LAND AT HIGH STREET / ACACIA AVENUE, KNUTTON DURATA DEVELOPMENT

23/00771/FUL

The application seeks full planning permission for the erection of 54 no. dwellings, including open space, new vehicular access off Acacia Avenue, and associated infrastructure and earthworks.

The application site, of approximately 2.3 hectares in extent, is within the urban area of the Borough as indicated on the Local Development Framework Proposals Map. The site comprises previously developed land.

The statutory 13 week determination period for this application expired on the 30th November 2023 but an extension of time has been agreed to the 24th May 2024.

RECOMMENDATIONS

(A) Subject to the applicant entering into a Section 106 obligation by 19th July 2024 to secure the provision of 100% on-site affordable housing and management of the on-site Public Open Space,

PERMIT the application subject to conditions relating to the following matters:-

- 1. Standard time limit for commencement of development;
- 2. Approved plans;
- 3. Facing and roofing materials;
- 4. Boundary treatments
- 5. Hardstandings;
- 6. Landscaping Scheme;
- 7. Provision of access, internal roads, private drives and parking areas;
- 8. Surfacing materials and surface water drainage for the private drives and parking areas;
- 9. Secure cycle storage;
- 10. Electric vehicle charging provision;
- 11. Highway & Environmental Construction Management Plan (CMP);
- 12. Any other necessary highway related conditions
- 13. Tree protection measures;
- 14. Prior approval of detailed plans for areas of open space and play equipment;
- 15. Contaminated land;
- 16. Detailed surface water drainage scheme;
- 17. Provision of bat and bird boxes and sparrow terraces as per enhancements plan;
- 18. Waste storage and collection arrangements
- (B) Should the matters referred to in (A) above not be secured within the above period, then the Head of Planning be given delegated authority to refuse the application on the grounds that without such matters being secured the development would fail to secure sustainable development objectives, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for recommendations

The redevelopment and regeneration of this vacant brownfield site within a sustainable urban location, accords with local and national planning policy. The scheme represents a good quality design that would enhance the appearance of the area and it has been demonstrated that the proposed development would not cause highway safety concerns or impact residential amenity. It is considered that subject to a number of conditions, the development represents a sustainable form of development and should be supported.

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

The LPA has engaged in pre application discussions with the applicant and officers of the Authority have requested further information throughout the application process and the applicant has subsequently provided amended and additional information.

KEY ISSUES

The application seeks full planning permission for the erection of 54 new houses, including open space, new vehicular access off Acacia Avenue, and associated infrastructure and earthworks. The application site, of approximately 2.3 hectares in extent, is within the urban area of the Borough as indicated on the Local Development Framework Proposals Map. The site comprises previously developed land and was included within the Regeneration Masterplan for Knutton which was commissioned by the Borough Council in 2020.

The key issues in the determination of the application are as follows:

- 1. The principle of the development of this site for residential purposes,
- 2. The design of the development and its impact on the surrounding area,
- 3. The impact of the development on highway safety,
- 4. Acceptable standards of residential amenity,
- 5. The impact on trees and ecology,
- 6. Flood risk and sustainable drainage,
- 7. Affordable Housing
- 8. Planning obligations and financial viability
- 9. Other Matters
- 10. Conclusions and Planning Balance

Is the principle of the development of this site for residential purposes acceptable?

The National Planning Policy Framework (the Framework) seeks to support the Government's objective of significantly boosting the supply of homes. It also sets out that there is a presumption in favour of sustainable development.

The application site within the Urban area of the Borough within a central part of Knutton.

CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say 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.

Paragraph 117 of the Framework states that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 11 of the Framework 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)

The Council has recently updated its five-year housing land supply position which sets out that it is able to demonstrate a housing land supply of 5.26 years. Therefore the Council is currently able to demonstrate an appropriate supply of specific, deliverable housing sites.

CSS Policies SP1 and ASP5, 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 as well as CSS Policies SP1 and ASP5. As stated above, it has been accepted that the CSS policies are out of date.

Therefore notwithstanding the five year housing land supply position, it is considered that the test in paragraph 11(d) has to be applied to this application given the lack of up to date policies in relation to the provision of housing. Therefore the tilted balance outlined within Paragraph 11(d) of the framework is considered to be engaged and an assessment of whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the polices of the Framework taken as a whole is required.

The application site is location within a central location of Knutton and would make use of a currently vacant area of brownfield land whilst also providing a good contribution to the Council's housing supply. The proposed development is therefore considered to be sited in a sustainable location within an urban area of the Borough and so subject to any benefits outweighing any identified harms, the proposal represents sustainable development.

The design of the residential development and its impact on the surrounding area

Paragraph 130 of the 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 135 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.

Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. In particular, Policy R3 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 existing site characteristics, such as mature trees, existing buildings or long views and incorporating them into the proposal. In addition, Policy R14 states that developments must provide an appropriate balance of variety and consistency.

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.

The site is currently open and offers very little in respect of visual quality, comprising large areas of hardstanding and grassed areas. There are some trees in the southern section of the site which do provide a contribution to the street scene of Acacia Avenue.

The proposed houses would be a combination of detached, semi-detached and terraced two storey properties which would be of traditional design. The surrounding area is comprised of a mixture of land uses and property types, with traditional terraced properties being located to the north and north west,

lower density suburban development being located to the south and south west, and commercial properties being located to the north east. The majority of nearby properties are two-storey in height however there are some bungalows which run along Acacia Grove to the south west of the site.

The proposed development has been presented to a Design Review Panel (DRP) at an early stage in the process, as encouraged by the NPPF, and a number of amendments and enhancements have been made to the scheme at the request of the case officer to ensure that the scheme demonstrates a high quality design as required by both national and local policies. The site has been designed to include a good number of varied house types with the chosen designs integrating well with the local design vernacular. The proposed materials for all houses are to be traditional red facing brick, with the majority of detailing also being completed in matching brick. Window cills are to be constructed of artificial stone with windows to be white uPVC. The material choice is considered to be appropriate given the local design character.

A number of landscaped areas and new planting will also help to break up new built up frontages and soften the overall visual impact of the development. Boundary treatments for rear garden areas are to be 1.8 vertical close boarded timber fencing, whilst a mixture of brick walls and timber fencing will be used for more prominent positions within the site. The boundary treatments proposed are typical of a residential scheme of this type and are considered to be appropriate in general, however it is considered necessary to use a condition to control the final boundary scheme for the site.

To conclude, subject to conditions, the proposal will help to remove what is currently a vacant brownfield site in the area and replace this with a high quality residential development which will integrate well with surrounding land uses. It is therefore considered that the design of the proposed development is acceptable and subject to conditions, it will comply with design principles and policies of the Council's Urban Design Guidance, policy CSP1 of the CSS and the guidance and requirements of the NPPF.

The impact of the development on highway safety

Paragraph 114 of the NPPF states that in assessing specific applications for development it should be ensured, amongst other things, that appropriate opportunities to promote sustainable transport modes; safe and suitable access to the site can be achieved for all users; the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, and any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

The NPPF further states at paragraph 115 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.

Saved Policy T16 of the Newcastle-under-Lyme Local Plan (NLP) states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets. Such a policy is, however, of limited weight as it is not in fully consistent with the Framework given it reference to maximum parking levels.

The proposed development would connect to the existing highway network at two points. To the north of the site there would be access onto High Street via an existing access point, and to the south, access would be onto Acacia Avenue. There are a number of bus stops within walking distance of the site providing access to bus routes which operate on a frequent basis throughout the day and provide access to a range of key destinations.

Objections have been received from residents about the suitability of the access and the level of potential congestion in the area.

The application is accompanied by a Transport Statement (TS) which considers the transport impacts associated with the proposed development. The TS concludes that trip generation and junction modelling from the proposals would be unlikely to cause or exacerbate any highway capacity or safety

issues on the surrounding network and that the proposed development will not have a material impact upon the operation of the Acacia Avenue / B5368 Church Lane priority junction. The development is forecast to produce 28 two-way vehicle trips during a typical weekday morning.

The TS notes that the proposed residential development would, other than for the departure trips in the morning peak, generate less overall vehicle trips than the previous use of the site which was a recreation centre. While the number of anticipated vehicle trips would not meet the threshold for a junction capacity assessment to be provided, such an assessment has been carried out for the junction of Church Lane/ Acacia Avenue and it concludes that the development would have a negligible highway impact.

The layout of the site and provision of areas of unadopted road would mean that 15 properties would have to take their bins out to a bin collection point given their siting on an area of unadopted road. However the unadopted roads incorporated into the proposal are limited in size with most properties being no further than 20m from an adopted road, with the exception of plots 44 and 43 which are located approximately 30m and 25m away from the adopted highway. In consideration of the fact that there is no identified breach of policy, the arrangement as proposed is considered to be sufficient and ensures that the amenity level of future occupants is acceptable from a waste collection perspective.

Clarity was sought by the Highway Authority in relation to the technical information provided within the TS and plans regarding trip generation numbers, footway widths, visibility splays and vehicle tracking models as well as other matters. The applicant has provided additional information to address these concerns and the Highway Authority have now informally advised that they have no objections to the proposal subject to conditions. Their formal response is expected imminently and an update will be provided in a supplementary report.

The proposed residential units would each provide sufficient off street car parking spaces which would be in accordance with the Council's parking standards set out in Appendix A of the Saved Local Plan policies.

Subject to the final response from the Highway Authority and subject to conditions, it is not considered that the proposal would have any significant adverse impact on highway safety and it is considered that the proposal complies with Policy T16 of the Local Plan and the aims and objectives of the Framework.

Acceptable standards of residential amenity

Paragraph 131 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. It further sets out at paragraph 191 that decisions should also ensure that new development reduces potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life.

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.

There are a number of existing residential properties which share boundaries with the proposed development. One objection has been raised by a local resident who occupies a property on Silverdale Street to the north west of the development site regarding potential loss of privacy as a result of the development.

Although the one objection regarding privacy is noted, all properties within the development site would achieve acceptable separation distances, in accordance with the Council's SPG. All plots will also have an acceptable amount of private amenity space.

The Council's Environmental Health Division has no objections subject to conditions relating to land contamination, piling, internal noise levels for dwellings, construction management and hours of construction in order to ensure that these works do not have an unacceptable impact on the amenity of neighbouring properties.

Therefore subject to the inclusion of appropriate conditions, the development accords with the provisions of the NPPF.

Impact on Trees and Ecology

Policy CSP4 of the Core Strategy states that "the quality and quantity of the plan area's natural assets will be protected, maintained and enhanced through the following measures ... ensuring that the location, scale and nature of all development planned and delivered through this Core Spatial Strategy avoids and mitigates adverse impacts, and wherever possible enhances, the plan area's distinctive natural assets, landscape character".

Paragraphs 180 & 185 of the NPPF sets out that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. If development cannot avoid significant harm to biodiversity by adequate mitigation then planning permission should be refused.

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.

No trees within the site are protected, and the majority of the existing trees have been identified as being of low quality. However there is a row of Category B and C silver birch and sycamore trees in the southern section of the site close to Acacia Avenue which would be removed to accommodate the new development. Although none of the trees to be removed are category A, they do provide a contribution to the street scene and their loss must be weighed in the planning balance.

Other trees within the site including those adjacent to the high street at the north of the site will be retained which will help to soften this part of the proposal.

The Preliminary Ecological Appraisal submitted in support of the application notes that the site does provide suitable foraging and nesting opportunities for bird species, however the site has a low potential for bats. Given that the site is largely made up of hardstanding without any ponds, the impact on mammals and amphibious would also be negligible. The proposed landscaping and planting scheme will result in a net gain in the number of trees within the site and the removal of large areas of hardstanding would also create some additional opportunities for biodiversity.

A number of enhancement measures are outlined within this appraisal, which include the provision of bird and bat boxes. Subject to suitably worded planning conditions which would tie in the recommendations of the appraisal, it is considered that the application has demonstrated that the impact and loss of wildlife and biodiversity can be suitably mitigated, in accordance with the provisions of the NPPF.

Flood Risk and sustainable drainage

The application has been accompanied by a Flood Risk Assessment (FRA), and a drainage strategy. The FRA identifies that the site is within Flood Zone 1, being an area of low probability (of flooding), Development within Flood Zone 1 is the preferable option when considered in the context of the sequential test found in the NPPF. The Lead Local Flood Authority (LLFA) have been consulted on the application.

The Lead Local Flood Authority originally raised concerns with the proposed drainage strategy due to the lack of a swale and/or attenuation pond. The applicant has noted that to include this drainage system would require the removal of affordable units from the site and this would create viability issues with the proposal, which the LLFA have acknowledged. The LLFA have accepted that whilst the proposal does not incorporate a swale and/or attenuation pond, the proposed drainage system would still provide the required volume of storage and on this basis they have requested that a pre commencement condition is used to ensure that the final design of the drainage system, inclusive of a management and maintenance plan for the drainage system and a Surface Water Management Plan, is provided.

Subject to this condition, the development will minimise flood risk in accordance with local and national planning policy.

Affordable Housing

Policy CSP6 of the CSS states that residential development within the urban areas will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. This application proposes 100% housing and therefore exceeds the requirements of policy CSP6.

Planning obligations and financial viability

Any developer contribution to be sought must be both lawful, having regard to the statutory tests set out in Regulation 122 and 123 of the CIL Regulations, and take into account guidance. It must be:-

- 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.

Public open space is to be provided within the site and therefore no contribution to off-site provision is required. The open space should be maintained by a management company which can be secured by a Section 106 Agreement.

The Education Authority note that there are projected to be a sufficient number of school places at both primary and secondary phases of education to mitigate the impact of this development and therefore no financial contribution is required.

Other Matters

Concerns have been raised by local residents regarding the loss of an area of open space which forms part of the development site. Whilst the loss of this open space does weigh against the proposal, the retention of the open space in its current form would result in less affordable residential units being provided which would have implications for the public realm improvements to the existing play area. It is also noted that there are other large areas of useable public open space nearby at the Wammy site which would mitigate the loss of this land.

It must also be noted that the proposal would result in an improvement and expansion of the play area which is located to the south of the site along Acacia Avenue which will bring with it a public benefit. The proposal is also compliant with the requirements of policy CSP10 of the CSS.

Conclusions and planning balance

The proposal would provide various social and economic benefits, most notably the construction of 54 new residential properties in a sustainable location within the urban area, which will increase the housing mix and make a contribution to boosting affordable housing supply in the Borough. It has also been demonstrated that the design and appearance of the scheme would be of an appropriate quality and would not harm the visual amenity of the area. Onsite planting and biodiversity enhancements have been proposed and other environmental objectives will be secured. Therefore, the three overarching objectives of sustainable development will be achieved.

On this basis planning permission should be granted provided the required S106 obligations are secured to address infrastructure requirements, alongside appropriate planning conditions, as recommended.

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 ASP5 Newcastle and Kidsgrove Urban Neighbourhoods 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 H1: Residential development: Sustainable location and protection of the countryside

Policy T16: Development - General Parking Requirements

Policy C4: Open Space in New Housing Areas
Policy N12: Development and the Protection of Trees

Policy N13: Felling and Pruning of Trees

Policy N17: Landscape Character – general Considerations

Policy IM1: Provision of essential supporting infrastructure and community facilities.

Other material considerations include:

National Planning Policy Framework (2023)

Planning Practice Guidance (March 2019, as updated)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

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)

Waste Management and Recycling Planning Practice Guidance Note approved in 2003 and last updated in February 2016

Relevant Planning History

16/00804/DEM - Application for prior notification of proposed demolition of Former Knutton Recreation Centre - permitted

Views of Consultees

The **Education Authority** state that there are projected to be a sufficient number of school places at both primary and secondary phases of education to mitigate the impact of this development.

The **County Highway Authority** have informally noted that they raise no objections to the proposal. It is expected that their formal response will be received imminently and an update will be provided in a supplementary report.

The **Lead Local Flood Authority** state that if the LPA recommend the application for approval then a pre-commencement condition for the provision of final detailed design of the drainage system, inclusive of a management and maintenance plan for the drainage system (with a named contractor to provide maintenance) and a Surface Water Management Plan (SWMP) should be secured.

Staffordshire County Council as the **Minerals and Waste Authority** has no comments on the application.

Cadent raise no objections to the proposal but request that an informative is added to the decision notice

The **Public Rights of Way Officer** notes that if any public right of way needs diverting as part of these proposals the developer must apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the public rights of way to allow the development to commence.

The **Environmental Health Division** raise no objections subject to conditions relating to the submission of a CEMP, internal noise levels for houses being secured, and contamination.

The Landscape Development Section (LDS) raise no objections in principle subject to the implementation of root protection for existing trees to be retained. Details for the proposed LEAP and LAP are agreed by condition and that the minimum Fit in Trust standards are met with regards to the re-provision of the play facilities on this site.

The **Crime Prevention Design Advisor** has provided advice on a number of crime prevention design measures, including lighting, contained within the Secured by Design Homes 2019 design guide document.

Severn Trent Water raise no objections to the proposal subject to conditions relating to the submission of a drainage plan, and works to be completed in accordance with the approved details.

Comments were also invited from The Council's Waste Management Section, National Grid, Staffordshire Wildlife Trust, and The Coal Authority, however in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

Representations

5 (Five) letters of representation have been received which raise objections to the proposal, and one comment has been received which raises no objections or support for the development but suggests that swift bricks be incorporated to improve biodiversity within the site.

The objections raised highlight the following concerns:

- Loss of open space/park
- Highway safety and traffic issues
- Loss of trees
- Loss of privacy

Applicant/agent's submission

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/23/00771/FUL

Background Papers

Planning File

Development Plan

Date report prepared

8th May 2024