

**FORMER CLAYTON LODGE HOTEL, CLAYTON ROAD
LIONCOURT HOMES**

23/00512/FUL

The application seeks to vary conditions 2 and 24 of planning permission 22/00284/FUL to alter the design and layout of the proposal to allow an approved drainage scheme to be implemented on site.

The application site recently contained a number of buildings and areas of hardstanding which were associated with the former hotel and the site is therefore classed as brownfield land. Part of the site is also covered by Tree Protection of no.6.

The application site, of approximately 16.1 hectares in extent, falls within the urban area of the Borough as indicated on the Local Development Framework Proposals Map and lies close to the Clayton Conservation Area.

The statutory 13 week determination period for this application expired on the 19th September and an extension of time to the statutory determination period has been agreed to the 14th October 2023.

RECOMMENDATIONS

PERMIT subject to:

- **Variation of Condition 2 to list the revised plans**
- **Variation of Condition 24 to refer to the revised plan**
- **All other conditions of 22/00284/FUL that remain relevant at this time**

Reason for recommendations

The revised details are acceptable and will allow the approved drainage strategy conditioned as part of the original proposal to be completed on site. There are no objections to the proposal in respect of visual impacts and the development will still have an acceptable impact on 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

Further information was requested throughout the application process and the applicant has subsequently provided amended and additional information. 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

Full planning permission was granted in May this year (Ref. 22/00284/FUL) for the demolition and clearance of the former Clayton Lodge Hotel and the redevelopment of the site for 48 dwellings. Following the demolition of the former hotel and the start of works on site it became apparent that the approved drainage strategy could not be implemented without changes to land levels. This application therefore seeks permission to allow for minor levels changes and subsequent changes to several of the approved dwellings to allow for the drainage strategy to be completed as required by the original scheme.

The application therefore seeks to vary Condition 2 which lists the approved plans and Condition 24, which in requiring the implementation of the approved foul drainage scheme, refers to a drainage plan, the reference of which requires amendment.

A summary of the proposed amendments are shown set out below:

Classification: NULBC UNCLASSIFIED

- The rear boundary for plots 2-4 has been moved to avoid the drainage easements;
- The side doors to plots 5, 37 and 40 which enter into the utility room have been removed and a window is proposed as a replacement;
- Stepped gardens are proposed to plots 7-15 and 38-39;
- Plots 33 and 48 have been handed;
- Housetype substitutions are proposed to plots 26, 27 and 38.

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 site, of approximately 16.1 hectares in extent, falls within the urban area of the Borough as indicated on the Local Development Framework Proposals Map and lies close to the Clayton Conservation Area. Part of the site is covered by Tree Protection of no.6. No part of the hotel is historically listed and the site falls outside of any conservation areas.

The proposal would not result in any additional impact to highway safety or protected trees beyond the original scheme, and therefore the key issues in the determination of this application are:

- Impact on the character and appearance of the area
- Impact on residential amenity
- Flood risk and sustainable drainage
- Is a planning obligation required?
- Other issues

Would there be any adverse impact on the character and appearance of the area?

Paragraph 126 of the 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. Furthermore, paragraph 130 of the 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.

Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. In particular, Policy R3 states that new housing must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it, exploiting existing site characteristics, such as mature trees, existing buildings or long views and incorporating them into the proposal. In addition, Policy R14 states that developments must provide an appropriate balance of variety and consistency.

Policy CSP1 of the Core Spatial Strategy (CSS) lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the revised NPPF.

Minor changes are proposed to the fenestration and position of properties 5, 33, 37, 40 and 48 and to the arrangement of rear boundaries of plots 2-4. These alterations are considered to be non-material

Classification: NULBC UNCLASSIFIED

Classification: NULBC UNCLASSIFIED

and would not raise any implications in relation to amenity or design. The substitutions of house types for plots 26, 27 and 38 are still considered to be appropriate and are of a style which is sympathetic to other properties within development site and the wider built form of the area.

The use of stepped gardens for plots 7-15 and 38-39 would be noticeable from the rear facing windows of the properties along Kingsdown Mews, however the land levels of these plots would at no point be higher than the levels approved under the original scheme and the visual implications of these changes are therefore considered to be acceptable. The changes to the land levels throughout the site are very minor and would not result in any perceivable visual change. Most of the level changes are for pot holes and other minor drainage systems and will therefore not appear out of place when seen in context with the wider development of the site.

Overall it is considered that the revised scheme would enhance the appearance of the area and comply with policies of the development plan, national policy and the urban design guidance.

Impact on residential amenity

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. It further sets out at paragraph 185 that decisions should also ensure that new development reduces potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life.

The Council's Supplementary Planning Guidance (SPG) - Space Around Dwelling provides more detailed guidance on privacy and daylight standards including separation distances between proposed dwellings and new development in relation to existing dwellings.

There are existing residential properties to the south, west and north which share a boundary with the application site. Minor alterations are proposed to the design of several dwellings however the proposed development still proposes acceptable separation distances, in accordance with the Council's SPG.

2 letters of objection have been received from residents of Kingsdown Mews who raise concerns that the proposed site levels will result in an adverse impact on their residential amenity by virtue of overlooking and loss of light. Amenity impacts were assessed in the original application and it was concluded that the development would not have any significant or adverse impacts on the amenities of nearby properties. Whilst there are land level changes proposed to the rear gardens of plots to the north boundary of the site close to Kingsdown Mews, the properties of 7-15 would not be increased in height at any point. Whilst the gardens would be stepped rather than sloped in design this would result in a land level decrease of approximately 1m, which would be slight improvement over the original scheme in respect of amenity impacts.

On the basis of the above it is not considered that a refusal on amenity grounds could be sustained.

Flood Risk and sustainable drainage

The original application was accompanied by a Flood Risk Assessment, which included a detailed drainage strategy which propose that the development incorporate a sustainable urban drainage strategy scheme (SuDS). These drainage details were reviewed by the Lead Local Flood Authority who, following the submission of additional information, raised no objections to the proposal subject to conditions.

The Lead Local Flood Authority (LLFA) have been consulted on the application but have not responded within the given the deadline. However, as the proposal still seeks to implement the drainage strategy originally requested by the LLFA, then it is not considered that the proposal raises any additional drainage or flood risk issues.

Other Matters

Classification: NULBC UNCLASSIFIED

Two objection letters have been received from residents of Kingsdown Mews who raise concerns that the proposal is not being built out in accordance with the approved plans in respect of land level heights. These issues are considered to be enforcement matters which fall beyond the scope of this report. It should be noted however that several site visits have been completed by the case officer who has not seen evidence of any breach of the original conditions and furthermore it must be recognised that the site is still under development and the final land levels do not therefore need to be provided yet.

Matters relating to drainage issues are noted, however the approved development once completed should address surface water run-off from the site.

Is a planning obligation required?

In law the consequence of the granting of an application to vary conditions of a planning permission would be the creation of an entirely new planning permission rather than an amendment of the existing one (22/00284/FUL in this case). That previous permission was granted following the completion of a Section 106 agreement which secured contributions towards public open space, education, travel plan monitoring and management of on-site open space.

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, the definition of the 'planning permission' within the Section 106 includes any subsequent variations of conditions determined under section 73. On this basis, no planning obligation is now required.

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 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 CSP2	Historic Environment
Policy CSP3	Sustainability and Climate Change
Policy CSP4:	Natural Assets
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011

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 B13:	Design and Development within Conservation Areas
Policy B14:	Development in or adjoining the boundary of Conservation Areas
Policy H1:	Residential development: Sustainable location and protection of the countryside
Policy T16:	Development - General Parking Requirements
Policy N12:	Development and the Protection of Trees
Policy N13:	Felling and Pruning of Trees
Policy N17:	Landscape Character – general Considerations
Policy IM1:	Provision of essential supporting infrastructure and community facilities.

Other material considerations include:

National Planning Policy Framework (2023)

Planning Practice Guidance (March 2019, as updated)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

Supplementary Planning Guidance/Documents

Developer contributions SPD (September 2007)

Affordable Housing 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

23/00248/FUL - Demolition and clearance of existing structures, ground remodelling, and development of 48 dwellings with landscaping, access and associated works – permitted

Classification: NULBC UNCLASSIFIED

05/00450/FUL - Redevelopment of existing site to provide 71 dwellinghouses comprising 16 two storey dwellings; 3 bungalows; alterations and reuse of existing building as a single dwelling; alterations and conversion of existing building to form 5 apartments and 46 apartments within 3 new buildings (Amended Description) – Refused

06/00152/FUL - Alterations and extensions to existing building – permitted

06/00663/FUL - Change of use of staff training area to restaurant, external staircase and extended terrace – permitted

06/01146/FUL - Retention of engineering works widening existing driveway on frontage, erection of railings on existing boundary wall and erection of automatic gates – permitted

16/00427/FUL - Extension to restaurant – permitted

16/00695/ADV - Retention of 3 banner signs – refused

93/00632/COU - The Annexe-change of use to childrens nursery – permitted

94/00493/COU - The Annexe-Change of use to meetingrooms associated with main hotel – permitted

N11280 - Extension to existing bar – permitted

N11812 - New front entrance and new bay window – permitted

N1240A - Two post mounted advertisement signs – permitted

N1306A - Double-sided post mounted sign – permitted

N15331 - Extension to kitchen – permitted

N1539 - Provision of EMU Petrol Vending System in connection with the existing petrol filling station – permitted

N30A - Illuminated Sign – permitted

N520 - Extension to car park – permitted

N647 - Alteration of existing licensed residential hotel by extension of Car Park and improvement to front elevation – permitted

N719A - Single sided sign, double sided sign and 4 flagpoles – permitted

N754 – Alterations – permitted

N886A - 4 Flagpoles – permitted

Views of Consultees

The **County Highway Authority** raise no objections to the proposal subject to the relevant conditions of the original application being applied to any new permission.

The **Environmental Health Division** raise no objections to the proposal subject to the relevant conditions of the original application being applied to any new permission.

The **Landscape Development Section (LDS)** have no comments on the application.

No comments have been received from the **Severn Trent Water** or the **Lead Local Flood Authority** within the statutory period of consultation and it is therefore presumed that they raise no objections to the proposal.

Classification: NULBC UNCLASSIFIED

Representations

3 letters of representation have been received from 2 residents raising objections on the following grounds;

- The site levels are not in accordance with the approved plans
- Loss of privacy
- Loss of light
- Potential Surface water run-off into adjacent garden areas

Applicant/agent's submission

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

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/23/00512/FUL>

Background Papers

Planning File
Development Plan

Date report prepared

27th September 2023