

The application is for full planning permission for the demolition of the former St Giles and St George's Primary School to facilitate the redevelopment of the site for the Newcastle Civic Hub.

The former school is on the Register of Locally Important Buildings and Structures and within the Newcastle Town Centre Conservation Area.

The statutory 8-week period for the determination expires on the 21st January 2016.

RECOMMENDATION

PERMIT subject to the following conditions

- **Tree protection measures**
- **Demolition to be undertaken in accordance with the approved Demolition Method Statement**
- **Building recording**
- **The recommendations of the Bat Survey be implemented and a precautionary approach be taken to the demolition works involving the removal of ridge and roof tiles.**
- **Letting of contract for redevelopment prior to demolition of the building and commencement of demolition within six months of the demolition of the building**

Reason for Recommendation

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the Local Planning Authority in the exercise of planning functions with respect to any buildings in a Conservation Area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. It is acknowledged that the loss of the building would result in harm, both to the significance of the Conservation (albeit 'less than substantial harm'), and directly as a result of the loss of a locally important building. However taking into consideration the significant public benefits that arises from the associated Public Sector Hub redevelopment of the site which would also unlock the retail led redevelopment of the Ryecroft site it is considered that the harm is outweighed by such public benefits of the proposal, including securing its optimum viable use. In addition, whilst the detailed design of the replacement building is not yet known, there is no basis to conclude that such a building could not be appropriately designed to ensure that it preserves and enhances the character and appearance of the Conservation Area. Indeed pre-application discussions in this regard have been ongoing for a considerable period of time to develop an acceptable scheme and confirmation has been received that the planning application will be submitted in the first week of January 2016.

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

This is considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework when taking into consideration the wider redevelopment proposals for the site.

KEY ISSUES

The application seeks planning permission for the demolition of the existing building on the site, the former St Giles' and St George's School that was vacated in 2005. The application is submitted in advance of a further planning application for the redevelopment of the site as the Newcastle Civic Hub.

The site is located within the Newcastle Town Centre Conservation Area and until changes to legislation in 2013 conservation area consent would have been required for such demolition. Whilst the building is question is on the Register of Locally Listed Buildings and Structures, it is not a statutorily Listed Building and as such planning permission is required for its demolition.

The site is located next to the Queen's Gardens where the Queen Victoria statue, a Grade II listed Structure, is centrally located. 31 Ironmarket, a Grade II Listed Building is located on the opposite side of Ironmarket to the Queen's Gardens.

The key issue to be considered in the determination of the application is whether the demolition of the building would preserve and enhance the character and appearance of the Conservation Area and whether the demolition of the building would be harmful to the setting of the listed structure/building. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty upon the Local Planning Authority in the exercise of planning functions with respect to any buildings in a Conservation Area to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Policy context for the consideration of the development's impact on the Conservation Area and setting of listed structures/buildings

Policy CSP1 of the Core Spatial Strategy (CSS) indicates that new development should be well designed to respect the character, identify and context of Newcastle and Stoke-on-Trent's unique townscape, and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. Amongst other things new development should be based on an understanding and respect for Newcastle and Stoke-on-Trent's built, natural and social heritage and contribute positively to an areas identify and heritage.

Policy CSP2 of the CSS indicates that the Councils will seek to preserve and enhance the character and appearance of the historic heritage of the City and the Borough including buildings, monuments, sites and areas of special archaeological, architectural and historic interest.

Saved policy B5 of the Newcastle Local Plan (NLP) indicates that the Council will resist development proposals that would adversely affect the setting of a listed building. Saved NLP policy B8 indicates that the Council will ensure the conservation of locally important buildings and structures by encouraging their retention, maintenance, appropriate use and restoration. It goes on the state that where permission is granted for demolition the Council will ensure that provision is made for an appropriate level of archaeological building recording to take place prior to the commencement of works.

Saved NLP policy B10 indicates that planning permission will be granted only if the development will preserve or enhance the character or appearance of a Conservation Area. Saved NLP policy B11 indicates that consent to demolish a building will not be granted unless it can be shown that each of the following is satisfied:

- i) The building is wholly beyond repair, incapable of reasonably beneficial use, of inappropriate design, or where its removal or replacement would benefit the appearance or character of the area.
- ii) Detailed plans for redevelopment are approved where appropriate.
- iii) An enforceable agreement or contract exists to ensure the construction of the replacement building where appropriate.

Saved NLP policy B15 indicates that trees and landscape features which contribute to character and appearance and are part of the setting of a Conservation Area will be retained.

The National Planning Policy Framework (NPPF) at paragraph 131 states that in determining planning applications, the local planning authority should take account of:-

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

At paragraph 132 the NPPF states that when considered the impact of a proposed development of the significance of a designated heritage asset (such as a Conservation Area or Listed Building, but not a Locally listed building), great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. 'Significance' can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.

In paragraph 133 it is indicated that where a proposed development would lead to 'substantial harm' or total loss of significance of a *designated* heritage, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply

- The nature of the heritage asset prevents all reasonable uses of the site
- No viable use of heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- Conservation by grant funding or some form of charitable or public ownership is demonstrably not possible; and
- The harm or loss is outweighed by the benefit of bringing the site back into use

Paragraph 134 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

At paragraph 135 it indicates that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The NPPF goes on to state, at paragraph 135, that local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.

Critically for this case, paragraph 136 states that Local Planning Authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development (replacing that which is to be lost) will proceed after the loss has occurred.

The LPA has to have regard to the provisions of the development plan (so far as material to the application), local finance considerations (so far as material to the application) and any other material considerations (Section 70). Where regard is to be had to the provisions of the development plan, the determination should be made in accordance with the provisions of the development plan *unless* material considerations indicate otherwise (Section 54a). The National Planning Policy Framework (NPPF) is a material consideration in the determination of applications. Paragraph 215 of the NPPF states that due weight should now be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given to them).

With respect to the development plan policies referred to above they are considered to be broadly consistent with the Framework, except for policy B11 which refers specifically to demolition within Conservation Areas, insofar as it requires compliance with 3 criteria in the case of all demolitions within Conservation Areas, whilst the NPPF requires criteria to be addressed only where there is substantial harm to such a designated asset. These criteria are more demanding than those set out in B11 – in that they include that demonstrating Conservation by grant funding or some form of charitable or public ownership is not possible.

This matter will be returned to below.

Other material consideration in the assessment of the development's impact on the Conservation Area and setting of listed structures/buildings

The Newcastle Town Centre Conservation Area Character Appraisal identifies seven Character Areas. The site falls within Character Area 4, 19th century expansion – Barracks Road and Well Street, and is directly adjacent to the Queen's Gardens which fall within Character Area 1, Town Centre – Ironmarket and High Street. Both Character Areas are assessed as being positive character areas. The School is listed as a key negative feature as it is vacant and its setting needs improving it goes to set out the most important issues based on the key negatives identified, one of which is that the future of the former School should be ensured.

The Register of Locally Important Buildings and Structures in Newcastle-under-Lyme SPD indicates that the inclusion of a building or structure on the Register does not confer protection equivalent to that available to nationally designated sites, such as Listed Buildings or Scheduled Ancient Monuments. It will not stop applicants obtaining planning permission, but the local interest of a building or site will be treated as a material consideration. It states that the Council will need to be satisfied that the benefits of demolition and redevelopment outweigh any loss to the local public interest. The Council will adopt a presumption in favour of retaining the building, and so demolition will only be permitted in redevelopment proposals where the replacement scheme is of equal or superior quality.

Assessment of the development's impact on the Conservation Area and on the setting of listed structures/buildings

The application is supported by a Heritage Statement which identifies Newcastle Town Centre Conservation Area as having high significance as a nationally important group of historic buildings and spaces. It acknowledges that the former school is of local significance and makes a positive contribution to the character and appearance of Newcastle Town Centre Conservation Area as a whole.

The submitted Statement indicates that the demolition of the building will remove its heritage significance altogether and that this will result in a medium level of less than substantial harm affecting the significance of Newcastle Town Centre Conservation Area. It also identifies that there would be a small level of harm affecting the significance of the Grade II listed statue of Queen Victoria which is located within Queen's Gardens.

Such assessment and conclusions within the Statement are broadly accepted, as is the reference in the Statement that the decision maker must give a high priority to the preservation of the character and appearance of the Conservation Area and the setting and significance of Listed buildings (all designated assets although not of the highest significance) when undertaking the required balancing exercise in paragraphs 132 to 133 of the NPPF.

As already indicated, whilst there is a need to have regard to NLP B11, that policy is not fully in accordance with the NPPF (because of the approach set out in paragraphs 133 and 134) and therefore any non-compliance with it, is of less weight. Nevertheless it is important to note that with respect to the criterion (in that policy) that the building (to be allowed to be demolished) is incapable of reasonably beneficial use, the submission, within the Planning Statement, identifies the efforts the landowner, the Borough Council has made to find reasonably beneficial reuse of the building since it acquired the ownership of the building in 2005. Whilst the submission is perhaps limited in its details, particularly with respect to any marketing, including "soft" marketing, of the building that may have been undertaken, that is not considered critical because it is considered that the harm to both designated assets is 'less than substantial', and therefore paragraph 133 does not apply.

It is also agreed that the loss of the locally listed school (an undesignated heritage asset), which makes a positive contribution to the character and appearance of the Conservation Area as a whole, is an important material consideration in the balancing exercise.

The balancing exercise that should be undertaken in this case is that whether the 'less than substantial harm' to the high 'significance' of the Town Centre Conservation Area, and the total loss of

a non-designated heritage asset is outweighed by the public benefits of the proposal, including securing the site's optimum viable use – the test referred to in paragraph 134 of the NPPF.

In this case the balancing exercise is made more difficult as the application does not include the proposal to redevelop the site for the Public Sector Hub, albeit that at the time of writing this report confirmation had been received of a clear intention to submit an application for such proposals in the first week in January 2016. Nevertheless, in the absence of the said application and its determination, on the face of it only harm would arise from the proposal as there is no demonstrable element to it that would bring about public benefit. However, whilst not forming part of the current application it is considered that it would be appropriate to take into consideration what is known about the intentions for the site following demolition as follows:

- The relocation of the occupiers of the existing Civic Offices is necessary to unlocking the development potential of the wider Ryecroft site (which includes the Civic Offices and the site of the former Sainsbury's supermarket) and that the recently announced development would involve a significant element of retail floorspace and student accommodation. The economic benefits of that overall development would be significant to the town centre's viability.
- In the process of identifying an appropriate site for the proposed Public Sector Hub a number of alternative sites were considered and the site of the former school was identified as the most appropriate for this development.
- There is no basis to conclude that a new, larger building to replace the school could not be appropriately designed to ensure that it preserves and enhances the character and appearance of the Conservation Area.

Given the above, the publicly-recorded commitment of all parties to the development and that it is likely that the application for the Public Sector Hub will be submitted shortly (and may have been received by the time the Committee come to consider this application) it is considered that it can be concluded that the public benefits of the wider proposal would outweigh the less than significant harm arising from the loss of the building. However members' attention is drawn to the final recommended condition, the effect of which will be to not allow the demolition to actually proceed until the contract for the new development has been let – such an approach being entirely in line with the approach commended in paragraph 136 of the NPPF.

APPENDIX

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 CSP1: Design Quality
Policy CSP2: Historic Environment

Newcastle-under Lyme Local Plan 2011 (NLP)

Policy B3: Other Archaeological Sites
Policy B5: Control of Development Affecting the Setting of a Listed Building
Policy B8: Other Buildings of Historic or Architectural Interest
Policy B9: Prevention of Harm to Conservation Areas
Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area
Policy B11: Demolition in Conservation Areas
Policy B15: Trees and Landscape in Conservation Areas

Other material considerations include:

National Planning Policy Framework (March 2012)
Planning Practice Guidance (March 2014)

Supplementary Planning Guidance/Documents

Newcastle Town Centre SPD (2009)
Newcastle Town Centre Conservation Area Appraisal and Management Plan (CAAMP) (2008)
Register of Locally Important Buildings and Structures in Newcastle-under-Lyme SPD (2012)

Relevant Planning History

In 2010 Conservation Area Consent, under reference 10/0194/FUL, was given for the demolition of 2 outbuildings on the school site. Permission was also given that year for the retention of galvanised steel security screens on the building (reference 10/00212/DEEM3).

Views of Consultees

The **Urban Design and Conservation Officer** considers that the proposal to demolish is not 'substantial' in terms of the paragraph 133 and 134 of the NPPF. It is considered that it is 'less than substantial harm' which would match the view of the Heritage Assessment of the site. The 'less than substantial harm', in accordance with the NPPF allows for a balance to be weighed of the potential benefits of the scheme. This harm is still relevant and important to consider as once demolished, this positive locally listed building within the Conservation Area, will no longer be able to make a positive contribution to the character and appearance of that area and will lose its significance.

The school has not been used for some time but retains its character and detailing and is little altered by its extensions. It is red brick with slate roof and embellished with gables and terracotta detailing, providing an interesting backdrop for the gardens and the historic street of Ironmarket. All this is set out in Appendix 2 of the Heritage Statement. The building makes a positive contribution to the setting of Queens Gardens which is an important public open space, including the listed statue (Grade II). It is not considered that the removal of the school will have a harmful impact overall on the setting of the statue. The statue has resided in 3 places and the school does not make the statue itself special. The garden is an entirely appropriate setting and this is not changing, and whilst the setting will change, this needn't be harmful – however with no firm proposals to replace the school, it is difficult to assess this future aspect.

The Conservation Area itself as stated is an asset of high significance and the loss of this building will cause harm (this is set out in the heritage assessment). The lack of any proposals makes it difficult to

conclude the development would be beneficial to the character or appearance of the Conservation Area, or its setting. Therefore it is uncertain how section 72 of the Act, the duty to pay "special" attention to the desirability of preserving the character and appearance of a conservation area will be satisfied. There should still be a presumption in favour of preserving historic assets to comply with policy.

Historic England is unconvinced by the proposal to demolish this building and would ideally wish to see the existing building retained and brought back into use. Given the acknowledged positive contribution of the former school to the Conservation Area they would strongly recommend that consent should not be granted until all other possibilities have been eliminated. If, after due consideration, the Local Planning Authority is willing to support the principle of demolition, then they would recommend that this only be done once an acceptable scheme has been submitted and approved, and that all reasonable steps have been taken to ensure the new development will proceed after the loss has occurred. The full text of their letter is available to view on the website.

The views of the **Environmental Health Division, and the Conservation Advisory Working Party** have been sought. Any comments received will be reported.

During pre-application discussions the **County Archaeologist** has requested that a Building Record be undertaken prior to the demolition works taking place so that these details are retained on record for perpetuity.

Representations

Two letters of objection have been received, one from the **Thistleberry Residents Association**, the main points raised are as follows:

- The building is an attractive feature in a historic town.
- The proposed development is not a good use of public funds.
- The location is not a suitable location for the Registry Offices.
- Students cannot afford to live in town and will not bring business into the Town Centre.
- Little if any consultation has been undertaken on the proposed demolition.
- Too much of historical interest in the town has disappeared.
- The building should be retained and any development takes place around it to satisfy the requirement to pay special attention to the desirability of preserving the character and appearance of a conservation area.
- All arguments in the Heritage Statement strongly suggest retention of the building.
- The CAAMP identifies the building as making a positive contribution to the Conservation Area, its removal would have a noticeable effect on the area's historical context and this would intensify if yet another tasteless carbuncle was to be erected in its place.
- There is only one other Victorian school building in the Conservation Area and as such it is a rare building type.
- As the design of the replacement building is not known it must be concluded that harm would be done by its removal.
- The building has a relationship with the Barracks, Hassell Street School, former Post Office, former Police Station and Queens Gardens. The removal of the building would be of high significance.
- It is hoped that the way in which the building has been left to deteriorate and is now under threat of demolition is not a testament to the way in which the Borough and Council value the heritage.
- The bat survey was not conclusive and a full report together with evidence of the way in which roof tiles have been lifted by hand to ensure bats are not harmed is provided.

Applicant/agent's submission

The application has been supported by a Planning Statement, Heritage Statement, Archaeological Statement, Demolition Statement, Tree Report and Bat Survey Report. These documents are available for inspection at the Guildhall and searching under the application reference number

15/01077/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
Development Plan

Date report prepared

18th December 2015