

PLANNING COMMITTEE

5th DECEMBER 2023

APPLICATION FOR CONSIDERATION

REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION

Application Reference	0241/2018
Proposal	Outline application for up to 210 dwellings, public open space, landscaping, sustainable urban drainage and associated infrastructure. All matters reserved except access.
Site Address	Land North of Browns Lane Tamworth Staffordshire B79 8TA
Case Officer	Glen Baker-Adams
Recommendation	Planning Committee

1. Refuse to grant planning permission

1. Introduction

- 1.1 This application is an application for residential development with most of the site within the administrative boundary of Lichfield District Council. The below image shows the extent to which the site is within the boundary of Tamworth Borough Council.



- 1.2 The area of development within the Tamworth Borough Boundary is the proposed main pedestrian and vehicle access road of a distance of approximately 85m in length with landscaping at either side.
- 1.3 The application is reported to committee as this relates to a major development and concerns another local authority area for multiple dwellings. Despite being within mainly the boundaries of Lichfield District Council, the development if approved by them could have significant impact for Tamworth.
- 1.4 Since the original submission, amendments to the scheme within Lichfield District Council's area have been submitted including having a housing mix of 100% affordable units and indicative layout alterations. No changes to the development within the Tamworth boundary have been made.

- 1.5 Legal advice has been obtained on how to deal with cross-boundary applications such as this. The Planning Practice Guidance ¹stating that two identical applications should be made to each LPA which has taken place here. The government's suggestion is then to use Section 101(1) of the LGA 1972 for the "lead" council to delegate the decision making to the second council. Each councils then needs to co-operate on the agreement to ensure there are identical planning conditions and that the recommendation is the same.
- 1.6 This has been done through regular contact with the planning applications team leader and there position has remained to **refuse** the application. A copy of their report can be found at appendix 1. For Tamworth Borough Council, our decision should only relate to the land in their jurisdiction which has been done here.
- 1.7 From the majority of other decisions made in other areas, they will consider the whole scheme in principle with both councils planning policies as material considerations but will make the decision in relation to whether specifically the development on their own land is acceptable with reference to the wider scheme.
- 1.8 By virtue of it only being the access that falls into Tamworth's administrative boundary this report focuses on the principle of the development, Highway infrastructure, road safety issues and design. In addressing these issues this report seeks to assess the application in its entirety whilst also advising Members clearly regarding those parts of the application site and proposal over which they have jurisdiction. Advice is also provided on which planning policies apply and are therefore to be considered by Members in determining that part of the scheme in their local authority administrative area. Other issues will be lead on and assessed by Lichfield District Council and a copy of the committee report for their application can be found at appendix 2.

1.36 SITE AND DEVLEOPMENT PROPOSALS

- 1.3.1 The entire site is approximately 12.65 hectares, with 0.24 hectares being in Tamworth's boundary and extends from Main Road towards Wiggington Road to the east towards the railway line. Browns Lane is located to the south with residential properties at either side of the proposed access. The site is two arable fields and therefore greenfield land and falls within the administrative area of Lichfield District Council. The portion of greenfield that adjoins Browns Lane is with the administrative area of Tamworth Borough Council.

APPLICATION PROPOSAL

The application is for development of the site for 210 dwellings, all of which would be classed as affordable.² The planning application is submitted in outline with all matters reserved for subsequent approval other than the principal means of vehicular access to the Site, which are submitted in detail. Matters of appearance, layout, scale, and the detailed landscaping of the Site are to be the subject of subsequent reserved matters submission.

An indicative layout has been provided along with a landscape and visual assessment, statement of community involvement, noise assessment, transport report and preliminary ecological appraisal. Due to discussions with Lichfield, later information has been submitted including an updated masterplan with housing focussed on the eastern side and data to support why a 100% affordable scheme should be supported in lieu of the shortage in both Tamworth and Lichfield.

For Tamworth specifically, the site is confined to the access which would be for both vehicles and pedestrians. Landscaping has been indicated at either side, with more along the western edge.

¹ <https://www.gov.uk/guidance/consultation-and-pre-decision-matters#land-falling-within-two-or-more>

² Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the definitions in the NPPF Annex 2 Glossary.

Location Plan



2. Policies

2.1 Local Plan Policies

- SS1 The Spatial Strategy for Tamworth
- SS2 Presumption in Favour of Sustainable Development
- HG1 Housing
- HG4 Affordable Housing
- HG5 Housing Mix
- HG6 Housing Density
- EC2 Supporting Investment in Tamworth Town Centre
- EN3 Open Space and Green and Blue Links
- EN4 Protecting and Enhancing Biodiversity
- EN5 Design and New Development
- EN6 Protecting the Historic Environment
- SU1 Sustainable Transport Network
- SU2 Delivering Sustainable Transport
- SU3 Climate Change Mitigation
- SU4 Flood Risk and Water Management
- SU5 Pollution, Ground Conditions and Minerals and Soils
- IM1 Infrastructure and Developer Contributions
- Appendix A – Housing Trajectory
- Appendix C – Car Parking Standard

2.2 Supplementary Planning Documents

Design SPD

2.3 National Planning Policy

- National Planning Policy Framework 2021
- National Planning Practice Guidance 2014-

3. Relevant Site History

None

4. Consultation Responses

- 4.1 Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>

The consultation responses comments are précised if conditions are proposed these are included within the conditions at the end of the report unless stated otherwise.

Tamworth Borough Council Consultees

4.1.1 *Tamworth Borough Council Development Plans*

Note the arguments put forward by the applicant in relation to the need for affordable housing within both Tamworth Borough and Lichfield District.

The applicant argues that there is a significant need for affordable housing within Tamworth, and that this should be given very significant weight in decision making on their application. This argument hinges on a need of 170 affordable dwellings per annum in Tamworth, derived from the 2019 Housing and Economic Development Needs Assessment. It should be noted that this document is now over four years old and does not currently inform any policies of an emerging local plan. The current annual target for affordable housing, as set out in policy HG4 of the adopted local plan, is 40 per annum.

This number was arrived at through a combination of a needs assessment, and an assessment of viability of the plan as a whole. Since the adoption of the plan in 2016, delivery against this target has been consistently good and, without reading the specific details of each case, it would appear that this is a different scenario to the appeal examples given. We would therefore disagree with the applicant's assertions that there is a significant shortfall in affordable housing delivery and that the fact that the scheme would be 100% affordable housing should be given very significant weight.

Additionally, we also have concerns that a 100% affordable scheme would be eligible for relief from the Community Infrastructure Levy, which would mean that there are no funds available to mitigate the impact of the additional pressure on infrastructure within Tamworth Borough that a 210 dwelling scheme on the border would generate.

4.1.2 *Tamworth Borough Council Environmental Protection*

No objections

4.1.3 *Tamworth Borough Council Waste Management*

Guidance on bin provision should the development be approved

Staffordshire County Council Consultees

4.1.4 *Staffordshire County Council Highways*

No objection subject to conditions

4.1.5 *Staffordshire County Council Education*

This application has been reviewed in respect of education contributions necessary to mitigate the impact on education from the development given that the application is undetermined and revised costings were last provided on 23rd March 2022 (a copy of the email is attached for reference).

Education contribution of £1,879,056 (index linked from the date of this response) to be sought from the developer to mitigate the impact on education from the development and would be acceptable from an education perspective subject to a S106 agreement which meets this requirement.

65 Primary School places
65 x £17,450= £1,134,250

23 High School places
31 x £24,026 = £744,806

Total request = **£1,879,056**

- 4.1.6 *Staffordshire County Council Archaeology*
No objection subject to conditions
- 4.1.7 *Staffordshire County Council Rights of Way*
No comment
- 4.1.8 *Staffordshire County Council Flood Risk Officer*
No objection subject to conditions

Others

- 4.1.9 *Severn Trent Water*
No objection subject to conditions

5. Additional Representations

- 5.1 As part of the consultation process adjacent residents were notified. Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>.
- 5.2 At the time of writing, 33 letters of objection have been received from 33 different households. An objection has also received from Cllr Robert Pritchard, former deputy leader of the council and Cllr Richard Kingstone.
- 5.3 The objections received are many and mainly concern the traffic generation impacts the new housing could create. Additional planning concerns also related to the infrastructure pressures the location of the access and the impacts of construction traffic to build the houses. The loss of wildlife and impact to walkers has also been cited.

6. Equality 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 has no 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. However, these issues have been taken into account in the determination of this application.

7. Planning Considerations

The key issues to be considered at this stage are

- Principle
- Design/Character and Appearance
- Highway Safety

Again, it is important to note that these considerations are those within the specific area of Tamworth Borough Council.

7.1 Principle

- 6.1.1 The Tamworth Local Plan 2006-2031 (LP) was adopted in February 2016. In addition to the local plan there is guidance within the National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG). The starting point in determining the

acceptability of development proposals is the Local Plan, where the policies are considered consistent with the NPPF. Policy SS1 The Spatial Strategy for Tamworth is to provide development in the most accessible and sustainable locations and SS2 Presumption in Favour of Sustainable Development, states that proposals that accord with the local plan are sustainable and will be approved without delay.

7.1.2 The development proposed within the boundary of Tamworth is an access road for both pedestrians and vehicles if connected to an acceptable development would be acceptable in principle of the housing development.

7.1.3 The larger housing development however is not supported by Lichfield District Council and therefore as a result approving an access road to a development not approved would have issues on character.

7.2 Character and Appearance

7.2.1 The appearance of a development is a material planning consideration and in general terms the design of a proposal should not adversely impact on the character and appearance of the wider street scene.

7.2.2 Policy EN5 Design and New Development states that developments should be of a scale, layout form and massing which conserves or enhances the setting of development and utilize materials and overall detailed design which conserves or enhances the context of the development. Proposals should respect and where appropriate reflect existing local architectural and historic characteristics but without ruling out innovative or contemporary design which is still sympathetic to the valued characteristics of an area.

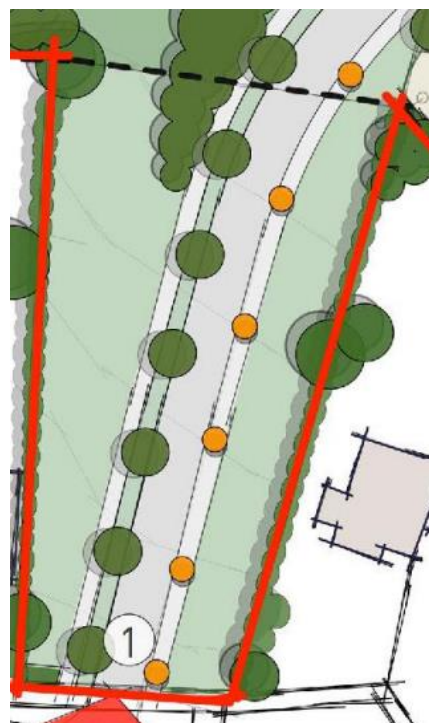
7.2.3 The appreciation of character and appearance is a significant part of recent planning reform and, with the introduction of the National Design Guide, remains a very important consideration of planning applications.

7.2.4 The proposed access road will be located between 68 and 60 Browns Lane. There is an existing dropped kerb access to the application site from Browns Lane, which cuts across a wide section of verge before crossing the tarmac footway. There was historically a gated vehicular access to the site; however, the gate is no longer present and there is little evidence that the access is used by vehicles.

7.2.5 The proposed access would allow both vehicles and pedestrians to travel safely with provision for landscaping either side.

7.2.6 As the proposal is both functional with suitable provision for soft landscaping, it is considered it would meet the standards of design required for such an access.

7.2.7 Despite in isolation it would be an acceptable form of development, if approved and Lichfield refuse the larger housing scheme would create an discordant form of development and therefore not in compliance with Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031 and the NPPF.



7.3 Highway Safety

7.3.1 Tamworth Local Plan policy EN5 (h) states that new developments will be expected to pay particular regard to highway safety and servicing requirements, the capacity of the local road network and the adopted parking standards set out in Appendix C. In addition, policy SU2 also states planning permission should only be granted where development would ensure adequate highway safety,

suitable access for all people and where feasible reduce the impact of travel up on the environment. 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 impacts.

- 7.3.2 The application has been through a number of consultation exercises with Staffordshire County Council highways who have confirmed that the final iteration of the plans it is not considered that the development proposals would have an adverse impact on the surrounding highway network or on highway safety.
- 7.3.3 For the interest of members, the applicant/ agent have engaged with Staffordshire County Council highways department to revise the development proposal, in order to achieve a scheme that can be supported on access and highways safety related grounds. Additional information has been provided which concludes that the impact on the local road network would not, in their view, be severe if the proposed package of mitigation is provided. Such mitigation would be delivered by the developer via the Highways Act as part of a S278 agreement.
- 7.3.4 Updated plans and information in relation to the proposed access have been provided, which have addressed the initial concerns raised by the County Highway Authority. The overall volume of collisions on Browns Lane itself does not suggest there are any existing safety problems that would be exacerbated by the proposed development. In terms of the impact on the wider road network, including the Upper Gungate corridor.
- 7.3.5 It is considered that appropriate mitigation can be secured, which will mitigate the impacts of this proposed development. Traffic flows have been given consideration in relation to committed development in the vicinity of the application site including approved development at Arkall Farm, and its associated monitor and manage approach to mitigating impacts on the local highway network. The County Highways team have concluded that sufficient information has been provided to conclude that there would not be a severe impact on the Local Highway Network as a result of this development. Conditions are recommended by Highways Officers which would include the securing of the necessary off site highway improvement works prior to the first occupation of the development.
- 7.3.4 As a result therefore the development is considered in accordance with Policy SU2 Sustainable Transport of the Tamworth local Plan 2006-2031 and the National Planning Policy Framework.

8 Conclusion

- 8.1 This application relates to a larger scheme of housing development proposed within the boundary of Lichfield District Council for up to 210 dwellings. The development within the boundary of Tamworth relates to the main road and pedestrian access to this proposed development.
- 8.2 The application proposal if approved would permit an access road to an unapproved development resulting in a road to nowhere and therefore out character with the surrounding area contrary to policy EN5 of the Tamworth Local Plan 2006-31 and the NPPF.

9 Recommendation

Refusal for the reason below

Reasons

The area of the site within the boundary of Tamworth Borough Council is connected to a wider development which is not allocated for development. Approving this part of the development when Lichfield are minded to refuse their application would potentially permit an access road to a development site with no planning permission. The development therefore would be out of character with the surrounding area and not conform to Tamworth Borough Council Policy EN5 and the NPPF.

Note to applicant

Should the wider housing application be approved in Lichfield District Council, this information will be relayed to members where a new consideration for the proposal may need to be made.