

ITEM 1

Application Reference	DC/089331
Location:	13 Regent Close Bramhall Stockport SK7 1JA
PROPOSAL:	Minor Material Amendment to application DC/082350 to amend approved plans (Condition 2)
Type Of Application:	Minor Material Amendment
Registration Date:	19.09.2023
Expiry Date:	15.02.2023
Case Officer:	Osian Perks
Applicant:	Mr Frazer Lloyd-Jones
Agent:	Mr Barrie Newcombe

DELEGATION/COMMITTEE STATUS

This application has received four or more objections. It is therefore referred to the Bramhall & Cheadle Hulme South Area committee for determination.

DESCRIPTION OF DEVELOPMENT

The application is made under section 73 of the Town and Country Planning Act 1990. Such an application can be used to make substantial amendments to an approved application by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission.

Permission granted under section 73 takes effect as a new, independent permission subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

Permission is sought to vary the plans approved at appeal through application DC/082350 (the parent permission).

Whereas previously permission was granted for four, four bedroom properties, permission is now sought for the erection of four, five bedroom dwellings. Whereas the previously approved dwellings were approximately 8m tall, the heights of the newly proposed dwellings are as follows: Plot 1 is 10m; plot 2 is 9m, plot 3 is 8.5m and plot 4 is 8.3m.

The dwellings now proposed, whilst considerably different in design, would be sited in very similar approximate permissions to those approved through the parent permission.

SITE AND SURROUNDINGS

The application site is located at the end of a cul-de-sac in a residential area of Bramhall. A driveway runs through the site, from the public highway, between two neighbouring properties and to a detached, single storey residential property within the site. Behind the property is a large amenity space associated with the dwelling.

Whilst not within it, the Syddal Park Conservation Area (SPCA) runs alongside the Eastern boundary of the site.

Previously, in 2021 an application seeking the demolition of the bungalow on the site and the erection of four detached dwellings was refused by delegated decision (ref: DC/082350). Two reasons for refusal were given. The first of these related to the harm the development would cause to the locality and Syddal Park Conservation Area. The second of these related to the requirement of the developer to make contributions towards the provision of recreation and amenity open space. It was acknowledged by the case officer that this second reason could be overcome by entering into a S106 agreement with the Council, which the applicant subsequently did.

The decision was subsequently challenged by the applicant and overturned at appeal. The appeal inspector found that *'the proposed development would result in a visual change through the introduction of built development, but there is a lack of any contribution to the heritage significance or character and appearance of the SPCA [Syddal Park Conservation Area] through any historic function.'*

The Inspector also stated that:

'There is also limited ability to view the site from any meaningful vantage points in the public realm.'

They also indicated that the development proposed would have at worst a neutral impact upon the character of the Conservation Area and *'the proposed development would not harm the character and appearance of the appeal site, surrounding area or the setting/significance of the SPCA.'*

POLICY BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 ("PCPA 2004") requires that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan includes-

- Policies set out in the Stockport Unitary Development Plan Review adopted 31st May 2006 which have been saved by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004; &
- Policies set out in the Stockport Local Development Framework Core Strategy Development Plan Document adopted 17th March 2011.

Saved policies of the SUDP Review

HC1.3 Special Control of Development in Conservation Areas
NE1.2 Sites of Nature Conservation Importance
EP1.7 Development and Flood Risk
L1.1 Land for Active Recreation
L1.2 Children's Play
MW1.5 Control of Waste from Development

LDF Core Strategy/Development Management policies

CS1 Overarching Principles: Sustainable Development – Addressing Inequalities and Climate Change
SD1 Creating Sustainable Communities
SD3 Delivering the Energy Opportunities Plans – New Development
SD6 Adapting to the Impacts of Climate Change
CS2 Housing Provision
CS3 Mix of Housing
CS4 Distribution of Housing
H1 Design of Residential Development
H2 Housing Phasing
CS8 Safeguarding and Improving the Environment
SIE1 Quality Places
SIE2 Provision of Recreation and Amenity Open Space in New Development
SIE3 Protecting, Safeguarding and Enhancing the Environment
CS9 Transport and Development
T1 Transport and Development
T2 Parking in Developments
T3 Safety and Capacity on the Highway Network

Supplementary Planning Guidance

Supplementary Planning Guidance does not form part of the Statutory Development Plan; nevertheless it does provide non-statutory Council approved guidance that is a material consideration when determining planning applications.

- Sustainable Transport' SPD.
- Sustainable Design and Construction SPD
- Open Space Provision and Commuted Sum Payments SPD
- Transport in Residential Areas
- Design of Residential Development SPD

<https://www.stockport.gov.uk/topic/current-planning-policies>

National Planning Policy Framework

A Revised National Planning Policy Framework (NPPF) issued by the Secretary of State for Housing, Communities and Local Government (MHCLG) in September

2023 replaced the previous NPPF (originally issued 2012, revised 2018, 2019 & 2021). The NPPF has not altered the fundamental legal requirement under Section 38(6) of the Planning and Compulsory Purchase Act 2004 that decisions must be made in accordance with the Development Plan unless material considerations (such as the NPPF) indicate otherwise.

The NPPF representing the governments up-to-date planning policy which should be taken into account in dealing with applications focuses on achieving a lasting housing reform, facilitating the delivery of a greater number of homes, ensuring that we get planning for the right homes built in the right places of the right quality at the same time as protecting our environment. If decision takers choose not to follow the NPPF, then clear and convincing reasons for doing so are needed.

N.B. In respect of decision-taking the revised NPPF constitutes a “material consideration”.

Planning Practice Guidance

The Planning Practice Guidance (NPPG) is a web-based resource which brings together planning guidance on various topics into one place (launched in March 2014) and coincided with the cancelling of the majority of Government Circulars which had previously given guidance on many aspects of planning.

<https://www.gov.uk/government/collections/planning-practice-guidance>

RELEVANT PLANNING HISTORY

DC/082350 - Demolition of existing bungalow and construction of four detached dwellings with alterations to access. Granted at Appeal 12.05.2023.

NEIGHBOUR'S VIEWS

Local residents were consulted by way of written letter. Comments have been received from eight objectors and the following comments have been made:

- The amendments to the previously approved scheme are not minor and as such, a new full application should be required rather than the minor material amendment application submitted.
- The scheme is considerably larger than that previously proposed.
- The increase in bedrooms proposed could result in an increase in the level of traffic locally.
- The changes in footprint and the roofline of the properties increases the impacts upon neighbouring properties and public areas.
- The development would result in a loss of privacy to the occupiers of neighbouring dwellings.
- The proposal includes the removal of a tree outside the boundary of the site.
- The development would harm the special character of the Conservation Area.

- The development is not in keeping with the prevailing character of the wider area.
- The development would adversely impact upon the amenity and privacy of local residents.
- Vehicular access to the development is unsafe.
- There is little detail on the plans submitted.
- There will be a terracing effect between the proposed dwelling.

CONSULTEE RESPONSES

Highways Officer

No objection subject to the conditions previously applied to application DC/082350 being reapplied.

Arboricultural Officer

The plans submitted appear to show reduced levels of tree planting on site as opposed to the previous scheme approved. Additional planting should be provided on the site.

Nature Development Officer

The proposed amendments relate to changes in the proposed house type and will not result in significant changes to the overall site layout.

Conditions should be attached to any subsequent approval which require protection of bats, birds and additional planting to secure biodiversity netgains on site.

If work on site has not commenced by May 2025, a further ecological survey should be submitted.

ANALYSIS

Principle of Development

The proposed development is located in a predominantly residential and sustainable location. The principle of development has been established through the parent permission to which this application relates. As such, it is not necessary for this issue to be reassessed.

Impact on Visual Amenity and Character of the Conservation Area

Policy SIE-1 (Quality Places) stipulates the following:

'Development that is designed and landscaped to the highest contemporary standard, paying high regard to the built and/or natural environment within which it is sited, will be given positive consideration.'

Paragraph 126 of the National Planning Policy Framework states:

'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.'

Paragraph 130 states:

'Planning policies and decisions should ensure that developments:

a) 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;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) 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);

d) 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;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.'

Core Strategy DPD Policy H-1 (Design of Residential Development) stipulates the following:

The design and build standards of new residential development should be high quality, inclusive, sustainable and contribute to the creation of successful communities. Proposals should respond to the townscape and landscape character of the local area, reinforcing or creating local identity and distinctiveness in terms of layout, scale and appearance, and should consider the need to deliver low carbon housing. Good standards of amenity, privacy, safety / security and open space should be provided for the occupants of new housing and good standards of amenity and privacy should be maintained for the occupants of existing housing.

The Design of Residential Development SPD advises that the Council encourages development that respects local character.

Whilst the dwellings proposed would appear of considerably different design to those previously approved they would reflect the features of nearby dwellings on Regent Close with projecting front gables and mock tudor elements.

Furthermore, the dwellings proposed would not appear easily publicly visible given their location to the rear of properties fronting Regent Close, Patch Lane and Woodford Road. Therefore, any impact they could otherwise have on the prevailing character of the area would be curtailed.

Turning to the impact the development could have upon the Syddal Park Conservation Area, Policy SIE-3 of the Core Strategy DPD stipulates the following:

'Development which preserves or enhances the special architectural, artistic, historic or archaeological significance of heritage assets will be welcomed. Heritage assets include buildings, sites, places, areas or landscapes positively identified as having a degree of significance meriting consideration in planning decisions.'

Loss or harm to the significance of a heritage asset, through alteration, destruction or development within its setting, will require clear and convincing justification.

Substantial harm or loss to designated heritage assets will only be permitted if:

- 1. there is clear evidence that there is no viable means of securing its preservation and that no viable alternative use can be found; or*
- 2. that the benefits to the community resulting from redevelopment would decisively outweigh the loss resulting from demolition.'*

Saved policy HC1.3 of the UDP Review seeks to ensure the protection of the historic and architectural interest of Conservation Areas.

Paragraph 199 of the NPPF states the following:

'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

NPPF paragraph 200 stipulates that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. NPPF paragraph 202 states that where development proposals will lead to less than substantial harm to the significance of designated heritage assets, this harm should be weighed against the public benefit of the proposal.

The Council has produced a Conservation Area Character Appraisal (CACA) for Syddal Park, which was originally adopted in 2006 and then updated in 2011. Also located within the CACA is the SPCA Management Plan dated 2012. This is a material consideration.

The significance of the SPCA derives from the low-density development characterised by late 19th/early 20th century detached/semi-detached villas in formal gridiron layouts with wide streets and mature landscaping, and a quiet residential character. Similar sized plots to those proposed are found nearby both inside and outside the SPCA.

Drawing on the Inspectors conclusions pertaining to the previous scheme approved on the site, it is considered that whilst the proposed development would result in a visual change through the introduction of built development, the site does not contribute to the heritage significance or character and appearance of the SPCA through any historic function. There is also a limited ability to view the site from any meaningful vantage points in the public realm.

In light of the above, it is considered that the proposed development would not harm the character and appearance of the SPCA and the development complies with national and local policy pertaining to the preservation of heritage assets.

Impact on Residential Amenity

No harmful impact.

Core Strategy policy H1 confirms that good standards of amenity and privacy should be provided for the occupants of new and existing housing. Policy SIE-1 of the Core Strategy DPD indicates, amongst other things, the importance of the provision, maintenance and enhancement (where suitable) of satisfactory levels of access, privacy and amenity for future, existing and neighbouring users and residents.

The *Design of Residential Development* SPD sets out minimum space standards which should be adhered to ensure adequate levels of amenity for residents within new developments and those adjacent to them. They are given in the following table:

DWELLING HEIGHT	STANDARD
For 1-2 storey dwellings:	
Between habitable room windows on the public or street side of dwellings	21 metres
Between habitable room windows on the private or rear side of dwellings	25 metres
Between habitable room windows and a blank elevation, elevation with non-habitable rooms or with high level windows	12 metres
Between habitable room windows and site boundary (with special design, ground floor kitchen windows may be considered more flexibly)	6 metres
For 3 + storeys:	Add 3 metres per storey to the above distances

These distances are a useful guide for assessing the impact of any development, however it is acknowledged that depending upon the design of a development

proposed and the topography, landscaping and layout of a site, development within closer proximity may be acceptable or greater distances of separation may be required.

The development would accord with the above standards with the exception of the front and rear windows of plot 2 as they are within 6m of the boundary of the rear amenity space of no.11 Patch Lane to the east. These windows are positioned perpendicular to the boundary and as such any views of the amenity space would be oblique. Furthermore, the dwelling at plot 2 is positioned approximately 40m from the dwelling at no.11 patch lane. In light of all the above, it is considered that the erection of plot 2 would not lead to an unacceptable loss of privacy.

Each dwelling within the development has windows within their side elevations, at first floor level, to non-habitable rooms. To prevent a loss of privacy to the occupiers of neighbouring dwellings or dwellings within the site, it is considered appropriate to attach a condition to any subsequent approval which requires these to be obscurely glazed.

Given all the above, it is considered that the development would not cause an unacceptable loss of privacy provided the appropriate obscure glazing condition, outlined above, is attached to any subsequent approval.

Whilst the dwelling at plot 1 would extend approximately 4.7m beyond the rear elevation of no.3 Fieldside Close, the side elevation of plot 1 would be positioned between 2m and 3.5m from the side elevation of this neighbouring property. Furthermore, plot 1 would be located to the North East, meaning that it would not obstruct direct sunlight. As such, it is considered that its erection would not cause an unacceptable loss of light nor would it have an overbearing impact.

The rear garden of 11 Patch Lane runs along the entire eastern boundary of the application site. Whilst plot 2 and the proposed garage would be positioned adjacent to the boundary shared with the rear amenity space of this property, they would be positioned approximately 40m and 65m respectively from its rear elevation. Given this, it is not considered that they would appear unduly overbearing. Furthermore, this impact would be similar to that of the approved scheme.

The Design of Residential Development SPD provides private amenity space sizes which should typically be met by any development. These are as follows:

DWELLING SIZE	STANDARD
1 bed flat	Balcony area of 5sqm and/ or adequately screened communal amenity space with minimum provision of 18sqm per unit
2+ bed flat:	35 sqm communal amenity space per unit
Small family housing - 2/3 beds	75 sqm (50 for terraced) preferably to the rear of the property
4/5 beds	100sqm

The private amenity spaces provided would exceed these SPD requirements.

The internal spaces within each property are considered to be more than sufficient for the proposed occupation level and are considered to provide occupants with an adequate level of amenity.

In light of the above assessment, it is considered that the proposal would not have an overbearing impact upon or cause an undue loss of privacy or light to the occupants of neighbouring properties whilst also providing its occupiers with an adequate level of amenity. As such, it is in accordance with the residential amenity aims of policies H-1 & SIE-1 of the Core Strategy.

Impact on Highways

Policy T2 requires parking in accordance with the maximum standards and policy T3 confirms that development which will have an adverse impact on highway safety and/or the capacity of the highway network will only be permitted if mitigation measures are proposed to address such impacts. Developments shall be of a safe and practical design.

The NPPF at Chapter 9 confirms that safe and suitable access to the site should be achieved for all users. Any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, should be cost effectively mitigated to an acceptable degree. 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.

The Highways Officer consulted has advised that the changes in house types proposed will not result in any changes to the proposed access or parking provision, nor result in any change to the nature or volume of traffic to the site resulting from that resulting from the consented development and no objection is raised.

Consistent with the previously approved scheme, it is considered appropriate for conditions requiring the following to be attached to any subsequent approval:

- A construction method statement which includes access and parking arrangements and mud prevention measures.
- Technical details of the road through the site.
- Technical details of the proposed private driveways
- Vehicular charge points for each dwelling.
- Cycle stores

Provided the required conditions are attached to the approval, it is considered that the development would be appropriate and in accordance with national and local Highways requirements.

Trees, Landscaping and Ecology

Paragraph 174 of the NPPF indicates that development should minimise impacts on and provide net gains for biodiversity.

Core Policy CS8 of the Adopted Core Strategy DPD states:

'Development will be expected to make a positive contribution to the protection and enhancement of the borough's natural environment, biodiversity and geodiversity. Sites, areas, networks and individual features of identified ecological, biological, geological or other environmental benefit or value will be safeguarded.'

Core Policy CS8 of the Adopted Core Strategy DPD stipulates the following:

'Development that is designed and landscaped to a high standard and which makes a positive contribution to a sustainable, attractive, safe and accessible built and natural environment will be given positive consideration.'

In goes on to state:

'Development will be expected to make a positive contribution to the protection and enhancement of the borough's natural environment, biodiversity and geodiversity. Sites, areas, networks and individual features of identified ecological, biological, geological or other environmental benefit or value will be safeguarded.'

And

'Proposals which seek to sustainably manage areas of nature conservation value as a resource, including for purposes of recreation, education and/or the small-scale harvesting of woody matter as a fuel, will be given positive consideration so long as they are not harmful to the environmental value of the area.'

Policy SIE-3 (Protecting, Safeguarding and enhancing the Environment) states:

'Development proposals affecting trees, woodland and other vegetation which make a positive contribution to amenity should make provision for the retention of the vegetation unless there is justification for felling, topping or lopping to enable the development to take place. Even where there is a strong justification for a proposal the design should maximise the potential for retaining some mature planting, and replacement planting of appropriate species and covering a similar area should be provided within the site or nearby.'

With regard to the impact of the development upon trees, none of those within the site are legally protected other than the ash (T3) which is positioned within the hedge that forms the eastern boundary with the rear garden of 11 Patch Lane and is protected by the Conservation Area designation. As such with the exception of the ash, these trees can be removed at any time without the consent of the Council. The Arboricultural Impact Assessment (AIA) submitted with the application advises that all remaining trees within the site will be retained other than the ash which will be felled and this is consistent with the AIA submitted with the previously approved scheme. It was previously concluded that the loss of T3 could be offset by the additional planting and again, an appropriate, detailed landscaping scheme should be secured by condition to secure this along with improving the visual amenity and biodiversity of the site.

It is noted that objectors query the legal ownership of this tree. This however is not a matter relevant to the consideration of this application and should it transpire that the tree is not wholly within the ownership of the applicant then a grant of permission to carry out works to it would not override any other legal obligations incumbent on him (such as those relating to his right in terms of ownership to implement proposals affecting this tree).

Consistent with the parent permission, additional conditions should be attached any subsequent approval which require trees due to be retained to be sufficiently protected.

The Nature Development Officer has advised that the Bat Survey submitted indicated no evidence of the presence of bats on site. In accordance with their comments, a condition should be attached to any subsequent approval requiring further ecological survey work to be undertaken if the development has not commenced within two survey seasons. To ensure consistency with the parent permission, it is considered a condition should be attached to any subsequent approval which required details of boundaries which include sufficient gaps for hedgehogs to pass through.

As restrictions on demolition or tree/vegetation clearance work during bird nesting season were not imposed on the parent permission by the Inspector, it would not be reasonable to impose such restrictions through this application. However, through an attached informative, the developer should be reminded that all breeding birds and their nests are protected under the Wildlife and Countryside Act 1981 (as amended).

Provided appropriate conditions are attached as outlined above and consistent with the parent permission, in relation to Trees, Landscaping and Ecology, the development is considered acceptable.

Other matters

In a manner consistent with the parent permission, Policy SD-6 and the NPPF, conditions should again be attached requiring an Energy Statement to be submitted and a detailed drainage scheme provided and approved by the local authority.

Saved UDP Review policies L1.1 and L1.2 together with Core Strategy policy SIE2 confirm that there is an undersupply of formal recreation and children's play facilities in the Borough. As such, applications for residential development (including those for replacement dwellings where there is an increase in the number of bedrooms) are expected to make a contribution towards that undersupply. For minor developments this is usually by way of a commuted sum payment calculated in accordance with a formula set out in the SPD 'Open Space and Commuted Sum Payments' which is then secured by a S106 attached to the grant of planning permission. Such an agreement has been made in relation to the parent application. However, the current proposal includes an increase in the number of bed spaces and as such, to accord with policy, the contribution should be greater than that previously agreed. As such, if permission is granted by committee, an update to this legal agreed should be secured.

CONCLUSION

The principle of the delivery of residential development on this site has already been established through the parent permission. It is considered that the amendments proposed through this application would not have an unduly harmful impact upon visual amenity, residential amenity, trees and highways.

As such the application is recommended for approval subject to the conditions referenced in this report together with others considered reasonable and necessary and an update to the S106 agreement to secure compliance with policies in the UDP Review and Core Strategy that seek to secure contributions.

RECOMMENDATION

Grant – subject to conditions and updated S106 agreement.