

The development comprises earthworks, pond creation and soft landscaping to form a new Great Crested Newt (GCN) Habitat which forms part of mitigation associated with the Chatterley Valley Employment Site on Peacock Hay Road.

The site is located within the rural area of the Borough and falls within an area of Landscape Restoration as defined on the Local Development Framework Proposals Map of the Local Plan. The site also falls within the Green Belt and is within a high risk coal mining area.

**The 13 week period for the determination of this application expired on the 13<sup>th</sup> May, however an extension of time until 21<sup>st</sup> June 2024 has been agreed.**

### **RECOMMENDATIONS**

**Permit, subject to conditions relating to the following matters:-**

- 1. Time limit**
- 2. Approved plans**
- 3. All works to be carried out in accordance with the submitted Aboricultural Statement**
- 4. Biodiversity Net Gain Plan and Monitoring Plan**
- 5. Works to be completed in accordance with recommendations of the Coal Mining Risk Assessment**
- 6. Construction and Environmental Management Plan**
- 7. Access gate to open inwards only**
- 8. Site shall not be brought into use until the alternative field access has been provided.**

### **Reason for Recommendation**

The proposed development raises no issues with regards to visual impact and will bring with it a number of ecological enhancement benefits which will mitigate the displacement of Great Crested Newts from the Chatterley Valley Employment Site. It is therefore accepted that the proposed development is a sustainable form of development that accords with the development plan policies identified and the guidance and requirements of the National Planning Policy Framework.

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

The development is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

### **Key Issues**

The development comprises earthworks, pond creation and soft landscaping to form a new Great Crested Newt (GCN) Habitat which forms part of mitigation associated with the Chatterley Valley Employment Site on Peacock Hay Road. The site is located within the rural area of the Borough and falls within an Area of Landscape Restoration as defined on the Local Development Framework Proposals Map of the Local Plan. The site also falls within the Green Belt and is within a high risk coal mining area.

Subject to conditions there are not considered to be any amenity issues relevant to the proposal, and the key issues for consideration are therefore:-

- Principle of development,
- Is the proposal an appropriate form of development in the Green Belt?
- Landscape impact,
- Biodiversity Net Gain,

- Highway safety
- Coal mining legacy

### **Principle of Development**

This proposal is linked to the Chatterley Valley development site which was granted planning permission in 2019 (Reference 21/00595/FUL) for a large scale industrial development and new highway improvements along Peacock Hay Road. During the assessment of the site a large population of Great Crested Newts (GCN) were identified. To mitigate the impacts of the development, it is intended that the Great Crested Newts will be trapped and translocated from the development site to this new habitat to create a permanent solution under the Natural Environment and Rural Communities Act agreement.

The land is currently used for grazing and is poor quality agricultural land (Grade 4), and the proposal would offer biodiversity improvements which will help to restore the character and improve the quality of the landscape in accordance with Policy N21.

Given the above, there are no objections in principle to the proposal, subject to all other relevant matters being considered.

### **Is the proposal an appropriate form of development in the Green Belt?**

Paragraph 142 of the NPPF details that “The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

Paragraphs 152 and 153 identify that “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”

The proposed development would require temporary engineering works in order to create a new ecological habitat. The proposal preserves the openness of the area and would not result in the creation of any new buildings. As such it is considered to be an appropriate form of development within the Green Belt that meets the requirements of saved policy S3 and the NPPF.

### **Landscape impact**

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”.

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.

The site would comprise of 9 large ponds, 4 small shallow ponds known as scrapes and a number of log piles with scrub planting which are needed to allow the site to operate fully as a GCN nature reserve. The proposal would not result in the removal of any trees from the site, however some minor pruning of hedgerows adjacent to the existing field access may be required to facilitate the construction access point.

In visual terms the site would appear as a natural habitat and would not contain any features which would appear unusual or incongruous in this rural setting. The site also benefits from a good amount of existing screening in the form of trees and hedges.

## Classification: NULBC UNCLASSIFIED

Although no trees are to be removed it is considered appropriate to apply a condition to any permission requiring that all works are completed in accordance with the details provided in the aboricultural assessment which requires tree protection measures to be put in place. Subject to this condition the visual impact of the proposal is considered to be acceptable.

### **Biodiversity Net Gain**

Paragraphs 180 & 185 of the NPPF set 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.

Biodiversity Net Gain (BNG) is “an approach to development that leaves biodiversity in a better state than before”. When applying biodiversity net gain principles, developers are encouraged to bring forward schemes that provide an overall increase in natural habitat and ecological features. The aim of BNG is to minimise losses of biodiversity and help to restore ecological networks. Sites must demonstrate a minimum of a 10% Biodiversity Net Gain as calculated using a Biodiversity Metric and a Biodiversity Gain Plan, with habitat used for net gain to be secured for a minimum of 30 years.

An on-site baseline biodiversity value has been provided within the Extended Phase 1 Survey which has been submitted in support of the application and the applicant has then made a post-development biodiversity value calculation by using the Statutory Biodiversity Metric Tool provided by DEFRA.

The site consists of an area of heavily grazed improved grassland and contains some small areas of bare ground. The site is currently considered to be a low distinctiveness habitat and of low strategic significance and has been given a total of 5.24 biodiversity units. The proposal will result in the creation of an extensive area of habitat provision, and new hedgerow planting which has been calculated to provide an overall gain of 6.33 habitat units representing a 120.61% increase to biodiversity gain for the site.

The results of the assessment demonstrate that the reserve area is expected to result in a significant gain in biodiversity units for both area based and linear habitats when compared with the current baseline.

In order to monitor the long-term biodiversity net gain for the site, a condition will be applied to any permission granted requiring the submission of a Biodiversity Net Gain Plan and Monitoring Plan prior to any development on site occurring. Subject to the use of these conditions, it is considered that the proposal has adequately demonstrated that the site will result in an on-site biodiversity net gain.

### **Highway Safety**

Paragraph 115 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.

The Highway Authority have raised no objections to the application subject to conditions which relate to the submission of a Construction and Environmental Management Plan, details of parking and turning routes to be provided along with surface water drainage details, and the submission of an alternative field access point.

Given that the site will not be open to the public and will be maintained with minimal intervention so as to limit disturbance, it is not considered that details of parking and turning routes are necessary in this case. Equally, given that there would be no permanent access track there is no need for surface water drainage or surfacing materials.

Subject to the other conditions recommended by the Highway Authority, the proposal is considered to be acceptable in respect of highway safety.

### **Coal Mining Legacy**

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Paragraph 189 of the NPPF states that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation).

The application site falls within a high risk coal mining area, and a Coal Mining Risk Assessment and a Phase 1 Desk Study Report have been submitted in support of the proposal.

The Coal Mining Risk Assessment notes that a total of 10 coal working related features including old shafts, air shafts, old levels and footrills/adits are located immediately adjacent to the site boundary to the west and east, whilst there is one mine shaft located within the site boundary and four mine shafts within 20 m of the site boundary. The site also contains three possible pits from the access point in the southwest running in a north eastern trajectory.

The Coal Mining Risk Assessment was reviewed by the Coal Authority (CA) who noted that whilst the report did identify risks posed by the mine entries and recommended exclusion zones, no layout plan had been provided to show the location of both the on and off-site mine entries, along with their respective zones of influence. To address this concern the applicant has submitted a proposed Development Constraints Plan (Drawing no. 11603) which clearly annotates the mine entries and their potential zones of influence, with all of the development avoiding them. The CA have since reviewed this additional information and have subsequently withdrawn their objection to this planning application.

### 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

The scheme has been developed embracing good design and access and it is therefore considered that it will not have a differential impact on those with protected characteristics.

## Classification: NULBC UNCLASSIFIED

## **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 CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets

#### Newcastle-under-Lyme Local Plan (NLP) 2011

Policy E2: Chatterley Valley  
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 N17: Landscape Character – General Considerations  
Policy N17: Areas of Landscape Restoration  
Policy S3: Development within the Green Belt

### **Other Material Considerations include:**

#### National Planning Policy

#### National Planning Policy Framework (2023)

#### Planning Practice Guidance (as updated)

#### Supplementary Planning Guidance/Documents

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

#### Relevant Planning History

In 2019 a hybrid planning permission, 18/00736/OUT, was granted for the following:-

- A. full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- B. outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

Application 19/00846/OUT permitted the removal of condition B23, relating to pedestrian and cycleway enhancements, of planning permission 18/00736/OUT and variation of condition A1 relating to timescales for completion of earthworks; variation of conditions A8, B1 and B10 with regards to reference to Green Infrastructure Strategy; variation of condition B3 regarding requirements for the reserved matters application/s; and variation of reason for condition B25 relating to permitted use classes on the plots.

A further application, 21/00595/FUL, was permitted for the removal and variation of a number of conditions of 19/00846/OUT.

Application 21/00570/FUL, for full planning permission for the formation of development platforms, provision of access road and accompanying infrastructure and ecological enhancements has also been permitted.

Application 21/00595/NMA for a non-material amendment relating to the Electric Vehicle Charging Infrastructure as required by condition B18 of planning permission 21/00595/FUL has been permitted

Application 23/00220/REM Reserved Matters Application for appearance, landscaping, layout, scale and access of Site D1 for a building in Use Classes B1(b), B1(c), B2 and/or B8 pursuant to outline element of hybrid planning application ref: 21/00595/FUL has been permitted.

23/00678/REM - Reserved matters application for details of the new roundabout access, footways and improvement to the existing site access, detailing those issues reserved by Condition B9 of hybrid planning permission ref: 21/00595/FUL – permitted

23/00818/REM - Reserved matters application for details of the new spine road and detailed structural landscaping scheme (for the verges of the main internal spine road and footpaths), detailing those issues reserved by Conditions B10 and B11 of hybrid planning permission ref: 21/00595/FUL.

#### Views of Consultees

**Natural England** raise no objections to the proposal.

The **Coal Authority** raise no objections to the proposal.

The **Highway Authority** raise no objections to the proposal subject to conditions which relate to the submission of a CEMP, further details of parking, turning areas, surface water drainage and access arrangements. A condition is also proposed which would require any gates to open inwards only.

No comments have been received from **Staffordshire Wildlife Trust, Nature Space, Kidsgrove Town Council** or the **Local Area Partnership Kidsgrove**. Given that the period for comment has ended, it must be assumed that they have no comments to make.

#### Representations

None received.

#### Applicant's/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/24/00092/FUL>

#### Background papers

Planning files referred to

Planning Documents referred to

#### Date report prepared

28<sup>th</sup> May 2024