

LAND BETWEEN TREACLE ROW AND MOFFATT WAY SILVERDALE
GLADEDALE (NORTH WEST) LTD. 12/00023/COU

The Application as submitted is indicated as being for the removal or variation of condition 8(g) of permission 04/01007/FUL (which is identical to condition 10(g) of permission 04/00047/OUT). In practical terms it seeks to retain an apparently unauthorised fence currently obstructing a pedestrian link between Moffatt Way and Treacle Row and to change of use of the land covered by the footway to be used as residential garden.

The site is within the urban area of Silverdale as defined on the Local Development Framework Proposals Map.

The 13 week period for the determination of this application expires on 1 October 2012.

RECOMMENDATION

Permit.

Reason for Recommendation

The opening of the footway would provide increased permeability and accessibility to pedestrians, but without the link the development would not be substandard and the opening of the link could bring loss of amenity to residents of Treacle Row. The development does not affect any recognised public right of way.

Policies and Proposals in the Approved Development Plan Relevant to This Decision:-

West Midlands Regional Spatial Strategy 2008 (WMRSS)

Policy QE3: Creating a high quality built environment for all
Policy QE4: Greenery, urban greenspace and public spaces
Policy T3: Walking and Cycling

Staffordshire and Stoke-on-Trent Structure Plan 1996 – 2011 (SSSP)

Policy D1: Sustainable Forms of Development
Policy D2: The Design and Environmental Quality of Development
Policy T1A: Sustainable Location
Policy T4: Walking
Policy T7: Public Transport Provision
Policy T13: Local Roads

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

Strategic Aim 3: Accessibility
Strategic Aim 12: To renew the fabric of urban and rural area to promote the best of safe and sustainable urban and rural living
Policy SP3: Spatial Principles of Movement and Access
Policy CSP1: Design Quality
Policy CSP5: Open Space/ Sport/ recreation

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1: Residential Development: Sustainable Location
Policy C4: Open Space in new housing areas

Other Material Considerations Include

Safer Places – the Planning system and Crime Prevention

National Planning Policy Framework (March 2012)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (Nov 2010)

North Staffordshire Urban Greenspace Strategy - adopted December 2009

DEFRA Circular 1/09 on Public Rights of Way

Views of Consultees

Silverdale Parish Council - Object to the proposal on grounds of inconvenience to residents having to walk much further.

Police Architectural Liaison Officer - Fully supports the removal of the condition relating to the provision of a (superfluous) pedestrian linkage between Treacle Row and Moffatt Way, and the subsequent change of use to residential garden and transfer of land ownership to Treacle Row residents. Enforcement of such a condition would only be likely to create problems for the residents of Treacle Row, either of an anti-social or criminal nature. By restricting entry to Treacle Row to the vehicular entrance off Scot Hay Road only, the residents would be much more able to exercise ownership and control. Intruders would be more reluctant to enter, residents would more easily identify outsiders and report suspicious behaviour. The provision of a pedestrian linkage would undermine much of this and justify the presence of anyone found in Treacle Row at any time.

Highways Authority - There are no objections on Highway grounds to the proposed development subject a condition being included on any approval that the existing public footpath linking from Moffatt Way in the northern direction shall be resurfaced in a suitable hard stable material for a minimum distance of 25m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. This is to improve the existing footpath making it safe and more attractive to use and so comply with Structure Plan Policy T4.

Staffordshire County Council Rights of Way Unit – comments sought and still awaited.

Relevant Planning History

2003	03/00133/OUT	Refuse – 4 August 2003 – residential development
2004	04/00047/OUT	Permit – 17 March 2004 - erection of 27 dwellings with vehicular access off Scot Hay Road (Outline but with only landscaping and external appearance reserved for subsequent approval)
2004	04/01008/REM	Permit – 18 November 2004 - landscaping and external appearance of the above 27 plots
2004	04/01007/FUL	Permit – 18 November 2004 - Substitution of house types for certain plots

Representations

Nil to date

Applicant/Agent's Submission

The applicants indicate that they wish to remove or vary the conditions and ensure the footpath link remains closed because:

- extremely hostile views of the residents who wish the path to remain closed due to anti-social and criminal behaviour by Local youths; and
- refusal by the Highways Authority to adopt.

Key Issues

The development at Treacle Row, on the site of the former Parksite Social Club, was built following the granting of two planning permissions in 2004. Both approved schemes included a footpath link, involving a

pedestrian ramp, between the development and Moffatt Way and each permission included a requirement for details to be approved of the ramp, and of a protected route through the adjacent parking area to the highway within the development, and that such features should be constructed in accordance with the approved plans.

By separate condition details of any means of enclosure (i.e. fencing) were required to be submitted to and approved.

It would not appear that there is any file record of the required approvals for either the ramp or the fencing having been obtained. The approved landscaping scheme shows no fencing at this point adjacent to Moffatt Way, although there is a reference to an existing wall. The pedestrian ramp from Treacle Row up onto Moffatt Way was constructed, but was immediately obstructed by a 2 metre high fence. The houses within the development have been completed and are occupied.

It would appear that there has been and is an ongoing breach of planning control which is not immune from enforcement action by the Local Planning Authority.

The application has two elements – first of all it seeks to remove any requirement to remove the fence and thus open the link to public use and secondly it seeks consent to change the use of the area currently occupied by the ramp.

The key issues to consider with this application are:

- Permeability and accessibility;
- Compliance with planning policy relating to access to play areas
- Crime and Disorder,
- Pedestrian Safety
- Effect of the development on any public right of way

Permeability and accessibility

Achieving permeability in the design of new developments is seen as a positive and integral part of achieving sustainability. It is one of the ways of encouraging walking – as opposed to use of the private motor car. For example the Council's Urban Design Guidance SPD refers in its section on residential design guidance to the importance of new development being "well connected to provide direct and convenience links and routes into the surrounding area. The focus throughout is on achieving a high quality design

The link here was planned from the outset and designed as an integral part of the development. There are no apparent issues to do with its design – it is well overlooked but not unduly close to dwellings. The issue here appears to be more to do with the principle of such a link.

The opening of the footway would give a route which could potentially be used by occupants of Treacle Row to access Moffatt Way, or by residents of Woodhall Place, Moffatt Way and Malvern Avenue and Parksites to access Scot Hay Road (via Treacle Row). Plans showing these streets and the facilities which residents might wish to access will be displayed at the meeting to assist members. For the occupants of Treacle Row a possible destination would be the group of four local shops in Bath Road, the play area and playing field at the rear, or alternatively the bus stops and bus route on Malvern Avenue – a service every 15 minutes in each direction during the daytime. These buses could be accessed by Treacle Row residents by going along Scot Hay Road to the bottom of Buxton Road, but access to the other amenities referred to could only be obtained by going right round via Scot Hay Road and then Buxton Road. The issue of the proximity of the development to the closest recreational area will be considered further below

For the residents of Woodhall Place, Moffatt Way and Malvern Avenue and beyond there is no destination directly opposite the bottom of Treacle Row; for destinations to the north (Scot Hay and the Silverdale Industrial Estate) or south (the village centre and other services and facilities) there are alternative routes north via Moffatt Way or south via Buxton Avenue respectively. Neither the northern or southern route are of the quality the one via Treacle Row could offer. To the north of Woodhall place Moffatt Way becomes a footpath surfaced with broken stone before joining Scot Hay Road some 140 metres away. This is generally satisfactory but the first 25 metres from the made up road does become muddy. The Highway Authority in indicating that they have no objection to the proposal have requested that this section of path be hard

surfaced making it safe and more attractive to use. Buxton Avenue, on the southern route has some sections that are steeper than Treacle Row.

The link promotes permeability and accessibility. However the question the Authority needs to consider is whether without the link an unacceptable level of accessibility is achieved. By not having the link between Treacle Row and Moffatt Way residents within the Treacle Row development certainly have to walk significantly further. For adjoining residents the impact is less significant although a slightly steeper route is involved.

Compliance with planning policy relating to access to play areas

In accordance with NLP Policy C4 open space facilities were required to serve the needs of the new residents and the residential development secured a financial contribution of some £13,500, via a unilateral undertaking, towards the cost of improving public open space in the vicinity. It is understood that the open space that was subsequently improved with this money is that off Buxton Avenue referred to above. With the link that open space would be some 300 metres from the centre of the Treacle Row development, without the link the distance is some 670 metres via the shortest route.

The Core Spatial Strategy policy CSP5 – Open Space/Sport/Recreation advises that open space, sports and leisure assets will be enhanced, maintained and protected through the measures including...

- 3) *Ensuring all new residential development will be linked to existing and new open spaces and sport and recreation facilities through a series of well defined safe routes/streets, incorporating pedestrian friendly routes and cycle ways.*
- 4) *Ensuring that the plan areas network of open spaces, sports and leisure asset are interlinked and accessible to all, secure and provide quality leisure and amenity facilities...*

The Policy makes reference to the key elements of the North Staffordshire Urban Greenspace Strategy which provides local guidance in respect of the provision of all types of Play Areas – including the desired maximum walking time to different types of facilities. An estimate of the different walking times in this case will be provided and of how these compare with the local standard will be provided in an advance supplementary report. A further consideration here however is the open space provision that is now being made on the Silverdale colliery site – which Treacle Row has ready and convenient access to – it being on the opposite side of Scot Hay Road. This suggests that in terms of accessibility to open space the provision of the link between Treacle Row and Moffatt Way is not critical.

Crime and disorder

Designing out crime and designing in community safety is central to planning and delivery of new development. Section 17 of the Crime and Disorder Act 1998 requires all Local Authorities to exercise their function with due regard to their likely effect on crime and disorder. The Police Architectural Liaison Officer is opposed to the opening of the footway. He indicates that from his experience opening of the link would only be likely to create problems for the residents of Treacle Row, either of an anti-social or criminal nature and he makes the argument that by having just one entrance to Treacle Row, the residents would be much more able to identify outsiders and report suspicious behaviour and finally that the provision of a pedestrian linkage would undermine this as it would justify the presence of anyone found in Treacle Row at any time.

Pedestrian safety

The route is directly overlooked by houses in Treacle Row and in thus subject to natural surveillance. The top of the footpath would exit directly onto the carriageway of Moffatt Way with no pedestrian visibility but that is because of the unauthorised fence. Whilst pedestrians would have to cross directly over Moffatt Way, the level of traffic on this road is very limited – as the road leads to only 20 dwellings - and it is considered no material risk to pedestrian safety would result from this arrangement.

Effect on public right of way

Circular 1/09 indicates that proposals for the development of land affecting public rights of way give rise to the need for adequate consideration of the rights of way before the decision on the application is taken. The effect of development on a public right of way is a material consideration in the determination of planning

applications. Although the comments of the County Council's Public Right of Way Unit are awaited your officers have been advised that there is no public right of way at this point indicated on the Definitive Map nor is there a registered claim or application under Section 53 of the Wildlife and Countryside Act that such a right of way exists.

Even if that position changes – were say an application made by the Parish Council to the County Council to have a public right of way declared - the Local Planning Authority's decision in this matter would not determine the issue of whether a Public Right of Way exists. If it is subsequently held to be the case, then the Public Right of Way Authority would be able to take the necessary enforcement action to ensure public access along that route, even if the fence had been allowed to remain by the Local Planning Authority

Conclusions

The Authority has to weigh in the balance very different competing objectives. Whilst clearly the link would assist accessibility – particularly for residents of the new development – it would not appear that the lack of such a link makes the development substandard. Set against the general desirability of providing easy access for pedestrians, are the crime and disorder concerns, as expressed by the Police Architectural Liaison Officer. Whilst no specific concerns appear to exist about the design of the access, the Planning Authority has to be convinced it could demonstrate clear harm arising from the retention of the fence and on balance it is considered that it cannot and accordingly the recommendation is to permit the application. Having reached this conclusion there does not appear to be a clear justification, in terms of the needs of the occupants of the development referred to in the permission, to impose the condition requested by the Highway Authority.

Background Papers

Planning File

Development Plan

National Planning guidance/statements

Date Report Prepared

3 August 2012