



## Appeal Decision

Site visit made on 17 August 2021

**by Paul Cooper MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 September 2021**

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### **Appeal Ref: APP/G4240/W/21/3275422 Brookfields, Mossley, Tameside OL5 0LG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Clements Court Properties Ltd against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 19/00489/FUL, dated 4 July 2019, was refused by notice dated 20 November 2020.
  - The development proposed is residential development of 21No. family homes and associated works – Amended plan to create temporary construction access from Stamford Road.
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### **Decision**

1. The appeal is dismissed.

### **Application for costs**

2. An application for costs was made by Clements Court Properties Ltd against Tameside Metropolitan Borough Council. This application is the subject of a separate Decision.

### **Procedural Matters**

3. The address on the banner heading above was taken from the Council's Decision Notice as the address given on the application form was imprecise. I note that the appellant company used this address on the appeal form. I am satisfied that neither party is prejudiced by this course of action.
4. The development description on the banner heading above has been amended during the lifetime of the application. The revised description was also used by the appellant company on the appeal form.
5. Since the appeal was submitted, a Unilateral Undertaking has been submitted by the appellant company, agreed with the Council. I have taken account of this in my deliberations.
6. I note that in the Transport Statement to the appeal, an alternative construction access has been proposed. This was not submitted during the application and it has not been consulted upon. Having regard to the 'Wheatcroft' principles, the amendments would materially alter the highways aspects of the proposal with regard to the construction access and they warrant full re-consultation. I have therefore considered the appeal on the basis of the same plans the Council used to make their decision.

7. I note that the Council have not raised reasons for refusal against any aspects of the proposals other than highway safety and amenity issues for local residents in relation to highways. I have no reason to disagree with that assessment and as such I will not deal with those matters any further in my decision.

### **Main Issues**

8. Based on the above, the main issues in this appeal are the effect of the development on highway safety and the effect of the development on the amenities of local residents in terms of access to the proposed new development.

### **Reasons**

#### *Highway Safety*

9. The appeal site is an undeveloped area to the south of Mossley Town Centre that is approximately 2.2 hectares in size. It is covered in vegetation, heavily overgrown in sections and falls steeply from north to south.
10. Access to the site would be taken from a newly created access to the end of Archer Street, with associated highway improvements to take place to facilitate this. Access at construction stage would be taken from a point on Stamford Road, which is set at a higher site level than the appeal site at that point.
11. A widened pavement adjacent to Stamford Road currently used for vehicle parking off the highway by local residents would be utilised for the delivery of materials and a temporary crane would be used to winch the materials onto the site. The construction access point would become a lay-by during the construction phase, and delivery vehicles would be "booked in" in advance, in order to make sure deliveries are carried out in an ordered, structured fashion to ensure that vehicles do not back up on Stamford Road, and affect the smooth running of the highway.
12. I have received supporting information from the appellant company detailing how this system would operate and equally, I have received a considerable number of objections from local residents to this aspect of the scheme. It is apparent that Stamford Road is a well-used highway, by vehicles, cyclist and is well traversed by pedestrians. I noted during my site visit that any disruption to the free movement of Stamford Road from vehicles stopping, even temporarily, on the highway, causes considerable issues on Stamford Road specifically and to a lesser extent on surrounding roads.
13. I am not convinced that the timing of delivery vehicles can be staggered so that vehicles would not be stood on the highway whilst waiting to deliver. Any vehicle stood at any time waiting to access the lay-by would undoubtedly cause severe highway circulation issues around that area. There are regular instances at operational sites of delivery lorries arriving to building sites well in advance of conditioned working hours or delivery times and being stood, with or without engines running.

14. I have read and understand the appellant company's approach to the delivery issue, and can interpret the analytical approach, but I find that these approaches are desk-based interpretations. There may be TRICS based data that shows how it can operate successfully, and even this data is queried by local residents in terms of its accuracy in terms of reporting, but the situation should be addressed in a specific site investigation addressing the merits of the local highway situation taking into account the specific highway issues of the locality. It is apparent that understanding site-based circumstances are vital in interpreting this approach correctly.
15. I find that if even one vehicle was out of synchronisation with the booking system, even by something as innocuous as being held up in traffic on the way to the delivery point, then the knock-on effects to Stamford Road and the wider area would be unacceptable in terms of highway safety and could cause considerable severe road network disruption. I realise that the appellant company has provided accident records to validate their position, but this does not overcome my concerns about highway safety as the potential for parking on Stamford Road has not been assessed in terms of the potential for causing accidents, as the situation has not yet occurred.
16. Stamford Road is a main route through the locality to locations farther afield, and I have not been convinced by the appellant company that this approach of delivering materials on Stamford Road would work efficiently and correctly. Any problems could cause major traffic disruption and could have an unacceptable impact on highway safety and a severe impact on the road network. Although this refers to the construction stage, those issues above are still relevant and highway safety must be addressed through all stages of development.
17. It may be that the alternative construction access put forward in the Transport Statement with the appeal could address the concerns that I have with regard to highway safety, but I am not in a position to assess the impact, and to be put forward, it must be tested in a new full planning application. In any event, it only suggests to me that the appellant company's belief in the lay-by system is shaken and uncertain.
18. As stated, I am not convinced that the highway safety issues have been fully addressed and as such, I conclude that the development would have an unacceptable impact with regard to highway issues and would have a severe cumulative impact on the road network. As a result, I find conflict with Policies T1 and H10 of the Tameside Unitary Development Plan (2004) (the LP) which state that, amongst other matters, development should aim to improve road and community safety, be designed to address the safe management of congestion problems and make suitable arrangements for access. In addition to this the proposal is at odds with the guidance set out in Paragraph 111 of the National Planning Policy Framework (the Framework).

#### *Amenities of local residents*

19. The topography of the area around Spring Street, Vernon Street and Archer Street, which are served by Mill Lane, is relatively steep. On-street parking spaces on the three streets is at a premium, and double parking is a regular occurrence, effectively leaving the roads as single lane highways. Vehicles park close to the junctions of those streets with Mill Lane, and there is considerable

- parking on Mill Lane as well with a school on Mill Lane adding to the number of vehicle movements at busy times.
20. I have received evidence that larger vehicles, such as delivery vans, cannot make a turn onto the three streets in one manoeuvre and have to perform the turn in a series of back and forth moves.
  21. The three roads are linked together adjacent to the proposed site entrance to form a highway loop. An area of land off the highway is currently being utilised by local residents to allow additional parking, which is actually the edge of the appeal site.
  22. Submitted plans show that the site access will be taken at the end of Archer Street, and highway improvements will be made as part of the proposals to facilitate the access. This will include formalising off-street parking around the area where some residents park, giving an additional number of parking spaces to help address the existing parking issues of parking that affect the terraced streets.
  23. There is supporting information in support of the scheme showing potential levels of additional traffic from the proposed development, but I am not convinced that the levels of traffic suggested are realistic, given modern levels of vehicle ownership and reliance on the private motor vehicle. I find that the additional vehicle movements would cause harm to the amenities of local residents.
  24. I understand the principles of the mitigation proposed, with highway improvements and additional remote off-street parking, but in reality, and understandably, the inconvenience to local residents would be excessive. I can understand that a local resident, in inclement weather or otherwise, returning to their dwelling, from work, shopping or any other reason, wishing to park outside their property rather than a remote location.
  25. As such, residents are likely to face disruption from additional vehicle movements and conflicts, and the insufficient level of mitigation from highway improvements and remote off-street parking does not overcome the levels of harm that would be generated.
  26. In conclusion on this issue, I find the proposals contrary to policy H10 of the LP which, amongst other matters, expect development to provide a safe and convenient environment for the local community, provide suitable arrangements for parking and have no unacceptable impact of the amenity of neighbouring properties through noise or traffic. I assign this conflict significant weight in my analysis.

### **Other Matters**

27. There has been considerable local representation from local residents who have raised a large number of issues. I have looked at these in detail and taken them into account where appropriate. The Council have appraised the issues and addressed them accordingly in their assessment where appropriate. I understand the concerns of objectors, but many of the matters refer to issues outside of the planning remit, and I will attend to them no further. I have identified harm generated by the proposals in the report above based on the reasons for refusal supplied by the Council.

## Planning Balance

28. The Council has confirmed that it cannot currently demonstrate a 5-year supply of deliverable housing sites as required by the Framework. As such, there is an undisputed undersupply of deliverable housing sites within the Borough.
29. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development, and that, under criterion d), where the policies that are most important for determining the application are out of date, planning permission should be granted unless: i) the application of policies within the 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.
30. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development. Given the lack of a 5-year housing land supply, paragraph 11 d) of the Framework is engaged.
31. There would be benefits arising from the proposal. Twenty-one additional dwellings would make a contribution towards addressing the housing supply deficit and could be built-out relatively quickly. The proposal would deliver economic benefits during the construction of twenty-one new homes. Additional expenditure by new residents would help support services in Mossley and nearby settlements. The dwellings could incorporate sustainable aspects. These benefits would have limited weight, given the size and overall impact of the development.
32. The proposed dwellings would not be in an isolated location, having regard to the position of the site within Mossley, and the site would have excellent proximity to services and facilities, including a school, and bus and rail service connections. However, this is a neutral factor in the overall proposal.
33. The Council has raised no objection to the appeal scheme in respect of matters including biodiversity, trees, drainage, flooding and pollution. On the basis that I have no cogent evidence before me of harm arising from the appeal scheme in respect of these matters, neither do I. In terms of the planning balance, I find that a lack of identified harm in respect of the above matters would comprise a neutral factor.
34. Whilst the Framework encourages efficient and effective use of land for new housing, and the optimal use of land where there is a shortage of housing, this is not unqualified. As a result, I can assign limited weight to this factor given the size of the site and the impact on housing provision.
35. The submitted Unilateral Undertaking provides an appropriate mechanism to secure the Highway improvements to facilitate the access to the new development, the new off-street parking facilities and a landscape management plan to oversee the environmental aspects of the new development, all of which are designed to mitigate the pressures on which would otherwise arise from the proposed development. I am satisfied that all of these obligations are directly related to the development and fairly related in scale and kind. However, as these obligations relate to mitigation measures, they do not

constitute benefits that would carry weight in favour of the appeal proposal. I find that the highway improvements are not improving the amenities of local residents as they have been designed to alleviate a problem caused by the proposed development rather than being an actual improvement to the existing situation, and the landscaping is required to make the scheme acceptable, when the current area is allowed to flourish with minimal input and exists 'cheek by jowl' with the urban area.

36. For the reasons set out above, I conclude that the appeal scheme would have a harmful effect upon the amenities of the local residents of Spring Street and severely affect highway safety and the road network. This would conflict with the Development Plan and the requirements of the Framework. Having given careful consideration to the balance of factors, I consider that, when assessed against the policies of the Framework taken as a whole, this harm would significantly and demonstrably outweigh the benefits of the proposed development.

### **Conclusion**

37. For the reasons given above, I conclude that the appeal should be dismissed.

*Paul Cooper*

INSPECTOR