

The application seeks full planning permission for the demolition of existing buildings and the replacement with a four storey apartment block containing 27 one bedroom apartments.

The site lies within the urban area close to Newcastle town centre. The site is adjacent to but not within the Stubbs Walk conservation area, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.10 hectares

A tree adjacent to the site is covered by Tree Preservation Order No.16.

**A decision on the application was deferred at the Committee meeting held on the 4<sup>th</sup> January to enable the applicant to provide further details to address objections from consultees regarding the impact and loss of protected trees and amenity issues relating to noise.**

**The statutory 13 week determination period for the application expired on the 9<sup>th</sup> December 2016 and the applicant has agreed to extend the statutory determination period until the 10<sup>th</sup> February 2017.**

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## **RECOMMENDATION**

**A. Subject to the applicant first entering into a Section 106 agreement by 3<sup>rd</sup> March 2017 (provided that they first agree in writing, by the 8<sup>th</sup> February, to extend the statutory determination period to the 7<sup>th</sup> March ) to secure a review mechanism of the scheme's ability to make a policy compliant contributions to public open space and the provision of policy-compliant on-site affordable housing, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution and the provision of such affordable housing if found financially viable, PERMIT the application subject to conditions relating to the following matters:-**

- 1. Standard Time limit for commencement of development**
- 2. Approved Plans**
- 3. Submission of Materials**
- 4. Window reveal specification**
- 5. Roof Specification Plans**
- 6. Boundary Treatments**
- 7. Approval of Tree Protection Proposals**
- 8. Arboricultural Method Statement**
- 9. Landscaping Scheme (including replacement tree planting)**
- 10. Hard Surfacing**
- 11. Provision of Parking and Turning areas**
- 12. Construction Method Statement**
- 13. Visibility Splays**
- 14. Existing Access Permanently Closed**
- 15. Secure Cycle Storage**
- 16. Design Measures to Secure Noise Levels**
- 17. Ventilation Provision/ Arrangements**
- 18. Full Land Contamination**
- 19. Drainage Details**
- 20. Bat Mitigation Measures**

**B. Should the matters referred to above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstance, and, in such circumstances, the potential provision of policy compliant affordable housing and financial contribution towards public open space.**

## **Reason for recommendation**

The development is located on previously developed land within a highly sustainable urban area and given that there is a strong presumption in favour of sustainable development in the context of the Council's inability to be able to demonstrate a 5 year supply of deliverable housing it is considered that the development is acceptable in principle. The design of the scheme, impact on heritage assets, tree, highway safety and noise impacts are considered acceptable subject to conditions. It is also accepted, following the obtaining of independent financial advice that the scheme is not viable with any affordable housing and contribution towards public open space, and whilst these policy compliant requirements are not sought, given the benefits of the scheme, a S106 agreement should be secured for a review mechanism.

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

Amended information submitted during the application has resolved matters of design, parking, impact on trees and noise. Independent advice from the District Valuer (DVS) has been received and the applicant has cooperated with the LPA in securing this advice.

## **KEY ISSUES**

1.1 The application seeks full planning permission for the demolition of existing buildings and the replacement with a four storey apartment block containing 27 one bedroom apartments.

1.2 The site lies within the urban area close to Newcastle town centre and adjacent to but not within the Stubbs Walk Conservation Area, as indicated on the Local Development Framework Proposals Map. There are also two Grade II Listed Buildings opposite the site, 21 Marsh Parade and 23-25 Marsh Parade. A plan indicating these features will be available to be viewed at the Committee meeting.

1.3 There are visually significant trees within the highway verge and adjacent to the site, one of which is covered by a Tree Preservation Order.

1.4 The application has been supported by an ecology report and conditions to mitigate any impact on bats could be secured.

1.5 The main issues to consider in this proposal, therefore, are as follows;

- The principle of residential development
- The design and impact on the adjacent conservation area and listed buildings?
- Car parking and highway safety
- Impact on protected and visually significant trees
- Impact on residential amenity levels of future occupiers
- Planning obligation considerations

### 2.0 The principle of residential development

2.1. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

2.2 Saved Newcastle Local Plan (NLP) policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

2.3 Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The CSS goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 The land is located within the major urban area in close proximity to Newcastle town centre. The site is occupied by a two storey red brick building that has fallen into a state of disrepair. There is also a two storey and single storey outbuildings to the rear of the site which also appear to be in a state of disrepair.

2.5 The site meets the definition of previously developed land and is located within a highly sustainable area by virtue of its proximity to the town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also designated within the Town Centre SPD as being within the 'Live Work Office Quarter' which is recognised as a mixed use area that will continue to develop in this manner with the SPD stating that "...where the main focus is offices, with any housing development likely to be marketed for those who wish to live within a bustling business community. Residential opportunities could be created by "living over the shop" and in new developments."

2.6 The proposed development complies with local and national planning policy guidance and it is considered suitable for residential development. The construction of 27 one bedroom dwellings would contribute to the area's housing supply and the principle of residential development on this site is considered acceptable.

### 3.0 The design and impact on the adjacent Conservation Area and Listed Buildings?

3.1 The application site is adjacent to the Stubbs Walk Conservation Area and NLP policy B14 states that "In determining applications for building in a Conservation Area, special regard will be paid to the acceptability or otherwise of its form, scale and design when related to the character of its setting, including, particularly, the buildings and open spaces in the vicinity. Because of this and to allow the impact of a proposal on the special architectural and historic character and appearance of the Conservation Area to be evaluated, outline planning permission will be resisted for proposals in a Conservation Area. Exceptionally, where proposed development immediately adjacent to the Conservation Area would be likely to affect the Conservation Area adversely, similar constraints may be applied."

3.2 The site is also adjacent to two Grade II Listed Buildings and NLP policy B5 states that "The Council will resist development proposals that would adversely affect the setting of a Listed Building."

3.3 The NPPF provides more general guidance on the design of development proposals. It indicates at paragraph 56 that great importance should be attached to design which is a key aspect of sustainable development that should contribute positively to making places better for people. It further states at paragraph 64 that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

3.4 In order to allow the proposed development to proceed the existing buildings on the site will have to be demolished. Whilst these buildings are not listed, and they have, over the years, fallen into a state of disrepair, they do have some visual merit within the street scene due to their striking red brick appearance and location on the site frontage. The demolition of these buildings would allow the site to be developed and the retention of the buildings is not justified by virtue of them having fallen into a state of disrepair and the negative impact that the site currently has on the character of the area due to its overgrown and derelict appearance. However, even if a different view was reached the applicant could demolish the buildings by exercising their permitted development rights with only the details of the means of demolition and details for the restoration of the site being the subject of the prior approval of the LPA.

3.5 The proposed development would bring the site back into use with the construction of a single four storey building to accommodate 27 one bedroom flats/ apartments. The Stubbs Walk CAAMP identifies that Stubbs Walk is relatively built-up on the periphery around the junction of West Street and North Street, Marsh Parade and Mount Pleasant. It further states that the landscape value of the trees and shrubs within Stubbs Walk is particularly high and provides a setting for the Conservation Area. Whilst Marsh Parade is not specifically referred to as being of high landscape value it acts as a gateway into Stubbs Walk and the mature trees are similarly of value to the streetscene.

3.6 The applicant indicates within their submission that the proposed development would complement the scale of the existing Georgian properties on Marsh Parade, with materials and fenestration being appropriate for the setting and locality. They consider that the development will create a building that will add value to the site and sit comfortably with the neighbouring buildings. The submitted Heritage Statement (HS) concludes that the harm to the Stubbs Walk Conservation Area and the setting of the adjacent listed buildings would be a neutral or slight adverse impact. The HS also identifies that cartographic maps show potential below-ground non-designated heritage assets in the form of a junction canal, a railway siding, a well, and a building. However, the impact would be neutral or slight adverse. A condition could be imposed which secures heritage site investigation and recording.

3.7 The Urban Vision Design Review Panel reviewed the scheme prior to the application submission and were generally supportive of the "the simple, contemporary, well-detailed, rhythmic approach to the new development". The scale and proportion of the block was also considered to be in keeping with the character of the local area. A number of points were raised by the Panel which were not

directly related to the design and appearance of the scheme but the applicant has sought to address these matters within the submission.

3.8 The Conservation Officer and the Conservation Advisory Working Party (CAWP) have also advised that the general massing and proportions of the proposal is acceptable. However, some concerns have been expressed about the materials and they consider that it is essential that the specification is of a high standard. This has resulted in slight amendments to the scheme and further information being submitted which provides clarification on the specification of design details. In particular the monopitch roof will have a simple parapet detail which will be capped with a string course and 50mm aluminium trim which will have a slight fall towards the roof to avoid staining the fenestration. The windows would have a 50mm reveal and the front wall will be constructed from the same brick as the main facing brick and have metal railings sat on the top of it between pillars set apart at intervals.

3.9 Window specification details have had to be altered during the application, along with the layout of the scheme, to address other concerns addressed within the report. Dummy windows are proposed in the side elevations of the proposed building to add interest to this prominent elevation. The changes are considered acceptable and the applicant has demonstrated that the design and appearance of the proposed building would be of a high standard, and conditions could secure the submission of sample materials for approval. The proposal would bring back into use a vacant and untidy site on the edge of the Conservation Area and any minimal harm caused to setting of the adjacent heritage assets would be outweighed by the benefits of the scheme.

3.10 There are however mature trees that align Marsh Parade which complement the character of the Georgian street scene. NLP Policies N12 and B15 seek to protect visually significant and protected trees, particularly in Conservation Areas and their setting. The impact of the development on trees will be discussed below.

#### 4.0 Impact on protected and visually significant trees

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

4.2 As already indicated the site is adjacent to the Stubbs Walk Conservation Area and NLP policy B15 indicates that trees and landscape features which contribute to the character and appearance and are a part of the setting of a Conservation Area will be retained. Where consent is given to remove protected trees conditions will be imposed to require trees of the appropriate species and size to be planted and replaced if they die within 5 years.

4.3 The application is supported by a tree survey which identifies that there are two trees on or adjacent to the application site. The tree to the front of the site is outside of the application site and the applicant's control. This tree is a lime tree which is covered by tree preservation order T16 and is classified as a category A tree – "trees of high value including those that are particularly good examples of their species and/or those that have visual importance or significant conservation or other value." The tree towards the rear of the site is a sycamore tree which is a visually significant tree and was originally classified in the submitted tree survey as a category B tree – "trees of moderate value". It was stated within the submitted tree report that both trees would be retained as part of the development but the building works would be close to or within the root protection area of these trees.

4.4 The Council's Landscape Development Section (LDS) expressed concerns about the adverse impact and potential loss of both trees. This resulted in the applicant submitting amended/ additional information which sought to address the objections. In particular the sycamore tree was downgraded to a category C being unsuitable for long term retention due to structural defects. The LDS now accept this following their own more detailed inspection.

4.5 In terms of the impact on the protected Lime tree (T16) the applicant has submitted an amended layout plan which now removes a dwarf wall and three car parking spaces which were previously in the root protection area of this tree and were likely to have resulted in an adverse harm to and

potential loss of this important tree. A landscaped amenity area is now proposed in this location and the LDS have subsequently removed their objections to the application subject to conditions which secure tree protection proposals, Arboricultural Method Statement to cover proposals for the amenity space and full landscaping proposals (which should also include replacement tree planting along the rear boundary in particular). Subject to these conditions the proposed development is unlikely to result in the loss of T16 and is now considered acceptable and in accordance with NLP policy N12..

#### 5.0 Impact on residential amenity levels of future occupiers

5.1 The Environmental Health Division (EHD) has indicated that the noise climate in this area is dominated by road traffic throughout the day and also entertainment and patron noise from the Rigger Public House which they say is directly opposite the application site. The Rigger operates as a live music venue up until 02.00hrs.

5.2 Members were advised at its meeting of the 4<sup>th</sup> January that EHD raised objections to the application on the grounds that future occupants of the flats were likely to be exposed to unacceptable levels of low frequency noise from musical entertainment at the Rigger Public House which is likely to place at risk the future operation of the venue and permission would be contrary to policy 123 of the NPPF. Since the meeting an amended acoustic assessment and amended elevation plans have been submitted. The amendments now show no glazing to side elevations and non-openable apertures to the front elevation. Acoustically treated mechanical ventilation will also be installed to all flats which would enable windows to be kept shut. The flat roof specification will be upgraded acoustically and a proprietary acoustic secondary glazing system will be installed, in addition to standard glazing on the Marsh Parade elevation.

5.3 EHD is now satisfied that the required acoustic performance of NR15 can be achieved – a level that reflects the particular nature of the external noise environment within which the properties would be located - and the appropriate mitigation against patron and entertainment noise from the nearby Rigger Public House has been addressed subject to conditions.

#### 6.0 Car parking and highway safety

6.1 The access to the site would be taken off Marsh Parade via an access point that passes through the front elevation of building to the rear which provides off street car parking for 11 vehicles.

6.2 NLP policy T16 states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem. The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets.

6.3 Based on the maximum parking standards in the Local Plan a development of 27 one bedroom flats/ apartments would require a maximum of 36 car parking spaces. Therefore the proposal would provide a shortfall of 25 spaces against that maximum.

6.4 The application is supported by a transport statement (TS) which identifies that car parking provision is below the standards of policy T16 but also concludes that the provision is acceptable for a development of the scale and location proposed. Cycle parking is also proposed. The TS also indicates that there are car parking restrictions on surrounding roads and there are public car parks in close proximity to the site and regular bus services that run along Brunswick Street. The site is also within walking distance of the town centre. Furthermore the TS submits that the higher the percentage of 1 bedroom units within a development the lower the parking demand becomes.

6.5 The Highways Authority has raised no objections subject to conditions and in consideration of the information and evidence provided within the TS and the highly sustainable location of the site, your officers accept that the level of car parking is satisfactory and would not exacerbate on street car parking problems within the immediate vicinity of the site.

## 7.0 Planning obligation considerations

7.1 The Landscape Development Section (LDS) have indicated that the proposed development would require a contribution of approximately £65,000 to be secured for Public Open Space (POS) improvement and maintenance. The sum, it is proposed would be spent on improvements to Stubbs Walk Open Space which is 110 meters from the site. An education contribution is not requested because the Education Authority has indicated that it is not their current policy to request a contribution from developments purely consisting of 1 or 2 bed apartments.

7.2 There is a local policy requirement for 25% affordable housing to be provided on-site which would amount to 7 of the units.

7.3 The applicant has stated within their submission that the scheme cannot support the requested policy compliant contributions towards affordable housing and POS and the District Valuer's advice has been obtained by the Authority. This concludes that the scheme is not viable with policy compliant financial contributions, and when asked to confirm what, if any, financial contributions the scheme could support, the DV has confirmed that the scheme would be unviable if any level of contribution or affordable housing was secured.

7.4 Whilst this development cannot support policy compliant contributions there is the undoubted contribution that the development would make to housing availability which is acknowledged to be in short supply. The site has also been vacant for a number of years which does little to enhance the appearance of the area and its redevelopment will be beneficial to the area.

7.5 The application will still need to be the subject of a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months of the date of any decision on the application, and then payment of an appropriate contribution/ provision of on site affordable housing, if the site were to found capable of financially supporting these features. It is suggested that in such an event any such residual land value should be proportionally allocated.

## **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 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 CSP6	Affordable Housing
Policy CSP10	Planning Obligations

#### Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy B14:	Development in or Adjoining the Boundary of Conservation Areas
Policy B15:	Trees and Landscape in Conservation Area
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas

### **Other material considerations include:**

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

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

#### Supplementary Planning Guidance/Documents

Developer Contributions Supplementary Planning Document (September 2007)

Affordable Housing Supplementary Planning Document (2009)

Space Around Dwellings SPG (SAD) (July 2004)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010)

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

Newcastle Town Centre Supplementary Planning Document (2009)

Stubbs Walk Conservation Area Appraisal and Management Plan Supplementary Planning Document (2016)

#### Relevant Planning History

N12592 (1983)      Change of use to offices      Permitted

08/00882/FUL      Demolition of existing buildings and erection of a single storey building to be used as a place of worship with associated parking      Refused

#### Views of Consultees



The **Environment Agency** raises no objections

The **Education Authority** indicates that this development falls within the catchments of Friarswood Primary School, Hassell Community Primary School, St. Giles and St. George's C of E Academy and Clayton Hall Academy. The development is scheduled to provide 27 apartments. However, no education contribution will be requested as it is not their current policy to request a contribution from developments purely consisting of 1 or 2 bed apartments.

The **Highway Authority** raises no objections to the amended site layout which proposes all parking to the rear of the building. Conditions regarding access, parking, servicing and turning being provided, submission and approval of a construction management statement, visibility splays and the existing access being permanently closed off are still advised.

The **Environmental Health Division** has now removed their objection to the application following the submission of an amended acoustic report and amended elevation plans. Conditions which secure the design measures and further appropriate noise assessment, as well as ventilation provision are advised.

The **Landscape Development Section** raises no objections following the submission of amended plans and information. Conditions which secure tree protection, an arboricultural method statement and landscaping are advised. A contribution of approximately £65,000 towards public open space maintenance and improvements of the Stubbs Walk Open Space is sought.

**Severn Trent Water** raises no objections subject to conditions regarding the submission and approval of drainage plans and their implementation prior to the development being brought into use.

**Housing Strategy Section** - the policy complaint position would be for 25% of the units as affordable housing of which 15% should be social rented and 10% should be shared ownership. However, there may be a reluctance for the Registered Provider to take on shared ownership units in the form of 1 bed flats, as usually the demand for shared ownership is from smaller starter families looking for 2 and 3 bed properties. A sensitivity test should be carried out in any viability appraisal which would show that if the scheme is not viable at the percentage set out, would it become viable with fewer affordable units.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objections but if the vehicle entrance is not to be gated it is recommended that clear signage is put in place indicating that the entrance is private in nature. He anticipates that the rear aspect of the premises will be adequately lit and receive a strong degree of informal social policing via the residents themselves. A wealth of good practise in terms of standards relevant to minimum security requirements can be found at [www.securedbydesign.com](http://www.securedbydesign.com).

**CAWP** thinks that the general massing and proportions of the proposal are acceptable. Given the context of this proposal, however the details and quality of the development are essential in terms of the specification including the brickwork. Concerns were expressed about materials, in particular timber boarding on ground floor openings. The applicant has accepted this point and indicated that whilst the material appears as timber it will not be. A corten steel panelling is proposed which the applicant indicates is a strong reinforced material to offer protection due to its location on the ground floor. The applicant has also submitted further information to satisfy concerns about the wall at the front

The **Conservation and Urban Design Officer** indicates that the proposed scheme lies adjacent and opposite to the Stubbs Walk Conservation Area, characterised by the 19th century mill and Georgian town houses with their rhythmic quality. The concerns raised by CAWP regarding the timber boarding to the ground floor windows has now been addressed by the applicant and suitable materials could be secured via condition. The streetscene plan submitted with the application shows a contemporary building with deep reveals with a minimum reveal of 50mm which will emphasise the quality and solidity of the walls. More details are required on materials especially finish and quality of the boundary wall, including height of the wall and railings as are more details on the shape of the roof proposed including the treatment and finish of the proposed parapet and how this will be dealt with.

The **Waste Management Section** raise no objections. They indicate that It will help that there is a management company on site to keep the site tidy and they would want to work with the company to implement recycling collections.

The **Staffordshire Wildlife Trust** and **The Newcastle South Locality Action Partnership (LAP)** have been consulted on this application and has not responded by the due date and so it is assumed that they have no comments to make on the application..

#### Representations

Five letters of support have been received and one letter of objection.

The letter of objection raises concerns about the level of proposed car parking and the adverse impact that this would have on existing on-street car parking problems on neighbouring streets. Focus is drawn to the development of student flats permitted on the former Jubilee Baths site and the lack of car parking proposed also. The scheme was originally granted for 244 rooms but a later application which increased the development to 273 rooms was refused by the Council. However, the applicant has appealed against the decision.

The letters of support outline that the site has been neglected for years and a quality development would improve the area. The redevelopment would also address anti-social behaviour issues.

#### Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Report
- Arboricultural Impact Assessment
- Phase 1 Geo-Environmental Report
- Acoustic Reports
- Heritage Report
- Affordable Housing position Statement
- Preliminary Ecology Appraisal

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00630/FUL>

#### Background Papers

Planning File

Development Plan

#### Date report prepared

19<sup>th</sup> January 2017