

The application is for the demolition of the former Priory Day Care Centre and the erection of 13 single storey dwellings on a site of about 0.66 hectares in size. The site is located within the Urban Neighbourhood of Newcastle as defined in the Local Development Framework Proposals Map.

The application is a resubmission following the refusal of application reference number 13/00866/FUL for 14 single storey dwellings.

Certain trees on the Priory Road frontage are the subject of a Tree Preservation Order. The entrance railings and gates to Lymewood Cemetery on Lymewood Grove are Listed.

The 13 week period for the determination of this application expires on the 29th July 2014.

RECOMMENDATION

1) Subject to the applicant entering into a Section 106 planning obligation securing a contribution of £34,242 (£2,634 per dwelling) towards offsite public open space provision/enhancement by the 23rd July 2014 PERMIT subject to conditions relating to:-

- 1. Time limit/Plans**
- 2. Materials**
- 3. Tree protection measures**
- 4. Implementation of the tree works specified**
- 5. Retention of trees**
- 6. Landscaping**
- 7. Construction hours**
- 8. Construction and demolition management plan/ method statement**
- 9. Protection of the highway from mud and debris**
- 10. Dust mitigation measures during demolition and construction**
- 11. Internal noise levels of dwellings**
- 12. Contaminated land remediation**
- 13. Foul and surface water drainage provision**
- 14. Provision of access, parking, servicing and turning areas**
- 15. Retention of approved garages to be retained for parking of motor vehicles and cycles**
- 16. Private road signage**
- 17. Contaminated land remediation**
- 18. Removal of permitted development rights for boundary treatments, hardstandings, outbuildings and extensions for all plots**
- 19. Occupancy restriction to the over 55's and their dependents**

2) That should the obligation not be secured within the above period, the Head of Planning and Development be given delegated authority to refuse the application on the grounds that without such matters being secured the development would be contrary to policy on open space provision; unless he considers it appropriate to extend the period for completion of the obligation.

Reason for Recommendation

The site is located within the urban area of Newcastle close to the town centre and is a sustainable location for new housing. The benefits of the scheme include the provision of housing within an appropriate location making use of previously developed land. Overshadowing from the adjacent elevated wooded area will reduce sunlight levels to windows of the affected properties during summer months however this particular concern

does not outweigh the benefits of the development when assessed overall. A planning obligation is however required to secure appropriate payments for off site open space provision and improvement related to the needs of the occupiers of the development

Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application

Negotiations have taken place prior to the submission of the revised planning application and the amendments made to the scheme since the development of the site was last assessed by the Authority have sufficiently overcome previous objections.

Policies and Proposals in the Approved Development Plan relevant to the decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles for Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP2: Historic Environment
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy B5: Control of development affecting the setting of a listed building
Policy N2: Development and Nature Conservation – Site Surveys
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Considerations
Policy T16: Development – General Parking Requirements
Policy T18: Development – Servicing Requirements
Policy C4: Open Space in New Housing Areas
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations

National Planning Policy

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (March 2014))

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Space Around Dwellings SPG (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning

Document (2010)

North Staffordshire Green Space Strategy (September 2007)

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2008/09

Planning History

13/00866/FUL	Demolition of Priory Day Care Centre and the construction of 14 single storey dwellings	Refused	2014
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Views of Consultees

United Utilities have no objections subject to conditions relating to the prior approval and implementation of a foul and surface water drainage scheme.

The **Environmental Health Division** have no objections to the proposal subject to conditions relating to:

1. Restriction of construction and demolition hours between 18.00 hours and 07.00 hours Monday to Friday, and not at any time on Sundays or Bank Holidays after 13.00 hours on any Saturday.
2. Prior approval and implementation of a construction and demolition method statement.
3. Measures to prevent mud and debris on the highway.
4. Prior approval and implementation of dust mitigation measures during demolition and construction.
5. Implementation of the recommendations of the submitted noise assessment.
6. Prior approval of waste storage and collection arrangements.
7. Site contamination risk assessment and remediation.

The **Landscape Development Section** have concerns that the submitted Daylight and Sunlight Study should include calculations not only when the properties are first occupied but also for the longer term occupation when regrowth has occurred. They recommend that the following conditions be applied on any approval:-

1. All tree work and protection measures shall be undertaken as recommended within the submitted tree survey and in accordance with British Standard BS5837:2012.
2. Prior approval and implantation of a detailed shrub and tree planting scheme.

They also comment that the development triggers a financial contribution of £2,943 per dwelling towards public open space provision, but acknowledge that the appropriate requirement for the development might be less if occupancy were to be restricted to the over 55s.

The **Highway Authority** have no objections subject to conditions relating to:-

1. Provision of access, parking, servicing and turning areas in accordance with the submitted plans.
2. Prior approval and implementation of surfacing materials and surface water drainage.
3. Retention of garages for parking of motor vehicles and cycles.
4. Provision of "private road" signage at the road junction with Lymewood Grove.
5. Submission of a Construction Method Statement which shall be adhered to throughout construction phase.

The **Education Authority** advise that no financial contribution toward education provision is required provided that any planning permission given limits the age of future occupants of the development to the over 55s.

The **Clayton Locality Action Partnership** have not submitted any comments by the due date so it can be assumed they have no objections.

Waste Management have not submitted any comments by the due date so it can be assumed they have no objections.

The **Police Architectural Liaison Officer** has no objections to the application and comments that the development has a high level of natural surveillance and other positive elements from a crime prevention perspective. It is also noted that if the pedestrian route off Priory Road is to be retained this would be better restricted to residents only in the interests of privacy.

Representations

2 letters of representation have been received objecting to the development on the following grounds:

- The close proximity of the development to existing dwellings will lead to a reduction in light levels and privacy to principal rooms.
- New boundary treatments will also have a domineering impact and reduce natural light levels due to ground level changes.
- The proposal entails too many units and appears very cramped.
- Additional traffic onto Lymewood Grove above the cemetery traffic already experienced will exacerbate existing parking and vehicle manoeuvring problems.
- Junction of Lymewood Grove with Friarswood Road would need improving
- Adverse impact on wildlife

Applicants/ Agents submission

The requisite plans and application forms have been submitted along with a:

- Design and Access Statement
- Arboricultural Report
- Planning Statement
- Phase 1 ground investigation report
- Site Waste Management Plan
- Open Space Assessment
- Noise Assessment
- Ecological Survey
- Daylight and Sunlight Study

The submitted information is available at the Guildhall and at www.newcastle-staffs.gov.uk/planning/1400284FUL

Key Issues

The 13 bungalows proposed will each have two bedrooms, and are to be marketed towards the over 55s. The application is a resubmission following the refusal on 7th January 2014 of planning application reference number 13/00866/FUL which was for the erection of 14 bungalows. The grounds for refusal for that previous application were:-

1. A cramped layout and appearance.
2. The proximity of the development was overbearing to neighbouring occupiers and would provide a low level of amenity for future occupants due to overshadowing from adjacent woodland.
3. Harm to trees and expected low light levels for some of the new dwellings would lead to further tree loss.
4. Insufficient space for refuse vehicles to safely turn into and out of the site.
5. Absence of a completed obligation for an appropriate financial contribution toward public open space provision.

The National Planning Policy Framework (NPPF) advises, at paragraph 49 that housing

applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites. At paragraph 14, the Framework also states that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted unless either any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF at a whole or specific policies in the NPPF indicate development should be restricted.

As detailed in a report to be found elsewhere on the agenda the Borough Council is currently unable to demonstrate a five year supply of deliverable housing sites which triggers the provisions of paragraph 49 of the Framework and, on that account, paragraph 14.

The broad principle of residential development in this location has already been accepted to not conflict with any of the relevant housing policies within the Development Plan. The proposal makes use of previously developed land, involving the removal of a large disused County Council owned building, in a sustainable location within a very short walking distance of the full complement of services offered within the Town Centre. There is a presumption in favour of this development, therefore, unless any adverse impacts of the development significantly and demonstrably outweigh the benefits of the proposal. The site is not subject to any specific policies in the NPPF such as Green Belt which indicate that development should be restricted

Given that the principle of residential development has already been determined as being acceptable in this location the key issues to consider in the determination of the application are:-

1. Is the design and appearance of the development acceptable, inclusive of the impact to the setting of any nearby Listed buildings or structures?
2. Would there be any harm to visually significant trees, and or an unacceptable relationship with trees created, and if so would their potential loss be acceptable?
3. Would the impact of the development on the living conditions for neighbouring residents, and the living conditions of future occupants of the development, be adequate?
4. Is the impact on highway safety acceptable?
5. What financial contributions are appropriate for the proposal?, and
6. An assessment overall of whether or not any adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

Is the design and appearance of the development acceptable, inclusive of the impact to the setting of any nearby Listed Buildings?

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Policy CSP1 of the Core Strategy sets out the design criteria to which development will be assessed against which include that development positively contributes to an area's identity in terms of scale, density, layout, use of appropriate material for buildings surfaces and accesses. The Council's Urban Design Supplementary Planning Document gives further detail of how the development should be assessed above the broad guidance contained within Policy CSP1.

In terms of existing surroundings, immediately to the west of the site is a large wooded area. To the north is Priory Road and to the east and south are residential properties predominantly two storey with the exception of the Kingsley Hall development which comprises of 3 storey apartments. Lymewood cemetery entrance and its Lodge also lies to the south east. The railings and gates at the entrance to the cemetery from Lymewood Grove are Grade II Listed – the Lodge is not referred to in the Listings and whilst attractive is not included in the 'Local

List' either.

Although the site itself is largely situated on a plateau, ground levels rise steeply to the west toward the woodland. There is also a line of tall beech trees fronting Priory Road. It is the sylvan context of the locality which is its main attribute within the street scene off Priory Road and the 3 storey apartments of Kingsley Hall which are the most prominent buildings from this aspect. From Lymewood Grove the elevated wooded area adjacent to the site dominates public views aside from the former day care building to be demolished.

The position of the cemetery access is approximately 45 metres away from the entrance to the development on the opposite side of the road. Whilst the setting of the cemetery provides context to the overall character of the area heritage protection issues considered in isolation are not considered to be a problem.

The architectural style of the individual units proposed is unaltered (from the previous scheme) and does not generate concern. The removal of a unit from the total number of dwellings previously proposed has allowed for a more favourable layout which is less cramped, particularly when viewed from Priory Road which is considered to be the key public view of the development. Areas where there is some potential for planting along the internal road have also been introduced which is a positive change compared to the previous scheme. As a result previous form and character concerns have been satisfied. It is also considered that removal of permitted development rights for new boundary treatments is necessary to ensure the prominence of landscaping within the site is maintained as which is seen as an opportunity to improve the character and appearance of the area.

Would there be any harm to visually significant trees and/or an unacceptable relationship with trees created, and if so would their potential loss be acceptable?

Policy N12 of the Local Plan states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design.

There are protected trees on the site – these are the beech trees fronting Priory Road. The area of woodland to the west although not covered by a Tree Preservation Order is owned by the Borough Council and is a landscape feature on the western side of the town centre of significant amenity value.

The Landscape Development Section are satisfied that all protected trees can be properly safeguarded. With respect to the trees of the wooded area, specific tree works have been identified taking into account a Daylight and Sunlight Study which also accompanies the application in order to evidence the natural light levels expected to be available to the rear of plots 1 to 7 (the plots that back onto this woodland). The removal of a total of 30 trees varying in sizes as well as crown lifting and deadwood removal works is deemed necessary by the applicant. The majority of the tree removal proposed is for safety reasons arising from decay. A total of eight non-protected trees are to be removed purely on the basis to allow the development to proceed.

The Landscape Development Section do not object to the nature of the tree works proposed – the integrity of the woodland as a feature in the landscape would be successfully retained. Taking into account the technical information supporting the proposal it is now demonstrated the amount of tree loss required to accommodate the proposal would be acceptable. The requirements of policy N12 are complied with.

Would the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development be adequate?

Supplementary Planning Guidance (SPG) Space about Dwellings provides advice on environmental considerations such as light, privacy and outlook.

1. *The adequacy of the expected living conditions of future occupants of the units proposed*

The SPG advises that houses of 3 bedrooms or more should provide a garden with a minimum mean length of 10.7 metres and an area of at least 65 square metres. Whilst the development comprises of 2 bedroom units to which this standard does not apply there is no issue in any case given the size of the gardens provided

Although units 1-7 will be overshadowed by the neighbouring woodland on elevated land the submitted Daylight and Sunlight Study concludes that subject to the tree works proposed adequate daylight levels would be enjoyed by future occupants for internal spaces. The Landscape Development Section do point out that the conclusions of the Sunlight and Daylight Study are based upon the expected light levels immediately after the tree works specified have been undertaken rather than allowing for regrowth over the long term. It is likely that regrowth of the woodland will at some point in the future cause home owners of the development to place pressure on the Council for further tree maintenance works. The Council's Arboricultural Officer has advised that future maintenance of the woodland would certainly not be regular occurrence as an estimate it is likely to be every 10 years or more because of resources and funding. The view of your officers is that it would not be appropriate to require the developer to address the costs related to the future upkeep of the boundary of the woodland – this would fall to the Council as landowner to deal with specific requests for works as they arise and a decision for approval has to be considered in this context. The Study does also conclude that garden areas will receive at least 2 hours of direct sunlight meeting the minimum standard. However sunlight to almost all windows falls below the target standard during summer months but not for winter (when leaf loss is apparent).

With respect to achieving acceptable noise levels the Environmental Health Division are satisfied the noise levels identified in the submitted noise assessment can be achieved through appropriate mitigation measures.

2. *The impact of the development on existing neighbouring living conditions*

The development that is proposed is of single storey properties presenting largely, but not solely, blank elevations towards the adjacent residential development to the east. The existing residential properties of Kingsley Hall and Lymewood Close facing the boundary of the application site are impacted upon by the proposal as they have principal windows, as defined in the Council's Space about dwellings SPG, facing towards the site. It is not appropriate due to the significant difference in levels between the development site and the slab level of neighbouring dwellings to rely upon the minimum recommended separation distances within the SPG expected between a single storey building and neighbouring principal windows of two storey buildings which is 10.7 metres. The SPG makes provision where site circumstances are such that it can be appropriate to seek a greater separation distance for an acceptable level amenity to be provided. The amount of separation achieved between the proposed dwellings and existing residential properties compared to the previous application has been increased and ranges between 13 metres to a maximum distance of 13.8 metres. The view taken is that the development no longer results in an overbearing relationship with neighbouring dwellings taking into account the increase, and in some cases the relationship that would be created would be an improvement upon the existing relationship, given the buildings that are to be demolished to make way for this development..

It is considered necessary that permitted development rights are removed for the erection of extensions, hardstandings, outbuildings on all the plots and new boundary treatments on plots 9, 10, 11, 12 and 13 which have a shared boundary with the flats of Kingsley Hall and properties of Lymewood Close as the replacement of the existing boundary railings on site with a solid barrier would have the potential to be harmful to existing living conditions of neighbouring ground floor residential flats at a lower slab level. Removal of permitted development rights brings within the scope of planning control such developments.

Is the impact of the development on highway safety acceptable?

Policy T16 of the Local Plan states that development will not be permitted to provide more parking than the maximum levels specified but it also seeks appropriate provision. A standard car parking bay measures 2.4 metres by 4.8 metres. Plots 1 to 7, 9 and 11 to 13 provide off road parking for a minimum 3 vehicles including garages. Plots 8 and 10 provide two parking spaces including garages. In assessing the acceptability of the proposed car parking provision, and the adequacy of the access at the junction of Lymewood Grove as well as turning areas within the development site which have been amended following previous concerns, the Highway Authority have not raised any objections.

What financial contributions are appropriate for the proposal?

The Council needs to have regard to the three tests set out in Section 122 of the CIL Regulations i.e. is any contribution being considered necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development?

1. Public open space provision

Saved Local Plan Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured. Core Strategy Policy CSP5 identifies that developer contributions will be sought to provide a key funding source to meet the needs of new residents and for the delivery of Newcastle's Leisure Needs and Playing Pitch Strategy and the Urban North Staffordshire Green Space Strategy.

Local Authorities are justified in seeking planning obligations where the quality of provision is inadequate or under threat, or where new development increases local needs. The normal contribution expected is £2,943 per dwelling (consisting of £1,791 for improvements to capital development and maintenance in addition to £1,152 per dwelling for 60% maintenance costs for 10 years).

In anticipation of the Council's section 106 requirements the applicant has proposed to undertake arboricultural works to existing woodland trees in the ownership of the Council close to the western boundary, and is of the view, that this should result in a lower contribution to public open space. However it is not appropriate for this consideration to be used as a factor to reduce the amount of contribution required – i.e. it is not reasonably linked to the basis for requiring the contribution in the first place. – and such tree works are at least in part required to provide adequate light levels.

The applicant also asks that the age of the future occupants be taken into account in the calculation of the contribution. The Landscape Development Section acknowledge that this could be so. Your Officer's view is that the Council is entitled to devise a pragmatic method of calculation taking into account the expected age of occupants of the development for the amount requested to be considered reasonable. Taking into account the particular niche of single storey housing proposed – for the over 55's – it would not be appropriate for the Authority to require a contribution linked to children's play provision which should therefore reduce the level of expected contribution to £2,634 per dwelling giving a total requirement of £34,242. Adequate control would need to be applied to limit the age of future occupants of the development which could be achieved by planning condition in this case. There is however no completed and secured obligation at this moment in time 'on the table'.

2. Education

The Education Authority accept that it would be unreasonable to require a financial contribution towards local school provision if the future occupants of the development are limited to the over 55's and as stated previously an appropriately worded planning condition would enable adequate control for such a restriction to be maintained.

Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

Even when the tree works are first done some of the dwellings will experience low sunlight levels to their windows because of the adjacent trees and to this degree the development would present a less than standard level of amenity which the planning system might wish to maintain in the public interest. Against this single adverse impact, which would be experienced by the occupiers of the development, is set the benefits of the development – its reuse in a very sustainable location close to the facilities of the town centre, of an existing developed site, and its contribution towards housing supply in this area. In this context your Officer's recommendation is that the proposal should be viewed positively.

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

9 June 2014.