

Northern Planning Committee

07 June 2023

**17 & 19 Holly Road South, Wilmslow
22/2347M**

Report of: David Malcolm, Head of Planning

Report Reference No: Planning Application 22/2347M

Ward(s) Affected: Wilmslow East

Purpose of Report

- 1 Authority is required to not defend reason for refusal No.2 (lack of tree info) from the determined planning application reference 22/2347M at an upcoming appeal.

Executive Summary

- 2 This application was refused by Northern Planning Committee on the 15th February 2023 for 3 reasons, including;
 - *Insufficient information has been submitted with the application in order to assess adequately the impact of the proposed development on existing trees on site. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with Cheshire East Local Plan Policy SE5 and policy ENV6 of the Site Allocations and Development Plan Document.*

The applicant has appealed the Council's decision and there is currently a live appeal, a Public Inquiry, scheduled for 4 days from the 27th June 2023.

Concurrently, the applicant has submitted a new planning application to the Council for consideration (ref: 23/0853M), which closely reflects the scheme refused by committee, but which seeks to address the reasons for refusal. This application appears elsewhere on this Northern Planning Committee agenda.

The missing tree information has been provided as part of the re-submitted planning application (23/0853M) and this information satisfies the Council's Tree Officer that the proposed development would not have an unacceptable impact on trees, subject to conditions being imposed. This information has now also been provided in relation to the appeal.

As such, there is now no technical tree objections to the upcoming appeal that the Council could effectively defend. Subsequently, this report recommends to Northern Planning Committee that the Council no longer defend this reason for refusal No.2 (lack of tree information), in relation to 22/2347M, subject to conditions.

RECOMMENDATIONS

The Northern Planning Committee is recommended to:

1. **AUTHORISE** not to defend refusal No.2 (lack of tree information) from the determined planning application (reference 22/2347M) - the demolition of existing buildings and erection of 34 Retirement Living Apartments including Lodge Manager's office and reception, communal facilities, guest suite, car parking and landscaping at 17-19 Holly Road South, Wilmslow, subject to the following conditions;
 - Development shall proceed in accordance with the submitted AMS, TPP and measures for Managing Trees
 - The submission/approval of levels information
 - The submission/approval of a revised landscaping scheme
 - Landscape - Implementation

Background

- 3 This application was refused by Northern Planning Committee on the 15th February 2023 for the following 3 reasons:
 1. *The proposals fail to provide on-site affordable housing or open space and does not provide a mechanism to secure requisite affordable housing, health and open space and recreation contributions towards off site provision and therefore fail to comply with the National Planning Policy Framework and Cheshire East Local Plan Strategy policy IN2, SE6, SC2 and SC5.*

- 2. Insufficient information has been submitted with the application in order to assess adequately the impact of the proposed development on existing trees on site. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with Cheshire East Local Plan Policy SE5 and policy ENV6 of the Site Allocations and Development Plan Document.*
- 3. The proposed development would result in a lack of onsite parking which would lead to on street parking pressure in the vicinity of the site to the detriment of the free flow of traffic. Approval of the development would therefore be contrary to the provisions of the Site Allocations and Development Policies Document INF3, Cheshire East Local Plan Strategy policy SD2, appendix C of the Cheshire East Local Plan Strategy and Section 9 of the National Planning Policy Framework.*

The applicant has appealed the Council's decision and there is currently a live appeal, a Public Inquiry, scheduled for 4 days from the 27th June 2023.

Concurrently, the applicant has submitted a new planning application to the Council for consideration (ref: 23/0853M), which closely reflects the scheme refused by committee, but which seeks to address the reasons for refusal. This is currently being considered by the Council. A recommendation on this re-submission will also be made to Members at the same committee that this proposal is being presented.

With the resubmitted application, the applicant provided additional information in relation to viability (reason for refusal No.1) and trees (reason for refusal No.2). Furthermore, the Council's Highway's Officer undertook further survey work to identify if the lack of car parking reason for refusal (reason for refusal No.3) could be supported by the Highway's Department.

The outcome of this was that the additional information submitted to address reason for refusal No.1 (Viability) resulted in an agreement that the development could support a financial contribution towards offsetting the impacts of the development in terms of local health provision and affordable housing.

The additional survey work undertaken by the Council's Highway's Officer's highlighted that the proposed parking provision, although short of Council standards, reflected the level of parking for such developments elsewhere in Cheshire East and elsewhere in the country when considered in conjunction with the low car ownership of the future occupiers who have an average age of 80.

Subsequently, the Council would be unable to reasonably defend reasons for refusal 1 and 3 and if the Council persisted with reason for refusal 3 (lack of parking), there was a risk that the Council could be subject to a costs claim for unreasonable behaviour as it would be pursuing a reason for refusal that could not be defended.

In order to formally agree that the Council would remove reasons for refusal 1 and 3, it needed the agreement of Northern Planning Committee as it was this committee that determined the permission. However, because of elections and a ticking timetable on the appeal, there was not a Northern Planning Committee scheduled where an Officer recommendation to remove reasons for refusal 1 and 3 could be made before certain appeal deadlines. As such, an Urgent Decision made on behalf of the Council was made, signed by the Chief Executive. This was signed on the 12th May 2023. As such, reasons for refusal 1 and 3 have been removed. All Members have previously been advised of this Urgent Decision.

A similar situation has now arisen in relation to the remaining reason for refusal, reason for refusal No.2 (lack of tree information). The missing tree information has been provided as part of the re-submitted planning application (23/0853M) and this information satisfies the Council's Tree Officer that the proposed development would not have an unacceptable impact on trees, subject to conditions being imposed. This information has now also been provided in relation to the appeal.

As such, this report recommends to the Northern Planning Committee that the Council remove the final reason for refusal, No.2 (lack of tree information), in relation to 22/2347M, subject to conditions.

Consultation and Engagement

- 4 No consultation or engagement has taken place due to the technical nature of the subject matter other than with the Council's Tree Officer's and Counsel advice.

Reasons for Recommendations

- 5 The Council will not be able to effectively defend this reason for refusal at the upcoming appeal as the reason for refusal (lack of tree information) has now been provided to the satisfaction of the Council's Tree Officer, subject to conditions.

Other Options Considered

Option	Impact	Risk
If the Committee do not approve the recommendation (resolve to do nothing)	High	Waste of Council resource, including Counsel fees in seeking to defend a now undefendable reason for refusal Plus Possible award of costs against the Council for unreasonable behaviour seeking to defend a reason for refusal that it can no longer reasonably justify

Implications and Comments

Monitoring Officer/Legal

- 6 No direct legal implications.

Section 151 Officer/Finance

- 7 Financial implications comprise of a possible costs award against the Council for unreasonable behaviour.

Policy

- 8 Following the receipt of the additional tree information and its acceptance by the Council's Tree Officer, the proposed development is no longer deemed contrary to Cheshire East Local Plan Policy SE5 and Policy ENV6 of the Site Allocations and Development Plan Document.

The recommendation is in accordance with the Cheshire East Corporate Plan aims of being 'Open' and 'Fair'.

Equality, Diversity and Inclusion

9 No equality implications.

Human Resources

10 No human resources implications.

Risk Management

11 No Risk Management implications.

Rural Communities

12 No rural communities implications.

Public Health

13 No public health implications.

Climate Change

14 No climate change implications.

Access to Information	
Contact Officer:	Nick Hulland, Principal Planning Officer Nick.hulland@cheshireeast.gov.uk
Appendices:	N/a
Background Papers:	N/a

