

The application is a hybrid application for full planning permission for the demolition of Orchard House together with the conversion of No. 35 Clayton Road (previously offices) into four flats and outline planning permission for the erection of up to 20 dwellings on the remaining part of the site. Vehicular access from the highway network to the site is for consideration as part of this application with all other matters (internal access arrangements, appearance, landscaping, layout and scale) reserved for subsequent approval.

The application site lies within the major urban area of Newcastle, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.80 hectares.

The 13 week period for the determination of this application expires on the 8th June 2017 but the applicant has agreed an extension of time to the statutory determination period to the 25th July 2017.

RECOMMENDATIONS

A. Subject

- (1) The receipt, by the end of the associated publicity period, of no objections to the conversion of No.35 to 4 flats which cannot be addressed by appropriate conditions, and
- (2) to the applicant first entering by 21st July 2017 into a planning obligation by agreement securing 25% Affordable Housing onsite and a financial contribution of £2943 (index linked) per dwelling on the site towards the maintenance and improvement of public open space at Lyme Valley Parkway,

PERMIT the application subject to conditions relating to the matters including:-

1. Condition to reflect outline nature of part of the application;
2. Time limit for submission of any approval of reserved matters and for commencement
3. Approved plans and documents;
4. No.35 Clayton Road to be converted in accordance with the submitted drawings and such works not to be undertaken except in association with the larger development subject of the outline planning permission;
5. Reserved matters application to include a detailed surface water drainage scheme (SuDS);
6. Finished floor levels set no lower than 112.98m above Ordnance Datum (AOD);
7. Full details of improvements to the existing access;
8. Submission and approval of a Construction Vehicle Management Plan;
9. Submission and approval of a parking strategy, swept path drawings and surfacing materials/ drainage;
10. Reserved matters application to include replacement planting for the loss of tree T2 and any other trees lost;
11. Submission and approval of a detailed Tree Survey;
12. Submission and Approval of Arboricultural Method Statement to BS5837:2012;
13. Tree Protection Plan;
14. Design measures to control internal noise levels;
15. Submission and approval of a Construction Environmental Management Plan;
16. Full Land Contamination measures;
17. Recyclable materials and refuse storage details;
18. Drainage Details – foul and surface water ;
19. Adherence to Recommendations of the ecological report and supplementary reports for certain species; and
20. Reserved matters application to include mitigation measures for protected species

B. Should the obligations 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 the development would fail to secure an acceptable provision of adequately maintained public open space and an appropriate level of affordable housing or, if he considers it appropriate, to extend the time period within which the obligation referred to above can be secured.

Reason for Recommendations

Whilst the development is not located on land that would meet the definition of previously developed land, it is located within a sustainable urban area and 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. The proposed development would need to secure 25% affordable housing and a financial contribution towards public open space to be policy compliant. Furthermore the applicant has demonstrated that up to 20 new build dwellings can be accommodated within the site that would have an acceptable impact on the visual amenity of the area, existing residential properties, ecology, and trees and hedgerows. The new access could serve the proposed 24 units without detriment to highway safety. The proposed development therefore accords with the guidance

and requirements of the National Planning Policy Framework. Details of the conversion of No.35 will have been received prior to the Committee and third parties will still have the opportunity to comment upon that aspect and the Planning Authority needs to consider such comments if received.

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

The applicant has been in discussions with officers of the LPA to address concerns raised by consultees and this has resulted in amended plans of the access arrangements and additional information being submitted. The proposed development is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

1.1 This is a hybrid application for full planning permission for the demolition of Orchard House and the conversion of No.35 Clayton Road into 4 flats and for outline planning permission for a residential development of up to 20 dwellings meaning that there would be 24 dwellings on the site in total. Access from the highway network is for consideration as part of this application with all other matters (appearance, landscaping, layout, scale and other access details) reserved for subsequent approval. Notwithstanding this, an indicative layout has been submitted together with a Planning, Design and Access Statement. The layout plans are for illustrative purposes only and such details would be for consideration at the reserved matters stage if outline permission were granted.

1.2 The application site, of approximately 0.80 hectares in extent, is land that does not meet the definition of previously developed land but is located within the urban area of Newcastle which has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

1.3 Orchard House was previously in use as a drug and alcohol rehabilitation centre until it closed in December 2016.

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

- Is this an appropriate location for residential development?
- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would the proposed development have any material adverse impact upon highway safety?
- Would the impact on trees and ecology be adverse?
- Is a footpath link to adjacent public open space necessary and justified?
- Would the development impinge unduly upon levels of residential amenity of adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves? and
- What planning obligations are considered necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and lawful?

2.0 Is this an appropriate location for residential development?

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

2.2 Saved Local Plan 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 and a target of at least 1,000 dwellings within Newcastle Urban South and East (within which the site lies).

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 Core Strategy 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 Whilst the site has buildings towards the front the majority of the land is garden and does not meet the NPPF definition of previously developed land. The site is within the urban area in close proximity to Newcastle town centre and the associated shops, public transport links, leisure facilities and entertainment facilities. The site is also in close proximity to schools, open space and employment opportunities. Therefore, it is considered that the site provides a highly sustainable location for additional residential development.

2.5 Paragraph 49 of the NPPF 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. At paragraph 14, the Framework also states that 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 NPPF at a whole.

2.6 The Local Planning Authority is currently unable to demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the Planning Policy Framework (NPPF). The starting point therefore must be one of a presumption in favour of residential development. In this particular context as has already been stated the development is in a sustainable location.

2.7 On the basis of all of the above, it is considered that the principle of residential development in this sustainable location should be supported unless there are any adverse impacts which would significantly and demonstrably outweigh the benefits.

3.0 Would the proposed development either have a significant adverse impact on the character and form of the area?

3.1 Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states 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.

3.2 Policy CSP1 of the CSS under the heading of 'Design Quality' advises new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape. The Urban Design SPD further expands on this by advising in R14 that "Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them."

3.3 The only matter for approval as part of this application is access. The appearance, layout, scale and landscaping of the development are reserved for subsequent approval. However, an illustrative layout plan has been submitted along with a planning, design and access statement which indicates at paragraph 5.7 that the proposed dwellings would be a maximum of two storeys in height, in order to minimise the visual impact and prominence of the scheme, and to relate well to the local context.

3.4 Orchard House dominates the site frontage but offers limited visual merit within the existing street scene and this is proposed to be demolished to accommodate the proposed scheme. The application site also has a Victorian Lodge building (No.35) on the frontage of the site which has an attractive appearance within the existing street scene and would be retained and converted to 4 flats with 20 residential dwellings proposed on the remaining site. This is to be welcomed.

3.5 The site frontage is dominated by trees, as is the rear of the site which adjoins the Lyme Brook that runs in between the application site and the adjacent Lyme Valley Park public open space.

3.6 The illustrative layout demonstrates that an acceptable scheme can be achieved that would not harm the visual amenity of the area. Furthermore, information has been submitted which shows how a sustainable urban drainage scheme (SuDS) could be accommodated. The County Council's Flood Risk team have raised no objections but have advised a condition which would secure a detailed surface water drainage scheme for the site which should include an acceptable management and maintenance plan for surface water drainage. This information should be submitted as part of the reserved matters application.

3.7 Overall, subject to conditions, it is not considered that the development would have such an adverse impact on the character or quality of the wider visual amenity to justify a refusal.

4.0 Would the proposed development have any material adverse impact upon highway safety?

4.1 Access is a matter for approval as part of this application and the proposed development would have a single point of access onto Clayton Road. This would utilise the existing point of access onto Clayton Road but works to significantly modify the access would be required to serve the proposed development.

4.2 The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

4.3 Representations have been received raising concerns about the impact of the development on highway safety, in particular the volume of traffic that would be generated by the proposed development onto a busy road and the proximity of the access to the existing traffic lights on Clayton Road.

4.4 The application is supported by a Transport Statement which indicates that the proposed residential development would generate a net increase of up to 13 two-way movements in the busiest peak hour compared to the existing use of the site. This is not considered to represent a significant off-site impact on the surrounding highway network.

4.5 The Highways Authority has raised no objections subject to conditions which include full details of improvements to the existing access, submission and approval of a Construction Vehicle Management Plan (CVMP) and swept path analysis information, surfacing details and a parking strategy and details.

4.6 The site is in a location that would encourage non-car modes of travel and the site is within easy walking distance of Newcastle town centre. A bus service operates along Clayton Road and the site is also in close proximity to schools, open space and employment opportunities. The proposal therefore complies with the guidance and requirements of the NPPF.

5.0 Would the impact on trees and ecology be adverse?

5.1 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. N12 also states that where, exceptionally, permission can be given and trees are to be lost through development, replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

5.2 The site has a number of trees on the site frontage, both side boundaries and the rear boundary that adjoins the Lyme Brook. In particular the site frontage has two mature trees either side of the existing access. The existing access requires modification and the application has been supported by a tree constraints plan and a tree protection plan in this respect.

5.3 The Council's Landscape Development Section (LDS) expressed concerns about the adverse impact and potential loss of a number of trees on the frontage and side boundaries of the application site. However, following the submission of additional/ amended information they now accept the loss of one of the mature trees (T2) adjacent to and on the left hand side of the access (viewed from the

road), subject to a replacement tree being provided in the vicinity to retain the tree line on Clayton Road.

5.4 T2 is a sizeable lime tree and the application indicates that it is a category 'C' tree – it is of low value. It is not covered by a Tree Preservation Order and whilst it is a visually significant tree it is considered that on balance the tree can be removed subject to a condition which secures a replacement tree. This would be in accordance with policy N12 and enable a safe access to be achieved that would also result in T3 being retained which is a Horse Chestnut and a category B tree. The application also demonstrates that subject to tree protection measures other trees that are worthy of retention can be retained,

5.5 Landscaping is reserved for subsequent approval and would supplement the existing trees to be retained.

5.6 Ecology reports have also been submitted with protected species being identified but the site is classed as a low to moderate ecological value. The reports indicate that mitigation measures can be proposed within the scheme and overall the development is unlikely to result in harm or loss of protected species, subject to a condition which secures appropriate mitigation measures being submitted.

6.0 Is a footpath link to adjacent public open space necessary and justified?

6.1 The application site is adjacent to the Lyme Valley Parkway which is located beyond the rear boundary. However, there is no direct link from the application site to the public open space because the Lyme Brook separates the two and there are also trees and vegetation on the rear boundary of the site.

6.2 The NPPF at paragraph 75 encourages local authorities to seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

6.3 The applicant has indicated that they have explored the possibility of a footpath link across the Lyme Brook but do not believe this to be feasible for a number of reasons, including that a link would need to cross third party land and a footbridge from Tansey Way and Brook Lane is already provided which is within a few hundred metres walk of the site.

6.4 The advice of the Council's Landscape Development Section (LDS) has been sought and they consider that the existing footbridge over the Lyme Brook, approved under 11/00010/FUL, is sufficient because it provides direct access to the play area and a new bridge would not shorten the walk significantly.

6.5 A new footbridge would provide a direct link from the application site to the Lyme Valley Parkway and wider public rights of way but any new footbridge is only likely to benefit the future occupiers of the development, as opposed to providing wider community benefits which are considered to be fulfilled by the existing footbridge. Therefore, on balance your officers are of the opinion that a new footbridge is not justified in this instance. Any new footbridge would not shorten the distance to the Lyme Valley Parkway significantly. It would also not improve access to the town centre on foot significantly with the existing arrangements via Clayton Road being considered appropriate.

6.6 There may be scope for improvements to the existing footbridge and this is being explored with the LDS. An update on this issue will be provided before the committee meeting if this information is received.

7.0 Would the development impinge unduly upon levels of residential amenity on adjoining properties and does the proposal also provide appropriate standards of residential amenity for the occupiers of the proposed dwellings themselves?

7.1 The layout for the site is a reserved matter but an illustrative layout has been submitted to support the application.

7.2 The land slopes down from Clayton Road to the Lyme Brook at the rear of the site. Existing properties, including 3 storey town houses and an apartment building, are elevated above the site beyond the southeastern boundary. Two storey dwellings lie to north west.

7.3 The Council's SPG – Space Around Dwellings sets out separation distances between what are termed principal windows of proposed and existing residential properties. A difference in ground levels is also a factor that needs to be considered.

7.4 The illustrative layout broadly appears to comply with the guidance of the SPG but this will need to be considered further when layout and scale are submitted at reserved matters stage.

8.0 What planning obligations are considered necessary, directly related to the development

8.1 Certain obligations are required to make the development acceptable. These are the provision of 25% affordable housing and a contribution of £2,943 (index linked) per dwelling towards public open space.

8.2 The obligations are ones which make the development policy compliant and 'sustainable'. They are considered to meet the requirements of Section 122 of the CIL Regulations being 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.

8.3 An education contribution has not been requested by Staffordshire County Council in this instance with all catchment schools projected to have sufficient space to accommodate the likely demand from pupils generated by the proposed 24 dwellings.

8.4 It is also necessary to consider whether the financial contribution sought complies with Regulation 123 of the CIL Regulations. Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it is in respect of a specific infrastructure project or a type of infrastructure and five or more obligations providing for the funding for that project or type of infrastructure have already been entered into since 6 April 2010.

8.5 The Council's Landscape Development Section has requested a contribution towards the enhancement/improvement of Lyme Valley Parkway which is a short walk from the proposed development. There have been no previous planning obligations entered into since April 2010 for a contribution towards this area of Public Open Space and on this basis, it is considered that the proposed financial contribution complies with CIL Regulation 123.

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 CSP3	Sustainability and Climate Change
Policy CSP4	Natural Assets
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 T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other material considerations include:

National Planning Policy

[National Planning Policy Framework](#) (NPPF) (2012)

[Planning Practice Guidance](#) (PPG) (2014)

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

Supplementary Planning Guidance/Documents

[Developer contributions SPD](#) (September 2007)

[Affordable Housing SPD](#) (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)

Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2016 – Version 1.7

Relevant Planning History

The site has been the subject of a number of previous planning applications related to the previous use of the site as a drug and alcohol rehabilitation centre which ceased in 2016. The buildings and site are now vacant. The last planning permission was for three bungalows for people with learning difficulties ref 03/01108/FUL located to the rear of the site with the existing buildings and use of the site remaining unchanged. That permission was not taken up and has lapsed

Views of Consultees

The **Highways Authority** raises no objections subject to conditions for the submission and approval of access improvement works, swept path drawings for servicing and turning areas, a car parking strategy and cycle provision, means of surface water drainage, surfacing materials and a construction vehicle management plan.

The **Education Authority** states that the proposed development falls within the catchments of Friarswood Primary School, Hassell Community Primary School, St. Giles & St. George's C of E Academy and Clayton Hall Business and Language College. The development is scheduled to provide 24 dwellings. Excluding the 3 RSL dwellings from secondary only, a development of 24 houses including 3 RSLs could add 7 Primary School aged pupils, 5 High School aged pupils and 1 Sixth Form aged pupil. All schools are projected to have sufficient space to accommodate the likely demand from pupils generated by the development.

Staffordshire County Council Flood Risk Team indicates that the main source of flood risk at this site is associated with Flood Zone 3 from the Lyme Brook Main River so the Environment Agency should be consulted. The site is not within 5m of an Ordinary Watercourse or 20m of a Flooding Hotspot. The updated Flood Map for Surface Water (uFMfSW) shows that the site is not within the 1 in 100 year event zone. These local sources of flood risk to the site are therefore low.

Following the submission of an amended FRA they now raise no objections subject to a condition which secures a detailed surface water drainage scheme for the site which should include a surface water drainage system, SuDS designed to provide adequate water quality treatment, limiting the discharge rate generated by all rainfall events up to the 100 year plus 40%, detailed drainage calculations, plans illustrating flooded areas and flowpaths in the event of exceedance of the drainage system; and provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development.

The **Environment Agency** raises no objections to the application subject to a condition which secures finished floor levels of the dwellings being set no lower than 112.98 m above Ordnance Datum (AOD) to take into account climate change allowances and mitigate flood risk to the proposed properties.

The **Environmental Health Division (EHD)** advised that in the absence of a desk study and site Reconnaissance the application should be refused. However, full contaminated land conditions are advised as well as the submission and approval of suitable design measures to mitigate noise impact on future occupiers of the dwellings and a Construction Environmental Management Plan.

The **Landscape Development Section (LDS)** originally expressed doubts about whether 'no dig' construction could be achieved to retain certain trees in order to accommodate the improvements to the access from Clayton Road, and the two important trees would be compromised.

Additional/ amended tree constraints/ protection information has been submitted and they now raise no objections subject to a suitable replacement tree to compensate for the loss of one of the above trees, in the vicinity to retain the tree line on Clayton Road. The LDS would want to see, in the event of an outline approval, subsequently a detailed tree survey of the trees that are adjacent to the Brook, a tree protection plan and an Arboricultural Method Statement

If the proposals are permitted it is requested by LDS that a contribution by the developer for capital development/improvement of off-site green space of £1,791 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution £2,943 per dwelling. This would be used for the enhancement/improvement of Lyme Valley Parkway.

Severn Trent Water raises no objections subject to conditions which secure full drainage plans for the disposal of foul and surface water and implementation of any agreed scheme.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises no objection principle of residential dwellings at this application site. The Design and Access Statement references crime prevention and security measures, which is encouraging. The regular-shaped site with a single access to it, flanked on either side by existing housing and with the Lyme Brook providing a natural barrier to unauthorised intrusion at the rear has the potential for the creation of a secure development.

The illustrative layout amongst other things, shows outward facing properties, rear gardens generally backing onto other rear gardens, overlooked and in-curtilage parking, and plenty of natural surveillance throughout. Should outline permission be granted, any reserved matters application should build on this strong illustrative layout, clearly explaining within the Design and Access Statement and demonstrating in the site layout how crime prevention and community safety measures have been considered and incorporated in the design proposal.

Housing Strategy Section identifies that the applicant has said that they intend to provide affordable housing; 25% of the development will be affordable. However, the tenure mix of that affordable housing has been incorrectly stated as being 50% social rented and 50% shared ownership. Rather the policy is that 60% should be social rented and 40% should be shared ownership; both units to be transferred and managed by a Registered Provider. The types of properties that will be sought as affordable cannot be precisely determined at outline stage but the requirement will be that as soon as this information becomes available, the Council and the Developer will agree the type of properties to be given as affordable and this will be based upon the principle that the affordable housing should be proportionally reflective of the development as a whole. The design and the standard of construction of the affordable housing should as a minimum be the same as the open market dwellings to be constructed on the development. The affordable housing should not be clustered together on the development and should be sufficiently spread across the development.

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

Representations

Two letters of representation have been received raising objections on the following grounds;

- The proposed development does not accord with the development plan,
- The development would cause safety issues due to the number of dwellings proposed and the proximity to the existing traffic lights,
- The volume of traffic would be significantly increased onto an already busy and hazardous road,
- Trees and protected species would be adversely affected,
- The dwellings would result in a loss of privacy to neighbouring properties, and
- Substantial noise would be created by new residents,

Applicant/agent's submission

The application is accompanied by the following documents:

- Planning, Design and Access Statement
- Arboricultural Report
- Flood Risk Assessment
- Extended Phase 1 Ecology Report
- Transport Statement
- Coal Mining Risk Assessment
- Landscape Appraisal
- Noise Assessment

All of these documents are available for inspection at the Guildhall and on <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00194/OUT>

Background Papers

Planning file
Planning documents referred to

Date report prepared

8th June 2017