

The application seeks a variation to conditions 1 and 24 of planning permission 20/00609/FUL to substitute approved plans with revised plans to secure amendments to the design of roof parapets of the building and the landscape design of the third floor roof terrace. The application also seeks to secure changes to the electric vehicle charging provision.

The application site is currently under redevelopment with the construction of a building containing 89 supported living apartments (C3 use class), along with communal facilities, car parking, landscaping and amenity space, granted under 20/00609/FUL.

The site lies within the Urban area of Newcastle as designated on the Local Development Framework Proposals Map. The Newcastle Town Centre Supplementary Planning Document identifies the site as adjoining the Northern Gateway. The site area is approximately 0.96 hectares.

The 13 week period for the determination of this application expires on the 30th May 2022.

RECOMMENDATION

PERMIT the variation of Conditions 1 and 24 of planning permission 20/00609/FUL to substitute approved plans with revised plans to secure amendments to the design of roof parapets and the landscape design of the third floor roof terrace, along with the rewording of condition 24 to read as follows;

“Prior to the occupation of the development hereby approved the following Electric Vehicle Charging Provision shall be made available on site and maintained for the lifetime of the development;

- ***12 of the 48 parking spaces must be provided with a fully operational electric vehicle charging point, which shall include 1 disabled space and 1 staff parking space***
- ***All other parking spaces shall be provided with duct infrastructure to allow future charging point connection.***
- ***Charge points are to be a minimum of 32Amp with Type 2 Mennekes connections, Mode 3 (on a dedicated circuit) or equivalent.***

Reason: To enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations, in accordance with the requirements of the National Planning Policy Framework 2021.”

and subject to the imposition of all other conditions attached to planning permission 20/00609/FUL that remain relevant at this time, amended as necessary.

Reason for Recommendation

The revised details are acceptable and the proposed development is still considered to be a sustainable form of development that complies with the provisions of the National Planning Policy Framework.

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

Officers have engaged with the applicant and the development is still considered to be a sustainable form of development that complies with the provisions of the National Planning Policy Framework.

Key Issues

The application seeks a variation to conditions 1 and 24 of planning permission 20/00609/FUL to substitute approved plans with revised plans to secure amendments to the design of roof parapets and the landscape design of the third floor roof terrace, along with the rewording of condition 24 to secure changes to the electric vehicle charging provision.

The application site is currently under redevelopment with the construction of a building containing 89 supported living apartments (C3 use class), along with communal facilities, car parking, landscaping and amenity space, granted under 20/00609/FUL. The construction works are at an advanced stage.

Application 20/00609/FUL was also for the variation of condition 2 of the original planning permission 19/00614/FUL. The amendments to condition 2 as approved under 20/00609/FUL was the substitution of the approved plans with revised plans showing a substation, generator and bin store. It was permitted in October 2020.

An application such as this is made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied.

In deciding an application under section 73 the local planning authority must only consider the condition/s that are the subject of the application, it is not a complete re-consideration of the application.

The effect of a grant of permission upon an application to vary a condition is to create a new planning permission. Accordingly, unless there have been other material changes, such a permission should also make reference to the other conditions of the original planning permission where they remain relevant.

Given the above, the main issues for consideration in the determination of this application are:-

1. The design and impact on the visual amenity of the proposed changes,
2. The impact on the amenity of the area, including noise and air quality of the proposed changes, and
3. The acceptability of electric vehicle charging.

1. The design and impact on the visual amenity of the proposed changes

The NPPF sets out at paragraph 126 that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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. 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 proposal is to substitute approved plans with revised plans to amend the design of the roof parapets of the building and the landscape design of the third floor roof terrace.

The revised parapet design will increase the overall height of the building by 900mm. This is primarily for health and safety purposes. The parapet of a smaller roof terrace on the northern aspect of the building will also be increased in height by 450mm and will no longer be accessed by residents. It will instead become a service area for air conditioning units.

In the context of the overall design and scale of the building the changes are considered minor and the overall appearance of the building would be similar to the previously approved scheme. Therefore, subject to appropriately worded conditions the design of the scheme is still in accordance with policy CSP1 of the CSS and the guidance and requirements of the NPPF.

2. The impact on the amenity of the area, including noise and air quality of the proposed changes

Paragraph 130 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.

As discussed, the proposed amendments to the scheme would increase the scale of the building by 900mm but the changes are considered minor and the overall appearance of the building would be similar to the previously approved scheme.

The proposed changes to the scale of the building and third floor roof terrace would not adversely affect nearby neighbouring dwellings on Bailey Street and the location of air conditioning units would be a substantial distance from these properties also.

Subject to the conditions of the previous permission being proposed it is accepted that the amenity of the area can be protected in accordance with the guidance and requirements of the NPPF.

3. The acceptability of electric vehicle charging

Condition 24 of planning permission 20/00609/FUL set out that;

“Prior to the occupation of the development hereby approved the following Electric Vehicle Charging Provision shall be made available on site and maintained for the lifetime of the development;

- *12 of the 48 parking spaces must be provided with a fully operational electric vehicle charging point, which shall include 1 disabled space and 1 staff parking space*
- *All other parking spaces shall be provided with passive wiring to allow future charging point connection.*
- *Charge points are to be a minimum of 32Amp with Type 2 Mennekes connections, Mode 3 (on a dedicated circuit)*

Reason: To enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations, in accordance with the requirements of the National Planning Policy Framework 2019.”

The applicant has now advised that they are unable to satisfy the element of the condition that requires all other parking spaces shall be provided with passive wiring to allow future charging point connection. They state technical reasons for this and that the technology is rapidly changing. They believe that the best way to satisfy this condition would be to allow for a duct infrastructure from the substation to be installed and once the future demand is established the electrical supply can then be connected via the duct infrastructure.

Your officers are content that the condition can be varied on the basis that 12 spaces would be provided with a fully operational electric vehicle charging point and future provision can be secured appropriately. This would still meet the objectives of the NPPF which seeks to promote the use of ultra-low emission vehicles in safe, accessible and convenient locations.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions. People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics

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 CSP1: Design Quality

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

None

Other Material Considerations include:

[National Planning Policy Framework \(2021\)](#)

[Planning Practice Guidance](#)

[Supplementary Planning Guidance/Documents](#)

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

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

Relevant Planning History

Planning permission was originally granted in January 2020 for demolition of all existing buildings and the development of 89 supported living apartments (C3 use class), along with communal facilities, car parking, landscaping and amenity space reference 19/00614/FUL.

A subsequent application, reference 20/00609/FUL, for the variation of condition 2 of planning permission 19/00614/FUL to substitute the approved plans with revised plans that show a proposed substation, generator and bin store, was permitted in October 2020.

Views of Consultees

Comments were also invited from the **Environmental Health Division (EHD)** but in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

Representations

No letters of representation have been received.

Applicant's/Agent's submission

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/22/00126/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

12th April 2022