

Public Document Pack

Date of meeting Tuesday, 5th November, 2019
Time 7.00 pm
Venue Lancaster Buildings - Lancaster Buildings, Newcastle, Staffs
Contact Geoff Durham



**NEWCASTLE
UNDER LYME**
BOROUGH COUNCIL

Castle House
Barracks Road
Newcastle-under-Lyme
Staffordshire
ST5 1BL

Planning Committee

AGENDA

PART 1 – OPEN AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST**
To receive Declarations of Interest from Members on items included on the agenda.
- 3 **MINUTES OF PREVIOUS MEETING(S)** (Pages 3 - 6)
To consider the minutes of the previous meeting(s).
- 4 **APPLICATION FOR MAJOR DEVELOPMENT - ASHFIELDS GRANGE, HALL STREET, NEWCASTLE. ASPIRE HOUSING. 19/00614/FUL** (Pages 7 - 19)
- 5 **APPLICATION FOR MINOR DEVELOPMENT - THISTLEBERRY HOTEL, THISTLEBERRY AVENUE, NEWCASTLE-UNDER-LYME. STAR PUBS AND BARS. 19/00358/FUL** (Pages 21 - 29)
- 6 **APPLICATION FOR MINOR DEVELOPMENT - 4 SUTHERLAND DRIVE. MR RAFIQ SHEIKH. 19/00610/FUL** (Pages 31 - 39)
- 7 **APPLICATION FOR MINOR DEVELOPMENT - NEWCASTLE MUSEUM AND ART GALLERY. NEWCASTLE-UNDER-LYME BOROUGH COUNCIL. 19/00687/DEEM3** (Pages 41 - 45)
- 8 **REVIEW AND UPDATE OF RESPONSIBILITIES OF THE COUNCIL, ITS COMMITTEES AND SUB COMMITTEES**
Report to follow.
- 9 **DELEGATED AUTHORITY TO DETERMINE APPLICATIONS PURSUANT TO SCHEDULE 17 OF THE HIGH SPEED RAIL (WEST MIDLANDS - CREWE) BILL (ACT FOLLOWING ITS ASSENT)** (Pages 47 - 51)

- | | | |
|----|---|-----------------|
| 10 | DELEGATED AUTHORITY TO DETERMINE APPLICATIONS PURSUANT TO SCHEDULE 18 OF THE HIGH SPEED RAIL (WEST MIDLANDS - CREWE) BILL (ACT FOLLOWING ITS ASSENT) | (Pages 53 - 56) |
| 11 | APPEAL DECISION - 28a HALFWAY PLACE, SILVERDALE. 18/01001/FUL | (Page 57) |
| 12 | APPEAL DECISION - LAND ADJ TO FARCROFT, MANOR ROAD, BALDWINS GATE. 18/00674/OUT | (Pages 59 - 60) |
| 13 | APPEAL DECISION - 149 HIGH STREET, SILVERDALE. 18/00618FUL | (Page 61) |
| 14 | APPEAL DECISION - LAND OFF LIVERPOOL ROAD EAST, KIDSGROVE. 18/00912/FUL | (Page 63) |
| 15 | URGENT BUSINESS | |

To consider any business which is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

Members: Councillors S. Burgess, Mrs J Cooper, A. Fear (Chair), D. Jones, H. Maxfield, S. Moffat, P. Northcott, B. Proctor, M. Reddish (Vice-Chair), S Tagg, G Williams and J Williams

Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.

Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.

SUBSTITUTE MEMBER SCHEME (Appendix 9, Section 4 of Constitution)

The Constitution provides for the appointment of Substitute members to attend Committees. The named Substitutes for this meeting are listed below:-

Substitute Members:

If you are unable to attend this meeting and wish to appoint a Substitute to attend in your place you need go:

- Identify a Substitute member from the list above who is able to attend on your behalf
- Notify the Chairman of the Committee (at least 24 hours before the meeting is due to take place) NB Only 2 Substitutes per political group are allowed for each meeting and your Chairman will advise you on whether that number has been reached

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

NOTE: THERE ARE NO FIRE DRILLS PLANNED FOR THIS EVENING SO IF THE FIRE ALARM DOES SOUND, PLEASE LEAVE THE BUILDING IMMEDIATELY THROUGH THE FIRE EXIT DOORS.

ON EXITING THE BUILDING, PLEASE ASSEMBLE AT THE FRONT OF THE BUILDING BY THE STATUE OF QUEEN VICTORIA. DO NOT RE-ENTER THE BUILDING UNTIL ADVISED TO DO SO.

PLANNING COMMITTEE

Tuesday, 8th October, 2019
Time of Commencement: 7.00 pm

Present: Councillor Marion Reddish (Chair)

Councillors:	S. Burgess	S. Moffat	G Williams
	Mrs J Cooper	P. Northcott	J Williams
	M. Holland	K.Owen	
	H. Maxfield	S Tagg	

Officers:	Nick Bromley	Senior Planning Officer
	Geoff Durham	Mayor's Secretary / Member Support Officer
	Jennet Hough	Landscape Officer
	Rachel Killeen	Senior Planning Officer
	Simeon Manley	Interim Head of Planning
	Trevor Vernon	Solicitor
	Darren Walters	Team Leader Environmental Protection

Also in attendance:

1. APOLOGIES

Apologies were received from Councillors' Fear and Proctor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest stated.

3. MINUTES OF PREVIOUS MEETING(S)

Resolved: That the minutes of the meeting held on 10 September, 2019 be agreed as a correct record.

4. APPLICATION FOR MAJOR DEVELOPMENT - RENFORD HOUSE, 24 HIGH STREET, WOLSTANTON. MR IAN CAMERON. 19/00529/FUL

Resolved: That the application be refused for the following reasons:

- (i) The proposed development, by virtue of its poor quality design, layout, form and appearance, would harm the character and appearance of the Watlands Park Conservation Area, thereby affecting its significance, and would fail to take the opportunities available for improving the character and quality of the site and visual amenity of the area. Such less than substantial harm from the proposed development would not be outweighed by any public benefits. The proposed development is therefore contrary to saved policies H7, B9, B10, B13 and B14 of the Newcastle-under-Lyme Local Plan 2011, policies

CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the guidance set out in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) and the requirements and policies of the National Planning Policy Framework 2019.

- (ii) The proposed development and disposition of buildings is likely to result in the unacceptable impact to, and potential loss, of visually significant trees within the site that would be harmful to the Watlands Park Conservation Area and is therefore contrary to saved policies H7, N12 and B11 of the Newcastle-under-Lyme Local Plan 2011 policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the guidance set out in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) and the requirements and policies of the National Planning Policy Framework 2019.
- (iii) The application fails to demonstrate that suitable noise mitigation measures can be secured to ensure that appropriate living conditions can be achieved for the occupants of the development in accordance with the National Planning Policy Framework 2019, in particular paragraphs 127 and 170, which would not result in harm to the character and appearance of the Watlands Park Conservation Area.
- (iv) Without an appropriate secured financial contribution relating to public open space the additional demands upon open space arising from the additional dwellinghouses as proposed would not be suitably addressed. As such the development would be contrary to policies on the provision of open space for residential development, contrary to Policies CSP5 and CSP10 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, saved Policies C4 and IM1 of the Newcastle-under-Lyme Local Plan 2011, Newcastle under Lyme Borough Council Supplementary Planning Document on Development Contributions (2007), the Newcastle-under-Lyme Open Space Strategy (March 2017), and the aims and objectives of the National Planning Policy Framework 2019.

5. APPLICATION FOR MAJOR DEVELOPMENT - FORMER BRISTOL STREET GARAGE, LONDON ROAD, NEWCASTLE. ABODE RESIDENCIES. 16/01106/3CN03

Moved by Councillor John Williams and seconded by Councillor Maxfield.

Resolved: That the application be refused for the following reason:

Concerns regarding the colouring of the facing materials. The applicant is invited to submit a new application accompanied by samples of colours.

6. APPLICATION FOR MAJOR DEVELOPMENT - LAND ADJACENT TO KEELE UNIVERSITY, UNIVERSITY AVENUE, KEELE UNIVERSITY. KEELE HOTEL DEVELOPMENTS LTD AND KEELE UNIVERSITY SCIENCE AND BUSINESS PARK LTD. 19/00688/FUL

Resolved: That the variation of condition 11 of 19/00203/REM be permitted so that it reads as follows:

11. Prior to the first occupation of the development hereby approved, 10 parking spaces, and one of the disabled parking spaces, must be provided with a fully dedicated electric vehicle charging point and thereafter maintained unless otherwise agreed by the Local Planning Authority. Charge points shall be a minimum of 32Amp with Type 2 Mennekes connections, or equivalent, Mode 2 (on a dedicated circuit).

And subject to the imposition of all other conditions attached to reserved matters consent 19/00203/REM that remain relevant at this time.

7. APPLICATION FOR MINOR DEVELOPMENT - 4 SUTHERLAND DRIVE. MR RAFIQ SHEIKH. 19/00610/FUL

Moved by Councillor Simon Tagg and seconded by Councillor Holland.

Resolved: That the application be deferred for a site visit.

8. APPLICATION FOR FINANCIAL ASSISTANCE (HISTORIC BUILDINGS GRANTS) FROM THE CONSERVATION AND HERITAGE FUND - 1 ALBERT TERRACE, WOLSTANTON (REF: 19/20003/HBG) AND WALL TO REAR OF FIVE STEPPES, MAIN ROAD, BETLEY (REF: 19/20005/HBG)

Resolved: That the following grants be approved:-

- (i) £381 Historic Building Grant be given to carry out sash window repairs to 7 windows at 1 Albert Terrace, Wolstanton, subject to the appropriate standard conditions.
- (ii) £1,067 Historic Building Grant be given to rebuild and make safe the former estate wall to the rear garden of Five Steppes, Betley subject to the appropriate standard conditions.

9. UPDATE ON 5 BOGGS COTTAGE, KEELE. 14/00036/207C3

Members were informed that the Chair had received a reply to a letter from the Planning Inspectorate.

Resolved: (i) That the information be received.
(ii) That a further update be provided to Planning Committee in two months.

10. **UPDATE ON LAND AT DODDLESPPOOL, BETLEY. 17/00186/207C2**

- Resolved:** (i) That the information be received
(ii) That a further update be brought back to the Planning Committee in 2 months time.

11. **TREE PRESERVATION ORDER - LAND AT 135 HIGH STREET, ALSAGERS BANK. TPO 205**

- Resolved:** That Tree Preservation Order No 205 (2019), land at 135 High Street, Alsagers bank, be confirmed as made and that the owners of the site be informed accordingly.

12. **URGENT BUSINESS**

There was no Urgent Business.

Chair

Meeting concluded at 8.07 pm

ASHFIELDS GRANGE, HALL STREET, NEWCASTLE
ASPIRE HOUSING

19/00614/FUL

The application is for full planning permission for the demolition of all existing buildings, containing 72 flats, and the development of a building containing 89 supported living apartments (C3 use class), along with communal facilities, car parking, landscaping and amenity space.

Vehicle access to the site is off Hall Street.

The site lies within the Urban area of Newcastle as designated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as adjoining the Northern Gateway. The site area is approximately 0.96 hectares.

The 13 week period for the determination of this application expires on the 8th November 2019.

RECOMMENDATION

- A. Subject to the applicant first entering into a Section 106 agreement by the 30th January 2020 to secure a travel plan monitoring fee of £2,407 (index linked) and a review mechanism of the scheme's ability to make a policy compliant financial contribution of £83,861 (index linked) towards public open space at Wilson Street or the Mineral Line and, if the development is not substantially commenced within 12 months from the date of the grant of the planning permission, and the payment of such contribution if then 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. Development to be occupied by those aged 55 and over
4. Prior approval of a scheme for the provision of 5 affordable housing units within the development. The scheme shall include the timing of the construction for the affordable housing, arrangements to ensure that such provision is affordable for both initial and subsequent occupiers and the occupancy criteria to be used for determining the identity of prospective and successive occupiers of such units and the means by which such occupancy will be enforced.
5. Facing and roofing materials
6. Boundary treatments
7. Detailed design of waste bin storage compound
8. Full landscaping scheme to include specimen replacement trees (larger and longer term type species)
9. Tree and landscaping management plan
10. Tree protection and retention proposals plan
11. Schedule of works to retained trees
12. Provision of access, parking, turning and servicing areas
13. Surfacing materials, means of surface water drainage and delineation of the parking bays
14. Car park management scheme
15. Construction of a turning head including a Traffic Regulation Order for double yellow lines
16. Off-site footpath widening works
17. The access shall remain un-gated
18. Secure weatherproof cycle parking facility
19. Revised Travel Plan Framework
20. Highway & Environmental Construction and Demolition Management Plan (CMP)
21. Surface water drainage scheme
22. Prior approval of external lighting,
23. Electric vehicle charging provision,
24. Design measures to restrict impact on noise levels,
25. Prior approval of noise impacts from building plant and machinery,
26. Prior approval of overheating and cooling assessment,
27. Assessment of emissions from combustion plant,
28. Land contamination investigations and mitigation measures
29. Construction and demolition hours

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Development Management either refuse the application on the grounds that without the obligation being secured, there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly and the potential payment of an appropriate policy compliant contribution for off-site open space should financial circumstances then permit; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The redevelopment of this prominent gateway site into the town centre, which would provide seventeen additional affordable residential units within a high sustainable location, accords with local and national planning policy. The scheme represents a high quality design that would significantly enhance the appearance of the townscape and it has been demonstrated that the proposed development would not cause highway safety implications. Subject to a number of conditions, the development represents a sustainable form of development and should be supported. It is also accepted, following the obtaining of independent financial advice, that the scheme is not viable if policy compliant financial contributions towards public open space are required. Whilst it is recommended that these policy compliant requirements are not sought, given the contribution the development makes to housing supply, particularly to affordable housing, and the benefits arising from the regeneration of this gateway site into the town centre and given the high quality design of the proposals, a Section 106 agreement required to secure a review mechanism should substantial commencement not be achieved promptly.

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

Extensive pre application discussions have informed the scheme proposed and information has been submitted during the planning application to address any concerns raised. The development is considered to be a highly sustainable form of development in accordance with the National Planning Policy Framework.

Key Issues

The application is for full planning permission for the demolition of all existing buildings, which contain 72 flats, and the development of 89 supported living apartments for persons aged 55 and over (C3 use class), along with communal facilities, car parking, landscaping and amenity space.

Vehicle access to the site is off Hall Street which is off Knutton Lane.

The site lies within the Urban area of Newcastle as designated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as adjoining the Northern Gateway and adjacent to the A34. The site area is approximately 0.96 hectares in overall size.

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

1. The principle of the development in this location,
2. The design and impact on the visual amenity of this gateway site,
3. The impact of the building on neighbouring residential amenity levels,
4. The impact on highway safety and acceptable car parking levels,
5. Planning obligations and financial viability
6. Other matters

1. The principle of the development in this location

1.1 The application site lies within the urban area on the edge but within Newcastle town centre.

1.2 The proposed redevelopment of the site would provide 89 supported living apartments that would be social rented affordable housing. The 89 apartments would replace the existing sheltered housing block consisting of 60 apartments, and a three storey block of flats with 12 residential units. Therefore, the development would provide 17 additional residential units.

1.3 The NPPF seeks to support the Government's objective of significantly boosting the supply of homes. It also sets out that there is a presumption in favour of sustainable development.

1.4 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.

1.5 Policy ASP4 of the CSS seeks to prioritise retail development and create a strong retail offer, a strengthened financial and professional sector, and as a focus for new leisure and residential opportunities, all accommodated within mixed development wherever practicable, within the town centre. However, it also indicates that opportunities will be taken to maximise the potential for Town Centre living.

1.6 The Newcastle Town Centre Supplementary Planning Document (TCSPD) identifies the site as being within one of the "Town Centre Housing Areas" zones and adjoins the 'Northern Gateway'.

1.7 The Council is able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 5.45 years as at the 1st April 2018. Given this, it is appropriate to consider the proposal in the context of the policies contained within the approved development plan. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

1.8 As discussed the redevelopment of the site would provide an additional 17 residential units within a highly sustainable town centre location. The principle of the development is therefore in accordance with local and national planning policy and should be supported.

2. The design and impact on the visual amenity of this gateway site

2.1 The NPPF sets out at paragraphs 124 that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. At paragraph 130 it 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, taking into account any local design standards or style guides in plans or supplementary planning documents.

2.2 Paragraph 131 of the NPPF also sets out that great weight should be given to outstanding or innovative designs, which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

2.3 Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape. Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document provides further detailed guidance on design matters in tandem with CSP1.

2.4 The application site occupies a prominent gateway location into the town centre on the busy A34 (Lower Street) junction with the ring road around the town centre and Knutton Lane. Existing buildings on the site have a functional and dated appearance that does not enhance the site on this prominent primary approach to the Town Centre.

2.5 The TCSPD identifies the site as being on the edge of the 'Northern Gateway' and indicates that "There is an opportunity here to enhance one of the primary approaches into the Town Centre. Though the scale of existing residential buildings must be respected, there is a potential for striking, contemporary design on the frontages. New development should be seen to create a sense of destination as well as a sense of place."

2.6 The proposed scheme would replace the existing buildings with a new purpose built 4 storey building, with a 5 storey element fronting Knutton Lane (at the junction with Lower Street). The scheme would include car parking to the front and communal garden space to the rear. A roof terrace area is also proposed.

2.7 The proposed scheme has been through the process of Design Review prior to the planning application being submitted. This approach is supported by the NPPF at paragraphs 128 and 129. Following Design Review the applicant has made amendments to the scheme now proposed. This has resulted in a design that is bold and animated by areas of texture and pattern of brickwork rather than using a range of contrasting materials. Soft landscaping of the site frontage, in particular the car park, has been enhanced to break up the expanse of the tarmac.

2.8 The proposed building is designed to be a bold development on this gateway site. In particular, the 5 storey element on the corner of Knutton Lane and Lower Street would act as a focal point without appearing over dominant. The use of brickwork and contrasting textures and patterns, along with the fenestration would create a high quality design of development.

2.9 There are a number of trees on the site boundaries and the Landscape Development Section (LDS) has welcomed the retention and protection of trees along the Northern and Eastern site boundaries. The application is supported by a landscape strategy and the LDS indicate that the proposed tree and hedgerow planting throughout the site would soften the appearance of the hardstanding areas, car park and the building. However, they have raised concerns about the loss of existing trees on the Knutton Lane boundary. These trees are classed as category B trees (of high/moderate quality). These category B trees are not covered by a Tree Preservation Order (TPO).

2.10 Saved policy NLP 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. Where appropriate developers will be expected to set out what measures will be taken during the development to protect trees from damage.

2.11 The proposed building is designed to be a focal point on this gateway site into the town centre and any repositioning of the building to accommodate the trees would move the building further into the site thereby reducing its positive visual impact. In this instance your officer accepts that the loss of the trees is necessary and appropriate for the wider redevelopment of the site and the significant benefits that it would bring. It is also considered that the wider landscape strategy for the site would provide enhancements that would compensate the loss of the two trees on Knutton Lane and the site as a whole and this could be secured by condition. Conditions could also ensure that trees to be retained are protected and secure a long term management plan so as to ensure that the site has an attractive appearance.

2.12 The frontage car parking has the potential to harm the appearance of the development and the visual amenity in general but the proposed landscape strategy would supplement the appearance of the development and result in an overall enhancement. The large scooter/ cycle stores have the potential to harm the appearance of the development also but these have also been sensitively incorporated into the design of the development. Likewise, whilst the final design of the bin store has not been submitted its proposed location and its incorporation into the landscape strategy is acceptable. The final design can be secured by condition.

2.13 Overall, the demolition of the existing buildings is supported and the design of the redevelopment of this important site on the edge of the town centre is of high quality and raises the standard of design. Therefore, subject to conditions which secure the final design, the proposed development accords with policy CSP1 of the CSS, the guidance and requirements of the NPPF and the urban design SPD.

3. The impact of the building on neighbouring residential amenity levels

3.1 Paragraph 127 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.

3.2 The Council's Supplementary Planning Guidance (SPG) - Space Around Dwelling provides more detailed guidance on privacy and daylight standards including separation distances between proposed dwellings and new development in relation to existing dwellings.

3.3 The proposed scheme is primarily for a large 4 storey building with a 5 storey element at the junction of Knutton Lane and Hall Street, which would front Lower Street.

3.4 The gradient of the land slopes down from east to west with existing neighbouring residential flats on Bailey Street being set on a lower level than a majority of the application site. A set of cross sections through the site have been submitted to show the existing and proposed change in levels and the relationship of the development in the street scene and that with the neighbouring flats on Bailey Street. The existing ground level for the site is not proposed to change significantly and the separation distance between the rear elevation of the flats on Bailey Street and the proposed 4 storey building (which would have windows and balconies) would primarily be over 40 metres. This is considered an acceptable separation distance that would comply with the Council's SPG. However, part of the building (adjacent to the boundary with Knutton Lane) is approximately 19.7m from the boundary. No principal windows are proposed in that part of the building, however, with the only windows serving a hallway on each level. Therefore the separate distance is again considered acceptable and in accordance with the Council's SPG. A roof terrace on this element is also proposed which would provide additional outside amenity space for residents. A screen encloses the area (presumably for health and safety purposes) but it would also mitigate any overlooking.

3.5 The proposed development would inevitably result in some loss of amenity to the occupiers of the flats on Bailey Street but the submitted landscape strategy shows planting on the boundary between the flats on Bailey Street and the application site. This will provide some level of screening and soften views between the two. Furthermore, there is already the existing Ashfield Grange building on the land which already results in some level of residential amenity loss.

3.6 The application has been supported by a noise assessment and an air quality impact assessment which have been considered by the Environmental Health Division who have raised no objections to the application subject to a number of conditions. The advised conditions seek to control any noise impact on future residents and to prevent the proposed development from causing unacceptable harm to the residential amenity levels of neighbouring occupiers. The advised conditions will require further more specific noise assessments to be submitted to ensure any plant and machinery does not cause noise and disturbance to the amenity of the area, including future occupiers of the building and neighbouring properties. The exact wording of these conditions is still to be agreed.

3.7 On balance, it is considered that the proposed development would not result in a significant adverse impact to the amenity of the area as a result of loss of light or privacy nor would it cause an overbearing impact. Noise and disturbance on existing residential properties and the future occupiers of the proposed development can be controlled by suitably worded conditions. The proposed development therefore accords with the Council's SPG and the guidance and requirements of the NPPF.

4. The impact on highways safety and acceptable car parking levels

4.1 Paragraph 108 of the NPPF states that safe and suitable access to a site shall be achieved for all users and paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development would be severe.

4.2 The application site is currently occupied by Ashfields Grange, a sheltered housing block consisting of 60 apartments, and a three storey block of flats with 12 residential units. These buildings have associated car parking for approximately 24 cars.

4.3 The proposed redevelopment of the site would result in the existing buildings and car parking spaces being replaced with a purpose built building with 89 supported living apartments (C3 use) and 48 car parking spaces, which includes five disabled spaces, two drop-off spaces and three spaces reserved for staff (staff will visit the site on a flexible basis) and health visitors.

4.4 Access will be achieved using the existing Hall Street and Knutton Lane junction and the planning application seeks changes to Hall Street, via a 'stopping up order'. This will enable Hall Street to be reduced in length and a turning head to be formed to enable refuse collection vehicles to turn and collections from the waste storage area to occur without blocking the carriageway into and out of

the proposed parking area. The stopping up of Hall Street would enable the level of car parking, landscaping and waste storage arrangements for the size of building proposed.

4.5 The level of car parking is considered acceptable for this edge of town centre position, which represents a highly sustainable location. It is acknowledged that the proposed development increases the number of units by 17 but the number of car parking spaces is double that of the existing arrangements. The large scooter and cycle store would encourage non-car mode travel and recent footpath works on Knutton Lane provide enhanced connectivity into the town centre. The application proposes further footpath widening works to connect the development to the existing footpath on Knutton Lane and proposes footpath widening from the pedestrian access (from the building on to Lower Street) to the neighbouring supermarket. A residential travel plan framework has also been submitted for approval which seeks to adopt an appropriate strategy aimed at advertising and encouraging the use of sustainable modes of transport.

4.6 The Highway Authority (HA) has raised no objections to the application on the basis that the submitted Transport Statement which accompanies the application advises that the trip generation and traffic impact of the proposed 89 apartments, when compared to the existing 72 apartments, will result in a negligible increase on vehicle trips at the junction of Hall Street and Knutton Lane. A series of conditions to secure acceptable access and car parking arrangements are recommended, along with the proposed footpath widening details. A construction management plan to ensure that the construction of the large development does not cause significant highway safety implications is advised along with a car parking management scheme for the long term operation of the car parking within the site. A condition requiring a revised residential travel plan framework is also advised and they have requested a travel plan monitoring fee to be secured by a S106 agreement. These are both considered acceptable in order to meet sustainable development objectives.

4.7 The Council's Waste Management Section (WMS) have raised concerns about the design and position of the external waste storage arrangements which is towards the front of the site. This has resulted in further information being submitted by the applicant to demonstrate that an extensive turning head has been provided to accommodate a refuse vehicle which can manoeuvre within the highway; albeit there is some minor body overhang. A tracking plan has also been submitted. HA have raised no objections to the proposed arrangements. The final design and appearance of the bin store will need to be the subject of a condition and the WMS will again be consulted to ensure that it meets the necessary requirements.

4.8 Subject to the advised conditions by the HA it is accepted that the application has demonstrated that the proposed development is unlikely to lead to severe cumulative impacts on the road network, this being in accordance with the guidance of the NPPF.

5. Planning obligations and financial viability

5.1 CSS Policy CSP6 states that residential development within the urban area, on sites of 15 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

5.2 In this case, irrespective of the planning policy requirements outlined above Aspire as a Registered Social Landlord (RSL) have applied for development where all of the 89 units proposed are to be affordable. As such the policy requirements would be met.

5.3 Affordable Housing is usually secured by a S106 agreement but in the past applications by Aspire (where all units are to be affordable) a condition has been considered acceptable. On the basis of the number of dwellings proposed, the policy compliant affordable housing requirement for this site would be 23 units. However, there are 72 social housing units on the site already and it is considered that these can be discounted from the 89 units proposed which leaves a provision of 17 additional units. Therefore, the policy compliant affordable housing requirement for this site would be 5 units.

5.4 Furthermore, in normal instances a condition to secure the affordable housing provision in perpetuity would be recommended. However, similar planning applications by Aspire Housing have been permitted without the term 'in perpetuity' being included in the relevant condition, due to the

Right to Acquire that exists and how this affects the delivery of the site with grant funding being obtained from Homes England. The planning application confirms that the scheme will be part funded by Homes England. On this basis it is accepted by your officers that in this instance the condition should omit reference to in perpetuity.

5.5 The Education Authority has not requested a financial contribution towards education places in the locality because the education policy does not seek contributions from developments for 1 and 2 bed apartments. Notwithstanding this point the development is for persons aged 55 years and over and so there development would not generate school children anyway.

5.6 LDS have requested a financial contribution of £5,579 per unit towards the improvement and maintenance of public open space (POS). The contribution towards POS is sought for improvements at Wilson Street (290m away), or to improve facilities at the Mineral Line (560m away) or the Wammy (840m away). However, it is appropriate to discount the existing 72 units from the proposed 89 units and to take into account that the units will be for people aged 55 and over and in the past the amount has been reduced to not include the element for play. On this basis it is only considered appropriate to request a financial contribution of £4,933 per unit which amounts to a total request of £83,861. This request is considered to meet the requirements of Section 122 of the CIL Regulations being necessary to make the development acceptable in planning terms, to be directly related to the development and fairly and reasonably related in scale and kind to the development.

5.7 The applicant has advised that the scheme cannot support the requested policy compliant contributions towards POS and independent financial advice has now been received by the Authority. The report of Butters John Bee (BJB) concludes that the scheme is only marginally viable because of grant funding from Homes England and so in reality the scheme is unviable with any level of financial contributions and the deferment of the payments would also not alter this conclusion. BJB have also confirmed that even if the scheme was not proposing 100% affordable housing, and was just proposing the policy complaint 25% provision, then it would not change the conclusions of the financial viability of the scheme.

5.8 The new NPPF marks a significant change in the approach to be adopted to viability in planning decisions. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised. The scheme does provide benefits, which include the redevelopment of a site with a purpose built development of a high quality design that would replace existing dated buildings. The development would also contribute to housing supply in the Borough and provide 89 affordable houses, exceeding the policy requirements to provide affordable housing thereby making a contribution towards addressing the shortfall in affordable housing provision on other developments within the Borough. These benefits are considered to outweigh the harm caused by the additional demand created by the development on the infrastructure of the area that would be the result were no financial contribution made to adding to that infrastructure.

5.9 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 towards POS, if the site were to be found capable of financially supporting these features.

6. Other matters

6.1 The application is supported, amongst other things, by a contaminated land report and flood risk and drainage strategy.

6.2 The Environmental Health Division (EHD) has advised a number of conditions, additional to the ones set out in paragraph 3.6, which set out the need for contaminated land conditions and electric vehicle charging provision.

6.3 The applicant has detailed within their Transport Statement that five of the car parking spaces will have electric vehicle charging points. However, EHD have requested that each space should have a charging point because this is encouraged by the government. The applicant has raised objection to this level of provision. The NPPF does encourage adequate provision for electric vehicle charging points and five spaces out of 48 is not considered adequate.

6.4 In other similar developments of this scale (Orchard House) the Local Planning Authority has secured electric vehicle charging points at 25% of the car parking spaces with the remaining 75% of the car parking spaces being provided with passive wiring to allow future charging point connection. In this instance it is considered that 25%, which equates to 12 spaces, being fitted with a charging point is reasonable and justified by the guidance and requirements of the NPPF. The 12 spaces should include one of the disabled spaces and one of the staff spaces. This can be secured by condition.

6.5 The submitted flood risk report concludes that flood risk for this site is low. The Lead Local Flood Authority has raised no objection to the application and is satisfied with the main principles of the proposed surface water drainage strategy but request a condition which secures a more detailed surface water drainage scheme prior to any works commencing on site.

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 CSP2:	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open Space/Sport/Recreation
Policy CSP10	Planning Obligations

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

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16	Development – General Parking Requirements
Policy N12	Development and the Protection of Trees
Policy B14:	Development in or Adjoining the Boundary of Conservation Areas
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 Framework \(2019\)](#)

[Planning Practice Guidance \(2018 as updated\)](#)

Supplementary Planning Guidance/Documents

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

Supplementary Planning Guidance/Documents

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

[Newcastle-under-Lyme Town Centre SPD \(2009\)](#)

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

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

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

Relevant Planning History

The site has been used for Sheltered Housing for a number of years and there is no relevant planning history.

Views of Consultees

The **Highways Authority** raises no objections subject to a series of conditions that secure matters relating to the following;

- Access, parking and turning provided prior to occupation of the development,
- Submission and approval of surfacing, surface water drainage and delineation of parking bays,

- Submission and approval of a car park management scheme,
- Construction of a turning head and double yellow lines,
- Submission and approval of a 3 metre footway / cycleway from Hall Street to Lower Street linking through to Sainsburys Supermarket,
- Submission and approval of a 3 metre footway / cycleway from Hall Street linking through to the Puffin Crossing on Knutton Lane,
- The vehicle access shall remain ungated,
- Submission and approval of details for a secure weatherproof cycle parking facility,
- Submission and approval of a revised Travel Plan, and subsequent implementation,
- Submission and approval of a Construction Management Plan (CMP).

The **Environmental Health Division (EHD)** raises no objections subject to a series of conditions that secure matters relating to the following;

- Submission and approval of a Construction Environmental Management Plan,
- Prior approval of external lighting,
- Electric vehicle charging provision,
- Design measures to restrict impact on noise levels,
- Prior approval noise impacts from building plant and machinery,
- Prior approval of overheating and cooling assessment,
- Assessment of emissions from combustion plant,
- Land contamination investigations and mitigation measures

The **Landscape Development Section (LDS)** advises that the proposed development would result in the loss of 1 category A tree, 6 category B trees and a group of category B trees. In particular there are concerns about the loss of T26 and T27 which are highly visually prominent roadside category B trees on Knutton Lane. The trees on this roadside frontage provide visual softening and are of high amenity value. The loss of T29 which occupies the site is of outstanding value but it is acknowledged that it would be hard to develop the site without its loss. The retention and protection of trees along the Northern and Eastern site boundaries is welcomed. The proposed tree and hedgerow planting throughout the site would soften the appearance of the hardstanding areas, car park and the building.

Conditions that secure matters relating to the following are recommended;

- Trees shown as retained to be retained and protected throughout the construction period,
- Full landscaping proposals to include specimen replacement trees (larger and longer term type species),
- Proposed boundary treatments,
- Arboricultural Method Statement,
- Tree Protection Proposals Plan (to include full RPA and canopy protection),
- Services locations,
- Tree and landscape management plan,
- Schedule of works to retained trees.

A contribution by the developer for capital development/improvement of offsite 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 could be used to upgrade play equipment at Wilson Street (290m away), or to improve facilities at the Mineral Line (560m away), the Wammy (840m away), or towards improvement to public realm and town centre open space.

The **Waste Management Section** has raised some concerns about how a waste freighter would manoeuvre the site and the bin store.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** advises that there are a small number of aspects of the proposals that would improve security, crime prevention and/or community safety. Shortcutting through the car park should be discouraged by the perimeter hedging. Access control information to the building is unknown and could present security concerns. Likewise CCTV information is unknown. Emergency exits should be alarmed and the scooter store would also benefit from access control. Windows and doors should be to recognised attack-resistant security

standards. Ensuring access is restricted to what is intended to be the private rear garden is one final area that warrants further attention. An aesthetically attractive but effective boundary treatment would provide considerable peace of mind for residents too.

The **Education Authority** advises that an education contribution is not requested because current policy does not require a contribution from developments purely consisting of 1 or 2 bed apartments.

The Council's **Urban Design and Conservation Officer** advise that the proposed development is unlikely to harm the character and appearance of the Town Centre Conservation Area due to its distance away from the boundary. The development has the potential to enhance this corner of the ring road.

The **Conservation Advisory Working Party (CAWP)** do not object to the proposed development due to its location but request a landscaping scheme to screen views of the car park.

Staffordshire County Council Flood Risk Team indicate that they are satisfied with the main principles of the proposed surface water drainage strategy but request a condition which secures a more detailed surface water drainage scheme prior to any works commencing on site.

The **Housing Strategy Section** is supportive of the development for social rented accommodation. A condition, which secures 25% affordable housing, is required, notwithstanding that the whole development is for affordable housing.

The **Economic Regeneration Section** supports the application.

Cadent Gas advises that operational gas apparatus is located within the application site boundary. The applicant is therefore advised to contact them about the matter.

Comments were also invited from the **Newcastle South Locality Action Partnership** but in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

Representations

No letters of representation have been received.

Applicant's/Agent's submission

All of the application documents can be viewed on the Council's website using the following link: <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00614/FUL>

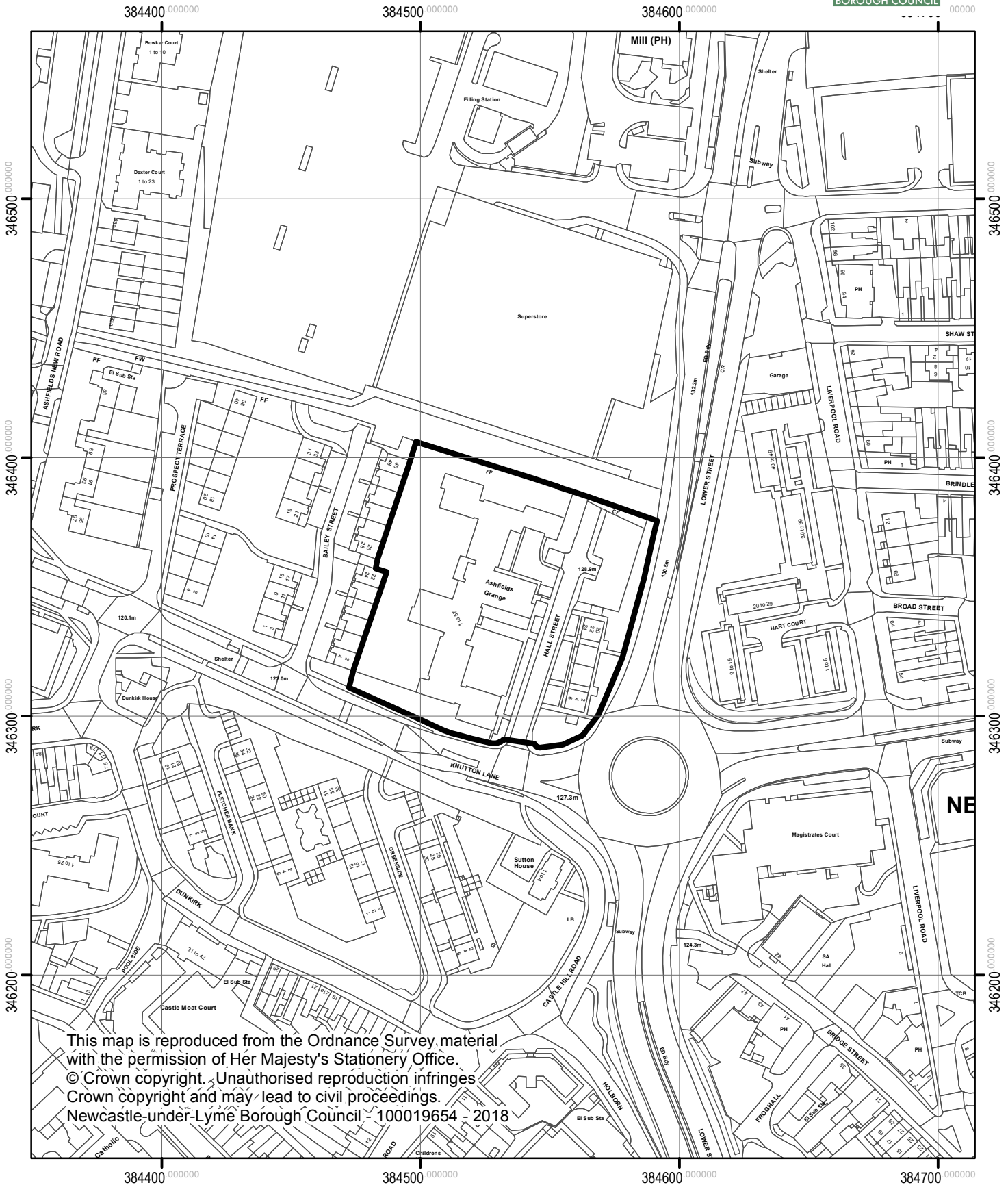
Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

25th October 2019

Ashfields Grange Sheltered Housing Scheme Hall Street, Newcastle-under-Lyme



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office.
© Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings.
Newcastle-under-Lyme Borough Council - 100019654 - 2018

This page is intentionally left blank

THISTLEBERRY HOTEL, THISTLEBERRY AVENUE, NEWCATSLE-UNDER-LYME

STAR PUBS AND BARS

19/00358/FUL

The application is for the installation of a new metal framed pergola across the front elevation of the building together with the provision of extended beer garden seating areas.

The building is located within the urban area of the Borough, as identified by the Local Development Proposal Framework Map.

The application has been called in to the Planning Committee for determination, by two Councillors, due to resident concerns about:

- Noise levels as there are residential properties close by.
- Lack of parking as the application proposal would generate more demand and would result in the reduction of parking spaces.

The application was deferred at the meeting of the Committee on the 16th July to enable the applicant to provide information required by the Highway Authority and for your officer to obtain and consider the comments in response to such information.

The statutory 8 week period for the determination of this application expired on the 2nd August 2019 however the applicant has agreed to an extended determination date until the 8th November.

RECOMMENDATION

REFUSE for the following reason:

The proposed development will result in the loss of parking spaces, which would result in an increased likelihood of on street parking within the public highway to the detriment on the safety of highway users. The proposal would therefore be contrary to policy T16 of the Newcastle-under-Lyme Local Plan 2019 and the aims and objectives of the National Planning Policy Framework.

Reason for Recommendation

At the request of the Highway Authority, additional information has been submitted in order to assess any potential implications that the development would have on parking and/or highway safety. The information, which includes a parking survey and swept path analysis, has demonstrated that should the development be implemented as proposed, there would be insufficient parking space within the site curtilage. This would result in an increased likelihood of vehicles having to park in adjacent residential streets resulting in an increased likelihood of highway safety implications to the detriment of highway users, which is considered to be contrary to the guidance of the National Planning Policy Framework.

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 provided the opportunity to submit additional information to address the initial concerns of the highway authority; however the information provided has failed to overcome the objections to the scheme in relation to a lack of adequate parking facilities. As such the development is considered to represent an unsustainable form of development, contrary to the provisions of the National Planning Policy Framework.

Key Issues

Full planning permission is sought for the installation of a new metal framed pergola across the front elevation of the building together with the provision of extended beer garden seating areas. The building is located within the urban area of the Borough, as identified by the Local Development Proposal Framework Map.

The determination of the application should consider the following key issues;

- Is the design and the impact upon the character and appearance of the area acceptable?
- Would there be any adverse impact on residential amenity?
- Are there any implications for parking and highway safety?

Acceptable design and impact upon the character of the area and street scene

Section 12 of the NPPF sets out policy which aims to achieve well-designed places. Paragraph 124 states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Paragraph 127 goes on to detail that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

The application seeks permission for the installation of a new metal framed pergola across the front elevation of the building together with improvements to the existing and proposed beer garden areas which would include new fencing, timber box planters and timber posts to support decorative lighting together with the partial cladding of the south (side) elevation of the building.

The cladding proposed on the south (side) elevation of the building would cover an area of approximately 38 square meters. Whilst the materials would be a contrast to those used on the existing building, they are not considered to be harmful to its overall appearance, nor would they harm to character of the wider locality.

The proposed pergola would feature 8 metal posts spaced across the front elevation of the building to support a retractable lean-to roof structure. The pergola would have a maximum height of 3.6m. The scale and design of the pergola is considered to appear commensurate to the main building and suited to the buildings function as a public house without harming the appearance of the area.

Within the proposed new beer garden area to the south of the main building, 8 timber posts would be installed to a height of 2.6m with festoon style string lights spread between the posts. The introduction of these posts is considered to have minimal impact on the visual amenities of the area and the appearance of the main building. New timber box planters would also be installed along the southern boundary of the site, adjacent to Thistleberry Avenue, which would then continue along the frontage of the building. An area of new 1.8m high timber fencing and gate is also proposed to be installed on this elevation of the building, to the rear of the new beer garden area. Again these additions are not considered to be harmful to the appearance of the area.

The existing building is not considered to be of any particular architectural merit, and as such the alterations and improvements proposed could be considered to enhance the overall appearance of the building. Therefore in light of the above it is considered that the cumulative impact of the alterations proposed would be acceptable, and would not detract from the appearance of the building or the character of the wider area. As such the development is considered to be in accordance with Policy CSP1 of the CSS, as well as the provisions of the NPPF.

Would the development cause an unacceptable off of amenity to neighbouring properties?

Paragraph 180 of the National Planning Policy Framework seeks to ensure that new development is appropriate for its location. It details that development should mitigate and reduce to a minimum

potential adverse impacts resulting from noise, and avoid noise giving rise to significant adverse impacts on health and quality of life.

The application site currently benefits from two external seating areas, one at the front of the building and one on the north side, adjacent to Keele Road. The application proposes to remove the seating on the north side of the building and instead increase the seating provision at the front of the building and create a new beer garden area on the south side, adjacent to Thistleberry Avenue.

The application is supported by a Noise Impact Assessment (NIA). The NIA includes an assessment of calculated noise levels for both the existing and proposed external seating area from outside the nearest dwellings. The report concludes that the proposed development would result in increased noise levels for the dwellings along Thistleberry Avenue and therefore there is the potential for some noise associated impacts as a result of the proposed expanded seating area. The report goes on to recommend a number of mitigation measures to minimise the harm to neighbouring properties.

The Environmental Health Department (EHD) has raised no objections to the application subject to a number of conditions. They note that the NIA submitted has demonstrated that some control measures are necessary to adequately address potential noise impacts in the later evening/night-time period. Also due to the proximity of the development to neighbouring residential properties it is recommended that no speakers are used within the external beer garden seating areas and that a time restriction is put in place which limits the hours that the external beer garden seating area can be used.

With regards to conditions, a noise management plan should be submitted to the local authority prior to the commencement of any development. This plan should identify all noise sources associated with the use of the external beer garden area and the mitigation measures that will be applied to prevent or minimise the impact of the noise on nearby residents. Further conditions would restrict the use of the external seating area to smoking only after 21:30 hours, with no beverages or food to be consumed within this area beyond this time and restrict the use of loud speak amplification systems within the area at all times.

The EHD also acknowledges that the installation of the bound gravel surface within the new external seating area could result in disturbance to neighbouring residents and as such a condition should be attached to any permission to restrict the hours of construction.

Objections have been received from nearby residential properties, stating that the proposed development would result in increased noise levels to the detriment of the occupants. Whilst the submitted NIA does accept that there would be an increase in noise levels, it is considered that appropriate mitigation measures can be secured through appropriately worded conditions to ensure that the development would not raise any significant impacts for the residential amenity of neighbouring properties.

Further objections have also queried the timing of the NIA, with reference to a complaint relating to loud music from the premises on the 29th June, a Saturday evening. The submitted Noise Impact Assessment (NIA) assessed both the existing noise levels from the site and an assessment on the potential increase as a result of the proposed beer garden extension. It measured noise levels during the weekday trading period of 16:00-23:00 hours. Whilst a weekend measurement was not included, the Environmental Health Officer has raised no objections to the contents of the NIA or its methodology and considers that mitigatory measures are sufficient in this instance to minimise the impact to residents.

The nearest residential properties to the proposed new beer garden area are No. 2 Thistleberry Avenue, sited approximately 12m from the proposed development, and No's 8 and 10 Thistleberry Avenue, sited approximately 11.5m from the proposed development. It is accepted that given the siting of the proposed new beer garden area adjacent to Thistleberry Avenue and the proximity of nearby residential properties that the proposal would result in some increase in noise levels experienced in this location, and this is something that has been demonstrated within the NIA.

However, it is considered that the use of appropriate mitigation measures and a noise management scheme as requested by the EHD, which would be secured via a condition before any development

commences, would ensure that the development would not have a severe impact on the residential amenity of neighbouring properties.

It should also be noted that this licensed premises will be subject to the requirements and provisions of the Licensing Act 2003 and the Environmental Protection Act 1990, amongst other forms of legislation covering statutory noise and licensing issues. These pieces of relevant legislation, in addition to the control measures imposed within planning conditions, would suitably address any issues in relation to breaches of licenses conditions and statutory nuisance from noise.

Therefore having considered the above matters, the proposal is unlikely to have a significant harmful impact to the residential amenity levels and quality of life of neighbouring properties subject to the conditions advised. As such the proposal is in accordance with the guidance and provisions of the NPPF.

Are there any implications for parking and highway safety.

Whilst saved Policy T16 of the Local Plan stipulates that maximum parking standards are only applicable in relation to the gross floor area of a building meaning that the external seating area would not form part of the building gross floor area, consideration should still be given as to whether the proposal would have an adverse impact on parking and/or highway safety.

Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

There are currently four parking spaces situated forward of the main entrance to the pub, two disabled and two standard spaces. As the alterations would result in the external seating area to the front of the building increasing from 3m in depth to 5.1m, the proposal would result in the loss of these four spaces and these spaces would not be provided elsewhere on the site. This would leave the site with 18 parking spaces.

In their initial comments the Highway Authority stated that there is insufficient information to determine the application and as such requested the submission of an hourly car park survey over 7 days whilst the premises is open, a swept path analysis for vehicles to access and manoeuvre into the 5 parking spaces to the northern side of the building and clarification relating to servicing and deliveries.

The applicant has now submitted the requested information, however the Highway Authority maintains an objection to the scheme. They dispute the findings of the swept path analysis in relation to the five parking spaces adjacent to Keele Road noting that these spaces are severely restricted to access and manoeuvre, and also noted that at the time of considering the application, a seating table was sited within the parking area, highlighting further that these spaces are not in use or usable. Your officer agrees with the comments of the Highway Authority in respect of this issue.

Therefore with these 5 spaces being deemed unusable, and the proposal resulting in the loss of four parking spaces forward of the main building, this leaves the premises with 13 accessible parking spaces. Consideration should now be given to the results of the parking surveys, and whether these spaces would be sufficient to serve the business when open.

The parking surveys cover a 7 day period from the 29th July to the 4th August 2019. These results have shown that during the weekday evenings there were a number of occasions when more than 13 vehicles were parked. On Saturday evening between 16:00 and 23:00 there were 16-20 vehicles parked. On Sunday between the hours of 12:00 and 14:00 the survey recorded 20 parked vehicles and during the hours of 18:00 to 23:00 between 15 to 18 vehicles.

Therefore if the proposed development was implemented as shown, it is highly likely that a number of vehicles would have to park beyond the application site. Given the traffic restrictions in place immediately adjacent to the site in the form of double yellow lines, there is an increased likelihood of vehicles then having to park on residential streets and cul-de-sacs which may not only pose highway safety issues, but also implications in relation to noise and disturbance.

The development would therefore increase the likelihood of highway danger and due to the likelihood of vehicles being parked on busy adjacent residential streets and cul-de-sac, the proposal would be contrary to Policy T16 of the Local Plan and the provisions of the NPPF.

APPENDIX

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

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Strategic Aim 16: To eliminate poor quality development;

Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy

Policy CSP1: Design Quality

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

Policy T16: Development, general parking requirements

Other material considerations include:

[National Planning Policy Framework](#) (February 2019)

[Planning Practice Guidance](#) (March 2014, as updated)

[Supplementary Planning Guidance/Documents](#)

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

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

Relevant Planning History

NNB00527 – Licensed premises – Approved

NNB02158 - The erection of licensed premises, as described in your application dated 12th February, 1954 – Approved

16/00997/FUL – Installation of two new ramps – Approved

16/01083/ADV - Installation of 1no. set of illuminated individual letters, replacement swing sign, 1no. fascia sign and various poster cases – Approved

View of Consultees

The **Environmental Health Department** raise no objections subject to conditions restricting the hours of work, the use of the external seating area and the use of loud speaker amplification systems. A noise management scheme should also be provided prior to the commencement of development which should specify the provisions to be made for the control of noise emanating from the site.

Following the submission of additional information, the **Highway Authority** recommends refusal of the application as the development fails to make adequate provisions for vehicular parking within the site curtilage resulting in an increase in the likelihood of on street parking within the public highway to the detriment of the safety of highway users.

Representations

Five representations have been received to date objecting to the proposal. The representations raised the following matters;

- Increased traffic and parking along Thistleberry Avenue
- Impact on amenity of nearby properties
- Litter

- Increased noise over and above that of the existing functions of the Thistleberry Pub
- Alterations would jeopardise the current good relations between the pub and local residents
- Noise Impact Assessment irrelevant as impossible to predict until beer garden is set up
- Noise pollution and detrimental impact on the local environment
- Question the timing of the submitted noise report with reference to loud music from the application site on the 29th June at 11.30pm

Applicant/Agent's submission

The application is supported by a Design and Access Statement and a Noise Assessment. All of the application documents submitted for consideration can be viewed using the following link;

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00358/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

24th October 2019

This page is intentionally left blank

This page is intentionally left blank

4 SUTHERLAND DRIVE
MR RAFIQ SHEIKH

19/00610/FUL

The application is for a replacement dwelling at No. 4 Sutherland Drive.

The dwelling is located within the urban area of the Borough, as identified by the Local Development Proposal Framework Map.

The application has been called in to the Planning Committee for determination, by two Councillors, due to resident concerns about the scale of the proposed development and its impact on neighbouring properties.

The application was reported to the Planning Committee on the 8th of October where members of the committee resolved to defer the application to allow a site visit to take place. The site visit is scheduled to take place on the 2nd November.

The statutory 8 week period for the determination of this application expires on the 2nd October 2019, however the applicant has agreed an extension of time until the 12th November.

RECOMMENDATION

PERMIT subject to conditions relating to the following:

- i. Time limit**
- ii. Development to be carried out in accordance with the approved plans**
- iii. Approval of materials, boundary treatments and surfacing materials.**
- iv. Parking, turning and access arrangements to be provided prior to occupation.**
- v. Access, surfacing materials and drainage**
- vi. Access to remain ungated**
- vii. Construction Management Plan**
- viii. Internal and external noise levels.**
- ix. Hours of construction**
- x. Electric vehicle charging point**
- xi. Tree protection**
- xii. Landscaping Scheme**

Reason for Recommendation

The proposed replacement dwelling is considered to be acceptable in principle. It would represent an appropriate addition within the Sutherland Drive street scene and would not have any adverse impact on the character or appearance of the surrounding area. There would be no adverse impact on trees, no significant detrimental impact on the residential amenity of neighbouring properties and the parking arrangements are acceptable. Therefore it is considered that the development would comply with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2016, Policy T16 of the Newcastle-under-Lyme Local Plan and the provisions of the Council's Space Around Dwellings SPD, together with the guidance and requirements of the National Planning Policy Framework 2019.

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

This is considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework.

Key Issues

Full planning permission is sought for a replacement dwelling at No. 4 Sutherland Drive. The application site is located within the urban area of the Borough, as identified by the Local Development

In principle there are no planning policy objections to a replacement dwelling in this location as proposed. As such the key issues to consider in the determination of the application are as follows;

- Design and the impact upon the character and appearance of the area
- The impact on residential amenity
- The impact on parking and highway safety
- The impact on trees

Design and impact upon the character of the area and street scene

Paragraph 124 of the Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 127 of the Framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change. Paragraph 130 of the Framework 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, taking into account any local design standards or style guides in plans or supplementary planning documents.

Policy CSP1 of the Core Spatial Strategy seeks to ensure that new development is well designed to respect the character, identity and context of Newcastle's unique townscape and landscape including its rural setting and the settlement pattern created by the hierarchy of centres. Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document provides further detailed guidance on design matters in tandem with CSP1.

Policy R3 of the Urban Design Supplementary Planning Document (SPD) states that new housing must relate well to its surroundings, it should not ignore the existing environment but should respond to and enhance it, exploiting site characteristics. Policy R5 goes on to state that "buildings must define the street space with a coherent building line that relates to existing building lines where they form a positive characteristic of the area [and] infill development should generally follow the existing building line". R12 states that residential development should be designed to contribute towards improving the character and quality of the area.

Sutherland Drive is host to a large variety of dwelling types, of varying scale and design all of which contributes to the character of the area.

The replacement dwelling would appear significantly different to the existing dwelling in both its scale and overall design. It would feature a double bay frontage with a deep hipped roof with a series of small box dormers across the roof slopes to serve the rooms within the roof space.

Revised drawings have been received during the course of the application following the applicant's consideration of comments from neighbouring properties. This has seen the overall height of the dwelling reduced from 9.7m to 9.4m, and would now sit in line with the roof height of the adjacent dwelling at No. 2 and approximately 0.6m above the neighbouring semi-detached property at No. 6. The depth of the dwelling has also been reduced by 1m in the revised proposals.

The front elevation of the dwelling would maintain the prominent building line along this side of Sutherland Drive, and whilst the height of the dwelling would increase it would not fundamentally disrupt the roofscape between the properties along this side of Sutherland Drive sitting at similar height to the property at No. 2, and slightly higher than the other adjacent neighbour. When read from the street scene, this difference in height is not considered to have a harmful impact on the visual amenities of the area, particularly given the variety of design apparent within the locality.

As discussed, the replacement dwelling is significantly larger than the original and the majority of the additional massing comes from the increased height and depth of the dwelling.

The application site benefits from being a spacious plot, as is the case with other properties within the immediate locality and as a result there would be a distance of 1.6m between the side elevations of the dwelling and the site boundaries towards the front of the property, with a distance of 1.9m to 2.8m towards the rear. Therefore despite the increase in scale it is not considered that the proposal would represent overdevelopment of the site, and would not appear cramped within the confines of the site.

The application documents stipulate that the facing materials would comprise traditional brick and tile, and so subject to a condition to secure the precise specifications, the proposed materials are considered to be acceptable and despite the alterations in overall design, would still associate well with the predominant appearance of the surrounding properties.

As initially submitted the proposal involved the removal all vegetation from the front of the property in favour of parking, with no space allowed for any meaningful landscaping which, as stated by the Landscape Development Section, would be detrimental to the frontage and not in character with the majority of Sutherland Drive. This concern has been addressed through the submission of amended plans which show a reduction from six parking spaces on the site frontage to four and provision of areas where planting can take place.

One representation makes reference to a policy from the local plan in relation to replacement building quoting; "as long as it does not result in disproportionate additions over and above the size of the original dwelling. Where replacement is proposed, the dwelling must not be materially larger than the dwelling it replaces, and the applicant must demonstrate that replacement rather than alteration is justified". This is taken from Saved Policy S3 of the Local Plan which refers to development in the Green Belt and consideration as to whether the development is materially larger is not required in this case.

Therefore whilst a deviation from the form and appearance of the existing property, it is not considered that the dwelling would appear out of character with the wider locality and would not have a detrimental impact on the visual amenities of the area to such an extent that would warrant the refusal of the application. The application is therefore considered to accord with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy as well as the provisions of the NPPF.

Impact upon residential amenity:

Criterion f) within Paragraph 127 of the National Planning Policy Framework states that development should create places that are safe, with a high standard of amenity for existing and future users.

SPG (Space Around Dwellings) provides guidance on privacy, daylight standards and environmental considerations.

The replacement dwelling would result in additional massing being created that would extend beyond the existing rear building line of the neighbouring dwellings to the east and west of the application site.

The neighbouring dwelling of No. 6 Sutherland Drive comprises a semi-detached dwelling which has two principal windows on the rear elevation serving the kitchen/dining room of the

property. It is noted that there is a further window sited on the side elevation of the property however this is obscure glazed and so is not considered to be a principal window in accordance with the Council's Space Around Dwelling SPD. Therefore the primary source of outlook and light to this principal room are the rear facing windows which achieve views out across the garden. When taking a horizontal 45 degree line of sight from the window closest to the boundary with No. 4, the proposed replacement dwelling does not breach this.

The neighbour to the west (No. 2 Sutherland Drive) has a large window serving an open plan kitchen dining area; however this room is also served by large bi-fold doors along the rear of the property. Therefore this window is not the only source of outlook to the kitchen/dining room of No. 2. Again when taking a 45 degree line of sight from this window, there would be no horizontal breach and so in respect of both neighbouring properties there would be no breach of Space Around Dwellings guidance from rear facing principal windows.

In considering the representations received from neighbouring properties, the applicant has provided amended proposals, as discussed in the previous section of this report. This has resulted in the height and depth of the dwelling being reduced.

The replacement dwelling would now extend beyond the existing rear building line of No. 6 by 3.6m with a maximum height of 9m, where originally this would have been 4.3m. When viewed from No. 2 Sutherland Drive, there would be 3m of the dwelling projecting beyond the rear building line (previously 3.9m prior to amendments), with a single storey element projecting a further 2.9m.

Whilst it is accepted that the replacement dwelling would extend beyond the established rear building line of the properties, the dwelling would not be in breach of any of the Council's Space Around Dwellings guidance. Given the separation distances between the properties and the spacious private rear garden areas, it is not considered that the proposed development would have a significant overbearing impact on the residential amenity of neighbouring properties to such an extent that would justify a refusal of the application.

Also given the orientation of the properties the development would result in some overshadowing/loss of light to the kitchen windows of the neighbouring properties, with that at No. 6 affected during the later stages of the day, whilst No. 2 would receive some additional overshadowing from early morning through to around mid-morning. However as established above, these rooms are served by more than one principal window, and so the extent of overshadowing from the proposed extension is not considered to have a severe impact on the residential amenity of the occupants to such an extent to warrant refusal of the application.

Whilst reference is made within the representations to a right to light, this is not a material planning consideration and is instead a legal consideration between any affected parties. Having considered the view from principal windows along a 45 degree line of sight and the orientation of the development in relation to neighbouring properties, it is not considered that the development would have a severe detrimental impact on the amenity of neighbouring properties that would justify the refusal of the application.

A representation received also shows a section plan from a side facing window on No. 6 Sutherland Drive and a loss of light as a result of the development. As mentioned earlier this window is obscure gazed, and non-principal and it is not considered that the development would have an adverse impact on the outlook achieved from this window.

All of the representations submitted refer to a further photomontage taken from the rear patio area of No. 8 Sutherland Drive, just beyond the dividing fence line between No's 6 and 8, looking in a westerly direction towards the development site. Representations note that these drawings have been provided by a RIBA architect and are an accurate representation of the development, and assert that there is no basis upon which this could be disputed. The applicant has, however, provided comparative plans, also prepared by a RIBA architect, which show the proposal having less impact from the same viewpoint. Both submissions cannot be an accurate representation of the impact proposal on the neighbouring property and it is unclear as to which should be considered to be the most reliable. In such

circumstances these submissions should be given limited weight in the determination of the application and residential amenity should be assessed against the guidance within the adopted SPG as set out above.

Therefore in light of the above the development is not considered to have a detrimental impact on the residential amenity of neighbouring properties and as such is considered to be acceptable.

Impact on parking and highway safety

Paragraph 109 of the Framework details that development should only be refused on highways grounds if there would be an unactable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Whilst not entirely consistent with the Framework in that it seeks to apply maximum parking standards, the parking standards identified within Saved Policy T16 of the Local Plan state that for a dwelling of four or more bedrooms, three off street parking spaces should be provided.

Representations have been received from neighbouring properties raising concerns in relation to the number of parking spaces provided and potential increase in vehicles. Comments have also raised concerns in relation to the use of the roof space of the proposed dwelling and the impact this may have on parking provision in the future. The application plans detail that there would be rooms within the roof space, effectively acting as a third floor to the property and there are no objections to this. Whilst in the future the use of these rooms may change, planning legislation cannot restrict internal alterations within the dwelling and so it would be unreasonable to refuse the application on the basis that future alterations may increase the number of bedrooms and a potential increase in vehicles.

As the proposed dwelling would have 5 bedrooms, the maximum parking standards in the Local Plan require 3 parking spaces within the curtilage of the site. It should also be noted that as the existing dwelling has 4 bedrooms, the proposed development would not actually increase the number of parking spaces required to be provided.

Following the request of the Highway Authority for additional information, a revised plan was submitted showing the provision of 4 parking spaces and the removal of the proposed gate on the access. Based on these revised details, the Highway Authority raise no objections to the development subject to conditions to secure the parking/turning areas in accordance with the submitted plans, appropriate surfacing materials and drainage and the provision of a construction management plan.

Therefore the development would provide a sufficient number of parking spaces and is not considered to raise any adverse parking or highway safety issues.

The impact on trees

Saved Policy N12 of the Local Plan indicates 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.

There are trees within and adjoining the site and the Landscape Development Section (LDS) has requested an Arboricultural Impact Assessment (AIA).

The submitted AIA has demonstrated that the trees within and adjacent to the application site can be successfully retained and protected, subject to conditions to secure these protection measures during the construction period of the development. The development is considered to be in accordance with Policy N12 of the Local Plan and therefore acceptable.

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
Policy CSP1:	Design Quality
Policy CSP3:	Sustainability and Climate Change

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

Policy H1:	Residential Development: Sustainable Location and Protection of the Countryside
Policy T16:	Development – General Parking Requirements
Policy N12:	Development and the Protection of Trees

Other material considerations include:

[National Planning Policy Framework](#) (February 2019)

[Planning Practice Guidance](#) (March 2014, as updated)

[Supplementary Planning Guidance/Documents](#)

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

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

[Relevant Planning History](#)

None considered relevant to this application

[View of Consultees](#)

In their initial comments dated 19th September the **Highway Authority** considered that there was insufficient information to determine the proposal from a highway safety perspective and as such requested additional information. Following the submission of an amended site layout plan which included a swept path analysis for the parking spaces shown, in their revised response received 2nd October, the Highway Authority raised no objections to the proposal subject to conditions to secure the parking and turning areas prior to occupation, details of surfacing materials and drainage, the restriction of gates on the access drive and the submission of a Construction Management Plan. .

The **Landscape Development Section** indicates that there are trees growing both within the property and in adjacent properties that could be affected by the proposals. They raised concerns on the loss of all vegetation to the front of the property in favour of parking, with no space for meaningful landscaping which would be detrimental to the frontage and not in character with the majority of Sutherland Drive. They requested the submission of an Arboricultural Impact Assessment for the development. Following the submission of revised details and additional information, the LDS no longer raise any objections subject to the conditions to secure an appropriate landscaping scheme.

The **Environmental Health Division** raise no objections to the development subject to conditions to secure appropriate internal and external noise levels, the provision of electric vehicle charge points and a restriction on the hours of construction.

Representations

Four representations have been received from two addresses with their comments summarised as follows;

- Development represents a disproportionate addition and is not subordinate in design to the original dwelling.
- Increase in scale is not justified against planning policy
- Development appears imposing when viewed from neighbouring properties
- The plans are misleading in relation to the loft plan with reference to future alterations leading to an increase in vehicle numbers at the application site
- Impact on character of Sutherland drive and well-being of its residents.
- Increase in vehicles would have a significant impact on highway safety
- Loss of sunlight and impedes on neighbours right to light
- Overbearing and detrimental impact on residential amenity

The submitted representations are also accompanied by a photomontage depicting the extension from the point of view of neighbouring properties.

Applicant/Agent's submission

All of the application documents submitted for consideration can be viewed using the following link;

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/19/00610/FUL>

Background Papers

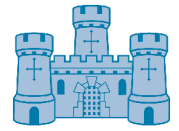
Planning File
Development Plan

Date report prepared

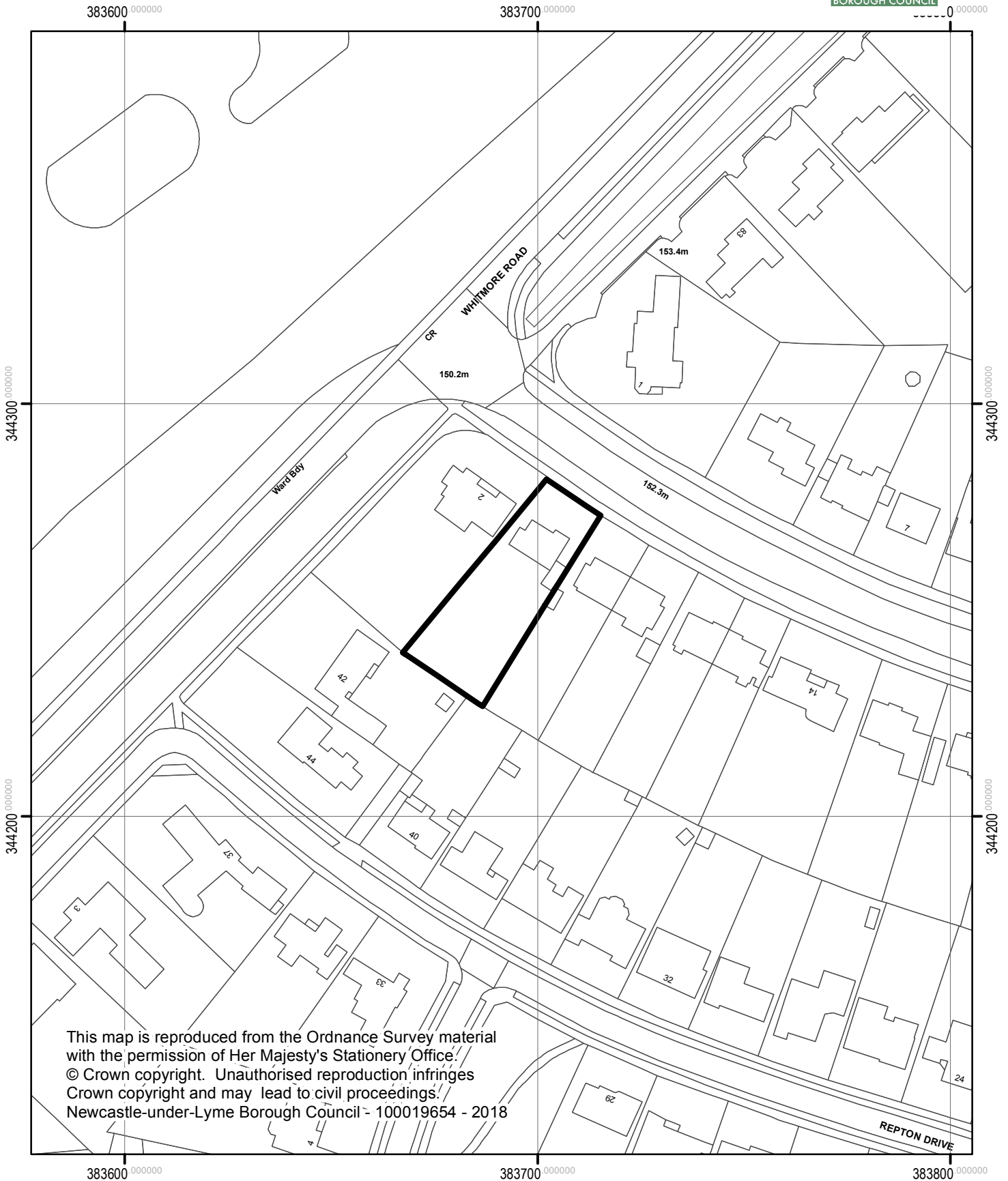
16th October 2019

This page is intentionally left blank

4 Sutherland Drive
Newcastle-under-Lyme, ST5 3NB



NEWCASTLE
UNDER LYME
BOROUGH COUNCIL



This page is intentionally left blank

NEWCASTLE MUSEUM AND ART GALLERY
NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

19/00687/DEEM3

The application is for extensions and alterations to Newcastle Museum and Art Gallery to form additional exhibition and educational facilities.

The site is located within the Urban Area of Newcastle and the Brampton Conservation Area as defined on the Local Development Framework Proposals Map.

The statutory 8-week period for the determination expires on the 28th November 2019.

RECOMMENDATION

Permit, subject to conditions relating to;

- i. Time limit condition**
- ii. Approved plans**
- iii. Materials**
- iv. Hours of construction**
- v. Arboricultural Method Statement**
- vi. Details of special engineering within root protection areas**
- vii. Construction Phase Tree Protection Plan**

Reason for Recommendation

The extensions would preserve the character and appearance of the Conservation Area. The development would therefore comply with local and national policies and guidance.

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

This is considered to be a sustainable form of development and complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

The application seeks full planning permission for extensions and alterations to Newcastle Museum and Art Gallery to form additional exhibition and educational facilities.

The site is located within the Urban Area of Newcastle and the Brampton Conservation Area as defined on the Local Development Framework Proposals Map.

The Landscape Development Section has no objections subject to conditions and therefore the sole issue for consideration in the determination of this application is whether the proposal is acceptable in terms of its impact on the Conservation Area.

Local and national planning policies seek to protect and enhance the character and appearance of Conservation Areas and development that is contrary to those aims will be resisted. There is a statutory duty upon the Local Planning Authority to pay special attention to the desirability of preserving or enhancing the character and appearance of Conservation Areas in the exercise of planning functions.

The NPPF states that in determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 193 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset such as a Conservation Area, Listed Building or Registered Park and Garden, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The NPPF at paragraph 195 further states that "Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss."

At paragraph 196 of the NPPF it states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Saved NLP Policy B9 states that the Council will resist development that would harm the special architectural or historic character or appearance of Conservation Areas. Policy B14 states that in determining applications for building in or adjoining 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. These policies are all consistent with the NPPF and the weight to be given to them should reflect this.

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

The application comprises two elements as follows:

- i. The infill of the external courtyard to the rear of the building to form a single storey flat roofed extension to the art gallery
- ii. An extension to the side to create new flexible teaching spaces and improve the link to the garden

The courtyard extension would primarily be used for exhibitions of local artists as well as providing space for visiting exhibitions. The extension would have a floor area of 56 square metres and would be single storey with a flat roof. The extension to the side would provide additional teaching and activity space and would also be used for external hire for small meeting groups. It would provide an additional floor area of 64 square metres and would have a hipped roof to match the existing. The materials of both extensions would match the existing.

The courtyard area is surrounded on three sides with buildings and the proposed extension would not be visible from any public viewpoint. The extension to the side would be on a grassed area between an existing extension to the building and the site boundary. The Conservation Officer raises no objections to the proposal and given the scale, design and siting of the extensions proposed, it is not considered that there would be any harm to the character or appearance of the Conservation Area.

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 CSP2: Historic Environment

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

Policy B9: Prevention of Harm to Conservation Areas

Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area

Policy N12: Development and the Protection of Trees

Other material considerations include:

[National Planning Policy Framework](#) (February 2019)

[Planning Practice Guidance](#) (PPG) (2018)

Relevant Planning History

None relevant

Views of Consultees

The **Conservation Officer** has no objections on the basis that the internal courtyard extension is within the service inner courtyard and will not be visible from any public areas of the park and the small rear extension reflects the existing style of extension and will not be harmful to the character or appearance of the Conservation Area.

The **Environmental Health Division** has no objections subject to a condition regarding hours of construction.

The **Landscape Development Section** has no objections subject to the submission of an Arboricultural Method Statement, details of special engineering for the proposed decking within RPAs and a Construction Phase Tree Protection Plan, all to BS5837:2012.

Cadent Gas has identified operational gas apparatus within the application site boundary and therefore all developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site.

The views of the **Conservation Advisory Working Party (CAWP)** have been sought and any comments received will be reported.

Representations

None received.

Applicant/agent's submission

The application is supported by a Design and Access Statement, a Heritage Statement and an Arboricultural Survey and Report. The submitted documents and plans are available for inspection on the Council's website by searching under the application reference number 19/00687/DEEM3 on the website page that can be accessed by following this link; <https://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/19/00687/DEEM3>

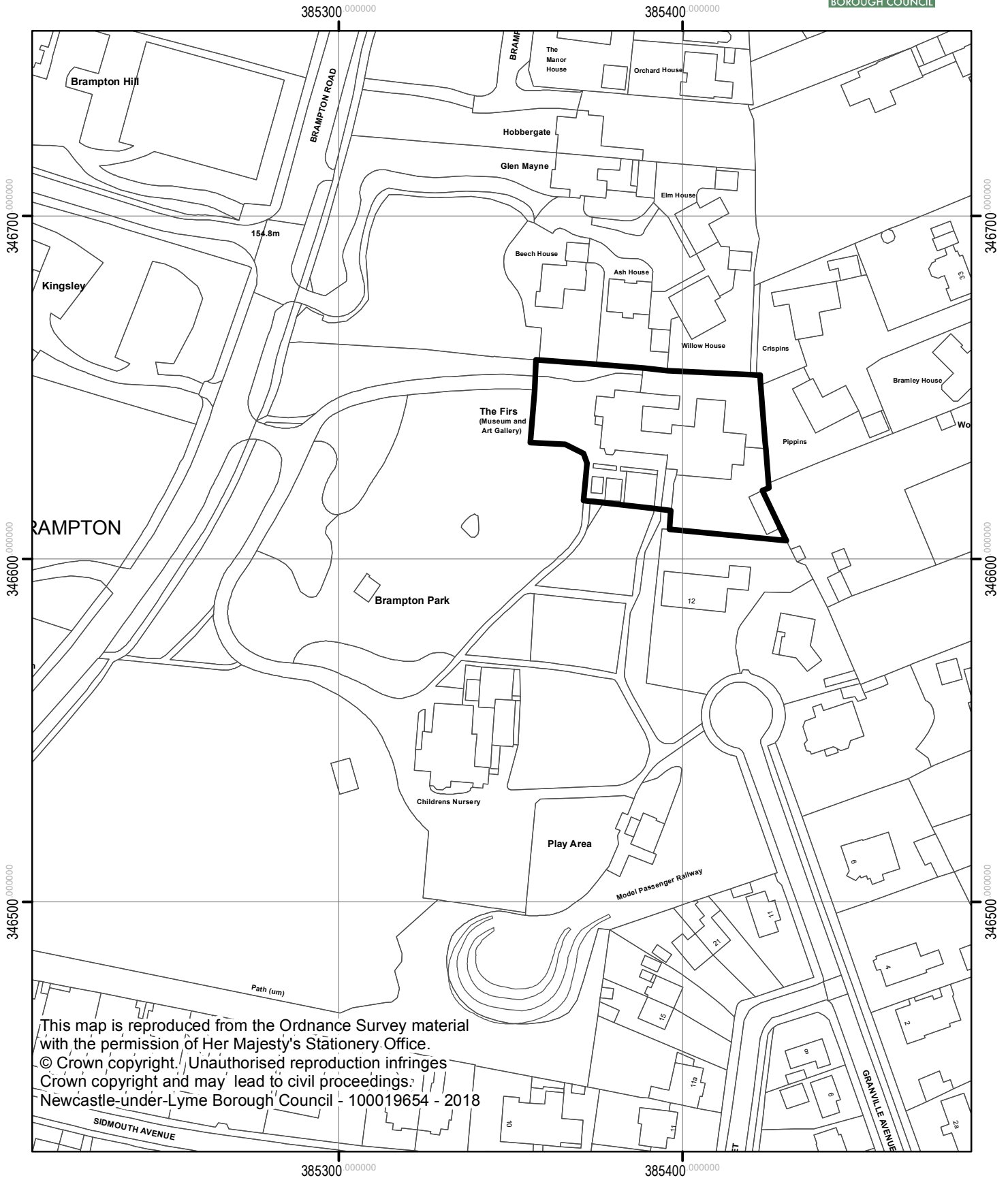
Background Papers

Planning File
Development Plan

Date report prepared

22nd October 2019

Newcastle Museum and Art Gallery, Brampton Road, Newcastle



This map is reproduced from the Ordnance Survey material with the permission of Her Majesty's Stationery Office.
 © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to civil proceedings.
 Newcastle-under-Lyme Borough Council - 100019654 - 2018

This page is intentionally left blank

Agenda Item 9

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

EXECUTIVE MANAGEMENT TEAM'S REPORT TO PLANNING COMMITTEE

05 November 2019

Report Title: Delegated Authority to Determine Applications Pursuant to Schedule 17 of the High Speed Rail (West Midlands – Crewe) Bill (act following its assent)

Submitted by: Executive Management Team

Portfolios: Leader of the Council – Corporate and Service Improvement, People and Partnerships

Ward(s) affected: Whitmore, Maer and Madeley

Purpose of the Report

To seek the agreement of the Council to the proposed revision to the Scheme of Delegation to the Head of Development Management to ensure the expedient determination of applications submitted pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill.

Recommendation

To amend the Scheme of Delegation to the Head of Development Management, as set out in Part 3 of the Council's Constitution, to insert the following application type within the list of delegated application types set out in Appendix 4 Item 10 of the Constitution.

"To determine all application pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill" (act following its assent).

And that this is exercised by

"Executive Director (Commercial Development and Economic Growth)"

Reasons

1. As applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill are not planning applications, that they are not identified within the Scheme of Delegation as being dealt with through the Council's Planning team.
2. To ensure that the applications pursuant to Schedule 17 of the High Speed Rail (West Midlands-Crewe) Bill can be dealt with under delegated authority.

1. **Background**

- 1.1 High Speed Rail (West Midlands – Crewe) Bill (The Bill) will grant planning permission for the construction of a high speed railway between West Midlands to Crewe being the second phase of the proposal. This is pursuant to High Speed Rail (London to West Midlands) Act 2017 (The Act) which grants the planning permission for the construction of a high speed railway between London and the West Midlands.
- 1.2 The Act requires the nominated undertaker (the party or parties who will construct the railway) to obtain the further approval of the Local Planning Authorities along the route for certain matters

relating to the design and construction of the railway. Approval is required for plans and specifications; matters ancillary to development; road transport; and for bringing into use.

- 1.3 The provisions and the procedure for obtaining further approvals are set out in the Schedules to the Act; Schedule 17 (Conditions of Deemed Consent) refers specifically to the approval of details reserved by the conditions attached to the deemed planning permission.
- 1.4 Local Planning Authorities have been offered a choice of a wider or narrower range of control over the approval of details. Authorities who desired to exercise the wider range of control must first become a Qualifying Authority and give satisfactory undertakings concerning the handling of planning matters; these are set out in the HS2 Planning Memorandum which sets out the rules of conduct and the administrative arrangements that both the Qualifying Authority and the nominated undertaker will adhere to during the construction of the railway.
- 1.5 The Council resolved to become a Qualifying Authority on 24th July 2019. The Planning Memorandum has been signed by the deadline of 25th October 2019 and the Council will become a Qualifying Authority when the High Speed Rail (West Midlands – Crewe) (Qualifying Authorities) Order 2017 comes into effect following assent of the Bill.
- 1.6 A Qualifying Authority is responsible for issuing approvals in respect of details of the design and appearance of key structures and other elements of the scheme, but that responsibility does not extend to the principle of the construction which is permitted by the Act itself. Structures and features that the appropriate Qualifying Authority will be able to consider details for include:
 - o Buildings and vehicle parks
 - o Terracing
 - o Cuttings
 - o Embankments and other earthworks
 - o Fences and walls
 - o Telecommunication masts
 - o Power take-off compounds
 - o Artificial lighting
 - o Bridges and viaducts
 - o Borrow pits and waste disposal sites
- 1.7 A Qualifying Authority can only refuse to approve plans or specifications or impose conditions on the specific grounds set out in Schedule 17, these are :-
 - i) That the design or external appearance of the works ought to be modified, and is reasonably capable of being so modified,
 - a) to preserve the local environment or local amenity;
 - b) to prevent or reduce prejudicial effects on road safety or the free flow of traffic in the local area; or
 - c) to preserve a site of archaeological interest or nature conservation value,
 - ii) That the development ought to, and could reasonably be carried out elsewhere on land within the development's permitted limits, (i.e. on the land identified within The Act to which the planning permission granted has effect).

2. **Issues**

- 2.1 By agreeing to become a Qualifying Authority the Council has accepted obligations concerning the process and the timeliness with which it will determine applications submitted under Schedule 17 of the Bill.

- 2.2 It will be expected to determine these applications within the eight week period prescribed in the Act, this begins on the day the application is received by the Council. This differs from applications submitted under the Town & Country Planning Act where the statutory eight week period only begins after the application is accepted as a valid application by the Council.
- 2.3 It is necessary to ensure the Council has in place a decision making process that will ensure the timely determination of these applications.
- 2.4 If the Council fails to determine an application within the prescribed period, the application will be deemed to have been refused and the applicant may then appeal to the Secretary of State who will then determine the application.
- 2.5 If a Qualifying Authority repeatedly fails to expedite requests for approval or seriously fails to act in accordance with the Planning Memorandum the Secretary of State may order that an authority shall cease to have the powers of a Qualifying Authority.

3. **Proposal**

It is therefore recommended that the Scheme of Delegation be amended to include within the list of applications where the determination is delegated to the Head of Development Management, the following additional category of application namely :-

“Applications pursuant to Schedule 17 of the High Speed Rail (West Midlands - Crewe) Act 2019 when it has gained assent.”

4. **Reasons for Proposed Solution**

It is essential the Council has in place an appropriate process to ensure Schedule 17 applications can be determined in a timely manner before applications are received. The inclusion of this category of application within the current scheme of delegation will allow for such applications to be determined timely and expediently.

5. **Options Considered**

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1

- 5.2 To not include Schedule 17 applications within the scheme of delegation to the Head of Development Management. This is not recommended.
- 5.3 If an application can only be determined at a meeting of the Planning Committee, the 4 weekly cycle for meetings will increase the risk an application may not be determined within the prescribed statutory timescale. This would then result in an appeal process for non-determination which would add to the burden on Council resources.
- 5.4 If the Council should repeatedly fail to determine applications within time or otherwise seriously fail to act in accordance with the Planning Memorandum, the Secretary of State may order that the Council authority shall cease to have the powers of a Qualifying Authority.

Option 2

- 5.5 Include the Schedule 17 applications within the scheme of delegation and treat it as if it were a planning application with the same call-in provisions. This is not recommended.
- 5.6 The uncertainty of an application being called-in or not along linked with the 4 weekly cycle for meetings will increase the risk an application may not be determined within the prescribed statutory timescale. This would then result in an appeal process for non-determination which would add to the burden on Council resources.
- 5.7 Again, if the Council should repeatedly fail to determine applications within time or otherwise seriously fail to act in accordance with the Planning Memorandum, the Secretary of State may order that the Council authority shall cease to have the powers of a Qualifying Authority.

Option 3

- 5.8 To invoke other constitutional change to establish a process whereby Councillors will convene as and when required to determine an application submitted under Schedule 17. This is not recommended.
- 5.9 This would increase the burden on Councillors. It is not recommended at this time given the number of applications or the frequency of submissions is not clear, the full impact cannot therefore be assessed.

6. Legal and Statutory Implications

The proposed amendment to the scheme of delegation requires the approval of full council and will enable the expedient and expeditious determination of applications submitted relating to the HS2 railway. This will reduce the risk associated with persistent non-fulfilment of the obligations set out within the Planning Memorandum which could result in the removal of the Council's status as a Qualifying Authority and the consequent loss of the opportunity to influence the final design of railway works.

7. Equality Impact Assessment

N/A

8. Financial and Resource Implications

HS2 will pose a new burden for Council services. A Service Level Agreement will be negotiated with HS2 Ltd to ensure that the Council is fully reimbursed for the additional work generated through the consents and approvals process.

9. Major Risks

If the Council fails to determine an application within the prescribed period, the application will be deemed to have been refused and the applicant may then appeal to the Secretary of State who will then determine the application.

If a Qualifying Authority repeatedly fails to expedite requests for approval or seriously fails to act in accordance with the Planning Memorandum the Secretary of State may order that an authority shall cease to have the powers of a Qualifying Authority.

10. Sustainability and Climate Change Implications

N/A

11. Key Decision Information

N/A

12. **Earlier Cabinet/Committee Resolutions**

The Council resolved to become a Qualifying Authority on 24th July 2019.

13. **List of Appendices**

None.

14. **Background Papers**

Report to Council dated 24th July 2019 where it was agreed to become a Qualifying Authority.

This page is intentionally left blank

Classification: NULBC **UNCLASSIFIED**

NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**EXECUTIVE MANAGEMENT TEAM'S
REPORT TO PLANNING COMMITTEE**

05 November 2019

Report Title: Delegated Authority to Determine Applications Pursuant to Schedule 18 of the High Speed Rail (West Midlands – Crewe) Bill (act following its assent)

Submitted by: Executive Management Team

Portfolios: Leader of the Council – Corporate and Service Improvement, People and Partnerships

Ward(s) affected: Whitmore, Maer and Madeley

Purpose of the Report

To seek the agreement of the Council to the proposed revision to the Scheme of Delegation to the Head of Development Management to ensure the expedient determination of applications submitted pursuant to Schedule 18 of the High Speed Rail (West Midlands-Crewe) Bill.

Recommendation

To amend the Scheme of Delegation to the Head of Development Management, as set out in Part 3 of the Council's Constitution, to insert the following application type within the list of delegated application types set out in Appendix 4 Item 10 of the Constitution.

"To determine all application pursuant to Clause 21 Schedule 18 of the High Speed Rail (West Midlands-Crewe) Act 2019" (once the Act comes into force).

And that this is exercised by

"Executive Director (Commercial Development and Economic Growth)"

Reasons

1. Applications pursuant to Schedule 18 of the High Speed Rail (West Midlands-Crewe) Act 2019 will not be planning applications and they are not identified within the Scheme of Delegation as being dealt with through the Council's Planning team.
2. To ensure that the submissions pursuant to Schedule 18 of the High Speed Rail (West Midlands-Crewe) Act 2019 (when it comes into force) can be dealt with under delegated authority.

1. **Background**

1.1 High Speed Rail (West Midlands – Crewe) Act 2019 (the 2019 Act) will grant planning permission for the construction of a high speed railway between West Midlands to Crewe being the second phase of the proposal. This is pursuant to High Speed Rail (London to West Midlands) Act 2018 (the 2018 Act) which grants the planning permission for the construction of a high speed railway between London and the West Midlands.

1.2 Under the provisions of Schedule 18 of the 2019 Act, the requirements for HS2 to apply for Listed Building consent for the identified structures or buildings are disapplied. (the structures and

Classification: NULBC **UNCLASSIFIED**

buildings are not delisted). Instead, the Secretary of State for Transport enters into undertaking requirements with the Council in the form of Heritage Agreements (HA).

- 1.3 These agreements are in the form of deeds relating to the works proposed. These are currently with the Council in draft form for consultation with the Conservation Officer. The purpose of the consultation is not to agree the principle of the buildings or structures affected which is already determined by the route of HS2 but moreover, to agree the broad details within Heritage Method Statements within the HA providing a guide as to appropriate levels of detail required to be submitted in the submission stage to ensure that the works to be undertaken are acceptable. The Heritage Method Statements also agrees who should be consulted as part of the process.
- 1.4 As these are deed agreements, once these details have been agreed, the HA will be reported to Full Council in November 2019.
- 1.5 As stated above, pursuant to the Heritage Agreement, there is a requirement that, prior to the commencements of works on site, the nominated body submits the specific details of works required by the Heritage Method Statement and it is the submission of these details which are the subject of this report.
- 1.6 Once these detailed applications are made, the Council has 8 weeks to either approve or refuse them. However, as part of the process, amenity groups are consulted which means the Council cannot determine the application in the first 6 weeks unless a response is received earlier.
- 1.7 The Council cannot reasonably withhold permission but can seek amendments. The nominated body can either agree with the amendments or appeal the decision.
- 1.8 Should the Nominated Undertaker be unhappy with the refusal, amendment or should the Council fail to determine the application in the 8 week time period the application can be the subject of an appeal to the Secretary of State.

2. **Issues**

- 2.1 By signing the deed the Council has accepted obligations concerning the process and the timeliness with which it will determine applications submitted under Schedule 18 of the Bill.
- 2.2 It will be expected to determine these applications within the eight week period prescribed in the Bill, this begins on the day the application is received by the Council. This differs from applications submitted under the Town & Country Planning Act where the statutory eight week period only begins after the application is accepted as a valid application by the Council.
- 2.3 It is necessary to ensure the Council has in place a decision making process that will ensure the timely determination of these applications.
- 2.4 If the Council fails to determine an application within the prescribed period, the application can appeal to the Secretary of State who will then determine the application.

3. **Proposal**

- 3.1 It is therefore recommended that the Scheme of Delegation be amended to include within the list of applications where the determination is delegated to the Head of Development Management, the following additional category of application namely :-

“Applications pursuant to Schedule 18 of the High Speed Rail (West Midlands - Crewe) Act 2019 when it comes into force.”

4. **Reasons for Proposed Solution**

It is essential the Council has in place an appropriate process to ensure Schedule 18 applications can be determined in a timely manner. The inclusion of this category of application within the current scheme of delegation will allow for such applications to be determined timely and expediently.

5. **Options Considered**

5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1

5.2 To not include Schedule 18 applications within the scheme of delegation to the Head of Development Management. This is not recommended.

5.3 If an application can only be determined at a meeting of the Planning Committee, the 4 weekly cycle for meetings will increase the risk that an application may not be determined within the prescribed statutory timescale, particularly given the 6 week consultation period for these submissions. This would then result in an appeal process for non-determination which would add to the burden on Council resources.

5.4 Where the Council fails to make a decision in time the application will be appealed against for non-determination and the Council loses control of the decision making process

Option 2

5.5 Include the Schedule 18 applications within the scheme of delegation and treat them as if they were a planning application with the same call-in provisions. This is not recommended.

5.6 The uncertainty of an application being called-in or not and this process being linked to the 4 weekly cycle for meetings will increase the risk that an application may not be determined within the prescribed statutory timescale. This would then result in an appeal process for non-determination which would add to the burden on Council resources.

5.7 Again, where the Council fails to make a decision in time the application will be appealed against for non-determination and the Council loses control of the decision making process

Option 3

5.8 To invoke other constitutional change to establish a process whereby Councillors will convene as and when required to determine an application submitted under Schedule 18. This is not recommended.

5.9 This would increase the burden on Councillors. It is not recommended at this time, given that the number of applications or the frequency of submissions is not clear. The full impact cannot therefore be assessed.

6. **Legal and Statutory Implications**

The proposed amendment to the scheme of delegation requires the approval of full Council and will enable the expedient and expeditious determination of applications submitted relating to the

HS2 railway. This will reduce the risk associated with persistent non-fulfilment of the obligations set out within the deed agreement and loss of control of the decision making process if appeals are made against non-determination of the applications.

7. **Equality Impact Assessment**

N/A

8. **Financial and Resource Implications**

HS2 will pose a new burden for Council services. A Service Level Agreement will be negotiated with HS2 Ltd to ensure that the Council is fully reimbursed for the additional work generated through the consents and approvals process.

9. **Major Risks**

If the Council fails to determine an application within the prescribed period, the application will be deemed to have been refused and the applicant may then appeal to the Secretary of State who will then determine the application.

10. **Sustainability and Climate Change Implications**

N/A

11. **Key Decision Information**

N/A

12. **Earlier Cabinet/Committee Resolutions**

The Council resolved to become a Qualifying Authority on 24th July 2019.

13. **List of Appendices**

None.

14. **Background Papers**

None.

APPEAL BY MR DAVID HULME AGAINST THE DECISION OF THE COUNCIL TO REFUSE RETROSPECTIVE PLANNING PERMISSION FOR DORMERS TO EXISTING BUNGALOW FRONT AND REAR TOGETHER WITH A FLAT ROOF INFILL AREA TO FORM STORAGE

<u>Application Number</u>	18/01001/FUL
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	28th August 2019

The Inspector identified the main issue to be the effect of the dormers on the character and appearance of the area and the original building

In dismissing the appeal the Inspector made the following key comments and observations:-

- The appeal site is a detached building located at the end of a cul-de-sac. It was built with planning permission for a 'granny annexe'. Although set back from the cul-de-sac and partly obscured by No. 28 and a garage, it can be partly seen from the cul-de-sac.
- The dormers significantly change the character and appearance of the building which was designed as an ancillary building providing living accommodation.
- Due to the large and prominent dormers, it is of a design that does not appear as an ancillary outbuilding but as a disproportionate, top heavy building.
- The dormers pay no regard to the design of the original building and have introduced a dominant element to what would have been a modest building.
- The proposal would have a harmful effect on the character and appearance of the area and on the building itself and conflict with Policy CSP1 of the Core Spatial Strategy, Policy H18 of the Local Plan and the guidance in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document. The appeal therefore fails.

Recommendation

That the appeal decision be noted.

This page is intentionally left blank

**APPEAL BY MR G ADAMS AGAINST THE DECISION OF THE COUNCIL TO REFUSE
OUTLINE PLANNING PERMISSION FOR A DETACHED DWELLING AT LAND
ADJACENT TO FARCROFT, MANOR ROAD, BALDWIN'S GATE**

<u>Application Number</u>	18/00674/OUT
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	30th August 2019

The Inspector identified the main issue to be whether occupiers of the proposed development would have satisfactory access to shops and services having particular regard to the availability of sustainable transport modes.

In dismissing the appeal the Inspector made the following key comments and observations:-

- Policy SP1 of the Core Strategy sets out spatial principles of targeted regeneration and seeks to direct new housing to sites within identified areas. The two key aspects of this policy are (1) which sets out the locations where new housing will be primarily directed towards and (7) which prioritises the use of previously developed land where it can support sustainable patterns of development and provide access by transport modes other than private motor vehicles.
- The Council and appellant agree that Policy SP1 of the Core Strategy is out of date. The general aim of the policy, however, to prioritise the use of previously developed land where it can support sustainable patterns of development and provide access by transport modes other than private motor vehicles generally accords with the Framework. As such, the Inspector afforded this policy significant weight.
- Paragraph 78 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. The appellant indicates that the site is located approximately 650m due west of the settlement edge of Baldwin's Gate, with all of the services that exist within the settlement being approximately within 1200-1600m (or less) actual walking distance. These facilities and services include the nearest petrol filling station, post box, bus stop, shop/post office, public house/restaurant and primary school. Whilst future occupants would provide some support for the nearest local services, being for one property, it would only make a very limited contribution and therefore the Inspector gave this benefit limited weight.
- The Manual For Streets (MfS) guides that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes (up to about 800m) walking distance of residential areas, which residents may access comfortably on foot. The walking distances for future occupiers of the appeal site to access the nearest facilities would be in excess of this guideline. The appellant estimates walking times of approximately 15 minutes to the nearest bus stop, 18 minutes to the nearest primary school, and 19 minutes to the nearest public house and shop.
- MfS states that this 800m guideline for walkable neighbourhoods is not an upper limit. Furthermore, the distances in MfS are indicative and do not provide firm thresholds. As such, it is necessary to assess the suitability of the route for pedestrians. In this case, the route would, for a significant part, be along Manor Road and Madeley Road. These roads do not include footpaths or street lighting. Whilst a grass verge exists for part of the route, it does not provide a particularly safe or suitable pedestrian refuge. Consequently, it would be likely that pedestrians would routinely encounter conflict with vehicular traffic. These circumstances do not lend themselves to safe use by pedestrians. Similarly, the lack of street lighting would be unlikely to encourage cycling to the nearest services and facilities after dark. These factors would not encourage the healthy lifestyles and community building supported by paragraph 91 of the Framework.
- It is acknowledged that the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. The appellant

refers to the 'dial-a-ride' service provided by Border Cars and states that a bus service is provided at Baldwin's Gate and that it is intended to provide on-plot car charging infrastructure. Nevertheless, the lack of suitable walking route to the nearest facilities and services for future occupiers would significantly reduce the likelihood that generated car trips would be replaced by sustainable journeys.

- For all the above reasons, there would be a lack of sustainable transport choices available to enable future residents to conveniently access services and facilities. The likely reliance on the private motor car for access to everyday services would not support walking, with its attendant health and community building benefits, contrary to the provisions of the Framework. The proposal would also conflict with the aims of Policy SP1 of the Core Strategy relating to targeted regeneration prioritising the use of previously developed land where it can support sustainable patterns of development and provide access by transport modes other than private motor vehicles.
- The appellant referred to a number of appeal decisions, including at Gravel Bank, Waggon and Horses and The Workshops. In relation to the Gravel Bank appeal, it is evident that much of the route to Loggerheads includes a well-lit footway. With reference to the Waggon and Horses decision, the proposal related to the redevelopment of a fire damaged public house. In the case of The Workshops decision, the Inspector found that the proposal would likely see a reduction in trips made by private car when compared with the existing situation. The appellant also referred to an appeal decision at 133 Smithy Lane where the Inspector attributes moderate weight to the harm of accessing the nearest facilities by private motor vehicle. In each case, the Inspector made a planning judgement based on the specific proposal and its particular merits. On the basis of the evidence before him, the Inspector did not find any clear comparisons between those other schemes and the one before him. In any event, he considered this appeal on its own merits.
- There is no dispute between the parties that the site lies outside of any defined development boundary or village envelope and is, therefore, located in the open countryside for the purposes of applying planning policy. The appeal proposal does not satisfy any of the listed requirements of Policies H1 or ASP6 and therefore conflicts with them.
- Only limited weight is given to the conflict of the proposal with Policies H1 of the Local Plan and ASP6 of the Core Strategy given their conflict with the Government's objective of significantly boosting the supply of homes. Moderate weight is given to the conflict of the proposal with Policy SP1 of the Core Strategy by virtue of the lack of access by transport modes other than private motor vehicles to the nearest facilities and given the policy's aim to encourage re-use of previously developed land where it provides access to services and service centres by foot, public transport and cycling.
- The Inspector acknowledged that the proposal would result in some economic and social benefits, including through its construction and as a result of a slight increase in spending and patronage of facilities in the local area. The proposal would also make a limited contribution to the Government's objective of significantly boosting the supply of homes. He stated that he was aware of the importance of windfall housing and that housing targets should not be considered as a cap on the delivery of housing however, as the proposal is for a single dwelling, the social and economic benefits identified would be limited.
- There would be environmental and social harm arising from the lack of sustainable transport choices available to enable future residents to conveniently access services and facilities. The lack of suitable walking routes to local facilities would not encourage the healthy lifestyles and community building supported by paragraph 91 of the Framework.
- Overall, the above identified adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole. The proposal would not represent sustainable development.

Recommendation

That the appeal decision be noted.

APPEAL BY MR CHRIS SANDERS AGAINST THE DECISION OF THE COUNCIL TO REFUSE PLANNING PERMISSION FOR A DETACHED DWELLING IN THE EXISTING GARDEN OF 149 HIGH STREET, SILVERDALE

<u>Application Number</u>	18/00618FUL
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Dismissed
<u>Date of Appeal Decision</u>	3rd September 2019

The Inspector set out the following procedural matters prior to considering the merits of the proposed development:

- No consideration was given to the reason for refusal relating to the requirement for a financial contribution following the Council withdrawing this reason.
- Plans relating to a pre-application request made following the refusal were submitted with the appeal, however as the Council or any other interested party, had not had the opportunity to comment on the revised drawing, the Inspector did not consider such plans. The appeal was determined on the basis of the drawings considered by the Council.

The Inspector identified the main issue to be whether the proposal would provide satisfactory living conditions for its future occupiers, by way of privacy.

In dismissing the appeal the Inspector made the following key comments and observations:-

- The appeal site is at the back of the rear garden serving No 149 High Street and fronts on to Park Road, to the south of the site. There is a significant drop in land levels between Park Road and High Street with a retaining wall accommodating most of the change in levels.
- The appeal proposal is for the erection of a detached chalet bungalow fronting on to Park Road with a garden area to the north side of the bungalow and the existing dwellings on High Street.
- The two first floor rear windows at No 149 and the first floor rear window at the dwelling currently being constructed in the side garden of No. 149 would, by way of close proximity to the proposed bungalow, result in an unacceptable level of overlooking. The users of the rear garden and the lounge/kitchen in the proposed bungalow served by the rear window would have little privacy. The change in land levels would not mitigate against overlooking and the Inspector was not convinced, from the information available, that the provision of a fence would be sufficient to screen the rear garden or windows from overlooking from the first floor windows at No. 149.
- It was raised that the impact from overlooking and the loss of privacy would not be unacceptable as the room affected is not a bedroom and, as there is a second window serving the room, is not a principal window. However the SPG considers the privacy of kitchens, lounges and bedrooms to be equally important. Furthermore the rear window is full sized and clear glazed and so users of this room would therefore be susceptible to overlooking. These matters do not, therefore, mitigate the harm found.
- The proposed dwelling would fail to provide satisfactory living conditions for its future occupiers. The proposal would therefore conflict with paragraph 127(f) of the NPPF and the SPG guidance which seek development to provide a high standard of amenity, both internally and externally, for existing and future occupiers.

Recommendation

That the appeal decision be noted.

This page is intentionally left blank

APPEAL BY MR MATT THOMPSON AGAINST THE DECISION OF THE COUNCIL TO REFUSE TO GRANT PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT FOR 4 DWELLINGS AT LAND OFF LIVERPOOL ROAD EAST, KIDSGROVE

<u>Application Number</u>	18/00912/FUL
<u>LPA's Decision</u>	Refused under delegated powers
<u>Appeal Decision</u>	Allowed
<u>Date of Appeal Decision</u>	7th October 2019

The Appeal Decision

The Inspector identified the main issue for consideration to be whether the proposal would be inappropriate development within the Green Belt.

In allowing the appeal the Inspector made the following key comments and observations:-

- The Framework identifies that the fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open. It states that inappropriate development is harmful and should not be approved other than in a limited number of exceptions.
- Paragraph 145 of the Framework states that the construction of new buildings should be regarded as inappropriate in the Green Belt subject to a number of exceptions. The appellant seeks to rely upon the exception contained in paragraph 145 e) which relates to limited infilling in villages.
- The appeal site is an overgrown parcel of land on the northern side of the A50 Liverpool Road East between dwellings at No 47 and No 57. Opposite the appeal site, there are a number of businesses including a garage and showroom. The Council accepts that the appeal site does constitute a gap within a continuous ribbon of development extending from the defined urban area of Kidsgrove and can be considered to be in a village. It is agreed that the appeal site is in a village for the purposes of "limited infilling in a village".
- The Council does not however consider that 4 dwellings is limited. Two other appeal decisions are referred to by the parties with regard to the interpretation of limited. The Council considers that the two decisions illustrate that limited infilling in villages includes an assessment of location with regard to surrounding development to qualify under the exception. Each case will need to be assessed on its own merits. In the appeal decisions referred to, there was no agreement that the appeal sites were in a village location and a detailed assessment of the location was therefore necessary. The Council has however accepted that the appeal site is within the village and has recently granted planning permission for two dwellings on the appeal site. The appeal proposal for four bungalows would continue the existing row of bungalows and would not appear to be overdevelopment or out of context having regard to surrounding development.
- There is no Framework definition of limited infilling. However, The Oxford English Dictionary defines limited as restricted in size, amount or extent. Having regard to that definition and the agreement that the appeal site is in a village, it is considered that the appeal proposal for four dwellings would fall within the exception of limited infilling within a village.
- As an exception falling within Paragraph 145 e) of the Framework, the appeal proposal is therefore not inappropriate development in the Green Belt.
- The appeal is allowed subject to conditions.

Recommendation

That the appeal decision be noted.

This page is intentionally left blank