

Full planning permission is sought for the variation of condition 17 of planning permission 26/00068/FUL for the construction of up to 200 dwellings set within a community parkland at Baldwin's Gate Farm. The application seeks to amend the amount of open space to be provided on site.

The site lies within the open countryside on the Local Plan Policies Map.

The 13-week period for the determination of this application expires on 17th September 2026.

RECOMMENDATION

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

- 1. Variation of condition 17 to amend the amount of open space to be provided from a minimum of 5.08ha to a minimum of 3.90ha**
- 2. Any other conditions which are still relevant to the original decision**

Reason for Recommendation

The proposed variation would have no significant adverse impact on the amount and type of open space provision on site or on the character and appearance of the area and there are no other relevant material considerations.

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 a sustainable form of development that complies with the provisions of the National Planning Policy Framework.

Key Issues

Full planning permission is sought for the variation of condition 17 of planning permission 26/00068/FUL for the construction of up to 200 dwellings set within a community parkland at Baldwin's Gate Farm. The application seeks to amend the amount of open space to be provided on site.

The site lies within the open countryside on the Local Plan Policies Map.

Condition 17 currently states as follows:

A minimum of 5.08ha of green open space shall be provided on site.

The applicant wishes to amend the required amount of open space to 3.9ha.

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.

The main issues in the determination of the application are whether an appropriate amount and type of open space facilities would remain on the site and whether the impact on the character and appearance of the area would be acceptable.

The reason for the request to vary the condition is that the developer is seeking consent to develop an additional 18 dwellings on the site on part of the approved open space. That application, Ref. 26/00052/FUL, is also for consideration on the agenda for this meeting.

Policy SE6 of the Local Plan states that the provision of open space will be sought on a site-by-site basis, taking account of the location, type, and scale of the development. It states that for major developments, provision of open space should be to a standard of at least 4ha per 1,000 population.

Neighbourhood Plan Policy HG3 expects new residential development to provide for accessible, high quality, local play, sports and recreational facilities.

For this development of 200 houses, the policy requirement is for the provision of a minimum of 0.8ha of open space. Even with the loss of part of the approved open space, the provision would be significantly in excess of that amount and would continue to include allotments, a community orchard, amenity/play space and buffer planting. It is considered therefore that the amount and type of open space facilities would remain acceptable.

In allowing the appeal for the development of this site, the Inspector stated that given the effect of adjacent development and the extent of open space and landscaping proposed, the extent of harm to the character and appearance of the area would be moderate. He made particular reference to the landscaped areas and open spaces to the north of the site stating that although significant open space would be provided through the central areas of the scheme, this would be interpreted as being open space as part of a housing scheme rather than as an area of undeveloped farmland. He went on to state that the open space would nonetheless break up the residential development and would allow some views deeper into the site.

The significant area of green space at the northern boundary of the site referred to by the Inspector, would remain as would much of the green infrastructure link through the site, the play area, orchard planting and the allotments. The area to be lost is central within the wider site and therefore, its loss would have negligible impact upon the high quality of the scheme or on the character or quality of either the village or the wider landscape. The scale of the development would continue to be broken up by the open space and views into the site would be maintained.

Overall, it is not considered that the proposed reduction in open space would have a significant adverse impact on either the amount and type of open space provision on site or on the character and appearance of the area.

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 Local Plan 2020-2040

Policy PSD7: Design
Policy SE6: Open Space, Sports and Leisure Provision
Policy SE10: Landscape

Chapel and Hill Chorlton, Maer and Aston and Whitmore Neighbourhood Development Plan

Policy HG3: Local Play, Sports and Recreational Facilities
Policy NE1: Natural Environment
Policy DC2: Sustainable Design
Policy DC4: Connectivity and Spaces

Other Material Considerations include:

National Planning Policy Framework (2024)

Planning Practice Guidance (2014 as updated)

Relevant Planning History

21/01041/OUT - Construction of up to 200 dwellings set within a community parkland – Refused but allowed at appeal

24/00270/DEM - Demolition of buildings identified as pink as shown within the demolition layout – Approved

24/00313/REM - Erection of 200 dwellings, with associated car parking, public open space, attenuation basins, landscaping and associated works pursuant to outline permission 21/01041/OUT – Approved

25/00661/FUL - Variation of condition 6 of planning permission 21/01041/OUT for the construction of up to 200 dwellings set within a community parkland at Baldwin's Gate Farm, to amend the trigger for the provision of off-site highways works – Approved

26/00068/FUL - Application to vary condition 3 of planning permission 25/00661/FUL to amend the trigger for the provision of offsite highways works – Approved

25/00931/FUL - Variation of conditions 2, 3, and 13 of planning permission 24/00313/REM to seek approval for amendments to revised planning proposals (condition 2), materials (condition 3), and the planting, seeding and turfing as shown on revised drawings (condition 13) – Pending consideration

26/0052/FUL - Application for the erection of 18 dwellings, with associated gardens and car parking on part of the site previously shown as Public Open Space within the reserved matters consent 24/00313/REM for 200 dwellings with associated car parking, Public Open Space, attenuation basins, landscaping and associated works approved on 17 October 2024 – Pending consideration

Views of Consultees

No comments have yet been received from the **Landscape Development Section** or **Whitmore, Maer & Aston** or **Chapel & Hill Chorlton Parish Councils**. Any comments received by 15th July will be reported to Members in a supplementary report.

Representations

One letter of representation has been received objecting on the following grounds:

- The approved level of open space formed part of the overall planning balance
- The community is being asked to accept a denser development whilst receiving less public open space
- It is entirely inappropriate to reduce the very green infrastructure that was intended to mitigate impacts
- Unless there has been a material change in planning policy or demonstrable evidence that the original requirement was unnecessary, there is no justification for reducing a condition that was imposed to protect the interests of both existing and future residents

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/26/00447/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

10 July 2026