

The application is for full planning permission for alterations to the building to form 4 no. C4 apartments and use of part of the ground floor for use classes A1, A2, A3, A4, A5 & D1

The application site is 8-10 High Street but is more commonly known as the former Poundstretcher site. It is located within the Primary Shopping Area of Newcastle town centre as indicated on the Local Development Framework Proposals Map and within the Newcastle Town Centre Conservation Area. In terms of the Newcastle Town Centre Supplementary Planning Document (SPD) the site lies within the "Northern Quarter".

The statutory 8 week determination period for this application expired on the 10th December but the applicant has agreed an extension of time to the statutory determination period to the 8th March 2019.

RECOMMENDATION

A. Subject to further clarification regarding viability that confirms the conclusion that the scheme is unviable if any level of contribution is required; and

the applicant first entering into a Section 106 agreement by 5th April 2019 to secure a review mechanism of the scheme's ability to make a policy compliant financial contribution of £19,732 (index linked) towards to public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such contributions 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. Shop front details and colour specification**
- 4. Joinery details for windows, doors and roof lights**
- 5. Archaeological watching brief**
- 6. Cycle Parking**
- 7. Noise survey**
- 8. Design Measures to Secure Noise Levels**
- 9. Construction hours**
- 10. External lighting**
- 11. Mechanical Ventilation/Extraction**
- 12. Suitable fume extract system**

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 and there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly; 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 highly sustainable urban area, which results in the development being considered acceptable in principle. The design of the scheme, highway safety and noise impacts are considered acceptable subject to conditions. It would appear following the obtaining of independent financial advice, that the scheme is not viable if policy compliant financial contributions or

any level of contributions towards public open space are required. Further information is being sought and subject to clarification it is concluded that whilst it is recommended that these policy compliant requirements are not sought, given the contribution the development makes to housing supply and the redevelopment benefits of this site, 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 in a positive and proactive manner in dealing with this application

The Authority has requested additional information during the consideration of the planning application to address specific concerns, and has arranged for an appraisal of the viability of the scheme.

KEY ISSUES

The application seeks full planning permission for alterations to a partially constructed building that was the subject of fire damage in 2011 which resulted in its demolition. Planning permission for its replacement was granted under application 12/00218/FUL with a variation of condition application granted under 14/00483/FUL. The building is known as the former Poundstretcher.

The application is to form 4 no. C4 – Large Houses in Multiple Occupation (HMO) apartments and use of part of the ground floor for use classes A1, A2, A3, A4, A5 & D1

The site lies within Newcastle Town Centre and its Conservation Area, as indicated on the Local Development Framework Proposals Map.

The main issues for consideration in the determination of this application are accordingly:-

- The principle of residential development
- External alterations and impact on the character and appearance of the Conservation Area
- Car parking and highway safety
- Residential amenity matters, and
- What financial contributions, if any, are required?

Principle of residential development

The proposed development is for residential units on the upper floors of the three storey building and on part of the ground floor. The remainder of the ground floor would be in use as A1, A2, A3, A4, A5 & D1.

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.

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 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. Such policies are supportive of residential development in this location.

In respect of the ground floor element of the building the application seeks use classes A1, A2, A3, A4, A5 & D1. These being as follows;

- Class A1 – shops and retail outlets
- Class A2 – professional services e.g. estate agents
- Class A3 – food and drink
- Class A4 – drinking establishments
- Class A5 – hot food and takeaway, and
- Class D1 - Non-residential institutions e.g. museums, libraries, clinics, non-residential education

The building is only partially constructed and has been in this condition for 1/2 years. It is located within the Primary Shopping Area of Newcastle town centre and in terms of the Newcastle Town Centre Supplementary Planning Document (SPD) the site lies within the “Northern Quarter”.

Policy ASP4 of the CSS indicates amongst other things that “*Opportunities will be taken to maximise the potential for Town Centre living. This will be achieved primarily as part of high density, mixed use schemes designed to contribute positively to the character, vibrancy and sustainability of the Town Centre.*”

Neither the NPPF nor the Newcastle Town Centre SPD rule out any of the uses proposed.

Overall, therefore, the development is considered to be acceptable in principle.

Design and Impact on the Character and Appearance of the Area

Paragraph 124 of the recently published revised National Planning Policy 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.

Paragraph 127 of the revised framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

As discussed, planning permission was granted for the replacement of the building under application reference 12/00218/FUL and a subsequent variation of condition application granted under 14/00483/FUL. The works have substantially commenced and the walls and roof are constructed, but it is not completed as windows and doors need to be installed, and internal works still necessary.

The development could be completed under 12/00218/FUL and 14/00483/FUL and condition approval applications have been approved. There are some changes to window details of the previous permissions but these could be secured via condition and any permission would need to reflect the proposed changes and the details already approved under the previous permission. This has been agreed with the applicant.

Amended plans have been submitted to address the concerns of the Council's Conservation Officer and, subject to conditions, the proposed alterations are considered acceptable and in accordance with development plan policies and the guidance and requirements of the NPPF.

Car parking and any highway safety implications

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 is 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 indicated 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.

No onsite parking is proposed, however the building is located within the town centre which has a number of public car parks nearby and good links public transport, services and amenities. The absence of parking is considered to be acceptable therefore.

The Highway Authority has raised no objections subject a condition that secures weatherproof cycle storage arrangements which is considered to be justified.

The proposed development is considered a sustainable form of development.

Impact on the amenity of the area

Paragraph 127 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

The building is located within the town centre, which has a mix of neighbouring uses that have associated noise and odour generating activities.

The building would, in part, have residential units on the ground floor, the first floor and second floor. Therefore there is potential conflict between the proposed uses within the building, as well, as with the neighbouring uses. This has resulted in the Environmental Health Division recommending a number of conditions to protect the proposed residential units from noise and odours. These are considered appropriate and subject to these conditions the development is considered to be in accordance with the guidance and requirements of the NPPF.

What financial contributions, if any, are required?

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.

The Landscape Development Section (LDS) have indicated that the proposed development would require a contribution of £5,579 per dwelling to be secured for Public Open Space (POS) improvement and maintenance. However, LDS have requested the contribution should be spent on public realm within the town centre for improvements/ maintenance to signage, benches and planters.

Given that the accommodation proposed will not be occupied by families and the money would be spent on public realm 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 units proposed which amounts to £19,732

The sum, it is proposed, would be applied to the upgrade of public realm within the town centre. The Council's Supplementary Planning Document for Developer Contributions refers to contributions towards public realm improvements as being a type of developer contribution that the Council is likely to seek.

The new NPPF marks a significant change in the approach to be adopted to viability in planning decisions. It indicates 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, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. In the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised. The scheme does provide benefits, which include the redevelopment of a site that has been left undeveloped for a number of years and has offered no visual merit within the street scene or, more importantly the character and appearance of the conservation area. The development would also contribute to housing supply in the Borough. These benefits are considered to outweigh the harm caused by the lack of a contribution towards public realm improvements in the town centre that would be the result were no financial contribution made to adding to that infrastructure.

The applicant has stated that the scheme cannot support the requested policy compliant contributions and the independent financial viability advice from Butters John Bee (BJB) has been obtained by the Authority. This concludes that the scheme is not viable with policy compliant financial contributions and when asked to confirm what, if any, financial contributions the scheme could support, BJB has confirmed that the scheme would be unviable if any level of contribution is required, even if the payment of such a contribution is deferred. Indeed the conclusion is that the development is unviable if no contribution is required.

Yours officers have also specifically asked BJB whether the status of part of the ground floor being in use as A1, A2, A3, A4, A5 & D1 alters the conclusions of the viability report. BJB has indicated that the commercial element of the building has been excluded from the appraisal because the retail area already exists, albeit not in use since the fire, but it could be let and occupied regardless of the planning application. Therefore the viability appraisal does include the commercial element and has no costs associated with it. Whilst that is understood further clarification is required and as such further information will need to be reported in this regard.

Assuming that conclusion remains that the scheme would be unviable then it will not proceed and as such will not contribute to the supply of housing in a sustainable location and will not assist in housing

delivery. In addition the partially constructed building will continue to have a detrimental impact on the character of the Conservation Area. These are material considerations and in light of such considerations it is concluded that it would not be appropriate to insist upon the payment of the public realm improvements.

The application will still need to be the subject of a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the remaining works to complete the development does not occur within 12 months of the date of any decision on the application, and then payment of an appropriate contribution towards public realm, if the site 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 ASP4: Newcastle Town Centre Area Spatial Policy
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP2: Historic Environment

[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 T17: Parking in Town and District Centres
Policy T18: Development – Servicing Requirements
Policy B5: Control of Development Affecting The Setting of a Listed Building
Policy B9: Prevention of Harm to Conservation Areas
Policy B10: The Requirement to Preserve or Enhance the Character or Appearance of a Conservation Area
Policy B11: Demolition in Conservation Areas
Policy B13: Design and Development In Conservation Areas
Policy B14: Development in or Adjoining the Boundary of Conservation Areas
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 Town Centre SPD](#) (2009)

[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

12/00040/CON Demolition of fire damaged building Permitted

12/00218/FUL Erection of a replacement building to be used as a retail/shop unit Permitted

14/00483/FUL Variation of condition 2 to accommodate a steel frame and increased roof pitch, which will vary the proposed external appearance of the building as approved under planning permission ref 12/00218/FUL for the erection of a replacement building to be used as a retail/shop unit Permitted

Views of Consultees

The **Councils Urban Design and Conservation Officer** advises that the alterations to the existing permission, aside from the use, are for the changes to the windows (style) and window and door openings. Whilst there is no justification for the change such a change is accepted as long as such windows are true sliding sash timber windows. Furthermore, there is no justification for the two Juliet balcony's on the rear elevation and they should be reduced down to one. The creation of these new openings will not be harmful to the character and appearance of the Conservation Area providing that the quality of the windows for the rest of the building is retained.

The **Conservation Advisory Working Party (CAWP)** raises no objections to the principle of the application but questioned the viability of student accommodation in this area of the town centre. External rear lighting is advised.

The **Environmental Health Division** raises no objections subject to conditions related to;

- Construction hours,
- Design measures to secure internal and external noise levels,
- External lighting,
- Mechanical Ventilation/Extraction System,
- Suitable fume extract system,
- Assessment of noise and odour impacts from the extraction system to the rear of the Regent Chinese,
- Noise assessment for the impact of the Car park/Service Yard, and
- Electric Vehicle Charging Provision

The **Highways Authority** raises no objections subject to a condition which secures weatherproof cycle parking,

The **Landscape and Development Section** request a contribution by the developer for capital development/improvement of offsite 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 that will contribute to public realm and public spaces in and around the town centre.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** welcomes the redevelopment of the building which has attracted antisocial behaviour. Restricting access to the building to only those who live there should form a fundamental element to the security. They also advise that the external and internal access controlled communal doorsets and the individual bedroom doorsets will need to offer a robust level of security. For the commercial ground floor unit, the glazing and public entrance doorset would need to be sufficiently physically attack resistant.

Representations

None received

Applicant/agent's submission

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00774/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

12th February 2019