

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL  
PLANNING APPLICATIONS COMMITTEE**

**27 September 2018**

<b>Application No:</b>	SMD/2018/0110	
<b>Location</b>	West Winds, Cheddleton Road, Leek	
<b>Proposal</b>	Outline application for the change of use of rear garden areas to 2no. residential building plots with new access	
<b>Applicant</b>	Mr and Mrs Beardmore	
<b>Agent</b>	RLM Associates	
<b>Parish/ward</b>	Leek / Leek East	<b>Date registered</b> 16 <sup>th</sup> Feb 2018
<b>If you have a question about this report please contact:</b> Arne Swithenbank tel: 01538 395578 or e-mail <a href="mailto:arne.swithenbank@staffsmoorlands.gov.uk">arne.swithenbank@staffsmoorlands.gov.uk</a>		

## **REFERRAL**

The application is referred to Committee due to the amount of local interest and because an SMDC employee lives adjacent.

### **1. SUMMARY OF RECOMMENDATION**

Approve
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### **2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

2.1 The site is within the town development boundary and comprises the combined rear gardens of two existing detached dwellings, West Winds and Blue Ridge, which front on to a private lane parallel to Cheddleton Road. The rear gardens climb with a pronounced slope for a distance of c.100m east of the existing dwellings. The combined width of the two gardens forming the plot is between 25m and 30m. Two detached dwellings at the head of the cul de sac known as Birchall Park Avenue border the site on its south side. A detached dwelling known as Foxdale borders the plot to its north side (eastern end) along with the rear garden of Boundary House (western end). Rural field land outside of the town development boundary borders the garden edges to the east.

### **3. DESCRIPTION OF THE PROPOSAL**

3.1 This is an application for outline planning consent. As first submitted the proposal was for three units along with details of access with all other matters

reserved. Following initial consultation and officer assessment this has been amended to a proposal, again in outline, for two units along with details of access with all other matters reserved.

- 3.2 The application, the details attached to it, including the plans, comments made by residents and the responses of consultees can be found on the Council's website at:-

<http://publicaccess.staffs Moorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=121060>

#### **4. RELEVANT PLANNING HISTORY**

- 4.1 None

#### **5. PLANNING POLICIES RELEVANT TO THE DECISION**

- 5.1 The development plan comprises the adopted Staffordshire Moorlands Core Strategy Development Plan Document (26th March 2014) and supporting evidence documents.

Core Strategy Development Plan (Adopted 26th March 2014),

SS1	Development Principles
SS1a	Presumption in favour of sustainable development
SS5a	Leek Area Strategy
H1	New Housing Development
DC1	Design Considerations
DC2	Historic Environment
DC3	Landscape and Settlement Setting

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG

Core Strategy Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

National Planning Policy Framework (NPPF) July 2018

Paragraphs	1 – 14
Section 5	Delivering a sufficient supply of homes
Section 8	Promoting healthy and safe communities
Section 9	Promoting sustainable transport
Section 11	Making effective use of land
Section 12	Achieving Well designed places

- 5.2 Emerging policies of the Staffordshire Moorlands Local Plan submission version (February 2018) considered relevant to this application:

SS1	Development Principles
SS1a	Presumption in favour of Sustainable Development

SS5	Leek Area Strategy
H1	New Housing Development
DC1	Design Considerations
DC2	The Historic Environment
DC3	Landscape and Settlement Setting
T1	Sustainable Transport

## 6. CONSULTATIONS CARRIED OUT

- 6.1 Site notice posted 20<sup>th</sup> March 2018 – expired 10<sup>th</sup> April 2018
- 6.2 Press advertisement published 1<sup>st</sup> March 2018 – expired 22<sup>nd</sup> March 2018
- 6.3 Neighbours notified 21<sup>st</sup> February 2018 – expired 14<sup>th</sup> March 2018
- 6.4 New neighbour consultation 17<sup>th</sup> July 2018 – expired 7<sup>th</sup> August 2018

### Public Comments

Objections have been received from the residents of eight adjacent / neighbouring households. Objections were generally sustained in response to a second consultation when the plans were amended to propose two dwellings rather than three.

A primary concern of most or all of the respondents would be the development's reliance on the use of the private access road in order to connect with the public road. The private lane is considered not to have the capacity in terms of width and surface structure to support the additional development. Several respondents assert that the applicants do not have the legal rights to use the private lane for additional residences. Ownership of the lane is divided into sections with each of the existing houses owning the section in front of them. All the properties have the right to use the whole lane for their access.

Objectors variously refer also to:

- Narrowness of the access which would need to be formed between the two existing dwellings of the application site and question whether suitable for bin lorries and emergency vehicles;
- Proximity of the new dwellings to existing houses;
- Concern that windows in some elevations would be especially problematic;
- That in the case of Foxdale, the eastern unit A would be overbearing due to its height as a two storey dwelling on a high point of the site [NB Indicative detail only];
- That in the case of Boundary House unit B would overlook unacceptably [NB again, indicative detail only];
- Loss of wildlife and habitat;
- Loss of badger feeding area;
- The new dwellings will bring wear and tear to the private access but may not be obliged to contribute to its maintenance.

### Parish / Town Council

Leek Town Council – response to initial proposal for three units: recommended for refusal as being over-development.

### **SMDC Conservation Officer**

A Listed 'boundary stone' stands by the edge of the main road to the west of the application site. This would not however be affected by the proposal.

**Severn Trent Water** – As the proposal would have minimal impact on the public sewerage system, no objection and no requirement for a drainage condition to be attached. There may be a public sewer located within the application site. Although the statutory sewer records do not show any public sewers within the area 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.

### **SCC Highways**

No objections subject to 5 recommended conditions. Also comments that the red line does not connect to the public highway. A revised drawing may be appropriate as works are required to re-construct part of the access track at each end adjacent to the highway. This is outside the red line and is not highway land, but it is fundamental to the access of the development. (NB a revised drawing has been submitted.)

As access is over a private track, the agreement of the owner/s of the track will be required. The developer should ensure they have appropriate rights and permissions to carry out the development and should ensure rights of access are conferred on future owners of the properties.

A condition has been recommended for the re-construction of the access track for 10m at each end to ensure a safe exit from and access to the highway. The rest of the access track would benefit from maintenance. The visibility splay referred to above is recommended to improve safety at the northern access. The existing tree is not required to be removed but vegetation on the embankment is overhanging the verge and should be cut back for the benefit of all users of the access.

### **SCC Minerals and Waste Authority**

No comments to make.

## **7. POLICY AND MATERIAL CONSIDERATIONS / PLANNING BALANCE**

### **Policy Context**

- 7.1 The Local Planning Authority is required to determine planning applications in accordance with the Development Plan unless there are material circumstances which indicate otherwise. In this case the Development Plan for the Staffordshire Moorlands District Council consists of the Adopted Staffordshire Moorlands Core Strategy Development Plan Document (March 2014) with regard also being given to the provisions of the National Planning Policy Framework (NPPF) revised July 2018; the Council's adopted

Supplementary Planning Guidance documents: 'Space About Dwellings' and 'Design Principles' and the Council's Core Strategy Supporting Evidence Document: Landscape and Settlement Character Assessment (2008); also, The Staffordshire Moorlands Design Guide Supplementary Planning Document (SPD) adopted 21<sup>st</sup> February 2018. Development boundary mapping remains for the present time as approved under the Staffordshire Moorlands Local Plan (September 1998).

- 7.2 With the Council's emerging Local Plan now having reached submission stage (February 2018) a degree of weight should be given to the revised policies it contains in accordance with criteria set out in the NPPF at paragraph 48 as follows:
- The more advanced the plan is in preparation the more weight may be given. Having been submitted to the Secretary of State for examination the stage of plan preparation can be considered advanced;
  - The extent to which there are unresolved objections however will temper the weight which can be given to individual policies;
  - Consistency with the NPPF: the Council considers all the policies to be sound and fully consistent with the NPPF.

### **Principle of Development and Main Issues**

- 7.3 Being within the Town Development Boundary development is considered in principle to be acceptable.
- 7.4 The key considerations are means of access and capacity of the site to accommodate two dwellings with appropriate standards of amenity both for the new development and for existing neighbours. It is also relevant to consider the possible wider impacts of the development on landscape and such matters as ecology.
- 7.5 The concerns raised by neighbours about the legal rights or otherwise for two further properties to use the private access lane are civil matters to be resolved irrespective of any planning consent. The LPA can be satisfied that the lane would be suitable and sufficient in planning terms – subject to the conditions recommended by the Highways Authority.
- 7.6 Subject to conditions the proposed means of access would be acceptable to the Highways Authority. In the revised plans a 4m wide private access road is shown between the two extant dwellings to serve the two proposed dwellings. The proximity of this road to the side elevations of West Winds and Blue Ridge has been considered. It is noted that the elements of the dwellings closest to the proposed road both comprise a single storey elevation providing garage accommodation with additionally in the case of West Winds some single storey utility accommodation to the back. Given that the road would be to serve not more than two dwellings and noting the specific layouts of the two dwellings it is considered that the proposed access would not be problematic to the amenities of the existing houses. In an allowed appeal for a development of 22 dwellings at Saltersford Lane, Alton (SMD/2015/0435), the Inspector concluded that a

single track access would pass to within 1m of the gable end of one extant dwelling and was considered acceptable. The current proposal is of much lesser scale and the side garages give some additional protection to buffer the main living accommodation from the impacts of passing traffic.

- 7.7 There would be some loss of side garden space to both existing houses and their front driveway access would need to be modified but they would overall retain adequate outside space significantly above the minimum standards of the Council's Space About Dwellings requirements. This remains the case taking account also of the land which would be taken for the two proposed new plots. These in turn are shown by the indicative drawings to have the potential for large garden areas again significantly above the minimum standards.
- 7.8 In terms of the impacts on existing adjacent properties and whether appropriate space about dwellings is achievable, again the indicative drawing shows that satisfactory separation distances are possible. The Council's adopted guidance is that a minimum separation of 22m should be provided between principal windows. Other factors also need to be taken into account such as, in the case here, the markedly sloping site where a higher level building could be overbearing on the one below and greater separation may be required. The indicative plan shows 26m between the two proposed units. Some 40m separates Boundary House from the nearest of the two proposed units. The occupiers of Foxdale which is a bungalow have raised concern about the higher elevation (eastern-most) plot. This is indicated as a two storey dwelling but whether or not this is acceptable will be a reserved matters consideration. The main outlook would not be towards Foxdale and the issue is one of whether or not two storeys may be overbearing. If found necessary a single storey building could be adopted.

### **Landscape and surroundings**

- 7.9 The indicative drawing suggests that a layout consistent with the established pattern of the neighbouring and surrounding existing development would be readily achieved. There was concern that three units as first proposed would have pushed the upper eastern-most dwelling into an intrusively prominent position. The revised indicative layout avoids this by keeping a closer alignment with existing development.

### **Other Matters**

- 7.10 No significant further issues have been identified. The existing nature of the land is mown lawn. It would though be appropriate to add safeguarding conditions and / or advisory notes regarding wildlife such as nesting birds and the potential for badgers to be present.

## Conclusion and Planning Balance

- 7.11 Being within the development boundary development is acceptable in principle. Being acceptable in terms of highways and it being confirmed by the submission of the indicative plan that appropriate space about dwellings and relationship to adjacent properties is achievable and there being no other fundamental concerns the application is recommended for approval.
- 7.12 The NPPF says at paragraph 11, footnote 7 that where a five year supply of deliverable housing sites can not be demonstrated, policies which are most relevant for determining the application and are out of date, in these circumstances planning permission must be granted unless the any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The Council's current housing supply is 1.99 years. In this case, in the absence of any harm to the character of the locality and residential amenity, it is considered that the development would provide a modest contribution towards the Council housing land supply.

## 8. RECOMMENDATION

### 8.1 Approve subject to the following conditions

1. Details of the layout (including driveways), appearance, landscaping, boundary structures and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

**Reason:** The application is an outline application under the provisions of Section 5 of Part 3 of the Town and Country Planning Act (General Permitted Development Procedure) Order 2015 and no particulars have been submitted with respect to the matters reserved in the permission.

2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

**Reason:** To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

**Reason:** To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

4. The development hereby permitted shall be carried out in accordance with Drawing Number RLM865/5 rev B and RLM865/6 rev F insofar as these show the boundary of the development site and its access route from the public highway.

**Reason:** To ensure that the development is carried out in accordance with the approved plans, for clarity and the avoidance of doubt.

5. No development hereby approved shall be commenced until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- Provision of adequate parking, turning and servicing within the site curtilage;
- Means of surface water drainage including interceptor located on the boundary with the existing access track, connected to a surface water outfall;

- Surfacing materials;

The development shall thereafter be implemented in accordance with the approved details prior to the development being first brought into use and be maintained for the life of the development.

**Reason:** To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety and to define the extent of the highway.

6. The development hereby permitted shall not be commenced until details of the reconstruction of the existing access track from the A520 Cheddleton Road at the north end and Birchall Park Avenue at the south end for a minimum distance of 10m rear of the existing channel line at each end have been submitted to and approved in writing by the Local Planning Authority. The accesses shall thereafter be reconstructed in accordance with the approved details before the proposed development is brought into use.

**Reason:** To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety and to define the extent of the highway.

7. The development hereby permitted shall not be commenced until details of the 2.4mx120m visibility splay at the northern access point looking to the south (but excluding the tree) have been submitted to and approved in writing by the Local Planning Authority. The visibility splay shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level and be provided in accordance with the approved plan prior to the development being brought into use.

**Reason:** To comply with NPPF Paragraph 32; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety and to define the extent of the highway.

8. Prior to the commencement of any site work whatsoever including site clearance and worker establishment a survey of the site and immediate environs shall be undertaken by an ecologically qualified person suitably experienced in surveying for badgers in relation to development proposals in order to ascertain if there is any badger activity on the site or within such proximity that could be affected by the proposals. The survey shall be undertaken within six months prior to any site work commencing (including clearance and site establishment) and the survey results shall be submitted and approved in writing by the Local Planning Authority and shall include any further mitigation measures found necessary as a result of the survey. Development including site establishment and site clearance shall then only proceed in accordance with the approved mitigation.

**Reason:** To ensure appropriate safeguard for protected species

9. The reserved matters application shall be accompanied by details of the existing and proposed levels across the site and relative to adjoining land, together with the finished floor levels of the proposed buildings. The development shall be implemented in accordance with the levels details as subsequently approved in writing by the Local Planning Authority. There shall be no variation in these levels without the written approval of the Local Planning Authority.

**Reason:** In order to ensure the satisfactory appearance of the development and its appropriate relationship to the site and adjoining land.

10. All noisy activities shall be restricted to the following times of operations.

- 08:00 - 18:00 hours (Monday to Friday);
- 08:00 - 13:00 hours (Saturday)
- No working is permitted on Sundays or Bank Holidays.

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

**Reason:** To avoid the risk of disturbance to neighbouring dwellings from noise during anti-social hours.

11. In the event that contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. Development shall not commence further until an initial investigation and risk assessment has been completed in accordance with a scheme to be agreed in writing by the Local Planning Authority to assess the nature and extent of any contamination on the site. If the initial site risk assessment indicates that potential risks exist to any identified receptors, development shall not commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property, and the natural and historical environment has been prepared, and approved in writing by the local planning authority. Following completion of measures identified in the approved remediation scheme and prior to bringing the development into first use, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and approved in writing by the Local Planning Authority.

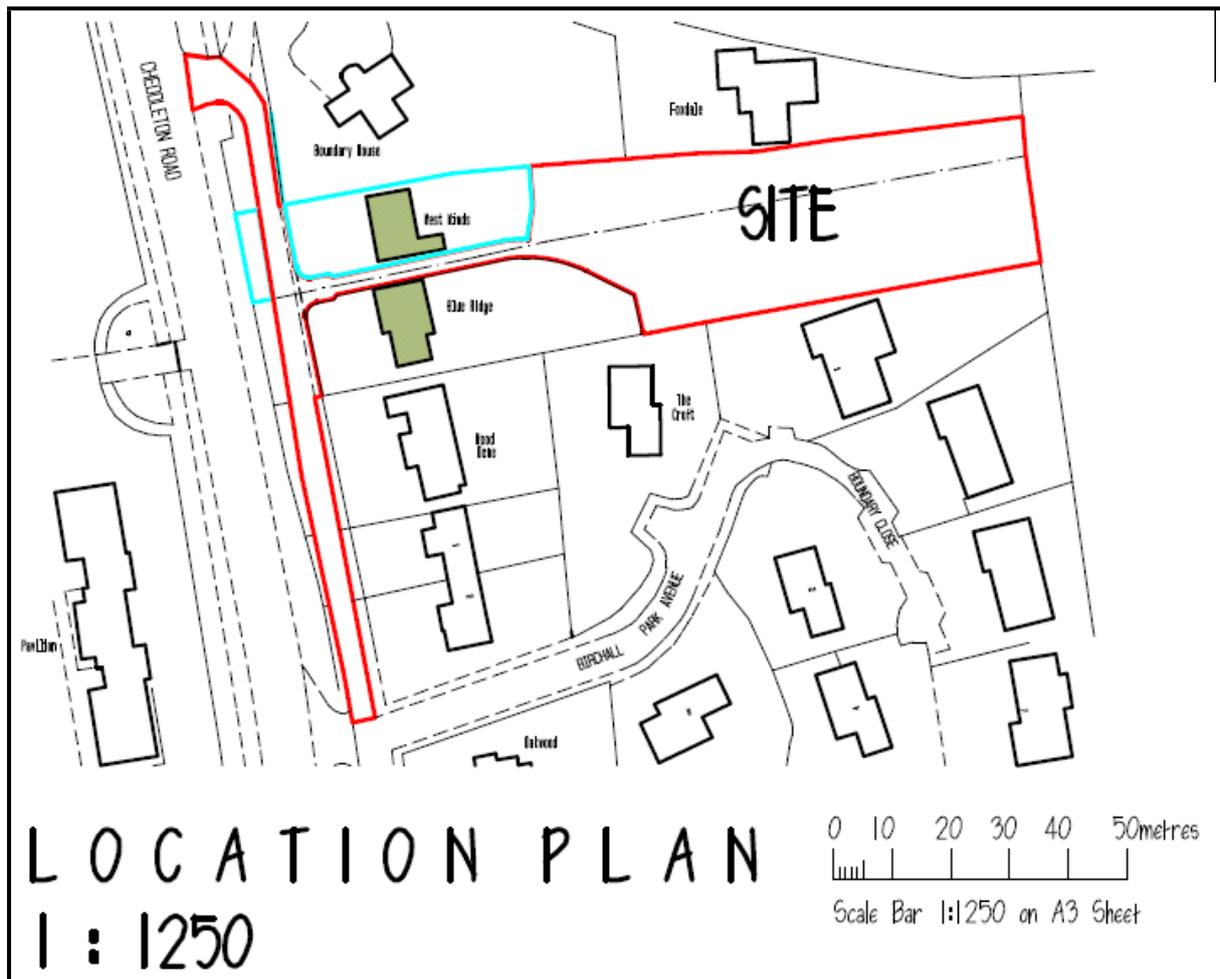
**Reason:** To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Operations Manager - Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**

**This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with **Paragraph 187** of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.**

## 9. APPENDICES TO THE REPORT

### 9.1 Location (1:1250 at A3)



## 9.2 – Indicative layout (1:200 at A1)

