

SUPPLEMENTARY REPORT
TO THE PLANNING COMMITTEE
15th August 2017

Agenda item 10

Application ref. 17/00483/FUL

8 Barford Road, Newcastle

Since the preparation of the main agenda report the **Landscape Development Section** (LDS) have served a provisional Tree Preservation Order T183 (2017) for a Scots Pine (T12) on the application site.

The LDS consider the tree to be of a good shape and form, with a full and healthy crown which is of sufficient quality and makes a valuable contribution to the local landscape and its loss would have a detrimental effect on the visual amenity of the area.

They object to the application on the grounds that the proposed development would result in the loss of the Scots Pine. They indicate that the layout of the proposed development should be altered to allow for the tree to be retained and protected and to allow space for its future growth. However, should planning permission be granted they would request a financial contribution towards public open space improvements and maintenance of £5,579 per dwelling at Guernsey Drive Play Area, and/or Wye Road Playing fields, and conditions to secure a landscaping scheme and tree protection measures.

A further letter of **representation** has also been received raising similar objections to those previously reported but also includes a series of photographs and a response to the applicant's tree report. The objection seeks to demonstrate that the Scots Pine and other trees and hedgerows are prominent features in the landscape and the loss would be harmful to the visual amenity of the area, residential amenity levels and wildlife. It also seeks to demonstrate that the proposed development would be visible from a number of vantage points including Bunny Hill. It is suggested that the Committee should carry out a site visit before making a decision, on the grounds that would give a true perspective of the scale of the development and its impact

Officer Response

The Scots Pine is now covered by a TPO and the applicant's tree report indicates that it be affected by the proposed development and would need to be removed. This view is shared by the LDS.

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree unless the need for development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting and design. It also states that where trees are to be lost through development then replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

The Scots Pine is located to the rear of 8 Barford Road and houses that front Stockwood Road. The LDS have drawn attention to what they describe as the important contribution that the tree makes to the local landscape. The topography of the area and the dominating size of the Scots Pine results in it being visible from a number of vantage points. In particular, the tree is elevated significantly above Stockwood Road and it does represent a visually significant tree of high value. It can also be viewed from Ridgmont Road but its impact and quality is less due to views being long distance ones and it assimilates more readily within the landscape. The tree can also be viewed from Barford Road and Bunny Hill but it is less prominent compared to other vantage points.

The loss of the tree to accommodate the proposed development would have a negative impact on the streetscene and visual amenity of the area due to its appearance, quality and prominence.

As identified in the main agenda report 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. Some limited economic benefits would arise during construction and as a consequence of the occupation of the dwellings. However, following the receipt of the tree report which confirms that the tree would be lost with the current scheme, the serving of a TPO and the objections from LDS, your Officer has reflected further upon the planning balance to be struck here. It is considered that the loss and harm to the character of the area would significantly and demonstrably outweigh the benefits of the development with regards to the supply of housing even if the tree was replaced (which could be secured through a condition). Accordingly the application is now recommended for refusal on this basis.

With respect to the request from LDS that a financial contribution of £5,579 per dwelling be sought towards public open space improvements and maintenance, there is no unilateral undertaking providing such a contribution “on the table” (the requirement having only very recently having been indicated) so notwithstanding the above recommendation the Committee needs to consider whether such a developer contribution is required. Your Officer notes first of all that saved Local Plan policy C4 (part of the approved development plan) does not support the seeking of a contribution for developments of less than 10 units or less than 0.4 ha. The site covers 0.2ha. The more recent Core Spatial Strategy (also part of the development plan), in CSP5 indicates that developer contributions will be sought to provide a key funding source to meet the needs of new residents and for the delivery interalia of the Urban North Staffordshire Green Space Strategy and any approved revisions or replacement strategies. There is such a replacement strategy the Open Space Strategy that was adopted by Cabinet at its meeting on the 22nd March 2017

The recommendation contained within the Development Strategy of the OSS was that as good practice for residential development 0.004 ha per dwelling of open space should be provided for the total number of dwellings; and that such open space will be provided in areas of not less than 0.1 ha regardless of development size. It goes on to indicate that a cost model for offsite contributions will need to be agreed based upon a Table that is itself an update of the cost model that was contained within the 2007 Urban North Staffordshire Green Space Strategy.

In this case LDS are not seeking open space on the site itself but instead are requesting a contribution of £5,579 per dwelling.

Any developer contribution to be sought must be both lawful, having regard to the statutory tests set out in Regulation 122 and 123 of the CIL Regulations, and take into account guidance. It must be

- 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

It must also comply with national planning practice guidance on the seeking of contributions for small scale developments. Most importantly ministerial policy as set out in a Ministerial Statement of the 28th November 2014, since confirmed by the Court of Appeal in May 2016, indicates that “tariff-style contributions” should not be sought from developments of 10 units or less which have a maximum combined gross floorspace of no more than 1,000 square metres. The proposal is such a development.

A tariff style contribution is defined as one where the intention is to required contribution to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The LDS have indicated that the contribution in this case would be applied to Guernsey Drive Play Area, and/or Wye Road Playing fields so whilst the amount is calculated on a “sum per dwelling” basis it does not meet the definition in the Guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such contributions in this case.

Turning back to the three statutory tests indicated above, the contribution being sought is considered to meet them. It is necessary to make the development acceptable in planning terms and directly related to this residential development (it seeks to address the additional demands upon open space which residential development brings) and is fairly and reasonably related in its scale – the Open Space Strategy setting out a detailed methodology to demonstrate how the capital element of the sum (£4,427) is calculated whilst the maintenance element (£1,152) represents 60% of the costs of 10 years maintenance – a figure in line with that sought by other LPAs, according to the Strategy.

For the avoidance of doubt it can be confirmed that the obligation would not be contrary to Regulation 123 either.

In that, for the reason indicated above the planning balance is now considered to fall against the proposal, in the absence of there being a unilateral undertaking on the table delivering the public open space contribution, there should be an additional reason for refusal reflecting the Council's view that such a contribution should be obtained

Members should note that the agent, having only very recently become aware of the views of the LDS, wished to submit additional information, and having been advised that such information, at least with respect to the tree issue would not be reported to the Committee, because it would be received after the Committee's guillotine on late submissions, has requested that a decision on the application is deferred.

The decision on whether or not the application should be deferred is for the Committee alone to make. Members will want to consider whether having regard to when the application was received further time should be allowed, having regard to the duty to determine applications in a timely manner, and also to consider whether it is likely that if further time were allowed for the submission of additional information a different conclusion might be reached. It is always appropriate to consider whether by the application of conditions development that is unacceptable can be made acceptable, and it has to be assumed that the LDS will have considered whether having regard to the submitted layout of the three houses that are proposed, the use of conditions for example in relation to foundations and tree protection matters could have resulted in the tree being successfully retained, and that they have concluded that the development cannot be made acceptable in that manner.

For this reason your Officer does not see any merit or clear purpose in a deferral of a decision on this application.

REVISED RECOMMENDATION

The application should be **refused** for the following reasons

- 1) The proposed development by virtue of its layout and design would result in the loss of a visually significant and protected tree which will have a harmful and adverse impact on the character and appearance of the area contrary to saved Local Plan policy N12. This negative impact would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies of the NPPF including those on requiring good design and conserving and enhancing the natural environment. It would therefore not be a sustainable form of development of the site and being contrary to Policy N12 of the Newcastle-under-Lyme Local Plan 2011 and policy CSP1 and CSP4 of the Core Spatial Strategy and the policies the NPPF
- 2) Without a planning obligation having been secured the development would not make an appropriate contribution to addressing the additional demands upon public open space that it would make, as required by policies C4 and IM10 of the Local Plan, Policy CSP5 and CSP10 of the Core Spatial Strategy, and the requirements of the Open Space Strategy