

Application Number 18/00758/OUT

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| Proposal | Outline planning permission for the erection of 2 dwellings (the means of access to be approved at this outline stage) |
| Site | Land at the western end of Chapel Street, Hyde |
| Applicant | Mr Richard Wedlock |
| Recommendation | Refuse. |
| Reason for report | A Speakers Panel decision is required because, in light of the planning history on the site, the Head of Planning considers that determination of the application by Members would be in the public interest. |

REPORT

1. APPLICATION DESCRIPTION

- 1.1 The applicant seeks outline planning permission for the erection of 2 dwellings on the site. All matters except the means of access to the development are reserved. The proposed access arrangements would connect to the north eastern corner of the site.

2. SITE AND SURROUNDINGS

- 2.1 The application site is undeveloped land at the south western end of Chapel Street in Hyde. Two blocks of modern flatted development are located to the north east of the site. Three properties which front on to Woodend Lane are located to the south of the site. Access can be gained to the rear of those properties via a track which leads from Chapel Street and runs parallel with the eastern boundary of the application site. The railway line runs parallel with the western boundary, separated from the site by a dense belt of mature trees. Land levels in the southern portion of the site rise steeply up to the ground level on which the properties to the south of the site are situated.

3. PLANNING HISTORY

- 3.1 17/00922/FUL – Outline planning permission (despite the suffix) (all matters reserved except for the means of access) for the erection of 3 No 3 Bed Dwellings – withdrawn (following concerns regarding the impact of the proposals on the residential amenity of neighbouring properties and on protected trees).
- 3.2 04/00049/OUT – Outline planning permission for the erection of 1 no. dormer bungalow – refused (due to impact on trees protected by TPO)
- 3.3 03/00577/OUT - Erection of 2no. detached dormer bungalows with garages and access way – refused (due to impact on trees protected by TPO)

4. RELEVANT PLANNING POLICY

- 4.1 **Tameside Unitary Development Plan (UDP) Allocation**
The site is not allocated and is located within the settlement of Hyde.

Part 1 Policies

- 1.3: Creating a Cleaner and Greener Environment.
1.4: Providing More Choice and Quality Homes.

- 1.5: Following the Principles of Sustainable Development
- 1.12: Ensuring an Accessible, Safe and Healthy Environment

Part 2 Policies

H2: Unallocated sites
H4: Type, size and affordability of dwellings
H5: Open Space Provision
H7: Mixed Use and Density.
H10: Detailed Design of Housing Developments
OL4: Protected Green Space
OL10: Landscape Quality and Character
T1: Highway Improvement and Traffic Management
T10: Parking
C1: Townscape and Urban Form
N4: Trees and Woodland.
N5: Trees Within Development Sites
N7: Protected Species
MW11: Contaminated Land
MW12: Control of pollution
U3: Water Services for Developments
U4 Flood Prevention
U5 Energy Efficiency

4.2 Other Policies

Greater Manchester Spatial Framework - Publication Draft October 2016;
Residential Design Supplementary Planning Document; and,
Trees and Landscaping on Development Sites SPD adopted in March 2007.

4.3 National Planning Policy Framework (NPPF)

Section 2: Achieving sustainable development
Section 5: Delivering a sufficient supply of homes
Section 8: Promoting safe and healthy communities
Section 12: Achieving well designed places
Section 15: Conserving and enhancing the natural environment

4.4 Planning Practice Guidance (PPG)

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning Circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

5. PUBLICITY CARRIED OUT

- 5.1 Neighbour notification letters were issued in accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

6. RESPONSES FROM CONSULTEES

- 6.1 Local Highway Authority – no objections to the proposals subject to the imposition of a condition requiring the parking spaces to serve the development being laid out as shown on the approved plans prior to the first occupation of any part of the development (copy of comments received to app ref. 17/00922/FUL which proposed identical access arrangements to this revised application.)

- 6.2 Borough Environmental Health Officer (EHO) – no objections to the proposals subject to the imposition of conditions requiring details of a scheme of noise attenuation measures to mitigate the impact of noise generated by the adjacent railway line to be submitted and approved and limiting the hours of work during the construction phase of the development.
- 6.3 Borough Contaminated Land Officer – Recommends that a standard contaminated land condition is attached to any planning approval granted for development at the site, requiring the submission and approval of an assessment into potential sources of contamination and a remediation strategy.
- 6.4 Borough Tree Officer – the plans are theoretically possible as long as they can be achieved with tree protection measures in place which meet the requirements of BS5837 and do not result in damage to or the removal of trees that are protected by TPO's. There is likely to be pressure from future occupants to remove or heavily prune the protected tree in the south eastern corner of the site in particular due to the extent of shading that will result to the private amenity space of the proposed dwellings.

Following further assessment, the Tree Officer considers that the proposals would result in an adverse impact on the condition of the protected trees adjacent to the northern boundary of the site and that a 'no-dig' method of construction would be unlikely to mitigate this impact.

- 6.5 Greater Manchester Ecology Unit (GMEU) – it appears from the plans that the development would not result in the loss of any trees and the dwellings could be positioned to avoid development within the root protection areas. Protection of the trees should be secured by condition. Other than the trees on the boundary of the site, the aerial photographs and previous site use suggest that there would be limited potential for protected species to be present on the site. An informative should be attached to any planning permission which may be granted which makes the developer aware that if at any time protected species (such as badgers, bats or nesting birds) or any invasive species (such as Japanese knotweed) are found to be present on the site or affected by the development, work should cease immediately and an ecologist and the Local Planning Authority should be contacted. Details of biodiversity enhancements to be incorporated into the development should be secured by condition.
- 6.6 Coal Authority – no objections to the proposals. The site is in a high risk area in relation to coal mining legacy but the Coal Mining Risk Assessment undertaken by the applicant is considered to be satisfactory. An informative reminding the applicant of their responsibilities in this regard should be attached to any planning permission granted.
- 6.7 Greater Manchester Archaeological Advisory Service (GMAAS) no objections to the proposals and no conditions considered necessary.
- 6.8 United Utilities – no objections raised to the principle of development although a public sewer crosses the site. The line of this sewer and a 6 metre wide access strip must not be built over. Conditions should be added to any planning permission granted requiring the submission and approval of a sustainable surface water drainage strategy and that surface and foul water be drained from the site via separate mechanisms.

7. SUMMARY OF THIRD PARTY RESPONSES RECEIVED

- 7.1 1 letter of objection has been received from a neighbouring resident which raises the following concerns:
- The proposals would result in a loss of privacy to the neighbouring properties to the south of the site. The access track to which the development would connect is an unmade road, currently only used to access the rear of the existing properties. Use of

this track to gain access to the proposed dwellings would result in noise and disturbance that would be detrimental to the residential amenity of neighbouring properties.

- The position of the flats at Chapel Court (to the east of the site) blocks the view of drivers using the access road which connects to Chapel Street. This situation would be made more dangerous by the additional traffic generated by the proposed development.
- Parking associated with the neighbouring flats causes congestion along Chapel Street and adjacent to the access road, a situation that would be made worse by the additional trips generated by the proposed development.
- The Design and Access Statement states that the main access to Hill Bank (one of the properties to the south of the site) is from Woodend Lane. This is incorrect – the only vehicular access to that property is via the access track leading from Chapel Street.
- The proposals include the blocking up of 3 of the arches below the surface of the access road. Another 2 arches have already been blocked up in the location of the proposed access into the site.
- The driveway at the rear of Hill Bank is only for the use of the occupiers of that property – there is no third party right of access to use this route.
- There is a host of wildlife on the site – including badgers, foxes, owls, woodpeckers and birds. The badger set runs down the side of the railway embankment and any development may affect the badgers.
- The majority of the trees on the site are protected by Tree Preservation Orders. Although no trees are to be cut down or pruned, there is one particular tree which could cause a problem as this is a very mature copper beech which shades a large part of the land.
- The proposed development is in the bottom of a large dip and water collects in the bottom from the run off from the driveway. This would result in flood risk to the proposed development
- Two previous planning applications have been refused for development of the land due to impact on protected trees. This application should also be refused for the same reason.

8. ANALYSIS

8.1 The key issues to be assessed in the determination of this planning application are:

- 1) the principle of development;
- 2) the impact on the character of the site and surrounding area;
- 3) the impact on the residential amenity of neighbouring properties;
- 4) impact on highway safety; and
- 5) impact on protected trees.

9. PRINCIPLE OF DEVELOPMENT

9.1 The scheme proposes 2 dwellings on a site area of 0.075 hectares, which equates to a density of slightly below 27 dwellings per hectare. Whilst this is a low density of development in a built up area, the established trees (a number of which are protected on

the northern and western boundaries) provide a constraint to development but are also characteristic of this edge of Hyde, with large expanses of undeveloped land to the south and south west of the site.

- 9.2 On that basis, the fact that the density of development would be below the 30 dwellings per hectare (considered to be the lowest end of the acceptable range in policy H7 of the UDP) is considered not to result in harm that would warrant refusal of the application, as a such a density would better reflect the character of the surrounding area.
- 9.3 The site is considered to be situated in a sustainable location, within reasonable walking distance of Hyde central train station, bus services, the public open space at Millennium Park and the services and facilities in Hyde town centre.
- 9.4 Following the above assessment, it is considered that the principle of development is acceptable, subject to all other material considerations being satisfied.

10. RESIDENTIAL AMENITY

- 10.1 All matters are reserved except for the means of access and so the proposed site plan that has been submitted is for indicative purposes only. The plans indicate a pair of semi-detached dwellings set at an angle which splays away from the southern boundary in an easterly direction. The western end of the units would be approximately 18.25 metres from the rear elevation of the neighbouring property at Hill Bank to the south of the site. Due to the splayed angle, the eastern end of the units would be approximately 23.75 metres from the rear elevation of Sunnyside, the property adjoined to the eastern elevation of Hill Bank.
- 10.2 The adopted Residential Design Guide (RDG) states that where elevations containing habitable rooms directly face each other, the separation distance retained should be 21 metres. Where the relationship is at an angle, reductions to this distance can be applied. The plans indicate that the proposed dwellings would be splayed at an angle of 30 degrees. On that basis, the separation distance can be reduced to approximately 18 metres, where the land levels between the corresponding buildings are level.
- 10.3 The topographical survey submitted with the planning application indicates that existing land levels drop approximately 4.5 metres between the access track adjacent to the southern boundary of the site and the rear elevation of the proposed dwellings shown in the indicative scheme. The RDG indicates that for every 1 metre difference in height levels, a further 1 metre should be added to the separation distance.
- 10.4 The rear building line of the proposed dwellings would need to be relocated approximately 4 metres further north in order to meet the guidelines within the RDG. It is considered that this could be achieved by reducing the width of the access road to the front of the properties and potentially re-configuring the parking area associated with the eastern most property. The access would be reduced below the 4 metres indicatively shown but would still be sufficient to provide a re-configured access and parking area for 1 dwelling (reducing to approximately 3 metres at the narrowest point).
- 10.5 The eastern gable elevation of the properties would be 14.5 metres from the corresponding elevation of the flats to the north east of the site at the shortest point, exceeding the 14 metres separation distance required by the RDG, on the basis that the eastern gable of the proposed scheme would be blank. That is a requirement that could be secured by condition, had the scheme been considered acceptable in all other regards.
- 10.6 The separation distance to be retained and the oblique relationship with other neighbouring properties ensures that development on the site could be designed to not result in an

adverse impact on the residential amenity of any of those properties through unreasonable overlooking or overshadowing.

- 10.7 In terms of the residential amenity of the future occupiers of the proposed development, a noise assessment has been submitted with the planning application which considers the impact of the adjacent train line on the development potential of the site. The assessment suggests a number of potential mitigation measures that would need to be incorporated, including higher specification glazing to the windows.
- 10.8 The EHO has not raised any objections to the proposals in this regard, subject to the submission of a more detailed mitigation strategy. Given the outline nature of the proposals, this condition is considered reasonable and could be attached to any planning permission granted.
- 10.9 On the basis of the above assessment, it is considered that the site could be developed for the proposed quantum of units in a manner that would not result in an adverse impact on the residential amenity of neighbouring properties or the future occupiers of the dwellings, subject to conditions which could be imposed had the scheme been considered acceptable in all other regards.

11. CHARACTER OF THE SITE AND SURROUNDING AREA

- 11.1 The mature trees on the edges of the site form an important part of the character of the site and define the low density nature of this part of Hyde. It is considered that the means of access would result in significant pressure on the trees on the northern boundary of the site, due to the extent of the excavation works required to create the access road. This road would be within the crown spread and close to the roots of the protected trees immediately adjacent to the northern boundary of the site.
- 11.2 The only realistic alternative point of access would be into the south western corner of the site and an access road running along the western boundary. This would not be an acceptable solution however as the trees along the western boundary are also subject to Tree Preservation Orders.
- 11.3 Therefore, whilst the low density of the development would not in itself be detrimental to the character of the surrounding area, development of the site for residential purposes would result in a detrimental impact on the condition of the protected trees, which contribute positively to the character of the site and the surrounding area. On that basis, it is considered that development would be unacceptable in principle as the access arrangements alone would result in a detrimental impact on the long term condition of protected trees.

12. HIGHWAY SAFETY

- 12.1 Access to the site would be gained from the north eastern corner, leading from the existing access track which connects to Chapel Street and skirts the eastern and southern boundaries of the site. Neither the existing track nor the south western end of Chapel Street form part of the adopted highway. Excavation works would be undertaken to form a level access into the site, with a turning head and access leading to the front of the dwellings in the indicative scheme.
- 12.2 The concerns of objectors regarding the safety of the access and the fact that the existing dwellings to the south of the land use this as a means of accessing the rear of those properties are noted. However, whilst the proposed access would connect to the existing track, it would not result in a diversion or obstruction of the existing route. On that basis, it is considered that the intensification of the use of the access track would not be so significant

as to result in a detrimental impact on highway safety given that the proposal is for two dwellings.

- 12.3 There would be sufficient space within the site to provide adequate turning space and 2 car parking spaces per property, meeting the requirements of the Residential Design Guide in this regard. The Local Highway Authority has not raised any objection to the proposals, subject to a condition requiring the parking spaces to be laid out in accordance with the approved details prior to the occupation of the dwellings. This condition is considered not to be necessary at this outline stage as the submitted layout is indicative only.
- 12.4 Conditions requiring the submission and approval of a construction environment management plan and details of the levels and construction of the access could be secured by condition, had the scheme been considered acceptable in all other regards.

13. IMPACT ON PROTECTED TREES

- 13.1 There is a group of trees on the western boundary of the site, an individual tree on the south eastern corner and two trees adjacent to the northern boundary, all of which are protected by Tree Preservation Order. Taking access from the north eastern corner of the site would result in an access road serving the development running immediately adjacent to the trunk of one of the protected trees adjacent to the northern boundary of the site and through the crown spread of both of the protected trees. Land levels currently drop steeply from the existing access road which runs parallel with the eastern boundary and the land level within the site.
- 13.2 The extent of the excavation works required to engineer the foundations of the access road would be considerable and following further consultation with the Tree Officer, it is considered that a 'no-dig' method of construction would not be feasible given the extent of the works required to raise existing ground levels. Given the close proximity of the access to these trees, it is considered that the extent of the engineering works required casts doubt on the long term survival of the protected specimens.
- 13.3 This situation would contravene policy N5 of the UDP which states in the supporting text that trees should be 'retained to the extent that they can survive in a sound condition....' Whilst these protected trees are shown to be retained on the indicative proposed layout, the extent of intrusion into the crown spread, the minimal separation distance to be retained to the tree roots and the extent of the engineering operations required ensure that the trees are unlikely to survive in a sound condition.
- 13.4 Following the above assessment, it is considered that the proposals would result in a detrimental impact on the condition of trees that are the subject of Tree Preservation Orders. This situation would contravene the provisions of UDP policy N5 quoted above and paragraph 175 part c) of the NPPF, which states that 'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons.'
- 13.5 Whilst it is acknowledged that there is a need to boost the supply of housing in the Borough, this scheme would result in a very modest contribution to the supply and therefore this benefit would not be sufficient to outweigh the harm that would arise from the impact of the development on protected trees.

14. OTHER MATTERS

- 14.1 In relation to ecology, GMEU has not raised any objections to the proposals, subject to the imposition of conditions requiring the protection of the trees to be retained during the construction phase of the development and securing biodiversity enhancement measures

to be included within the development. Such conditions could be attached to any planning permission, had the scheme been considered in all other regards.

- 14.2 In relation to flood risk, the site is located within Flood Zone 1 and is therefore at a lower risk of flooding. In terms of drainage, United Utilities has raised no objections to the proposals, subject to a condition requiring foul and surface water to be drained from the development via separate mechanisms and the submission and approval of a sustainable surface water drainage strategy to serve the development. Such a condition could be attached to any planning permission, had the scheme been considered in all other regards.
- 14.3 The applicant has indicated on the application form that foul water would be disposed of via the mains sewer network. No further detail is considered necessary in relation to foul water drainage for planning purposes as these will be required under the Building Regulations.
- 14.4 United Utilities has highlighted the presence of a sewer for which they are responsible running below the site. The proposals would need to avoid development over the route of the sewer and to retain an easement. This is a matter for the applicant to resolve with United Utilities as a statutory undertaker and is not a matter to be determined under planning legislation. An informative could be added to the any planning permission granted, advising the applicant of their responsibilities in this regard, had the scheme been considered acceptable in all other regards.
- 14.5 The EHO has not raised any objections to the proposals, subject to the imposition of a condition limiting the hours of works during the construction process and the aforementioned condition regarding mitigation of noise associated with the adjacent railway. This is considered reasonable and could be attached to any planning permission granted, had the scheme been considered acceptable in all other regards. Details of the bin storage arrangements to serve the development could also have been secured by condition had the scheme been considered acceptable in all other regards.
- 14.6 The Borough Contaminated Land Officer has not raised any objections to the proposals, subject to securing an intrusive ground investigation into potential sources of contamination on the site and approval of a remediation strategy (if required) by condition. Such a condition could be attached to any planning permission, had the scheme been considered in all other regards.
- 14.7 The Coal Authority has confirmed that the site is located in a high risk area with regard to coal mining legacy. They have reviewed the Coal Mining Risk Assessment and have not raised any objections to the proposals. An informative could be added to the any planning permission granted, advising the applicant of their responsibilities in this regard, had the scheme been considered acceptable in all other regards.
- 14.8 In accordance with the Written Ministerial Statement (WMS) of 28 November 2014, no tariff based contributions are to be sought in relation to affordable housing, open space or education provision, as the proposal would not exceed 10 dwellings. The WMS is a material planning consideration, forming part of the Planning Practice Guidance. Given the need to boost the supply of housing in sustainable locations (such as this site, which is within walking distance of regular bus and train services and the services and facilities in Hyde town centre), as required by Section 5 of the NPPF, it is considered that financial contributions would not be necessary to make the scheme acceptable in planning terms, had all other material considerations been satisfied.
- 14.9 GMAAS has raised no objections to the proposals on the grounds of the impact on archaeology and consider that on site investigation in this regard is not required.
- 14.10 In relation to comments made by objectors not previously referred to/assessed in this report, private rights of access are not a material planning consideration. Therefore, whether or not access rights would be granted for future occupants of the development to

use the existing access track is not relevant to the determination of this application, as it is a matter governed by separate legislation.

15. CONCLUSION

- 15.1 The site is considered to be situated in a sustainable location, within walking distance of public transport and the services and facilities in Hyde town centre. The proposals would however involve the creation of an access road in the north eastern corner. Due to the significant drop in land levels between the existing access road which skirts the eastern boundary of the land and the ground level within the site, a substantial amount of engineering work would be required in order to create a level access point into the site.
- 15.2 Given the close proximity of the trees protected by Tree Preservation Orders immediately adjacent to the northern boundary of the site, the extent of the engineering operation required to create a suitable vehicular access and the extent of the encroachment of these works into the crown spread of these trees, it is considered that the development would result in an adverse impact on protected trees. Given that these trees contribute positively to the character of the area, it is considered that the potential harm to the condition of the protected trees is sufficient to render the principle of development unacceptable.
- 15.3 The proposals are therefore considered to be contrary to the provisions of policy N5 of the UDP and paragraph 175 c) of the NPPF. The level of harm caused by the threat to protected trees is considered to significantly and demonstrably outweigh the benefit of boosting the supply of housing in the Borough, given the limited nature of the contribution that this scheme would make in terms of housing numbers. In accordance with the guidance contained within paragraph 11 of the NPPF, planning permission should therefore be refused.

16. RECOMMENDATION

Refuse planning permission for the following reason:

Given the close proximity of the trees protected by Tree Preservation Orders immediately adjacent to the northern boundary of the site, the extent of the engineering operation required to create a suitable vehicular access and the extent of the encroachment of these works into the crown spread of these trees, it is considered that the development would result in an adverse impact on protected trees. The proposals are therefore considered to be contrary to the provisions of policy N5 of the UDP and paragraph 175 c) of the NPPF. The level of harm is considered to significantly and demonstrably outweigh the contribution that this development would make to the supply of housing in the Borough. In accordance with the guidance contained within paragraph 11 of the NPPF, planning permission should therefore be refused.