

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 to Plots 16, 18, 22 and 28 along with revised engineering works in the rear gardens of Plots 3-5. 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 30<sup>th</sup> December 2022.**

### **RECOMMENDATIONS**

**PERMIT the variation of condition 2 of planning permission 21/00866/FUL to substitute approved plans with amended plans for new house types to Plots 16, 18, 22 and 28 along with revised engineering works in the rear gardens of Plots 3-5,**

**and subject to all other conditions attached to planning permission 21/00866/FUL.**

### **Reason for recommendations**

The revised design of the scheme is acceptable, as is the impact on residential amenity levels. Therefore, the substitution of approved plans with amended plans for new house types along with revised engineering works in the rear gardens of Plots 3-5, is acceptable, subject to all of the conditions of 21/00866/FUL which still remain relevant and necessary to make the development acceptable.

The original permission was granted following the entering into of a Section 106 agreement securing a number of obligations. The agreement included a Section 73 clause and therefore a Deed of Variation will not be required before a decision on this application is made because the Council's interests are protected by the clause in the original S106.

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

The application is a resubmission of a recently withdrawn application and the applicant has now suitably addressed the concerns of officers of the LPA. The amendments are now considered acceptable.

### **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 to Plots 16, 18, 22 and 28 along with revised engineering works in the rear gardens of Plots 3-5. 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 purpose of the application is to further change the house types of certain plots and to secure approval for engineering works associated with ground level changes throughout the site.

A large retaining wall has been constructed on the site without planning permission and a previous application, reference 22/00462/FUL, which sought approval for the wall was withdrawn by the applicant due to significant concerns raised by your officers. This application now proposes to reduce the height of the wall.

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.

A large retaining wall has been constructed on the site without planning permission and a previous application, reference 22/00462/FUL, which sought approval for the wall was withdrawn by the applicant due to significant concerns raised by your officers. The retaining wall is located adjacent to the southern boundary and was previously proposed to create raised patio areas for plots 1-6.

The wall is still in-situ and is of a blockwork construction and has a functional appearance.

This application now proposes to reduce the height of the wall and the raised patio areas for plots 1-6 are no longer proposed. The house types proposed for plot 1-6 revert back to those permitted under planning permission 21/00866/FUL.

The rear garden areas of plots 3-5 will require a small section of retaining wall which would have a height of approximately 400mm, in order to level out the gardens.

Overall the changes to the house types of Plots 16, 18, 22 and 28 do not raise any significant concerns and the proposed engineering works are also considered acceptable in the context of the development.

The conditions of the previous permission will further ensure that the development is acceptable.

The proposed design changes are considered acceptable and the scheme proposed is in accordance with 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.

#### 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, this application now proposes to reduce the height of the wall and the raised patio areas for plots 1-6 are no longer proposed. The house types proposed for plot 1-6 revert back to those permitted under planning permission 21/00866/FUL.

The proposed separation distances remain similar to the approved development and while a small retaining wall at the rear of plots 3-5 is required, it is not considered that the living conditions and residential amenity levels of properties on Woodside, in terms of privacy, loss of light or overbearing impact, would be significantly harmed to the extent that a reason for refusal could be justified.

It is considered that a good standard of amenity for all existing and future occupants of land and buildings can be achieved and maintained, as required by 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 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 |
| 22/00462/FUL | Application for variation of condition 2 of planning permission 21/00866/FUL to substitute house types - Withdrawn   |

### Views of Consultees

The **Environmental Health Division** advises that they have no comments to make on this variation application.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** sets out that they have no adverse comment to make with regard to the minor revisions to the approved layout in terms of any foreseeable impact on the potential for crime or disorder.

No comments have been received from **Madeley Parish Council, the Waste Management Section** or the **Landscape Development Section** by the due date and therefore it must be assumed that they have no comments to make.

### Representations

None received.

### 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/22/00840/FUL>

### Background Papers

Planning File  
Development Plan

### Date report prepared

22<sup>nd</sup> November 2022