

The Application is the change of use from a residential care home (use class C2) to day care centre (use class D1) with ancillary overnight respite care (use class C2), and associated car parking.

The site lies within the Urban Area of Newcastle under Lyme as identified on the Local Development Framework Proposal Map.

The application is accompanied by a request from the applicant for the removal of an agreement entered into under section 52 of Town and Country Planning Act 1971 (a precursor of a section 106 obligation). The agreement relates to a planning approval granted in 1987 for a side and rear extension to the residential care home and the formation of a car park (ref. no. N15678). The purpose of the agreement is to ensure the land opposite the residential care home is used for a car park associated with the care home.

The 8 week determination for the planning application period expires on 11 October 2012.

RECOMMENDATIONS

(a) Refuse planning application 12/00504/FUL for the following reasons:

- The proposed development fails to make adequate provision for the parking of vehicles within the site curtilage resulting in an increase in the likelihood of highway danger due to the likelihood of vehicles being parked on the public highway.
- The proposed development fails to make adequate provision for service vehicles to access through the site in a forward gear resulting in an increase in the likelihood of highway danger due to drivers having to manoeuvre out into Milehouse Lane.
- The proposed gradient of the access would make movement between the site and the highway difficult and would consequently increase the likelihood of highway danger

(b) That the request to remove the section 52 agreement for the reasons set out in recommendation (a) be refused because the applicant has failed to demonstrate that adequate alternative parking could be provided in perpetuity for the existing and proposed uses.

Reason for Recommendation

The applicant has failed to demonstrate to the proposed change of use would not lead to adverse harm to users of the public highway and highway safety in general contrary the requirements of Policy T13 of the Staffordshire and Stoke on Trent Structure Plan 1996 – 2011 and Policies T16 and T18 of the Newcastle under Lyme Local Plan 2011.

Policies and Proposals in the Approved Development Plan Relevant to this Decision:-

West Midlands Regional Spatial Strategy 2008 (WMRSS)

Policy UR3: Enhancing the Role of City, Town and District Centres

Staffordshire and Stoke on Trent Structure Plan 1996 – 2011 (SSSP)

Policy D1: Sustainable Development

Policy D2: The Design and Environmental Quality of Development

Policy T1A: Sustainable Location

Policy T13: Local Roads

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS)

Strategic Aim 3 Reduce the need for travel, improve accessibility and increase opportunities for development of sustainable and innovative modes of travel to support the regeneration of the plan area by securing improvements to public transport infrastructure and the progressive provision park and ride and facilities to promote walking and cycling

Policy SP2: Spatial Principles of Economic Development

Policy CSP10: Planning Obligations

Newcastle under Lyme Local Plan 2011 (LP)

Policy T16: Development – General Parking Requirements

Policy T18: Development – Servicing Requirements

Policy C22 Protection of Community Facilities

Other Material Considerations Include:

National Planning Policy Framework (March 2012)

Circular 05/2005 Planning Obligations

Manual for Street

Relevant Planning History

1984	N13371	Permit – change of use to a rest home for the elderly.
1985	N14280	Permit – alterations to roof space to form staff restrooms.
1986	N15161	Refuse – single storey extension to form bedroom.
1987	N15678	Permit – extensions and formation car parking area.
1988	N17409	Permit – bay window.
1989	N18190	Permit – two dormer windows
2004	04/00535/FUL	Permit - alterations and extensions to provide additional single bedrooms and ensuites.
2005	05/00166/FUL	Permit – alterations and extensions to provide additional single bedrooms and ensuites.
2006	06/01121/FUL	Permit – rear conservatory
2008	08/00068/FUL	Refuse – extensions and alterations including demolition of bungalow at the rear.
2008	08/00883/FUL	Permit – extensions and alterations including rebuilding of bungalow at the rear.

Views of Consultees Relating to Planning Application 12/00504/FUL

Police Architectural Liaison Officer has no objections to the proposal.

The **Highway Authority** objects to the proposal on three grounds:

- The proposed development fails to make adequate provision for the parking of vehicles within the site curtilage resulting in an increase in the likelihood of highway danger due to the likelihood of vehicles being parked on the public highway.
- The proposed development fails to make adequate provision for service vehicles to access through the site in a forward gear resulting in an increase in the likelihood of highway danger due to drivers having to manoeuvre out into Milehouse Lane.
- The proposed gradient of the access would make movement between the site and the highway difficult and would consequently increase the likelihood of highway danger.

The views of the **Environmental Health Division** are awaited.

Views of Consultation Carried Out Relating to the Request to Discharge the Section 52 Agreement

The **Highway Authority** objects to the removal of the agreement on the following grounds:-

That the Highway Authority is objecting to the current planning application proposal on the three grounds above and the applicant has failed to demonstrate that adequate parking and servicing can be provided for the proposed change of use to a Day Centre and the Highway Authority are unable to support the discharge of the planning obligation for the removal of the ancillary car park.

They advise that the car park has been gated off and consequently is not available for use. In addition the car parking spaces have not been marked out and there is no signage indicating that this is a car park for visitors to the existing Allendale Residential Care Home.

They recommend that appropriate enforcement action is carried out to ensure the car park is made available as required by the planning agreement.

Representations

A letter containing 18 signatures and two further letters have been received raising concerns regarding the current proposals:

- The proposal will compound the already unacceptable problem of staff and visitors parking outside residents properties in Milehouse Lane, in some cases parked for in excess of 24 hours.
- Vehicles have been parked across and in very close proximity to neighbours driveways resulting difficulty and danger in entering and leaving their properties.
- Residents of Milehouse Lane are unable to park their vehicles close to their properties.
- The available car park opposite Allendale House is locked and not made available for staff or visitors to use as per the legal agreement.

Applicant/Agent's Submission

The submission is supported by;

(i) Planning, Design and Access Statement

- **Introduction** to the proposal including details of the current residential care home use, advising the existing use has a capacity to care for 17 elderly persons and that an existing day care centre in Stoke on Trent has been closed.
- Description of the **Site and Surroundings**.
- **The Planning History**.
- **Design and Access Statement** provides information under the following headings :-
 - Use and Amount** – the proposed use would provide a day care centre for young adults (18+). The young adults would be physically disabled or have moderate learning difficulties, and the facility would provide them with independent living, social and community skills. The premises would offer up to 15 spaces per day and these would be booked and planned in advance. The users would be dropped off by mini bus at 0900 hours and collected at 1600 hours Monday to Friday. The further session is being proposed on Friday evening 1800 hours to 2130 hours. Overnight respite would be made available for 5 persons (for those who attend the Friday Evening session) from Friday evening to Monday morning, thereby the use would be a 24 hours over these periods. Staffing number would remain the same as the existing use being five full time staff including the applicant.
 - Layout and Landscaping** – No changes are being proposed for the external design of the building, changes are being proposed to the access and forecourt at front of the application building providing 4 no. car park space and an area for a minibus to drop off visitors. This arrangement would have a separate entrance and exit.
 - Scale** – remains the same as the existing
 - Siting and Access** – remains the same as the existing with the exception of alterations proposed for the vehicular access and parking arrangements.

- **Relevant Planning Policy.**
- **Key Issues** – advising these would be the principle of the proposal, residential amenity and impact on the highway network/car parking provision including consideration of the removal of the Section 52 Agreement.

(ii) **Car Parking Demand Review** report prepared by a Transport Consultant

- **Car Parking Demand Assessment** which was carried out over two days in July 2012 and identifies the availability of a number of on street parking spaces in the vicinity of the application site.
- **Allendale House Parking Areas Assessment** advising the car parking area, which is subject to the section 52 agreement is not currently in use and hasn't been since the applicant took over the management of the residential care home some 10 years ago. The parking area directly in front of Allendale House can accommodate approximately eight vehicle however there is no turning facilities in this area and as such vehicles can not enter and exit in a forward gear.
- **Existing use of Allendale House Assessment** this advises none of the resident own vehicles and a total of 5 full time staff are currently employed who do not drive to work and gain access to work by either as a passenger in vehicles, public transport users and pedestrians, therefore no staff parking is required. This also identifies visitors to the site are medical practitioners, beauty technicians or family or friends visiting residents. An assessment has been undertaken of the visitor log book to the premises over a month period and this identifies that an average of 4 visitors arrive at Allendale House per day.
- **Proposed use of Allendale House Assessment** this advises this proposed use would not have ad hoc visitors to the site. The existing staff would be retained and as such no staff parking would be required. Visitors to the site would be brought in by minibus each day and the minibus would be kept off site.
- **Alterations to the site frontage** this advises the amendment would improve facilities for the operation of the site including an in/out arrangement
- The **summary/conclusion** advises that the existing or proposed use does not create the demand for parking requirements and as such the area of land opposite the site section 52 land is not required for parking and therefore the Section 52 should be revoked.

These documents are available for inspection at the Guildhall and on www.newcastle-staffs.gov.uk

Key Issues

The key issues in the determination of this application are:

- Principle of the change of use
- Residential amenity
- Highway issues
- Whether the section 52 agreement should be removed or altered
- Enforcement of the Section 52 agreement.

Principle of the development

The property the subject of this application has an established residential care home use following the granting of planning permission in 1984, this use falls within use class C2, residential institutions. The proposal seeks to change the use of the premises to a day care centre which falls within use class D1, non-residential institutions, and associated ancillary overnight respite care (use class C2).

There are no specific policies that require consideration in relation to the proposed use. The proposal, in part, retains the existing residential institution use however this would be ancillary to the introduction of a day care centre. Subject to consideration of residential amenity and highway safety there are no policy objections to the proposal in principle of the proposal.

Residential amenity

The application site is situated in a predominantly residential area and as such it is important to assess whether the proposed change of use would have a detrimental impact on the adjacent residents reasonable living conditions.

The proposal does not involve any physical alteration to the building but does involve alteration to the frontage of the site to form a car park, pull in area and a separate entrance and exit to the site. This area could be used for the parking of vehicles in association with the existing use without the need for planning permission, and the formation of a second access and the laying out of parking spaces would not result in an additional impact to the adjacent residential property occupiers by the virtue of noise and vehicle movement nuisance than that which could occur in connection with the existing use.

The existing care home could potentially result in vehicular movements at any time during the day and night, although the majority of vehicular movements would be during the day time period. The proposal, however, would operate during normal working hours Monday to Thursday with users being dropped off for a Friday evening session who may then not leave the premises over the weekend period if they take advantage of the proposed over night respite care. It is not anticipated that any noise associated with vehicular movements will be significant or materially different to that which exists in association with the existing use, and whilst the views of the Environmental Health Division are awaited on this proposal it is considered the proposed use would not have an adverse impact on the reasonable living of the adjacent residential occupiers and as such a refusal on these grounds could not be sustained.

Highway issues

Appendix 3 to the LP indicates that for a day care centre the maximum car parking standards are one space per four people, which in this case equates to 4 parking spaces. As stated previously the surrounding area is predominately residential with a mix of on and off street parking provision. The on street parking is provided in parallel parking bays adjacent to the public carriageway. The representations received indicate that there are problems associated with on street parking in the locality and in view of this concern it is considered necessary that an appropriate number of parking spaces are secured.

The residential care home at Allendale House has been operating for a number of years, following the granting of planning permission in 1984, since then the site has received planning approval for a number of alterations and extensions, however, a number of these have not been implemented and have subsequently lapsed. One proposal which was granted planning permission in 1987 and subsequently implemented involved rear and side extension and the formation of a car area opposite the site, on the corner of Milehouse Lane and Kings Avenue. This approval was granted following the completion of a Section 52 Agreement under the Town and Country Planning Act 1971. The Agreement sought to secure the laying out and surfacing of the car park area and its subsequent maintenance as such and to ensure that the site remained in same ownership as Allendale House for normal car parking purposes by owners or staff and visitors.

It has been stated in this submission the car park area secured by Section 52 Agreement has not been used for car park purposes for a period of 10 years and a visit to the site established that the car park was securely locked and that it was evident the area had not been used for some time. The applicant's intention is that this car parking area will not be reinstated.

The applicant proposes to accommodate the required car parking and associated vehicle movements within the site of the Allendale House on the site frontage. This area is currently used as an informal parking area, however, it has no turning facilities and is currently served by a single access and as such vehicles cannot enter and exit in a forward gear. The submission provides four car parking spaces and drop off area for a minibus with an additional access point that would then provide a vehicular entrance and a separate egress. There is difference in ground levels between the public highway and the higher parking area of approximately 1 to 1.5 metres which result in 1:6 gradient from the parking area to the public highway.

The Highway Authority has objected to the proposal on a number of grounds. They consider that 4 parking spaces are required for the proposed use however the parking spaces provided are not adequate in size (the submitted details indicate the 4 parked vehicles as being 4.1 metres by 1.7 metres and the minimum dimensions of a parking space should be 4.8 metres by 2.4 metres and when parallel parking, as proposed, should be 2 metres by 6 metres) and as such, given that the intention is to lose the car parking area opposite,

that the proposal fails to make adequate provision for the parking of vehicles for the proposed use resulting in an increase in the likelihood of highway danger due to the likelihood of vehicles being parked on the public highway. Any amendment to the parking spaces to ensure that they are of a standard size may result in inadequate space being available for the mini bus to access and exit the site in a forward gear when dropping off users and the Highway Authority consider that this would result an increase in the likelihood of highway danger due to drivers having to manoeuvre out in Milehouse Lane. Finally they have expressed concern that the proposed gradient of the access is too steep.

Officers share the concerns raised by the Highway Authority as although 4 spaces are being proposed on the site, the applicant has failed to demonstrate these spaces can be accommodated within the site whilst also ensuring that service vehicles, the mini-bus, can gain entrance and exit the site safely.

The applicant agent has been made aware of these concerns and is discussing potential amendments/alterations with Highway Authority. Any outcome of these discussions will be reported on your advanced supplementary report or at your meeting. However, given the position at the time of writing your officers are recommending a refusal of the application on the highway grounds highlighted above.

Removal of the Section 52 Agreement

The applicants has requested that the Local Planning Authority consider removing the Section 52 Agreement on the grounds the existing and proposed uses no longer generates the demand for amount of parking and/or any parking requirements can be met on the site of Allendale House.

As indicated above the proposal for the change of use of the property fails to demonstrate that adequate and safe parking and servicing can be provided on the site of Allendale House, therefore the request to remove the Section 52 Agreement cannot be agreed at this time.

In terms of the existing use, the Section 52 Agreement was entered into on the basis that Allendale House would be used as a residential care home and no other appropriate parking arrangements where available at that time. Since that time the property has had a couple of relatively minor alterations and extensions together with planning approvals which have not been implemented and now have lapsed. In the period since the Section 52 Agreement was entered into the operation of the premises may have changed however such a use will still generate a demand for parking. The applicant has put forward a case which includes the availability of on street parking spaces and the fact that none of the current staff drive to work. However these are factors which can change over time and to remove the only suitable car parking facility to serve the premises could not be supported at this time. As such it is recommended the request to remove the section 52 agreement is declined.

Background Papers

Planning files referred to

Planning Documents referred to

Date report Prepared

18 September 2012