

**The Application is for outline planning permission for the erection of two detached dwellings with improvements to the existing access and provision of on site turning areas. All matters of detail are reserved for subsequent approval.**

**The application site is located within the Rural Area and an Area of Landscape Regeneration, as indicated on the Local Development Framework Proposals Map.**

**The 8 week determination period expired on 1<sup>st</sup> October 2012**

**RECOMMENDATION**

**REFUSE for the following reasons;**

- (i) The residential development of this backland site which is prominent in an elevated position would be harmful to the character and appearance of the area and would erode the landscape quality contrary to policy.
- (ii) Failure to make an appropriate financial contribution towards the Newcastle (urban) Transport and Development Strategy (NTADS).

**Reason for Recommendation**

In the context of the Council's inability to demonstrate an up to date 5 year plus 5% supply of deliverable housing sites, it is no longer inappropriate to resist the development on the grounds that the site is in part greenfield given that the site is in a sustainable location albeit in the rural area. It is considered that the proposed for residential development should be not be resisted in principle in such circumstances. Subject to an appropriate financial contribution towards NTADS, the proposal would not make excessive demands on transport infrastructure and would not undermine the strategy in respect of sustainable transport. However, due the backland nature of the site which is in a prominent and elevated position the residential development of the site would be harmful to the character and appearance of the area and would erode the landscape quality contrary to policy.

**Policies and Proposals in the approved Development Plan relevant to this decision:-**

**West Midlands Regional Spatial Strategy 2008 (WMRSS)**

- Policy QE1: Conserving and Enhancing the Environment
- Policy QE3: Creating a high quality built environment for all
- Policy CF2: Housing Beyond the Major Urban Areas
- Policy CF3: Levels and Distribution of housing development
- Policy CF4: The reuse of land and buildings for housing
- Policy CF6: Managing Housing Land Provision

**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 D4: Managing Change in Rural Areas
- Policy NC1: Protection of the countryside : General Considerations
- Policy NC2: Landscape Protection and enhancement
- Policy H11: Housing in Open Countryside
- Policy T1A: Sustainable Location
- Policy T18A: Transport and Development

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

- Policy ASP6: Rural Area Spatial Policy
- Policy CSP1: Design Quality
- Policy CSP3: Sustainability and Climate Change
- Policy CSP4: Natural Assets
- Policy CSP6: Affordable Housing

## Newcastle under Lyme Local Plan 2011 (LP)

- Policy H1: Residential Development – Sustainable Location & Protection of the Countryside
- Policy H4: Housing Development and Retention of parking facilities
- Policy T16: Development – General Parking Requirements
- Policy N17: Landscape character – general considerations
- Policy N21 Area of Landscape regeneration

### **Other material considerations include:**

National Planning Policy Framework (March 2012)

"The Planning System: General Principles" (January 2005)

### Supplementary Planning Guidance/Documents

Space Around Dwellings (July 2004)  
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)

### Waste Management and Recycling Planning Practice Guidance Note (January 2011)

### The Secretary of State's announcement of his intention to abolish RSS

The Secretary of State has made it clear that it is the Government's intention to revoke RSSs and the Localism Act 2011, which includes powers to give effect to that intention, received Royal Assent on 15 November 2011. However, pending the making of a revocation order in accordance with the new Act, the RSS remains part of the statutory development plan. Nevertheless, the intention to revoke the RSS and the enactment are material considerations.

Relevant Planning History

### Planning History

None relevant

### Views of Consultees

**United Utilities** has no objection to the proposal indicating a preference for drainage to be to a separate system with only foul drainage connected to the foul sewer.

The **Environmental Health Division** has no objections to the proposal subject to contaminated land conditions.

The **Highway Authority** has no objections subject to conditions requiring full details of parking and turning, surface water drainage and surfacing materials, visibility splay improvements and access to remain un gated. The HA also indicate that a contribution of £1k towards NTADS would be required, and make detailed comments on the maximum height of features within a visibility splay

No comments have been received from **Kidsgrove Town Council** and given that the date for comments has passed, it must be assumed that they have no comments to make.

### Representations

Five letters of representation have been received from the occupiers of neighbouring properties. Objection is made on the following grounds:

- Impact on view
- Potential flooding from an underground stream
- Impact on wildlife
- Impact on pedestrian access to the fields
- Inadequate width of access, difficulties for access by certain types of vehicles, and conflict with pedestrian use of the access
- Impact on privacy
- Impact on trees
- Mineshafts below site
- Site is in the Green Belt.
- New occupants will increase carbon emissions footprint of the area by having to use private vehicles to travel to and from work and/or school, doctors etc.
- There is not an adequate bus service.

One letter has been received from **Mow Cop Residents' Association** objecting on the following grounds:

1. Correct consultation was not followed and no planning application notices were put up.
2. The buildings would significantly overlook existing properties.
3. Access does not conform to highway guidelines in terms of the minimum width required.
4. The access has been used as a public footpath for many years and they strongly object to the loss of this facility.

#### Applicants/agents submission

A Design and Access Statement has been submitted which includes a Traffic and Transport Review. A summary is as follows:

- Outline permission is sought for 2 detached two-storey houses on a site that previously accommodated 6 garages, now demolished, and hardstanding turning area with access from Moorland Road.
- Although the application is in outline only, an indicative footprint and location for 2 dwellings is provided. It is intended that the properties will be 3 bed dwellings. The proposed dimensions for the 2 houses will be 8.5m by 6.1m maximum, with a maximum ridge height of 7.4m.
- The designs for the new dwellings will provide all principal windows to the front and side of the houses with no overlooking onto adjacent dwellings.
- The new dwellings will have a minimum of 2 car spaces within each site curtilage.
- The dwellings will reflect the size and character of the adjacent properties being constructed in facing brickwork and tiles to complement the existing.
- The scale of the new dwellings will sit comfortably in the area.
- The existing vehicular access will be retained with improvements to visibility and the road surface.
- This site has been highlighted by Aspire as serving no benefit to the local community. The garages were demolished in 2006. Prior to demolition there was recorded evidence of anti social behaviour which caused nuisance for the surrounding residents. Since demolition the site lies empty and doesn't benefit any of the local residents or Aspire Housing.
- The Traffic and Transport Review concludes that the proposed development is in a sustainable location that is accessible by all modes of travel, vehicle conflict would be unlikely given the unlikely occurrence of vehicle entry and exit occurring simultaneously, that the shared surface access road accords with current residential design guidance and is therefore considered to be safe from a vehicle/pedestrian conflict perspective, and there are no overriding reasons preventing the LPA from recognising that the residential development is acceptable with regard to the local highway network.

A Planning Note has also been provided the main points of which are summarised as follows;

- The NPPF requires that where policies of a development plan are “out of date” that planning permission should be granted subject to the two criteria in paragraph 14.
- The Local Planning Authority accepts that it cannot deliver a five year housing supply as required by the NPPF at paragraph 47. This is required as a minimum, plus a buffer of 5% or 10% to “boost significantly the supply of housing”.
- On 23<sup>rd</sup> March 2011 the Government published its “Plan for Growth” which proposed a powerful presumption in favour of sustainable development. It also states that the default answer to development is yes.
- In light of the Plan for Growth and the accompanying Ministerial Statement the current direction of travel is clear. LPAs should approve applications for sustainable development to help stimulate economic growth.
- The “default answer” was not included within the final version of the NPPF but Plan for Growth and the Ministerial Statement does.
- Paragraph 186 of the NPPF states that “Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development”. Paragraph 187 also states that “decision-takers at every level should seek to approve applications for sustainable development where possible”.
- The benefits of granting planning permission is that there is no 5 year supply which is a fundamental deficit; the proposal does not conflict with any core planning principles set out in paragraph 17 of the NPPF and indeed it aligns with them; and the site comprises previously developed land within a village boundary where some amenities do exist. Paragraph 5.197 of the CSS states that development of a scale that comprises “natural growth” can be acceptable and this aligns with paragraph 28 of the NPPF which instructs LPAs to draft policies that “support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable development”.

The document is available for inspection at the Guildhall and on [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk).

## **KEY ISSUES**

Various procedural issues have been raised including whether appropriate publicity has been given to the application. The application was publicised by means of letters of notification to individual householders. It would appear that one was omitted in error but the party concerned has become aware of the application and no material harm to their interests has resulted. The application can be determined.

Outline planning permission is sought for the erection of two dwellings on this former garage site off Moorland Road, Mow Cop. All matters of detail (access, layout, scale, appearance and landscaping) are reserved for subsequent approval. The application site extends over the whole triangular area – some 0.2 ha.

The site lies within the rural area, outside of the Major Urban Area as indicated on the Local Development Framework Proposals Map. It does not lie within the Green Belt, although it adjoins it, and it is within an Area of Landscape Regeneration. As such it described as open countryside. Mow Cop is not one of the Rural Service Centres designated in the CSS.

The main issues in the consideration of the application are:

- The principle of residential development on the site
- Impact on the character and appearance of the area
- Impact on residential amenity
- Highway safety
- Other issues

## **The Principle of Development**

Policy H4 of the Local Plan indicates that planning permission will not be granted for additional dwellings on garage courts or communal parking areas unless one of the following is satisfied:

- i) The car parking facilities serve no local need.
- ii) Alternative parking with equivalent or better capacity and accessibility is proposed.
- iii) The car parking facilities that would remain would be satisfactory for the identified demand.

In this particular case whilst there were garages on the site, these have been demolished and no on-site parking currently takes place. As such it is considered that the development of the site would not be contrary to Policy H4 as it does not result in the loss of car parking facilities.

The NPPF advises that local planning authorities must identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% to ensure choice and competition in the market for land. This equates in the Borough to 1639 dwellings.

The Local Planning Authority is in a situation where it cannot demonstrate an up-to-date 5 year supply of deliverable housing sites. (The last published figures indicate that there is a 4.74 years supply which equates to 1472 dwellings, a shortfall of 167 dwellings). In light of this shortfall it has taken a proactive approach by raising no objection to proposals on greenfield sites within the urban area and Rural Service Centres (whereas when a 5 year housing land supply could be demonstrated only brownfield sites in such locations were considered favourably). The Council has therefore sought to put in place measures to address this problem. To date, however, the Council has continued to resist applications for residential development on brownfield and greenfield sites in the rural area outside of rural service centres notwithstanding that it cannot demonstrate a 5 year supply of sites.

The NPPF, at paragraph 49, states that

*“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

In addition at paragraph 55 the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. An example is given that where there are groups of smaller settlements, development in one village may support services in a village nearby.

Whilst it is accepted, in light of the NPPF, that policies in the Development Plan including those in the CSS that target housing development to the urban area and rural service centres and as such relate to the supply of housing cannot be considered as up-to-date this does not amount to a presumption in favour of planning applications on all sites. There remains a requirement to assess the sustainability of the development.

The application site contains the bases of former garages and access/turning area on part, but the rest is grassed. The applicant contends that as there are clearly defined boundaries to the overall site the grassed area forms part of the curtilage to the former garages and that the whole site can be defined as previously developed land. The term previously developed land is defined in the NPPF. It is land which is or was occupied by a permanent structure, including the curtilage of the developed land. It is arguable whether that land which was not occupied by the garages or the associated hardstanding lay within the curtilage of those garage buildings. In any case the glossary to the NPPF makes it clear that it should not be assumed that the whole of the curtilage should be developed. It is therefore considered that the site is only partially previously developed land with the majority being greenfield.

The site is located in Mow Cop which has a reasonable bus service from Mow Cop to Kidsgrove, Tunstall and Newcastle (13 per day on weekdays) and a limited service to Leek, Biddulph and Congleton. The village (part of which lies within Staffordshire and part within Cheshire) also has a number of services and facilities and is in fact quite well served in this respect. It is therefore the

case that the occupiers of the proposed dwellings will be able to access certain services and facilities within walking distance and will also have a choice of modes of transport. It is therefore considered that the site is in a sustainable location.

Despite part of the site being considered brownfield, the principal of residential development on this sustainable rural site outside of the defined rural service centres is considered acceptable at this time and that a further adjustment to the approach taken to residential development is required in the current circumstances where a 5 year plus 5% housing land supply cannot be demonstrated.

#### Impact on the Character and Appearance of the Area

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

The proposed dwellings would be sited to the rear of the dwellings on Moorland Road. Located as it is behind an established residential area the proposal is considered to be backland development and in its elevated position above Sands Road any development would be prominent and incongruous in views from that road. The introduction of any dwellings on this site would not relate well to its surroundings and as such it is considered that the proposal would be contrary to the design principles set out in the Urban Design SPD. In addition as the site lies within the open countryside and in a location where policy indicates that development should not further erode the quality of the landscape siting of the dwellings would have a significant adverse impact on the character and appearance of the area.

#### Impact on Residential Amenity

Paragraph 17 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.

With respect to the interrelationship of the proposed dwellings with the neighbouring properties, the outline nature of the application requires the decision-maker to anticipate the likely form of development. It is considered that subject to careful control over positioning of windows, sufficient distance can be achieved between dwellings to comply with the Council's Space Around Dwellings SPG.

The dwellings would have sufficient private amenity space and therefore, the proposal complies with the relevant SPG relating to space about dwellings.

Although the backland nature of the proposal would result in vehicles accessing the proposed dwellings past the side elevations and rear gardens of the existing dwellings, given that the site was formerly in use as 6 garages and given that only two dwellings are proposed, it is not considered that the adverse impact on the amenity of the occupiers of those properties would be so significant as to justify a refusal on such grounds.

#### Highway Safety

Concerns have been raised by residents regarding the inadequacy of the access to the site.

A Traffic and Transport Review has been submitted with the application. It concludes that subject to a number of mitigation measures relating to visibility and surfacing, there would be no significant adverse impact on the local highway network.

In terms of ensuring that the scheme would promote the use of more sustainable modes of travel, The Highway Authority has requested that an NTADS contribution should be sought and this would be fully in line with development plan policy and the Strategy. Changes in legislation have introduced a statutory test which planning obligations must now pass – the matter is no longer at the discretion of the Planning Authority. The test requires that a planning obligation should be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

The calculation of the required NTADS sum, which in this case is £1000, has a clear and reasonable rationale and, the criteria in the test would be met, and accordingly the NTADS contribution would be justified. This would have to be done by means of a planning obligation, secured either by agreement or undertaking. Such an undertaking is not however "on the table" and accordingly given the other concern raised above it is appropriate to include an additional reason for refusal relating to the NTADS aspect

Background Papers

Planning files referred to  
Planning Documents referred to

Date report prepared

20<sup>th</sup> September 2012