

**LAND TO THE NORTH EAST OF ECCLESHALL ROAD, SOUTH EAST OF PINWOOD ROAD
AND NORTH WEST OF LOWER ROAD, HOOK GATE
VERVE SHREWSBURY LTD**

21/00393/FUL

The Application is for full planning permission for the erection of 22 dwellings and associated infrastructure.

The application site lies within the open countryside and an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map. It comprises three fields and is approximately 1.1 hectares in total.

The 13 week period for the determination of this application expired on 13th October 2021 but the applicant has agreed to extend the statutory period until 10th December.

RECOMMENDATION

A) Subject to the applicant first entering into a Section 106 obligation by agreement by 28th January 2022 to require:

- a. A contribution of £80,562 for the improvement and development of the Burntwood View/Hugo Way play area and open space
- b. A contribution of £33,244 towards the provision of education places at Madeley High School

PERMIT subject to conditions relating to the following matters:

1. Time limit
2. Approved plans
3. Materials
4. Construction environmental management plan
5. Artificial lighting
6. Acoustic screening
7. Glazing and mechanical ventilation
8. Details of retaining structures
9. Arboricultural Method Statement
10. Schedule of works for retained trees
11. Landscaping scheme
12. Details of hedgerow retention
13. Boundary treatments
14. Details of visibility splays
15. Provision of accesses, internal site roads, parking and turning areas
16. Submission of details of surface water drainage and surfacing materials
17. Delineation of parking bays
18. Details of off-site highway works
19. Accesses to remain ungated
20. Retention of garages for parking of vehicles and cycles
21. Cycle storage
22. Surface water drainage scheme
23. Protected species mitigation
24. Retention of the existing boundary hedgerow at a height greater than that of the acoustic fence
25. Affordable housing provision
26. Waste and recycling storage and collection arrangements;
27. Highways management and maintenance plan

B) Failing completion by the date referred to 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 planning obligation the development would fail to secure the provision of adequately maintained public open space and appropriate provision for required education facilities; or if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

Given the extant permission for 22 dwellings on the site, the principle of the development is considered acceptable and the new scheme raises no additional impact in terms of flood risk, residential amenity, affordable housing provision and protected species. The layout and design is considered acceptable and subject to the imposition of conditions, there would be no adverse impact on highway safety or trees.

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 requested and provided where necessary to progress the determination of the application. Amended plans have been requested and received and the proposal is now considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

Full planning permission is sought for the erection of 22 dwellings. The application site, of approximately 1.1 hectares in extent, is within an Area of Active Landscape Conservation as indicated on the Local Development Framework Proposals Map, in the open countryside outside the village envelope of Loggerheads.

Outline planning permission was granted in 2015 for the erection of up to 16 dwellings on this site (Ref. 15/00448/OUT). Full planning permission was subsequently granted in October 2018 for 22 houses and bungalows (Ref. 17/01001/FUL) and given that a lawful commencement of development has been made, that permission remains extant.

Since the previous permission was granted, the Loggerheads Neighbourhood Plan has been adopted and forms part of the Development Plan. However, given that the previous permission is extant and that no increase in the number of dwellings is proposed, it is not considered necessary to revisit the issue of the principle of the development. The previous application was considered acceptable in relation to issues of flood risk, residential amenity, affordable housing provision and impact on protected species and subject to the imposition of conditions, as imposed previously, it is considered that the amended scheme would have no additional impact. It is considered therefore that the main issues in the determination of this application are:-

- Would the revised scheme have a significant adverse impact on the character and appearance of the village or the wider landscape?
- Would the proposed development have any adverse impact upon highway safety?
- Would there be any adverse impact on trees?
- What, if any, planning obligations are necessary to make the development policy compliant and would some lesser or nil contributions be justified given issues of viability?

Would the revised scheme have a significant adverse impact on the character and appearance of the village or the wider landscape?

Section 12 of the NPPF sets out policy which aims to achieve well-designed places. Paragraph 126 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. At paragraph 134 it states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

Policy CSP1 of the 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.

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.

Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

RE5 states that new development in the rural area should amongst other things respond to the typical forms of buildings in the village or locality and that new buildings should respond to the materials, details and colours that may be distinctive to a locality.

R13 states that the assessment of an appropriate site density must be design-led and should consider massing, height and bulk as well as density. R14 states that developments must provide an appropriate balance of variety and consistency.

Policy LNPG2 of the loggerheads Neighbourhood Plan states that to be supported, proposals for ten or more houses must include a mix of types of accommodation to meet requirements identified in the latest assessment of local housing needs including accommodation suitable for first time buyers and the elderly. At least a third of new homes, unless it can be demonstrated there is not a need for this level of provision must comprise a combination of one or two bedroomed properties and one or two bedroomed properties suitable to provide independent living for the elderly.

Policy LNPP1 states that to be supported, new development must demonstrate high standards of design. A number of requirements are listed, the most relevant of which are as follows:

- Complementing the established character of the surrounding context in terms of scale, density, massing, height and degree of set-back from streets and spaces.
- Creating attractive, safe and convenient environments for pedestrians.
Providing a mix of overlooked parking provision, as an integral part of layout, so that parking does not dominate streets and space.
- Include high quality materials, to complement those used in the surrounding context.
- Designing residential garages so that they do not obscure or dominate frontages and are in or behind the building line.

The revised proposal comprises a similar layout to the approved scheme and maintains the proposal for two new access points off Eccleshall Road and the retention of the existing planting belt across the centre of the site. The principal differences are as follows:

- Removal of bungalows
- Addition of two 2.5 storey dwellings
- Provision of detached garages
- Amended position and orientation of the affordable units with the parking located to the north-west of the dwellings
- Addition of a small area of public open space to accommodate SUDs
- Simplification of shared drives
- More traditionally designed dwellings

The proposed development would comprise 16 no. detached 3, 4 and 5-bed dwellings and 6 no. 2 and 3-bed terraced properties. There is a mix of dwelling size and style in the area including relatively modern detached two-storey properties to the south-west on the opposite side of Eccleshall Road as well as some more traditional two-storey cottages in the vicinity. Given the variety of dwelling size and style currently in the area, it is considered that the layout proposed would respect local character.

Although the bungalows proposed within the previous scheme have been omitted, a mix of dwelling sizes are proposed and therefore it is considered that the scheme broadly complies with Policy LNPG2 of the Neighbourhood Plan in terms of providing a mix of types of accommodation.

Detailing would be simple and unfussy and the materials would comprise brickwork and plain grey roof tiles. Detailing has been introduced to the windows with reconstituted stone cills and heads on the principal elevations and those visible from the highways. The appearance of the houses would be traditional and in keeping with the existing surrounding properties and local vernacular. The proposed 2.5 storey dwellings would be set down from Pinewood Road to help reduce their impact.

The application is accompanied by a Noise Assessment which concludes that an acoustic fence of 1.5 to 1.8m in height is required around the gardens of those plots which are adjacent to or close to Eccleshall Road because of traffic noise. Subject to the approval of the design of the fence and subject to the retention of the existing boundary hedgerow at a height greater than that of the fence, it

is not considered that the acoustic fence would have a significant adverse impact on the visual amenity of the area.

The layout and density of the proposed scheme and the proposed house types reflect local character and it is considered that the proposal would be acceptable in terms of its design and impact on the form and character of the area.

CSS Policy CSP4 indicates that the location, scale, and nature of all development should avoid and mitigate adverse impacts (on) the area's distinctive natural assets and landscape character. This policy is considered to be consistent with the NPPF which states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

This site is within an Area of Active Landscape Conservation and NLP Policy N18 states that development that will harm the quality and character of the landscape will not be permitted. Within these areas particular consideration will be given to the siting, design, scale, materials and landscaping of all development to ensure that it is appropriate to the character of the area.

Due to the topography of the surrounding area, and the existing hedgerows, views of the site would be limited to those gained in the short distance. Although the development would encroach into the open countryside, it would not extend beyond the built development that currently exists on the opposite side of Eccleshall Road. It is not considered that the development would have such an adverse impact on the character or quality of either the village or the wider landscape to justify a refusal.

Would the proposed development have any adverse impact upon highway safety?

The site is bounded by Lower Road to the south-east, Pinewood Road to the north-west and the B5026 Eccleshall Road to the south-west. The proposed access arrangements are very similar to those approved under application Ref. 17/01001/FUL with vehicular access proposed to the site from two points off Eccleshall Road, with no access off either Pinewood Road or Lower Road.

A Transport Statement that accompanies the application states that the increase in traffic will be imperceptible and will not have a material impact on the highway network and concludes that there is no highway-related reason to withhold planning permission.

Highway safety concerns have been raised by residents but given that the location and form of the accesses are consistent with that approved as part of the extant consent, and given that the Highway Authority has no objections to the application subject to the imposition of conditions, it is not considered that an objection could be sustained on highway safety grounds.

The roads are to be un-adopted so the Highway Authority has queried whether the Council's Waste Section will be happy to access the site to collect waste. No comments have been received from the Waste Section but it is the case that the Council does not drive on un-adopted surfaces.

The applicant has advised that they would be prepared to accept a planning condition to confirm that any future maintenance of the roads would be a private responsibility and not fall to the Council. In all other respects, the waste storage and collection arrangements for the proposed development are considered acceptable.

Would there be any adverse impact on trees?

Policy N12 of the Local Plan 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 around the boundaries of the site and the Landscape Development Section (LDS) is concerned regarding retaining walls abutting and within Root Protection Areas (RPAs) as well as changes in levels within these areas. In response, an amended plan has been

submitted and the applicant has responded to confirm that they are prepared to accept a condition to first agree any work within RPAs. The further comments of the LDS have been sought and will be reported to members once received.

What, if any, planning obligations are necessary to make the development policy compliant?

Section 122 of the Community Infrastructure Levy Regulations states that planning obligations should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development

Staffordshire County Council as the Education Authority has requested a sum of £69,186 for high school places at Madeley. This is a higher figure than requested for the previous scheme (£33,244) because there is no longer a discount for rented social landlord properties and the cost multipliers have increased from £16,622 to £23,062. Given that the previous permission is extant it is considered reasonable to seek the lower figure of £33,244. This is consistent with the approach taken when permission was granted on this site under reference 17/01001/FUL and in other similar situations.

The Landscape Development Section (LDS) has requested a contribution of £122,738 (£5,579 per dwelling) towards Public Open Space improvements at the Burntwood View/Hugo Way play area and open space which is approximately 1050m away. In determining the previous application, it was acknowledged that there was an extant planning permission for 16 dwellings (Ref. 15/00448/OUT) in which a Public Open Space contribution of £2,943 per dwelling was secured (based upon the then current North Staffordshire Green Space Strategy). It was considered reasonable therefore to seek the lower figure of £2,943 per dwelling for 16 of the dwellings and then the higher figure of £5,579 per dwelling for the additional 6 dwellings giving a total figure of £80,562. Given that the previous permission is extant, it is considered reasonable to adopt the same approach now.

The financial contributions sought are therefore considered to meet the tests identified in paragraph 204 of the NPPF and are compliant with Section 122 of the CIL Regulations.

In the previous application, the applicant submitted a Viability Assessment demonstrating that a policy compliant scheme was not viable. That case was accepted by your Officers and lesser contributions were required. Although a Viability Assessment has not been submitted with this application, the applicant's agent asserts that since planning permission was granted there have been significant cost increases in construction/materials/labour and therefore it would be very unlikely that any developer would proceed to implement a scheme that adds significantly greater development costs. They highlight that there is a fall-back position in that there is an extant permission for the same number of dwellings without this requirement.

The NPPF states in relation to viability that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

The Council's Developer Contributions SPD has a section on the issue of "viability" and it starts with the point that any developer contributions required will need to comply with the tests set out in the then circular on planning obligations, which include those of fairness and being reasonably related in scale and kind to the proposed development, and reasonable in all other respects. Although the circular has since been superseded the principles continue to apply. For the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply. A list of the type of information which an applicant might consider useful to demonstrate why the Council's requirements are too onerous is provided and it is indicated that

negotiations over the level of and nature of contributions will be assessed on a 'site by site' basis, having regard to a financial appraisal (which may be informed by independent advice) and that such negotiations will need to take account of the economics of the development and other national, regional, and local planning objectives that may affect the economic viability of the proposal.

In the absence of an up-to-date Viability Appraisal, no evidence has been provided to demonstrate that a policy compliant scheme is not viable. Although the applicant states that there is a fall-back position in that there is an extant permission for the same number of dwellings with lesser contributions, that is not justification for accepting reduced contributions now. In any event, Schedule 4 of the Section 106 for the previous permission states that if substantial commencement does not take place within a period of 12 months from the date of the planning permission, then once substantial commencement does occur, the matter will be referred back to the District Valuer to undertake a new appraisal. Substantial commencement did not take place within 12 months of the date of the planning permission.

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 CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

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

Policy H1	Residential Development - Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy N12	Development and the Protection of Trees
Policy N17	Landscape Character – General Considerations
Policy N18	Areas of Active Landscape Conservation
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of Essential Supporting Infrastructure and Community Facilities

[Loggerheads Neighbourhood Plan \(LNP\) 2013-2033](#)

Policy LNPG2:	Housing Mix
Policy LNPP1:	Urban Design and Environment
Policy LNPP2:	Local Character & Heritage
Policy LNPT1:	Sustainable Transport

Other Material Considerations include:

[National Planning Policy](#)

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

[Planning Practice Guidance](#) (2018)

[Supplementary Planning Guidance/Documents](#)

[Developer contributions SPD](#) (September 2007)

[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)

[Waste Management and Recycling Planning Practice Guidance Note](#) (2011)

[Newcastle-under-Lyme Open Space Strategy](#) (March 2017)

[Relevant Planning History](#)

21/00835/FUL Application to vary condition 20 of planning application 17/01001/FUL (Erection of 22 houses and bungalows with associated access roads and drainage) to read "No above ground works shall commence until a detailed water drainage design has been submitted to and approved in writing by the Local Planning Authority" - Approved

21/00834/FUL Application to vary condition 07 of planning application 17/01001/FUL (Erection of 22 houses and bungalows with associated access roads and drainage) to read "The development shall not be occupied until details of the visibility splays at the site accesses have been first submitted to and approved in writing by the Local Planning Authority" - Approved

21/00393/FUL Erection of 22 dwellings and associated infrastructure - Approved

21/00327/FUL Application for variation of condition 5, 6, 9, 17, 18 and 19 of planning permission 17/01001/FUL to remove prior to commencement of development aspect of each condition - Approved

17/01001/FUL Erection of 22 houses and bungalows with associated access roads and drainage - Approved

15/00448/OUT Erection of up to 16 dwellings - Approved

Views of Consultees

The **Environmental Health Division** has no objections.

The **Highway Authority** has no objections subject to conditions regarding provision and retention of the accesses, internal site roads, parking and turning areas, submission of details of visibility splays, details of surfacing materials, surface water drainage and delineation of parking bays, details of off-site highway works, access to remain ungated, retention of garages for parking of vehicles and cycles, provision of cycle storage for dwellings without a garage and submission of a Construction Method Statement.

The **Crime Prevention Design Advisor** is generally supportive of the layout but states that it will be important that unauthorised access from the front to the rear of dwellings is prevented by suitable fencing and lockable gating and that the retained Pinewood Road and Lower Road hedge site boundaries should be enhanced to improve security.

The **Housing Strategy Section** states that the tenure mix should be 60% rented and 40% shared ownership rather than 50% of each. The affordable rented units should be social rented.

The **Landscape Development Section** requests that Root Protection Areas (RPAs) and crown spreads are drawn accurately and that trees of all categories are protected. Unresolved site levels should be outside the Construction Exclusion Zone (CEZ) but retaining walls are currently shown abutting and within RPAs. Objection is raised pending amendments to avoid the changes in levels within RPAs and submission of further detail that clearly demonstrates that trees will not be compromised. Only no dig construction should be used for patios and path paving within RPAs and if this cannot be achieved, their layout must be amended. No objection is raised in principle to the proposed planting scheme but shrub planting densities should be increased to more appropriate levels and plant and planting specifications should be submitted. A S106 contribution of £5,579 per dwelling is requested to be used for the improvement and development of the Burntwood View/Hugo Way play area and open space which is approximately 1050m away.

The **Education Authority** states that there are projected to be an insufficient number of school places in the local area to mitigate the impact of this development at secondary phase of education. A contribution of £69,186 is required.

Loggerheads Parish Council objects on drainage grounds and requests the reinstatement of the original Section 106 agreement for a public open space contribution for the improvement and

development of Burntwood View/Hugo Way play area and open space or other open space in Loggerheads.

No comments have been received by the due date from the **Waste Management Section**, **Staffordshire Wildlife Trust** and **Staffordshire County Council Flood Risk Team** and therefore it must be assumed that they have no comments to make.

Representations

Four letters of representation have been received. Objections are made on the following grounds:

- Inadequate publicity
- Highway safety
- Drainage issues
- Pumping extra surface water and untreated foul water into the brook will increase pollution
- The proposal breaches the Neighbourhood Plan in which this site is not identified for development
- There should be financial transparency in dealing the S106

Applicant's/Agent's submission

The application is accompanied by the following documents:

- Noise Assessment
- Ground Investigation Report
- Flood Risk Assessment
- Planning Statement
- Affordable Housing Statement
- Design and Access Statement
- Transport Statement
- Tree Report
- Arboricultural Impact Assessment and Method Statement

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/21/00393/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

25 November 2021