

LAND ADJACENT FAIRGREEN ROAD, BALDWINS GATE
MR AND MRS DAVIES

26/00192/FUL

Planning permission is sought for the removal of condition 11 of 24/00833/OUT, which is an outline permission with all matters reserved for 9 self-build dwellings at Fairgreen Rd, Baldwin's Gate, approved in September 2025. Condition 11 is a requirement that the properties meet the definition of being self/custom build homes.

The application site is located within the open countryside and falls within an Area of Landscape Restoration as indicated on the Local Development Framework Proposals Map.

The application has been called in on the basis that the removal of the self-build condition impacts the overall planning balance of the original scheme.

The 8-week period for the planning application expires on the 1st May 2026.

RECOMMENDATION

PERMIT subject to conditions relating to the following matters:

- 1. Removal of condition 11**
- 2. Any other conditions which are still relevant to the original decision**

Reason for Recommendation

Notwithstanding the removal of the self/custom-build stipulation, it is considered that the benefits of the scheme still significantly and demonstrably outweigh the identified harms. On this basis planning permission should be granted subject to the removal of condition 11, and subject to the imposition of any other conditions which still remain relevant.

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

The proposal is considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

Key Issues

Outline planning permission was granted in September 2025 for 9 self-build dwellings at land off Fairgreen Road in Baldwin's Gate (Ref: 24/00833/OUT). This application now seeks to remove condition 11 of the permission which requires the dwellings to be constructed as self-build properties. The application site is located within the open countryside and falls within a Landscape Restoration Area as indicated on the Local Development Framework Proposals Map.

An application such as this can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

In deciding an application under section 73 the local planning authority must only consider the condition/s that are the subject of the application, it is not a complete re-consideration of the application.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

All technical matters were addressed in the determination of the original outline application and therefore the main issue for consideration is whether the removal of the condition limiting the construction of the dwellings to self-build purposes would impact the overall planning balance and the acceptability of the principle of development.

Paragraph 11 of the NPPF 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))

As was the case at the time of determination of the original application, the Council is unable to demonstrate an up-to-date housing supply and therefore the tilted balance approach as outlined in Paragraph 11(d) needs to be engaged. An assessment is therefore required of whether removing the requirement for the dwellings to be self-build would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

In identifying the harms of the scheme originally, it was considered that the proposal would result in some localised visual harm which was given moderate weight in the planning balance, and the loss of a small strip of agricultural land which should be given limited weight. With respect to the benefits of the scheme, it was considered that the provision of 9 dwellings, which would make a contribution towards the Borough's housing supply, should be given substantial weight and that the contribution towards the self-build/custom housing should be given significant weight.

It is acknowledged that the removal of the condition would result in the loss of the benefit of a contribution to self-build/custom housing. However, the provision of new homes in a sustainable location, particularly in the context of a development plan that is not up to date in terms of housing need and where a suitable supply of housing cannot be demonstrated, is attributed substantial weight. Given the limited harms identified, It remains the case that the benefits of the proposal significantly and demonstrably outweigh any harms associated with the development.

It is important to note that other recently approved housing schemes within Baldwin's Gate have not been limited to self-build only.

While residents and the Parish Council have raised concerns that the removal of the self-build requirement reduces flexibility for potential buyers, this is an outline planning permission and as such the final details of the house types are not yet known. Furthermore, there is no requirement for affordable housing provision within the scheme, and this remains unaltered as a result of this current application.

The removal of the condition is therefore considered to be acceptable in principle and planning permission should be granted.

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.

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

Officers have considered the proposal with regard to the provisions of the National Planning Policy Framework; however, the proposal is not considered to be a sustainable form of development.

Appendix

Policies and proposals in the Development Plan relevant to the Full planning application decision:

Newcastle under Lyme and Stoke on Trent Core Spatial Strategy 2006 - 2026 (Adopted 2009)

- 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
- Policy CSP4: Natural Assets
- Policy CSP5: Open Space/Sport/Recreation
- Policy CSP6: Affordable Housing

Newcastle-Under-Lyme Local Plan 2011

- Policy H1: Residential Development: Sustainable Location and Protection of the Countryside.
- Policy N3: Development and Nature Conservation – Protection and Enhancement Measures.
- Policy N4: Development and Nature Conservation – Use of Local Species.
- Policy N8: Protection of Key Habitats.
- Policy N14: Protection of Landscape Features of Major Importance to Flora and Fauna.
- Policy N17: Landscape Character - General Considerations.
- Policy N21: Areas of Landscape Restoration
- Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities.
- Policy T16: Development General Parking Requirements

Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Area

- Policy NE1: Natural Environment
- Policy NE2: Sustainable Drainage
- Policy COM2: Designation of Local Green Spaces
- Policy DC1: Local Heritage
- Policy DC2: Sustainable Design
- Policy DC3: Public Realm and Car Parking
- Policy DC4: Connectivity and Spaces
- Policy DC5: Impact of Lighting
- Policy DC6: Housing Standards
- Policy DC7: Renewable Energy
- Policy HG1: New Housing
- Policy HG2: Housing Mix

Other Material Considerations

Draft Emerging Newcastle-under-Lyme Local Plan 2020-2040 (at Main Modifications Stage)

- Policy PSD1: Overall Development Strategy
- Policy PSD2: Settlement Hierarchy
- Policy PSD3: Distribution of Development

Policy PSD4:	Development Boundaries and the Open Countryside
Policy PSD6:	Health and Wellbeing
Policy PSD7:	Design
Policy IN2:	Transport and accessibility
Policy IN3:	Access and Parking
Policy SE8:	Biodiversity and Geodiversity
Policy SE10:	Landscape
Policy SE11:	Trees, hedgerows and woodland
Policy SE12:	Amenity

Relevant National Policy Guidance:

National Planning Policy Framework (2024)
Planning Practice Guidance (2024 as amended)

Supplementary Planning Guidance

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

Planning History

16/01101/FUL - Demolition of existing buildings, erection of 97 houses and 2 bungalows, access, parking and amenity space – refused

17/01024/FUL - Demolition of existing buildings, erection of 97 houses, access, parking and amenity space (Revised Proposal) – refused

24/00833/OUT - Development of up to 9 no. serviced plots for self-build and custom housebuilding (all matters reserved except access) and New Public rights of way link – permitted

Views of Consultees

Whitmore Parish Council objects to the proposal on the basis that the removal of the condition undermines the Council's housing mix, lacks justification and could set a precedent.

Representations

30 letters of objection have been received which raise the following concerns:

- The requirement that the properties were self-build added significant weight into the planning balance in the original decision.
- Removal of self-build requirement reduces more flexible options for potential buyers
- Proposal conflicts with local and national policy intent
- Risk of setting a precedent

Applicant/agent's submission

All of the application documents can be viewed on the Council's website using the following link:

Classification: NULBC UNCLASSIFIED

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/26/00192/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

17 April 2026

Classification: NULBC UNCLASSIFIED