

Appeal by Mr John Matthews against the refusal of planning permission for the erection of one dwelling at Land adjacent to The Bungalow, High Street, Kingsley, Staffordshire, ST10 2AE.

Suggested Conditions

In the event of the appeal being allowed the council requests that the following conditions are considered by the Inspector.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason:- To comply with the provisions of Section 51 of the Town and Country Planning, Planning and Compulsory Purchase Act, 2004.

2. The development hereby approved shall be carried out in accordance with the following submitted plans and subject to the following conditions and/or modifications:-

144-1 Rev B;
144-2 Rev B;
144-3 Rev A;
167-1;
167a-1

Reason:- For the avoidance of doubt, in the interests of proper planning and in accordance with the National Planning Policy Framework.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Class(es) A, AA, B, C, D and E and/or Part 2 Class(es) A and C, other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason:- To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area as well as neighbour amenity and parking provision.

4. No construction works on any new building shall be carried out above the ground floor slab level until samples/details of the types and colours of the render, dormer cheeks, dormer gables and hard surfaces including block paving, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approve details, completed in full prior to first occupation and retained for the lifetime of the development.

Reason:- To ensure that the external appearance of the development is satisfactory.

5. Prior to their construction, details of all eaves and verges shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details, be completed before first occupation of the dwelling and retained for the lifetime of the development.

Reason:- In the interests of good design.

6. Prior to their insertion, joinery details of all external windows and doors shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details, completed prior to first occupation and retained for the lifetime of the development.

Reason:- In the interests of good design.

7. Prior to their construction, details of the heights of all retaining walls including their construction materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in full accordance with the approved details prior to first use of the development.

Reason:- In the interests of visual amenity/design and for the avoidance of doubt.

8 All works shall be carried out in accordance with the approved details set out in the Construction Management Plan. Any alteration to this Plan shall be approved in writing by the Local Planning Authority prior to commencement of the alteration.

Reason: To protect the amenities of the area.

9 No development approved by this planning permission shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, property (existing or proposed including buildings, crops, livestock, pets, woodland, service lines and pipes; buildings), adjoining land and ground and surface waters, has been submitted to and approved in writing by the Local Planning Authority. The scheme must include:

a. A further site investigation, based on the information already provided to support a detailed assessment of risks to all receptors that may be affected, including those off site.

b. The results of the site investigation and the detailed risk assessment referred to in (a) and, based on these, an options appraisal and a remediation strategy giving full details of remediation objectives and remediation criteria

c. A validation plan providing details of the data that will be collected in order to demonstrate that the all works set out in (a) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

d. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

10 Prior to bringing the development into first use, a validation report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved validation plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the validation plan, and for the reporting of this to the Local Planning Authority.

Reason:- To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

11. No soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material should be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing by the Local Planning Authority.

Reason:- To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

12. Details of any/all external lighting to be installed at the site shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and the works shall be carried out in full accordance with the agreed details and retained for the lifetime of the development.

Reason:- To protect the local amenities of the local residents by reason of excess of illuminance.

13. The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been widened to 4.2m and reconstructed in accordance with approved drawing 144-2 Rev B.

Reason:- In the interests of highway safety.

14. The development hereby permitted shall not be brought into use until details of a surface water drainage interceptor, connected to a surface water outfall, located to prevent surface

water flowing ultimately onto the highway, have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall thereafter be constructed in accordance with the approved details prior to the development being first brought into use and retained for the lifetime of the development.

Reason:- To prevent surface water from the proposed increased surfaced areas, flowing ultimately onto the highway.

15. The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with the approved plan 144-2 Rev B. The parking and turning areas shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason:- In the interests of highways safety.

16. Prior to first occupation of the development hereby permitted, a comprehensive landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall in particular provide for the establishment of a buffer planting area to the northern boundary as broadly indicated on the layout plan hereby approved, comprising of mixed native shrub and scrub species including suitable native trees, or a new mixed native species hedgerow along this northern boundary also incorporating some suitable native hedgerow standard trees. The landscaping scheme so submitted shall include full details of all new trees, shrubs and any other planting, giving specification for species, positions, planting sizes and numbers/densities of all new planting. The landscaping scheme so approved shall be fully implemented before the end of the first available dormant season (November to February inclusive) following completion of the development hereby approved. The trees and shrubs planted in accordance with this landscaping scheme shall be properly maintained for a period of 5 years following planting. Any plants which within this period are damaged, become diseased, die, are removed or otherwise fail to establish shall be replaced during the next suitable season.

Reason:- in the interests of biodiversity.

17. Prior to first use of the development hereby approved, bat, bird and insect boxes details shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the types of boxes to be used and the proposed locations within the site. The development shall then be carried out in full accordance with the approved details and completed prior to first use of the dwelling hereby approved.

Reason:- In the interests of biodiversity enhancement.

18. Any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment.

Reason:- To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

Informatives

1. The attention of the developer should be drawn to the existence and location of the footpath and to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path. If the path does need diverting as part of these proposals the developer would need to apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence.
2. The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the right of way or its closure or diversion. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09). It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development. The surface of the footpath must be kept in a state of repair such that the public right to use it can be exercised safely and at all times. Heavy vehicular use can cause the way to become unsuitable for use and in some instances dangerous. Some attention needs to be drawn to this and that surface works may be required.
3. The County Council states it has not received any application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.
4. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: www.gov.uk/government/publications/buildingonorwithintheinfluencingdistanceofmineentries Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Coal Authority Permit. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain a Coal Authority Permit for such activities is trespass, with the potential for court action. Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com or a similar service provider. If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is available on the Coal Authority website at: www.gov.uk/government/organisations/thecoal-authority
5. Should the dropped crossing to the site need to be extended, please note that prior to the access being widened you require Section 184 Notice of Approval from Staffordshire County Council. The link below provides a further link to 'vehicle dropped crossings' which includes a 'vehicle dropped crossing information pack' and an application form for a dropped crossing. Please complete and send to the address indicated on the application form which is Staffordshire County Council at Network Management Unit, Staffordshire Place 1, Wedgwood Building, Tipping Street, STAFFORD, Staffordshire, ST16 2DH. (or email to nmu@staffordshire.gov.uk) <http://www.staffordshire.gov.uk/transport/staffshighways/licences/>

6. Should any deliveries require use of the highway, traffic management may be required. See www.staffordshire.gov.uk/Highways/licences/Overview.aspx for details.
7. Please be aware that the responsibility for safe development and secure occupancy of the site rests with the developer.
- Any approved noise scheme and measurements should pay due regard to British Standard BS8233: Sound insulation and noise reduction for buildings (Code of Practice) and the Building Regulations 2010 Document E or other appropriate guidance.
 - Advice on controlling flies and light can be found in: Statutory Nuisance from Insects and Artificial Light (Defra 2005) available as a free download <http://archive.defra.gov.uk/environment/quality/local/legislation/cnea/documents/statnuisance.pdf>
 - During any demolition and construction activities (including landscaping) the contractor should take all reasonable steps to prevent dust formation and prevent any dust formed from leaving the site boundary.
 - The control of dust and emissions from construction and demolition Best Practice Guidance, produced by the greater London councils <http://www.london.gov.uk/sites/default/files/BPGcontrolofdustandemissions.pdf>
 - Building Research Establishment Guidance Document 'Control of Dust from Construction and Demolition Activities' (BR456)
 - If required, Contamination risk assessments shall be carried out in accordance with UK policy the Land contamination risk management framework (LCRM), published by the Environment Agency <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>
 - Submission of reports should also be made to the Environment Agency for comment with regard to their remit to protect ground and surface waters from pollution and their obligations relating to contaminated land.
 - The Local Planning Authority will determine the acceptability of reports on the basis of the information made available to it. Please be aware that should a risk of harm from contamination remain post development, where the applicant had prior knowledge of the contamination, the applicant is likely to be liable under Part II (a) of the Environmental Protection Act 1990 and as such become an "appropriate person". In this event the applicant will be lawfully responsible to remove the risk posed by the contamination.
 - Equally if during any site works a pathway for any contaminant on site is created and humans, waters, property or ecological systems are exposed to this, the applicant or those acting on behalf of the applicant will be liable under part II (a) of the Environmental Protection Act 1990 if the risks are not adequately addressed during the site redevelopment.
 - During investigation and remediation works the applicant and those acting on behalf of the applicant must ensure that site workers, public property and the environment are protected against noise, dust, odour and fumes.

- The applicant is advised that should there be a requirement as part of the Remediation Strategy to treat, reuse or remove contaminated material on the site, the Environment Agency must be consulted, as these activities may need to be licensed or permitted. Contaminated materials identified for removal off site must be disposed of in an appropriately licensed landfill site.

- Staffordshire Moorlands District Council is keen to liaise with all stakeholders involved in this application. As such, we recommend that a proposed scope of works is forwarded to the Environmental Protection Department and agreed in principle prior to site investigation works being undertaken. The Environmental Protection Department is also prepared to review draft copies of reports prior to final submission to the Planning Department in order to ensure that works undertaken are sufficient to discharge the contaminated land conditions.

8. Severn Trent Water advise that there may be a public sewer located within the application site and state that although their statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

9. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Severn Trent state that every approach to build near to or divert their assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact Severn Trent at the earliest opportunity to discuss the implications of any of their assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.