

The application seeks a variation of condition 2 of planning permission 17/00179/FUL, for the proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking, to substitute the approved plans with revised plans. The proposed plans show a reduction to the footprint of the proposed building, along with alterations to site levels, revised site layout, external elevations and slight changes to the internal arrangements,

The site lies within the urban area close to Newcastle town centre. The site is adjacent to but not within the Stubbs Walk Conservation Area. The site extends to approximately 0.10 hectares. The site lies within a Live-Work Office Quarter as indicated in the Town Centre Supplementary Planning Document

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

The statutory 13 week determination period for the application expires on the 22nd November 2017

RECOMMENDATION

A. Subject to the applicant first entering by the 13th December 2017 into a Deed of Variation of the existing S106 agreement to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space and the provision of policy-compliant on-site affordable housing, if the development is not substantially commenced by 22nd June 2018, and the payment of such a contribution and the provision of such affordable housing if found financially viable, PERMIT the application subject to conditions relating to the following matters:-

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

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

Reason for recommendation

The proposed reduction to the footprint and changes to the site layout, elevations and levels would not result in a development that would raise any significant concerns given the scheme permitted under 17/00179/FUL and it continues to accord with policies of the development plan and the guidance and requirements of the NPPF subject to conditions and a Deed of Variation to the S106 agreement to reflect the new planning permission.

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

The applicant has submitted amended and additional information during the consideration of the application to address concerns raised by consultees and the proposed development is now still considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

The application seeks a variation of condition 2 of planning permission 17/00179/FUL, for proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking, to substitute the approved plans with revised plans.

In considering an application to vary a condition, the authority has to consider only the question of the conditions subject to which planning permission may be granted. If the Authority considers that planning permission may be granted subject to different conditions it can do so. If the Authority considers that the conditions should not be varied it should refuse the application. The condition which the applicant is seeking to vary is that which lists the approved drawings. No changes are being sought to the number of the units within the development. The changes sought are to the design of the development. The principle of the development is not therefore for reconsideration.

The proposed plans seek a reduction in the footprint of the proposed building, along with slight changes to the internal arrangements, alterations to site levels, revised site layout, and external elevations.

The scheme has been revised since the application's submission following objections from the Environmental Health Division (EHD) regarding the location of windows and doors which may lead to an unacceptable noise impact from neighbouring noise sources on the future occupiers of the residential units. This issue was an issue in the consideration of the previous application and was addressed by excluding window openings in the Hassell Street (side) elevation and external doors on the Marsh Parade (front) elevation, along with acoustic performance specification for windows, doors and the roof construction. The applicant has submitted a further revised scheme which again addresses this issue to an acceptable level and EHD have now removed their objection. The conditions of the original permission are still recommended.

An objection to the revised scheme was also received from the Landscape Development Section regarding the impact on the Lime Tree at the front of the site and the lack of replacement tree planting being specified. These issues were concerns of the LDS and your officers in the consideration of the previous application and the applicant managed to address the concerns, subject to a number of conditions.

A further revised scheme has been submitted since the application's submission which once again addresses the original concerns regarding the impact on trees and suitable tree replacement, subject to the previous conditions attached to the original permission.

In terms of the design, scale and layout, the revised scheme broadly remains the same as was originally permitted but does provide a more compact arrangement through the rationalisation of fire escapes and apartment access, in particular the stairwell close to the northern boundary of the site. This allows more space within the site for car parking and outdoor amenity space

The number of car parking spaces is increased from the previously approved scheme from 9 to 10 spaces and this is considered to be an improvement despite 9 spaces being considered acceptable in this location which has good access to facilities and a range of modes of travel.

In law the consequence of the granting of an application to vary a condition of a planning permission would be the creation of an entirely new planning permission rather than an amendment of the existing one (17/00179/FUL in this case). That previous permission was granted on the 23rd June 2017 following the completion of a Section 106 agreement which included a requirement for a financial reappraisal should the development not be substantially commenced within 12 months of the date of the planning permission (i.e. by 22nd June 2018), and the payment of such policy compliant contributions as could be afforded towards public open space, along with the requirement to provide policy compliant affordable housing within the scheme.

As discussed the scheme remains broadly the same as that previously permitted and whilst there would be a slight reduction in the footprint of the building the Gross Development Value and costs of the development will be broadly similar to the previous scheme. The report of the District Valuer was dated the 3rd January 2017 and it is possible that other assumptions within the financial appraisal may have changed since this time. However, the applicant has confirmed that they are confident that a substantial commencement of the development can still be achieved by the 22nd June 2018.

A new S106 agreement will need to be secured to reflect that the development may proceed under the terms of the new permission and this can be done by a deed of variation of the original agreement with the 22nd June 2018 still being the date by which substantial commencement must be achieved to avoid a reappraisal.

In summary the development, with the changes proposed, continues to accord with policies of the development plan and the guidance and requirements of the NPPF.

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APPENDIX

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

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006 - 2026 (Adopted 2009) (CSS)

Policy SP1	Spatial Principles of Targeted Regeneration
Policy SP3	Spatial Principles of Movement and Access
Policy ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP2	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy H1	Residential Development: Sustainable Location and Protection of the Countryside
Policy N3	Development and Nature Conservation – Protection and Enhancement Measures
Policy N4	Development and Nature Conservation – Use of Local Species
Policy B10	The requirement to preserve or enhance the character or appearance of a Conservation Area
Policy B14	Development in or Adjoining the Boundary of Conservation Areas
Policy B15	Trees and Landscape in Conservation Area
Policy T16	Development – General Parking Requirements
Policy C4	Open Space in New Housing Areas
Policy IM1	Provision of essential supporting infrastructure and community facilities

Other material considerations include:

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

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

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD](#) (2009)

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

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

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

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

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

Relevant Planning History

N12592 (1983)	Change of use to offices	Permitted
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08/00882/FUL Demolition of existing buildings and erection of a single storey building to be used as a place of worship with associated parking Refused

16/00630/FUL Proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking Withdrawn

17/00179/FUL Proposed demolition of existing buildings and the erection of a 4-storey apartment block with parking Permitted (23.06.2017)

Views of Consultees

The **Highway Authority** raises no objections subject to conditions which secure the access, parking, servicing and turning areas; pedestrian visibility; weatherproof parking for cycles; closing of the existing access; the proposed access being ungated and the submission and approval of a Construction Method Statement.

The **Environmental Health Division** indicates that based on the updated information, they are satisfied with the revisions to the scheme which show that the ground floor external doors have been removed from the Marsh Parade elevation and that the rooms on the Hassell Street elevation achieve compliance with the acoustic design criteria such that noise from the Rigger Public House should not affect amenity. Accordingly, they remove their earlier objection subject to conditions requested for 17/00179/FUL being imposed in full to safeguard residential amenity.

The **Landscape Development Section** indicates that further to the revised layout they raise no objections subject to there being no requirement for levels changes, or a boundary wall within the RPA of the retained TPO'd Lime tree, and subject to the following planning conditions: Approval of an Arboricultural Method Statement (to cover the amenity space within the RPA of T1); Approval of Tree Protection Proposals Full landscaping proposals; Approval of proposals for boundary treatment; and Alignment of Utility Apparatus.

The **Urban Design and Conservation Officer** indicates that she has no further observations to make.

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

Representations

None received.

Applicant/agent's submission

The application is accompanied by revised plans and these can be **viewed at the Guildhall or using the following link.**

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00722/FUL>

Background Papers

Planning File

Development Plan

Date report prepared

19th October 2017