

LAND OF HIGHFIELDS COURT, CLAYTON ROAD
DAVID MORREY (HUME UPRIGHT)

16/00943/FUL

The application is for 3 new detached dwellings on site which is presently woodland. The entire site is approximately 0.8 hectares in size.

The application site lies within the Urban Neighbourhood Area of Newcastle as specified on the Local Development Framework Proposals Map. The woodland is subject to a Tree Preservation Order (no. 21)

The application has been called in to Committee by two Councillors due to public concerns about the development.

The 8week period for the determination of this application expires on the 26 June 2017 but the applicant has agreed an extension of time to the statutory determination period to the 24^h July 2017.

RECOMMENDATION

REFUSE for the following reasons:-

- 1. It has not been demonstrated that the proposed development can be constructed without harm to or the loss of visually significant trees and that satisfactory living conditions can be provided for the occupants of the development without the pruning or felling of trees which would be harmful to the undeveloped, unspoiled attractive wooded character of the site contrary to policy.**
- 2. The site has been identified as having high ecological value and it has not been demonstrated, through appropriate survey and assessment of the impact and the mitigation measures necessary to minimise such impact, that such value will not be unacceptably eroded.**

Reason for Recommendation

The site is attractive local woodland and a haven for wildlife. Allowing development in this particular location would be harmful to the attractiveness of the wooded setting through the pruning or felling of trees as a result of the construction of the development or arising from future pressure due to the restricted light and unwanted algal growth and leaf fall arising from such trees. In addition it has not been demonstrated that the development will not adversely affect the current high ecological value of the site. All of these factors outweigh any benefits of allowing housing in this particular location.

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

The concerns to the development appear to be unresolvable and therefore the appropriate course of action is to refuse planning permission.

Key Issues

The site is located within the urban area of Clayton close to the Town Centre within walking distance of the public transport provision and the full range of services on offer. The site is presently undeveloped woodland.

The proposal involves the construction 3 large detached dwellings. The footprint of each of the dwellings proposed is approximately 18 metres by 14.5 metres. The height of the properties each range from around 8 metres to 10 metres in overall height taking into account

changes in levels within the site. A new internal access road extending from Highfield Court is proposed to serve the development.

Planning permission was refused for a single dwelling on the site in 2006 under application reference 05/01005/FUL on the grounds that:-

- 1. The site is greenfield land and contrary to the objective of maximising the use of previously developed more sustainable land elsewhere.*
- 2. Failure to demonstrate that adequate living conditions will be possible without extensive felling and lopping of trees.*
- 3. Failure to demonstrate that visually attractive trees will not be harmed or lost arising from the development inclusive of the new access road to the site.*

National and local policy has changed since the previous decision and consideration of the key issues of the proposed development as set out below is against current policy. Those key issues are:

1. Is the principle of residential development in this location acceptable?
2. Is the design of the proposal and the impact upon the character and appearance of the area acceptable?
3. Is the impact to surrounding trees acceptable?
4. Would there be any significant impact upon any nature conservation interests?
5. 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?
6. Is the impact on highway safety acceptable?
7. 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?

1. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

Local planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

Saved Local Plan policy H1 supports new housing in the urban area of Newcastle and Kildsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 1,000 dwellings within Newcastle Urban South and East (within which the site lies).

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 provides access to services and service centres by foot, public transport and cycling. The Core Strategy 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 to and impacts positively on the growth of the locality.

The site does not meet the NPPF definition of previously developed land. The site is within the urban area in close proximity to Newcastle town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also in close proximity to schools, open space and employment opportunities. Therefore, it is considered that the site provides a highly sustainable location for additional residential development.

Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing within the Development Plan cannot be considered up-to-

date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47). Paragraph 14 details that at the heart of the Framework is a presumption in favour of sustainable development and that this means, unless material considerations indicate otherwise, 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 Framework at a whole, or specific policies indicate development should be restricted.

Local Planning Authorities (LPA), by reason of the National Planning Policy Framework (Framework), are required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements (in the Borough's case as set out within the Core Spatial Strategy) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council, is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Framework, because it does not have a full objective assessment of housing need and its 5 year housing land supply statement is only based on household projections.

On the basis of all of the above, it is considered that the principle of residential development in this sustainable location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

2. Is the design of the proposal, with particular regard to the impact upon the character and appearance of the area acceptable?

Core Strategy Policy CSP1 lists the broad criteria for the assessment of new development which includes amongst other things the need to promote the image and distinctive identity of Newcastle through the enhancement of strategic and local gateway locations and key transport corridors. It also requires a positive contribution to an area's identity and heritage through the use of appropriate vernacular materials. The Urban Design Supplementary Planning Document gives additional detailed design advice to supplement Policy CSP1.

The wooded area where the new dwellings are proposed provides an important green backdrop to urban housing area and is an attractive and distinctive feature in the local area. Immediately to the north is a cemetery. To the south are existing residential areas, immediately to the West is a public parkway which leads to the cemetery and to the East is Lyme Valley Parkway on the opposite side of Clayton Road.

The dwellings proposed comprise largely of brick facades with a small degree of timber cladding to add architectural interest. The dwellings are large properties and coupled with the internal access road proposed would drastically alter the character of the woodland from a natural setting by introducing buildings, domestic gardens and associated features. From wider vantage points, particularly from Clayton Road, there still would appear to be substantial tree coverage and no direct views of the new properties but the views within the site itself would be eroded from its natural state.

The impact of the development on the visually significant protected trees also has an implication on the character and appearance of the area as a further material factor.

3. Is the impact to surrounding trees acceptable?

Trees within the site boundary are protected by a Tree Preservation Order (TPO). The Landscape Development Section (LDS) initially commented that it had not been demonstrated that the development will not cause harm to trees. In response to those comments further tree information has now been provided and the further comments of the LDS have been sought.

The LDS, however, has also raised concerns that even if it was demonstrated that no harm to tree root systems or canopies would arise the development is likely to lead to long term

pressure for further tree removal due to the poor light conditions, unwanted algal growth and leaf fall arising from the trees on and adjoining the site and the density of their canopy.

The conclusion reached that it has not been demonstrated that proposed development would not result in loss or damage to visually significant trees due to the construction of the proposed development and the development would lead to pressure to prune or fell retained trees in the future which would be detrimental to the character and appearance of the area.

4. Would there be any significant impact upon any nature conservation interests?

A preliminary ecological appraisal has been provided in support of the application which highlights the importance of the woodland, identifying it as having high ecological value in terms of the mature trees present and recommends an arboricultural survey to assess impacts to the trees.

The submitted survey indicates that the site provides potential for roosting bats and is attractive to bats as foraging habitat also. In light of that it identifies the need for further assessment to establish the extent that the developments impacts upon bats, a protected species, and to identify appropriate mitigation measures.

The survey indicates that there may be native bluebells present on the site and if that is the case other woodland ground floral species may also be present. The report recommends a detailed botanical survey to be undertaken at a time when woodland ground flora plants are growing and flowering (April-May) to assess the value of the woodland habitat and to set out recommendations for mitigation, if required.

In the absence of the additional surveys recommended in the submitted survey, and given the likely subsequent pressure for the felling and pruning of trees arising from the occupation of the proposed dwellings, it has not been demonstrated that the development can be carried out without unacceptably damaging important ecological habitats.

5. Is the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development acceptable?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook. The proposal is in accordance with this guidance.

Environmental Health Division have advised that noise mitigation measures will need to be incorporated into the development to ensure suitable noise levels and to ensure future residents will not be adversely impacted upon by traffic noise from Clayton Road. The use of a planning condition requiring those details could overcome that particular concern.

Given the amount of mature trees in the immediate area it is likely that future occupants of the dwellings would have a low standard of amenity owing to reduced light levels, unwanted leaf fall and algal growth. The resulting living conditions are therefore considered to be unsatisfactory.

6. Is the use of the access and parking provision proposed acceptable in highway safety terms?

The most up to date planning policy (contained within the Framework) indicates that development should only be prevented or refused on transport grounds where the impact of development is severe.

The Highway Authority has no objections to the vehicle access parking and turning arrangement applied for subject to conditions.

Overall it is considered, in line with the Highway Authority advice, taking into account the concerns expressed about the safety of the proposed access and subsequent traffic increase

on Clayton Lane by local residents that there is no significant detriment to highway safety arising from the proposal.

10. 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?

As the Council is currently unable to demonstrate a five-year supply of housing land, the provisions of the NPPF are engaged and the presumption in favour of sustainable development therefore applies, as set out above.

There are several factors that do weigh in favour of the development. The proposal would make a contribution toward boosting housing land supply within the Borough in the context of an identified shortfall. But the amount of housing to be provided is modest and only modest weight can therefore be given to such a benefit. Some limited economic benefits would arise during construction and as a consequence of the occupation of the dwellings.

The site involved is attractive mature woodland where a wide range of flora and fauna area likely to flourish including protected species. Allowing residential development in this location is likely to harm existing trees and place considerable pressure to remove trees from a mature woodland setting which provides an attractive green context to the surrounding townscape and is also likely to harm local wildlife. Moreover the resultant living conditions for occupants of the dwellings are likely to be negatively impacted upon by reduced light levels, unwanted leaf fall and algal growth.

Accordingly it is concluded that the adverse impact of the development would significantly and demonstrably outweigh the benefits of the development and as such the application should be refused.

APPENDIX

Policies and Proposals in the Approved Development Plan relevant to this 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 CSP5	Open Space/Sport/Recreation
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1	Residential development: sustainable location and protection of the countryside
Policy T16	Development – General parking requirements
Policy T18	Development servicing requirements
Policy N3:	Development and Nature Conservation – Protection and Enhancement Measures
Policy N12	Development and the Protection of Trees
Policy N17	Landscape Character – General Considerations

Other Material Considerations

National Planning Policy Framework (NPPF) (2012)

Planning Practice Guidance (March 2014)

Supplementary Planning Documents/Guidance

Space Around Dwellings SPG (SAD) (July 2004)

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

Waste Management and Recycling Planning Practice Guidance Note approved in 2003 and last updated in February 2016

Relevant Planning History

05/01005/FUL	Erection of dwelling	Refused	2006
94/00424/FUL	Erection of two detached dwellings	Refused	1994

Views of Consultees

The **Highway Authority** has no objections on highways grounds subject to conditions relating to the following:-

1. Approval of details of parking and turning areas, implementation prior to first occupation and retention for the life of the development.
2. Approval of details of a safety barrier scheme for the area adjacent to the intersection of the private driveway with the access driveway, implementation of prior to commencement of construction and retention for the life of the development.
3. Private driveway shall be built with a of a minimum width of 4.2m and gradient not exceeding 1 in 10 for first 10m rear of the access roadway, surfaced in a bound material with surface water drainage interceptors prior to first occupation.

The **Environmental Health Division** has no objections subject to:-

1. Construction and demolition hours being restricted to between the hours of 18.00 hours and 07.00 hours Monday to Friday, and not at any time on Sundays, Bank Holidays or after 13.00 hours on any Saturday.
2. Prior approval design measures, supported by an appropriate noise assessment, to achieve appropriate internal and external noise levels.

The **Landscape Development Section** makes the following comments:

- The mature trees on the site are covered by Tree Preservation Order number 21. They provide an important visual contribution to the Clayton Road corridor and the Three Parks public space and footpath link, and make a significant contribution to the treed slope on the western side of the Lyme Valley.
- Insufficient details have been submitted to demonstrate that the proposals will not cause harm to the trees.
- The information submitted with the application does not take into account all trees on and adjacent to the site, appears to require further removal of trees, proposes changes of level within RPAs and includes new surfacing that exceeds 20% of existing unsurfaced ground within RPAs.
- Permission for works to protected trees which was granted in 2016 (16/00320/TWA5) required replacement trees for those that were felled and these should be shown on the submitted plans.
- There are concerns that the density and proximity of trees and poor light conditions would be likely to lead to post development resentment of the trees by the occupants of the dwellings, particularly as this is an urban area. Concerns such as excessive shading, algal growth, fear of damage to persons and property during strong winds, leaves blocking gullies and the need for frequent leaf sweeping would be likely to lead to subsequent pressure for the felling or pruning of the trees.
- Strategic landscape proposals should be submitted showing how it is proposed for the woodland to be developed for residential use.

Staffordshire Wildlife Trust were consulted upon the application, any comments received will be reported but if no comments are provided it will be assumed that they have no observations to make given that the date by which their comments were requested has passed.

Representations

34 letters of representation have been received objecting to the proposal on the following grounds:-

- Established attractive mature woodland of local significance is inappropriate for housing and should be protected from development pressure.
- More appropriate locations for housing could be considered. In particular previously developed sites instead of greenfield land.
- The woodland is locally known for 'bluebells' which are protected flora and other protected and important fauna such as badgers, bats, great crested newts, a variety of birds and other animals.
- The ecological value of the site should be protected from development where housing would be inappropriate.
- The impact to wildlife is not evaluated in the application submission material and it is likely biodiversity would be harmed by the development.
- The proposed dwellings would suffer from excessive shading by trees and therefore reduced light, algal growth and fear of damage from strong winds.
- Clayton Road is narrow and a single lane road where an increase in vehicular traffic would be hazardous.
- The Highfield Court access via Clayton Road and crossing at Abbots way is already dangerous for pedestrians and road users given the road layout and speeding traffic.

- The houses overlook a cemetery where mourner's privacy is eroded and is insensitive to that particular neighbouring local use.
- Previous application attempts for housing on the land have failed and there is no reason for the Planning Authority to take a different view on the recent application.

Applicant/agent's submission

Application forms and indicative plans have been submitted along with a Design and Access Statement, Preliminary Ecological Appraisal and Tree Report. These documents are available for inspection at the Guildhall and searching under the application reference number 16/00943/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00943/FUL>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

5th July 2017.