

**APPEAL BY ASPIRE HOUSING AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR THE CONSTRUCTION OF 4 NEW 2 BED 4 PERSON SEMI-DETACHED HOUSES AND 1 NEW 3 BED 5 PERSON DETACHED HOUSE AT LAND ADJOINING 86 BUCKMASTER AVENUE, NEWCASTLE**

<b><u>Application Number</u></b>	<b>14/00765/FUL</b>
<b><u>LPA's Decision</u></b>	<b>Refused by delegated authority on 26<sup>th</sup> November 2014</b>
<b><u>Appeal Decision</u></b>	<b>Dismissed</b>
<b><u>Date of Appeal Decision</u></b>	<b>1<sup>st</sup> October 2015</b>

The Inspector considered the main issue in this appeal to be the effect of the development proposed on the character and appearance of the area, with particular regard to a protected Lime tree on the appeal site.

In dismissing the appeal the Inspector made the following comments:

- Buckmaster Avenue is lined by mature trees along much of its length. The trees have a considerable visual presence in the streetscene due to their height, spread and structure. The character of the area is therefore defined by the presence of these trees along the highway,
- The Lime tree is an attractive specimen, in a prominent visual position and it makes a highly positive contribution to the character of the area as a result.
- The appellant's tree report dated October 2013 concluded that the Lime tree was in good physical condition but had some included bark present in the main forks which should be monitored. It was classified as a moderate quality tree with an estimated remaining contribution of between 20 and 40 years,
- However, the appellant's subsequent tree report, dated June 2014, concluded that the tree had a fairly limited life and will require removal in the not too distant future. This recommendation was on the basis of two structural defects and specifically some 'reaction wood' around the main fork.
- In the intervening period, a major storm had occurred in February 2014. However, the Council undertook an inspection of the tree and observed that it had survived unscathed. Furthermore, as noted by the Council, the presence of reactionary wood is a fairly typical feature of Lime trees as they mature.
- The defects observed during the appellant's 2014 inspection were also recorded during the 2013 inspection and the Council's 2014 inspection and were not found to have caused concern such that they would unduly limit the longevity of the tree nor cause an unacceptable risk of it failing.
- Accordingly, on balance it is considered that the Lime tree does have sufficient safe and useful life expectancy such that it is likely to continue to make a highly positive contribution to the character and appearance of the area. The proposed removal of the tree would therefore result in significant harm occurring as a result.
- It is concluded that the development proposed would be harmful to the character and appearance of the area, with particular regard to the protected Lime tree.
- As the Council is currently unable to demonstrate a five year supply of housing land, the provisions of the National Planning Policy Framework (Framework) are engaged and the presumption in favour of sustainable development therefore applies (paragraph 49).
- There are several factors which do weigh in favour of the development, including the need to provide additional housing in the local area. A proportion of the dwellings proposed would remain in the ownership of the appellant, who is a social housing provider, and would be available to rent and some would be offered for shared ownership. The proposal would therefore result in additional affordable housing units being provided and this weighs in favour of the proposal.
- The site is in a sustainable location and would see the development of a partly previously developed site. These are also positive benefits which weigh in favour of the appeal scheme.

- The proposal would also bring some limited economic benefits.
- The scale, appearance, density and space about the proposed dwellings would be acceptable and the proposal would not be harmful to the living conditions of neighbouring occupants. Safe and suitable access could be achieved.
- There are several positive factors which weigh in favour of the proposal however the loss of the Lime tree would be a significant disadvantage that weighs against the appeal scheme.
- Accordingly, it is concluded that in this case, the sustainability benefits do not outweigh the harm that would be a consequence of the development proposed. Whilst it is acknowledged that the proposal would comply with some elements of local and national policy, it would be contrary to policy N12 of the Local Plan and, as a consequence, would conflict with the development plan overall.

### **Recommendation**

That the decision be noted.