

Full planning permission is sought for the temporary variation of Condition 3 of application reference 17/00252/FUL which granted consent for the demolition of the former swimming baths and construction of a 273-room student development with associated communal area and car parking, Condition 3 restricts occupation of the development to students only and the temporary variation sought is to allow the use of up to 40 rooms within the development to be occupied as serviced apartments until 30<sup>th</sup> September 2025.

The application follows the refusal of a previous application (Ref. 24/00576/FUL) for a temporary variation of Condition 3 to allow the use of up to 68 rooms as serviced accommodation.

The site lies within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

**The 13-week period for the determination of this application expires on 7<sup>th</sup> April.**

### **RECOMMENDATION**

**PERMIT the application subject to conditions relating to the following matters: -**

- 1. Variation of condition 3 to allow the use of up to 40 rooms within the development to be occupied as serviced apartments until 30th September 2025**
- 2. Any other conditions which are still relevant to the original decision**

### **Reason for Recommendation**

On the basis that only 40 of the 273 rooms would be occupied which would result in a lesser parking shortfall than the approved scheme, it is not considered that a refusal on highway safety grounds could be sustained.

### **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 that complies with the provisions of the National Planning Policy Framework.

### **Key Issues**

Full planning permission is sought for the temporary variation of Condition 3 of application reference 17/00252/FUL which granted consent for the demolition of the former swimming baths and construction of a 273-room student development with associated communal area and car parking, Condition 3 restricts occupation of the development to students only and the temporary variation sought is to allow the use of up to 40 rooms within the development to be occupied as serviced apartments until 30<sup>th</sup> September 2025.

The site lies within the Urban Area of Newcastle as indicated on the Local Development Framework Proposals Map.

Planning permission was refused in December last year for a temporary variation of Condition 3 to allow the use of up to 68 rooms as serviced accommodation (Ref. 24/00576/FUL). The reason for refusal was as follows:

*Given the limited car parking provision within the site, the significant additional on-street parking demand that is likely to be created by the development would lead to an exacerbation of congestion and related harm to highway safety on streets in the vicinity of the development contrary to the aims and objectives of the National Planning Policy Framework 2023.*

The proposal has been amended to reduce the number of rooms to be used as serviced apartments from 68 to 40. The applicant's agent has submitted a Planning Statement highlighting the following points:

- The reason for requesting this variation is due to the delayed construction of the development which has meant that the applicant has been unable to accept students in the September 2024 student intake. The site is therefore unable to operate as student accommodation until September 2025.
- The introduction of serviced apartments would be supported by policies and would make an immediate contribution to housing need.
- No physical changes are proposed to the building.
- As part of application 17/00252/FUL, a S106 agreement secured a residents' parking zone contribution, and a condition secured a parking survey to establish whether any on-street parking issues arise as a result of the development. These same agreements/conditions would remain in place.
- The NFFP explicitly sets out that sustainable transport modes are to be prioritised first. The site is 30m from an active bus stop.
- The proposed temporary variation will not produce an unacceptable impact on highway safety, and the residual cumulative impacts on the road network would not be severe due to the location of the site and access to alternative transportation options.
- Allowing the temporary change would not only allow important revenue for the business over the course of the next 9 months, but it would ensure the building is not vacant, reducing the risk of vandalism, break-ins, and other antisocial behaviour often associated with vacant/disused buildings.

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 7 is as follows:

*For the avoidance of doubt and because the level of parking provided would not be sufficient for other types of residential occupation.*

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 116, 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 on the road network, following mitigation, would be severe.

The previous variation application proposed to use 68 rooms within the development as serviced apartments. Following refusal of that application, that number has been reduced to 40.

In accordance with the maximum Local Plan Parking Standards, the approved 273 student flats would require 69 parking spaces based on 1 parking space per 4 students. The development has 19 parking spaces which equates to a potential shortfall of 50 parking spaces if fully occupied. 40 serviced apartments would require 40 parking spaces based on 1 parking space per hotel bedroom. This would therefore result in a shortfall of 21 parking spaces if fully occupied.

The Highway Authority has no objections to the proposal highlighting that the occupation of 40 flats as serviced apartments would not result in any additional parking demand to that of the approved 273 room student accommodation.

It is considered that the occupation of the building by non-students is likely to lead to more of the residents owning a car. However, on the basis that only 40 of the 273 rooms would be occupied, that

would result in a reduced parking shortfall in comparison to the approved scheme and therefore it is not considered that a refusal on highway safety grounds could be sustained.

### 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 have a positive 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 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 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 \(NPPF\) \(2024\)](#)

[Planning Practice Guidance](#)

[Supplementary Planning Guidance/Documents](#)

[Developer contributions SPD](#)

## **Relevant Planning History**

15/00166/FUL Demolition of former swimming baths and construction of 244 room student development with associated communal area and car parking - Approved

16/00244/FUL Construction of 273 room student development with associated communal area and car parking - Refused and appeal dismissed

17/00252/FUL Demolition of former swimming baths and construction of 273 room student development with associated communal area and car parking, alternative to Planning Approval 15/00166/FUL – Approved

17/00252/NMA Application for a Non-Material Amendment to planning permission 17/00252/FUL for the additional areas of render to the fourth-floor external wall and alterations to the boundary treatment and landscaping adjacent to the Jubilee Baths – Approved

24/00576/FUL Variation of condition 03 of planning permission 17/00252/FUL to allow for the temporary use of up to 68 rooms of the building as serviced apartments until 30 September 2025 – Refused

## **Views of Consultees**

The **Highway Authority** has no objections.

## **Representations**

None 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/25/00008/FUL>

**Background papers**

Planning files referred to  
Planning Documents referred to

**Date report prepared**

12 February 2025