

HAMPTON'S SCRAP YARD AND ADJACENT FIELD, KEELE ROAD
PERSIMMON (NORTH WEST) LTD

18/00656/REM

The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 138 dwellings.

This application follows the granting of an outline planning permission at appeal in September 2016 for residential development of up to 138 dwellings (14/00948/OUT). The access from the highway network was approved as part of the outline consent.

The site measures 4.99 hectares and is located to the south-east of Walley's Quarry landfill site. The site is within the Newcastle Neighbourhood as designated on the Local Development Framework Proposals Map and is within the urban area. Trees within the site are protected by Tree Preservation Orders Nos. 2 and 85.

The 13 week period for the determination of this application expired on 28th September 2018 and whilst the applicant has agreed an extension to the statutory period the last agreed extension has also expired.

RECOMMENDATION

REFUSE for reasons relating to the following:

- 1. In the absence of an appropriate assessment of the risks to the development posed by past coal mining activity the applicant has failed to demonstrate that the site is safe and stable to accommodate the proposed development, contrary to the National Planning Policy Framework (NPPF).**
- 2. The proposed layout results in the loss of visually significant and protected trees to the detriment of the visual appearance of the site and the wider area contrary to development plan policy and the aims and objectives of the NPPF.**
- 3. In the absence of a swept path analysis and waste and recycling collection points the applicant has failed to demonstrate that the site layout enables appropriate servicing of the proposed dwellings and therefore does not result in issues of highway safety and residential amenity contrary to the aims and objectives of the NPPF.**

Reason for Recommendation

The principle of the use of the site for residential development has been established with the granting of the outline planning permission. The design of the proposal is considered acceptable in accordance with the aims and objectives of the National Planning Policy Framework and the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document. The layout of the site would, however, result in the loss of visually significant and protected trees to the detriment of the appearance of the area. In addition it has not been demonstrated that there would be no material adverse impact upon highway and residential amenity as a consequence of the internal layout or that the site is safe and stable to accommodate the proposed development bearing in mind the coal mining legacy of the area.

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

Discussions have taken place with the applicant seeking to respond to the concerns that have been raised by consultees, however the applicant has not been able to provide appropriate amendments or additional information that would address such concerns and which could be accepted as an amendment to the current application. It is therefore considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework.

Key Issues

1.1 The application is for the approval of reserved matters relating to internal access arrangements, layout, scale, appearance and landscaping in respect of a residential development of 138 dwellings. The principle of the residential development of the site has been established by the granting of outline planning permission at appeal, 14/00948/OUT, for up to 138 dwellings. Details of the access to the site, which is from the access road serving the former scrapyard and the adjoining residential development, were approved as part of the outline consent.

1.2 Notwithstanding the views expressed in representations it would not be reasonable or appropriate to withhold planning permission until the outstanding matters on the adjoining development are addressed.

1.3 Whilst plans submitted with this application show the layout of houses on adjoining land, as referred to in representations, the development of that land does not form part of this application. In addition as this application relates to reserved matters following the granting of planning permission in principle under the outline planning permission, it could not include land which is not the subject of the same outline planning permission. Any approval of this application would not, therefore, also approve development on that adjoining land.

1.4 The key issues to be addressed, taking into consideration the above, are:-

- Does the proposal appropriately address the coal mining legacy that affects this site?
- Is the proposal acceptable in terms of its design and impact on the form and character of the area, including impact on trees within and adjoining the site?
- Would there be any material adverse impact on residential amenity?
- Is the internal road layout and parking provision acceptable in highway safety terms?
- Is the affordable housing provision/layout acceptable?

2.0 Coal mining legacy

2.1 In recognition that the site is within the defined Development High Risk Area and that the Coal Authority records indicated there are coal mining features and hazards within the application site and surrounding area a condition was imposed on the outline planning permission requiring that a scheme of investigations be undertaken prior to the submission of a the reserved matters. In addition the condition specifies that the reserved matters application should be supported by a report outlining the findings of the investigation, and that a scheme of treatment for the mine entry and a layout plan which identifies appropriate zones of influence for the entry and fissures and defines 'no-build' zones should be included.

2.2 Whilst the reserved matters application was supported by a Coal Mining Report, and this was subsequently supplemented with further site investigation information, the Coal Authority have not been able to discount the risk posed by the recorded mine entry. In addition the report provided indicates that further investigation is required to delineate the fault and its zone of influence. The Coal Authority has therefore advised that condition 5 of the outline planning permission has not been satisfactorily addressed and that the applicant has not demonstrated, therefore, that the layout of development as currently proposed has been informed by the coal mining legacy features present within the site.

2.3 Further site investigations have subsequently been carried out on behalf of the applicant, which has resulted in the need to revise the layout of the site. The extent of the changes to the proposed development is, however, in excess of what could be accepted as amendments to the current application. In light of this the concerns of the Coal Authority remain with respect to the layout that is before the Local Planning Authority for determination and as such the applicant has failed to demonstrate the application site is safe, stable and suitable for development and as such should be refused.

3.0 Is the proposal acceptable in terms of its design and impact on the form and character of the area, including impact on trees within and adjoining the site?

3.1 Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. At paragraph 130 it states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development.

3.2 Policy CSP1 of the Core Spatial Strategy (CSS) lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the NPPF.

3.3 Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. R3 of that document states that new development must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

3.4 R12 of the SPD says that residential development should be designed to contribute towards improving the character and quality of the area. It goes on to say that proposals will be required to demonstrate the appropriateness of their approach in each case. Development in or on the edge of existing settlements should respond to the established urban or suburban character where this exists already and has definite value. Where there is no established urban or suburban character, new development should demonstrate that it is creating a new urban character that is appropriate to the area.

3.5 R14 of the SPD indicates that developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/or eaves lines, rhythms, materials, or any combination of them.

3.7 The proposed layout comprises 79 detached dwellings (10 five, 27 four and 42 three bed); 23 semi-detached dwellings (all three bed); and 36 dwellings in blocks of 3 (3 four, 18 three and 15 two bed). The dwellings are predominantly two storeys, with five of the proposed dwellings having accommodation in the roof space (2.5 storeys). All the dwellings are of traditional design with pitched roofs and are mainly constructed in brick with a limited number of rendered properties. Design features include projecting porch, door canopy, integral garage/s, and projecting gables. The 2.5 storey dwellings have dormer windows in the roof.

3.7 The dwellings predominantly front onto internal looped access routes through the site, however there are a number served off long private drives. Dwellings face towards Keele Road and towards the Gallowstree Lane roundabout, but back onto the adjoining Traveller site on Cemetery Road. Many of the dwellings have parking spaces located at the front of the houses however there remains opportunity for landscaping. An equipped play area is proposed within the development. In addition there are areas of incidental open space including an area containing a landscaped bund which is sited between the proposed dwellings and the boundary with the Walley's Quarry landfill site. The bund, which has a fence on top, is a requirement of condition of the outline planning permission and is, in footprint, largely as shown on the indicative plan forming part of the outline application. Whilst some parts of the bund is very steep where it faces into the development the submission indicates that it can all be planted and as such will be a green feature of the site. It is considered to be acceptable in appearance.

3.8 Overall it is considered that the house types and design as proposed are acceptable.

3.7 There are a number of protected trees that are located within and adjoining the site. The proposal involves the loss of a protected Ash tree, previously assessed as a category A tree, the reason given being for safety. The application is not, however, supported by a detailed assessment containing sufficient arboricultural justification that the tree no longer achieves that category and is unsafe to

such an extent that it requires felling. Alternative approaches to the development that would not involve the felling of the tree must be fully explored before the loss of this tree can be accepted.

3.8 A further four trees are proposed to be felled due to the proposed layout of the development. These are highly visually prominent trees that are protected through a Tree Preservation Order. Their loss would have an adverse visual impact and is not supported.

3.11 In addition concerns have been raised by the Landscape Development Section about excavations adjacent to two more protected trees as well as the impact of the proposed bunds upon retained trees, and they have requested further assurance are given to demonstrate that they can be retained.

3.12 Whilst the applicant has been seeking to address these and other concerns mentioned elsewhere within this report, no further information has been submitted, as the amendments required to make this development acceptable can't be submitted as part of this application, and as such in light of the impact the proposal will have on trees and thus on the appearance of the wider area the application should be refused.

4.0 Would there be any material adverse impact on residential amenity?

4.1 The NPPF states within paragraph 127 that planning decisions should ensure that developments, amongst other things, create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users

4.2 Supplementary Planning Guidance (SPG) Space around Dwellings provides guidance on development including the need for privacy, daylight standards, and environmental considerations.

4.3 The layout and orientation of the proposed development is sufficiently distant from existing properties to avoid any adverse impact on living conditions. In addition the layout achieves appropriate separation distances between the proposed properties and sufficient private amenity space.

4.4 A condition (13) of the outline planning permission requires design measures, supported by an appropriate noise assessment, which achieves specified noise levels and that such measures shall include details of an acoustic barrier/bund adjacent to the adjoining landfill operations. Such a condition is in recognition that noise from the adjoining highway could adversely affect amenity as well as noise from Walley's Quarry.

4.5 The application is supported by acoustic reports and the advice received from the Environmental Health Division is that the mitigation measures set out within the supporting report and shown on the plans which includes the acoustic bund, are acceptable and should be implemented.

4.6 In conclusion the layout achieves an acceptable relationship between the proposed dwellings and suitable private garden space and suitable living conditions for its occupants.

5.0 Is the internal road layout and parking provision acceptable in highway safety terms?

5.1 At least two parking spaces are proposed for each dwelling, with the larger dwellings having more spaces. The proposed level of parking is considered to be acceptable.

5.2 To improve accessibility to and from the development by modes of transport other than the private car it is important that a foot/cycle path link is provided directly onto Keele Road close to the bus stops. Whilst the layout doesn't provide such a link it could be secured by the imposition of a condition.

5.3 Further information has been requested that demonstrates that a refuse lorry can manoeuvre safely within the development. The Waste Management Section has also raised concerns about the long private drives which results in the need to provide collection points. Whilst it is not considered that there are planning grounds to justify objection to the private drives the lack of collection points is of concern and as such the applicant was advised that these needed to be shown on the plans. The

further information and collection points have not, however, been provided for the reasons set out above, and as such the applicant has not demonstrated that the layout is appropriate and that no highway safety/ residential amenity issues arise.

6.0 Is the affordable housing provision/layout acceptable?

6.1 A planning obligation entered into when outline planning permission was granted on appeal requires 20% provision of affordable housing within this development. The proposal includes the provision of 28 affordable houses, which achieves the required 20%. The dwellings which have been identified as being affordable are 13 three bed semi-detached dwellings and 15 two bed dwellings in blocks of three. The proposed split is 60% social rented and 40% shared ownership which accords with policy.

6.2 Housing Strategy has confirmed that the number and type of the dwellings that are proposed to be affordable houses are acceptable to them. In addition no objection has been raised to their location which is spread across the majority of the site.

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 CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy T16: Development – General Parking Requirements
Policy N12: Development and the Protection of Trees
Policy N17: Landscape Character – General Considerations
Policy N20: Areas of Landscape Enhancement
Policy C4: Open Space in New Housing Areas

Other Material Considerations include:

[National Planning Policy](#)

[National Planning Policy Framework](#) (2019)

National [Planning Practice Guidance](#) (March 2014)

[Supplementary Planning Guidance/Documents](#)

[Affordable Housing SPD](#) (2009)

[Space Around Dwellings SPG](#) (SAD) (July 2004)

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

Relevant Planning History

15/01085/OUT Residential development of up to 138 dwellings with details of access and proposed landscape bund (resubmission of planning application 14/00948/OUT) – Refused.

14/00948/OUT Residential development of up to 138 dwellings – Refused but subsequently allowed on appeal

Views of Consultees

The **Coal Authority** does not consider that the information presented to date is sufficient to be able to discount the risk posed by the recorded mine entry. An appropriate scheme of further intrusive investigations should therefore be undertaken, to ascertain whether or not a mine shaft is present at the surface within the site. Should the shaft be located, an appropriate scheme of treatment will be required and the layout of the development should be revised to ensure that development does not take place over or within the zone of influence of the shaft. In addition further works are required to identify a buffer zone and possibly a no build zone associated with the fissures/faults crossing the site. These works should have been undertaken prior to the formulation of any detailed site layout. As such they object to the application.

The **Environmental Health Division** has no objections and recommends a condition which secures the noise mitigation measures as described in the submitted Acoustics Report.

The **Crime Prevention Design Advisor** is pleased to note that the applicant has sought to address crime prevention within the design layout of the proposal and list a number of elements that have crime prevention relevance and accord with Secured by Design guidance and principles. A summary of the comments are as follows.

- An element of the layout which could be improved is restricting access to the rear of the properties.
- The rear garden boundaries of plots 70-75 will not back onto other rear garden boundaries, which might make the theoretically more vulnerable.

The **Landscape Development Section** does not support the proposed loss of a Category A protected Ash tree. Sufficient evidence must be provided to demonstrate that it no longer attains this category and is unsafe to such an extent that it requires felling. Properties could be repositioned to allow sufficient space to retain the tree and risk reduction techniques and veteranisation (a technique appropriate for a site where there is a large age gap between older trees and the next generation and can be an alternative to felling trees) should also be fully considered before the loss of this tree can be accepted (further inspection was recommended in submitted arboricultural report).

The loss of a further two protected trees is also not supported as they are visually prominent trees, attain category B and have a long remaining contribution.

There are concerns about excavations adjacent to a further two protected trees and assurance is needed that should roots be encountered at a higher level than expected that it would be possible to proceed with the installation of the access route. There has been considerable tree loss in this locality, increasing the value of these two remaining individuals. The tree should also be shown as retained on the landscaping proposals drawing.

There are concerns about the impact of the bunds upon retained trees. Adjustments to the proposals should be made to demonstrate that there will be no level alterations within the root protection areas of retained trees.

A native hedgerow with hedgerow trees should be planted along the Keele Road boundary as a part of the landscaping proposals for the site.

- They also recommend adjustments to the proposed equipped play area. .

The **Waste Management Section** advises that the layout plan contains some design issues which would present long term problems and they would like to see them designed out of the layout as much as possible. A layout which provides circulation of the site is their preference for safety reasons. With minor design changes and surfacing changes in most parts of the development this could be achieved. The current layout is neither legible nor logical from the point of view of the collections which residents will need to access each week, and the proposal designs in elements likely to be problematic for the life of the development. Collection points cause neighbourhood disputes, lead to complaints which the Council has few powers to resolve, visually look poor on the development, block pavements for disabled residents and those with prams/pushchairs, and can reduce visibility for drivers.

Considerable areas of the layout show significant numbers of properties sharing private accesses where the properties themselves are a long way from where residents will be required to present containers (the service not driving over unadopted or private surfaces) and the creation of collection points is likely to result in residents leaving containers out between collections.

The narrow access between properties 29-37 is unsuitable for freighter collections, and plots 60-62 will require a collection point. A swept path analysis is required for 26 tonne refuse freighters and romaquip vehicles in a final layout, as these are the vehicles the service currently collect with.

Housing Strategy Section indicates that the affordable housing contribution that was secured at the when outline planning permission was granted, was 20% of the development and that is what is being provided (28 units). The proposed tenure split is 17 social rented and 11 shared ownership dwellings,

which is appropriate. The types of properties proposed as affordable housing are 15 two bed properties and 13 three bed properties. There is an identified need for 2 and 3 bedroom properties within the Borough. This is in conformity with the Affordable Housing SPD.

No comments have been received from the **Highway Authority, Newcastle South LAP** or **Silverdale Parish Council** by the due date and therefore it must be assumed that they have no observations.

Representations

5 representations have been received, one of which is from the Thistleberry Residents Association. The concerns/comments raised are summarised as follows:

- There are several discrepancies in the reports regarding the acoustic fence height and the geological survey report is at odds with the Coal Authority information and findings.
- Information was provided that the existing road capacity was 400-480. As there are already around 350 dwellings, and given that many homes have more than two cars, it needs to be known whether the road capacity refers to housing units or cars and whether the road has capacity for this development. Due to the narrowness of the roads and pavements, parking is already becoming a problem on the Burgess Brook site.
- The junction onto Keele Road would need to be upgraded to improve capacity.
- No permission should be given until the foot bridge has been implemented, the SUDS sorted, and the cycle paths created on the Burgess Brook phase of the estate, and that phase has been adopted.
- Whilst the scrap yard has moved the landfill operation continues and noise levels will increase as will visibility. It is therefore important that the acoustic fence is installed to meet the highest acoustic fence specifications, and also high enough to mitigate the impact of noise and prevent rubbish migrating over.
- The recommendations for sound abatement and other types of mitigation in connection with the landfill site are endorsed.
- The interests of the residents of the caravan site should be taken into consideration given the proximity of the proposed houses to the boundary.
- The Gallowstree Lane Roundabout is a danger to any houses and gardens built near it. The barrier fence has already been breached on several occasions by cars crashing through it. It is unclear how this will be addressed. Appropriate barriers should be installed at the top of the gabion wall.
- It is unclear whether the roads on the site are to be adopted by the Highway Authority or whether they are to be private roads maintainable by residents. If the latter is the case this needs to be spelled out to purchasers.
- The Landscape Management Plan appears to be comprehensive but is meaningless unless implemented.
- The removal of protected or Category A trees and hedges is opposed.
- Prospective purchasers would like to know what measures the developer will be taking to ameliorate any adverse effects from the fault and break lines which run through the site. Similarly, the mine shafts and other coal mining works known and not yet discovered could affect the purchased properties in the long term.
- The comments of the Police with regard to blind spots and the need for secure gates and fencing are supported.
- The so-called SUDS is not perfect and the ponding of the wetland area appears to be moving closer to the existing homes, causing flooding in some instances. The construction of the new homes should be agreed with the Environment Agency as 'safe and fit for purpose' therefore.
- The site appears to be too cramped and 25m is too close to the infill boundary.
- The workmanship and materials should be of the highest quality in order to compensate for what is regarded as the shortcomings of the site.
- It would appear that an additional strip of land, where planning permission was refused, has been incorporated into the application.
- The submitted Noise Mitigation Scheme states that noise from road traffic in gardens would be at a suitable level but this is not supported by the supporting graphical output from the

noise model. Assurance should be sought that the development would provide suitable amenity in gardens prior to determining the application.

- There is insufficient information provided to demonstrate that the development can be adequately drained, without impacting on receptors up and downstream of the application. Supporting reports submitted with the outline application were contradictory and prior to compiling the report officers must ensure that the scheme is deliverable.
- The volume of contamination 'hotspots' has not been calculated and the impact of removing the contaminated materials from the site could therefore be significant in terms of traffic movements, air quality and potential release of asbestos fibres.
- The information submitted is not sufficient to satisfy condition 5 of the outline planning permission which requires, prior to submission of the reserved matters application, a scheme of investigations for mine entry and fissures on the site.
- The proposal does not include a cycle and pedestrian link from the existing housing estate which would also connect to bus stops that are actually serviced and provide connections to Keele.

Applicant's/Agent's submission

The application is accompanied by:

- A Site Investigation Report
- Noise Mitigation Scheme
- Aboricultural Impact Assessment
- Coal Mining Report
- Landscape Management Plan

All of the application documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00656/REM>

Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

27th June 2019