

The application seeks outline planning permission with all matters reserved for the construction of one detached self-build/custom-build dwelling on land adjacent to the dwellinghouse known as Farcroft on Manor Road, Baldwins Gate. The application site falls outside of the defined village envelope of Baldwins Gate and so sits within the open countryside, as indicated on the Local Development Framework Proposals Map.

The application has been brought to the committee at the request of a Councillor due to concerns in relation to whether the site represents a sustainable location for new development.

The 8 week determination period expires on the 30th November 2022, however an extension of time has been agreed until the 9th December 2022.

RECOMMENDATION

REFUSE for the following reason:

- The development represents an unsustainable development due to the reliance on the use of private motor vehicles and inadequate pedestrian accessibility by virtue of the site's location, and so is contrary to the guidance of the National Planning Policy Framework (2021).

Reason for Recommendation

The proposal would introduce an additional dwelling whereby the occupants would, by virtue of the site's location, be heavily reliant on the use of a private motor car to access services and facilities. The absence of a safe pedestrian access into the village of Baldwin's Gate would deter occupants from making their journeys by foot. There are benefits associated with the scheme given its contribution to self-build/custom build housing, however these benefits are not considered to significantly and demonstrably outweigh the identified harm that would result from a reliance on the use of a private motor car.

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

It is considered that the applicant is unable to overcome the principal concerns in respect of this development and so the proposal represents a sustainable form of development in line with the provisions of the NPPF

KEY ISSUES

The application seeks outline planning permission for the erection of one detached self-build/custom-build dwelling on land adjacent to Farcroft, Manor Road. Although an indicative site plan has been submitted with the application, all matters of detail are reserved for subsequent approval.

The application site falls outside of the village envelope of Baldwin's Gate, as defined within the Chapel and Hill Chorlton, Maer and Aston and Whitmore Local Plan. The site therefore falls within the rural area and open countryside as indicated on the Local Development Framework Proposals Map.

The main issues in the consideration of the application are:

- The principle of residential development in this location;
- Design and impact on the character and form of the area,
- Impact on residential amenity levels of neighbouring occupiers, and
- Parking and impact on highway safety.

The principle of residential development in this location;

Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The CSS goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

CSS Policy ASP6 states that in the Rural Area there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

Policy HG1 of the CHCMAW Neighbourhood Plan states that new housing development will be supported in sustainable locations. These are;

- Within the village envelope of Baldwin's Gate
- As a replacement dwelling, or limited infill housing or within a built frontage of existing dwellings; or
- In isolated locations in the countryside only where circumstances set out in paragraph 79 of the NPPF apply.

It also goes on to state that to be in a sustainable location, development must;

- Be supported by adequate infrastructure, or provide necessary infrastructure improvements as part of the development
- Not involve the loss of best and most versatile agricultural land;
- Avoid encroaching onto or impacting on sensitive landscape and habitats;
- Not involve the loss of any important community facility

Paragraph 11 of the NPPF states that Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

(Para 11(d))

Footnote 7 which relates to paragraph 11(d) states that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

The Council is currently able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 7.3 years as at the 31st March 2021, and the Housing Delivery Test does not indicate that the delivery of housing has been substantially below the housing requirement over the previous three years.

Paragraph 14 of the NPPF states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that

conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided all of the following apply:

- i. the neighbourhood plan became part of the development plan two years or less before the date on which the decision is made;
- ii. the neighbourhood plan contains policies and allocations to meet its identified housing requirement;
- iii. the local planning authority has at least a three year supply of deliverable housing sites (against its five year housing supply requirement, including the appropriate buffer as set out in paragraph 73); and
- iv. the local planning authority's housing delivery was at least 45% of that required over the previous three years.

CSS Policies SP1 and ASP6, and Local Plan Policy H1 are concerned with meeting housing requirements, and Inspectors in a number of previous appeal decisions, have found that these policies do not reflect an up to date assessment of housing needs, and as such are out of date in respect of detailed housing requirements by virtue of the evidence base upon which they are based.

In *Paul Newman New Homes Ltd v SSHCLG & Aylesbury Vale DC* [2019] EWHC 2367 (Admin) the judgement looks at how decision makers should assess whether “the policies which are most important for determining the application are out-of-date”. It states that the first step is to identify the “basket of policies from the development plan which constitute those most important for determining the application”. The second task is to “decide whether that basket, viewed overall, is out of date”. The basket of policies can be out of date for reasons set out in the NPPF to do with housing supply and delivery, but also if (as a matter of planning judgement) the basket of policies has been overtaken by things that have happened since the plan was adopted, either on the ground or through a change in national policy, or for some other reason.

The basket of policies from the development plan most important for determining this application are considered to be LP Policy H1, CSS Policies SP1 and ASP6 and Policy HG1 of the NDP. As stated above, it has been accepted that the LP and CSS policies are out of date. The NDP was prepared based upon the requirements of the now out of date position set out within Policies H1 and ASP6. The Council's Housing Need evidence has since been updated and the Borough Local Plan Issues and Options sets a different overall context for housing need and potential supply arising from the rural area. This change in the local planning context has a bearing on the weight to be applied to the Neighbourhood Plan policies and therefore it is considered reasonable to conclude that the 'basket of policies' overall, is out of date.

This being the case, the test in paragraph 11(d) of the NPPF has to be applied and an assessment of whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole is required.

While paragraph 14 of the NPPF would ordinarily mean that the identified conflict with the Neighbourhood Plan would, in and of itself, be likely to amount to significant and demonstrable harm weighing towards refusal, paragraph 14 does not operate in this way in this case because the Neighbourhood Plan is more than 2 years old. That is a proviso set out in paragraph 14 itself. Thus the Council is prohibited from applying any enhanced weight to the Neighbourhood Plan.

It is acknowledged that the site has been subject to a number of planning applications in recent years. The most recent was planning application 18/00674/OUT, which was refused and subsequently dismissed at appeal. In dismissing the appeal, the Inspector noted that given the absence of footpaths and lighting along Manor Road and Madeley Road, the route did not lend itself to safe use by pedestrians or cyclists, and so would result in environmental and social harm given the lack of sustainable transport choices available to future residents to allow them to conveniently access services and facilities. On that basis there were not considered to be any identified benefits that would significantly and demonstrably outweigh the adverse impacts of the development. It is therefore still accepted that the development would not be considered to represent a sustainable location for development.

One material change since the consideration of the last application on the site is that the dwelling now proposed would be for self/custom build housing.

Annex 2 of the NPPF 2021 defines Self-Build and Custom Housebuilding as:

“Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-Build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.”

Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Footnote 28 to paragraph 62 states that under Section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

Representations received have considered that the provision of self-build housing is not a material consideration, however for the reasons set out above your officers would disagree with this stance. In addition, some comments have identified that there are no relevant policies within the Local Plan for self-build/custom build housing. This is a result of the current Local Plan being developed prior to the release of the Self Build and Custom Housebuilding Act 2015 (as amended). An appeal decision for residential development that included 24 self-build dwellings on Land to the North of the A51, South of Chorlton Mill Lane and West of the Railway, Stableford (Application ref 19/009618/OUT), saw the Inspector identify that the delivery of self-build housing is a benefit for which there is an established need.

It is the case that that the level of demand within Newcastle-under-Lyme substantially exceeds the level of supply identified by the Council's Self-Build Register.

The weight that will be afforded to both of these key considerations will be discussed later in this report.

Design and impact on the character and form of the area

Paragraph 126 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 130 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 R3 of the Urban Design Supplementary Planning Document (SPD) states that new housing must relate well to its surroundings, it should not ignore the existing environment but should respond to and enhance it, exploiting site characteristics. Policy R5 goes on to state that “buildings must define the street space with a coherent building line that relates to existing building lines where they form a positive characteristic of the area [and] infill development should generally follow the existing building line”. R12 states that residential development should be designed to contribute towards improving the character and quality of the area.

Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape and landscape including its rural setting and the settlement pattern created by the hierarchy of centres. Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document provides further detailed guidance on design matters in tandem with CSP1.

Policy DC2 of the CHCMAW Neighbourhood Plan states that development proposals must, amongst other things, complements the local landscape in terms of urban and built form, maintains and enhances the character and appearance of the landscape and reflect local character in terms of height, scale and massing.

The application proposes a single detached dwelling on a parcel of land to the south of the dwelling known as Farcroft. All matters of details are reserved for subsequent approval but an illustrative site layout plan accompanies the application.

The application site sits along the western side of Manor Road where it is surrounded by three other residential properties within spacious grounds and a relatively loose association. The proposal would introduce an additional dwelling to this parcel of undeveloped paddock land.

Whilst indicative at this stage, the proposed layout plan shows the footprint of a dwelling that would be commensurate with the scale of the plot. Comments on the application have indicated that the dwelling would be for a large two storey dwelling, however as details of appearance and scale are reserved for subsequent determination, the details of the dwelling proposed are indicative only. An assessment of these matters would be dealt with at the reserved matters stage.

A previous application for one dwelling on the site (ref. 18/00674/OUT) concluded that the introduction of one dwelling would retain the sporadic character of dwellings along the western side of Manor Road and would not harm the overall character and appearance of the wider landscape to the extent that would warrant a refusal. This stance was not challenged by an Inspector at the subsequent appeal. The indicative layout presented is similar to that previously considered with this application, and so Officers maintain that the introduction of one dwelling on this parcel of land would not disrupt the prevailing character and form of development along Manor Road.

The Landscape Development Section raise no objections to the proposal, but note that the existing oak tree on the site is of significant amenity value and should be appropriately protected. Details of tree protection and an Arboricultural Impact Assessment can accompany any reserved matters application.

The site is also located within a Landscape Maintenance Area and Policy N19 of the Local Plan states that within such areas, development must not erode the character or harm the quality of the landscape. As indicated above, the previous application for one dwelling on the site was not considered to have an adverse impact on the landscape by either officers of the Council or the Planning Inspector. It is therefore considered that these views are similarly applicable to the proposal now being considered. Details at the reserved matters stage, including design and landscaping, can help to soften the appearance of the development and integrate it into the area.

Therefore it is considered that the development would comply with the Policies of the Development Plan and the provisions of the NPPF.

Impact on residential amenity

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.

Supplementary Planning Guidance (SPG) Space about Dwellings provides advice on environmental considerations such as light, privacy and outlook.

The outline nature of this application requires the decision-maker to anticipate the likely form of development. The supporting plans only show the indicative footprint of a dwelling on the site. However, it is clear that from the size of the plot that there would be sufficient room to house a dwelling and the associated parking and garden areas to offer future occupants good levels of amenity. In addition, there would be no implications on neighbouring dwellings with regards to residential amenity.

Therefore it is considered that the development would be capable of providing an acceptable level of amenity to both the occupants of the proposed dwelling and those in neighbouring dwellings.

Parking and impact on highway safety

Paragraph 110 of the NPPF states that development should provide a safe and suitable access to the site for all users.

Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development would be severe.

Previous applications for residential development on the site have not raised any objections from the Highway Authority.

Whilst details of access are reserved, indicative details have been provided. The Highway Authority has no objections to the proposed development subject to those conditions recommended on previous applications.

It is therefore considered that the proposal would comply with Policy T16 of the Local Plan as well as the provisions of the NPPF.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

As set out above, the development is outside of the village envelope and would be contrary to the development plan in this regard. However, the policies which are most important for determining the application are out of date and in these circumstances Paragraph 11 of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Paragraph 14 of the Framework goes on to detail that in scenarios where the relevant policies of the development plan are not up to date, and an adopted Neighbourhood Plan has been produced more than 2 years ago, a direct conflict with the policies of the neighbourhood plan is unlikely to amount to harm that would significantly and demonstrably outweigh the benefits of the development.

The identified harm from the development is that given its location beyond the village envelope and the absence of safe pedestrian route into Baldwins Gate, the occupants of the dwelling would be heavily reliant on the use of a car for the majority of their day to day needs. The Inspector in dismissing an appeal for one dwelling on the site (18/00674/OUT) identified that there would be environmental and social harm from the proposed development given its unsustainable location and the lack of suitable walking routes and sustainable transport choices. The Inspector did identify some economic and social benefits, although limited, through the construction of the dwelling, a slight increase in spending and patronage of facilities in the local area and a limited contribution to boosting the supply of homes. However, these benefits were not considered to outweigh the identified harm. The Inspector noted the distance of the site from the facilities and services within Baldwins Gate and that the suitability of the route for pedestrians to access the village was inadequate and would not encourage the healthy lifestyles and community building supported by Paragraph 91 of the NPPF.

An additional benefit of this application is the contribution that the development would make to the availability of self/custom-build housing plots within the Borough. As it stands, the demand identified by the self-build register heavily outweighs supply. Therefore whilst it is accepted that there is an established need for self-build/custom build housing within the Borough, the contribution that one dwelling would make to this shortfall would be limited. When considering this against the lack of sustainable transport choices for future occupants and the absence of safe pedestrian accessibility into the village, it is not considered that, on this occasion, the weight that would be afforded to this benefit would significantly and demonstrably outweigh the identified harm.

To conclude, the proposed development would still amount to environmental and social harm from the lack of sustainable transport choices and suitable walking routes to access local services and facilities, as previously identified in the dismissed appeal. While the benefit that one dwelling would bring to the

provision of self/custom build housing within the Borough is acknowledged, it would not significantly and demonstrably outweigh the environmental and social harm from the proposed development. The proposal is therefore contrary to the provisions of the Framework in relation to sustainable development.

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 Development Plan relevant to this decision:

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 - 2026 (Adopted 2009)

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 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 N19: Landscape Maintenance Areas

Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan

Policy HG1: New Housing
Policy NE1: Natural Environment
Policy N2: Sustainable Drainage
Policy DC2: Sustainable Design

Other Material Considerations

National Planning Policy

National Planning Policy Framework (2021)

Planning Practice Guidance (2018)

Supplementary Planning Guidance/Documents

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

Relevant Planning History

13/00678/OUT Outline planning permission for the erection of three detached dwellings - Refused

14/00037/OUT Outline planning application for 3 executive Code level 6 dwellings (resubmission of application number 13/00678/OUT) - Refused and dismissed at appeal

18/00683/FUL Demolition of existing house and construction of replacement dwelling - Approved

18/00674/OUT Outline planning application (all matters reserved) for a detached dwelling - Refused and dismissed at appeal

Consultation Responses

United Utilities highlights the absence of any known public sewers within the vicinity. They raise no objections to the proposal but draw the applicants' attention to the requirements regarding water and wastewater connections.

Whitmore Parish Council objects to the proposed development and considers that the works would be in breach of several policies of the development plan and NPPF. They note that the reasons for refusal for a recent application at Baldwin's Gate Farm (ref. 21/01041/OUT) are directly applicable to this application and that the use of a self-build dwelling is not a material consideration. They also refer to the previous appeal decisions on the site, and that there has been no substantive change in relation to the unsustainable location of the development. Given the identified 5 year housing land supply within the borough, there would be no benefits to housing provision within the borough.

With regards to residential amenity, the **Environmental Health Division** raises no objections subject to conditions to secure appropriate hours of construction. For land contamination, the officer notes the application site is located on former farmland and no necessary conditions will be required to ensure potential contamination risks are identified and mitigated.

The **Landscape Development Section** raise no objections, but identify that the existing Oak tree is of high amenity value and should be appropriately protected. They recommend 'no dig/ construction for the proposed drive and paddock access and that this should not exceed 20% of the RPA of this tree. Conditions to secure a tree protection plan and arboricultural method statement to BS5837:2012 should be attached to any permission granted.

The **Highway Authority** raises no objection but have asked for the same conditions as requested on previous applications to be applied to any permission granted.

Representations

25 letters of representation have been received from 24 addresses.

One of these representations is from the Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Plan Steering Group. They object to the proposed application and raise the following points;

- No demonstrated need for housing in this location
- Conflict with Policies of the CSS, Local Plan and Neighbourhood Plan
- Unsustainable location for new housing
- Harmful impact on the landscape and this landscape maintenance area
- Limited contribution to housing supply
- Relevant development plan policies are of equal to self-build development

The remaining 24 representations all object to the proposal and raise the following concerns;

- New development beyond the village envelope
- Unsustainable location with a lack of public transport and walking routes
- Reference to the previous refusals and dismissed appeals for development on the site
- The refusal of planning application 21/01041/OUT at Baldwins Gate Farm is applicable to this application
- Harms relating to limited public transport and character and appearance outweigh the benefits
- Conflict with Policies HG1 and NE1 of the Neighbourhood Plan
- Relevant development policies are not out of date, and so the tilted balance of 11(d) is not engaged
- Lack of amenities within Baldwins Gate to support new development
- No policies for self-build properties within the Local Plan
- No exceptional circumstances to demonstrate that self-build status would overcome concerns
- Reference to planning appeals for development at the Lodge, Station Road, Onneley (App ref, Appeal ref)
- Reference to development plots from NaCSBA, which identifies greenfield plots and open fields as being very difficult to receive planning permission
- Loss of agricultural land
- Loss of amenity to neighbouring properties
- Harm to character and appearance of landscape
- Precedent for similar development within the borough
- Question whether requirements for a self-build project would be complied with

- Stance taken in Paul Newman Homes V Secretary of State are applicable in that 11(d) should not be engaged
- Limited contribution to the boroughs housing supply
- Self-building housing is not a material planning consideration
- Manor Road is unlit with no safe pedestrian walking route
- Manor Road is vulnerable to flooding

Applicants/agents submission

The requisite plans and application forms have been submitted. The application is also supported by a Planning Statement from Knights plc.

All of the application documents can be viewed on the Council's website using the following link:

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/22/00836/OUT>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

22nd November 2022