

The application is for 4 new detached dwellings and change of use of the property known as The Birches from a former children's home into a single dwelling. The works also include demolition of part of the Birches and the erection of a detached garage.

The application site lies within the Brampton Conservation Area and the Urban Neighbourhood Area of Newcastle as specified on the Local Development Framework Proposals Map. The site is affected by Tree Preservation Order number 14.

The application has been called in to Committee by two Councillors due to concerns about over development within the Conservation Area.

The 8 week period for the determination of this application expired on 13 October 2015.

RECOMMENDATION

1) Subject to the applicant entering into a planning obligation by 11 December 2015 securing a contribution of £14,715 for public open space improvement, PERMIT subject to conditions relating to:

- **Standard time limit;**
- **Approved plans;**
- **Materials;**
- **Submission and approval of amended plans of the proposed garage to the Birches, such plans to include the removal of the dormer window;**
- **Landscaping;**
- **All boundary treatments (including rear garden areas for the new dwellings);**
- **Retention and protection of all trees shown to be retained;**
- **Prior approval of tree protection measures**
- **Prior approval of an arboricultural site monitoring schedule.**
- **Alignment of utility apparatus (including drainage) outside the root protection or using a trenchless method;**
- **Arboricultural construction method statement to include details of construction access and use of protected surfacing, no-dig surfacing, and construction proposals for the garage;**
- **Schedule of works to retained trees;**
- **Contamination remediation;**
- **Demolition/ construction activity be limited to reasonable hours;**
- **Noise assessment indicating any mitigation measures required;**
- **Highway matters.**

2) That should the obligation not be secured within the above period, the Head of Planning 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 a sustainable location for new housing within walking distance of Town Centre services. The dwellings proposed are appropriately designed and located in relation to their surroundings. The demolition of a previous extension to The Birches and also the demolition of Little House would not be harmful to the character or appearance of the Conservation Area. It is also considered the appearance of the Gower Street side of the

Conservation Area boundary would be significantly enhanced by the proposal subject to the careful agreement of detailed tree retention, management works and landscaping opening up the site frontage. A modest amount of tree removal is expected to enable this, entailing the loss of moderate quality (category B) trees situated behind and amongst other high value trees which are not subject to a Tree Preservation Order or considered worthy of retention as individual specimens. There would be no material detriment to highway safety or to neighbouring amenity. A financial contribution toward public open space provision (Brampton Park) can also be secured. It is considered, overall, that the development will enhance the character and appearance of the Conservation Area.

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

Initial tree impact concerns have been overcome through the submission of additional information. Subject to appropriately worded conditions the proposal is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Key Issues

The proposal involves the construction of 4 detached, 3 floor, 5 bedroom dwellings with attached garages. These dwellings front onto Gower Street and would all be served off a single, existing access onto Gower Street.

The Birches is proposed to be converted to a single dwelling house with 7 bedrooms. An existing two storey extension is to be demolished.

A detached garage is also proposed within the curtilage of the Birches. The garage has 3 car parking. It features a pitched gable roof design with a dormer window on the front elevation.

Representations have been received from local residents that the proposed development being applied for, if granted, will be utilised as houses in multiple occupation for students (falling within Class C4) rather than operate as single dwelling houses (Class C3). Such concerns follow the refusal application reference number 15/00047/COU for the conversion of the Birches earlier this year on various grounds relating to a negative impact toward the character of the area, local amenity and the safety of residents from the fear of crime and disorder. The application submitted is for the construction of dwellings and the re-use of the Birches as a single dwelling (all within Class C3) and the application should be considered and determined on that basis.

The site lies within the Brampton Conservation Area at the end of Sidmouth Avenue and there are protected trees in the vicinity.

The main issues for consideration in the determination of this application are:

1. Is the principle of residential development in this location acceptable?
2. Is the design of the proposal, with particular regard to the impact upon the special character and appearance of the Conservation Area, acceptable?
3. Is the impact to surrounding trees acceptable?
4. 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?
5. Is the impact on highway safety acceptable?
6. Are any financial contributions requirements triggered and if so are the requirements appropriate?
7. Do the overall merits of the proposal outweigh any harm?

1. Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

The site is located within the urban area close to the Town Centre within walking distance of the public transport provision and the full range of services on offer. Development Plan policies support the broad principle of residential development in this location.

Local Planning Authorities (LPA), by reason of the National Planning Policy Framework (Framework), are required to identify a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its policy requirements (in the Borough's case as set out within the Core Spatial Strategy) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Council, is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Framework, because it does not have a full objective assessment of housing need and its 5 year housing land supply statement is only based on household projections.

Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. It also states that relevant policies for the supply of housing cannot be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites (as defined in paragraph 47). Paragraph 14 details that at the heart of the Framework is a presumption in favour of sustainable development and that this means, unless material considerations indicate otherwise, where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework at a whole, or specific policies indicate development should be restricted.

In accordance with paragraph 14, there is therefore a presumption in favour of this development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. This will be assessed below.

2. Is the design of the proposal, with particular regard to the impact upon the special character and appearance of the Conservation Area, acceptable?

Due regard must be paid to requirements to protect the special character and appearance of Conservation Areas which includes existing built development as well as landscaping and trees.

In terms of the Development Plan, Core Strategy Policy CSP1 – Design Quality lists the broad criteria of how new development will be assessed which includes amongst other things the need to promote the image and distinctive identity of Newcastle through the enhancement of strategic and local gateway locations and key transport corridors. It also requires a positive contribution to an area's identity and heritage through the use of appropriate vernacular materials. The Urban Design Supplementary Planning Document gives additional detailed design advice to be read in conjunction with the broad requirements of Policy CSP1.

Core Strategy Policy CSP2 states that the Council will seek to preserve and enhance the character and appearance of the historic heritage of the Borough.

Saved Local Plan policy B9 of the Local Plan states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B13 also requires applicants applying for planning permission to demonstrate how they have taken into account the need to preserve and enhance character or appearance of Conservation Areas.

Paragraph 17 of the Framework sets out various Core Planning Principles for Local Authorities to adhere to which includes the need to secure high quality design. Heritage protection policies defined in the Framework are consistent with that of the Development Plan.

Main access to The Birches is obtained from Sidmouth Avenue. The eastern part of the site is adjacent to Gower Street. Whilst the whole of the land subject to the proposal is within the Conservation Area, other houses on Gower Street are not included. The quality of the housing along Gower Street is mixed and not as high as Sidmouth Avenue, the Brampton in general and other surrounding streets such as Granville Avenue. There is a dense line of tall trees fronting Gower Street which reduces views into and out of the site. Mature trees are an important component of the areas identity.

The current appearance of the site is not particularly attractive when viewed from Gower Street due to overgrown planting, unmanaged trees and the position and appearance of a closed boarded wooden fencing. In addition the architectural qualities of the property known as Little House do not compliment the older higher quality buildings nearby.

The Councils Conservation Officer is not opposed to the siting or appearance of the proposed dwellings subject to the agreement of materials and landscaping details. The proposed units which incorporate Victorian design features into a contemporary scheme would integrate well with other existing buildings within the Conservation Area boundary and further afield. The introduction of the dwellings would fill the gap between the existing properties. In the otherwise built up frontage on the eastern side of Gower Street. The view taken is that granting permission would also enable a significant enhancement to the Gower Street side of the Conservation Area boundary.

The Little House is not a positive feature which adds to the character of the conservation area, and its demolition would not be harmful. The extension to the Birches is also to be demolished. Whilst the applicant's case that this is an unsympathetic extension is not agreed, it is considered that its demolition would not adversely affect the character of the conservation area and could not be resisted.

The proposed detached garage for the Birches could be improved in its appearance through the simplification of its roof design (removing the dormer). This can be addressed through a condition. The position of the garage is not otherwise considered to be visually harmful – it having an acceptable relationship with the size of The Birches property the remaining curtilage available.

The impact of the development on the visually significant protected trees within the site also has an impact on the character and appearance of the Conservation Area which is a further material factor addressed below.

3. Is the impact to surrounding trees acceptable?

Some of the Trees within the site boundary are protected by a Tree Preservation Order (TPO). There are other lower grade trees grouped together which are not protected by a TPO.

The removal of any high value tree fronting Gower Street is not supported by your officers and no such removal is proposed. The trees make a valuable contribution to public amenity and the appearance of the Conservation Area.

Technical advice was initially received advising that the impact to trees cannot be properly assessed based solely on the information presently submitted. In response the applicant has submitted additional information for consideration which includes a section drawing showing the position of the development in the context of existing trees facing Gower Street.

The Landscape Development Section's most recent advice is that they have no objections, (subject to protection measures) to the position of the new dwellings, associated driveways or the use of the existing vehicular access proposed off Gower Street subject to no further increases in its width. They are also satisfied that the loss of some of the less visually prominent trees on the inner line of the two lines of trees on the Gower Street frontage has been justified and will open up views into the site.

Overall, whilst there will be some tree loss the most visually significant trees will be retained and in this regard the development is considered acceptable.

4. Is the impact of the development on the living conditions for neighbouring residents and the living conditions of future occupants of the development acceptable?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook. The proposal is in accordance with this guidance.

Environmental Health Division have advised that a noise assessment is undertaken which identifies any mitigation measures needed to ensure future residents will not be adversely impacted upon by road traffic noise. Such provision is appropriate.

Subject to planning condition acceptable living conditions can be secured for both surrounding residents and future occupiers of the development.

5. Is the use of the access and parking provision proposed acceptable in highway safety terms?

The most up to date planning policy (contained within the Framework) indicates that development should only be prevented or refused on transport grounds where the impact of development is severe.

With respect to the 4 dwelling units proposed. There is an existing vehicular access onto Gower Street – approximately 3.6 metres wide. Each property is to have 2 car parking spaces.

The Highway Authority has no objections to the parking, access and turning arrangement applied for subject to conditions. One of the conditions advised by the Highway Authority is for the slight enlargement of the width of the existing vehicular access to 4.5 metres. This however could potentially result in further tree loss and following discussions with the Highway Authority it is considered that the retention and protection of trees is more important and that the existing access is acceptable in highway safety terms.

The proposal provides parking for 5-6 vehicles within the site and proposed garage for the Birches which would exceed the maximum standards but is proportionate to the size of the dwelling and its plot.

Overall it is considered, in line with the Highway Authority advise, and notwithstanding the concerns expressed about the safety of the Gower Street/King Street junction, that there is no significant detriment to highway safety arising from the change of use aspect.

6. What financial contributions are required?

LP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, where it should be located and what issues should be taken into account in its design. It also indicates that its maintenance must be secured.

Policy CSP5 of the CSS states that the plan area's open space, sports and leisure assets will be enhanced, maintained and protected by a number of measures.

The Council needs to have regard to the three tests set out in Section 122 of the CIL Regulations i.e. is any contribution 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.

The site measures 0.41 in area triggering public open space contribution requirements. The Landscape Development Section has requested that a total financial contribution of £14,715 is required towards public open space provision. This equates to £2,943 per dwelling. The

money will be spent on maintaining/ upgrading Brampton Park where there is an identified need.

Your Officer is satisfied that the public open space contribution sought is one which meets the three tests set out in Section 122 of the CIL Regulations (i.e. it is 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).

Section 123 of the Regulations stipulates that a planning obligation may not constitute a reason for granting planning permission if it provides funding in respect of a specific infrastructure project or a type of infrastructure and, if five or more obligations providing funding for that project or type of infrastructure have already been entered into since 6 April 2010. The limit has not yet been reached. It is therefore considered that such a contribution could be secured as it would accord with Section 123.

7. Do the overall merits of the proposal outweigh any harm?

The broad location is a sustainable one for housing. The proposal would make a contribution toward boosting housing land supply. In addition the application meets the aims to both preserve and enhance the special character and appearance of Conservation Areas. It is considered that the appearance of the site in particular on the Gower Street aspect can be significantly enhanced through careful management and the removal of some low grade tree specimens not worthy of retention. Whilst the development will result in the loss of some moderate quality trees also, such impacts are not sufficient to outweigh the benefits of allowing the proposal.

8. Other matters

Residents have requested that an Article 4 Direction is made to prevent changes of use from Class C3 (dwellinghouses) to Class C4 (houses in multiple occupation) without the benefit of planning permission. Consideration is being given to this and a report will be brought to Committee. Notwithstanding the outcome of that process it remains necessary to determine this application, and the possibility of the imposition of such an Article 4 Direction is not material to the determination of this application.

Following receipt of representations addressed to and received by the Secretary of State the Department for Communities and Local Government (DCLG) have notified the Council that the Secretary of State will consider "call in" of the application should the Council be minded to approve the proposal at the forthcoming Committee meeting. They have requested that the Council hold issuing the decision until the Secretary of State has had time to consider a call in. The time frame for that decision is unknown as it would require Ministerial decision.

Given that the application has already been with the Authority for some 10 weeks and in the absence of any other reason to delay a decision your officers have advised DCLG that the Council would not be willing or able to withhold issuing a decision in the circumstances. The DCLG is able to issue an Article 31 holding Direction following the committee meeting which would prevent the Council from issuing a decision notice until a decision on call in has been made by the Secretary of State which is what they have indicated they will do.

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

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006 -2026 (adopted 2009) (CSS)

Policy SP1	Spatial principles of Targeted Regeneration
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 CSP5 Open Space/Sport/Recreation
Policy CSP10 Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1 Residential development: sustainable location and protection of the countryside
Policy T16 Development – General parking requirements
Policy T18 Development servicing requirements
Policy C4 Open Space in New Housing Areas
Policy N12 Development and the protection of trees
Policy N13 Felling and pruning of trees
Policy B9 Prevention of Harm to Conservation Areas
Policy B10 The Requirement to Preserve or Enhance the Character or Appearance of Conservation Areas
Policy B12 Demolition in conservation areas
Policy B13 Design and development in Conservation Areas
Policy B14 Development in or adjoining the boundary of Conservation Areas
Policy B15 Trees and landscape in conservation areas
Policy IM1 Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations

National Planning Policy Framework (March 2012)

Planning Practice Guidance (March 2014)

Supplementary Planning Documents/Guidance

Space Around Dwellings SPG (SAD) (July 2004)
Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD

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

Relevant Planning History

15/00047/COU	Change of use from former children's home to student accommodation	Refused	2015
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An appeal has recently been submitted

15/00352/COUNOT	Prior notification of a proposed change of use of existing offices to 4 self-contained dwellings	Not permitted development	
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On the basis that the development was not one consisting of a change of use to a dwelling from a use falling within Class B1(a) offices. Specifically the Planning Authority considers the use of the building to have been a mixed use for office (B1)(a) and therapy (D1) uses.

94/00230/CPO	Alterations, refurbishment and repositioning of existing fire escape	Permitted	1994
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NNB10377	Single staff house	Permitted	1972
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NNB01313	Conversion to form a Hostel for Working Girls.	Deemed Permitted	1951
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Views of Consultees

The **Highway Authority** has no objections on highways grounds subject to conditions relating to the following:-

1. Revised access details with an access width of 4.5 metres with visibility splays.
2. Parking and turning areas provided in accordance with the approved plans prior to occupation and retained for the life of the development.
3. The vehicular access of Gower Street to remain ungated.
4. Garages to be retained for the parking of motor vehicles and cycles.
5. Prior approval of a construction method statement which shall then be implemented.

The **Conservation Advisory Working Party (CAWP)** recommend that an independent historic assessment of the significance of the side extension which is proposed to be demolished as there is not enough information to make an informed judgement. They also object to the orientation of the proposed garage which does not reflect the street pattern along Sidmouth Avenue. The dormer window is inappropriate and should be deleted from the design. The Working Party supports the house design of the new houses fronting Gower Street as the right approach creating frontage which will enhance the quality of the built environment on this street. They support the removal of the fence and erection railings and hedge.

The Council's **Urban Design and Conservation Service** comments that:-

- With respect to the 4 detached dwellings proposed. Looking at the areas historic mapping it makes sense for the site to be divided. Historic mapping shows the development of the area from the 19th century onwards and how Gower Street has developed. It is very likely historically that this part of Gower Street would have developed with houses fronting the street if the plot had not been purchased by the then owners of The Birches. There was a tree-lined pathway up through the centre of the site. This analysis is important to understand how the area has developed and how best to enhance it in the future.
- The existing concrete post and timber fence forming a blank elevation to Gower Street does not create an attractive frontage and the proposal to open out this side of the street with the proposed houses creating an active frontage will be a positive contribution to the street scene and raise the quality of development in this location. There is also an existing house of no design quality fronting Gower Street which is currently a little overpowered by the dense line of trees, although there is a pedestrian and vehicular access onto Gower Street already which is to remain in the new scheme.
- The design of the dwelling houses proposed reflects the Victorian character of some of the houses in the area but with a contemporary element which would be effective subject to material quality and finish. Subject to conditions securing materials and high quality landscaping for the Gower Street frontage there are no objections to the design proposed.
- The dense lines of mature trees are in place through the evolution of the plot as a back garden to the Birches. They are a significant and attractive landscape feature, particularly the largest group which are closest the road edge. It is considered some careful reduction of this tree coverage would enable the houses to be glimpsed and enhance the area, open it up and provide attractive views into the site. The selective loss of the trees should be weighed against the positive contribution which the overall development will give to this part of the Conservation Area and Gower Street.
- No objections to the change of use of the main house. The institutional alterations to the whole of this building which include additions are all unsympathetic and it will be a great improvement if they are removed as part of this proposal, including all of the

rear fire escapes. Despite all of these issues, partial demolition to a building within a Conservation Area does not require the benefit of any prior permission.

- The detached garage proposed should be kept simple by removal of the dormer window which is an unnecessary and fussy detail.

The **Environmental Health Division** has no objections subject to:-

1. Construction and demolition hours being restricted to between the hours of 18.00 hours and 07.00 hours Monday to Friday, and not at any time on Sundays, Bank Holidays or after 13.00 hours on any Saturday.
2. Prior approval of a noise assessment with any mitigation measures needed to achieve appropriate internal and external noise levels.
3. Contaminated land conditions.

The **Landscape Development Section** makes the following comments, further to consideration of additional information:

- Previous concerns about justification for the loss of some category B trees along the Gower Street frontage have been addressed. The loss of some of the less visually prominent trees on the inner line is accepted to increase views into the site, whilst other more visually prominent category B trees are to be retained and protected.
- Should further tree removal be required at any time in future it would be subject to a notice application.
- Additional information has demonstrated that the driveway can be constructed without causing damage to retained category A trees and that there is sufficient space for future growth of trees without the need for harsh pruning.
- Disturbance require to the root protection area of trees at the site entrance is likely to be minimal and the driveway completed without causing damage.
- Information concerning service connections should be provided by condition.
- There will be a requirement for tree pruning works to existing retained trees has been demonstrated and should be agreed in detail by condition.
- The garage would need to be of a no-dig construction.

Should permission be granted a financial contribution of £2,943 per dwelling (comprising of £1791 per dwelling for capital development/improvement of greenspace and £1152 for nearby garden space). A total financial contribution of £14,715 is therefore required. The Public Open space contribution would be required for Brampton Park which is within a 230m walk.

Representations

41 letters of representation have been received including correspondence from the **Residents at Gower, Granville and Sidmouth (RAGGS)** and a signed petition containing 42 signatures objecting to the proposal on the following grounds:-

- Family housing generally is appropriate but a House in Multiple Occupation (HMO) type proposal for student accommodation is not because transient occupiers will not have the same level of care and commitment to the surrounding area.
- The proposal is likely to operate as a HMO for students.
- An Article 4 Direction should be considered by the Authority which removes permitted development rights for developers as soon as possible.
- The development is likely to result in unacceptable levels of noise, traffic and antisocial behaviour affecting amenity and safety.
- The proposal would adversely impact on some residents who have medical conditions which require quick and easy unhindered ambulance access as well as general peace and tranquillity.
- The Gower Street and King Street road junction is very busy and new dwellings will increase existing highway safety problems at that junction. There has been a fatality at this junction.

- The extension to the Birches, which is to be demolished, has historic and aesthetic value. It is not an unsympathetic extension as claimed and its demolition would be harmful.
- Harm to the appearance of the Conservation Area.
- The design of the new houses is unsympathetic and harmful. Their position and height being inappropriate and “shoe horned” into the site.
- The part of The Birches which is to be demolished is high quality and has heritage value.
- The appearance and position of the proposed detached garage is inappropriate.
- Trees are integral to the appearance of the area and have ecological value. Tree removal would be unacceptable.

Applicant/agent's submission

Application forms and indicative plans have been submitted along with a Design and Access Statement and Tree Report. These documents are available for inspection at the Guildhall and searching under the application reference number 15/00724/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

Background Papers

Planning File
Planning Documents referred to

Date Report Prepared

23 October 2015.