

The application is for outline planning permission, with all matters reserved, for the formation of 9 new (net) dwellings involving clearance of existing single (1) bungalow and erection of building to contain up to 10 apartments along with on site parking and site access.

The site area concerned is approximately 1350 square metres. The site lies within the Urban Area of Newcastle under Lyme as defined on the Local Development Framework Proposals Map.

The 13 week period for the determination of this application expired on 10th December 2018 but the applicant has agreed to extend the statutory period until 31st January 2019.

RECOMMENDATION

REFUSE for the following reasons:-

1. Given the limited size of the site and the number of apartments that are proposed, the proposed development and associated bin storage facilities would have a cramped appearance that would be out of keeping with and visually harmful to Poplar Avenue. The proposal would therefore be contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Policies R3 and R12 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Supplementary Planning Document, and the aims and objectives of the National Planning Policy Framework (2018).

2. The development is likely to lead to the loss of, or damage to, visually significant mature trees which will be detrimental to the appearance of the area contrary to Policy N12 of the Newcastle under Lyme Local Plan and the aims and objectives of the National Planning Policy Framework (2018).

3. The proposed development, given the limited size of the site and the number of apartments that are proposed, would be of a scale that would result in an unacceptable overbearing impact on, and loss of privacy to, the occupants of the adjoining properties. In addition the requirements to provide sufficient bin storage space for the number of units proposed and the disturbance associated with collection of the waste and recycling material would further negatively impact upon and the amenity of neighbouring properties. The proposal would therefore be contrary to the aims and objectives of Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 and the aims and objectives of the National Planning Policy Framework (2018).

4. 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 Policy 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 (2018).

Reason for Recommendation

The site is in sustainable location where the broad principle of new and replacement housing is acceptable. There are also benefits to allowing additional new housing to occur on the site—namely boosting local housing supply as well as the related economic advantages new housing brings to the area. However the scale of the development to accommodate the number of units envisaged would result in a development which is out of keeping and harmful to the character of Poplar Avenue. Visually significant trees are likely to be damaged and/or removed as a result of the development and, due to the scale of the development, there will be a lack of space for meaningful replacement landscaping. The impact to neighbouring occupants would be overbearing and likely to erode privacy. There is also concern that the provision which needs to be made for bin storage would also have an adverse impact on the visual appearance of the scheme, the wider street scene and general amenity. The Council's Open Space Strategy (as a material planning consideration) triggers a requirement for a public open space financial contribution for the development. The lack of a legal agreement, "on the table", to pay an appropriate financial contribution of £50,211 towards the upgrade of public open space provision is therefore a further reason to refuse planning permission.

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

There are fundamental objections to the density of the development which haven't been addressed by the applicant. It is therefore considered that the proposals are unsustainable and do not conform to the core planning principles of the National Planning Policy Framework and it is considered that the applicant is unable to overcome the principal concerns in respect of this development.

Key Issues

The application is for outline planning permission for the demolition of an existing residential property and the construction of up to 10 apartments on the cleared site. All matters of detail (layout, scale, appearance, landscaping and access) are reserved for subsequent approval however indicative plans have been submitted with the application showing that 6, 2 bedroom units are proposed and 3, one bedroom units are envisaged within a single block. 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. What is the impact to trees?
4. Is the impact to neighbouring living conditions acceptable?
5. What is the impact to highway safety and is it acceptable?
6. What financial contributions are appropriate (if any) in order to secure planning permission?

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

Core Spatial Strategy (CSS) Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say 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.

CSS Policy ASP5 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. Within the overall urban area figure quoted a total of 3,200 are anticipated by the policy in the neighbourhood of Newcastle Urban Central (which includes Silverdale, Thistleberry, Knutton, Cross Heath, Chesterton and the Town Centre).

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 site is within the urban centre of Cross Heath which is recognised by the Core Strategy as a highly sustainable location for additional residential development. The site presently contains an existing dwelling.

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.

Policies are considered to be out of date, in the consideration of applications involving the provision of housing, in 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 of the Framework 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.

The current position is that the Council considers that there is 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).

The redevelopment of the site would involve the efficient re-use of previously developed land. The site is within a highly sustainable urban location (highlighted as such by the Councils Core Spatial Strategy) within short walking distance of abundant local service provision along London Road (A34) and access to regular public transportation to the Town Centre and beyond. Regard is also paid to the economic benefits of additional housing. 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 site lies within an established residential area. There is a detached bungalow to one side of the application site on Poplar Avenue, and a pair of semi-detached, two storey, dwellings to

the other side. The existing property on the site to be demolished is also a detached bungalow. Other dwellings along Poplar Avenue are two storey in height with a variety of architectural styles evident but predominantly semi-detached.

To the rear of the site is Poplar Court which comprises of three storey flats. The character of Poplar Court is markedly different to the street scene of Poplar Avenue which is the primary public highway the development would be viewed from.

Whilst layout, scale and appearance are reserved at this stage the view of your Officer is that 10 apartments on the application site would result in a development of a scale that would appear shoe horned onto the site and which would be inappropriate relative to other existing properties on Poplar Avenue.

Further consideration of the issue visual impact is given in the following section relating to impact to trees and impact on living conditions.

3. What is the impact to trees?

Saved policy N12 of the Local Plan 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.

The Landscape Development Section object to the scheme on the basis that that the indicative gabion retaining wall and the raising of ground levels for the new drive are not acceptable within the Root Protection Areas (RPAs) of the sycamore tree and the lime tree (annotated as T6 and T7 within the submission) in the adjacent property. They are also concerned that new surfacing is likely to damage the root systems of both trees. Insufficient space has been left at the front of the plot for any meaningful landscaping, nor to mitigate the loss of the 4 existing trees shown to be removed.

Existing mature trees currently provide high visual amenity value to Poplar Avenue, particularly the sycamore (shown as T3 on the applicant's plans). Not all of the area to the rear of the current building within the RPAs of the important beech trees T8 and T9 is currently surfaced and it is not yet demonstrated that potential parking areas can be achieved without harm or loss of those trees. Whilst the applicant's agent has sought to refute this technical advice the case made is not convincing and your Officer's conclusion is that the concerns about the impact of the proposed development on the trees and the visual impact that the loss of the trees would have to the area weighs significantly against the granting of planning permission as does the limited scope for meaningful replacement and landscaping that there would be within the site given the scale of development proposed.

4. 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 can potentially be achieved between the development and the two storey dwellings opposite the site which would accord with the SPG's minimum separation distances. The position and orientation of numbers 12 and 14 Poplar Avenue, a pair of semi-detached two storey dwellings, is of concern particularly when it is noted that they are set at a lower slab level than the application site. Number 8 Poplar Avenue also a bungalow is likely to have a reduced standard of living conditions also. A development of the density proposed is therefore likely to have an overbearing impact to neighbouring residents and result in significantly reduced privacy particularly with regard to use of rear garden areas. A further matter also arises with likely bin storage provision which would be substantial in terms of its visual prominence owing to size in the confines of the site and the appropriateness of its proximity to neighbouring properties –leading to lower amenity levels.

5. 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. In 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.

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 that 2 or 3 bedroom properties should provide a maximum of 2 off road parking spaces. 1 bedroom properties are specified to provide one parking space with an extra visitor space per every three units.

The Highway Authority has no objections to the scheme subject to the agreement of a site layout which include parking and turning areas. The site is in a very sustainable urban location close to public transportation links to the Town Centre and beyond and bearing that in mind it is considered that the site could accommodate sufficient parking spaces to meet the needs of the development.

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 for the additional dwellings in addition to the existing 6 two bedroom apartments would request £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 for the 6 two bedroom apartments (allowing for the existing dwelling). For the three single bedroom apartments the play area element as itemised in the OSS (£512) and a proportionate amount of the maintenance contribution (£134) should be deducted, leaving £3915 for the capital element and £1018 for maintenance reduced amount £4,933 per dwelling. However given all matters of detail are reserved and as such the precise number of bedrooms is not known at this stage

it would not be appropriate to specify, within any planning obligation, a total amount of the contribution. The obligation would therefore need to state that of £4,933 for each one bedroom unit is required and for all other units £5,579 is required.

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 Douglas Road play area which is 550 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.

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. The contribution for any one bedroom units would be reduced by an appropriate amount as already detailed.

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

The applicant has not yet confirmed if they intend to enter into an obligation for the amount specified and no Section 106 agreement is 'on the table'. The Council's obligation requirements outlined above are consistent with other planning decisions for minor residential development and deemed to be necessary to allow planning consent to be granted. Therefore without an appropriate legal agreement to secure financial contribution towards public open space any refusal of this application would need to incorporate that added ground.

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 N12	Development and the Protection of Trees
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](#) (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](#)

Severn Trent Water has no objections subject to conditions requiring:-

1. Drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and fully implemented thereafter.

Staffordshire Police advise that given its location on a conventional residential street and sandwiched between two bungalows, the possible construction of what is likely to be a two-storey apartment block will result in potential for noise nuisance arising from coming and going at unsocial hours, and issues of overlooking. There are apartment blocks screened to the rear in Poplar Court, but a lower density accommodation would be more in keeping with the location and less likely to be provide the opportunity to generate any issues.

Notwithstanding the above, should the proposal proceed, the applicant is directed to Secured by Design Homes 2016 document available online where several security measures could be incorporated into the scheme. This includes communal entrance doorsets, apartment entrance doorsets and ground floor/accessible windows which have been tested and importantly, have third party certification to recognised minimum manual attack-resistant

standards. A reserved matters application should demonstrate in the site layout how crime prevention and community safety measures have been considered in the design proposal.

The Council's **Waste Management Section** comment that the proposal indicates that bin storage would be near the front of the site, which enables collections in a way which meet their manual handling and health and safety requirements. However information is required to clarify that the store area will be screened in a way which prevents it being visible from the road, as it would otherwise be vulnerable to antisocial behaviour. The store will also need fencing in some way to prevent it being parked on by residents and to make it less intrusive to neighbours – especially with regard to potential odour. Given the number of properties proposed there is concern that presenting the bins in the standard way will cause obstructions on the pavement and cause visibility issues for drivers. Therefore, rather than install individual containers for recycling and refuse it is proposed to install shared facilities which the collection crew will bring from the store to the freighter and return them after emptying. This is likely to comprise of 2 x 660ltr refuse bins and shared recycling containers.

The **Environmental Health Division** has no objections subject to conditions requiring:-

1. No construction activity on the site between the hours of 18:00 and 07:00 Monday to Friday, no time on Sundays, Bank Holidays or after 13:00 on any Saturday.
2. Agreement of measures to secure adequate internal and external noise levels provided by the development.

The **Highway Authority** has no objections subject to the following conditions:-

1. Approval of means of access, layout of site including disposition of buildings and provision of parking and turning areas within the site curtilage; surfacing materials for the access drive, parking and turning areas; means of surface water drainage for the access drive, parking and turning areas.
2. Prior approval of a Construction Method Plan (CMP) and its implementation on commencement of the scheme.

The **Landscape Development Section** object to the scheme on the basis that the proposed gabion retaining wall and raising of ground levels for the new drive are not acceptable within the Root Protection Areas of the sycamore tree T6 and the lime tree T7 in the adjacent property. They are also concerned that the proposed surfacing is likely to be greater than 20% of the existing unsurfaced ground within the RPA of both trees. Insufficient space has been left at the front of the plot for any meaningful landscaping, nor to mitigate the loss of the 4 existing trees shown to be removed. These trees currently provide high visual amenity to Poplar Avenue, particularly the sycamore T3. Not all of the area to the rear of the current building within the RPAs of the important beech trees T8 and T9 is currently surfaced and further information is required to demonstrate that the proposed parking areas can be achieved. There must be no changes in ground level and any proposed hard surfacing should be of 'no dig' construction and should not exceed 20% of any existing unsurfaced ground within the RPA of each tree.

If permission is granted it is requested that a contribution by the developer for capital development/improvement of offsite open space. Allowing for the existing dwelling, for the additional 6 two bedroom apartments would request £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. For the three single bedroom apartments the play area element as itemised in the OSS (£512) and a proportionate amount of the maintenance contribution (£134) should be deducted, leaving £3915 for the capital element and £1018 for maintenance reduced amount £4,933 per dwelling. This will be used for improvements to Douglas Road play area which is approximately 670m away.

Representations

4 representations have been received raising the following concerns:-

- Submitted boundary details are not accurate.

- The scheme will cause highway safety detriment on Poplar Avenue (which is one way in the section which joins to the A34), Poplar Court and the A34 owing extra vehicles on the road.
- The drainage system cannot accommodate extra development.
- Healthy mature trees will be put at risk of removal or damage.
- The driveway proposed will result in lower privacy levels to number 12 Poplar Avenue as well as unacceptable disturbance arising from comings and goings.

Applicant/agent's submission

Application forms and indicative plans have been submitted along with an arboricultural report. The application documents are available for inspection at the Guildhall and via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00692/OUT>

Background Papers

Planning File.
Planning Documents referred to.

Date Report Prepared

11th January 2019.