

The application is for a variation to conditions A.1 (Approved Plans) and A.8 (Road Safety Audit) of planning permission 22/00521/FUL, which agreed a variation of conditions A2 (to alter the design and layout) & C9 (electric vehicle charging points) of planning permission 20/00369/FUL, granted in February 2021 as part of a hybrid application for;

- Full planning permission for the construction of 9 bungalows, with associated car parking, landscaping and amenity space (Phase 1) on land off Gibson Grove, adjoining Cross Street and Audley Road,
- Outline planning permission, with all matters reserved except access, for (iii) 43 dwellings,
- 73 supported living apartments for the over 55's and associated communal facilities along with additional car parking, landscaping and amenity space.

The statutory 13 week determination period for this application expires on the 8th August 2023.

RECOMMENDATIONS

PERMIT the variation of Conditions A1 and A8 of planning permission 22/00521/FUL to substitute approved plans with revised plans to secure amendments to the site layout to incorporate revised highway works on Gibson Grove, along with the rewording of condition A8 to read as follows;

“The development shall be carried out in accordance with the recommendations of the submitted Stage 2 Road Safety Audit, including the revised site General Arrangement Plan [Ref: 210908-C2C-P-00-M2-C-701-Rev P07], showing highway improvement works on Gibson Grove.”

and subject to the imposition of all other conditions attached to planning permission 22/00521/FUL that remain relevant at this time, amended as necessary.

Reason for recommendations

The revised details are acceptable and will address the concerns of the road safety audit and the occupiers of neighbouring residential properties. 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 this application

The LPA and applicant have engaged in extensive discussions and the proposed development is now considered to be a sustainable form of development that complies with the provisions of the National Planning Policy Framework.

KEY ISSUES

The application is for a variation to conditions A.1 (Approved Plans) and A.8 (Road Safety Audit) of planning permission 22/00521/FUL, which agreed a variation of conditions A2 (to alter the design and layout) & C9 (electric vehicle charging points) of planning permission 20/00369/FUL, granted in February 2021 as part of a hybrid application for;

- Full planning permission for the construction of 9 bungalows, with associated car parking, landscaping and amenity space (Phase 1) on land off Gibson Grove, adjoining Cross Street and Audley Road,
- Outline planning permission, with all matters reserved except access, for (iii) 43 dwellings,

- 73 supported living apartments for the over 55's and associated communal facilities along with additional car parking, landscaping and amenity space.

The site lies within the urban area of Chesterton, as indicated on the Local Development Framework Proposals Map.

Condition A1 listed the approved plans and the variation will substitute approved plans with revised plans to show the following;

- a) The provision of a safe crossing point for pedestrians at the junction of Gibson Grove and Cross Street;
- b) The provision of 8 parking bays on the eastern side of Gibson Grove for the use of the occupiers of the existing residential properties; and,
- c) A 1.8m wide footway on the western side of Gibson Grove.

Condition A8 secured the recommendations of the submitted Stage 1 Road Safety Audit (RSA) and revised highway works on Gibson Grove and the variation will substitute this document and its recommendations with a Stage 2 RSA.

An application such as this can be 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.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

The application is submitted following complaints from existing residents on Gibson Grove about the loss of on-street parking that would arise in the event that the approved highway improvement scheme for Gibson Grove were to be implemented in accordance with planning permission 22/00521/FUL. This resulted in meetings between the applicant, the Highway Authority and your officers and it was accepted that the most appropriate way of addressing the issue (of the loss of on-street parking on Gibson Grove) would be for the central crossing point to be removed from the approved highway improvement scheme, which would then enable an additional parking space to be introduced on to the eastern side of Gibson Grove.

The Stage 2 RSA covers these matters and the revised site layout now removes the central crossing point and includes its replacement with a safe crossing point for pedestrians at the junction of Gibson Grove and Cross Street. The provision of 8 parking bays on the eastern side of Gibson Grove for the use of the occupiers of the existing residential properties is also achieved along with a 1.8m wide footway on the western side of Gibson Grove.

The Highways Authority has raised no objections to the application and the conditions can be varied to reflect the revised and approved information.

Subject to the imposition of conditions, it is considered that the proposed amendments are acceptable and in accordance with the requirements of the NPPF.

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

The development 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 SP1: Spatial Principles of Targeted Regeneration
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change

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

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy T16: Development – General Parking Requirements

Other material considerations include:

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

[Planning Practice Guidance \(2018, as updated\)](#)

[Supplementary Planning Guidance/Documents](#)

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

Relevant Planning History

20/00369/FUL	Demolition of all existing buildings and a) full planning permission for the development of 9 bungalows (C3 Use Class) along with car parking, landscaping and associated amenity space; and b) outline planning permission with all matters reserved except access for (i) the development of 43 dwellings (C3 Use Class) and (ii) an older persons scheme comprising 73 supported living apartments for the over 55's and associated communal facilities, along with additional car parking, landscaping and amenity space	Permitted
22/00011/FUL	Full planning permission for the development of 8no. dwellings, with associated car parking, landscaping and amenity space	Permitted
22/00012/REM	Approval of Reserved Matters (scale, layout, landscaping and external appearance) for the development of 35 dwellings, pursuant to planning permission 20/00369/FUL	Permitted
22/00521/FUL	Application to vary conditions A2 (to alter the design and layout) & C9 (electric vehicle charging points) of planning permission 20/00369/FUL	Permitted

Views of Consultees

The **Highway Authority** have no objections subject to the conditions being revised to include and reference the amended site layout and road safety audit documents.

Representations

None received.

Applicant/agent's submission

The application is supported by the following documents:

- Covering letter
- Stage 2 Safety Audit

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/23/00353/FUL>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

5 July 2023