

LAND ADJACENT, 45 MORAN ROAD, KNUITON
ASPIRE HOUSING

18/00465/FUL

The application is for the construction of two flats (for affordable rent by Aspire Housing).

The site lies within the Urban Area of Newcastle under Lyme as defined on the Local Development Framework Proposals Map.

The development has been called to the Planning Committee for determination by Councillor Kearon and Councillor Johnson due to a range of public concerns to the proposal.

The 8 week period for the determination of this application expires on 21st August 2018.

RECOMMENDATION

A. Subject to the applicant first entering into a section 106 obligation securing a financial contribution of £9,866 towards public open space improvements and maintenance at a location to be agreed with the Landscape Development Section, by 9th November 2018, PERMIT subject to conditions relating to:-

- 1. Time Limit.**
- 2. Plans.**
- 3. Approved external materials.**
- 4. Detailed hard and soft landscaping provision.**
- 5. The provision of parking and turning areas.**
- 6. Provision of surface water drainage provision.**
- 7. Provision of secure weatherproof cycle storage.**
- 8. Site investigation and remediation works to deal with historical coal mining risk.**
- 9. Construction operational hours outside of the hours of 18:00 and 07:00 Monday to Friday, no time on Sundays, Bank Holidays or after 13:00 on any Saturday.**

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning either refuse the application on the grounds that without the obligation being secured, the development would fail to secure an appropriate contribution for off-site public open space which would reflect the infrastructure needs of the development; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The site is in a sustainable location where the broad principle of new housing is acceptable. There are benefits in the proposed residential development – namely boosting local affordable housing supply as well as the related social and economic advantages new housing brings to the area. Whilst the development will lead to the loss of a small amount of undeveloped greenery within the existing street scene the overall scale, design and appearance of the scheme is considered to have an

appropriate impact to the character of the area. A satisfactory amount of off street car parking can be provided and there are no harmful impacts arising to neighbouring residential living conditions. Further consideration is being given as to where a public open space contribution could be spent, and it is anticipated that such a contribution could be justified.

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

Subject to conditions and legal agreement the proposal is considered to be a sustainable form of development.

Key Issues

The application is for the erection of two, one bedroom apartments. The footprint of the development measures approximately 58 square metres and is two storeys in height. The overall site area is 290 square metres. The key issues to consider are:-

1. Is the principle of residential use acceptable in this location?
2. Is the design and appearance of the development acceptable?
3. Is the impact to neighbouring living conditions acceptable?
4. What is the impact to highway safety and is it acceptable?
5. What financial contributions are appropriate (if any) in order to secure planning permission?
6. Given the site is within a high risk coal mining area is it safe for the development to proceed?

1. Is the principle of residential use acceptable in this location?

Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy CSP5 of the Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) sets out for the period 2006 – 2026, a minimum of 4,800 net additional dwellings will be provided within the urban area of Newcastle under Lyme. Of which Newcastle Urban Central (including Silverdale, Thistleberry, Knutton, Cross Heath, Chesterton and the Town Centre) was earmarked to provide 3,200 dwellings with Knutton as a particular location to secure investment in line with regeneration aims.

Paragraph 117 of the National Planning Policy Framework 2018 (the Framework) states that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 11 of the Framework states that Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 12 also highlights that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

Whilst your officers are seeking to bring a report on the five year housing land supply position to the Committee (following the publication of the revised NPPF on the 24th July) the position at the time of writing is that the Borough Council has yet to determine that it is able to demonstrate a supply of deliverable housing sites sufficient to provide a minimum of 5 years' worth of housing against its local housing need (the appropriate test given its adopted strategic policies are more than 5 years old, the Council having accepted that the Core Spatial Strategy requires updating). As such whilst policies on the location of housing within the Development Plan are supportive of the proposal they are out of date and have limited weight. However even if the Council were to determine that it does have such a supply, and policies on the supply of housing are not out of date, such policies are supportive of the principle of the development given the location.

The site is presently undeveloped. It is a small wedged shaped grassed area which lies between existing residential properties at the corner of Moran Road. The site is within a sustainable urban location (highlighted as such by the Councils Core Spatial Strategy) within short walking distance of abundant local service provision and access to regular public transportation to the Town Centre and beyond. Regard is also paid to the economic and social benefits additional housing provides (commensurate to the provision of 2 affordable rented units in the area). There is therefore a presumption in favour of residential development on this site unless the adverse impact of granting permission outweighs other planning considerations. More detailed matters are now considered.

2. Is the design and appearance of the development acceptable?

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.

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.

The dwellings on Moran Road are predominantly terraced properties interspersed with some semi-detached dwellings either side of the road. A small number of surrounding properties have independent parking areas within the front garden but most properties still have front gardens or yards and are mostly separated from the highway verge by mature hedgerow and to a lesser extent fencing or walling.

The one bedroom flats proposed will break away from the existing pattern of terraced development in this location. The development will also lead to the removal of an existing area of greenery which has an open pleasant aspect observed from the highway. The flats have been designed to resemble a detached or semi-detached property with front the elevation detailing incorporating a gable – the appearance of which is evident on surrounding properties as a reference point. The applicant also proposes to use a red coloured facing bricks for the external walls and grey coloured roofing tiles for the roof similar to the building materials evident in the area. Whilst the development does not entirely replicate the form of housing in the area it is sensitively designed exhibiting some design features of surrounding properties including similar external facing materials. Overall subject to the use of planning conditions securing appropriate external facing materials along with complimentary hard and soft landscaping the view taken is that it would have an acceptable impact on the visual appearance of the area.

3. Is the impact to neighbouring living conditions acceptable?

Supplementary Planning Guidance (SPG) Space about Dwellings provides guidance on the assessment of proposals on matters such as light, privacy and outlook. An acceptable level of separation is achieved between other neighbouring properties in accordance with the SPG. Although no outdoor garden space is proposed within the scheme there are publically available open space areas within a short walking distance for the residents of the apartments. The first floor of the development will lead to some overlooking of existing neighbouring garden space but the relationship would be similar to that of other properties which can overlook gardens at first floor level in the area.

4. What is the impact to highway safety and is it acceptable?

The most up to date planning policy (contained within the Framework) indicates 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. At paragraph 106 the Framework states that maximum parking standards for residential and non-residential development should only be set where there is clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport.

Saved policy T16 of the Newcastle-under-Lyme Local Plan (NLP) 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, and furthermore that development may be permitted where local on-street problems can be overcome by measures to improve non-car modes of travel to the site and/or measures to control parking and waiting in nearby streets. The car parking standards set out in the Appendix to the Local Plan state no more than 1 space per each one bedroom unit.

2 off road parking spaces are to be provided by the scheme. The Highway Authority do not object to the proposal subject to the provision of parking and turning areas as proposed, surface water drainage provision and secure weatherproof cycle storage by condition. Overall subject to those conditions there are no highway safety concerns.

5. What financial contributions are appropriate (if any) in order to secure planning permission?

Paragraph 34 of the Framework states that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

Saved NLP 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 residential unit. A total contribution of £11,158 for the development.

Both the NLP and the CSS form part of the approved development plan for the area. In this case the CSS is more up to date than the NLP. In addition the application of the Open Space Strategy in the determination of planning application is consistent with paragraph 96 of the Framework 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.

The development applied for is below the local plan 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 CSS 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 contributions to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The Landscape Development Section have indicated that they propose that the contribution in this case would be applied to improvements to the Moran Road play area which is 160 metres away from application site, so whilst the amount is calculated on a “sum per dwelling” basis it is not considered to 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 Framework advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 1 of the Framework states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Taking into account that the development involves one bedroom apartments which are not for family occupation the contribution to a local play area requested by the Landscape Development Section is not considered to meet the statutory tests outlined. It is not necessary to make the development acceptable in planning terms or directly related to this residential development and therefore cannot be requested on that basis. There are, however, areas of open space within the vicinity of the site that the occupiers of the development would use, as indicated above. As has been the practice in other cases involving accommodation not intended for families, it would be appropriate to secure a contribution towards improvements of one of these areas provided that a suitable project can be identified. As such the Landscape Development Section has asked reconsider their request and provide further advice as to where such a contribution could be spent and on what project. An update will be given on that once their views have been received and considered.

6. Given the site is within a high risk coal mining area is it safe for the development to proceed?

The application site falls within a defined Development High Risk Area. Therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. Records indicate that the application site has been subject to past coal mining activities, which has left a legacy of recorded geological fault across the western part of the site. The Coal Authority have assessed the applicants technical information acknowledging this and advise subject to appropriately worded planning conditions requiring site investigation and any remedial work necessary the risks posed to human safety would be 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 Policy	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial
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 T18	Development servicing requirements
Policy C4	Open Space in New Housing Areas
Policy IM1:	Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations

National Planning Policy Framework (March 2012)

[National Planning Policy Framework](#) (July 2018)
[Planning Practice Guidance](#) (PPG) (March 2014)

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)

Planning History

None relevant.

Views of Consultees

The **Coal Authority** has no objections subject to conditions requiring:-

1. The submission of a scheme of intrusive site investigations for approval, to locate and assess the fissure / ground conditions;
2. The submission of a report of findings arising from the intrusive site investigations;
3. The submission of a scheme of remedial works for approval, if required;
4. Implementation of the agreed remedial works.

The **Environmental Health Division** has no objections to this application subject to the restriction of construction operational hours outside of the hours of 18:00 and 07:00 Monday to Friday, no time on Sundays, Bank Holidays or after 13:00 on any Saturday.

The **Highway Authority** has no objections (their initial comments of objection where sent in error) subject to conditions relating to:-

1. The provision of parking and turning areas.
2. Provision of surface water drainage provision.
3. Provision of secure weatherproof cycle storage.

Landscape Development Section has no objection to this application with a condition to secure the approval of landscaping proposals as well as a contribution by the developer for capital development/improvement of offsite open space of £4,427 in addition to £1,152 for 60% of maintenance costs for 10 years. Total contribution £11,158. To be used to upgrade surfacing at the Moran Road play area which is 160 metres away.

Representations

A signed petition of some of some 63 signatories has been received raising the following concerns:-

- The development would remove useful open space where children to play.
- The development will exacerbate parking problems.
- The development is overbearing and reduces privacy.
- Safeguarding children in the area from new occupants could be a problem.

Applicant/agent's submission

Application forms and plans have been submitted along with Ecological Survey, Phase 1 Contamination Study and Design and Access Statement. The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00465/FUL>

Background Papers

Planning File.
Planning Documents referred to.

Date Report Prepared

29th August 2018.