

The application is for full planning permission for a replacement dwelling at 50 Castle Road, Mow Cop.

The site lies within the open countryside, which is designated as being within the Green Belt and an Area of Landscape Restoration, as indicated on the Local Development Framework Proposals Map.

The 8 week determination of this application expired on 2nd February 2021 and the applicant has agreed an extension of time to the 23rd of July 2021.

RECOMMENDATION

Permit, subject to conditions relating to the following: -

- 1. Time limit**
- 2. Approved plans**
- 3. Materials**
- 4. Electric vehicle charging provision**
- 5. Prior approval of parking and turning areas**
- 6. Surfacing of access driveway**
- 7. Restriction on gates**
- 8. Construction hours**
- 9. Prior approval of proposed ground levels**
- 10. Tree protection measures**
- 11. Prior approval of semi-mature replacement tree planting**
- 12. Prior approval of soft landscaping scheme**

Reason for Recommendation

Whilst the development represents inappropriate development within the Green Belt, it is accepted that there are very special circumstances which would outweigh the associated harm to the openness of the Green Belt from this development. The design and layout of the proposal is considered acceptable and to be 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 SPD. The proposed development fully complies with planning policy guidance in terms of the impact on highway safety and residential amenity levels of neighbouring occupiers. Subject to conditions, the proposed landscaping and impact on trees within the site is also considered acceptable.

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

Additional information has been requested during the consideration of the application and the applicant has submitted details to satisfy any concerns. The development is now considered to be a sustainable form of development in accordance with the National Planning Policy Framework.

Key Issues

The application is for full planning permission for a replacement dwelling at 50 Castle Road, Mow Cop.

The site lies within the open countryside, which is designated as being within the Green Belt and an Area of Landscape Restoration, as indicated on the Local Development Framework Proposals Map.

Public Footpath No.115 Kidsgrove runs beyond the eastern boundary of the application site.

The application site is comprised of a spacious plot, which is set away from neighbouring residential properties and complies with supplementary planning policy guidance. The access and parking arrangements are also considered acceptable following a no objections response from the Highways

Authority, subject to conditions. Given the above there are no concerns regarding highways implications or residential amenity, and the key matters in the consideration of the application are;

- Is the development an appropriate form of development within the Green Belt?
- The design and the impact on the character and appearance of the area,
- Impact on visually significant trees, and
- Do the required very special circumstances exist (to justify inappropriate development)?

Is the development an appropriate form of development within the Green Belt?

Paragraph 134 of the NPPF indicates that the Green Belt serves five purposes, one of which is to assist in safeguarding the countryside from encroachment.

Paragraph 143 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Paragraph 145 of the NPPF states that other than in the case of a number of specified exceptions the construction of new buildings should be regarded as inappropriate in the Green Belt. One of these exceptions is (d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.

The proposal is for a replacement dwelling and the application sets out that the existing dwelling to be replaced has a volume of 157m³. However, there are some partially constructed additions to the dwelling, which account for an additional 97m³. Whether these additions are original or not is unclear but the existing dwelling is in a severe state of disrepair due to its age and the balance of probability is that they are original. Therefore, the overall size of the existing dwelling is 254m³.

Amended plans have been received during the consideration of the application and the replacement dwelling now has an overall volume of 660m³. This amounts to a 260% increase and on this basis it must be concluded that the proposed replacement dwelling is materially larger than the existing dwelling. Therefore, the proposed development constitutes inappropriate development in the Green Belt and should only be permitted if very special circumstances exist.

The design and the impact on the character and appearance of the area

Paragraph 124 of the National Planning Policy Framework (the Framework) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 127 of the framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the Council's Core Spatial Strategy 2006-2026 requires that the design of the development is respectful to the character of the area.

The application site consists of a small traditionally designed detached property which is currently in a severe state of disrepair. The site has been the subject of illegal rubbish tipping and vandalism, and the site currently detracts from the quality of the area. The application site is located on the eastern slope of the Mow Cop Hill, close to the main ridge of the hill. The application site contains a number of mature trees, which currently screen the existing property from view when seen from nearby vantage points.

The proposed dwelling would be of a traditional two storey design but would include more contemporary fenestration. The eaves height of the property would be set at 4.23m, with the overall ridge height being 7.4m. This is approximately 2.2m higher than the ridge height of the original dwelling.

Nearby dwellings are made up of a mixture of design styles, including bungalows and two storey properties, and as such it is considered that the overall external appearance, with respect to the proposed materials and design character, is appropriate for the area.

It is recognised that the replacement dwelling would result in a clear visual change to the application site, and the height differences would be perceivable within the wider landscape. However the application site does benefit from a number of existing trees which will continue to provide the dwelling with a good level of natural screening. The application site also benefits from being set within a generous plot size and can therefore accommodate the proposed development without appearing as an overdevelopment of the site itself.

With regards to the impact on the wider landscape, the proposed dwelling would not result in any significant change to views from the west, due to the position of the application site which is located on the eastern slope of the Mow Cop Hill. Views from the north of the application site would be already restricted due to the number of trees that surround the site, and also due to the 61m separation distance of the proposed dwelling from the site boundary.

The visual impacts of the proposal would be most noticeable from the east of the application site due to the sloping topography, however the natural screening of trees will help to soften the impacts of the proposal, and it is not considered that the additional 2.2m height increase would result in such a significant impact on the landscape as to warrant the refusal of the application.

It is noted that the replacement dwelling would be partially visible from the Mow Cop Folly located to the south, however there are a number of existing properties surrounding the Folly which are already clearly visible from the main local vantage points, and whilst the comments and concerns submitted by the National Trust have been reviewed, it is not considered that the presence of an additional roof slope within the landscape would have any significant impact on this heritage asset due to the distance from the Folly and the proposal for a replacement dwelling. Therefore, no harm would be caused in this instance.

On balance it is considered that the overall the scale, appearance and siting of the proposed dwelling would have an acceptable visual impact when assessed against adopted national and local development plan design policies. The proposed development would restore the quality of the landscape, as required by policy N21 of the local plan also.

Impact on Trees

Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design.

There are a number of trees that fall within the application site, these provide the application site with a good level of natural screening, and the existing dwelling within the application site is almost entirely screened from sight when viewed from the surrounding area. The trees are also an attractive natural feature that complement the character of the wider landscape.

Given the importance of these trees, the Landscape Development Section (LDS) have served a provisional Tree Protection Order over the application site.

LDS have raised objections to the proposal, initially these were due to a lack of details regarding which trees were to be removed and which were to be retained, however concerns were also raised with regards to whether any land levels would be changed within the application site, which could potentially affect trees also.

A number of supporting documents, including an arboricultural report and associated plans, have now been submitted. However, LDS still object to the application on the grounds of loss of visually significant trees.

The application documents indicate that a total of 5 trees are proposed to be removed (4 category C, of low quality with an expected lifespan of 10 to 20 years or below 150mm in diameter, and 1 category B, of moderate quality and expected to remain between 20 to 40 years) from the application site, and fifteen replacement trees are proposed. Therefore, the overall number of trees within the site would not

be significantly decreased and semi-mature replacement tree planting can be secured by condition to ensure a satisfactory level of screening, to supplement the existing screening of the site.

The proposed development would require land excavations but the applicant has confirmed that no proposed changes to the land levels within the site will be required. Planning conditions to secure finished ground levels and tree protection measures can be imposed to secure acceptable ground levels and to protect existing trees.

Whilst the LDS have objected to the application and a provisional Tree Protection Order has been served for trees on the site, it is considered that suitably worded planning conditions, which secure tree protection measures, tree replacement, surfacing and land levels details, along with a soft landscaping plan for the site, can mitigate the impact and loss of visually significant trees, as required by policy N12 of the local plan.

Do the required very special circumstances exist (to justify inappropriate development)?

The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

A supporting statement has been submitted with the application which includes a calculation of what extensions and additions could be added to the existing property through the use of permitted development rights. It should be noted that there are no restrictions on the permitted development rights currently available for the existing property at the site.

The applicant has calculated that an additional 522m³ could be added to the property through the use of permitted development, with these additions the overall size of the property would be 776m³, which would result in the formation of a larger dwelling than what is proposed in the application.

An assessment of these calculations have been completed by the case officer, and the overall level of development that could be achieved through permitted development has been worked out to be actually slightly larger than the percentage increase set out in the supporting statement. This fall-back position could therefore potentially have a greater harm on the openness of the Green Belt should this application be refused.

In this instance, weight must also be given to the visual improvement to the application site that the proposal will bring. The existing dwelling on site is dilapidated in nature and currently detracts from the quality of the local area, in addition there are also issues relating to illegal rubbish dumping on site which will be difficult to resolve until the property is brought back into use. The redevelopment of the site will help to revitalise what is currently an unsightly plot and the proposed visual changes to the site are considered to be an improvement over the current arrangement, which will also help to preserve the long term quality of the site.

Your officer accepts that the above represents the very special circumstances required to justify the proposed development. The proposal therefore considered to be in accordance with the requirements of the NPPF.

Consideration must be given to whether permitted development rights (PDR) should be removed by condition, to make the development acceptable.

Paragraph 55 states that "Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects".

Paragraph 017 of the Planning Practice Guidance (PPG) states that conditions to restrict the future use of permitted development rights may not pass the test of reasonableness of necessity, and should only be used in exceptional circumstances.

Appeal inspectors have concluded that there are rarely exceptional circumstances for removing PDR just because a site is within the Green Belt.

Whilst the size of the replacement dwelling would be considerable larger than the existing the amount of further extensions to the resultant dwelling is unlikely. Therefore, the exceptional circumstances test is not met in this instance.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The public sector equality duty requires public authorities to consider or think about how their policies or decisions affect people who are protected under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics.

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 SP1:	Spatial Principles of Targeted Regeneration
Policy SP3:	Spatial Principles of Movement and Access
Policy ASP6:	Rural Area Spatial Policy
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change
Policy CSP4:	Natural Assets

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

Policy S3:	Development in the Green Belt
Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy N3:	Development and Nature Conservation – Protection and Enhancement Measures
Policy N12:	Development and the Protection 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](#) (February 2019)

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

Supplementary Planning Guidance/Documents

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

Relevant Planning History

NKPL3188 - Alterations and extensions to existing cottage – permitted

Views of Consultees

The **Environmental Health Division** have raised no objections to the proposal, subject to conditions relating to electrical vehicle charging points, and construction hours.

The **Highway Authority** raises no objections subject to conditions which relate to means of access, surfacing materials and layout.

The **Landscape Development Section** raise objections to the proposal as they consider that the works could result in changes to the land levels of the site which could affect the trees within the site, particularly to the south west. In addition the Landscape Team request that a detailed soft and hard landscaping plan is submitted in support of the application and that additional details of trees to be removed and planted are submitted.

United Utilities recommend the applicant implements the scheme in accordance with the surface water drainage hierarchy

County Council Public Rights of Way Officer note that the public Footpath No. 115 Kidsgrove Parish runs parallel to the application site on the eastern side, however it does not appear from the application documents that this right of way will be affected by the proposals.

The National Trust object to the proposal for the following reasons:

- The proposal does not conform to National Green Belt Planning Policies
- The proposal would be an intrusive feature in the landscape and would result in visual harm to the area
- Impact on Protected Species
- Concerned of the proximity of the proposal to Mow Cop Folly

Comments were also invited from **Kidsgrove Town Council** and **Cheshire East Council** and in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

Representations

Three representations have been received from two neighbouring occupiers who make the following comments and concerns;

- The proposal is an attractive design but will have a greater visual impact;
- The proposal will result in a loss of privacy to neighbouring occupiers;
- The LPA should be consistent with their approach to development in the Green Belt;
- Loss of trees is a concern;
- The comments of Environmental Health are supported; and
- Access concerns.

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Design and Access Statement
- Topographical survey
- Tree Constraints Plan and Tree Protection Plan
- Arboricultural Report

All of the application documents can be viewed on the Council's website using the following link:
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/20/01039/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

7th July 2021