

DELEGATED DECISION REPORT

SMD/2022/0143
Valid 22/03/2022

121 TUNSTALL ROAD
KNYPERSLEY

VARIATION OF CONDITIONS 2
& 12 OF PLANNING
PERMISSION SMD/2017/0510
(PLOT 2)

(FULL - MINOR)

MAIN ISSUES

Whether the differing dwelling types on plots 1 and 3 (with addition of sun rooms) and the differing parking arrangements at plot 2, would have other impacts on the character and appearance of the area and the trees and ecology.

Additionally, has the developer made satisfactory submission to address the terms of conditions previously attached to the original permission and could a new and differing permission be granted without those conditions.

DESCRIPTION OF SITE

The 0.40ha application site falls within the development boundary of Biddulph. It fronts onto the south-eastern side of Tunstall Road and had previously contained a large detached house (no. 123) and a number of outbuildings that are all set well back from the highway within a context of landscaped grounds containing a number of protected mature trees. At the time of this application the six dwelling development, already permitted, was well underway approaching a final stage of completion. The sun rooms had already been built out to the side elevations of Plots 1 and 3.

In the vicinity of the site, the Tunstall Road street scene is characterised by a variety of buildings in a relatively loose knit pattern of development. Immediately to the south of the site is the Grade II listed St John's Church whilst opposite and on the other side of Tunstall Road is the Grade II listed Fairhaven complex. To the south of the church, a number of 2-storey semi-detached properties front onto the highway. The boundary treatment along the site's north-western boundary comprises a dwarf wall topped by fencing, which is partly backed by a conifer hedge. Within the site, the frontages of Nos. 123 and 121 are visible across the more open gardens of No. 121.

PROPOSAL

Planning permission has already been granted for 6 detached dwellings with parking and associated works SMD/2017/0510. This application is made under s.73 of the Act and proposes, through a variation of condition, a substitution of approved plans that would permit the addition of sun rooms to the side elevation of Plots 1 and 3, and an alternative parking arrangement at Plot 2 that would provide a driveway space in lieu of a garage that would instead be used as a habitable room.

Additionally, since the approval, the applicant has made submissions in an attempt to address outstanding conditions relating to materials, building details, landscaping, means of enclosure, and biodiversity. The discharge of these conditions remains

outstanding and a new and differing permission should be subject to updated or varied conditions, where appropriate, or omits conditions where they are no longer useful.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan Development Plan Document (Adopted 2020)

S01 Spatial Objectives

SS1 Development Principles

SS6 Biddulph Area Strategy

SD4 Pollution and Flood Risk

H1 New Housing Development

DC1 Design Considerations

DC2 The Historic Environment

NE1 Biodiversity and Geological Resources

T1 Development and Sustainable Transport

National Planning Policy Framework

National Planning Policy Guidance

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2017/0510 six detached dwellings. Approved.

DOC/2020/0051 condition discharge application. Pending.

CONSULTATIONS

Publicity

Site Notice expiry date: 27.04.2022

Neighbour consultation period ends: 27.04.2022

Press Advert: N/A

Public Comments

None

Town / Parish Comments

Biddulph Town Council: Awaited

Environmental Health

Unable to confirm that they have installed the gas protection measures correctly, based on submitted information. Latest information, a statement from their building control inspector, is more compelling, as there is presumably some come back on these individuals should this be false information.

Based on this information provided, it is unlikely that the site would qualify as a contaminated land in accordance with the part 2 A of the EPA (which is essentially all the NPPF requires)

The rest of the verification report produced by Sladens, statements made but little evidence to back them up. Such as the contaminated stockpile “appears to have been removed” normally, I would expect a pic or two and a waste transfer note to support this statement but again I would think it’s unlikely that should this material have

actually been reused on site, it is also probably unlikely that it would qualify as contaminated under Part 2A of the EPA.

Should information come to light that the site has not been correctly remediated then the parties responsible for the development and remediation (regardless of subsequent sales), would be responsible for its future clean up regardless of this discharge or not e.g the developer would be considered as 'Class A' persons, i.e. those who caused or knowingly permitted the contamination to be present.

Staffordshire County Council Highways

Objected to confusing and conflicting plans and information detailing an apparent narrowing of driveway dimension. However, on a point of clarification the officer later confirms that in lieu of a garage at Plot 2, the space to the side of the dwelling and two in the turning head would be acceptable.

Coal Authority

We note that the current application seeks to vary conditions attached to the issued consent to enable the built development to proceed at Plots 1 and 3 in accordance with revised plans, which now include sunrooms. As these conditions relate to non-coal mining related matters, the Coal Authority's Planning & Development Team has no specific comments to make regarding these proposed revisions.

We understand from information submitted to our Licensing & Permissions Team, that the two recorded mine shafts present within the site were grouted and grout capped in 2020 under Coal Authority Permit 19845. As these features have now been appropriately treated, we would not expect the reimposition of the requirements of Condition 17 of SMD/2017/0510 on any new consent issued. However, for completeness of its files, the LPA may wish to seek details of the remedial works carried out from the applicant if they have not already been provided.

OFFICER COMMENTS

The revised plans propose revisions to Plot types 1 and 3 because single storey sun rooms have been built and added to their side elevations, built out into areas of garden within their plots, toward the site's south western boundary.

At Plot 2 the dwelling was originally approved with an integral garage and two parking spaces in an adjacent turning head. The proposal is to use the garage space as a habitable room instead, a third parking space would be provided in a new driveway to the side of the dwelling in an area of garden within the plot.

These are relatively minor variations to the scheme as approved, they would not result in any discernible difference to the character and appearance of the dwellings or the site as a whole. The plots are sizeable and the introduction of the sun rooms and the parking space would not unreasonably reduce available garden/amenity space.

The replacement driveway space to the side of Plot 2 would be provided within the root protection zone of the adjacent TPO and the sun rooms have extended the footprint of these two dwellings toward protected trees and hedgerow. A submitted tree survey confirms that the sunrooms have not encroached into the adjacent root protection or no construction zones that area clearly marked out on plan. The plan

details no dig cellular confinement construction for the parking space that would laterally distribute vehicle weight preventing subsoil compaction. This can be required through condition.

After initial objection to confusing and conflicting plans, the highway officer has confirmed on a point of clarification, that he does not have an objection to the provision of a driveway parking space to the side of Plot 2 in lieu of the garage.

In terms of issues raised by the revisions proposed, that concludes considerations in those regards.

Treatment of outstanding conditions

The development is nearing completion and a point where purchasers are ready to occupy. The applicant has made a number of submissions under separate application to address these conditions and some submission with this latest application. The officer dealing with the condition discharge application had filed a final note summary setting out outstanding concerns and were waiting for consultants remarks in other respects. A new and differing permission for the development must take account of the latest position, updating or omitting the conditions where appropriate.

Since the approval of the original permission, this application follows the Council's review of housing delivery and statement published on the 1st April 2021 to the effect that the Council is short of 5 year supply and can demonstrate land supply for just 4.21 years. A materially significant change in circumstance since the previous application was determined meaning that Local Plan policies relevant to housing delivery are out of date and the application must now be considered under the terms set out paragraph 11 of the NPPF with the 'tilted balance' engaged.

The published updated 5 year housing supply statement concludes that the Staffordshire Moorlands only has a supply of 4.21 years. As such, para. 11d of the NPPF now applies to applications for housing development i.e. grant permission unless covered by policy in the closed list at footnote 7 (e.g. Green Belt, Local Green Space, SSSI etc), or unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole – The "Tilted Balance".

External facing materials, including hard surfacing, window and door details, including reveals and eaves / verges.

Use of rooftiles, bricks and rendered sections have all been approved and built out. The officer has previously confirmed details of eaves and verges and white upvc windows to be acceptable, but later commented that bargeboards would be unacceptable.

When this application was submitted the dwellings had essentially already been built out. They have been built with dark grey window frames and soffit and barge boards. While a preference has been stated for there to be no barge boards and windows to be white, the dwelling's overall presentation is that of smartly appointed estate homes with a reasonable level of architectural detailing. The minor variations/deviations have

not adversely affected the character and appearance of the area or the setting of the listed buildings.

The developer, under the cover of this application confirmed that all parking areas and driveways would be provided and surfaced with 'Barleystone Kingspave' damson cobble paving; and all circulation paths and pedestrian access points would be provided and surfaced in Macclesfield Stone type Riven slab paving.

Details of all walls, fences and other means of enclosure.

A plan has been submitted with this proposal detailing 1.8m close boarded fences to private rear amenity spaces and, at the request of the wildlife trust, with hedgehog access holes detailed between plots.

The front boundary wall is constructed of stone and some sections are very low in height with a fence behind, in places the wall needs to be continued and old access point needs to be closed. The landscape and enclosure plans submitted under the cover of this application, confirm the repair and completion of the front boundary wall in matching stone, a mix of hedgerow planting behind the wall to supplement existing shrubbery, and the replacement of the tatty old close boarded fence with a grey painted, vertically boarded dwarf fence to be positioned above and behind the wall. This would provide a smart and improved presentation to the road and biodiversity gain with the additional planting.

A condition necessary on a new permission to ensure the enclosure details are implemented.

Existing and proposed levels

Submitted and approved and built out accordingly.

Temporary protective fencing and advisory notices for the protection of the existing trees to be retained shall be erected in accordance with guidance in British Standard 5837:2012.

The developer had made earlier submissions to address conditions requiring protection methodology and measures to be carried out to safeguard protected trees on site and to the boundary during the construction process. There was unreasonable delay in responding to those submissions and there are no notes or comments from the Council's arboriculturist on the file. By the time this application was submitted the houses and access road had been built out. There was no obvious observable damage to the protected trees at the time of inspection and by that time the condition had lost its purpose and usefulness.

A landscaping scheme.

The 'Landscape and Enclosure Layout' plan submitted under the cover of this application, together with the planting layout plan and details of the 'bird enhancement plan' previously submitted, detail retention of key trees and shrubs and supplementary

planting to provide individual specimens and hedgerow. The planting would enhance amenity, character and appearance and enhance replacement habitat for biodiversity. However, much of this planting, however would take place on individually conveyed plots, there is no POS, which means that the management and retention of such planting would be difficult to control into the future.

A condition necessary to require the implementation of the planting.

A scheme for the provision of surface water drainage works, based on sustainable drainage principles incorporating surface water limitation.

The developer confirms that with the almost complete development, surface water from the road and houses are all directed into a large holding tank at the end of the new road. This holding tank has a hydraulic brake that allows a controlled flow into the existing storm sewer in the highway. The details of this formed part of the original conditions discharge applications and was designed by a specialist drainage engineer, it accords with a plan submitted with the application.

The condition no longer serves useful purpose, recommend a condition that requires completion and retention of sustainable drainage system for dealing with surface water.

Technical details of the highway works for the access bellmouth (including tactile paving on line of existing footway, give way markings) and drainage interceptor

This condition does not appear to have been discharged with matters unresolved and outstanding. The issue appears to relate to works that need to be carried out to the highway under the approval of the highway authority. Submissions have been made directly to the highway authority and must be approved as part of a works agreement.

Recommend with a new permission a Grampian style condition that requires works to the highway under the approval of the highway authority to be carried out before the development is completed and brought into use.

A site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology relative to historic mining activity.

The Coal Authority confirm that from information submitted to their Licensing & Permissions Team, that the two recorded mine shafts present within the site were grouted and grout capped in 2020 under Coal Authority Permit 19845. As these features have now been appropriately treated, they would not expect the reimposition of the requirements of Condition 17 of SMD/2017/0510 on any new consent issued.

A Construction and Environmental Method Statement for the site.

This condition does not appear to have been discharged, submissions were made but with additional enquiry they were not approved. However, it relates to the approval of a plan to minimise environmental impacts during the construction process. The development is near completion and the construction phase essentially over. The condition no longer provides useful purpose.

A site investigation and risk assessment to assess the nature and extent of any contamination on the site.

This was produced by Sladens, the developer's appointed environmental consultant. This was submitted and accepted by the Council's Environmental Health Officer by email dated 16th March, stated this was completed.

A detailed remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

This has been submitted and accepted by Environmental Health Officers.

Verification Report relating to the completion and effectiveness of remediation proposed in the submissions above.

This has been a point of issue during the consideration of this application and the main reason for its determination to stall. Submissions had been made to address the condition, however, in the consideration of EH officers those submissions did not meet the exact requirements of the condition and they were not substantiated with required evidence.

For example, in respect of gas membrane barriers, the evidence was retrospective. There was a delay in having the Appointed Building Inspector confirm that installation had been witnessed and inspected and that it had been installed in accordance with manufacturers guidelines. Inspection holes were dug in small areas to reveal the membrane for inspection retrospectively.

The EH officer's comments above reflect the current position relative to most recent submission. The authority can not provide absolute confirmation that the site has been remediated. However, on the balance of probability there is enough evidence to indicate that the site is unlikely to be qualify as contaminated land for the purposes of the Environment Protection Act.

Recommend that a new permission is issued with the condition omitted. However, an informative should be attached providing factual account of current position and the detail of submissions made. The informative advises the reader to conduct own due diligence and provides reminder that responsibility ultimately rests with the developer.

No removal of any hedgerows, trees or shrubs or works to demolish structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive unless a competent ecologist has undertaken a detailed check of vegetation for active birds' nests immediately before vegetation clearance and provided written confirmation that no birds will be harmed and /or that there are appropriate measures in place to protect nesting birds on site.

When this application was submitted all demolition and shrub removal had taken place, the development was essentially built out. This condition no longer serves useful purpose.

Details of nest sites for breeding birds comprising artificial breeding sites for swifts, house martin and house sparrow and details of hedgerow planting to provide additional feeding and nesting habitat for birds.

The developer had submitted a 'bad and bird enhancement plan' produced by a qualified ecologist. The enhancement plan has been accepted by the Wildlife Trust. A new permission would require a condition that ensures the enhancement plan is carried out.

An emergence survey for bats

A survey and report was carried out and submitted. Its quality and detail were approved by Staffordshire Wildlife Trust before the buildings were demolished on site. The condition was discharged accordingly.

Details of artificial roost sites for bats to be designed to be incorporated into the proposed development

The developer had submitted a bat method statement from a qualified ecologist that included recommended mitigation measures. It was accepted by the Staffs Wildlife Trust. A new condition would be required for a new permission to ensure that the recommendations in the method statement are carried out in full.

OFFICER RECOMMENDATION : APPROVE

Case Officer: Ben Hurst

Recommendation Date: 07/10/2022

X 

Signed by: Jane Colley Signature

On behalf of Staffordshire Moorlands District Council