

On 25<sup>th</sup> April 2017 the Planning Committee resolved to grant planning permission for conversion of the former Orme Centre/School into student accommodation involving demolition of a single storey toilet block and outline planning permission for a new building for student accommodation (giving a total of 96 rooms across the site) (16/00796/OUT) subject to the applicant entering into a Section 106 obligation by agreement to secure a review mechanism of the scheme's ability to make policy compliant contributions to public open space, travel plan monitoring and on street parking controls, if the development is not substantially commenced within 12 months from the date of the planning permission, and the payment of such contributions if found financially viable.

Agents acting for the developer have asked that the 12 month period for substantial commencement be extended.

### **RECOMMENDATION**

That the Committee agree that:

- 1) the date by which substantial commencement must be achieved be within **18 months** from the date of the planning permission, failing which a financial reappraisal will be required (should the development referred to in planning application 16/00796/OUT be proceeded with) in order to establish whether the development should make policy compliant contributions
- 2) the date by which the agreement must be completed (for planning permission to be granted) now be 14<sup>th</sup> July 2017

### **Reason for Recommendation**

It is considered appropriate to allow some limited additional time having regard to the particular circumstances of this case, the desirability of encouraging the delivery of this project involving the retention and long term use of a Listed building, and the giving of sufficient, but not excessive, confidence to the developer as to their window of opportunity to proceed with the scheme on a "no-contributions" basis.

### **KEY ISSUES**

On 25<sup>th</sup> April 2017 the Planning Committee resolved to grant planning permission for conversion of the former Orme Centre/School into student accommodation involving demolition of a single storey toilet block and outline planning permission for a new building for student accommodation (giving a total of 96 rooms across the site) (16/00796/OUT) subject to the applicant first entering into a Section 106 obligation by agreement to secure a review mechanism of the scheme's ability to make policy compliant contributions to public open space, travel plan monitoring and on street parking controls, if the development is not substantially commenced within 12 months from the date of the planning permission, and the payment of such contributions if found financially viable.

Agents acting for the developer have asked that that the 12 month period for substantial commencement be extended to 18 months. Following discussions with their Quantity Surveyor, they have provided details of the likely timescales for a programme of achieving substantial commencement. The anticipated programme is as follows:

- 6 months to prepare tender documents, which would run alongside the discharge of planning conditions
- 3 months for tender, tender evaluation, value engineering and awarding contract
- 3 months for demolition and mobilisation
- 3 months for sewer diversion and disconnecting statutory services
- 3 months for groundworks up to damp proof course level

They state that the above programme would be tight but achievable and they do not believe that it can be compressed any further.

The purpose of setting a period of time after which a reappraisal is required – if a substantial commencement of the development is not made - is that financial circumstances can change significantly over time and account accordingly then needs to be taken of those changed circumstances.

The District Valuer did not carry out an appraisal of this particular development; it was carried out by another independent valuer and it was undertaken in April 2017. However, in relation to other schemes, the District Valuer has advised that financial assessment should be reviewed if the development had not been substantially commenced within 12 months of being granted, or if the development was to be constructed in phases.

This is a particularly challenging development. It is not a greenfield or cleared site, rather it is a site that requires demolition (of one of the buildings on the site) and both conversion (of a Listed building) and new build works. In this case the proposal is that “substantial commencement”, to reflect the nature of the project, be defined as the completion of the structural work involved in the conversion, completion to damp proof course level of the new build element, and the construction to base course level of the access and parking areas. That is considered to be an appropriate measure of a substantial commitment to the development, by which point a developer would be unlikely to cease the development, because of the scale of financial commitment required to get to that stage. Clearly something significantly more than a token start is required to make the potential requirement of reappraisal failing such substantial commencement meaningful.

The District Valuer’s consistent advice has been that 12 months is an appropriate period. Financial circumstances can change significantly over time, with a major impact on viability, and the idea behind the setting of a period is to enable new circumstances to be potentially taken into account but still to provide a window within which a development can proceed on the basis of known and certain contributions. The Council has accepted that the scheme at present cannot afford any of the policy compliant contributions that it would normally require.

If the Council were to set an unachievable period then it runs the risk that such is the degree of likelihood that a reappraisal will be required, and even though there may be confidence that a reappraisal will again demonstrate a lack of viability, the result is that the inclusion of such a requirement may itself, it is said, impede the prospects of the development proceeding. Members will note that the agents consider that an 18 month lead in time to get to dpc level whilst tight would be achievable, although they point out that this does not allow any additional time for the raising of finance and the sorting out of “legals”, and they emphasise that they don’t believe the 18 month period can be compressed any further as the stages they have outlined above would need to run sequentially for practical reasons. Your officers are not in a position to dispute such assertions.

A further material consideration in this case is that the appraisal upon which the Committee based its decision (to permit the development without the policy compliant contributions) was itself very recent, dating from April.

Taking all of the above points into consideration, on balance, an 18 month period may be appropriate in this case.

Due to ongoing discussions regarding this matter, completion of the Section 106 by the 6<sup>th</sup> June has not been achieved. However, Solicitors have been instructed and a draft obligation has been produced and a new end date of 14<sup>th</sup> July is considered reasonable, failing which your officer would have authority to refuse the application unless he considered it appropriate to extend the period. Because the effect of delaying completion would in practise lengthen the period between the appraisal that was done and any that might be required in the future it has been explained to the agent that there is little or no room for compromise on this date should the Committee agree to the 18 month period.

## **APPENDIX**

### **Policies and Proposals in the approved Development Plan relevant to this decision:-**

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026 (adopted 2009)  
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011  
Policy IM1: Provision of Essential supporting Infrastructure

### **Other Material Considerations**

National Planning Policy

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

Community Infrastructure Levy Regulations 2010, as amended

Supplementary Planning Guidance/Documents  
Developer Contributions Supplementary Planning Document (SPD) (September 2007)

RICS Guidance Note 'Financial Viability in Planning' 1<sup>st</sup> Edition

HCA Good Practice Note Investment and Planning Obligations – responding to the downturn

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/16/00796/OUT>

Background Papers

Planning files referred to  
Planning Documents referred to

Date report prepared

9<sup>th</sup> June 2017