

**25 - 27 WELL STREET AND 82 GARDEN STREET, NEWCASTLE
MARSHALLSAY**

26/00051/COU

Full planning permission is sought for a change of use of an existing office (Use Class E) to provide two houses in multiple occupancy (Use Class C4) at 25-27 Well Street and 82 Garden Street. The application site is located within Newcastle town centre and within the Newcastle Town Centre Conservation Area as indicated on the Local Plan (2020-2040) Policies Map.

The application has been called in to committee for determination due to concerns around the number of HMOs in the area, anti-social behaviour and fly-tipping.

The application was deferred at the June meeting of the Committee to enable officers to obtain information on the number of HMOs of any size on Well Street/Garden St, the definition of 'frontage' and a definition of the emerging local plan policy HOU7.

The statutory 8-week determination period for this application expired on the 1st June 2026, however an extension of time has been agreed until 25th August.

RECOMMENDATION

PERMIT subject to conditions relating to the following matters: -

- 1. Time Limit**
- 2. Approved Plans**
- 3. Glazing on lower section of ground floor bedroom windows facing onto Garden Street and Well Street**
- 4. Construction hours**
- 5. Construction and Environmental Management Plan**
- 6. Bin storage**
- 7. Cycle storage**

Reason for recommendation

There are no objections in principle to the proposal, and the plans demonstrate that there would be no adverse impact on residential amenity or on the character and appearance of the Conservation Area. In the absence of any objections from the Highway Authority and given the highly sustainable location of the application site, it is not considered that a refusal on highway safety grounds could be sustained. Furthermore, there is no evidence to suggest that the proposal would result in an adverse impact on the residential amenity of neighbouring properties.

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

The proposed development is considered to be a sustainable form of development that complies with the provisions of the National Planning Policy Framework and therefore no amendments were requested.

KEY ISSUES

Full planning permission is sought for a change of use of an existing office (Use Class E) to provide two houses in multiple occupancy (Use Class C4) at 25-27 Well Street and 82 Garden Street. The application site is located within Newcastle town centre and falls within the

Newcastle Town Centre Conservation Area as indicated on the Local Development Framework Proposals Map.

The application was deferred at the June meeting of the Committee to enable officers to obtain information on the number of HMOs of any size on Well Street/Garden St, the definition of 'frontage' and a definition of the emerging local plan policy HOU7.

Since the June Committee meeting, the Borough Council's Local Plan 2020-2040 was formally adopted on 08 July 2026. The Plan forms part of the statutory Development Plan for the Borough and its policies carry full weight in the determination of planning applications in the Borough.

The key issues to consider in the determination of the application are;

- Is the principle of development acceptable?
- Design and impact on the Conservation Area
- Impact on neighbouring properties,
- Parking and highway safety.

Is the principle of development acceptable?

Policy HOU7 (Homes in Multiple Occupation) from the emerging Local Plan states that the change of use from other uses to a HMO should meet the following criteria to be supported;

- i. Not result in more than 10% of residential properties within a 100m radius being in use as an HMO;
- ii. Not result in a Use Class C3 dwelling being 'sandwiched' between two other HMO properties or other non-family residential uses;
- iii. Not result in a continuous frontage of three or more HMOs or other non-family residential uses;
- iv. Be located within a sustainable neighbourhood, where they are close to facilities and served by high frequency bus routes;
- v. not result in an adverse impact on the amenities of neighbouring residents in terms of overlooking, or levels of noise and disturbance;
- vi. provide a good standard of living accommodation for future occupiers including communal living rooms, kitchens, laundry facilities;
- vii. provide an area of outdoor amenity space of sufficient size to accommodate activities such as clothes drying and space to sit outside, suitable for the number of residents at the property and accessible to all residents;
- viii. provide suitable car and cycle parking facilities, in accordance with the Council's Parking Standards; and
- ix. provide suitable waste and recycling storage and collection solutions

In relation to criterion (i) above, although residents claim that there are more HMOs in the vicinity, the Council's evidence indicates that 2 licensed HMOs are in operation along Well Street with a further one to the rear of the site on Barracks Road. Officers' advice at the June meeting of the Planning Committee, was that while there may be other smaller and/or unlicensed HMOs in the vicinity, no evidence is available to confirm the location of such properties and given that they do not require planning permission, these cannot be considered. On the basis of the available evidence, they concluded that as there are less than 10% of houses used as HMOs within 100m of the site, then the proposal is considered to be in compliance with the requirements of criteria (i) – (iii) of Policy HOU7.

Members deferred consideration of the application, requesting that officers obtain information on the number of HMOs of any size on Well Street/Garden St. They also requested that legal advice be sought on the interpretation of Policy HOU7 of the Local Plan.

Legal advice has been received and is set out below:

- Policy HOU7 must be interpreted objectively, having regard to both the policy wording and its supporting text, whilst recognising that its application to individual proposals involves the exercise of planning judgment by the authority.
- The policy must be read alongside paragraphs 6.54 and 6.55 of the Local Plan which explain that the Council has established an HMO database using information derived from licensing records, planning records and council tax data identifying student accommodation, and that the database will be used to map HMOs and inform policy assessments.
- This expressly identifies the evidence base through which Policy HOU7 is intended to operate. The Local Plan envisages that applications will be assessed against the Council's mapped HMO evidence rather than requiring the Council to prove the existence or absence of every HMO within the relevant area.
- Importantly, however, the policy does not state that the Council's database is the only evidence capable of being considered. Rather, the database appears to be intended as the primary evidence source against which HMO concentrations can be measured.
- Accordingly, Members are entitled to rely principally upon the Council's HMO database and mapped evidence when assessing compliance with Policy HOU7, whilst also considering any other reliable evidence that may be available.
- Residents' representations are material planning considerations and should be taken into account as part of the decision-making process. However, the weight to be attached to these material considerations will be a matter for the decision-maker.
- The position is strengthened by the fact that planning and licensing records are separate systems and not every HMO will necessarily be identifiable through a single source alone. The existence of an allegation is therefore not, of itself, evidence that a property should be counted as an HMO for the purposes of Policy HOU7.
- Accordingly, it is considered that officers are entitled to assess compliance with Policy HOU7 on the basis of the evidence available to the Council at the time of determination.

The legal advice concludes that the stronger interpretation of Policy HOU7 is that the policy should be applied using the Council's HMO database and mapped evidence, as expressly contemplated by paragraphs 6.54 and 6.55 of the Local Plan. Residents' representations are material considerations and should be taken into account, however, where allegations regarding further HMOs cannot be substantiated through the evidential sources identified in the Local Plan, Members are entitled to attach limited weight to those assertions. The Council is not required to treat unverified allegations as established fact.

Members also requested legal advice on the definition of 'frontage' in relation to criterion iii of Policy HOU7. The advice received is that "continuous frontage" should be interpreted by reference to the sequence of existing and proposed uses along the street frontage. There is no evident basis within the policy for assessing frontage by reference to historic postal numbering arrangements. Therefore, on the information provided, the proposal should be assessed as creating two HMOs rather than three, with compliance under criterion iii turning on whether the resulting development would form part of a continuous frontage of three or more HMOs or other non-family residential uses.

On the basis of the legal advice received, officers maintain their views as set out previously. The application site is located within a highly sustainable location within the town centre and

would make use of an existing building. Therefore, despite concerns raised by local residents regarding the provision of new HMOs in this area, officers must conclude that the proposed development is acceptable in principle.

Design and impact on the Conservation Area

Paragraph 212 of the NPPF states that *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

Policy SE9 of the Local Plan states that:

1. *“Proposals will be supported where they conserve and, where appropriate, enhance the significance of the Borough’s heritage assets and their settings. Great weight will be given to the conservation of designated heritage assets.*
2. *Proposals that will lead to harm to, or loss of the significance of, a designated heritage asset will require clear and convincing justification.*
3. *Where a proposal will result in less than substantial harm to a designated heritage asset, this harm will be weighed against the public benefits of the proposal. Substantial harm to, or the total loss of significance of, a designated heritage asset will be refused unless this harm or loss is outweighed by substantial public benefits, or the specific criteria in NPPF paragraph 207 apply.*
4. *The effect of a proposal on the significance of non-designated heritage assets will be considered. In weighing applications, a balanced judgement will be required, having regard to the scale of any harm or loss and the significance of the heritage asset.”*

The application property is a two storey traditionally designed and attractive part brick/part rendered terraced building which sits at the corner of Well Street and Garden Street. A private access road runs under the property which leads to a private parking area to the rear of the site that serves other nearby properties. The property, along with those on either side provide a strong active frontage on nearby highways which is a defining feature of the Conservation Area. Properties 1 to 27 of Well Street are also locally listed.

The proposal does not involve any changes to the principal elevations facing Well Street or Garden Street and the only external alteration of substance is the proposed removal of a small rear extension to the Garden Street property. The extension to be removed is a modern addition to the property with no architectural or historic value and its removal is considered to be a benefit in visual terms. The Conservation Officer has confirmed that they have no objections to the proposal.

Whilst residents have objected to the proposal on the grounds that the site lies within the conservation area, for the reasons set out above, the proposal is considered acceptable from a design perspective and the development accords with the policies set out in the current and emerging development plans and the requirements of the NPPF, and a refusal on such grounds cannot therefore be sustained.

Residential amenity

Criterion f) within Paragraph 135 of the National Planning Policy Framework states that development should create places that are safe, with a high standard of amenity for existing and future users.

Policy PSD6 (Health and Wellbeing) of the Local Plan notes that the council will support development that fosters safe, healthy and active lifestyles and that new housing should provide opportunities for healthy living and maintained independence and promote mental wellbeing through the encouragement of safe and accessible walking and cycling, access to services.

Policy HOU3 (Housing Standards) requires that all new residential homes (including conversions) will be provided to Part 4(2) standard (Accessible Adaptable Dwellings) set out in Building Regulations and the Nationally Described Space Standards (NDSS) (size) or the Building Control space standard relevant at the time of determining the application.

Policy HOU7 (Homes in Multiple Occupation) sets out a number of criteria which new HMOs must adhere to such as the requirement for them to provide appropriate space standards, amenity areas and parking cycle facilities.

Policy SE12 (Amenity) notes that development proposals should demonstrate they will not result in unacceptable harm to the amenities of existing or future residents, businesses, or sensitive uses in the vicinity. Development that would have an unacceptable adverse impact on existing amenity will not be permitted.

The proposed kitchen and bedrooms would be of an appropriate size in terms of floor space and would exceed the minimum size requirements per unit as required by national standards. All bedrooms would also have an acceptable level of daylight and those positioned on the rear elevations would have an acceptable level of outlook onto the rear parking yard and rear garden, which is comparable to the outlook available from the windows of neighbouring properties.

With regards to privacy, all bedroom windows on the first-floor level would not be at risk of overlooking from nearby properties. Whilst the ground floor bedrooms would have a lesser level of privacy due to the adjacent highways, a condition can be used to ensure that the lower halves of the windows are obscure glazed, which would offset any disturbance from pedestrian movements.

The HMO would only benefit from a small private outdoor amenity area, however the site is located within close proximity to a number of public amenity areas such as Stubbs Walk Park.

Staffordshire Police (SP) object to the proposal on the basis that there are a high number of care homes and HMOs in the area which is creating pressure on the police and partner services. Whilst fear of crime is a material planning consideration, planning law is clear in that anti-social behaviour and the potential for crime are not inherent traits with the type of use proposed, and no evidence has been provided to demonstrate why the proposal would generate adverse levels of noise or cause issues relating to anti-social behaviour in the area. Although SP have raised concerns with other HMO uses in the area, each case must ultimately be assessed on its own merits, and there are other forms of legislation beyond that of planning control which will be applicable to the running of the site.

Members' attention is also brought to an appeal against an 8 bedroomed HMO on Underwood Road in Silverdale (reference 22/01023/COU) which was refused in 2023 on the grounds of impact of noise nuisance and general disturbance. The appeal was allowed with an associated costs award on the grounds that the Inspector considered that the LPA had failed to provide any evidence to demonstrate why an HMO would cause issues of noise or other forms of nuisance simply due to the nature of the use.

The concerns raised by local residents are acknowledged, however for the reasons set out above, and in the absence of any objections from the council's Environmental Health Team, it is not considered that a refusal on amenity grounds can be sustained.

Bin storage details have been submitted with the application, however for the avoidance of doubt a condition is proposed to ensure that the storage area be retained for the lifetime of the development and be provided prior to the first occupation of the scheme.

Parking and highway safety

At paragraph 115 the NPPF indicates that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy IN2 (Transport and Accessibility) of the Local Plan sets out that new development should make appropriate provision for access by sustainable modes of transport to protect the integrity of the highway network and the Council will work with developers to ensure that development proposals which contribute towards an accessible, efficient and safe transport network that offers a range of transport choices and improves accessibility through sustainable modes of travel will be supported.

Policy IN3 (Access and Parking) states that appropriate levels of parking provision should be made in accordance with the standards contained within Appendix 3 (Parking Standards), but the policy also recognises that a departure from these standards may be justified on a case by case basis.

The Council's current parking standards require that for HMO use, 0.5 spaces should be provided per bedroom, meaning that the proposals should provide 5 off street parking spaces. Whilst the site has no dedicated parking, it is important to note that the use of the site as an office also had no parking provision and that the current parking standards for offices are set as 1 space per 15m², with the emerging parking standards requiring 1 space per 30m². As the property has an approximate floor space of 230m², the current parking standards would require the property in its current use to have 15 spaces, and under the emerging standards it would require 7 or 8 spaces. It is clear therefore that these standards would equate to a higher parking requirement than the 5 needed for this proposal. Furthermore, the site is in a highly sustainable location, with good access to local transport nodes such as the Bus Station.

The Highway Authority have noted that they cannot reasonably resist the application on highways grounds given the sustainable location of the site. They have recommended the imposition of conditions.

The concerns raised by local residents with respect to parking and highways matters are acknowledged, however in the absence of any objections from the Highway Authority, it is not considered that a refusal on highway grounds could reasonably 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 not have a differential impact on those with protected characteristics.

APPENDIX

Policies and proposals in the Development Plan relevant to this decision:

Newcastle-under-Lyme Local Plan 2020-2040

Policy PSD1: Overall Development Strategy
Policy PSD2: Settlement Hierarchy
Policy PSD3: Distribution of Development
Policy PSD6: Health and Wellbeing
Policy PSD7: Design
Policy HOU3: Housing Standards
Policy HOU7: Homes in Multiple Occupation
Policy IN2: Transport and accessibility
Policy IN3: Access and Parking
Policy SE9: Historic Environment
Policy SE12: Amenity

Other Material Considerations include:

National Planning Policy Framework (2024)
National Planning Practice Guidance (2024)

Relevant Planning History

11/00670/FUL - Widening of existing door and internal alterations for improved disabled access, with new upvc windows – permitted

Views of Consultees

The **Conservation Officer** raises no objections to the proposal.

The **Highway Authority** have no objections given the sustainable location of the site. They have however requested that conditions be secured requiring the provision of cycle parking and the submission of a Construction and Environmental Management Plan.

The **Environmental Health Team** request that a condition is added to any permission to limit construction hours to the following times:

- 08:00 – 18:00 Monday to Friday
- 08:00 – 13:00 Saturday
- Construction shall not be undertaken on a Sunday or a public holiday.

Staffordshire Police object to the proposal on the basis that there is a high crime rate in the surrounding area and that another HMO would exacerbate the existing problems.

Representations

Thirty five (35) objections have been received. The concerns raised are summarised below:

- Impact on the Conservation Area
- Accumulation of waste and potential for fly tipping
- Cumulative impact of HMOs on the area

- Anti-social behaviour
- Highway safety and parking issues
- Impact on character of the area and social cohesion
- Increased noise and disturbance
- Sewage and waste disposal

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/26/00051/COU>

Background Papers

Planning File
Development Plan

Date report prepared

7 August 2026