

The application is for full planning permission for the erection of 8, three bedroom, 2 ½ storey dwellings on a site measuring 1,642sq.m. The proposed dwellings front onto Brampton Road, with a central block of 4 dwellings flanked either side by a pair of semi-detached dwellings. Vehicular access is proposed at the rear, off Oxhay View. A total of 12 parking spaces are proposed off a private drive.

The site is located within the urban area and the Urban neighbourhood of Newcastle as defined by the Local Development Framework Proposals Map. A tree within the development site is the subject of a Tree Preservation Order.

**The 8 week period for the determination of this application expired on the 10<sup>th</sup> April 2014.**

**RECOMMENDATION**

**Refusal on the following grounds:-**

- 1. The form and design of the development is inappropriate in the context of its surroundings and fails to take advantage of the opportunities available to improve the image of the area.**
- 2. There is insufficient information to demonstrate the development would not lead to unnecessary tree loss which would have a negative impact on the appearance of the area.**
- 3. The development provides insufficient private rear garden space.**
- 4. In addition, in the absence of an obligation the development fails to make an appropriate contribution towards primary school provision having regard to the likely additional pupils arising from the development.**

**Reason for Recommendation**

The development is of an inappropriate design and form and does not take advantage of the opportunities available to improve the appearance of the area. Insufficient information has been submitted that demonstrates that further tree loss (additional to the loss of the protected tree which can be removed due to its poor condition) will occur which will further adversely affect the appearance of the area. The proposal provides extremely limited rear garden size, of an inadequate size for the family accommodation that is proposed. In addition, in the absence of an obligation the development fails to make an appropriate contribution towards primary school provision having regard to the likely additional pupils arising from the development. Such factors demonstrably outweigh the benefits of the development – in particular the provision of housing on a previously developed site, in the context of the Council's inability to demonstrate an up to date 5 year housing supply, in a sustainable location very close to the Town Centre.

**Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

Concerns in relation to the scheme have been raised with the applicant's agent during the application process however it is considered that any amendments necessary to address such concerns would have to be the subject of a separate planning application. The development is not, therefore, considered a sustainable form of development and complies with the aims and objectives of the National Planning Policy Framework.

**Policies and Proposals in the Approved Development Plan relevant to the decision:-**

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

Policy SP1: Spatial Principles of Targeted Regeneration

Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets  
Policy CSP10: Planning Obligations

#### Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy N2: Development and Nature Conservation – Site Surveys  
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures  
Policy N12: Development and the Protection of Trees  
Policy N13: Felling and Pruning of Trees  
Policy N17: Landscape Character – General Considerations  
Policy T16: Development – General Parking Requirements  
Policy T18: Development – Servicing Requirements  
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

#### Other Material Considerations

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

#### Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Space Around Dwellings SPG (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document (2010)

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2008/09

#### Relevant Planning History

07/00472/OUT	Permit	Demolition of existing 3 storey block of 24 flats and erection of replacement residential block to accommodate 28 apartments and associated car parking
07/00037/OUT	Refuse	Demolition of existing 3 storey block of 24 flats and erection of replacement 3/4 storey block to accommodate 30 apartments

#### Views of Consultees

The **County Education Authority** comments that the development could add 1 high school and 2 primary school pupils to the catchment area. Wolstanton High School is projected to have sufficient space to accommodate the likely demand however a contribution is requested toward Primary School provision. An education contribution for 2 primary spaces at £11,031 each gives a total of £22,062.

The **Environmental Health Division** has no objections subject to conditions relating to:

1. Contaminated land remediation.
2. Construction hours.

3. Prior approval and implementation of a construction management plan.
4. Protection of the public highway from debris.
5. Dust mitigation measures during construction.
6. Internal noise levels.

The **Highway Authority** has no objections subject to conditions relating to:

1. Provision of access, parking and turning areas in accordance with the submitted details.
2. Provision of double yellow line parking restrictions.

They also advise that in order to mitigate the effect of the proposed development on the highway network, the developer should be required to contribute a sum of £5,000 towards the measures contained in the Newcastle-under-Lyme Transport and Development Strategy (NTADS). They advise that the level of parking is acceptable due to the sites sustainable location and proximity of bus stops. In addition they advise that the provision of double yellow lines requires a desirable Traffic Regulation Order which will be made by the County Council at the developer's expense.

The **Landscape Development Section** does not object to the removal of a protected tree due to its condition provided that an appropriate replacement tree to compensate for the loss is secured. However as information that has been requested has not been provided it is not in a position to confirm that the development can be building in the position shown without causing harm to retained trees. It also suggests that the position of the units could be adjusted to accommodate tree planting along the frontage and the prior approval of landscaping details should be the condition of any approval.

### **Representations**

2 letters of representation have been received making the following comments;

- The design of the dwellings could be more in keeping with neighbouring properties within the area. The dwellings opposite and adjacent to the site are more diverse and individual which emphasises the solid monotony of the proposal.
- The proposal in principal is welcomed and more realistic and a better alternative than the previous application for flats.
- The site is an eyesore and its development would be a positive step.
- The off road parking proposed is insufficient for the family sized dwellings proposed.
- On street car parking in Oxhay View would severely restrict access for emergency vehicles and other service vehicles.
- Parking restrictions should be required on Brampton Road to prevent further interruptions to the flow of traffic.
- Consideration should be given to providing parking to the front of the houses.
- Levels are not shown on the submitted plans and how the changes of levels within the site are to be addressed within the street scene.
- The submitted plans do not show the true footprint of number 28 Brampton Road which has been extended.

### **Applicants/ Agents submission**

The requisite plans and application forms have been submitted along with a:

- Design and Access Statement.
- Tree Survey.
- Phase 1 Land Quality Assessment.

The submitted information is available at the Guildhall and at [www.newcastle-staffs.gov.uk/planning/VictoriaCourt](http://www.newcastle-staffs.gov.uk/planning/VictoriaCourt)

### **Key Issues**

The application is for the erection of 8, three bedroom dwellings. The layout submitted shows

4 of the dwellings forming a terrace and the remaining units are arranged as 2 pairs of semi-detached houses either side of the terrace. Each one of the houses measures 10.7 metres by 5 metres in footprint by 8 metres in maximum roof ridge height. The front and rear elevations proposed feature pitched roof dormer windows. The site has remained vacant for a number of years following demolition of the flats which once stood on the site.

The key issues to consider are:

1. Is the principle of residential development acceptable in this location?
2. Is the design of the proposal and the impact to the character of the area acceptable?
3. Would the resultant living conditions for neighbouring occupiers and future occupiers of the development be adequate?
4. Would the impact upon highway safety levels be acceptable?
5. The appropriateness of financial contributions requested, and the level of such contributions if appropriate?, and
6. Whether or not any adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Is the principle of residential development in this location acceptable?

Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provide access to services and service centres by foot, public transport and cycling. The CSS goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects and impacts positively on the growth of the locality.

The National Planning Policy Framework (NPPF) advises, at paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. At paragraph 14, the Framework also states that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole; or unless specific policies in the NPPF indicate development should be restricted.

The Borough Council is currently unable to demonstrate a five year supply of deliverable housing sites which triggers the provisions of paragraph 49 of the Framework and, on that account, paragraph 14.

The proposal makes use of previously developed land, involving a vacant site which was subject to previous outline planning permission for apartment's, in a sustainable location within a very short walking distance of the full complement of services offered within the Town Centre. Given that there are no policies of restraint within the NPPF that the proposal is in conflict with, there is a presumption in favour of this development unless any adverse impacts of the development significantly and demonstrably outweigh the benefits of the proposal. This will be assessed below.

Is the design of the proposal and the impact to the character of the area acceptable?

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development and is indivisible from good planning.

Policy CPS1 of the Core Strategy sets out how design quality is assessed which includes the need for new development to contribute positively to an areas identity and image. The

Councils Urban Design Supplementary Planning Document gives further detail of how the development should be assessed above the broad guidance contained within Policy CSP1.

In terms of existing surroundings immediately to the north of the site is The Victoria pub which is set back significantly from the highway and further to the north there is a line of terrace properties the majority of which are in commercial use fronting the High Street with flats opposite. The houses immediately opposite the site on Brampton Road and heading south towards the Brampton Conservation Area (which is approximately 350 metres away) have a markedly different character to the properties heading north. Closest to the site, existing dwellings are predominantly detached some with sections of mock Tudor wood cladding, situated within generous plots featuring large front gardens independent front driveways. The neighbouring semi-detached property to the south of the site also includes Tudor effect wood cladding. Trees are also a significant component of the prevailing character of the area travelling southwards from the Victoria pub. Trees and other front garden greenery provide a valuable contribution to the street scene. The site slopes downwards towards semi-detached properties within Oxhay View which are also very different in character to those on Brampton Road closest to the site which have a more spacious and attractive appearance. The pub although not listed is a building of considerable aesthetic value which also adds considerably to the attractiveness of the area.

The style and type of housing proposed is not in keeping with its immediate surroundings – paying particular regard to the properties on Brampton Road itself which the development would be viewed in the context of to the greatest extent compared to other public vantage points. The neighbouring semi-detached property to the south of the site (number 28) has been extended to include a pitched roof dormer window on its front elevation but there is no other architectural similarity when compared to the proposal. The rear of the site from the Oxhay View perspective would appear heavily engineered due the parking and circulation areas proposed also taking into account the need for boundary treatments for privacy.

It has been suggested by the Landscape Office that the development be modified to include larger front garden areas which can accommodate tree planting. Such provision would take advantage of opportunity available to improve the character of the area. There is no scope available to make such provision by working amendment taking into account the number of units proposed against other needs such as parking and rear garden area provision.

The style of architecture proposed fails to compliment the positive features of the area and terraced properties are not appropriate in this location. The form and character of the development applied for is considered to be out of keeping with other surrounding properties on Brampton Road and the limited scope for frontage tree planting and landscaping fails to take advantage of the opportunities available to contribute positively to the areas image.

Would there be any harm to visually significant trees and/or an unacceptable relationship with trees created, and if so would their potential loss be acceptable?

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design.

There are no objections to the removal of the protected tree within the site against the northern boundary due to its poor condition subject to an appropriate replacement. The other existing trees against the boundary are not protected but as a group do have amenity value within the street scene. The Landscape Development Section advise that there is insufficient information to conclude that the development would not harm these trees due to the unknown level changes and subsequent engineering approach required to build the car parking area and associated landscaping of the site. The applicant has not resolved these concerns through the submission of additional information. The potential damage caused to or removal of the existing trees is a significant concern and the view taken is that further tree loss would be harmful to the appearance of the area.

Would the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?

Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on privacy, daylight standards and environmental considerations. There are 3 main aspects of residential amenity to consider;

1. *The adequacy of private amenity space provision*

The SPG advises that houses of 3 bedrooms or more should provide a garden with a minimum mean length of 10.7 metres and an area of at least 65 square metres. The dwellings proposed have varying amounts of rear garden space – the most generous plots have a mean length of 10.8 metres and an area of under 52 square metres the least generous plots have a mean length of 6.6 metres and an area of less than 32 square metres. All of the dwellings proposed therefore have private garden areas significantly lower than the minimum standards designed for family occupation and given the size constraints of the site and the need for parking and shared turning areas there is no scope to increase the provision of garden space. The level of private amenity space provision proposed is considered to be unacceptable. In reaching this conclusion it is noted that the site is located in an area where dwellings, predominantly, have garden areas that exceed the standards.

2. *Is the impact to neighbouring residential amenity acceptable?*

The rear elevations of numbers 4 and 5 Oxhay View are overlooked by the development. The properties of Oxhay View are also situated at a much lower level than the existing levels of the application site. The SPG states that where principal windows do not overlook each other when development is angled a separation of 17 metres depending on height and topography of a site can be acceptable. The separation distance evident is around 26 metres measures at the closest point and the impact to surrounding occupiers living conditions is considered to be acceptable.

The proposed dwellings are sited broadly in line with the adjoining property on Brampton Road and do not contain any principal windows in the side elevation that would result in a material and unacceptable loss of privacy to that extended property.

3. *Would acceptable internal noise levels be achieved?*

Design measures required to achieve acceptable internal noise levels for future occupants of the houses can be secured taking into account road traffic noise arising from Brampton Road could be secured by planning condition.

Is the impact of the development on highway safety acceptable?

Policy T16 of the Local Plan states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on street parking or traffic problem. The maximum parking levels for a three bedroom property is 2 spaces, amounting to a maximum of 16 parking spaces. The proposal provides 12 parking spaces.

The site is in a highly sustainable location with good access to public transport and as such it is considered that the development would not, create or aggravate local on street parking or traffic problems and would accord with policy. The requirement of the Highway Authority, that a Traffic Regulation Order and the provision of double yellow lines along the Brampton Road frontage is considered appropriate to prevent on street parking which would otherwise result in an unacceptable interruption to the free flow of traffic on Brampton Road that can become very congested particularly during peak travelling times.

Subject to the conditions recommended by the Highway Authority the impact to highway safety is considered to be acceptable.

What financial contributions are appropriate for the proposal and is there a case to justify any contribution deemed necessary from being waived?

In considering whether financial contributions should be secured, the Council needs to have regard to the three tests set out in Section 122 of the CIL Regulations i.e. is any contribution necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

Highways and education provision and contributions are sought by the County Council.

*1. Highways*

The Highway Authority advises that a contribution of £5000 should be made towards the measures contained within the Newcastle under Lyme Transport and Development Strategy (NTADS). The strategy ended on the 3 April and it would not be appropriate to pursue such a contribution.

*2. Education provision*

Developments of 7 or more dwellings can be required to provide a financial contribution towards education provision supported by the Development Plan. The County Council as the Authority responsible for education have advised that it is appropriate to secure a contribution of £22,062 toward local primary school provision in accordance with Staffordshire County Council's adopted Education Planning Obligations Policy. The development entails family housing and it is reasonable to conclude that the development will have an impact on local school provision within the associated catchment area.

Pursuing sustainable development requires careful attention to viability and costs in decision taking. To ensure viability, the costs of any requirements likely to be applied to development should, when taking into account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and or willing developer to enable the development.

The applicant has expressed the view that the financial contribution required toward primary school provision would render the scheme unviable. Financial information has been submitted by the applicant's agent for the Authority to assess this claim. The information shows that the scheme under consideration would result in a loss of £73,410 without any of the Councils required contributions. This assertion is made based on the reported "purchase price" of the site. The site is not within the applicant's ownership.

Central to the consideration of viability is the assessment of the site value which is influenced by the amount and type of development which can be accommodated on it. It should therefore be acknowledged that outline planning permission has been granted previously for 28 apartments in 2007 with all matters of detail reserved for subsequent approval replacing the 24 flats which then stood on the site. A reserved matters application was never pursued and the site has been vacant for a number of years. The site is believed to be in the same ownership as it was in 2007. The scheme now under consideration has never before this point been assessed formally as a realistic development opportunity and any financial contributions that are deemed to be appropriate for a development to comply with policy will have a significant impact on the subsequent site value. Furthermore there is no information submitted showing the site has been sold in the interim. In any event national planning guidance makes clear that transacted bids above the market norm should not be used in the exercise.

Acknowledging the flexible and pragmatic approach that should be taken in the determination of viability matters your officers do not advise that there is a convincing case evident to warrant waiving the contribution sought toward local primary school provision deemed to be necessary.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

In conclusion, the adverse impacts of the development which are primarily linked to the failure to take advantage of the opportunities available to improve the appearance of the area, the potential for significant tree loss, the resultant amenity standards, the insufficient amount of private amenity space provided, and the absence of an obligation securing a financial contribution towards public open space provision outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

**Background Papers**

Planning File  
Planning Documents referred to

**Date Report Prepared**

22 April 2014.