

PLOT 34, EASTWOOD RISE, MADELEY PARK WOOD  
MR N BASKEYFIELD. 12/00301/FUL

**The Application** is for full planning permission for the erection of a detached dwelling on the edge of the development called Madeley Park Wood.

The site lies within the open countryside and a Landscape Maintenance Area as indicated on the Local Development Framework Proposals Map. It extends to almost 0.5 hectare.

**The statutory 8 week period for the determination of this application expired on 12 October 2012.**

### **RECOMMENDATIONS**

**(a) That subject to the securing, by 2 November 2012, of a unilateral undertaking ceding any right to construct a bungalow on this site pursuant to planning permission TP3226;**

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

- (i) Three year time limit.**
- (ii) Approved Plans.**
- (iii) Materials as specified or otherwise agreed.**
- (iv) Implementation of landscaping scheme.**
- (v) Root Protection Area Plan.**
- (vi) Arboricultural Impact Assessment.**
- (vii) Provision of parking and turning areas.**
- (viii) Location of soakaways/septic tank.**
- (ix) Drainage details.**

**(b) That in the event of such an undertaking not being secured within the timescale indicated that the Development Control Manager be given delegated authority to refuse the application on the grounds that without such an undertaking the possibility of two dwellings being built upon the plot would exist and that would be contrary to a number of policies on residential development and development within the countryside or, if he considers it appropriate, to extend the period of time within which the unilateral can be secured.**

### **Reason for Recommendation**

Although the proposal conflicts with current policy guidance relating to development within the countryside and with current policies on housing provision, as there was in 2007, there is a fallback position available to the landowner in the form of an extant permission without time limit for a bungalow on the site and there are no other material considerations which would justify a refusal of planning permission. Given the size of the site and the possibility that it might be subsequently claimed that permission still exists for a further dwelling on the site it is recommended that a planning obligation be used to avoid this occurring. There is no substantive basis for coming to a different view on this application from that which was reached previously.

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

#### West Midlands Regional Spatial Strategy

Policy QE3: The Conservation, Enhancement and Restoration of the Region's Landscape  
Policy CF2: Housing beyond the Major Urban Areas  
Policy CF3: Levels and distribution of housing development

#### Staffordshire and Stoke on Trent Structure Plan 1996 – 2011

Policy D1: Sustainable Forms of Development  
Policy D2: The Design and Environmental Quality of Development  
Policy D4: Managing Change in Rural Areas  
Policy H11: Housing in Open Countryside

Policy T1A: Sustainable Location  
Policy NC1: Protection of the Countryside: General Considerations  
Policy NC2: Landscape Protection & Restoration  
Policy NC13: Protection of Trees, Hedgerows and Woodlands

#### Newcastle under Lyme Local Plan 2011

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy T16: Development – General Parking Requirements  
Policy N2: Development and nature conservation - site surveys  
Policy N12: Development and the Protection of Trees  
Policy N13: Felling and Pruning of Trees  
Policy N19: Landscape Maintenance Areas

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

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

#### **Other Material Considerations Include:**

##### **Relevant National Planning Policy**

National Planning Policy Framework

##### **Supplementary Planning Guidance**

Space Around Dwellings (July 2004)

##### **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**

1963	TP1721	Permit – residential development.
1964	TP3226	Permit – proposed bungalows, roads and sewers Plots 24-47, 72-76.
2001	01/00856/PLD	Permit – Certificate of Lawful Use or Development for Plot 32.
2002	02/00068/PLD	Permit – Certificate of Lawful Use or Development for Plot 33.
2002	02/00310/PLD	Permit – Certificate of Lawfulness of proposed erection of dwelling house in accordance with planning permission TP3226.
2007	06/1088/FUL	Permit – detached dwelling.
2010	06/1088/EXTN	Permit – application to extend the time limit for implementing planning permission 06/1088/FUL for detached dwelling.

##### **Views of Consultees**

The **Highway Authority** has no objections to the proposal subject to a condition relating to the provision of the parking and turning areas

**Whitmore Parish Council** has no objection to this application however they have stated that careful consideration be given to drainage and sewage disposal for the proposed property as part of the site becomes heavily water logged in wet weather.

The **Environmental Health Division** has no objections to the proposal subject to an informative relating to importation of waste materials to facilitate construction. They have also specified that the applicant be made aware of comments made by them in 2006.

The **Landscape Development Section** have no objection to the proposals subject to conditions relating to the following:-

- Plan relating to Root Protection Areas
- Arboricultural Impact Assessment

### **Representations**

6 neighbour notification letters were sent out and the application was advertised by way of a site notice. No representations were received.

### **Applicant/Agent's Submission**

A Design and Access Statement has been submitted. A summary of the points made is as follows:

- The design of the dwelling has been influenced by the surrounding residential properties approved by 06/01088/FUL.
- There is a significant cover of mature trees covered by a group preservation order.
- The layout has been determined by the form and layout of the site, its levels and tree location.
- The landscaping will be formal gardens and semi mature trees.

An Ecological Survey Report originally submitted as part of 06/1088/EXTN was also submitted. An extended phase 1 habitat survey and ecological scoping report was then also submitted due to the out of date nature of the ecological survey report. The most recent report highlighted that there should not be any adverse impact upon protected wildlife or vegetation as long as the development does not encroach upon the woodland area and semi-mature/mature trees on site. These documents are available for inspection at the Guildhall, and on [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk).

### **Key Issues**

Full planning permission (06/1088/FUL) was granted in 2007 for a detached dwelling on this site and this was later granted a new planning permission (06/1088/EXTN) to extend the timeframe to implement the permission. Although there has been a change in planning policy since the previous decisions with the introduction of the National Planning Policy Framework (NPPF) in place of previous national planning policy guidance/statements it is clear based upon the previous decisions that policy is not the determining factor in this instance the more significant factor is the existence of a fall back position.

The previous planning policy framework did not support a new dwelling in this location and there is no policy basis within the new NPPF that would support a new dwelling in this location either. The acceptability of the principle of this proposal relates back to a permission in 1964 (TP3226) and a subsequent certificate of proposed lawful development granted in 2002. This was issued on the basis that application TP3226 which granted permission for the erection of bungalows is extant without time limit. Your officer is not aware of any case law or rulings since the application 06/01088/EXTN was granted on 24 May 2010 that would alter the view on the principle of the development.

The impact of a two-storey dwelling on the site was previously assessed in terms of impact on the street scene and on the surrounding landscape, impact on residential amenity, impact on trees, and highway safety and considered to be acceptable. There has no material change in planning circumstances to justify a different conclusion at this time however to assist the consideration of the application these matters will be addressed below.

### **Impact on the Street Scene**

The area is characterised by large modern properties of varying styles. Eastwood Rise slopes steeply and several properties are split level and are built into the hillside. There is a mix of bungalows and two and three storey dwellings therefore. The proposed dwelling would be two-storey and would be relatively simple in its

design. It would be sited centrally within a large plot and is surrounded by extensive mature landscaping. The impact on the street scene would not be significant therefore.

As previous conditions relating to materials and landscaping have been approved for this scheme previously and the same information has been proposed in this location, it is considered that these details are acceptable. Compliance conditions in this regard would therefore be included.

#### Landscape impact

The site is within a Landscape Maintenance Area as designated in the Local Plan. Policy N19 of the Local Plan states that within such areas it will be necessary to demonstrate that development will not erode the character or harm the quality of the landscape.

The site is screened from the surrounding countryside by mature landscaping from most directions and would be seen in the context of the existing established development at Madeley Park Wood. Therefore it is not considered that the proposed dwelling would harm the character or quality of the landscape so as to justify a refusal, particularly in the context of the previous permissions on this site.

#### Residential amenity

Eastwood Rise and the access to the site slopes down steeply and the dwelling would be sited on levelled land in the centre of the site. The properties to either side are raised up above the site of the proposed dwelling and they are a significant distance away. It is not considered that there would be any significant impact on the privacy of the neighbouring properties therefore.

Regarding impact on views, the planning system does not seek to protect a particular view a property may currently enjoy across someone else's land.

#### Impact on trees

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 unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. Where appropriate, developers will be expected to set out what measures will be taken during the development to protect trees from damage.

There are a large number of mature trees within the application site and the trees to the north-east of the site are protected by TPO T7/8. Whilst it is proposed to remove three trees at the entrance to the site, the vast majority will remain. The Landscape Development Section is satisfied that the proposal does not raise any adverse issues in respect of impact on these trees.

#### Highway safety

Access to the site is via an existing driveway off Eastwood Rise. A detached double garage is proposed and sufficient parking and turning areas would be provided. It is not considered that the development would have an adverse impact on highway safety and as such, a refusal on highway grounds would not be sustainable.

#### Other matters

The up to date phase 1 habitat survey and ecological scoping report indicate that no adverse impact upon protected species or wildlife would ensue as a result of the proposals as long as the development does not encroach upon the woodland area and semi-mature/mature trees. The landscape section have also raised no objections to the proposal subject to the inclusion of conditions relating to root protection areas and an arboricultural impact assessment. The development is therefore felt to be acceptable in this regard.

Due to the existence of an extant permission on the site which could potentially lead to a further dwelling on the site, it is considered necessary to request a legal agreement to prevent this. This is something that has been done as part of the previous approvals and it would protect the authority from further development in an intrinsically unsustainable location. An appropriate timeframe would be given to the applicant to provide this.

**Background Papers**

Planning file

Planning documents referred to

**Date Report Prepared**

9 October 2012