

The application is for the change of use of the first and second floor offices into 4 no. self-contained apartments. The ground floor would remain in Class A2 (financial and professional) use.

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 17th September 2018, however the applicant has agreed an extension to the determination date until the 9th of November.

RECOMMENDATION

APPROVE: Subject the following conditions

A. Subject to the applicant first entering into a Section 106 agreement by 6th December to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space, if the development is not substantially commenced within 12 months from date of the decision, and the payment of such a contribution 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. Secure weatherproof parking for 4 cycles**

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 circumstance, and, in such circumstances, the potential provision of policy compliant financial contributions towards public open space; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The development is located within a sustainable urban area, which results in the development being considered acceptable in principle. The design of the scheme, highways safety and implications in relation to residential amenity are considered acceptable subject to conditions. It is accepted, following the obtaining of independent financial advice, that the scheme is not viable if policy compliant financial contributions towards public open space are queried and whilst it is recommended that these policy requirements are not sought, given the contribution the development makes to housing supply, a Section 106 agreement is required to secure a review mechanism should substantial commencement not be achieved promptly.

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

The Authority has required additional information during the consideration of the planning application in order to address specific concerns, and has arranged for an independent financial review of the viability of the scheme.

Key Issues

The application seeks full planning permission for the conversion of first and second floor office space into 4 no. self-contained apartments.

The building is located in the urban area, in a prime location on Wolstanton High Street. This part of Wolstanton has no specific land use designations, as indicated on the Local Development Framework Proposals Map.

There are no external alterations proposed to the building and so the key issues in the determination of the development are considered to be the following:

- The principle of the conversion of offices to residential units;
- The acceptability of resultant amenity levels
- Parking and the impact on highway safety; and
- Is a financial contribution towards public open space provision necessary?

The principle of the conversion of offices into residential units

The existing building is located within the urban area within Wolstanton District Centre 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 1,000 additional dwellings in Newcastle Urban South and East Area, within which the site lies, in the period 2006 – 2026.

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 provide 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.

Furthermore, Policy H1 of the Newcastle Local Plan (NLP) indicates that planning permission for residential development will only be given in certain circumstances – one of which is that the site is within the urban area of Newcastle or Kidsgrove.

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.

The National Planning Policy Framework (NPPF) advises, at paragraph 11 that decisions should apply a presumption in favour of sustainable development. It goes on to say that 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 NPPF 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.

Footnote 7 indicates that out-of-date as referred to in the second bullet point 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.

The Council, following the adoption of the latest five year housing land supply statement at Planning Committee on 27th September, can now demonstrate a housing land supply of deliverable housing sites, allowing for the appropriate buffer, of 5.45 years. The policies of the Development Plan referred can therefore be considered to be up to date and can be given due weight given that they are not inconsistent with the NPPF.

The application involves the conversion of offices into 4 new one bedroom residential units in a sustainable location within the urban area. The site is within easy walking distances of the shops and services available in Wolstanton with regular bus services to destinations around the borough and beyond. It is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and employment opportunities.

The proposed development complies with local and national planning policy guidance. The construction of 4 residential units would contribute to the area's housing supply and the principle of residential development on this site is considered acceptable.

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

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.

There is no outdoor amenity space provided on site for the occupiers of the new residential units. Given the proximity of the site to public open space at Wolstanton Marsh and Wolstanton Park, it is not considered that the lack of amenity space on site would result in unacceptable living conditions for the occupiers of the development.

The main living areas would be served by the existing windows to provide a source of light and outlook which would provide sufficient levels of residential amenity to future occupiers.

Parking and the impact on highway safety

Policy T16 of the Local Plan states that development will not be permitted to provide more parking than the maximum levels specified in the Local Plan Table 3.2. The policy goes on to specify that development which provides significantly less parking than the maximum specified standards will not be permitted if this would create or aggravate a local on street parking or traffic problem. Such a policy is however of limited weight as it not in accordance with the Framework. The Framework indicates at paragraph 106 that maximum parking standards for residential and non-residential development should only be set where there is a 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. In a Ministerial Statement of March 2015 the then Secretary of State indicate that the government is keen to ensure that there is adequate parking provision both in new residential developments and around our town centres and high streets.

There is no private parking proposed as part of the development. However, the site is in a town centre location and has sufficient access to public transport; therefore the lack of allocated parking would not have a detrimental impact on the surrounding road network.

The building is currently in A2 use with all three floors utilised as office space. In this circumstance Policy T16 of the NLP stipulates that a maximum of 26 parking spaces should be provided in association with the 458 square meters of floor space. The four residential units proposed would substantially reduce the parking demands associated with the building, and so would not contribute to worsening the existing parking situation.

The Highway Authority has also raised no objections to the application, subject to a condition that secures weatherproof cycle parking for 4 cycles. There is opportunity for this cycle parking to be provided at the rear of the building.

Is a financial obligation towards public open spaces provisions 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. £4,933 per additional residential unit, in this case the development would create an additional 4 units and so the total contribution sought amounts to £19, 732.

The revised NPPF details 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. The onus is on the applicant to demonstrate whether particular circumstances would justify the need for a viability assessment at the application stage.

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 has indicated that the contribution in this case would be applied to furnishings and groundwork improvements to Wolstanton Park facilities which is approximately 530m away, 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 style contributions in this case.

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 four additional units proposed, giving a total of £19,732..

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. 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.

An independent review has been undertaken with regard to viability on the basis that the applicant considers that the POS contribution requirements requested by the Council will render the scheme unviable. The contents of the viability appraisal are considered to comply with the requirements set out in the National Planning Practise Guidance on viability.

The report concludes that the scheme is a very marginal development without any requirements to pay financial contributions and as such would be unable to support the additional cost of the public open space. The development therefore would not be able to support any level of financial contribution, and the scheme would be unviable if the requested POS contribution was to be secured.

The contents of the submitted Viability Appraisal are clear and whilst the development cannot support policy compliant contributions, the scheme would contribute towards housing availability within the Borough and as such should be permitted without the requirement to pay the policy compliant contribution towards public open space. Any permission granted should be subject to a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months from the date of any decision on the application, and then payment of an appropriate contribution, if the scheme were to be found capable of financially supporting these features.

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 SP1: Spatial Principles of Targeted Regeneration
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 IM1: Provision of Essential supporting Infrastructure

Other material considerations include:

[National Planning Policy Framework](#) (July 2018)

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

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

[Supplementary Planning Guidance/Documents](#)

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

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

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

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

[Waste Management and Recycling Planning Practice Guidance Note](#) approved in 2003 and last updated in February 2016

[Relevant Planning History](#)

None

[View of Consultees](#)

The **Highway Authority** raises no objections to the application subject to appropriate cycle parking facilities being provided prior to the development being first brought into use.

The **Landscape Development Section** raises no objections to the application and recommends a S106 contribution by the developer for capital development/improvement of off-site open space of £3,915 per dwelling in addition to £1,018 per dwelling for 60% of maintenance costs for 10 years. Total contribution: £4,993 per dwelling. This would be used for furnishings and groundworks improvements to Wolstanton Park facilities on Church Lane, 530m from the application site.

Representations

None.

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/18/00467/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

25th October 2018