

Application Number:	20/01255/OUT
Proposal:	Outline planning application for the erection of 8 houses (landscaping reserved).
Site:	Land at Woodend View, Mossley
Applicant:	Mr Mark Andrew & Mr Frank Williams
Recommendation:	Refuse planning permission.
Reason for Report:	A Speakers Panel decision is because the application has been called in by Councillor Sharif.
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 is located approximately 580m to the north-east of Mossley town centre in what is a predominantly residential area, although interspersed with areas of open space. Along its northern boundary the application site encompasses a level, unmade track that connects New Earth Street in the west to Roughtown Road in the east. The remainder, and majority, of the site then comprises land that slopes steeply southward down to the railway. The sloping land is densely wooded. From New Earth Street, the track passes behind, and serves as the primary access to, a terrace of six houses, in Woodend View,. To the north, immediately beyond the unmade track, there is landscaped area of open land, including a children's playground, and the land then continues to rise towards the rear of a terrace of stone-built houses in Carrhill Road.

2. PROPOSAL

- 2.1 The application seeks outline planning permission, including the details of access, appearance, layout and scale for the development of eight detached house. Only details of landscaping are excluded from the proposals.
- 2.2 The proposed houses would be arranged in a generally linear arrangement on the southern side of the unmade track, which would be improved to an adoptable standard so as to provide access. The houses would be set back behind front gardens and rise to two storeys at the front. At the rear, because of the topography and the land being at a lower level, there would be a lower ground-floor. The submitted plans indicate that two of the houses would include five bedrooms, each including an en-suite bedroom on the lower ground-floor. The other six houses would each include four bedrooms, involving utilising the roofspace with dormers to provide a bedroom.
- 2.3 In order to provide relatively level rear gardens, the land behind the houses, before the railway, would be excavated and so require the higher ground to be supported with retaining structures.

3. RELEVANT PLANNING HISTORY

- 3.1 04/00131/FUL - Erection of 3no detached dwellings - Approved 30.04.2004
- 3.2 11/00552/FUL - Erection of 6no detached houses and associated works - Refused 01.07.2012

- 3.3 19/00943/OUT - Outline application for the erection of 6 houses and 3 apartments including details of Access, Appearance, Layout & Scale - Withdrawn 04.03.2020

4. PLANNING POLICY

National Planning Policy Framework (NPPF)

- 4.1 Paragraph 9 of the National Planning Policy Framework (NPPF) 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 of the NPPF 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. Development Plan
- 4.4 Paragraph 111 of the NPPF 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.
- 4.5 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.
- 4.6 The adopted development plan is the Tameside Unitary Development Plan (2004) and the Greater Manchester Joint Waste Development Plan Document (2012).
- 4.7 **Tameside Unitary Development Plan (2004)**
- 4.8 Part 1 policies
- 1.3: Creating a Cleaner and Greener Environment.
 - 1.5: Following the Principles of Sustainable Development.
 - 1.10: Protecting and Enhancing the Natural Environment.
 - 1.12: Ensuring an Accessible, Safe and Healthy Environment.
- 4.9 Part 2 Policies
- H2: Unallocated Sites.
 - H10: Detailed Design of Housing Developments.
 - OL4: Protected Green Space
 - T1: Highway Improvement and Traffic Management.
 - T10: Parking.
 - C1: Townscape and Urban Form.
 - N4: Trees and Woodland.
 - N5: Trees Within Development Sites.

- MW11: Contaminated Land

Supplementary Planning Documents

- Residential Design Supplementary Planning Document.
- Tameside Council Open Space Review 2017/18

Other Relevant Policies

National Design Guide (2021)

- 4.10 Illustrates how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice. It forms part of the Government's collection of planning practice guidance and should be read alongside the separate planning practice guidance on design process and tools.

Places for Everyone

- 4.11 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.
- 4.12 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).
- 4.13 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

- 4.14 The application has been considered having regard to Article 1 of the First Protocol of the Human Rights Act 1998, which sets out a person's rights to the peaceful enjoyment of property and Article 8 of the Convention of the same Act which sets out his/her rights in regard to 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.
- 4.15 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 In accordance with the requirements of the Town and Country Planning (Development Management Procedure) (England) Order 2015 and the Council's adopted Statement of Community Involvement the application has been publicised by neighbour notification letters and a notice being posted at the site and having been published in a newspaper

6. SUMMARY OF THIRD PARTY RESPONSES

- 6.1 Councillor Sharif has objected on the grounds that it is considered that:

- This is a very poor application with insufficient details for a determination, and on this ground alone it should be refused or additional information should be sought prior to Panel.
- The development will result in additional pressure on current open space in the area.
- It will amount to an overdevelopment of the site, going from 9 builds (6+3) to 8 is still an overdevelopment.
- It will be out of character with the surrounding area.
- The access to the site via narrow and heavily parked streets is inappropriate, disruptive and will be detrimental to highway safety.
- The proposal includes no details of how heavy plant and materials will access or deliver to the site.
- The density of the proposed residential accommodation is excessive and is detrimental to the residential amenity of the proposed occupiers and surrounding residential areas.
- There is a high chance for flooding from natural streams in the locality, and this will be exacerbated as a result of increased hard surface treatments associated with the development. The proposals do not include any measures to assess or address this potential problem.

6.2 Objections have been received from thirty-two households.

6.3 The reasons given for objecting are the contentions that:

- the constrained access to the site will likely result in contractors' vehicles coming in to conflict, and causing damage to residents' vehicles, and creating road safety hazards, including to children using the neighbouring playground;
- the loss of parking spaces on the unmade road leading to road safety hazards due to increased parking on surrounding roads;
- the proposal would add to already excessive residential development in Mossley;
- roads in the vicinity are inadequate to cater for the increased traffic that would be generated;
- the development will increase pressure on local services and use of open spaces;
- the houses are out-of-keeping with the setting;
- the necessary earthworks may cause damage to existing properties and affect drainage; and,
- the development would result in the loss of trees, habitats, and play space.

6.4 An objector contends that the application effectively seeks full planning permission and so a decision would be premature without consideration of a set of documentation that is absent.

7. RESPONSES FROM CONSULTEES

7.1 The local highways authority has raised no objection subject to conditions regarding:

- highway construction details,
- surface water drainage details,
- a Construction Environment Management Plan,
- the provision of parking spaces,
- electric vehicle charging points, and
- cycle storage,
- together with informative notes regarding postal address and working near to a public highway,

being attached to any permission.

- 7.2 The Council's Arboriculturalist has identified that the site contains a number of trees, including mature specimens, that are valuable to the amenity of the wider area, and recommends that a full Arboricultural Report and Impact Assessment should be submitted, together with a high quality landscaping to mitigate for losses.
- 7.3 The Head of Environmental Services (Public Protection) has raised no objection subject to conditions:
- requiring the provision of noise mitigation measures;
 - restricting the hours of construction work; and
 - requiring a remediation strategy, detailing the works and measures required to address any unacceptable risks posed by contamination at the site, and the implementation of any works identified as being necessary,

being attached to any permission.

- 7.4 The Lead Local Flood Authority has identified shortcomings in the submitted proposed drainage strategy which might be overcome by a condition being attached to any permission to require a surface water drainage strategy to be submitted to, and approved by, the local planning authority.
- 7.5 United Utilities has raised no objection subject to a condition requiring a surface water drainage strategy to be submitted to, and approved by, the local planning authority
- 7.6 Network Rail has objected on the grounds that the proposal includes drainage channels adjacent to the railway boundary as well as gabion walls and an acoustic fence on the railway boundary. In the event that permission is granted it is suggested that certain conditions, regarding a trespass-proof fence and working within close proximity to the railway, be attached to any permission.
- 7.7 The Greater Manchester Ecology Unit has raised no objection subject to a condition requiring a badger survey be carried out ahead of any work commencing.

8. ANALYSIS

- 8.1 The application seeks approval for the details of the means of access to, the layout, and scale and appearance, of the development of eight detached houses. Any approval of these details will then constitute substantive planning permission that confirms that the principle of the proposed development is acceptable on this site.

9. PRINCIPLE OF THE DEVELOPMENT

- 9.1 Whether the details of the proposed development for which permission is sought are considered acceptable, the approval of the application would constitute substantive planning permission that confirms that the principle of the proposed development is acceptable on this site.
- 9.2 The applicant contends that there remains an extant planning permission (ref. 04/00131/FUL) for three houses on the application site. If this is the case the inference is then that the principle of residential development on the site is established. The contention is that the permission remains extant because work commenced on the implementation of the approved development before the permission would otherwise have expired, and this was confirmed by Council building control officers.

- 9.3 The contention can however be afforded little weight in determining whether the principle of the proposed development on this site is acceptable. Whilst it is accepted that some work on the site began following the grant of planning permission, as the applicant was advised at the time:
- none of the pre-commencement conditions of the planning permission had been discharged when work began, so any commencement might be considered unlawful; and,
 - the proposals included in the application for building regulations approval were found to differ from those included in the planning permission and so the commencement of works, as conformed by building control officers, would not constitute a commencement of the implementation of the planning permission.
- 9.4 In determining whether the principle of the proposed development on this site is acceptable now the weight that can be afforded to the grant of planning permission in 2004 is again limited. That permission was granted before both the adoption of the development plan (the current Tameside UDP) and the introduction of the NPPF. The planning policy framework within which the previous application was decided differs from that in place today.
- 9.5 Whilst the previous refusal of planning permission (ref. 11/00552/FUL) did not cite that the principle of development on the site was unacceptable, the decision, whilst post-dating the adoption of the current UDP, was made before the introduction of the current NPPF.
- 9.6 Section 38 of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.7 The planning policy framework has changed substantively since the previous applications were considered, most significantly by the introduction of the NPPF. The provisions of the NPPF are now material considerations that should be afforded significant weight in the determination of the application.
- 9.8 Paragraph 219 of the NPPF confirms that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. At the heart of the NPPF is the presumption in favour of sustainable development.
- 9.9 The NPPF states that a presumption in favour of sustainable development should be at the heart of every application decision. For decisions on planning applications this means:
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - specific policies in the Framework indicate development should be restricted.
- 9.10 Although not allocated specifically as protected green space, UDP policy OL4 affords the same protection from built development to other areas of open land. The principle of the development must therefore be considered against policy OL4 of the UDP and the policies of Section 8 of the NPPF, and whether built development is acceptable on the area afforded the status of Protected Open Space.
- 9.11 The council commissioned an Open Space Study (the Study) published in 2018. The Study covers a number of open space specific typologies and, of these, the application site will constitute an area of amenity space. Such a space offers opportunities for informal activities close to home or work

or enhancement of the appearance of residential or other areas, these would include informal recreation spaces, housing green spaces, village greens and other incidental space.

- 9.12 The application site is privately-owned and not readily accessible to the public. Parts of the site have been cleared of vegetation previously but it has now largely regenerated. The contribution of the application site as open space to the community is almost solely of visual amenity, providing, as it does, an incidental tract of land that enhances the appearance of the predominantly residential area, and provides a visually attractive buffer before the railway. Part of that attractiveness is due to a number of mature trees present on the site.
- 9.13 The current application proposes that all of the vegetation on site be removed, the detail of landscaping would then held in reserve for subsequent approval. The application does not include any arboricultural survey of the site, nor an appraisal of the amenity value afforded by the existing mature trees and what compensation, by way of replacement planting, there would be for their loss. Whilst the development of part of the site might be acceptable in principle, the development of the whole of the site as is now proposed would result in the loss of whatever amenity value the site provides, including that provided by the presence of the mature trees.
- 9.14 The determination of whether a site is suitable in principle for the proposed use, in this case housing, includes consideration of ground conditions and stability. The NPPF requires 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 ... land instability. Planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
- 9.15 The issue goes to the heart of the proposal.
- 9.16 The application includes a Ground Investigation Report. The recommendations of the Report include that additional site investigations be carried out at the site to provide further information to allow an accurate assessment of the site and the risks posed by the existing slope. The Report is inconclusive and so it cannot be ensured that the proposed development will not contribute to, and that it, as well as those existing, including the safe operation of the railway, will not be put at risk from unacceptable levels of land instability. The applicant has thus not demonstrated that what is proposed would be a safe development, and for this reason the proposal cannot be considered acceptable in principle.
- 9.17 Notwithstanding that the proposal is found unacceptable in principle, the application seeks approval for detailed matters of access to; appearance, layout, and scale of, the proposed development. Each of these matters are then addressed in turn.

10. ACCESS

- 10.1 The proposal includes the making-up of the track between New Earth Street and Roughtown Road to an adoptable standard. Each of the houses would then be provided with driveways with appropriately geometrically-designed access, and adequate space to park at least two cars off the road. It is estimated that the development would have the potential to generate nine additional vehicle trips at peak times.
- 10.2 Whilst there are bus services along both Carrhill Road and Stockport Road, which are relatively close to the site, access to local services, such as shops, is limited.

10.3 Despite the absence of local services it is considered that the site is accessible by modes of transport other than motor cars and that the parking provision and arrangements proposed are adequate so that the presence of eight new houses would not have an unacceptable impact on highway safety, nor would the residual cumulative impacts on the road network be severe so that, in terms of access, the proposal is accepted as being compliant with policies T1 and T10 of the UDP, and with paragraph 111 of the NPPF.

11. LAYOUT

11.1 The houses would be laid out in a relatively linear formation but, following the curve of the embankment at the rear, coming closer to the road nearer to Roughtown Road. The linear arrangement is consistent with the built form of nearby houses that are generally in terraces.

11.2 There being no existing houses either immediately in front or behind, the layout of the proposed houses would create minimal impact on the amenities of any neighbours in terms of over-looking and over-shadowing.

11.3 The layout of the proposed housing plots within the site would provide commensurate private amenity, or garden, spaces.

12. DESIGN AND APPEARANCE

12.1 Each of the proposed houses would rise to two storeys on the street frontage with external walls being finished in stone and tiled roofs.

12.2 A consistent palette of external finishes would be used throughout the development so as to achieve a cohesive scheme that acknowledges the character of the locality within which it is set whilst remaining identifiably contemporary, including such features as artstone window surrounds and mullions. In terms of scale and design, it is accepted that the houses would appear appropriate within the existing context they would be set.

12.3 Reflecting the requirement of Section 12 of the NPPF, that developments create places with a high standard of amenity for existing and future users, UDP policy H10(a) requires that the design of proposed housing developments, which are acceptable in relation to other relevant policies in the plan, meets 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).

12.4 Including accommodation over three storeys, the four bedroomed houses would provide approximately 117 square metres floor area and the five bedroomed houses would provide approximately 147 square metres floor area and this comply with THS.

13. CONCLUSION

13.1 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 75 of the NPPF. In turn, the test in the 4th bullet point of paragraph 11 applies, so 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.

13.2 In terms of its component dimensions there would be a relatively small social benefit in providing eight extra housing units. Economic advantages would also arise from the construction and

occupation of the new houses. Nevertheless, it is considered that the adverse impacts of the proposed development on the land afforded protection from development as if were allocated as protected green space, and that it is not demonstrated that the proposed development will not contribute to, and that it, as well as those existing, including the safe operation of the railway, will not be put at risk from unacceptable levels of land instability, would outweigh any associated benefits. When assessed against the policies in the NPPF taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits and so the proposal would not constitute a sustainable form of development and the recommendation is for refusal.

RECOMMENDATION

That planning permission be refused for the following reasons:

1. The proposal includes that all of the vegetation on the site be removed, and the detail of landscaping would then held in reserve for subsequent approval. The application does not include any arboricultural survey of the site, nor an appraisal of the amenity value afforded by the existing mature trees and what compensation, by way of replacement planting, there would be for their loss. Whilst the development of part of the site might be acceptable in principle, the development of the whole of the site as is now proposed would result in the loss of whatever amenity value the site provides, including that provided by the presence of the mature trees. The proposal thereby fails to comply with policies 1.3, 1.5, 1.10, OL4, N4 and N5 of the Tameside Unitary Development Plan, and Sections 2, 12 and 15 of the National Planning Policy Framework
2. The application includes a Ground Investigation Report that recommends that additional site investigations be carried out at the site to provide further information to allow an accurate assessment of the risks to the stability of the land within the site, and the risks posed by the existing slope just beyond the site boundary. That the proposed development will not contribute to, and it, as well as those existing, including the safe operation of the railway, will not be put at risk from unacceptable levels of land instability cannot then be ensured. The proposal is thus contrary to Section 15 of the NPPF.