

APPEALS BY KEELE SEDDON LTD AGAINST THE DECISIONS OF THE COUNCIL TO REFUSE FULL PLANNING PERMISSION FOR THE DEVELOPMENT OF STUDENT ACCOMMODATION BLOCKS AT KEELE UNIVERSITY CAMPUS AND RESIDENTIAL DEVELOPMENT AT THE HAWTHORNS, KEELE AND CONSERVATION AREA CONSENT FOR THE DEMOLITION OF THE EXISTING STUDENT ACCOMMODATION BLOCKS AND MANAGEMENT BLOCK AT THE HAWTHORNS, KEELE

<u>Application Numbers</u>	13/00424/FUL & 13/00425/CON
<u>Recommendations</u>	Permit subject to conditions
<u>LPA's Decisions</u>	Refused by Planning Committee
<u>Appeal Decisions</u>	Appeals dismissed
<u>Date of Secretary of State's Decision</u>	20th July 2015

The decision letter together with the Inspector's Report (IR) is available to view on the Council's website (as associated documents to applications 13/00424/FUL & 13/00425/CON) that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

The following is accordingly only a summary of the key points.

The appeals were 'recovered' for the Secretary of State's determination on the grounds that the proposal involves significant development in the Green Belt. **The Secretary of State agreed with the Inspector's recommendations and dismissed the appeals.** In recommending that the appeals be dismissed, the Inspector commented as follows:

Consideration One: Whether the proposed development of The Hawthorns site is needed to meet the housing requirements of the Borough and contribute to any short term housing land supply deficit

- There is no dispute that the Council cannot demonstrate a 5 year supply of deliverable housing sites as required by the Framework and therefore the policies that restrict housing supply are out-of-date.
- It is therefore concluded that the proposed redevelopment of The Hawthorns would contribute to the short term housing supply deficit.
- This would be an important benefit which weighs in favour of the scheme.

Consideration Two: Whether the proposed development of The Hawthorns site is appropriate development in the Green Belt

- Although the Council has not objected on grounds of inappropriateness, this is a matter that has been contested by the Parish Council on the grounds that there would be a significant loss of openness.
- When considering openness there are both quantitative and qualitative measures. The most useful quantitative measures seem to relate to the footprint and volume of the buildings. On the evidence there would be a significant reduction as the number of buildings would increase but they would occupy less space and would be smaller and lower than what exists at present.
- There would be buildings on parts of the site where none currently exists but when viewed from the rural land to the west it is difficult to imagine that there would be an impression that there had been a material loss of openness or detrimental change in character.
- There would be a greater spread of development across the site but from many viewpoints the existing spaces between blocks are not apparent and the impression is of a mass of three and four storey development. When considering openness it is clear that in quantitative terms the open character of the site would be preserved. In

qualitative terms there is greater subjectivity but it is concluded that openness would not be materially diminished.

- The appeal scheme would not be inappropriate development in the Green Belt (GB) and there is therefore no need to consider the matter of very special circumstances.

Consideration Three: The effect of the proposed development at The Hawthorns, including the loss of trees, on heritage assets

- The Design and Access Statement accompanying the planning application included a Statement of Significance but it is a rather superficial piece of work which does not address Paragraph 128 of the Framework. The Council has not undertaken a formal Conservation Area (CA) appraisal and the main evidence to be relied upon when assessing the significance of the heritage assets and the effect of the proposal upon them, is that provided by the heritage witnesses to the Inquiry. This includes a *Rapid Conservation Area Appraisal* which was undertaken by the Council's heritage expert for the purposes of the appeal.

The significance of the heritage assets

- The designated heritage asset is the CA and the non-designated assets are The Hawthorns, The Villa and its associated Barn. These contribute to the significance of the CA but they also have significance in their own right.
- It was generally agreed between the parties that the setting of the CA could be relatively widely drawn to include the agricultural landscape in which it is experienced. The remainder of the appeal site forms part of its setting. The green open spaces and mature trees within the Hawthorns site provide a green backdrop that contributes positively to significance.

The demolition of the existing buildings

- All buildings on the appeal site except Hawthorns House, The Villa and its associated Barn would be demolished. It is not considered that any of the institutional development, which is utilitarian in design and relatively uncompromising in appearance, contributes positively to the CA. In terms of scale and form there is little that reflects the features that characterise the estate village. The proximity of the buildings diminishes the open character and setting of The Villa and Hawthorns House. The removal of these buildings from within the CA and the accommodation blocks from within its setting would undoubtedly be a benefit in terms of the significance of the designated and undesignated heritage assets.

The renovation of the undesignated heritage assets

- Hawthorns House would be retained, renovated and converted to two apartments. The extensions and additions to the side and rear would be removed but the evidence suggests that some of the elements may have been built contemporaneously to the main house or as an early addition. Their removal would diminish the historic and architectural interest of the undesignated heritage asset to some degree.
- The front elevation, with its impressive entrance porch, and the eastern elevation, with its bay window, would be retained and refurbished. The overall proposal would improve the appearance of Hawthorns House and would introduce a new active use that would be likely to ensure its viability in the longer term. The benefits would outweigh the disadvantages and The Hawthorns would continue to contribute positively to the significance of the CA as a whole.
- The Villa would be converted into a dwelling and its setting would be improved by the removal of the conference suite to the rear. The Barn would be refurbished and converted into a garage for The Villa thus re-establishing the likely historical association between the two.
- The renovation and re-use of the undesignated heritage assets is considered to be a significant benefit of the appeal scheme.

The effect on the setting of Hawthorns House

- Looking at the historical records it is clear that the appearance and function of the open area of land in front of The Hawthorns has changed considerably over time with the establishment of the University campus.
- As a result the setting of Hawthorns House has been damaged but it is not considered that it has been destroyed. The mature limes along The Village frontage remain and the horse chestnut avenue marks the former route of the driveway to the farmhouse. There are some fine trees within this open space and its character as a front garden can still be distinguished. The walled garden to the east of the house can also be identified and the bay window on this elevation allows what may have been a planned view across to the spire of St John's Church. There is sufficient of heritage value remaining to contribute positively to the significance of the CA and there are still glimpses of Hawthorns House between the trees and more prolonged views when the deciduous trees are devoid of leaf.
- The appeal proposal would have a dramatic and adverse impact on the qualities that have been outlined above. Most importantly, the size of the open space in front of Hawthorns House would be substantially reduced through the erection of the 3 pairs of semi-detached houses facing towards The Village. Roadways would run along the northern and eastern edges of the open space. The proximity of the roadway and houses to the eastern elevation with its bay window looking towards the church, would be a serious disadvantage. The remaining open space would retain little functional relationship with Hawthorns House and its significance in terms of providing a setting for the undesignated heritage asset would be largely lost. This would also diminish the contribution of Hawthorns House and its setting to the significance of the CA. Whilst a treed open space would remain, its reduction in size and functionality would result in a serious loss of significance to the designated heritage asset.

The effect on trees

- Trees and green vegetation make an important contribution to the significance of the CA, both within the designated area and within its setting. These include the 298 trees on the appeal site.
- In total 161 of the 298 trees would be felled, including 107 protected by a TPO. On the whole those around the site boundaries would be retained.
- The most important tree losses would be those occurring within the CA itself. In particular those would be necessary to accommodate the northwards movement of the access road and the six semi-detached houses facing towards The Village. Felling would include 6 of the 10 mature Horse Chestnut trees that form the visually impressive avenue flanking the present access road into the site. The loss would have a considerable effect on the group value of these mature specimens. Also the protected Wellingtonia would be felled which was planted as a memorial tree and clearly has communal heritage value to those living in the village.
- The construction of 6 new dwellings would result in the removal of the group of 5 protected Horse Chestnuts, which are Category A trees and therefore of high quality and value. These are relatively close to the Horse Chestnut avenue and together provide a prominent and visually important landscape feature close to the front of the site. Whilst it is acknowledged that some of the important trees within this part of the CA would remain, sufficient would be lost to have substantial adverse impact on the character of this visually important landscaped open space.
- There was considerable debate at the Inquiry about whether the Root Protection Areas (RPAs) indicated by the Appellant were realistic. Other than in respect of the two Limes at the front of the site, it is considered that with suitable methodology and careful supervision, the health of the trees would be unlikely to suffer.
- However, there is considerable concern about the future health of 2 large protected Limes on The Village frontage. This is because the road and the trees are at a higher level and there is a bank down to the lower land within the site itself. The 6 frontage houses would be built on a raised platform and steps constructed down from the

pedestrian gateways and up to the front door. The RPA of these 2 trees would extend across much of the garden areas of these properties. The technical drawings show the use of no-dig construction methods for the descending steps from the road and a block paved raft on the level ground.

- However there was no indication that the ascending steps would be treated in any special way, apparently on the basis that the Appellant expects there to be little root penetration into this area as the trees would draw some of their nutrients and oxygen from rooting systems under the adjoining roadway. If this is not correct then a significant part of the RPAs would be likely to be within the area occupied by the ascending steps. These are very important trees in terms of their public amenity value and their contribution to the significance of the CA. It is not unreasonable to take a precautionary approach and in the circumstances, the future long term health of the 2 protected Limes is a considerable concern.
- New residents would be aware of the protected status of many of the trees before purchase and it is unlikely that the Council would find it difficult to resist requests for radical pruning or felling of protected trees.
- However there is concern about the semi-detached houses at the front of the site where the Lime trees are large mature specimens with canopied that would spread well into the front garden areas. One of the features of these trees is their 'epicormic' growth which sprouts thickly from the lower parts of the trunk. Regular pruning would be necessary to keep this under control. In the summer the front gardens would be overshadowed for parts of the day and the sole window in the living rooms of these houses would face in this direction. The trees would give a rather oppressive outlook in the summer months. This adds to the concerns about the suitability of the development on this part of the site.
- It is appreciated that the proposal includes 125 replacement trees and that these would provide some mitigation for tree losses within and around the site. However the success of the new planting would depend on good soil preparation and a careful maintenance programme, including a rigorous watering regime. Without such aftercare there is a likelihood that the trees would fail to prosper.
- Around the new entrance to the site a number of Lime trees would be planted but it would be many years before they would reach the height of the existing frontage trees. Overall the number of new trees would be significantly less than those to be lost and there is little doubt that the mature sylvan setting would be substantially and harmfully eroded even in the long term. Furthermore the context in which the new trees would be experienced, especially in terms of the open space within the CA, would be significantly diminished for the reasons given above.

The effect of the scale, form and layout of the development

- In the Design Review by MADE the semi-detached houses at the front of the site were viewed positively in townscape terms. However the undeveloped frontage along this side of The Village has been a feature since the mid-19th century. The diminution of the space in front of Hawthorns House by the insertion of these houses would be an important negative feature and it is not considered that this would be compensated by extending the frontage development. There may be some social benefit in integrating the new development with the remainder of the village but there is already social benefit from the enjoyment of the open space.
- The appeal scheme would be large and add considerably to the existing modest sized village but this would be countered by the removal of the incongruous and imposing accommodation blocks. It is acknowledged that there would be a greater spread of development across the site however the visual consequences would not be readily apparent from within the CA because the wider rural setting is provided by the farmland rather than the site itself and there would be no encroachment of development beyond the site boundaries. Views of the farmland from within the CA or views of the CA from the farmland would change little even taking account of the tree loss. In these terms the effect of the new built form when compared with what currently exists, would be largely neutral.

Conclusions on Consideration Three

The designated heritage asset is the CA. For the reasons given above the appeal proposal would result in some benefits including the refurbishment of the undesignated assets that contribute to significance and the removal of the existing campus buildings that are incongruous detractors. However there would also be considerable harm, including the unacceptable diminution of the open space in front and to the side of Hawthorns House. New tree planting would not compensate for the loss of mature species especially within the front part of the site and around the existing access.

There was considerable debate at the Inquiry about whether any harm to the designated heritage asset would be substantial or less than substantial in terms of the Framework. In this case the significance of the CA as a whole would not be destroyed and there are benefits as well as harm. The latter is relatively specific and relates to the front part of the site around Hawthorns House. Overall this would result in less than substantial harm to the CA as a whole. In the circumstances it is necessary to weigh this harm against the public benefits and to consider whether the appeal scheme would preserve or enhance the character or appearance of the CA. This will be assessed under Consideration Eight.

Consideration Four: The effect of the design and layout of the proposed development at The Hawthorns on the character and appearance of the area

- The Council appeared to rely particularly on the comments of MADE Design Review Panel. It became apparent that the Panel did not visit the site and this is considered a shortcoming.
- The layout would be mainly from a single access with houses grouped along a series of cul-de-sacs but the development could not be expected to necessarily mirror the spatial characteristics of its host environment which has grown organically over many centuries. Indeed the existing campus site fails in most respects in this regard.
- Furthermore there are a number of constraints which have to be borne in mind including the need for a single point of access, the shape of the site, the complex topography, an abundance of trees and The Bowl in the centre. It is rather unfair to describe the proposal as a poor example of a volume-builder layout as MADE and some objectors suggest.
- There would be a good range of house types, which would be sufficiently different to provide an interesting and attractive townscape and a sense of place. The designs have sought to pick out detailing from the local vernacular. This does not seem to be pastiche architecture and MADE commented positively on the external appearance of the dwellings.
- There would be a reasonable provision of amenity space which would be publicly accessible and the children's play area would be a benefit in the village where none currently exists. The spaces would not be so fragmented as to be unusable and the retention of trees and new planting proposed would make them reasonably attractive and functional.
- MADE were critical about legibility but it is not considered that the layout would be confusing or illogical. It would seem relatively straightforward to negotiate to destinations within the site. Pedestrian routes appear a bit convoluted and permeability could be improved in terms of external links, particularly between the northern part of the site and Quarry Bank and in the vicinity of The Villa.
- However there is little harmony between the existing campus development and the remainder of the village in terms of scale, appearance and layout. It is concluded that the appeal proposal would not have an adverse effect on the character and appearance of the area.

Consideration Five: Whether there is sufficient justification for the lack of affordable housing provision and contributions towards mitigating impacts, including education provision

- The obligations relating to education, affordable housing and open space would be necessary, directly related and fairly and reasonably related in scale and kind to the development and therefore would be in accordance with Regulation 122 of the CIL Regulations and with the Framework.

- The basis for the Newcastle Urban Transport Strategy Sum is set out in the Transport and Development Strategy which covers the period 2008 to 2013 and seeks to promote sustainable travel. Whilst it has been stated that a review of the document is being prepared this has not yet happened. Whilst a contribution towards sustainable travel would not be unreasonable, it is not possible to be confident that the amount of money being sought has a sound and transparent basis. It cannot be concluded that it is fairly related to the scale of the development proposed on the appeal site.
- The County Council sought to justify compliance with a County Monitoring Fee. The obligations to be monitored relate to education and transport but it has been concluded that the transport payment cannot be justified. The sum is intended to cover both and therefore would not be correct if only the education contribution had to be monitored. Even so the County Council has not indicated what special costs would be involved in this case over and above what would be expected in terms of carrying out its statutory functions and duties as Education Authority. In this case the Monitoring Fee is not necessary or reasonable.
- The obligations relating to the Newcastle Urban Transport Strategy Sum and the County Monitoring Fee would not meet the necessary tests and cannot therefore be taken into account.

Consideration Six: Other Matters

The accommodation blocks on the University Campus

- The appeal proposal also includes the erection of 2 accommodation blocks within the University Campus site. In terms of scale both blocks would integrate successfully with their surroundings and this part of the proposal would not adversely affect the character or appearance of the campus site or its wider environs.
- The site is within the Historic Park and Garden but the site is at the northern end of the parkland where modern campus architecture of considerable scale is prevalent. The significance of the parkland landscape would not be materially diminished.
- Whilst some trees would be removed they are relative new thicket planting and have no heritage significance. The significance of the conservation area, listed buildings and their setting would be preserved.
- The two parts of the appeal proposal are closely linked because the redevelopment of The Hawthorns site is intended to contribute to the funding of the new accommodation blocks on the Barnes site. Objectors contended that there would be other ways for the University to raise the necessary funding without selling off The Hawthorns site but there is no evidence of what other assets would be available to fund this project. Subject to a condition that ensures that the two parts of the scheme are linked together, the new student accommodation can be treated as an educational and economic benefit that is supported by development plan policy.

Public consultation and local facilities

- Although local people do not consider that they have been properly consulted or that the University has listened to their objections, there was clearly engagement with the Council and various changes were made.
- There was particular local concern that the scheme should have contributed to more local facilities, for example funding for improvements to the village hall. However there is no policy basis for requiring improvements to the village hall and no Council document to set out how a fairly related sum would be worked out. No details were provided of any funded project to which any contribution would be put and it could not be concluded that such a contribution would be necessary in order for the development to go ahead.
- There was a belief that the village pub would be unable to survive without the regular custom of students and their visitors. However, if it is an important local social facility and community asset then it is difficult to understand why it is so dependent on student trade. If village residents support the pub then the development would reinforce this by providing an additional source of custom.

- There is currently a small shop that provides a useful local facility. The appeal proposal includes a local shop to serve as a local top-up function for those living in the village. Nevertheless the evidence is insufficient to be confident about its future viability or whether a subsidy would be forthcoming to get it off the ground. It would replace a facility that already exists in the site and whilst the timing of its provision could be subject to a planning condition it is a neutral factor in the overall balance.

Ecology

- There is a maternal bat roost within the roof of the conference suite and a transient roost in another building. Natural England has no objection to the proposal on ecological grounds and in any event a licence would have to be applied for in due course. There is no reason why a licence would not be approved and a bat mitigation and monitoring strategy could be the subject of a planning condition. There would be no harm to the protected species.
- The southern part of The Hawthorns site is a Biodiversity Action Plan (BAP) priority habitat but there is no evidence of harm occurring in terms of the BAP priority habitat.
- Whilst the whole area is designated as an Area of Landscape Maintenance there was no evidence that the proposal would be harmful in this respect.

Flooding and drainage

- Planning conditions could require full details of a surface water and foul drainage scheme to be approved but also details of future maintenance and management.

Highway safety and parking including for the school

- In terms of accessibility for non-car modes, the site is well located. It seems that there would be many opportunities to undertake shopping, employment, school and leisure trips by modes other than the private car.
- Staffordshire County Council as Highway Authority has raised no objections to the scheme and does not contend that the local road network would not be able to safely accommodate the traffic generated. It is not considered that the evidence indicates that the appeal proposal would cause unacceptable risk to highway safety.
- There has been much local concern about the parking arrangements for the school. There is currently no dedicated drop-off facility and parents use the University car park on an informal basis. The proposed drop-off parking, which would be specifically for this purpose, would be a benefit both in terms of convenience and safety. Details and timing of its provision could be secured by a planning condition.

Consideration Seven: Whether any conditions and obligations are necessary to make the development acceptable

- The planning obligations have already been dealt with under Consideration Five above. Justification has been provided for the conditions listed and it is considered that they are reasonable, necessary and otherwise comply with the Framework.
- If the Secretary of State is minded to allow the appeal he will need to be satisfied that the transport and education contributions would not exceed the “five-obligation limit” as set out in Regulation 123 of the CIL Regulations. If there are already five planning obligations for the project in question, then the planning obligation relating to that project could not constitute a reason for granting planning permission.

Consideration Eight: Overall conclusions and planning balance

- The statutory requirement is that a proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons given in Considerations One and Three the scheme would not accord with the development plan read as a whole in terms of the location of housing and heritage assets. If the Secretary of State does not agree with the GB conclusion then there would also be conflict with GB policy.

- As the Council cannot demonstrate a 5 year supply of deliverable housing sites, the housing supply policies in the Local Plan are not up-to-date and therefore the weight to be given to the policy conflict is reduced. In such circumstances the relevant policy comes from Paragraph 14 of the Framework. Paragraph 14 contains two limbs and it is clear from the use of the word “or” that they are alternatives.
- The first limb requires a balance to be undertaken whereby permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. The second limb indicates that the presumption should not be applied if specific policies indicate development should be restricted. If the Secretary of State does not agree with the GB conclusion, the second limb would apply. Footnote 9 gives other examples, including those policies relating to designated heritage assets. It has been concluded that the proposal would be harmful in these terms.
- However the Council makes a persuasive point that Footnote 9 refers to policies in the plural, which would mean the inclusion of circumstances where there was substantial harm as well. It seems that if the second limb was only expected to apply to heritage assets where there was substantial harm it would have said so. In the circumstances the presumption does not apply in this case and it is necessary to balance benefits and harms. However if the Secretary of State does not agree with this analysis, the second limb to Paragraph 14 of the Framework is considered below.
- The Hawthorns would make an important contribution towards remedying the shortfall in housing and whilst no contribution towards affordable housing would be made initially, there is provision for this to happen should land values increase over the course of the development period. These are matters that can be afforded considerable weight.
- Other benefits from The Hawthorns element include the re-use of previously developed land and the removal of the unattractive campus accommodation blocks and administrative buildings which are significant detractors to the CA. It would result in the refurbishment and re-use of Hawthorns House, The Villa and its associated Barn which are undesignated heritage assets. There would be provision of publically accessible open space including a children’s play area, and a dedicated drop off parking facility for the primary school. There would be a new permanent population that would support existing facilities in the village. All of these benefits can be afforded significant weight.
- The housing development would also provide funding towards the new student accommodation on the Campus. The University is very important to the local economy and therefore this would be a benefit of significant weight.
- However against these benefits must be weighed the harm. This relates solely to The Hawthorns part of the scheme.
- The harm would primarily relate to the heritage assets. Although the harm to the CA would be less than substantial in terms of Paragraph 134 of the Framework that does not mean that it would be unimportant or of little consequence. On the contrary it is considered that it would have very great importance and weight. The aforementioned advantages are insufficient to outweigh the irreversible and serious harm that would be caused to the CA. It is concluded that the appeal proposal would fail to preserve the character and appearance of the CA and it is considered that Appeal A should not succeed.
- The Secretary of State may disagree with the conclusions regarding the GB and may consider that the proposed development would be inappropriate development. If this is the case then Footnote 9 would apply and the Framework policy is that such development should not be granted permission unless the harm by inappropriateness and any other harm is clearly outweighed by other considerations. This again is a balancing exercise and added to the harm to heritage assets would be harm to the GB. The negative impacts would be even greater would not be outweighed by the benefits. Very special circumstances would therefore not exist and Appeal A should not succeed.
- The Secretary of State may disagree that this is the case where the presumption in favour of sustainable development does not apply and the correct test in Paragraph 14 of the Framework is the first limb of that policy. The Framework establishes that there are three dimensions to sustainable development. The proposal would satisfy

the economic role and in many ways the social role as well. However its failure to protect and enhance the historic environment is a very serious shortcoming. Even recognising the importance of the contribution of the housing element of the scheme, the heritage impacts would significantly and demonstrably outweigh this and other benefits, when assessed against the policies in the Framework taken as a whole. For this reason the appeal proposal would not be sustainable development and Appeal A should not succeed.

- Appeal B relates solely to the demolition of the existing buildings in the CA. Although the buildings are detractors, if Appeal A is dismissed there would be no satisfactory replacement scheme. In the circumstances the demolition works would be contrary to Saved Policy B11 in the Local Plan and in the circumstances it would not be appropriate for conservation area consent to be granted.

Your Officer's comments

The Secretary of State's decision letter acknowledges the considerable benefits of the appeal scheme but states that they are insufficient to outweigh the irreversible and serious harm that would be caused to the Conservation Area by the appeal proposals. The Inspector identifies in some detail which aspects of the proposals were considered either acceptable or unacceptable, and the Secretary of State effectively invites an amended proposal, stating that "It is for the appellant to consider how the deficiencies of the proposals identified in the IR (Inspector's Report) might be rectified in order to preserve the character and appearance of the conservation area".