

The application is for the change of use from a public house (with first floor apartment) into 8 no. self-contained studio apartments

The site lies within the urban area of Newcastle-under-Lyme as defined on the Local Development Framework Proposals Map.

**The 8 week period for the determination of this application expired on the 15<sup>th</sup> May 2018.**

#### **RECOMMENDATION**

**REFUSE for the following reason:-**

1. **Without an appropriate secured financial contribution relating to public open space the additional demands upon open space arising from the additional dwellings 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 (2012).**

#### **Reason for Recommendation**

Whilst the principle of the conversion of the public house to 8 residential units is supported; it has been demonstrated that acceptable amenity levels for future occupiers can be achieved and the additional units would not exacerbate an existing on street car parking problem an appropriate financial contribution towards public open space has not been secured. The applicant has provided, in support of the current application, additional financial information which seeks to demonstrate that the public open space contribution required to comply with policy will render the scheme unviable. The validity of that argument is being independently reviewed and the outcome of that review is awaited. A further update will be given taking into account that expected information.

#### **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 validity of viability argument made by the applicant is being independently assessed and when received that will be taken into consideration.

#### **Key Issues**

The application is for full planning permission for the conversion of the Silver Birch public house in Silverdale into 8 self-contained one bedroom studio apartments single house.

The building is located within the urban area and this part of Silverdale has no specific land use designations, as indicated on the Local Development Framework Proposals Map

Whilst external alterations are proposed they are minor in the context of the conversion works and are considered to be acceptable. The key issues in the determination of the development are considered to be the following:

- The principle of the conversion of a public house into residential units;

- The acceptability of resultant amenity levels;
- Parking and the impact on highways safety; and
- Is a financial obligation towards public open space provision necessary?

#### The principle of the conversion of a public house into residential units

The existing public house is located within the urban area of Silverdale and local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

Policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - sets a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026 and a target of at least 3,200 dwellings within Newcastle Urban Central (within which the site lies).

Policy SP1 of the CSS states that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling. The Core Strategy goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

The application involves the conversion of a public house into 8 new one bedroom residential units in a sustainable location within the urban area. The site is in easy walking distance of the shops and services of Silverdale with regular bus services to destinations around the borough and beyond. This is a sustainable location for additional residential development.

The loss of the public house is a consideration and policy C22 of the local plan details that development that would result in the loss of an important community facility will need to demonstrate that it can be replaced.

The application is supported by the current owner (landlady) of the public house which sets out that it has been marketed for 3 years with 3 different companies and there has been limited interest in taking over the public house.

There are a number of other public houses within close proximity which offer similar community benefits and it is not considered that the loss of this public house would adversely affect the community or services on offer in the area.

The additional residential accommodation proposed (a net increase of 7 one bed residential units) will make a contribution to the supply of housing land, which can be taken into account when calculating the 5 year supply of deliverable housing sites within the Borough.

The conversion of this public house to residential in a sustainable urban location is considered to comply with policies SP1 and ASP6 of the CSS, and policy H1 of the local plan. However in accordance with paragraphs 14 and 49 of the National Planning Policy Framework (NPPF) such policies are out of date as, in the opinion of your officer, the Authority is currently unable to robustly demonstrate a five year supply of specific, deliverable housing sites (plus an additional buffer of 20%) as required by paragraph 47 of the NPPF due to a lack of a full objective assessment of need.

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

#### The acceptability of resultant amenity levels

The rear of the building has a large area which is proposed to be used as a communal patio

and garden for future residents. This is considered adequate for future occupiers to sit out, dry washing and store bins and cycles.

The proposed development would therefore meet the guidance and requirements of the current NPPF, in particular paragraph 17.

#### Parking and the impact on highways safety

NLP policy T16 states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem. The current NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. LPAs have also been encouraged not to set maximum limits on the amount of parking either.

The existing public house is situated in a row of terraced properties with terraced properties adjacent also. Therefore there is limited opportunity for off street car parking and it is likely that many residents park on the street. This is a particular character of the area.

If the parking standards as set out at Appendix 2 to the Local Plan (which is 1 space per 6m<sup>2</sup>) in excess of 40 parking spaces would be required as a maximum. There is no onsite parking provision for the public house and therefore any parking associated with that lawful use would be accommodated on street. The maximum standards are set as 1 space per single bedroom dwellings, plus an additional space for every 3 dwellings for visitors. When such standards are applied to this development a maximum of 11 spaces are required.

Objections have been received regarding existing on street car parking problems in the area and they consider that 7 additional units would exacerbate this problem. The Parish Council have also objected indicating that a new development nearby has not been taken into consideration in the survey. Given that the level of parking required for the residential use proposed compared to the existing use as a public house is considerably less it is considered that this argument would be difficult to sustain.

In addition the application is supported by a car parking demand survey which concludes that surrounding streets can accommodate the proposed car parking demands of the proposed development. It indicates in particular that on-street parking beat surveys have demonstrated that 55 on-street spaces are available in the locality which would meet the demand for the proposed conversion. This report is available for members to view on the planning application file.

The Highways Authority has also raised no objections to the application, subject to a condition that secures weatherproof cycle parking for 8 cycles. There is opportunity for this cycle parking to be provided at the rear of the building.

Subject to the above condition it is concluded that the proposed development is unlikely to exacerbate an existing on street car parking problem and by virtue of the sustainable location and alternative modes of travel on offer - walking, cycling and public transport, the development would meet the guidance and requirements of the NPPF.

#### Is a financial obligation towards public open space provision necessary

Saved Local Plan policy C4 (part of the approved development plan) does not support the seeking of a contribution for developments of less than 10 units or less than 0.4 ha. Policy CSP5 of the more recent Core Spatial Strategy (also part of the development plan), indicates that developer contributions will be sought to provide a key funding source to meet the needs of new residents and for the delivery interalia of the Urban North Staffordshire Green Space Strategy and any approved revisions or replacement strategies. There is such a replacement

strategy, the Open Space Strategy that was adopted by Cabinet at its meeting on the 22nd March 2017.

The recommendation contained within the Development Strategy of the OSS was that as good practice for residential development 0.004 ha per dwelling of open space should be provided for the total number of dwellings; and that such open space will be provided in areas of not less than 0.1 ha regardless of development size. It goes on to indicate that a cost model for offsite contributions will need to be agreed based upon a Table contained within the OSS that is itself an update of the cost model that was contained within the 2007 Urban North Staffordshire Green Space Strategy.

In this case LDS are not seeking open space on the site itself but instead are requesting a contribution of £5,579 per additional residential unit. In this case 7 units because one unit is discounted owing to the fact that the existing public house has a residential apartment.

Both the Local Plan and the Core Spatial Strategy form part of the approved development plan for the area. Para 215 of the Framework indicates that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that can be given).

A new draft Framework currently being consulted on by Central Government takes a broadly similar approach to that of the current Framework. Additionally it sets out that where proposals for development accord with all the relevant policies in an up-to-date development plan no viability assessment should be required to accompany the application. Whilst that is acknowledged it is the contents of the existing Framework which carry the most weight in forming a decision on the proposal. And those are the terms now applied.

In this case the CSS is more up to date than the Local Plan. In addition the application of the Open Space Strategy in the determination of planning application is consistent with paragraph 73 of the current Framework (and paragraph 97 of the draft) which indicates that policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. Both the current and draft Framework also sets out that information gained from the assessment should be used to determine what open space, sports and recreational provision is required.

The development applied for is well below the Local Plan (LP) policy C4 trigger threshold and it could be argued that the request is contrary to policy. It is, however, considered that the contribution accords with the CSP5 of the Core Spatial Strategy which, as indicated above, specifies that developer contributions will be sought in accordance with the Green Space Strategy or any approved or replacement Strategy. As this policy is more up to date and is fully compliant with the Framework it should be given greater weight than LP policy C4.

Any developer contribution to be sought must be both lawful, having regard to the statutory tests set out in Regulation 122 and 123 of the CIL Regulations, and take into account guidance. It must be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in scale and kind to the development.

It must also comply with national planning practice guidance on the seeking of contributions for small scale developments. Most importantly ministerial policy as set out in a Ministerial Statement of the 28th November 2014, since confirmed by the Court of Appeal in May 2016, indicates that “tariff-style contributions” should not be sought from developments of 10 units or less which have a maximum combined gross floor space of no more than 1,000 square metres. The proposal is such a development.

A tariff style contribution is defined as one where the intention is to require contribution to pooled funding pots intended to fund the provision of general infrastructure in the wider area.

The LDS have indicated that the contribution in this case would be applied to playground facilities at Silverdale Park which is a 320m walk away from the site, so whilst the amount is calculated on a “sum per dwelling” basis it does not meet the definition in the Guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such contributions in this case.

The LDS have also identified another area of POS in close proximity but it is considered that Silverdale Park is more likely to be used by future residents of the proposed development.

The current and draft Framework advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

The contribution being sought is considered to meet the statutory tests. It is necessary to make the development acceptable in planning terms and directly related to this residential development (it seeks to address the additional demands upon open space which residential development brings) and is fairly and reasonably related in its scale – the Open Space Strategy setting out a detailed methodology to demonstrate how the capital element of the sum (£4,427) is calculated whilst the maintenance element (£1,152) represents 60% of the costs of 10 years maintenance – a figure in line with that sought by other LPAs, according to the Strategy, per residential unit. Having said that these calculations are based upon the provision of family homes and as such an element of the contribution is for play areas. Given that the accommodation proposed will not be occupied by families an adjustment would need to be made to the level of contribution to deduct the element towards play. The OSS details that £512 of the total £4,427 capital element is for play areas and therefore reducing the required sum by that amount as well as a proportionate amount for the maintenance element which equates to £134, the reduced amount would be £4,933 for each of the seven additional units proposed.

For the avoidance of doubt it can be confirmed that the obligation would not be contrary to Regulation 123 either.

It is acknowledged by the Councils Supplementary Planning Document on Developer Contributions highlights that in some circumstances an applicant may believe what is being asked for by the Council will render a scheme unviable. Paragraph 173 of the current Framework also states that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

In such circumstances, for the Council to be persuaded to reduce its requirements, the onus is on the applicant to justify how and why special circumstances apply. In this case the applicant has stated within their submission that the scheme cannot support the requested policy compliant contribution towards POS and the District Valuer’s advice is being sought by the Authority. A further report will therefore be provided following receipt and assessment of the independent appraisal information anticipated.

## APPENDIX

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

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

|              |  |
|--------------|--|
| Policy SP1   | Spatial principles of Targeted Regeneration                      |
| Policy SP3   | Spatial principles of Movement and Access                        |
| Policy ASP5  | Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy |
| Policy CSP1  | Design Quality   |
| Policy CSP3  | Sustainability and Climate Change                                |
| Policy CSP5  | Open space, sport, recreation                                    |
| Policy 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 C4   | Open Space in New Housing Areas   |
| Policy C22: | Protection of Community Facilities  |
| Policy IM1: | Provision of Essential supporting Infrastructure                                |

### Other Material Considerations

National Planning Policy Framework (March 2012)

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

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

[Draft revised National Planning Policy Framework](#)

Supplementary Planning Documents/Guidance

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

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

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

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

Planning History

None considered relevant to the determination of this planning application.

Views of Consultees

The **Highways Authority** raises no objections subject to a condition which secures secure weatherproof parking for 8 cycles.

The **Environmental Health Division** raises no objections subject to a condition to limit construction hours and to secure design measures within the development.

**Landscape Development Section** has no objection to this proposal but request a S106 contribution by the developer for capital development/improvement of off-site open space of £4,427 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £5,579 per dwelling. This contribution would be used for improvements to playground facilities at Silverdale Park which is a 320m walk away or new playground facilities (developer owned off Sutton Avenue) which is 260m walk away.

**Silverdale Parish Council** objects on the grounds that the parking survey does not take into account the new development which has now restricted parking and the survey is considered out of date. They also do not wish to see another House in Multiple Occupation.

### Representations

Four letters of representation have been received, one in support and three objections.

The three letters of objection set out the following concerns;

- Church Street, Silverdale is a narrow street lined with Victorian terraced properties with no other alternative but to park on the main road – for the most part the cars are mounted on the pavement on both sides of the road due to the lack of space;
- The introduction of eight more residential dwellings is likely to bring additional vehicles to an already very heavily congested area. This will have a detrimental effect on road safety and that of its existing residents;
- In recent weeks spare land (often used for parking) on the corner of Chapel Street/Church Street has undergone building development thus reducing the number of areas used for off street parking;
- Church Street is also the favoured road for emergency vehicles (due to the lack of speed bumps as situated on the High Street).
- There is enough building work going on in Silverdale.

The one letter of support is from the owner of the public house and indicates that parking has never been a problem.

### Applicant/agent's submission

The planning application is supported by the requisite application forms and indicative plans, along with the following supporting documents;

- Car Parking Demand Report;
- Home Rentals Supporting letter;
- Financial Contributions statement and viability report;
- A statement from the current owner;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00148/FUL>

### **Background Papers**

Planning File  
Planning Documents referred to

### **Date Report Prepared**