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## Appeal Decision

Site visit made on 30 January 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 February 2024

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Appeal Ref: APP/P3420/W/23/3327538

Land adjacent Hoon Avenue and Milehouse Lane, Newcastle-under-Lyme ST5 9NY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Staffordshire County Council against the decision of Newcastle-under-Lyme Borough Council.
  - The application Ref 20/01078/OUT, dated 9 December 2020, was refused by notice dated 1 March 2023.
  - The development proposed is outline planning permission for the erection of up to 100 dwellings with associated infrastructure, children's play area, landscaping and open space. Detailed approval is sought for the means of access via Hoon Avenue and Milehouse Lane only with the details of appearance, landscaping, layout and scale to be reserved for subsequent approval.
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### Decision

1. The appeal is allowed and outline planning permission is granted for erection of up to 100 dwellings with associated infrastructure, children's play area, landscaping and open space. Detailed approval is sought for the means of access via Hoon Avenue and Milehouse Lane only with the details of appearance, landscaping, layout and scale to be reserved for subsequent approval at Land Adjacent Hoon Avenue and Milehouse Lane, Newcastle-under-Lyme, ST5 9NY in accordance with the terms of the application 20/01078/OUT dated 9 December 2020 subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The application, when heard at Committee, was recommended for approval, but that decision was overturned. As such only the single main issue was raised as a Reason for Refusal at outline stage. Therefore, all other issues in relation to the outline application were not brought up by the Council. Access was the only matter to be determined at this stage.
3. Before this appeal was determined, I received a copy of the signed, sealed and completed legal agreement pursuant to Section 106 of the Town and Country Planning Act (1990), which sets out details for securing planning obligations in terms of 25% affordable housing, Travel Plan Monitoring, provision toward improvements to a nearby Multi-Use games area, and agreement toward long-term maintenance of the open space at the site.

4. I am content, on the basis of the information provided to me, that all the contributions described above meet the test of necessity; are directly related to the development and are fairly and reasonably related in scale and kind. I am therefore able to take them into account in my decision.

#### Main Issue

5. The main issue in this appeal is whether the development would harm local green space.

#### Reasons

6. The site is approximately 3.4 hectares in size, in a predominately residential area, but surrounding educational establishments. It is effectively split into two connecting sections, approximately 0.9 hectares to the north, with the remaining to the south.
7. It is indicated that up to 100 dwellings, with associated infrastructure, landscaping, play area and open space would be constructed.
8. As stated previously, the application was recommended for approval, and as such, all matters had received no objections from the key consultees. I have no reason to revisit those issues and will deal with the reason for refusal generated at Committee. A Section 106 agreement has been signed and agreed by both parties.
9. In terms of the reason for refusal, the site has been the subject of three previous habitat surveys, plus an additional ecological appraisal with this appeal. These surveys have proposed mitigation and enhancement measures that would be carried out as part of the proposals.
10. Water Vole surveys have been carried out and a Biodiversity Net Gain Assessment completed which demonstrates that Net Gain will be achieved.
11. As such whilst there would be loss of land as part of the Green Heritage Network, I find that the length and breadth of the mitigation and enhancements proposed would more than compensate for this loss, and biodiversity and ecological benefits would far outweigh any initial loss.
12. An Open Space Assessment has been submitted which looked at open space within 1.5km of the site which identified nine other sites totalling over forty hectares of which a site of over two hectares is located close to the site. A considerable section of the site (approximately 0.9 hectares) would be given over to open space, including a play area.
13. Overall, I find that the concerns with regard to the loss of open space and ecological features understood, but unfounded, and the benefits outlined by the appellant would outweigh any initial losses were development to go ahead. The area is not deficient in open space in any event, as has been demonstrated in the evidence provided, and this proposal would lead to overall improvements.
14. As such, I find no conflict with policies CSP4 and CSP5 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 or saved policy N16 of the Newcastle-under-Lyme Local Plan 2011, which, amongst other matters, expect development to enhance, maintain and protect the plan **area's** open space, sports and leisure assets, and enhance the green heritage network, with mitigation and compensation measures as required.

15. I also find no conflict with the general provisions of the National Planning Policy Framework.

#### Other Matters

16. I note the comments of local residents with regard to the proposed development. The majority of the comments were dealt with at application stage, and only the open space issue was left outstanding and I have found no conflict with policy given the particulars of the submitted details.

#### Conditions

17. I have taken into consideration the conditions suggested by the Council, and, subject to minor amendments to wording, consider them to be acceptable. I also note that the appellant was amenable to these conditions, save for a few minor alterations.
18. I have left the condition relating to working hours intact, to provide certainty in terms of start and finish times, despite the request of the appellant to remove for inclusion in a Construction Management Plan.
19. I agree that the wording of what was proposed in condition 11 (investigation works) be altered to remove any vagueness in the wording.
20. Conditions 1 to 4 and 19 are in the interests of good planning practice. Conditions 5 and 6 relate to highway safety, whilst 7 through 9 are for considerate construction.
21. Condition 10 relates to environmental features, whilst 11 to 16, 20 and 21 relate to site investigation work to ensure safe development, whilst 17, 18, 22 and 23 relate to the infrastructure position prior to any reserved matters submission.

#### Conclusion

22. Subject to the imposition of conditions, there are no material considerations that indicate that the application should be determined other than in accordance with the development plan, of which the relevant policies attract full weight. For the reasons given above, I therefore conclude that the appeal should be allowed.

*Paul Cooper*

INSPECTOR

## SCHEDULE OF CONDITIONS

1. In respect of the development hereby permitted, only outline planning permission (including details of the vehicular accesses into the site from the highway network) is granted. Approval of details of layout, internal access arrangements, scale, and appearance of the development, and of the landscaping of the site (hereafter called "the reserved matters" and as defined in the Town and Country Planning (Development Management Procedure) Order 2015), or any Order revoking and re-enacting that Order) shall be obtained from the Local Planning Authority in writing before any development hereby approved is commenced.
2. In the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date on which this permission is granted.
3. The development to which this permission relates must be begun not later than the expiration of two years from the date of the final approval of reserved matters.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: -
  - o Drawing No. A109194SLP01-B Location Plan
  - o Drawing No. 003 Rev. A Milehouse Lane Site Access
  - o Drawing No. 008 Rev. B Proposed Hoon Avenue Roundabout Access
5. The development hereby permitted shall not be brought into use until the accesses have been provided in accordance with the approved plans.
6. The development hereby permitted shall not be brought into use until the mitigation measures at Milehouse Lane / Hassam Parade / Hoon Avenue Roundabout have been provided in accordance with the approved plans.
7. Construction activities which are audible beyond the site boundary, including deliveries, ground works and earth movements, shall be restricted to the following days and times:
  - 08:00 – 18:00 Monday to Friday
  - 08:00 – 13:00 SaturdayConstruction shall not be undertaken on a Sunday or a public holiday.
8. Prior to the commencement of any works, a Construction Method Statement shall be submitted in writing to, and approved by, the Local Planning Authority. This shall include details relating to:

The control of noise and vibration emissions from construction activities including groundworks and the formation of infrastructure including arrangements to monitor noise emissions from the development site during the construction phase

The control of dust including arrangements to monitor dust emissions from the development site during the construction phase

Measures to prevent mud deposition offsite on the highway from vehicles leaving the site including wheel wash facilities

A site compound with associated temporary buildings

The parking of vehicles of site operatives and visitors

The loading and unloading of plant and material; and

Storage of plant and materials used in constructing the development.

Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in writing by the Local Planning Authority.

9. Prior to the commencement of development details of the design measures, supported by an appropriate noise assessment, to be incorporated into the construction of the development to ensure the following noise levels, shall be submitted to the Local Planning Authority for prior approval. Thereafter, the approved details shall be implemented in full prior to the development becoming occupied and shall be permanently maintained in full accordance with the approved details.

**Internal noise levels**

Not to be exceeded in all habitable areas attributable to external noise sources.

Where windows need to be kept closed to meet these levels, adequate sound attenuated ventilation provision in accordance with the current building regulations and suitable provision to prevent overheating, as described within ProPG: Planning and Noise, must also be demonstrated

35 dBLAeq between 07:00 and 23:00

30 dBLAeq between 23:00 and 07:00

45 dB LAMax between 23:00 and 07:00

(Drawn from WHO Environmental Noise Guidelines for the European Region 2018)

**External Noise levels**

(to be achieved in garden areas, balconies, terraces)

50 dBLAeq between 07.00 and 23.00

10. Prior to the occupation of the development hereby approved the following Electric Vehicle Charging Provision shall be made available on site and maintained for the lifetime of the development;

At least 1 parking space per residential unit must be provided with a fully operational dedicated electric vehicle charging point.

All other parking spaces shall be provided with passive wiring to allow future charging point connection.

Charge points shall be a minimum of 32Amp with Type 2 Mennekes connections, Mode 3 (on a dedicated circuit).

11. The development hereby approved shall not commence until suitable site investigation works have been undertaken to adequately assess the nature and extent of any land contamination on the site.

The scope of site investigation works should be submitted to, and approved in writing by, the Local Planning Authority. The works must be undertaken by suitably qualified persons and in accordance with the requirements of:

- BS10175 (Investigation of Potentially Contaminated Sites – Code of Practice
- BS8576 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds

The findings of the site investigation should be used to assess the potential risks from land contamination to:

- Human health
- Controlled water
- Property
- Ecological systems
- Archaeological sites and ancient monuments

A report of the results of the site investigation works, together with a risk assessment should be submitted to, and approved in writing by, the Local Planning Authority.

12. The development hereby approved shall not commence until a detailed remediation scheme to bring the site to a condition suitable for its intended use by removing unacceptable risks has been submitted to, and approved in writing by, the Local Planning Authority. The scheme must include:
- All remediation works to be undertaken
  - Proposed remediation objectives and remediation criteria
  - Site management procedures

13. The approved remediation scheme must be carried out in accordance with the approved remediation statement prior to the occupation of the development, unless otherwise agreed in writing by the Local Planning Authority.

The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of the approved remediation scheme, a verification report that demonstrates its effectiveness must be submitted to, and approved in writing by the Local Planning Authority prior to the first occupation of the dwelling houses.

14. Prior to the occupation of the development hereby approved, written confirmation that no contamination was found or suspected should be submitted to the Local Planning Authority. In the event that contamination is found, or is suspected to be present, at the site when carrying out the approved development, then development shall be halted and the suspicion reported in writing to the Local Planning Authority.  
If required by the Local Planning Authority, an investigation and risk assessment of the suspected land contamination must be undertaken by

appropriately qualified and experienced persons and in accordance with the requirements of:

- BS10175 Investigation of Potentially Contaminated Sites – Code of Practice,
- BS8576 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds
- Environment Agency guidance (Land Contamination: Risk Management)

The findings of the investigation, an appropriate risk assessment and, if required, any proposed remediation measures, together with a scheme of validation, should be submitted to, and approved in writing by, the Local Planning Authority.

If remediation is required, then the agreed works must be carried out, together with independent validation of the same (in accordance with the approved validation proposal), the report of which should be submitted to and approved in writing by, the Local Planning Authority.

15. No soils (or soil forming materials) are to be imported to the site until information on their source, the results of any soil analysis, and an assessment of their suitability for use has been submitted to and agreed in writing by the Local Planning Authority. Prior to their import onto site, a suitable methodology for testing soils following their import and placement on the site should be submitted to and agreed in writing by the Local Planning Authority. The methodology should include:
- The sampling frequency
  - Soil analysis schedules
  - The criteria against which the analytical results will be assessed

The agreed methodology shall then be carried out, the results of which should be submitted to, and approved in writing by, the Local Planning Authority.

16. Any application for the approval of reserved matters of layout and landscaping, shall include details of tree protection, an arboricultural method statement and full landscaping proposals.
17. The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority.
18. No development shall begin until the final detailed surface water drainage design has been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority. The overall strategy shall be in accordance with the principles laid out within the Flood Risk and Surface Water Drainage Assessment A109194 by WYG Engineering Limited, Revision D: February 2022 (Revision: 5th Issue, dated 14th July 2022, the revised Indicative Surface Water Drainage Constraints Drawing (Ref. A109194-21-C-SK003 Rev P5, dated 22/03/2022) and Staffordshire County Council's SuDS Handbook.

The design must demonstrate:

- Details of the proposed surface water drainage system(s) designed in accordance with national and local standards, including the non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).
- SuDS design to provide adequate water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.
- Limiting the discharge rate generated by all rainfall events to the greenfield 1 in 1 year rate of 4.7l/s/ha, in accordance with the principles outlined in the Flood Risk Assessment and Surface Water Drainage Assessment. Provision of surface water runoff attenuation storage to achieve the limited discharge.
- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations, to include the critical 1 in 1, 1 in 30 and 1 in 100-year design storms with 40% allowance for climate change.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system, including pump failure where applicable. Finished floor levels to be set higher than ground levels to mitigate the risk from exceedance flows.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development. This should include a schedule of required maintenance activities and frequencies, and the name and contact details of the organisation responsible for carrying out these duties.

19. Any "reserved matters" applications pursuant to this outline planning permission shall accord with the principles set out in the WYG Design and Access Statement dated December 2020.
20. Prior to the commencement of the development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication. The archaeological site work shall thereafter be implemented in full in accordance with the approved written scheme of archaeological investigation.
21. The development shall not be occupied until the site investigation and post excavation assessment has been completed in accordance with the written scheme of archaeological investigation approved under condition 20 and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.
22. A minimum of 0.94ha of green open space, including a Locally Equipped Area of Play of a minimum area of 400 square metres, shall be provided on site.



23. No development shall commence until details of the play facilities and timing of the provision of open space and these facilities have been submitted to and approved in writing by the Local Planning Authority.

END OF SCHEDULE

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