

The Application is for full planning permission for the erection of 61 dwellings. It comprises an amended layout, including 13 additional dwellings, for part of a larger site of 280 houses approved under application 03/00790/REM.

The site is within the Urban Area of Newcastle as designated on the Local Development Framework Proposals Map.

The 13-week period for the determination of this application expires on 18 November 2011.

RECOMMENDATIONS

(a) That subject to the applicant entering into a planning obligation, by no later than 4 November 2011, to secure the following:-

- (i) A financial contribution of £2,943 per each additional dwelling for open space enhancement/ improvements and maintenance (£38,259 in total) and clauses ensuring that dwellings built pursuant to this proposal count against any triggers or thresholds within the existing agreement (subject to confirmation as to necessity), and
- (ii) A financial contribution of £8000 for the Newcastle (urban) Transport and Development Strategy (NTADS).

Permit subject to conditions relating to the following:-

- 1. Samples of materials.
- 2. Details of slab levels of all dwellings.
- 3. Integral garages to be retained for parking of motor vehicles.
- 4. Surfacing and maintenance of driveways and turning areas in a porous bound material.
- 5. Gradient of driveways and parking bays/courts not exceeding 1 in 10.
- 6. Submission/approval/implementation of surface water drainage scheme.
- 7. Erection of acoustic fence with a density of 20 kg per square metre.

(b) That should the matters referred to in (i) and (ii) above not be secured within the above period, the Head of Planning and Development be given delegated authority to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on the provision of open space within residential development and achieving sustainable forms of development, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

(c) That with respect to the appeal against the refusal of the application 11/00123/FUL currently due to be heard at a hearing on 20 October 2011 that the Borough Council pursues the above obligations but otherwise does not any longer oppose the development referred to in that application.

Reason for Recommendation

Planning permission already exists for residential development on this site. The scale and appearance of the proposed dwellings is similar to that of the original approved scheme and although the number of dwellings will be increased by 13, the resultant density would be appropriate and in compliance with national policy. The proposal accords with provisions of the development plan for the locality indicated below and there are no other material considerations that would justify a refusal of planning permission. To reflect the increased number of units additional contributions, including one towards NTADS, would be justified, as would be ensuring that the development is subject to the same open space requirements as were contained within the original agreement.

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

West Midlands Regional Spatial Strategy 2008 (WMRSS)

Policy UR1: Implementing Urban Renaissance – the Major Urban Areas (MUAs)
Policy CF1: Housing within 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
Policy PA1: Prosperity for All
Policy QE1: Conserving and Enhancing the Environment
Policy QE3: Creating a High Quality Built Environment for all

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 D8: Providing Infrastructure Services, Facilities and/or Mitigating Measures Associated with Development
Policy T1A: Sustainable Location
Policy T13: Local Roads

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

Policy SP1: Spatial Principles of Targeted Regeneration
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP5: Open Space/Sport/Recreation
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development - General Parking Requirements
Policy C4: Open Space in New Housing Areas

Other Material Considerations include:

National Planning Policy

PPS1: Delivering Sustainable Development (2005)
PPS3: Housing (2006, as amended 2010)
PPG13: Transport (2001, as amended 2011)
PPG17: Planning for Open Space, Sport and Recreation (2002)
PPG24: Planning and Noise (1994)
PPS25: Development and Flood Risk (2006)

The Planning System: General Principles (2005)

Community Infrastructure Regulations 2010

Supplementary Planning Guidance

Space Around Dwellings (July 2004)
Developer Contributions SPD (October 2007)
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)

Newcastle (urban) Transport and Development Strategy (NTADS)
Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Whilst it (the draft NPPF) is a consultation document and, therefore, subject to potential amendment, nevertheless it gives a clear indication of the Government's "direction of travel" in planning policy. Therefore the draft NPPF is capable of being a material consideration, although the weight to be given to it will be a matter for the decision maker's planning judgement in each particular case. The current Planning Policy Statements, Guidance notes and Circulars remain in place until cancelled.

Relevant Planning History

1999	99/00341/OUT	Outline planning permission granted for residential development – 6 November 2000.
2002	02/01107/REM	Details of the means of access to the housing development and scrapyards – refused but subsequently allowed on appeal in May 2003.
2003	03/00790/REM	Details of 280 houses and apartments – appeal lodged against failure of the Local Planning Authority to determine the application within the appropriate period. Council resolution 21 September 2004 that had the appeal not been lodged it would have granted the application subject to various conditions. Appeal allowed 27 July 2005 and costs awarded against the Authority.
2004	04/01051/FUL	Variation of condition on outline planning permission 99/00341/OUT for residential development relating to time period within which any application for approval of the reserved matters can be made – refused 6 May 2005.
2006	06/00774/FUL	Variation of condition on outline planning permission 99/00341/OUT relating to time period within which any application for approval of reserved matters can be made – approved 7 February 2007.
2007	07/00156/REM	Substitution of house types for 53 plots – approved 30 April 2007.
2007	07/00529/REM	Substitution of house types for plots 52-69, 139-144 and 281-288 (32 dwellings) – withdrawn.
2007	07/00755/REM	Reserved matters - substitution of house types on 31 plots of scheme approved under 07/00156/REM – approved 15 October 2007.
2007	07/00939/REM	Reserved matters - substitution of house types for 33 dwellings – approved 18 December 2007.
2008	08/00081/REM	Reserved matters - substitution of house types for 59 dwellings – approved May 2008.
2008	08/00614/REM	Substitution of house types – approved August 2008.
2009	09/00078/FUL	Substitution of house types for 48 plots – Approved December 2009
2009	09/00387/FUL	Substitution of house types – 21 units – resolution to approve 5 January 2010.
2011	11/00123/FUL	Erection of 76 dwellinghouses (amended layout including 14 additional dwellings) - refused and now at appeal – due to be subject of a hearing held on 20 October.

Views of Consultees

The **Highway Authority** has no objections to the proposal subject to conditions requiring surfacing and maintenance of the driveways and turning areas in a porous bound material, minimum length of driveways of 6m, gradient of driveways not to exceed 1 in 10, provision of surface water interceptors, and retention of garages for the parking of cars. The applicant should be required to enter into an agreement to secure an NTADS contribution of £9,000 to take into account the additional 13 dwellings.

The **Town, Thistleberry and Poolfields Locality Action Partnership (LAP)** objects to this application on the following grounds:

- The Design and Access Statement is misleading in that the immediate context of the site is the wetland and infill site. The proposal should address this by having a lower density of build and should incorporate a SUDS. The development contravenes Condition 4 which requires a SUDS.
- A real acoustic fence should be in place to mitigate the noise nuisance from the scrap yard and infill site.
- The increase in density from 31 dwellings per hectare (dph) to 38dph is not acceptable in this area. The stream marks the end of the built up urban area where the landscape changes into semi-rural to rural. The density of the site and the extra houses means that the urban area is being extended into the Green Belt.
- Rather than a low landscape we are being presented with three plus storeys. The site was permitted initially because it would provide larger executive housing and the higher density and smaller house types disadvantages some residents who paid executive house prices in the initial phases of the development.
- There is less space between houses and roads and pavements appear narrow – sometimes too narrow for an emergency vehicle to pass if a car is parked on the roadside. There are no bus stops, shelters or cycleways on site yet.
- It is questionable why pre-commencement conditions have not been complied with.
- Why have the contaminated land conditions not been applied when this is an important site given the proximity of the wetland area? There appear to be no interceptors to the present culverts.
- Is the agreed sum for POS in lieu of open space within the development and to offset that space taken up by each additional house?
- Whilst Officers suggest that it would be unreasonable to delay this application until all details of materials etc have been submitted and approved, the conditions imposed by the Inspector suggest otherwise. Unless these details are to hand, how can a Planning Committee justifiably adjudicate on these matters?
- The new Flood Risk Assessment does not appear to allow for flash flooding in the immediate vicinity of the development.
- Land slippage has occurred in the vicinity of Garners Nursery. There is an area of open space between the infill site boundary and this phase of development which owing to poor and possibly inappropriate drainage, this area has become very swampy and marshy and could give rise to land slippage.
- At least one of the houses in this development appears to be inside the 100m off-set boundary limit between the infill site and this area of no-man's land which could be in Persimmon's ownership. This needs to be checked.
- Given the outcome regarding the stone bridge parapet wall and the 'compromise' reached by the ad hoc committee set up to 'settle' the matter, residents have little or no confidence that a similar committee to adjudicate on the SUDS would have any impact that would lead to a satisfactory outcome – particularly if all the developer is suggesting is a larger pipe, deep ponds and the alteration of the stream course, removal of mature and adapted trees and bushes which residents are opposed to and which the Inspector said should not happen.

Taking the above into consideration the LAP recommend that this re-application be rejected.

Comments have been received from the **Environment Agency (EA)** on 6 September 2011 regarding the previous planning application for this site (Ref. 11/00123/FUL) now at appeal. The EA state that further to the receipt of revised information received on 5 September 2011, they withdraw their objection to this application. They are informed that the on-line balancing (storage) volume contained within the watercourse is suitable and there will be an upsizing required in one of the surface water sewer pipes. They are confident that the details submitted are acceptable and that their previous concerns have been addressed. Calculations, which will probably consist of a microdrainage rerun to provide full proof of discharge rates, will need submitting prior to completion of the development. It is noted and accepted that the SUDS will not be utilised specifically on this part of the overall site, but the surface water will drain to such features. With this in mind, a condition requiring the submission, approval and implementation of a surface water drainage scheme for the site is recommended. The scheme shall also include full microdrainage calculations or equivalent up to and including the 1 in 100 year 30% for climate change return period event.

Representations

One letter of representation has been received from the occupier of a neighbouring property. Objection is made on the following grounds:

- Parking is already a problem on the estate. The proposed dwellings do not have allocated garages so any extra cars will be parked on the roads causing problems. Any buses and emergency vehicles would be unable to get past with all the extra vehicles parked in the road.
- The SUDS cannot cope with the drainage at present and there has been flooding in the past. More dwellings would cause both domestic, surface water and foul drainage problems.
- There are already more houses on the estate than originally agreed which is reducing the green and wetland areas and replacing them with hard landscaping and too much concrete.
- Where will the mound of dirt and rubble go? If it has to go off site then residents will have to put up with lots of lorries through the estate causing noise, pollution and environmental problems.
- The additional properties will have an impact on the value of properties.
- There is a need for larger houses with Keele University and the Hospital expanding.

A letter of objection has been received from **Thistleberry Residents' Association**. They object to the development in the strongest terms on the following grounds: -

- The Design and Access Statement is misleading in that the infill site is not mentioned as part of the surrounding context for this site. An acoustic fence is still awaited.
- The original plan was permitted because it would meet a borough council need for executive type housing. This has now been overlooked and the change in emphasis appears to have changed the ethos of the site.
- The density has increased from 31dph to 38dph and the number of houses has increased. This is an ecologically sensitive site which is part of a flood plain and wetland area. Increased and over-use of hard landscaping can only upset the delicate biodiversity and balance on this site.
- There is an area of 'no-man's land' behind this site and in between the Persimmon development and the Lafarge in-fill site which is very badly drained, is swampy and which could give rise to land slippage.
- At least one of the houses in this development appears to be inside the 100m off-set boundary from the infill site.
- There is mention of a cyclist and pedestrian friendly environment within the site but there is no evidence of this. There are no cycleways on site and some of the pavements appear too narrow. There are no bus stops or shelters either. The roads are too narrow for both a car and bus passing and emergency vehicles would be unable to pass if cars are parked on the roads. Given the length of the driveways there is room for only one car and so extra cars would need to be accommodated on the roadside. Parking and traffic could become a problem for the whole site.
- The drainage issue of a SUDS appears to have been ignored. The drainage ponds scheme put forward as a SUDS appears a half-hearted attempt. Residents have voiced their strong objection to the alteration of the stream course, to the creation of deep ponds in this area and to the removal of mature trees and bushes. This application does little to address these objections other than to install a larger drainage pipe. There are no soakaways to the houses or water butts or smaller drainage ponds. This could be achieved with fewer houses. No details have been provided of the type of hardstandings or road and pavement surface materials so it is not known if they are permeable. The proposal would not meet Policy CSP3.
- It is questionable if there is room on the pavements for soft landscaping.
- The demolition of the stone bridge parapet wall and its replacement with a metal crash barrier would defy 6.1.4 of the Design and Access Statement.
- There appears to be a suggestion that the developer will pay the LPA an agreed sum in lieu of open space on site and directs prospective residents to the nearby open space of the Parkway. This is accessed via the very busy A525 road so young children would have to be accompanied by an adult in order to use it. Fewer houses on site may mean more open recreation space.
- Overall, by increasing the number of homes on this development, this would not be the 'best' use of land on this site given the overall context of the development.

Applicant/Agent's Submission

A Planning Statement has been submitted. A summary of the contents is as follows:-

- The southern section of refused planning application 11/00123/FUL has been excluded from this application and Persimmon is implementing the previously approved development for this part of the site.
- The principle of residential development on this site has already been established.
- The housing mix comprises a mix of 3 and 4 bedroom (64% 3-bed and 36% 4 bed) semi-detached and detached properties.
- Compared to the approved scheme there is an increase in the number of semi-detached units and corresponding decrease in the number of detached. In the approved scheme there were 25% semi-detached and 75% detached and in the current proposal 43% are semi-detached and 57% detached).
- This new mix reflects demand in the current economic climate for smaller 3 and 4 bedroom properties. A strong market demand has been identified in this location for mid-sized 3 and 4 bedroom homes arising from families and first time buyers.
- This mix addresses the housing needs identified by the West Midlands North Housing Market Area Strategic Housing Market Assessment 2007. The proposed mix is appropriate for this location.
- The detailed design of the dwellings is responsive to the surrounding area. The scale and massing of the dwellings also follows the approach taken on the remainder of the site with the majority of buildings being 2 storeys with some 2.5 storey dwellings to create a visual presence at the end of viewpoints.
- The density of the proposed development is appropriate as it balances the need to make the most efficient use of land and the need to provide a wide range of housing types and respect the character of the surrounding area.
- The proposed development achieves a satisfactory standard of amenity and privacy.
- The development has a satisfactory means of access and adequate level of car parking provision.
- In the last application the Highway Authority requested had requested an NTADS payment in respect of the additional dwellings proposed. NTADS contributions are paid into a capital programme to deliver schemes with the objective of improving accessibility, tackling congestions and improving travel safety. Thus it does not relate to site related issues such as site access requirements, but to general pooled transportation infrastructure programmes.
- However, the introduction of the Community Infrastructure Levy (CIL) Regulations 2010 brought in new restrictions on when planning obligations can be used. Planning obligations should be used to secure necessary requirements for planning permissions to be granted whereas CIL contributions are for general infrastructure needed. Planning obligations should therefore not be used for generalised pooled charges such as NTADS. Requesting a planning obligation in respect of NTADS fails the CIL test.
- The applicant agrees to the payment of a financial contribution in respect of the additional 13 dwellings towards the provision/enhancement of other open space in the area.
- A Flood Risk Assessment has been prepared which demonstrates that although there will be a very slight increase in the amount of impermeable area due to the increase in the number of dwellings, this can be accommodated by way of attenuation in the Brook. The development will not result in an increased risk of flooding and an adequate surface water drainage system can be secured to deal with surface water flows.
- For the above reasons, the reasons for refusal in respect of the previous application cannot be sustained.

A Flood Risk Assessment and a Design and Access Statement have also been submitted. All the documents are available for inspection at the Guildhall, and on www.newcastle-staffs.gov.uk

Key Issues

Outline planning permission was granted in 2000 for the residential development of the Keele Road housing site (ref. 99/00341/OUT). An approval of reserved matters for 280 houses and apartments was subsequently allowed at appeal in July 2005 (ref. 03/790/REM). The site has an extant permission that is currently under development.

Full planning permission is sought for an amended layout for part of the wider site to comprise the erection of 61 dwellings. The proposal includes 13 additional dwellings to those approved in the original consent.

Planning permission was refused in May of this year for an amended layout for two areas of the site, including that which is the subject of the current application (Ref. 11/00123/FUL). That proposal comprised the erection of 76 dwellings which included 14 additional dwellings to those approved in the original consent. The reasons for refusal were as follows:

- (i) By virtue of the additional dwellings proposed over and above those already permitted and the associated reduction in the number of larger dwellings within the development, and the siting, scale and disposition of the proposed dwellings, the proposed development would constitute overdevelopment of the site to the detriment of the visual appearance of the area and the overall levels of residential amenity. As such, the proposal would be contrary to Policy QE3 of the West Midlands Regional Spatial Strategy 2008; Policy D2 of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011; Policies ASP5 and CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026; and the aims and objectives of PPS1 and PPS3.
- (ii) The proposed development does not provide an adequate road network or cycle ways to support the additional dwellings proposed. As such, the proposal would be contrary to Policy T18A of the Staffordshire and Stoke-on-Trent Structure Plan 1996-2011 and the aims and objectives of PPS1, PPS3 and PPG13.
- (iii) In the absence of surface water drainage details for this development and an approved and adopted surface water drainage system for the wider development the applicant has failed to demonstrate that an adequate surface water drainage system can be secured to deal with the discharge of surface water from the development. There is therefore the potential that the development will result in an increased risk of flooding and/or pollution and as such the proposal is contrary to Policy CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026; Policy IM1 of the Newcastle-under-Lyme Local Plan 2011 and the aims and objectives of PPS25.

That application is currently the subject of an appeal which is to be heard by means of an informal hearing arranged for 20 October 2011. The Planning Committee on 23 August 2011 withdrew the second reason for the refusal in light of the need to be able to substantiate reasons for refusal, that the advice received from the Highway Authority continued to be that the application could be approved subject to certain conditions, and that it was extremely unlikely that technical evidence would be able to be advanced in support of this reason for refusal – given the limited number of additional movements likely to be involved.

The site lies within the Urban Area of Newcastle as designated on the Local Development Framework Proposals Map.

Notwithstanding the representations received alleging that there is insufficient highway capacity to service the additional dwellings and the reference in them to off-street parking provision within both the existing and proposed development being insufficient, the development would generate a very limited number of additional trips, the parking provision is in line with guidance, concerns about the unfinished nature of the development cannot be taken into account in this decision, and the Highway Authority have no objections. All were points taken into account when the Council withdrew its previous highways reason for refusal and they remain equally applicable to this revised proposal,

Given this, the main issues for consideration are now as follows:-

- Is the increase in the number of dwellings acceptable in terms of the visual amenity of the area?
- Will there be any impact on residential amenity as a result of the amended layout?
- Will there be any flooding issues as a result of the proposed additional dwellings?
- Is the consideration of the suggested planning obligations lawful?

Is the increase in the number of dwellings acceptable in terms of the visual amenity of the area?

An additional 13 dwellings are now proposed compared to the approved scheme. Both the approved and proposed schemes comprise a mix of detached and semi-detached properties but compared to the approved scheme an increase in the number of semi-detached units and corresponding decrease in the number of

detached units is now proposed. In the approved scheme there were 25% semi-detached and 75% detached and in the current proposal there would be 43% semi-detached and 57% detached. Although some larger detached dwellings would remain, the number of smaller detached dwellings would increase. The applicant has stated that this new mix reflects demand in the current economic climate for smaller 3 and 4 bedroom properties. A strong market demand has been identified in this location for mid-sized 3 and 4 bedroom homes arising from families and first time buyers.

The density of the development of this particular part of the overall site would increase from 32 dwellings per hectare to 39 dwellings per hectare. PPS3 used to recommend a national indicative minimum density for housing of 30 dwellings per hectare; however, in June of last year, this was deleted, although the need to make effective and efficient use of land is a matter which LPAs are still required to have regard to in the determination of housing applications. CSS Policy ASP5 states that the density of new development will balance the need to make the most efficient use of land and the need to provide a wide range of housing types, tenures, sizes and prices. The density of the proposed scheme is considered to be consistent with the existing development and an appropriate and efficient use of land.

Whilst the density of the proposed layout would be greater than the approved scheme and there would be a smaller proportion of larger detached properties, your Officer's view remains that the range of house types now proposed would be in keeping with the rest of the site. The siting of the dwellings would incorporate a varied building line similar to that of the existing development, and the mix of house types in terms of their scale, siting and character would provide some degree of diversity and interest within the street scene. Given that the amended layout now proposed would be generally consistent with the existing housing on the site in terms of its siting, scale and disposition, it is not considered that the character and the visual appearance of the area would be adversely affected. On this basis, it is not considered that an objection on the grounds of overdevelopment of the site and impact on the visual appearance of the area could be sustained.

Will there be any impact on residential amenity as a result of the amended layout?

In relation to the previous application, Members considered that the additional dwellings proposed over and above those already permitted would result in overdevelopment of the site to the detriment of residential amenity. As in the approved scheme, the current proposal provides adequate separation distances between dwellings and adequate private amenity space provision. Although there would be a slight reduction in the space between the properties due to the increase in numbers, it is not considered that there would be any material adverse impact upon residential amenity that would justify a refusal of the scheme.

Will there be any flooding issues as a result of the proposed additional dwellings?

The previous application was refused in the absence of surface water drainage details for the development and an approved and adopted surface water drainage system for the wider development. Considering first the surface water drainage details for the development, the Environment Agency initially objected to the previous proposal in the absence of a Flood Risk Assessment (FRA). An FRA was subsequently received along with additional surface water run-off calculations. The FRA states that the surface water drainage proposals are as per the previously designed scheme as the impermeable area has only increased very marginally. Due to the very minor increase in impermeable area it is proposed that one pipe length be increased in diameter. The report concludes that on this basis, the development can be considered appropriate and in accordance with PPS25.

In relation to the surface water drainage system for the wider development, this matter is being considered separately under an application now submitted for approval of the details relating to Condition 4 of planning permission 03/00790/REM for the wider site. The applicant has now submitted a full package of information to enable the details relating to Condition 4 to be considered but to date it remains the case that there is no approved SUDS scheme.

Your Officer's advice in consideration of the previous application was that the appropriateness of the SUDS was not relevant to the consideration of the amended scheme and this remains the view now. However, notwithstanding this, information has been received from the applicant's drainage consultants advising that there is sufficient capacity available within the planned SUDS scheme to accommodate the additional runoff from the additional units.

On the basis of this information further comments have been received from the EA advising that they withdraw their objection to the previous application. Although no comments have yet been received in relation to the current application, given that this proposal is for a smaller increase in the number of dwellings on the site (13 rather than 14), it is considered that the comments apply in the same way to the current scheme. The EA have advised that they are confident that the details submitted are acceptable and that subject to conditions, their previous concerns have been addressed. Given the advice of the EA, it is not considered that a refusal of this application could be justified on the grounds of inadequate surface water drainage.

Is the requirement for an NTADS contribution lawful?

The Highway Authority has requested a limited NTADS contribution, and given that there is an increase in the number of dwellings from the original reserved matters permission that remains extant, such a request is considered reasonable. Recent 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

It is considered that this test is met in this case.

Background Papers

Planning file

Planning documents referred to

Date Report Prepared

21 September 2011