

The application seeks a variation of condition 2 of planning permission 21/00866/FUL to substitute approved plans with amended plans for new house types. Planning permission 21/00866/FUL granted consent for a variation of condition 2 of the original planning permission 19/00036/FUL (Proposed residential development of 32 residential dwellings with site access, car parking, landscaping and all associated engineering works) to also substitute approved plans with amended plans for new house types.

The application site lies on the western side of New Road which is a C classified road, outside the village envelope of Madeley and within the open countryside and on land designated as an Area of Landscape Enhancement, as indicated on the Local Development Framework Proposals Map. The site however does not lie within the North Staffordshire Green Belt. The site area is approximately 1.1 hectares.

The 13 week period for the determination of this application expires on the 24 August but an extension of time has been agreed to 19 September 2022.

RECOMMENDATIONS

Refuse for the following reasons;

- 1. The proposed development, which includes a retaining wall, privacy screens and staircases, would result in an unacceptable and harmful impact on the visual amenity of the area, which would not enhance the character and quality of the landscape; and**
- 2. The proposed development would have a detrimental and harmful impact on the living conditions of no.4 and no.5 Woodside, which is unacceptable.**

Reason for recommendations

The development now proposed is unacceptable and would have a harmful impact on the visual amenity of the area, which would also not enhance the character and quality of the landscape. It would also have a detrimental and harmful impact on the living conditions of no.4 and no.5 Woodside. The proposed development is therefore contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policy N20 of the Newcastle-under-Lyme Local Plan 2011, Policy DES1 of the Madeley Neighbourhood Plan 2018-2037 and with the aims and objectives of the National Planning Policy Framework 2021, along with the National Design Guide and Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010).

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

Officers have attended meetings with the applicant and residents throughout the planning application process but it is considered that the applicant is unable to overcome the fundamental objections to the development.

KEY ISSUES

The application seeks a variation of condition 2 of planning permission 21/00866/FUL to substitute approved plans with amended plans for new house types. Planning permission 21/00866/FUL granted consent for a variation of condition 2 of the original planning permission 19/00036/FUL (Proposed residential development of 32 residential dwellings with site access, car parking, landscaping and all associated engineering works) to also substitute approved plans with amended plans for new house types.

The changes being sought include engineering works to accommodate the new house types now proposed and retaining walls are proposed in various locations around the site. In particular a large retaining wall has already been constructed adjacent to the southern boundary.

The application site lies on the western side of New Road which is a C classified road, outside the village envelope of Madeley and within the open countryside and on land designated as an Area of Landscape Enhancement, as indicated on the Local Development Framework Proposals Map. The site however does not lie within the North Staffordshire Green Belt. The site area is approximately 1.1 hectares.

Since the previous permission was granted, the Madeley Neighbourhood Plan has been made and is now a material planning consideration.

In considering an application to vary or remove a condition, the Authority has to consider only the question of the conditions that are the subject of the application, it is not a complete reconsideration of the application. If the Authority considers that planning permission may be granted subject to different conditions it can do so. If the Authority considers that the conditions should not be varied or removed it should refuse the application.

The number of proposed dwellings and the access arrangements are not changing and on this basis the main issues for consideration in the determination of this full planning application are:-

- The impact of the development on the visual amenity of the area; and
- The impact of the development on the residential amenity of neighbouring occupiers.

The impact of the development on the visual amenity of the area

Paragraph 126 of the revised National Planning Policy 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. Furthermore, paragraph 130 of the revised 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 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 revised NPPF.

Policy DES1 of the Madeley Neighbourhood Plan, sets out that new development must complement the local context and development must, amongst other things, complement the existing character and townscape in terms of scale and massing; avoid the appearance of overdevelopment and over urbanization, taking account of the rural character of the area, and use high quality, durable materials, to complement the site and surrounding context.

The site is designated locally as an Area of Landscape Enhancement. LP Policy N20 sets out that within such areas the Council will support, subject to other plan policies, proposals that will enhance the character and quality of the landscape. Within these areas it will be necessary to demonstrate that development will not further erode the character or quality of the landscape.

The purpose of the application is to change the proposed house types, primarily plots 1-6, which share a boundary with existing properties on Woodside.

The original planning permission, along with the recently permitted variation of condition application, had split level house types (2 storey front elevations and 3 storey rear elevations) close to the southern boundary. However, the applicant now proposes that plots 1-6 are 2 storey dwellings. This results in a retaining wall being required to provide appropriate ground levels, which has already been constructed on the site.

The design of the dwellings remains similar to those previously approved, other than the omission of the lower ground level, but the requirement for a retaining wall represents a significant engineering operation and this changes the design and appearance of the development.

The retaining wall is of a blockwork construction, which has a functional appearance. The structure will create a raised patio area for plots 1-6 with a lower garden area and associated staircase down.

In order to protect the privacy of future occupiers of the dwellings and those of existing neighbouring properties on Woodside, a 1.8m high timber fence (screen) is proposed on top of the retaining wall. Likewise a screen is also proposed on each staircase.

The result of the retaining wall is that the built development extends closer to the southern boundary and this is exacerbated by the height of the wall and screen which will have an approximate height of 3.5 metres.

The retaining wall and timber screen, due to its height, position and appearance, would be visually oppressive and would have an adverse and harmful impact on the design of the scheme, the visual amenity of the area and the character of this semi-rural landscape.

It is acknowledged that soft landscaping could be incorporated into the design of the wall, screen and rear garden areas but this would not suitably address the harmful and adverse impact of the proposed development due to the position and scale of the structure. It could therefore not be said to enhance the character and quality of the landscape. The proposal is therefore contrary to the Council's urban design guidance, Policy CSP1 of the CSS, Policy N20 of the NLP, Policy DES1 of the Neighbourhood Plan and the guidance and requirements of the NPPF, including the National Design Guide.

The impact of the revised house types on the residential amenity of neighbouring occupiers

Paragraph 130 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The Council's Supplementary Planning Guidance (SPG) - Space Around Dwellings - provides more detailed guidance on privacy and daylight standards including separation distances between proposed dwellings and new development in relation to existing dwellings.

As discussed, the applicant now proposes that plots 1-6 are 2 storey dwellings, as opposed to split level dwellings. This results in a retaining wall being required, which has already been constructed on the site. The structure will create a raised patio area for plots 1-6 with a lower garden area and associated staircase down.

In order to protect the privacy of future occupiers of the dwellings and of existing neighbouring properties on Woodside, a 1.8m high timber fence (screen) is proposed on top of the retaining wall. Likewise a screen is also proposed on each staircase.

The revised planning layout also shows that the separation distances between plot 2 and no. 4 Woodside will be reduced.

A number of objections to the application have been received, including the occupiers of no. 4 & 5 Woodside, who identify a number of significant impacts that would be caused to their living conditions. Impacts on property values have also been raised but this is not a material planning consideration that should be given any weight in the determination of the planning application.

The relationship between plot 2 and no. 4 Woodside is now proposed to be approximately 21 metres but the proposed ground floor dining room window would be slightly closer than the measurement specified on the submitted plan.

It is clear that the applicant has tried to address the issue of overlooking and the timber privacy screen, on top of the retaining wall and staircase, will help. A set of patio doors have also been

omitted from the rear elevation and a single door located in the side elevation. However, this will require more steps down to the patio area and will also result in some loss of privacy.

It has to be acknowledged that the previously approved plans are a fall-back position should this application be refused.

The previously approved plans did have a lower ground floor level which had a set of patio doors with windows either side, which served a lounge. However, a raised patio area was not required and it was accepted that a separation distance of 21.4 metres between plot 2 and no. 4 Woodside was acceptable. This was on the basis that boundary treatments and soft landscaping could mitigate the impact of the lower ground floor lounge - this being at a much lower ground level than the raised patio area now proposed.

In terms of the upper floor windows (of plot 2) of the previously approved scheme, the first floor (now the ground floor) was a dining room window and the second floor windows were not principal bedroom windows. Therefore the impact of plot 2 on no. 4 Woodside was considered acceptable. In contrast the proposed scheme moves plot 2 closer to the rear boundary with no. 4 and provides a greater level of overlooking to the occupiers of no. 4 Woodside. The retaining wall, timber screens and the staircase represent significant engineering works which also result in an oppressive impact on the rear windows and garden area of no. 4. There would also be similar impacts between plot 3 and no. 5 Woodside, who have objected to the application on the grounds of loss of privacy and overbearing impact.

In all other respects the timber privacy screens should protect the privacy of neighbouring properties on Woodside, including no. 2 Woodside who have objected to the application on the grounds of loss of privacy. The separation distances and relationship between plot 1 and nos. 1 & 2 Woodside is considered acceptable, as is the case for other plots and properties on Woodside.

The retaining wall also results in the useable outside space at the rear of each plot being limited compared to the previously approved scheme but whilst this is a concern it is not considered that a fundamental objection to this aspect of the scheme should form part of a reason for refusal.

In summary, the retaining wall, timber screens and the staircases represent significant engineering works that would have a detrimental and harmful impact on the living conditions of no.4 and no.5 Woodside, contrary to Policy CSP1 of the CSS and the guidance and requirements of the NPPF.

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 noted that access to all dwellings will be level and compliant with Part M of Building Regulations. It is therefore 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

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

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16	Development – General Parking Requirements
Policy N12	Development and the Protection of Trees
Policy N17	Landscape Character – General Considerations
Policy N20	Areas of Landscape Enhancement

[Madeley Neighbourhood Development Plan 2018 – 2037](#)

Policy DES1: Design

Other material considerations include:

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

National Design Guidance (2021)

[Planning Practice Guidance \(March 2014, as updated\)](#)

[Supplementary Planning Guidance/Documents](#)

[Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

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

Relevant Planning History

14/00930/OUT	Outline planning application for the erection of up to 32 dwellings (including details of access) - Approved
18/00225/REM	Approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 32 dwellings - Refused
19/00036/FUL	Residential development of 32 dwellings – Approved
21/00866/FUL	Variation of condition 2 of planning permission 19/00036/FUL (Proposed residential development of 32 residential dwellings with site access, car parking, landscaping and all associated engineering works) to substitute house types - Approved

Views of Consultees

No comments have been received from **Madeley Parish Council** by the due date and therefore it must be assumed that they have no comments to make.

Representations

Three representations of support for the application have been received.

Four objections have also been received, including one from **Councillor Gary White**, who acknowledges that whilst the applicant has engaged in consultation meetings with him and the residents of Woodside, the final proposals do not address the underlying concerns. Therefore, he objects to the overbearing nature and impact that the new wall and the patio and screening has on the residents of Woodside. In particular, the patio of the proposed dwellings is at bedroom height and the fence 1.8m higher, both are located much nearer to the rear gardens and properties of Woodside and as such provide a substantial impact in both the residents privacy but also the visual impact from their garden and property. The proposal should be rejected on the grounds of the overbearing impact and massing to the properties of Woodside. This is particularly prevalent on numbers 2 to 6 Woodside.

It is also noted that the applicant has progressed with the building of the wall without planning permission and once rejected, this wall needs to come down to allow the approved properties to be built.

The other objections raise the following concerns;

- Impact on privacy due to separation distances, which are not shown accurately on the submitted plans;
- The proposed staircases would be visually harmful;
- The retaining wall which has been built without planning permission has been built much closer to the fence line than the original approved plans;
- The French doors on this plan will also mean the occupants have access through the doors at our bedroom window height;
- Ground floor windows will be looking directly into bedrooms windows;
- Loss of light due to the height, position and design of the retaining wall, staircase and screening fence above;
- The proposed screening works which have the intention of lessening the privacy issue are actually creating an outlook from the property which is totally unacceptable and overbearing in nature;
- Residents on Woodside will need to give up their gardens to provide privacy screening/ planting;
- Future residents of the new houses could complain about screen planting;
- A mish-mash of fence/ screening materials, along with house brick and the yellow brick of the retaining wall will create a messy and chaotic image which will be overbearing, imposing and ugly;
- Loss of value and saleability property prices;
- The current approved plans are for the lower ground floor to have French doors accessing the garden at the same level as the writer's garden, which is far more acceptable than the current proposal and would not cause as many privacy issues; and
- A site visit from properties on Woodside should be undertaken.

Applicant/agent's submission

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/22/00462/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

1st September 2022