

Full planning permission is sought for the temporary variation of Condition 9 of Application Reference 18/00483/FUL which granted consent for 211 rooms of student accommodation, communal areas, a laundry and bike storage on the site of the former Savoy Cinema/Metropolis Nightclub in Newcastle Town Centre. Condition 9 restricts occupation of the building to students only and the temporary variation sought is to allow occupation of the accommodation by any person (student or non-student) until 31st July 2022.

The site lies within the Newcastle Town Centre Conservation Area and the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as lying within the Town Centre Historic Core.

The 13 week period for the determination of this application expired on the 7th October but an extension of the statutory period to 16th October has been agreed by the applicant.

RECOMMENDATION

PERMIT the variation of Condition 9 so that it reads as follows:

9. The development hereby approved shall be occupied by any person (student or non-student) until 31st July 2022 after which date it shall only be occupied by students unless otherwise agreed in writing by the Local Planning Authority.

and subject to the imposition of all other conditions attached to planning permission 18/00483/FUL that remain relevant at this time.

Reason for Recommendation

Given the highly sustainable town centre location of the site opposite the Midway car park and given the parking restrictions on the roads in the vicinity of the site, it is not considered that the highway safety impacts of the occupation of the development by non-students for a temporary period would be so severe to justify a refusal. Given the temporary nature of the application, it is not considered reasonable to request affordable housing provision and given that it is likely that the rooms would remain single person accommodation and that there will be no children among the occupants, it is not considered reasonable to request an additional financial contribution towards public open space.

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

The application is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Key Issues

Full planning permission is sought for the temporary variation of Condition 9 of Application Reference 18/00483/FUL which granted consent for 211 rooms of student accommodation, communal areas, a laundry and bike storage on the site of the former Savoy Cinema/Metropolis Nightclub in Newcastle Town Centre. Condition 9 restricts occupation of the building to students only and the temporary variation sought is to allow occupation of the accommodation by any person (student or non-student) until 31st July 2022. The development has been very recently completed.

The site lies within the Newcastle Town Centre Conservation Area and the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as lying within the Town Centre Historic Core.

The applicant has submitted a letter highlighting the following points:

- Primus Property Group (PPG) only specialise in student studio accommodation and did not submit this application lightly. It has been submitted solely in response to the critical impact COVID-19 has had on their target student market. Out of all 1,000+ units of student accommodation that they have developed across the UK, 100% are studio-only accommodation specifically targeted at post graduates, overseas students and those 2nd and 3rd year undergraduates who want accommodation that has very high security and safety measures, as opposed to HMO accommodation. The business has been built and structured specifically to meet this target market. They do not 'do' standard housing, and this application is a first for them. Therefore, this is not an opportunist application or a clever ruse to prise general purpose housing into the mix.
- As far back as March this year, it was becoming clear that COVID-19 was going to have a disproportionate impact on the Higher Education sector, and specifically Postgraduates and overseas students. The British Council was releasing survey research they had undertaken that showed that there would be at least 14,000 fewer new enrolments from the Far East in 2020-21, compared to 2018-19. The research noted that the biggest segment affected was the 1 year masters/postgraduate sector, who would more likely defer or reconsider their decision. This is a key market segment of The Met's.
- For Keele University and its noted reputation for research, this will have had a material impact. Moreover, for the loss of undergraduates, the carry-over on reduced numbers (and spend) will be felt for at least 2 -3 years. The impact on numbers has been further compounded by the closure of visa offices in China, recession worries, the UK's relatively high infection rate, continued uncertainties on global travel, and the very real risk of a second wave (which many see as a certainty).
- Numerous studies have shown that postgraduates and overseas students prefer studio-only accommodation (like The Met), as opposed to 'claw and cluster' student accommodation or HMOs. The Met provides Newcastle and Keele University a significant asset in this regard, to capture the significant spend this student market segment supports.
- Typically, the accommodation would be 100% let at this point in the academic year. To date they are around 50%. The issue has been compounded by tenancy withdrawals occurring at almost the same rate as new lettings.
- The positive component to this is that the scheme is uniquely suited to support groups such as key workers in town and staff at the Hospital who need to work in clusters or self-isolate as the predicted second wave hits us. Each unit contains its own kitchenette, shower, TV and high-speed internet. The processes are in place to ensure mail or deliveries are delivered to their door. There is a laundrette on site that is booked via a dedicated mobile phone app from each room. Equally room bookings can be structured to support 'bubbles' or 'clusters' of workers.
- The scheme's design and layout is well suited to the temporary mix of uses. Because it was designed to meet the needs of post graduates and overseas students, the main amenity provided is a high class lounge area with no pool tables, cinema rooms etc that would negatively impact on existing students.
- New non-student tenancies will be carefully managed by the professional letting and Management Company. No tenancy contracts will be for more than 51 weeks and these will be structured in length in the second year (if required) to the timescales of the planning approval extension.
- Moreover, the scheme benefits from being directly opposite the Council-owned Midway car park. This has very significant spare capacity. Confirmation from the Council has been received stating that there is availability for at least 100 permits if required. In addition, a capacity survey has been undertaken between the dates of Monday 7th September and Monday 21st September which currently supports a current occupancy of circa 20%. The car park's capacity is for 655 spaces, with less than 150 (on average) being currently used. The scheme's proximity to the main bus terminal is also an obvious advantage.
- This is not a 'clever ruse' to cheat the system. PPG are student accommodation specialists. That is their field and niche, and they want it to stay that way. But these are very much 'unprecedented', dark and gloomy times. As a business, they are doing their best to find a sensible and sustainable short-term solution for a brand new landmark building, which will otherwise sit half empty for the next 2 or so years.

In considering an application to vary a condition, the Authority has to consider only the question of the conditions subject to which planning permission may be granted. If the Authority considers that

planning permission may be granted subject to different conditions it can do so. If the Authority considers that the conditions should not be varied it should refuse the application.

The reason given for the imposition of Condition 9 is as follows:

Because affordable housing requirements and additional contribution requirements to public open space would otherwise be triggered and because the lack of parking provided would not be acceptable for other types of residential occupation having regard to the interests of highway safety.

On this basis, the main issues in the consideration of the application are as follows:

- Is the lack of car parking acceptable?
- Is affordable housing required?
- Is an additional contribution to public open space required?
- Is a planning obligation required?

Is the lack of car parking acceptable?

Saved NLP Policy T17 states that development in Newcastle Town Centre within the ring road will not be permitted to provide new private parking but will be required, where appropriate, to contribute to appropriate improvements to travel to the development. The policy identifies what such improvements may include. Policy T16 of the Local Plan 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 NPPF, at paragraph 109, states 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 of development would be severe. Paragraph 110 states that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, and second to facilitating access to high quality public transport. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets.

The site has no on-site parking provision. The reason given for the imposition of Condition 9 was partly because the lack of parking provided would not be acceptable for other types of residential occupation having regard to the interests of highway safety.

In allowing the appeal for a previous student accommodation scheme on this site in 2018 (Ref. 17/00174/FUL), the Inspector agreed that the University's measures to discourage students from driving to campus and parking their vehicles will have some effect of discouraging students bringing their cars to their place of study. He acknowledged that measures can be secured through conditions and the section 106 agreement which will encourage the use of more sustainable methods of transport such as free bus passes, provision of on-site cycle storage, travel plan monitoring and real time passenger information systems.

The Inspector acknowledged that it is inevitable that some students will wish to use their own vehicles and may wish to park in unrestricted residential streets but concluded as follows:

Given the provisions of the Framework in the light of the Written Ministerial Statement and the package of measures that can be put in place to encourage the use of more sustainable means of transport I have insufficient evidence that in this particular case the proposal would be likely to have a harmful effect on highway safety resulting from additional demand for on-street parking.

The applicant's agent makes the following points regarding car parking and highway safety:

- The original permission requires residents to be offered a 'taster' bus pass that permits free travel for 3 months from the Town Centre to Keele University. The applicant is prepared to

retain that offer albeit that it places a very significant financial burden on the applicant in very uncertain times.

- 110 cycle parking spaces are to be provided.
- No car parking spaces are provided but the site is centrally located within the town centre and close to numerous car parks which have considerable capacity.
- In allowing the appeal for 17/00174/FUL, the Inspector did not rule out non-students. In requiring that occupancy should be restricted to students, he stated that unrestricted residential development *may* not be acceptable. He simply had no information to assess the possibility of wider occupation and that was not the case before him.
- Policy T17 of the Local Plan states that development in Newcastle Town Centre within the ring road *will not be permitted* to provide new private parking. The policy continues to state that where development is permitted in the town centre it will be required where appropriate to contribute to improvements to travel to the development. Such improvements are enshrined within the Travel Plan and the Section 106 obligation.
- Local parking controls are in place in the town centre and accordingly any person choosing to reside in this development will be fully aware of the lack of parking within the development itself and the restrictions in local streets and car parks. The obvious implication of this is that persons wishing to use a car would not choose to live here as it would be far too inconvenient.
- Alternatively, there are numerous car parks in close proximity.
- A Travel Plan is already in place and will be updated to reflect the temporary widening of the condition.
- There is no evidence to demonstrate that the 2 year relaxation of the condition would cause undue pressure on the availability of parking spaces on nearby streets. The lack of parking within the development itself, combined with current parking controls and the availability of space in proximate car parks will not result in any material harm or create or aggravate a local on street parking or traffic problem.

The Highway Authority has no objections to the proposed variation of condition stating that the building is located within Newcastle town centre and is in a very sustainable location with good access to the main bus station, shops and other services. Conditions and S106 measures secured in relation to the previous permission are highlighted and it is noted that secure cycle parking for 110 cycles is provided for the occupiers of the flats. The Highway Authority also notes that the Midway multi storey car park is located directly adjacent to the site and it is understood that permit parking can be obtained if required and there are also parking restrictions (double yellow lines) on The Midway and all other roads within the vicinity of the site.

Although it is acknowledged that the occupation of the building by non-students is likely to lead to more residents owning a car, your Officer concurs with the views of the Highway Authority that given the highly sustainable location of the site opposite the Midway car park and given the parking restrictions on the roads in the vicinity of the site, it is not considered that the highway safety impacts of the development would be severe.

Is affordable housing required?

Section 122 of the Community Infrastructure Levy Regulations states that planning obligations should only be sought where they meet all of the following tests:

- 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.

In relation to 18/00483/FUL, no affordable housing provision (either on-site or an off-site contribution) was required on the basis that the development was for purpose built student accommodation.

The reason given for the imposition of Condition 9 was partly because affordable housing requirements would otherwise be triggered.

The applicant's agent states that in terms of affordable housing provision, this application is seeking a short term variation of the condition in response to unprecedented times and that it is highly unlikely

that any Registered Provider would have interest in what would be a '2 year deal', at the end of which its tenants would have to be removed from the accommodation.

The Housing Strategy Officer agrees that a Registered Provider is unlikely to be interested in taking on any units but considers that a commuted sum should be sought. He asserts that it is an overly optimistic view that this would be for a temporary period and that it would then revert back to being exclusively for students as once the accommodation becomes occupied by key workers, there would be legal difficulties in removing those tenants. On this basis, a commuted sum should be sought for the equivalent value of 25% of the development being affordable and it should be apportioned as 15% social rented and 10% as shared ownership.

The concerns raised regarding legal difficulties surrounding tenancies are not relevant to the determination of this planning application. This would be a matter for the applicant. Although it is the case that occupation of the units by non-students would ordinarily trigger a requirement for affordable housing provision, given the particular circumstances here and the temporary nature of the application, it is not considered reasonable to request provision in this instance.

Is an additional contribution to public open space required?

In relation to 18/00483/FUL, the financial contribution towards public open space was reduced in recognition that all of the units would be single person accommodation. The standard contribution sought is based upon there being on average 2.5 people occupying each dwelling and includes a play element on the basis that children are likely to be among the occupants. The adjustment that was made was to request 2/5ths of the total and to remove the play element of the contribution.

Although the reason for the imposition of Condition 9 was partly that additional contribution requirements to public open space would otherwise be triggered, it is likely that the rooms would remain single person accommodation and that there will be no children among the occupants. Therefore it is considered appropriate to maintain the adjusted contribution. In any event, this is an application for the temporary variation of the condition and there is no suggestion that the applicant would wish to seek unrestricted occupation for any longer than the 2 year period applied for.

On the basis of the above, it is not considered reasonable to request an additional financial contribution towards public open space.

Is a planning obligation required?

In law the consequence of the granting of an application to vary a condition of a planning permission would be the creation of an entirely new planning permission rather than an amendment of the existing one (18/00483/FUL in this case). That previous permission was granted following the completion of a Section 106 agreement which secured a number of financial contributions. In some cases, the applicant is required to enter into a Deed of Variation to the original Section 106 agreement to ensure that the Council's interests are protected. In this instance however, there is a clause within the Section 106 which states that in the event that the Council shall at any time grant a planning permission for a variation of a condition attached to the original planning permission, then references in the S106 to the planning permission shall be deemed to include any such subsequent permissions for variations. On this basis, no planning obligation is now required.

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 SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP3: Sustainability and Climate Change
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy T16: Development – General Parking Requirements
Policy T17: Parking in Town and District Centres
Policy C4: Open Space in new housing areas
Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

Other Material Considerations include:

[National Planning Policy](#)

[National Planning Policy Framework \(NPPF\) \(2019\)](#)

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

[Supplementary Planning Guidance/Documents](#)

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

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

Relevant Planning History

04/01319/FUL	Erection of 12 storey building comprising 92 apartments with commercial/retail at ground level	Refused
05/00103/CON	Demolition of existing buildings	Refused
16/00933/FUL	Demolition of the former Savoy Cinema and the erection of an 11-storey student accommodation building comprising 174 units, communal areas, a laundry and bike storage	Withdrawn
17/00174/FUL	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a 13 storey student accommodation building comprising 227 units	Refused and allowed at appeal February 2018
18/00005/FUL	Demolition of the former Savoy Cinema & Metropolis nightclub and erection of an 11 storey student accommodation building comprising 217 units	Withdrawn
18/0483/FUL	Demolition of the former Savoy Cinema/Metropolis Nightclub and erection of a part 9, part 12 storey building to provide 211 rooms of student accommodation	Approved

Views of Consultees

The **Environmental Health Division** has no objections.

The **Highway Authority** has no objections.

The **Housing Strategy Officer** states that the variation of the occupancy would ordinarily trigger the requirement for affordable housing. In the original application no affordable housing was required due to it being purpose built student accommodation. It is agreed that a Registered Provider is unlikely to be interested in taking on any units as on site affordable housing as a high rise block with a small number of affordable units would present management issues. However, a commuted sum would be sought. It is considered an overly optimistic view that this would be for a temporary period and that it would then revert back to being exclusively for students. Once the accommodation becomes occupied by key workers, there would be legal difficulties in removing those tenants. Should the variation of the condition be permitted, then it should lead to the requirement for affordable housing. A commuted sum should be sought for the equivalent value of 25% of the development being affordable. It should be apportioned as 15% social rented and 10% as shared ownership.

No comments have been received from the **Landscape Development Section** and **Newcastle South LAP**. Given that the period for comments has expired it must be assumed that they have no comments to make.

Representations

None received

Applicant's/Agent's submission

The application is accompanied by a covering letter from the agent and a further letter from the applicant.

All of the application documents can be viewed on the Council's website using the following link:

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/20/00532/FUL>

Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

28th September 2020