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| Application Number: | 20/00779/FUL |
| Proposal: | Erection of a pair of semi-detached houses with access/parking/landscaping. |
| Site: | Land at 245 Birch Lane, Dukinfield, SK16 5AU |
| Applicant: | Mr Elliott Wood |
| Recommendation: | Grant planning permission, subject to conditions. |
| Reason for Report: | A Speakers Panel decision is required in accordance with the Council's Constitution because the application has been called-in by Councillor Lane. |
| Background Papers: | The planning application documents are background papers to the report. They are open to inspection in accordance with Section 100D of the Local Government Act 1972. |

1. SITE & SURROUNDINGS

- 1.1 The application site comprises part of the garden of the side of the house at no. 245 Birch Lane which is situated in an established residential area. A silver birch tree in the garden is subject to a tree preservation order. Birch Lane forms part of one of the main road routes between Ashton and Hyde, through Dukinfield. Houses along this section of the road are generally 2-storey and semi-detached, although the neighbouring property to the north is detached and is converted to a chemist's shop. The property immediately to the rear, in Richmond Close, is a residential bungalow.

2. PROPOSAL

- 2.1 The application seeks full planning permission for the development of a pair of semi-detached houses. Both houses would appear 2-storey and contain three bedrooms, but would utilise the roof space to provide one of these. The houses would be brick-built with a tiled roof that would be hipped on either side. The ground-floor would project forward across the majority of the joint frontage. In appearance the houses would be similar to those for which the final reserved matters (ref. 18/00810/REM) of the planning permission for the development of four new houses close by in Birch Lane were approved in November 2018, and which are now completed.
- 2.2 The houses would be set back from the highway and the land in front would be largely hard-surfaced to provide shared car parking facilities. The protected tree would be retained. There would be passageway at the side of both houses and gardens at the rear.

3. PLANNING HISTORY

- 3.1 There is no history of any planning applications or decisions relating to the site.

4. PLANNING POLICY

National Planning Policy Framework (NPPF)

- 4.1 Paragraph 9 states that planning decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account to reflect the character, needs and opportunities of each area.
- 4.2 Paragraph 11 states that planning decisions should apply a presumption in favour of sustainable development. This means approving development proposals that accord with an up-to-date development plan without delay (as per section 38(6) of the Planning and Compulsory Purchase Act 2004). However, where the development plan is absent, silent or out of date, planning permission should be granted unless the application of policies in the NPPF that protects areas or assets of particular importance, provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 4.3 Paragraph 12 clarifies that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan, permission should not normally be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
- 4.4 According to paragraph 74, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies
- 4.5 Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 4.6 Paragraph 120 states that that planning policies and decisions should:
- give substantial weight to the value of using suitable brownfield land within settlements for homes (brownfield, or previously-developed, land being defined as: Land which is or was occupied by a permanent structure, including the curtilage of the developed land, excluding land in built-up areas such as residential gardens; and,
 - promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively.
- 4.7 Paragraph 130 states that planning policies and decisions should ensure that developments:
- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
 - are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
 - are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); and,
 - establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- 4.8 Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability

4.9 Paragraph 183 states that planning policies and decisions should ensure that: a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation

4.10 Paragraph 184 states that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Development Plan

4.11 The adopted development plan is the Tameside Unitary Development Plan (2004) and the Greater Manchester Joint Waste Development Plan Document (2012).

4.12 Tameside Unitary Development Plan (2004)

Part 1 Policies

- 1.3 Creating a Cleaner Greener Environment
- 1.12: Ensuring an Accessible, Safe and Healthy Environment.

Part 2 Policies

- H2: Unallocated Sites.
- H4: Type, Size and Affordability of Dwellings.
- H10: Detailed Design of Housing Developments.
- T10: Parking.
- C1: Townscape and Urban Form
- N5: Trees Within Development Sites
- MW11: Contaminated Land

Supplementary Planning Documents

4.13 Residential Design Supplementary Planning Document.

Other relevant policies

4.14 It is not considered there are any local finance considerations that are material to the application.

Places for Everyone

4.15 The Places for Everyone Joint Development Plan Document was published in August 2021. It was submitted to the Secretary of State in February 2022 and inspectors are appointed to carry out an independent examination. It is a joint plan covering nine of the ten Greater Manchester districts, including Tameside, and is intended to provide the overarching framework to strategically manage growth across the boroughs.

4.16 Paragraph 48 in the NPPF states that local planning authorities may give weight to relevant policies in emerging plans according to: the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight may be given); the extent to which there are unresolved objections (the less significant, the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

4.17 Whilst Places for Everyone has been published and submitted, a number of representations have been received objecting to policies, and so in accordance with paragraph 48 of the NPPF, only very limited weight can be given to those policies at this time.

Other Considerations

4.18 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a persons rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in respect for private and family life and for the home. Officers consider that the proposed

development would not be contrary to the provisions of the above Articles in respect of the human rights of surrounding residents/occupiers.

- 4.19 The application has been considered in accordance with the Tameside One Equality Scheme (2018-22), which seeks to prevent unlawful discrimination, promote equality of opportunity and good relations between people in a diverse community. In this case the proposed development is not anticipated to have any potential impact from an equality perspective.

5. PUBLICITY CARRIED OUT

- 5.1 The application has been advertised by means of neighbour notification letters to addresses in Birch Lane and Richmond Close.

6. SUMMARY OF THIRD PARTY RESPONSES

- 6.1 Representations have been received from three neighbouring households, each is an objection. In one instance the sole concern is the increased traffic movements that would be generated close to where the road bends, and near to a signal controlled junction, where, it is alleged, speeding is a common occurrence. In the other two instances, the concern is about loss of privacy and over-shadowing, and the failure to comply with usual spacing standards in part, because the proposed plot sizes are smaller than those of existing houses and so the proposed houses would encroach closer to neighbouring properties.
- 6.2 Councillor Lane has objected on the grounds that the proposal constitutes over-development of the site; it is at a bend in the road where access will create a road safety hazard; and the development will restrict sunlight to properties behind in Richmond Close.

7. RESPONSES FROM CONSULTEES

- 7.1 The Head of Environmental Services (Highways) has raised no objection to the proposal and suggested that the following conditions be attached should planning permission be granted:
- The provision of car parking spaces and visibility splays, as shown on the submitted plan;
 - A Construction Management Plan; and
 - Cycle storage provision; together with informative notes concerning postal addresses, and working near to a highway.
- 7.2 The Head of Environmental Services (Public Protection) has raised no objection and suggested that conditions restricting the hours of construction work; and requiring high-specification, acoustic-insulation glazing and refuse storage facilities, be attached to any permission.
- 7.3 The Arboricultural and Countryside Estates Officer has confirmed that the retention of the protected tree is achievable as is demonstrated by an Arboricultural Impact Assessment and Method Statement, and a Tree Protection Plan, that accompany the application.
- 7.4 The Coal Authority has raised no objection.
- 7.5 GM Police has raised no objection.

8. ANALYSIS

8.1 The site is located within an established residential area where, as was noted when the earlier application (ref. 18/00810/REM) for four new houses close by in Birch Lane was being considered, there is good access to public transport with bus services running along Birch Lane. The Council cannot demonstrate a five-year supply of deliverable housing sites in a recently adopted plan or in any annual position statement, as is required by paragraph 74 of the NPPF. So, despite the application site not comprising previously-developed land, as defined by the NPPF, being located in a relatively accessible location it is accepted that the site is suitable for appropriate residential development. The principle of the development being accepted, the issues to be considered in deciding this application are:

- The impact of the development on the character and appearance of the site and the surrounding area;
- The impact on existing residential amenities;
- The residential environment created; and
- The impact on highway safety and the road network.

9. CHARACTER AND APPEARANCE

9.1 The projecting bay across the front of the ground floors, and the hipped roofs, of the proposed houses would relate closely to the predominant housing style in the surrounding area. Given the use of appropriate external finishes, it is considered that the character and appearance of the proposed houses would be in-keeping with the setting within the established residential area and so compliant with policies 1.3, 1.11, H10(a) and C1 of the UDP; policy RD1 of the SPD; and, paragraphs 120 and 130 of the NPPF.

10. EXISTING RESIDENTIAL AMENITIES

10.1 The layout of the proposed development shows the spacing between the proposed house and existing houses across Birch Lane as being the same as between existing houses on either side of the road, approximately 20m.

10.2 The proposed houses would be at a higher level, approximately 1m, than the neighbouring bungalow and house to the rear in Richmond Close. There would be distances of approximately 22m between habitable room windows in the proposed houses and those in the bungalow, and more than 21m between windows in the proposed houses and the conservatory on the rear of the neighbouring house. Policies designed to prevent undue over-looking and over-shadowing of neighbouring properties are thus satisfied and in this respect, the proposal is considered acceptable.

10.3 Any future extension of the houses under normal permitted development rights might then result in the spacing becoming substandard between the proposed houses and the existing neighbouring houses, and bungalow, so that there would be an unacceptable loss of privacy and over-bearing impact on at the existing properties. So as to prevent any future extensions or additions to the houses do not cause any undue increase in the incidence of over-looking and over-shadowing of existing properties it is recommended that any permission be conditional, among other things, upon permitted development rights being removed.

10.4 Another recommended condition is to restrict the hours of work during the period of construction so as to mitigate disturbance and the impact on amenities during this period.

- 10.5 In terms of the impact that the development would have on existing residential amenities, the proposal is considered acceptable and compliant with: policies 1.5, H9(c), and H10(d) of the UDP; policy RD5 of the SPD; and paragraph 130 of the NPPF.

11. RESIDENTIAL ENVIRONMENT CREATED

- 11.1 Reflecting the requirement of section 12 of the NPPF, that developments create places with a high standard of amenity for existing and future users, in order for the proposed layout to be considered acceptable, in accordance with the requirement of UDP policy H10(a), the design of proposed housing developments, must meet the needs of the potential occupiers. To this end policy RD18 of the Residential Design SPD recommends minimum floor areas that residential developments should achieve. Internal space is interpreted by reference to the nearest equivalent new national technical standard which is given in the Government's Technical housing standards – nationally described space standard document (THS).
- 11.2 Excluding the area of the bedrooms in the roof space (that has a headroom of less than 1.5m), the houses would each approximately 90sqm and thus achieve the requirements of the THS for a 3-storey, 3-bedroom dwelling. The proposed houses would be provided with commensurate private amenity space, whilst adequate outdoor amenity space would be retained at no. 245 Birch Lane. In terms of the residential environment that would be created the proposal is therefore considered compliant with policies 1.5, H9(c) and H10(a) of the UDP; policies RD11 and RD18 of the SPD; and Sections 120 and 130 of the NPPF.
- 11.3 Policy H10(d) addresses the need to protect the amenity of neighbouring properties from the impact of noise, loss of privacy, overshadowing, and traffic, but not the host property. Despite Birch Lane being a classified (B6170) main road, the proposal is to provide houses that are set back from the road amid existing houses. Although colleagues in public protection have requested conditions in respect of glazing and mechanical ventilation, the requirements impose an unjustifiable and disproportionate burden on the applicant. In the circumstances, in respect of the residential environment that would be created, the proposal is considered acceptable and compliant with policy H10(d) of the UDP, policy RD5 of the Residential Design SPD and paragraph 130 of the NPPF.

12. HIGHWAY SAFETY AND THE ROAD NETWORK

- 12.1 As is noted, the site is highly accessibly located with numerous bus services along Birch Lane. The local shopping centre at Mead Way is approximately 350m to the east.
- 12.2 In this location, the proposed shared parking facility, with space enough to park 4 cars in-curtilage is adequate to serve the 2 houses. Having been consulted on the application neither the Head of Environmental Services (Highways) or GM Police has raised any objection and so, despite the absence of any bespoke cycle storage provision, it is considered that the proposals comply with: policies H10(b), T1 and T10 of the UDP; policies RD7, RD8 and RD9 of the SPD; and, the impact on the road network not being severe, paragraph 111 of the NPPF.

13. OTHER ISSUES

- 13.1 The protected tree would be retained within the development. That this is achievable is demonstrated by an Arboricultural Impact Assessment and Method Statement, and a Tree Protection Plan, that accompany the application. The retention of the tree will be in compliance with UDP policy N5.

- 13.2 The site is located in an area that is identified as being at a high risk from historic mining activity. The application is accompanied by a Coal Mining Risk Assessment which the Coal Authority has confirmed is sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development so that the proposal is compliant with paragraphs 174, 183 and 184 of the NPPF.

14. CONCLUSION

- 14.1 The Council cannot demonstrate a five-year supply of deliverable housing sites in a recently adopted plan or in any annual position statement, as is required by paragraph 74 of the NPPF. For decision-taking this means that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 14.2 The principle of the development is established, and without impinging unduly on any existing amenities, it is considered that the proposed houses would provide dwellings that conform to the relevant requirements of the Residential Design SPD, the UDP and the NPPF. The recommendation is that the application be approved.

RECOMMENTION

Grant planning permission, subject to the following conditions:

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby approved shall be carried out in full accordance with the following plans and documents:

- the Location Plan – 01 rev. F,
- Proposed Site Plan – 02 rev. F,
- Proposed Site Section – 02 A rev. F,
- Proposed Floor Plans – 03 rev. F, and
- Proposed Elevations – 04 rev. F,

received on 15.03.2022; and,

- Arboricultural Impact Assessment and Method Statement (rev. A) – MG/6354/AIS&AMS/REV A/OCT21, and
- Tree Protection Plan – 6354.02 A,

received on 18.10.2021.

Reason: For the avoidance of doubt.

3. Prior to the commencement of the development hereby approved, a sustainable surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:
 - (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;

- (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
- (iii) A timetable for its implementation.

The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

4. Prior to the commencement of the development hereby approved, a Construction Management Plan including details of wheel cleaning facilities, temporary access, vehicle parking and turning facilities to be provided during the construction period, shall be submitted to, and approved in writing by, the local planning authority. The approved measures shall be implemented and maintained throughout the period of construction.

Reason: To secure the provision of satisfactory access to the site and in the interests of road safety.

5. During the period of construction, no work (including vehicle and plant movements, deliveries, loading and unloading) shall take place outside the hours of 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 Saturdays. No work shall take place on Sundays and Bank Holidays.

Reason: To protect the amenities of occupants of nearby properties/dwelling houses.

6. No works other than the excavation of the foundations and/or piling works for the development shall be undertaken at the site until the CLS2A Contaminated Land Screening Form has been submitted to, and approved in writing by, the Councils Environmental Protection Unit (EPU). Where necessary, a scheme to deal with any contamination / potential contamination shall be submitted to, and approved in writing by the EPU. The scheme shall be appropriately implemented and a completion report demonstrating this and that the site is suitable for its intended use will be approved in writing by the EPU prior to occupation. The discharge of this planning condition will be given in writing by the Local Planning Authority (LPA) on completion of the development and once all information specified in this condition has been provided to the satisfaction of the EPU.

Reason: To ensure that the site is suitable for its intended end use and to remove any unacceptable risk to people/buildings/environment from contaminated land as per paragraph 121 of the National Planning Policy Framework..

7. Notwithstanding any description of materials in the application, no above ground construction works shall take place until samples or a full specification of materials to be used externally on the development hereby approved have been submitted to, and approved in writing by, the local planning authority. Such details shall include the type, colour and texture of the materials. The development shall then be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

8. Prior to the first occupation of the development hereby approved, the car parking indicated on the approved plan, ref. 02 rev. F, shall be provided and thereafter kept unobstructed and available for their intended purpose at all times.

Reason: To ensure adequate car parking arrangements.

9. A clear view shall be provided from the site access where it meets the footway on Birch Lane. Its area shall measure 2.4 metres along the edge of the site access and 2.4 metres along the (footway/roadway). It must be kept clear of anything higher than 600mm above the access.

Reason: To allow users of the site access and Birch Lane to see each other approaching.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any order revoking and re-enacting that Order, with or without modification, no windows or dormer windows, other than those expressly authorised by this permission, shall be constructed.

Reason: To prevent undue overlooking of neighbouring properties.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any order revoking and re-enacting that Order, with or without modification, express planning consent shall be required for any development referred to in Class A, Class AA, Class B, and Class C of Part 1 of Schedule 2 of that Order.

Reason: To prevent undue overlooking and over-shadowing of neighbouring properties.