

CORNER OF HEATHCOTE STREET AND KINNERSLEY STREET, KIDSGROVE

HAMILTON HOUSE HOMES LIMITED

17/00552/FUL

The application seeks full planning permission for the erection of 14 dwellings

The site lies within the urban area and within Kidsgrove Town Centre, as defined on the Local Plan Proposals Map. The site extends to approximately 0.32 hectares

Access is proposed off both Heathcote Street and Kinnersley Street.

The statutory 13 week determination period for this application is due to expire on the 2nd October but the applicant has agreed to an extension to the statutory determination period to the 7th November 2017.

RECOMMENDATION

A. Subject to

(i) the receipt and consideration of advice from the District Valuer as to whether the development can support any level of financial contribution towards the improvement/maintenance of off-site public open space that this development could support, and a supplementary report to the Committee on this aspect dealing with this matter and providing recommendations as to planning obligation requirements depending upon the conclusion reached

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

- 1. Standard Time limit for commencement of development**
- 2. Approved Plans**
- 3. Materials**
- 4. Gabion wall details**
- 5. Tree retention and protection**
- 6. Full landscaping details**
- 7. Future protection of trees in the south east corner to further protect privacy levels.**
- 8. Alignment of proposed services**
- 9. Submission and approval of noise report. Mitigation measures**
- 10. Design Measures to Secure Noise Levels**
- 11. Construction hours**
- 12. Contaminated land treatment**
- 13. Construction Vehicle Management Plan (CVMP)**
- 14. Visibility splays**
- 15. Surfacing details for access road and parking**
- 16. The access and access road being completed prior to occupation**
- 17. The existing access permanently closed and footway reinstated**
- 18. Waste collection and storage arrangements**
- 19. Surface water discharge mitigation details**
- 20. Foul drainage**
- 21. Proposed coal mining precautionary measures**
- 22. Intrusive coal mining site investigations and remedial works implementation**

Reason for recommendation

The site is located within the urban area and within Kidsgrove town centre which is regarded as a sustainable location for new housing. The benefits of the scheme include the provision of housing within an appropriate location making use of previously developed land. Subject to the imposition of suitable conditions it is not considered that there are any adverse impacts of the development that

would significantly and demonstrably outweigh the benefits and accordingly permission should be granted.

The applicant has submitted financial information to substantiate their claim that the Council's requirements as the Local Planning Authority (LPA) would render a policy compliant scheme unviable. The draft Report of the District Valuer setting out his appraisal of the development's viability is awaited and a further report will be brought to members on this issue.

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

Pre application advice was sought from the applicant and discussions with officers of the LPA have been ongoing during the application to resolve any matters. The proposed development is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

1.1 The application seeks full planning permission for the erection of 14 dwellings.

1.2 The site lies within the urban area and within Kidsgrove town centre, as indicated on the Local Development Framework Proposals Map.

1.3 The site extends to approximately 0.32 hectares and is currently vacant having previously been used for parking. Historically it has been occupied by terraced residential properties but only one building remains on the land which fronts Heathcote Street.

1.4 The site is located within a high risk coal mining area and the application is supported by a coal mining risk assessment report. The Coal Authority has raised no objections subject to conditions which are considered necessary and acceptable. This matter is not considered further.

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

- The principle of residential development
- The design and impact on the character and appearance of the area
- The impact on visually significant trees
- Car parking and highway safety
- Residential amenity matters
- 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 600 net additional dwellings in the urban area of Kidsgrove 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 Kidsgrove town centre as designated in the existing Local Plan and saved NLP policies R12 and R13 seek to support new retail and leisure uses in the town centre and maintain them where appropriate. Notwithstanding these policies the site has a number of constraints which were identified by a planning inspector in the consideration of an appeal for a small/ medium out of town centre A1 retail unit which was refused (10/00080/OUT) at Linley Trading Estate - the Council considering there to be sequentially preferable sites within Kidsgrove town centre of which this was one. The LPA unsuccessfully promoted this site as one of several sequentially preferable sites for retail development – the Inspector concluding that the creation of a development site here would be a major engineering challenge, that servicing it would be problematic, that it would need to rely for its parking on land on the other side of the Heathcote Street Hill, and that the site was unsuitable for a discount supermarket operation of reasonable scale.

2.5 Whilst the site has been used albeit as a public car park since the clearance of properties on it, it was not properly laid out as a car park and its distance from Market Street, combined with the steepness of the hill leading up to it from the town centre, and the availability of other more conveniently located off street parking in Kidsgrove Town Centre led to it having a relatively low level of use as a car park. It is not considered that the loss of it as a parking area raises any significant issues for the retail and office functions within the town centre. The development plan contains no policies seeking to protect it as a car park.

2.6 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 (as defined in paragraph 47).

2.7 The Council 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 is set out in paragraph 14 of the NPPF which sets out that there is a presumption in favour of sustainable development, and for decision taking this means, unless material considerations indicate otherwise granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.

2.8 The examples given of specific policies in the footnote to paragraph 14 however indicate that this is a reference to area specific designations such as Green Belts, Areas of Outstanding Natural Beauty and similar. The application site is not subject to such a designation.

2.9 Whilst the development represents a non-retail use in the town centre there is no planning policy grounds to resist a housing development on the site. The site is considered to represent a highly sustainable location for new housing development by virtue of its close proximity to shops, leisure facilities, Kidsgrove bus terminal and the train station. It 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. It would also meet the definition of previously developed land.

2.10 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 The design and impact on the character and appearance of the area?

3.1 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.

3.2 The application site is located on the apex of the junction of Heathcote Street and Kinnersley Street which fall steeply from the junction to the rear boundary to the south. Beyond the rear boundary is the neighbouring Home Bargains retail store and the former Health Centre, now converted into flats (Wade Court). Both are on a significantly lower level although Wade Court does step up the hill towards the development site.

3.3 Heathcote Street is a busier route (of the two roads) out of the town centre. The steepness of the site and its triangular shape has limited the design opportunities available but the proposed layout seeks to provide houses that front Heathcote Street where possible. Bay windows at ground floor and a further window at first floor are proposed in side gables that front a highway to add some level of interest and avoid blank gables. The layout also seeks to maintain a line of mature trees on the rear boundary. These trees are not covered by a tree preservation order but they are visually significant.

3.4 Detailed plans have been submitted with the application including site sections and landscaping and boundary details.

3.5 The design and appearance of the houses are considered to represent good quality designs which are comparable to similar housing developments in and around Kidsgrove which have enhanced the area. It is also considered that this development would also enhance the visual amenity of the area. It would also redevelop a site which has been used as an informal car park and taxi base for a number of years.

3.6 The submitted landscaping details and boundary treatments plans demonstrate a good level of landscaping including existing trees being maintained where possible. Brick boundary walls are proposed on rear and side gardens that front a highway (mainly Kinnersley Street). A retaining gabion wall is proposed within the site which is necessary due to the steep ground levels and whilst these structures can have a prominent and stark appearance in the streetscene, the location in this instance would not harm the surrounding streetscene.

3.7 It is considered that the design of the proposed scheme would enhance the appearance of this vacant site in a prominent location and it has to be acknowledged that the steepness of the site and its shape has restricted the design options available. The proposed development is considered to be in accordance with policy CSP1 of the CSS and the guidance and requirements of the NPPF.

4.0 Residential amenity matters

4.1 Paragraph 17 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

4.2 As discussed, the site is located within Kidsgrove town centre and is adjacent to a retail unit which has a car park, external plant and a service yard, albeit all at a significantly lower level. The site is also on the junction of Heathcote Street which is a busy road into the town centre from the surrounding residential areas.

4.3 The Environmental Health Department (EHD) has raised no objections subject to conditions which seek to minimise noise impact on future occupants of the proposed development. In particular they advise that an assessment of the potential for annoyance arising from noise at the nearby service yard, deliveries to store and external plant at Home Bargains is required to be carried out and where the noise rating level will exceed the background noise level, details of the noise mitigation measures to be taken shall be submitted to the local planning authority for approval.

4.4 The rear boundaries of plots 5-14 adjoin the boundary with Home Bargains and a timber fence is proposed. This may need to be replaced with a timber acoustic fence if noise mitigation is required. This matter is being explored with the applicant and EHD and an update will be given prior to the meeting if further information is available by then.

4.4 Due to the layout of the scheme and the relationship of the proposed dwellings the proposed development would comply with the Council's SPG – Space Around Dwellings which sets out separation distances between what are termed principal windows of proposed and existing residential

properties. An adequate level of private amenity space for each dwelling would also be achieved. Wade Court does include at least one flat which has principal windows facing a corner of the development site at fairly close proximity. The proposed development is to be elevated above Wade Court and principal windows would be located at ground floor and first floor on the rear elevation of plot 14 (the plot likely to have the most impact) which is closest to the identified flat. However, principal windows would not directly face one another which would mitigate against any significant loss of privacy. The boundary treatments and proposed replacement tree planting would also interrupt views and this planting should be protected from future removal to protect the residential amenity levels of the neighbouring flat.

5.0 Car parking and highway safety

5.1 The access to the site would be taken off both Heathcote Street and Kinnersley Street which would create a through route and would provide access to the parking areas for 12 of the plots. The other two plots (4 and 14) would have their car parking off Heathcote Street and Kinnersley Street respectively.

5.2 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. LPAs have also been encouraged not to set maximum limits on the amount of parking either.

5.3 The parking standards identified in the Local Plan indicates that for three bedroom houses a maximum of two off street car parking spaces per house should be provided and in this instance the scheme achieves this requirement.

5.4 The access road is not proposed to be adopted highway and will therefore remain in private ownership. This has resulted in the Highway Authority raising no objections subject to conditions which include full submission and approval of a Construction Vehicle Management Plan (CVMP), visibility splays, access points being completed, existing access points made redundant being permanently closed and reinstated to footway and surfacing.

5.5. Subject to the above conditions the proposed development is unlikely to lead to significant highway safety implications and an acceptable level of street car parking is proposed. The development would therefore meet the guidance and requirements of the NPPF.

6.0 Planning obligation considerations

6.1 The development of 14 houses does not trigger a requirement for affordable housing and 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 14 dwellings.

6.2 A financial contribution of £78,106 towards public open space (POS) has been requested and is required to make the development acceptable. This would make the development policy compliant and 'sustainable'. It is 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.

6.3 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.

6.4 The Council's Landscape Development Section has requested a contribution towards POS at either Clough Hall Park, or Birchenwood, or the playground off Whitehill Road. There has been no previous planning obligation entered into since April 2010 for a contribution towards Birchenwood and the playground off Whitehill Road but this would be the third planning obligation secured for Clough Hall Park. On this basis, it is considered that the contribution sought would comply with CIL Regulation 123.

6.5 Since the submission of the application and the request from the LDS for a financial contribution the applicant has advised that the scheme would be financially unviable with a policy compliant POS contribution. This is due to the amount of abnormal costs associated with developing this particular site – the engineering works, remediation works for coal mining and dealing with land contamination.

6.6 Paragraph 173 of the NPPF states that: 'to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking in account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.' It also states at paragraph 205 that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

6.7 The Council has instructed the District Valuer to carry out a financial viability appraisal of the scheme. The draft Report of the District Valuer setting out his appraisal of the development's viability is expected sometime before the Committee meeting and a further report will be brought to members on this issue.

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](#)

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 CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy R12:	Development in Kidsgrove Town Centre
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas

Other material considerations include:

[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 \(2009\)](#)

[Newcastle-under-Lyme Open Space Strategy](#) – adopted March 2017

[Space Around Dwellings SPG \(SAD\) \(July 2004\)](#)

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

Relevant Planning History

The site was previously used as a public car park. A taxi base granted under 06/00118/COU was also operating from the only remaining building on the site. The site is currently vacant. There are no extant planning permissions on the land.

Views of Consultees

Comments have been invited from **Kidsgrove Town Council** but in the absence of any response by the due date it must be assumed that they have no observations to make upon the application.

The **Education Authority** states that the proposed development falls within the catchments of Dove Bank Primary School and University Academy Kidsgrove and whilst it could add 3 Primary School aged pupils and 2 High School aged pupils, both schools are projected to have sufficient space to accommodate the likely demand from pupils generated by the development. Therefore no financial contribution is requested.

The **Highway Authority** raises no objections subject to conditions which include full submission and approval of a Construction Vehicle Management Plan (CVMP), visibility splays, access points being completed, existing access points made redundant being permanently closed and reinstated to footway and surfacing.

The **Environmental Health Division** raises no objections subject to design measures to secure appropriate noise levels, construction hours, an assessment of the potential for annoyance arising from noise at the nearby commercial premises and contaminated land treatment.

The **Landscape Development Section** have advised that there are some concerns that trees on the rear boundary would shade the south facing gardens of plots 5-12 which may lead to some tree resentment and future pressure for their removal. The application will also result in the loss of some category B roadside trees but these trees are young and subject to replacement trees being proposed there are no significant concerns. Conditions to secure tree protection for retained trees, approval of full landscaping proposals and details for the alignment of proposed services.

A contribution by the developer for capital development/improvement of off-site open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £5,579 per dwelling. This would be used for improvements to Clough Hall Park (876m), Birchenwood (630m) and/or the playground off Whitehill Road (370m).

The **Coal Authority** confirms that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. Their records indicate that two mine entries (shafts) are within, or within 20m of the application site. They indicate that the submitted Coal Mining Risk Assessment Report (June 2017, prepared by Telford Mining & Geological Services), correctly identifies that the application site has been subject to past coal mining activity. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Subject to conditions regarding site investigation works and remediation they raise no objections to the application.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** states that the triangular shape and steep topography of the site makes this a far from conventional development site. Certain features of the layout proposal are positive in terms of crime prevention. The amended plans are an improvement. Although the parking provision for plot 1-3 will not be in-curtilage and neither will the occupants be able to observe their vehicles from the respective properties, now at least the parking provision will be positioned such that the properties directly opposite will provide a good level of natural surveillance to deter incidents of car-related crime. The reorientation of the gardens of plots 1-3 should also result in the rear garden boundaries of plots 2-3 also facing the properties that will overlook the parking, which should be a more secure arrangement. Previous comments regarding the virtues of using spiky hedge planting to reinforce side garden boundary security (plot 1 would also benefit from this) and the recommended installation of doors and windows to independently certified minimum attack-resistant physical security standards remain.

Staffordshire County Council Flood Risk Team indicates that the development will only be acceptable if a condition secures a scheme to limit surface water discharge from the site including a specific discharge rate, an appropriate attenuation volume provided on site, the future maintenance of the system for the lifetime of the development, and finished floor levels are set no lower than 150mm above ground level. The scheme will need to be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Severn Trent Water has no comments to make on the application because the site falls within the United Utilities area.

United Utilities raises no objections subject to foul and surface water drainage conditions and a condition which secures the long term maintenance of Sustainable Drainage Systems.

The **Waste Management Section** advises that if the access road is not adopted or to highway standard then a refuse lorry will not drive on it unless it is indemnified against any allegations of damage to the refuse vehicle or Council employees. An alternative solution would be for identified collection points where the private access meets the adopted highway. This can however lead to future residents leaving containers out between collections, leading to complaints, particularly from the end properties outside which everything is left. There are no powers to enforce container return to the properties between collections, so they cannot resolve any of these complaints. Furthermore, if containers are left on the adopted highway (pavement, for example) between collections then they are an obstruction, and it's hard to take enforcement action.

Representations

No letters of representation have been received.

Applicant/agent's submission

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/17/00552/FUL>

Background Papers

Planning File

Development Plan

Date report prepared

28th September 2017