propose the omission of the footpath along the site frontage. The applicant argues that under the new proposals, the residents in Plots 74 - 78 would be able to use the proposed footpath through the woodland, thereby providing them with an enhanced route that avoids the busy road frontage for part of the route to the shops and services.

Whilst the footpath link through the woodland would provide an attractive additional route, it is a longer, less direct route that would not be a safe option, particularly for children, during hours of darkness. The completion of the footpath along the site frontage would be of far more benefit to families allowing safe and easy access to the village and its facilities.

The Highway Authority objects to the proposed applications on the grounds that it is considered likely that pedestrians may choose to walk on the verge or in the carriageway instead of crossing twice over Mucklestone Road having an adverse impact on highway safety.

Although the applicant asserts that the omission of the footpath extension on the road frontage would remove the requirement for potential large scale retaining works along the Mucklestone Road frontage that would inevitably result in the removal of protected trees, no evidence has been submitted to substantiate such a claim. The highway safety benefits of the footpath extension and the improvements to accessibility to village facilities are considered significant and therefore, the loss of the footpath connection is considered to be unacceptable.

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. Although the variation of condition 2 of reserved matters consent 18/00315/REM is covered by the original Section 106 agreement, the variation of condition 1 of planning permission 19/00409/FUL requires 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 LNPT1: Sustainable Transport

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

18/00315/NMA Application for non-material amendment to garages Plots 1 and 2 (18/00315/REM Reserved Matters application for layout, internal access arrangements, scale, appearance and landscaping details for 73 dwellings) – Approved

19/00409/FUL Application to vary condition 2 of planning permission ref 18/00314/FUL (Erection of five residential dwellings, access and associated works) to incorporate revised landscape drawings – Approved

Views of Consultees

The **Highway Authority** recommends that the applications are refused for the following reasons:

- The route of the proposed footpath is a longer route and less direct than the footway extension on Muckleston Road.
- The footpath will not have street lighting and will not be adopted as a public footpath.
- It is not clear from the submitted plans but it appears that if pedestrians want to walk along Muckleston Road they will need to cross over to the northern footway into the junction of Folly View and then cross back over as the footway ends after a short distance.
- There is a likelihood that pedestrians may choose to walk on the verge or in the carriageway instead of crossing twice over Muckleston Road.

The **Landscape Development Section** has no objections subject to installation, monitoring and supervision in accordance with the information submitted in Arbtech Arboricultural Method Statement Rev A.

Loggerheads Parish Council object to the applications on the following grounds:

- Residents will have to cross Muckleston Road twice to get from one end of the site to the other without optimum visibility of oncoming traffic.
- The bound gravel surface of the alternative path is unsuitable for use by those with a disability using a wheelchair.
- All residents will continue to have to cross over Muckleston Road and this was supposed to be an improvement that was delivered by the application to develop homes on this particular site.
- Misleading drawings have been submitted which imply what appear to be newly planted Oak trees. These do not exist.
- It is not possible to tell from the new drawings where the bridge will be sited, but it is clear that there are no proposals to put lighting along the new path or to light the proposed bridge. This will be a very dark area which will create a dangerous and totally unsuitable footpath to use during the hours of darkness.

The **Environmental Health Division** makes no comment on the applications.

Representations

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The following objections have been received from the occupiers of 2 properties.

- It is unclear where the bridge will be sited.
- Different trees have been planted to those shown on the plans.
- Will the builder be replacing the hedgerows that they have removed?
- Concerns regarding the safety of the bridge with no lighting.
- The completion of the footpath would be of far more benefit to families allowing safe and easy access to the village and its facilities.

Application 20/00294/FUL

One letter of objection has been received raising the following issues:

- The location of the proposed bridge is ambiguous.
- If the developer wishes to create a footway on Muckleston Road, they would need to trespass on the writer's land and compensation would be required for lost land and impact on existing landscaping.
- Constant hydraulic drilling is cracking the writer's floors and walls and having an impact on the foundations.

Applicant's/Agent's submission

The applications are both accompanied by an Arboricultural Impact Assessment and Arboricultural Method Statement. These documents and the proposed plans are available to view via the following links:

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00293/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/00294/FUL>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

24th November 2020