

The application is for full planning permission for the formation of development platforms, provision of access road and accompanying infrastructure and ecological enhancements.

The Newcastle Local Plan Proposal allocates, at policy E2, the site which measures 22.7ha, for employment development.

The application site is located within a Mineral Safeguarding Area as defined in the Minerals Local Plan for Staffordshire (2017). Part of the site is a designated Site of Biological Importance.

A number of public rights of way cross the site.

**The 13 week period for the determination of this application expires on the 6<sup>th</sup> September 2021.**

### **RECOMMENDATIONS**

**PERMIT the application subject to conditions relating to the following:**

- i. Time limit**
- ii. Implementation in accordance with the approved plans**
- iii. No development to commence until a Sustainable Drainage Strategy has been submitted and agreed, which is to be fully implemented.**
- iv. No development to commence until intrusive site investigation works and remedial works have been undertaken in accordance with approved details.**
- v. Detailed structural landscaping scheme to be submitted and approved within 12 months of the commencement of the earthworks. The scheme is to accord with the Green Infrastructure Strategy and should include the planting of a verge adjoining the footpaths. The structural landscaping scheme shall be implemented prior to any construction of buildings commences.**
- vi. Approval of tree and hedgerow protection measures.**
- vii. Approval and implementation of woodland and landscape management plans.**
- viii. No development shall take place on any part of the site until the development has secured the implementation of a programme of archaeological works**
- ix. Limit on the number of daily HGV movements for the duration of the earthworks to a maximum of 250 HGV movements per day.**
- x. Approval and implementation of a Construction Traffic Management Plan**
- xi. The reporting of unexpected contamination and preventing the importation of soil or soil forming material without approval.**

### **Reason for Recommendation**

This forms part of a strategically significant employment development in accordance with the development plan and regeneration strategies for the area. The proposal accords with the provisions of the approved development plan for the area and there are no other material considerations which would justify refusal of the application. It is considered that provided the development is undertaken in accordance with the conditions listed above appropriate mitigation of any effects arising from the development will have been obtained. As such it is considered that planning permission can be granted.

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

Officers have been in discussions with the applicant to address concerns raised by consultee and this has resulted in amended and additional information and plans being submitted.

## **Key Issues**

1.1 The site, Chatterley Valley, is a key development site which has a long standing employment allocation. The site is currently vacant and in part has been previously used for mining and quarrying operations. It extends to an area of 22.7ha.

1.2 It forms part of a larger, 44ha, site which has an extant hybrid planning permission, under planning permission 18/00736/OUT, as varied by planning permission 19/00836/OUT, which secured;

- full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works on the northern part of the site; and
- outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

1.3 The proposal in this application comprises the redevelopment of the site to provide development plateaus on the part of the wider Chatterley Valley site where earthworks haven't already been approved. The earthworks proposed involve significant cut and fill operations to create viable and notionally level development plots. The development plots formed by this application step down from the plateaus formed in the northern part of the site that has already been approved. The northern plateaus are subject to application 21/00595/FUL, which is reported on this agenda, which involves adjustments to the earthworks already approved to accommodate the larger plateaus that are proposed within this application.

1.4 As indicated above, outline planning permission has already been granted on this site. Bearing in mind the planning history of this site and the nature of the proposals in this application, the issue of principle does not require consideration.

1.5 When granting permission under reference 18/00736/OUT it was concluded that the proposal is compliant with the relevant part of saved NLP policy E2 as it had been demonstrated that the extraction of the marl would not jeopardise the realisation of the site's development prospects and that the benefits of this development outweigh the material planning benefits of the extraction of the underlying or adjacent mineral. Given that the Minerals Planning Authority have raised no objections to this proposal the same conclusions can be reached in this case.

1.5 The issues to be addressed within this report are therefore as follow;

- Impact on rail safeguarding area
- Visual impact of the development.
- Highway safety

## 2.0 Impact on rail safeguarding area

2.1 Saved Local Plan policy E2 indicates that the potential for rail freight access to the site should be safeguarded and exploited and the potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

2.2 The previous planning permissions did not secure a rail passenger station as it was not feasible to do so. There have been no material changes in circumstances since those decisions to conclude that this is now a possibility. The lack of a station as part of the current proposal is therefore acceptable.

2.3 The extant hybrid planning permissions did not specify the final ground levels for the lowest southernmost plateaus, which form part of this application site, to ensure that the option remained for them to be occupied by a development that could be served by rail from the adjoining railway line should there be a demand from such an operator in the future. At that time the applicant indicated that there was doubt as to whether it would be feasible that the site will be developed and occupied by a rail-connected employment use but the proposal as submitted nevertheless safeguarded this option.

2.4 The proposed finished levels of the, lower, plateaus that are proposed in this application mean that the potential for rail freight access is no longer safeguarded.

2.5 The applicant advises that the sidings access directly onto the West Coast Main Line and as such the opportunity to access the site during the day is severely compromised with very few times available for any operator to access the line from the site, because of the speed differences between freight and passenger trains. In addition the submission indicates that the site has been throughout the entire planning process but has resulted in no demand from an operator who wishes rail freight access. Some interest has been received from rail operators but it has not proved to be commercially acceptable and has since been fulfilled elsewhere.

2.6 It is considered that the applicant has explored the opportunity to utilise the rail sidings and has demonstrated that it is not deliverable. It is also acknowledged that the retention of the sidings would reduce the development capacity of the site due to the required changes in levels, which would result in a less efficient use of the allocated site. It is therefore considered that the loss of the opportunity for rail freight access to the site can be accepted.

### 3.0 Visual impact of the development

3.1 Saved NLP policy N17 indicates that development should be informed by and be sympathetic to landscape character and quality and should contribute, as appropriate, to the regeneration, restoration, enhancement, maintenance or active conservation of landscape likely to be affected.

3.2 Core Spatial Strategy CSP1 indicates that new development should be well designed to respect the character, identity and context of Newcastle's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres.

3.3 Saved Local Plan policy E2 requires development at Chatterley Valley should provide high quality landscaping to enhance the setting of development and the nature conservation value of the site should be enhanced and habitat linkages provided and that the design of development should be high quality.

3.4 This issue was considered when the hybrid planning application was granted and the proposal in this application is largely consistent with that development as the extent of the structural landscaping to the boundaries of this site as proposed is similar to that shown in the extant planning permissions. The submission does, however, show additional tree losses when compared to the outline application around the pond and woodland area. The Landscape Development Section (LDS) has raised concerns about this aspect of the development and the applicant has been asked to give further consideration to the retention of further trees in this area.

3.5 Subject to the retention of more trees it is considered that the structural landscaping is appropriate and acceptable, and accords with the requirements of policy E2 in this regard. Full details will, however, need to be secured by condition.

### 4.0 Highway safety

4.1 The NPPF indicates at paragraph 111 that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.2 Access into the Chatterley Valley development as approved in the extant planning permission is off Peacock Hay Road via a new roundabout. The proposals in this application involve the formation of an access road to serve the plateaus as an extension of the access already permitted in principle.

4.3 The Highway Authority (HA) has indicated that they are generally supportive of the application but do have some reservations that certain elements could be premature and difficult to agree at this time, for example the vertical alignment taken from the roundabout, which is yet to be finalised. HA has therefore recommended conditions which would restrict certain movements through a

Construction Environmental and Traffic Management Plan. Similar requests have been advised by Highways England.

4.4 Given the extant permission has already approved the principle of the development of this site and the earthwork and access details are generally acceptable there is no highway safety reason to withhold planning permission.

## 5.0 Reducing Inequalities

5.1 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.

5.2 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.

5.3 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

5.4 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

5.5 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 SP2: Spatial Principles of Economic Development  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods 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 E2: Chatterley Valley  
Policy T9: Rail Freight  
Policy T16 Development – General Parking Requirements  
Policy N2: Development and Nature Conservation – site surveys  
Policy N3: Development and Nature Conservation - protection and enhancement measures  
Policy N4: Development and Nature Conservation – use of local species  
Policy N10: New Woodland – considerations  
Policy N12: Development and the protection of trees  
Policy N14: Protection of landscape features of major importance to flora and fauna

#### [Minerals Local Plan for Staffordshire \(2015-2030\)](#)

Policy 3: Safeguarding Minerals of Local and National Importance and Important Infrastructure

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

#### National Planning Policy

#### [National Planning Policy Framework](#) (2021)

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

#### Relevant Planning History

In 2019 a hybrid planning permission, 18/00736/OUT, was granted for the following:-

- A. full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- B. outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

An application, 19/00846/OUT, was permitted. The application was to remove condition B23, relating to pedestrian and cycleway enhancements, of planning permission 18/00736/OUT and variation of condition A1 relating to timescales for completion of earthworks; variation of conditions A8, B1 and B10 with regards to reference to Green Infrastructure Strategy; variation of condition B3 regarding requirements for the reserved matters application/s; and variation of reason for condition B25 relating to permitted use classes on the plots.

Another application, 21/00595/FUL, for the removal of condition B25 (permitted use classes) of planning permission 19/00846/OUT and variation of condition A2 (approved plans), A8 (structural landscaping scheme), B1 (Green Infrastructure Strategy), B6 (remedial works), B7 (Talke Roundabout works), B9 (roundabout access), B10 (structural landscaping), B11 (internal spine road), B13

(landscaping), B23 (pedestrian and cycleway enhancements) and B31 (mitigation scheme for the A500/A34 junction) is pending consideration.

#### Views of Consultees

The **Environmental Health Division** commenting upon issues of contamination recommend that contaminated land conditions are imposed on any planning permission that is granted.

**Highways England** recommend that conditions relating to the following should be attached to any planning permission that may be granted:

- Limit on the number of daily HGV movements for the duration of the earthworks to a maximum of 250 HGV movements per day.
- Approval and implementation of a Construction Traffic Management Plan

The **Highway Authority** has no objections subject to conditions that secure a Construction Environmental and Traffic Management Plan, and submission of further information for the internal access roads once a design of the roundabout access has been complete which shall also include facilities for a bus to turn around within the site without reversing.

The **Landscape Development Section** makes the following comment:

- There are concerns that the new proposal shows considerable additional tree losses when compared to the outline applications. The impact of additional tree loss around the pond/woodland area is of concern given that the proposals were for retention of this area at outline stage.
- It appears that levels changes are proposed within a treed area which is to be retained and protected. Assurance must be provided that there are to be no levels changes within Root Protection Area of retained trees
- Confirmation is sought whether retaining structures are sought as the gradients of slopes look steep.
- New cycle links/enhancements are not covered in the information provided.
- There are concerns about the loss of hedgerows and that a strategy for replacement be provided as part of the landscaping proposals at a later date.
- Full hard and soft landscaping proposals should be provided. These should link with principles for tree protection/Woodland strengthening, ecological enhancements and infrastructure/footpaths/cycle path proposals.
- Proposed hedgerow planting and general principles shown on the structural landscaping proposals are welcomed, however it is requested that additional strategic structural landscaping be provided to break up large expanses of paving and grassed spaces between buildings to break up and soften views of buildings, changes in levels, and retaining structures.
- It is suggested that adjustments are made to the woodland GI strategy drawing to include a verge so that new woodland planting does not abut the public right of way.

The **Environment Agency** has no objection and recommends a contaminated land condition.

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

The County Council **Public Rights of Way Officer** advises that Public Footpath No. 2 Newcastle runs through the proposed site, along the western boundary.

As the path will need diverting as part of these proposals, the developer will need to apply to the Borough Council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence.

It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development.

There is a discrepancy in the submission. The northern end of Public Footpath No. 2 Newcastle, marked in purple as 'existing public footpath' is incorrectly shown. The existing footpath passes through the blue site boundary. This will need amending.

Any works affecting the footpaths need to be discussed at the earliest possible opportunity with the County Council Rights of Way Team.

The County Council has not received any application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.

The **Coal Authority** has no objection subject to conditions to secure intrusive site investigation works and remedial works.

Staffordshire County Council as the **Lead Local Flood Authority** have a number of queries relating to the application.

The views of **Network Rail, Stoke City Council, Stoke City Council**, and the Council's **Economic Regeneration Section** have been sought. As they have not responded by the due date it is assumed that they do not have any comments,

#### Representations

None

#### Applicant's/Agent's submission

The application is accompanied by the following documents:

- Planning Statement
- Design and Access Statement
- Drainage Design and Flood Risk Assessment
- Ecological Appraisal
- Arboricultural Assessment and Arboricultural Method Statement
- Landscape and Visual Appraisal
- Ground Conditions Assessment
- Report on Site Investigations
- Update of Mine Entry Investigations
- Transport Assessment Addendum
- Transport Technical Note
- Noise Report
- Air Quality Assessment
- Phase 2 Environmental Assessment Report
- Mineral Safeguarding Statement
- Written Scheme of Investigation for Archaeological Investigations
- Statement of Community involvement

All of these documents are available as associated documents to the application on the Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00570/FUL>

#### Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

2<sup>nd</sup> September 2021