

PLANNING COMMITTEE

30th March 2021

APPLICATION FOR CONSIDERATION

0105/2021

REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION

Tamworth
Borough Council

Application Number:	0105/2021
Development:	Variation of conditions relating to approved planning permission ref. 0323/2019 - condition 2 (approved plans) and condition 6 (onsite parking provision)
Location:	4 and 6 Woodhouse Lane, Amington, TAMWORTH, B77 3AE

1. Description of Proposal and Site

- 1.1 This is an application to vary condition 2 (plans) of application reference 0323/2019 to allow for an amendment to the approved parking layout. The application proposes to move 5 off street parking spaces from the adjacent land (which did not form part of the application site, but did comprise land owned by the applicant) to within the application site, adjacent to the new dwellings they would serve. The original application was heard by the planning committee on the 3rd December 2019, where it was resolved to approve the application subject to 11 conditions and a S106 legal agreement. The decision notice was issued on the 9th April 2020. Two separate applications have subsequently been applied for to approve the conditions relating to the consent. Under reference 0073/2020 approval was sought and granted for the discharge of conditions 3 (CMP), 4 (Drainage Details), 5 (Materials), and under reference 0170/2020 approval was sought and granted for condition 10 (Dust Suppression).
- 1.2 The reconfiguration and amendment to the proposed parking layout has arisen due to an alternative solution being developed in relation to fire protection measure on the site (the installation of fire misting systems). Originally fire engine access was required to the site, which would have resulted in engineering works. These works would have hampered the sites ability to achieve the parking requirements on site and so a suitable solution for off-site provision was agreed. The 5 parking spaces that were previously to be delivered on the adjacent land would now be delivered on the application site. This variation would also negate the need for a legal agreement, previously necessary to secure the provision.
- 1.3 The approved housing scheme (0323/2019) is currently being delivered and is nearing completion.

2.0 Relevant Site History

0323/2019 - Demolition of 4 and 6 Woodhouse Lane. Construction of 12 self-contained flats for social rent – Approved

0073/2020 – Discharge of conditions relating to planning permission 0323/2019: condition 3 (Construction Traffic Management Plan), condition 4 (drainage) and condition 5 (materials) – Approved

0170/2020 – Discharge of condition 10 (Dust Control) of planning permission 0323/2019 – Approved

3.0 Policies

Adopted Tamworth Local Plan 2006-2031

- *SS1 - The Spatial Strategy for Tamworth*
- *SS2 – Presumption in Favour of Sustainable Development*
- *EN4 – Protecting and Enhancing Biodiversity*
- *EN5 – Design and New Development*
- *SU2 - Delivering Sustainable Transport*
- *SU4 – Flood Risk and Water Management*
- *SU5 – Pollution, Ground Conditions and Minerals and Soils*

- *Appendix C – Car Parking Standard*

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

4.0 Consultation Responses

Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at www.tamworth.gov.uk.

4.1 Staffordshire County Council Highways

No objection subject to conditions. They have commented that the proposed parking spaces (as detailed within the site layout) should be provided prior to occupation. Highways have acknowledged that the proposed parking layout would represent an improvement over the previously approved application and as such is deemed to be acceptable.

4.2 Staffordshire County Council Rights of Way

Comments made and addressed. No objection

4.3 Coal Authority

No objection

4.4 Tamworth Borough Council – Tree Officer

Comments made and addressed. No objection

4.5 Tamworth Borough Council – Environmental Protection

No objection

5.0 Additional Representations

5.1 As part of the consultation process adjacent residents were notified and a press notice and site notices were erected. Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at www.tamworth.gov.uk.

No objections have been received in respect of the application.

6.0 Equality Implications and Human Rights Implications

6.1 Due regard, where relevant, has been taken to the Tamworth Borough Council's equality duty as contained within the Equalities Act 2010. The authority has had due regard to the public sector equality duty (PSED). Under section 149 of the Equality Act 2010, a public authority must in the exercised of its functions, have due regard to the interests and needs of those sharing the protected characteristics under the Act, such as age, gender, disability and race. This proposal would have no significant impact on such protected characteristics.

6.2 There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act, regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. These issues have been taken into account in the determination of this application.

7.0 Planning Considerations

7.1 Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle
- Highway Safety
- Planning Conditions

7.2 **Principle**

7.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material planning consideration. Both the Local Plan (LP) and the NPPF contain a presumption in favour of sustainable development. Policy SS2 (presumption in favour of sustainable development) of the LP makes reference to the presumption contained within para 11 of the NPPF, which states:-

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

7.2.2 The principle of this development has already been established by the previous planning permission (0323/2019) and this report should be read in conjunction with that of the earlier application in which the principle acceptability of the proposal is considered at depth.

7.3 **Highway Safety**

7.3.1 Policy SU1 of the LP seeks to ease and improve the quality of access within the Borough through a range of policy criteria (a – i) of specific relevant to this application criterion i) requires improvements and traffic management measures as required to mitigate the impact of development traffic, with the Policy continuing to state that contributions towards infrastructure will be required where proportionate and necessary. In addition, Policy SU2 of the LP requires development to be accessible by walking, cycling, and public transport... and that planning permission should only be granted where development would ensure adequate highway safety, suitable access for all. The Policy continues that Planning Permission will be refused where travel to and from the development would be likely to cause harmful levels of pollution, highway safety or capacity issues. In regards to new roads, design advice is provided, in that they should result in a high quality public realm and finally a section on parking requirements is included, supplemented by Appendix C.

The NPPF at para 108 states that:- *in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) safe and suitable access to the site can be achieved for all users; and*
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

And para 109 continues 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.

- 7.3.2 As part of the original application the off street parking for the dwellings was to be provided on the adjacent land. This land was owned by the applicant, but did not form part of the application site. The application was originally assessed by the highways authority on the basis that it would provide assisted living accommodation, and it was evidenced throughout the application process that the proposed residents would not have access to vehicles. Parking provision was however considered to be necessary in the event that the accommodation was sold on the open market. To secure the parking provision on the adjacent land, the application was subject to a legal agreement.
- 7.3.4 The proposed amendment represents an improved situation in that it would result in a more usable and accessible parking layout and the highways authority have raised no objection on this basis (subject to a condition to secure parking provision).
- 7.3.5 On the basis of the above, the development would therefore continue to be compliant with Policies EN5 and SU2 of the Local Plan and in this regard would be acceptable.

7.4 Original Planning Conditions

- 7.4.1 Planning permission ref: 0323/2019 was subject to 11 conditions, one of which (condition 2 - plans) is subject to variation under this application.
- 7.4.2 Two separate applications have subsequently been applied for to approve the conditions relating to the consent. Under reference 0073/2020 approval was sought and granted for the discharge of conditions 3 (CMP), 4 (Drainage Details), 5 (Materials), and under reference 0170/2020 approval was sought for conditions 10 (Dust Suppression), both of which have now been discharged.
- 7.4.3 As a result of this submission some of the originally imposed conditions are no longer necessary, whilst the wording of others needs to be updated to reflect the approved documentation.

The full break-down is as follows:-

- Condition 1 - Time – no longer necessary as the development is nearing completion.
- Condition 2 - Plans - is hereby varied
- Condition 3 - CMP – Discharged, so will be re-worded to reflect the approved details.
- Condition 4 – Drainage Plans – Discharged, so will be re-worded to reflect the approved details.
- Condition 5 – Materials – Discharged, so will be re-worded to reflect the approved details.
- Condition 6 – Parking Provision – shall be re-imposed
- Condition 7 – Parking Spaces Marked Out – shall be re-imposed
- Condition 8 – Gates and Barriers – shall be re-imposed
- Condition 9 – Construction Hours – shall be re-imposed
- Condition 10 – Dust Suppression – Discharged, so will be re-worded to reflect the approved details.
- Condition 11 – Landscaping Details – shall be re-imposed

7.5 Other considerations

- 7.5.1 The proposed relocation of the 5 car parking spaces from the main car park area to adjacent to the new dwellings along Woodhouse Lane would not generate any significant harm to the amenity of surrounding properties. The proposed location of the 5 new spaces is in a location where there was previously an existing access and off street parking for a number of vehicles. As such the proposed parking in this location would not result in any additional harm over and above the approved situation. The amendments considered under this application would therefore in accordance with policy EN5 of the adopted Tamworth Local Plan.
- 7.5.2 The changes proposed to the application would be minor in scale and would not therefore result in any material impacts on the design of the scheme or in terms of character and appearance. The proposal would therefore be in accordance with policy EN5 of the Local Plan in this regard.
- 7.5.3 The Tree Officer originally commented that the details of the root protection area for trees with roots adjacent to the proposed new buildings. A detailed landscaping plan and root protection plan have previously been submitted and approved under the original application. The originally approved plans and details not subject to this proposed variation will be reiterated on the decision notice. On the original application the Tree Officer responded with no objection to the proposal and that the

method statement and tree protection plan were considered appropriate. Therefore, the proposal is in accordance with policy EN4 of the adopted Tamworth Local Plan 2006-2031.

8.0 Conclusion

- 8.1 The principle of this development has already been established through the earlier grant of planning permission (ref: 0323/2019). The variations proposed have arisen due to an alteration in the required location for fire engines and there no longer being a need to re-engineer the car park, and as such there would be the relocation of 5 off street parking spaces. The amendments, by virtue of the scale and nature of the proposed changes, there would be no further significant material impacts upon highway safety, residential amenity or design, character or appearance. Furthermore, there are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is considered to accord with relevant guidance and policy provided by the National Planning Policy Framework and the adopted Tamworth Local Plan. Accordingly it is recommended that planning permission be granted, subject to the imposition of the previous planning conditions, which have been amended, removed or re-worded, where applicable.

9.0 Recommendation

1. Approval subject to the conditions outlined below in accordance with the requirements outlined in this report.

Conditions / Reasons

1. The development hereby approved shall only be carried out in accordance with the application form, the supporting letter and drawing numbers D11 Revision E, D21, D22, D24, D25, D20, D23, THL-0778-3, THL-0778-2 and D14 Revision A unless otherwise agreed in writing by the Local Planning Authority. Reason: For the avoidance of doubt and to define the approval.
2. The development shall be carried out in strict accordance with the details approved in the (Site and Traffic Management Plan – Issue 1) and associated timetable of works. REASON: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area.
3. The development shall be carried out in strict accordance with the details approved in the Sustainable Drainage Assessment, Operation and Maintenance Plan (March 2020). REASON: To reduce the risk of surface water flooding and pollution to the development and properties downstream for the lifetime of the development in accordance with Policy SU4 of the Tamworth Local Plan 2006-2031.
4. The development shall be carried out in strict accordance with the details approved in the 71175 Materials Schedule (15/04/2020). Reason: To ensure a satisfactory external appearance to the development in accordance with policy EN5: Design of New Development set out in the Tamworth Local Plan 2006-2031.
5. The development hereby permitted shall not be occupied until such time as the car parking spaces have been laid out and implemented in accordance with the Site Layout Plan (Drawing No. D11 Revision E) thereafter the onsite parking provision shall be so maintained in perpetuity. REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with Paragraph 108 of the National Planning Policy Framework February 2019.
6. No dwelling shall be occupied until the parking spaces approved by the Local Planning Authority have been provided and marked out. Reason: To ensure that adequate

provision is made for the parking of vehicles clear of the highway in the interests of highway safety and in accordance policy SU2 and Appendix C of the Tamworth Local Plan 2006-2031.

7. Any vehicular access gates, barriers, bollards, chains or other such obstructions that are erected to the car park should be kept fully open at all times when the site is open to staff, residents or visitors. REASON: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with Paragraph 32 of the National Planning Policy Framework 2012.
8. No construction site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 08:00 -17:00hrs Monday to Saturday and not at any time on Sundays, Bank or Public Holidays. Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy and in accordance with the provisions of Circular 11/95.
9. The development shall be carried out in strict accordance with the details approved in the Dust Suppression Plan (29/04/2020). Reason: To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with local planning policy
10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation. Reason: In the interests of the setting and visual appearance of the development, and in compliance with policies EN4: Protecting and Enhancing Biodiversity and EN5: Design of New development as set out in the Tamworth Local Plan 2006-2031.

This permission does not grant any other approval other than under Section 57 of the Town and Country Planning Act 1990.