

**LAND NORTH OF PEPPER STREET, KEELE
SEDDON HOMES**

22/00094/FUL

The application seeks to vary the wording of condition 21 of planning permission 13/00970/OUT (Residential development, maximum of 100 dwellings) to allow the use of impact piling in the construction of the development.

The application site falls within the Green Belt and is also within an area of landscape restoration as defined by the Local Development Framework Proposals Map. The Haying Wood within the site is protected by Tree Preservation Order No. 1.

The site was previously used for a mix of commercial purposes, however the site has now been cleared in preparation for development.

This application was deferred at the 8th November meeting to enable officers, in liaison with Environmental Health colleagues, to advise Members of appropriate wording for a variation to Condition 21.

The 13 week period for the determination of this application expired on the 17th of May, however an extension of time has been agreed until the 3rd February 2023.

RECOMMENDATIONS

PERMIT the variation of condition 21 of planning permission 13/00970/OUT in the following manner;

All piling works shall have a maximum noise threshold of 65dB 15min Laeq for the closest noise sensitive properties and the piling works shall be limited to the following times:

Monday – Friday 08.00 – 18.00 hours

Saturday - 08.00 – 13.00 hours

Sundays & Bank Holidays – No working shall be permitted.

Noise monitoring during all piling works shall be undertaken by a specialist consultant so that in the event of complaints from sensitive receptors, the results of this monitoring can be forwarded to the local authority as soon as possible for discussion and action,

and subject to all other conditions attached to planning permission 13/00970/OUT.

Reason for recommendations

The variation of the condition is considered to be acceptable with regard to its impact on the residential amenity of nearby properties. Subject to all of the conditions of 13/00970/OUT which still remain relevant and necessary to make the development acceptable, condition 21 can be varied with appropriate wording.

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

Officers of the LPA have been in dialogue with the applicant throughout the planning application process 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

The application seeks to vary the wording of condition 21 of planning permission 13/00970/OUT (Residential development, maximum of 100 dwellings) which prevents the use of impact piling when carrying out the development.

The application identifies that some level of impact piling is necessary and the cost implications of a non-impact piling solution would create greater viability issues.

The reason for the condition was to protect the living conditions of local residents, particularly those situated along Pepper Street and Quarry Bank.

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 application is supported by a detailed noise impact assessment which has been carried out by Wardell Armstrong LLP, which concludes that piling could be undertaken at the site without causing a significant adverse effect at existing receptors.

The Parish Council and two residents have raised objections to the removal of the condition on the grounds that piling will cause an unacceptable loss of amenity due to noise and disruption.

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 applicant's agent has provided additional information to address the queries raised by Members at the November meeting and has suggested that the noise threshold for piling works at the site can be limited to 65dB 15min Laeq for the closest noise sensitive property and that the piling works can be restricted to the following times:

Monday – Friday 08.00 – 18.00 hours

Saturday - 08.00 – 13.00 hours

Sundays & Bank Holidays – No working shall be permitted.

Noise monitoring will also be undertaken by a specialist consultant and in the event of complaints from sensitive receptors, the results of this monitoring shall be forwarded to the local authority as soon as possible for discussion and action.

The above details have been reviewed by the Environmental Health Division (EHD) who are satisfied that the proposed details would not result in any adverse impact on the living conditions of existing dwellings. It must also be noted that condition 19 controls the impact of noise and vibration from construction, including piling and that the impact of piling and foundation design on groundwater is controlled by condition 30. Therefore, other conditions still provide mechanisms to control the impacts of construction works on nearby properties.

In the absence of any objections from EHD and subject to appropriate wording to control the above details along with the imposition of all other conditions attached to the original outline planning permission that remain relevant at this time, it is considered that the living conditions of local residents would be suitably protected, 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 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 SP2: Spatial Principles of Economic Development
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
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

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

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy E11: Development of Employment Land for Other Uses
Policy T16: Development - General Parking Requirements
Policy T18: Development – Servicing Requirements
Policy C4: Open Space in New Housing Areas
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 N13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Considerations
Policy N21: Area of Landscape Restoration

Other material considerations include:

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

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD](#) (2009)

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

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

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

Relevant Planning History

04/01321/EXTN	Permitted 2009	Extension of time limit to implement planning permission 04/01321/EXTN – expired
04/01321/FUL	Permitted 2004	Demolition of buildings, erection of buildings for industrial, storage or business use - expired
04/00794/FUL	Refused 2004	Replacement industrial and storage units
03/00495/OUT	Refused 2003	Permanent equestrian dwelling

02/00966/OUT	Refused 2002	Equestrian dwelling
02/00224/OUT	Refused 2002	Proposed dwelling
01/00680/FUL	Refused 2001	Engineering works and car park
00/00430/PLD	Permitted 2000	Certificate of lawfulness for a proposed use as Sunday car boot sales for no more than 14 days in one calendar year
99/00568/FUL	Permitted 1999	Erection of stable block
98/00633/FUL	Permitted 1998	Renewal of permission for use of land for the keeping of horses and retention of ménage area
97/00282/COU	Permitted 1997	Change of use to keeping of horses and formation of ménage area
96/00537/ELD	Permitted 1996	Application for a certificate of lawfulness for an existing use for business/storage purposes
96/00272/ELD	Refused 1996	Application for a certificate of lawfulness for an existing use for business/storage purposes
95/00465/CPO	Unconfirmed	Modification of condition 5 of permission NNR3969
93/00664/CPO	Permitted 1993	Continuation of underground coal mining and development of two new adits
13/00970/OUT	Permitted 2014	Residential development (maximum of 100 dwellings)
15/00324/FUL	Permitted 2015	Application to remove condition 11 of planning permission 04/01321/EXTN relating to ground contamination (in response to submitted ground investigation report)and vary conditions 12 and 13 to enable the development to commence before a contamination remediation scheme is agreed and implemented
18/00262/REM	Permitted 2018	Application for approval of reserved matters for layout, scale, appearance and landscaping for the erection of 100 Dwellings
20/00431/DOB	Permitted 2020	Application for the modification or discharge of planning obligations made under Section 106 of the Town and Country Planning Act relating to planning permission ref 13/00970/OUT
21/00780/DOB	Permitted 2020	Application for the modification or discharge of planning obligations made under Section 106 of the Town and Country Planning Act relating to Section 106 Agreement dated 2 April 2015 (13/00970/OUT), the Deed of Variation dated 17 December 2019 and S106A decision dated 20 August 2020, reference 20.00431.DOB (S106A Decision)
21/00952/FUL	Permitted 2021	Application for variation of condition 2 of planning permission 18/00262/REM to allow substitution of house types
22/00533/DOB	Not yet determined	Application for the modification or discharge of planning obligations made under Section 106 of the Town and Country Planning Act relating to Section 106 Agreement dated 2 April 2015 (13/00970/OUT) and the Deed of Variation dated 17 December 2019 (ref. 21/00780/DOB) as varied by the S106A decision dated 20 August 2020 (ref. 20/00431/DOB) and further varied by way of the S106A decision dated 17th September 2021 (21/00780/DOB).

Views of Consultees

The Environmental Health Division initially objected to the proposal as they considered no justification has been given to allow the condition to be removed. However, following the submission of additional information including a noise impact assessment they have confirmed that they raise no objections to the proposal.

The Environment Agency initially advised that a Piling Risk Assessment be undertaken and submitted in support of the application. Following the submission of this report they confirmed that they raise no objections to the proposal

Keele Parish Council object to the removal of the condition as they consider it is necessary to protect the amenity of residents.

Representations

Two objections letters have been received from local residents who raise concerns to the removal of the condition as they consider this will result a negative impact to their residential amenity.

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/22/00094/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

18th January 2023