

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Planning Committee

Date: **Thursday, 13th December, 2018**

Time: **7.00 pm**

Venue: **Council Chamber, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Martin Elliott

m.elliott@ashfield.gov.uk

01623 457316

PLANNING COMMITTEE

Membership

Chairman: Councillor Chris Baron
Vice-Chairman: Councillor Phil Rostance

Councillors:
Tom Hollis
David Griffiths
Keir Morrison
Mike Smith
Jason Zadrozny

Cheryl Butler
Rachel Madden
Helen-Ann Smith
Sam Wilson

FILMING/AUDIO RECORDING NOTICE

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SUMMONS

You are hereby requested to attend a meeting of the Planning Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. To receive and approve as a correct record the minutes of a meeting of the Planning Committee held on 14 November 2018 5 - 10
4. To receive and consider the attached planning applications. 11 - 58
5. TPO 64 Plainspot Road, Underwood 59 - 62
6. **Consultation - Planning reform: supporting the high street and increasing the delivery of new homes** 63 - 78

A Government's consultation on Planning Reform: supporting the high street and increasing the delivery of new homes.

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PLANNING COMMITTEE

Meeting held in the Council Chamber, Council Offices, Urban Road, Kirkby-in-Ashfield,
on Wednesday, 14th November, 2018 at 7.00 pm

Present: Councillor Chris Baron in the Chair;

Councillors Cheryl Butler, David Griffiths,
Tom Hollis, Rachel Madden, Keir Morrison,
Phil Rostance (Vice-Chair), Robert Sears-
Piccavey (Substitute for Jason Zadrozny), Helen-
Ann Smith, Mike Smith and Sam Wilson.

Apologies for Absence: Councillor J Zadrozny.

Officers Present: Lynn Cain, Mike Joy, Martin Elliott, Mick Morley,
Christine Sarris, Samantha Reynolds and
Shane Wright.

In Attendance: Councillor Tony Brewer and Councillor
Cathy Mason

P.17 To receive apologies for absence, if any.

Apologies for absence were received from Councillor Zadrozny.

P.18 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.

Councillor Hollis, on behalf of the Committee, declared a general Non Disclosable Pecuniary/Other Interest in relation to Members being known to the Applicant, Councillor Jason Zadrozny (application V/2018/0630, Mr. J. Zadrozny, Fence and Posts, 74 Sutton Road, Kirkby in Ashfield.)

Councillor Sam Wilson declared a Non Disclosable Pecuniary/Other Interest in respect of application V/2018/0396, Wren Hall Nursing Home Limited, 234 Nottingham Road, Selston. His interest arose from the fact that he was known to the applicant but had not fettered his discretion for considering the application.

P.19 To receive and approve as a correct record the minutes of a meeting of the Planning Committee held on 18 October 2018

The Minutes of the meeting held on 18 October 2018 were approved as a correct record and signed by the Chairman.

P.20 To receive and consider the attached planning applications.

1. V/2018/0396 - Wren Hall Nursing Home Ltd - Extension to Rear of Existing Care Home and Change of Use from Residential Curtilage and Equestrian to Create Additional Car Parking to the North West of the Site in Association with the Care Home, and Construction of Steps from the Care Home to the Car Park Area - Wren Hall Nursing Home, 234 Nottingham Road, Selston, Nottingham.

In accordance with the Council's Policy for dealing with late matters in relation to planning applications (Minute No. D4.17, 1993/94), the Assistant Director for Planning and Regulatory Services gave a verbal report on additional comments received in relation to the application after the agenda had been finalised as follows:

Eight further letters of support had been received. Two letters raised further reasons for support including:

- Addition of 'Little Wrens' nursery helps to support those at Wren Hall Care Home
- Wren Hall has converted one of the shared rooms into an 'End of Life' suite for families to have a private, respectful and comfortable environment when a loved one is coming to the end of their life.

The content in the further six comments received raised no further reasons for support on top of what had already been raised by other residents, and which was already detailed in the report.

17 further signatures received on the online petition in support of the application.

One further letter of objection had been received. The content of this letter raised no further reasons for objection to the current application on top of what has already been raised by other residents, and which had already been detailed in the report.

An email had been received from the applicant's agent raising concerns that the application presented at the previous committee meeting had been inaccurate and selective information was put to members.

The following had also been raised in the email about the report now before committee:

- The report gives the impression that the whole application falls within the Green Belt, whilst only part of proposed extension does.
- The consultee response from environmental health is incorrect and does not reflect the comments received.
- The consultee response has been ended with 'there is therefore a risk of vehicular conflict occurring at the entrance to the site, to the detriment of the safety of other highway users' with no mention to the suggested condition from highways until later in

the report which is misleading.

- The report raises concern in relation to landscaping and ecology but no comments have been received from consultees.
- The report states that the acoustic fence is less than 1m from a habitable room window. The kitchen is not a habitable room and the first floor room could potentially be a bedroom which is not used during the day.

Officer response:

- The committee report states that the original building fall within the named settlement of Selston and clarifies that 759sqm of the extension is sited in the Green Belt.
- The comments received from environmental health suggests a condition restricting the use of the car park for commercial vehicles during certain hours to reduce the disturbance to surrounding residents.
- Reference to suggested conditions from all consultees are referred to under the appropriate header in the report, in this case, the highways header.
- Officers have summarised the ecology issues raised.
- There is no single definition of what constitutes a habitable room however the Council's Residential Design Guide SPD specifies a kitchen as being a habitable room. The first floor room is a bedroom which is a habitable room.

Mr Paul Easom (objector) and Mrs Anita Astle (the applicant), took the opportunity to address the meeting in respect of this matter.

It was moved, seconded and **RESOLVED** that planning permission be refused.

The meeting adjourned at 7:55pm and recommenced at 8:01pm

Councillor Madden left the room at 8:01pm

2. V/2018/0630 – Mr J Zadrozny – Fence and posts - 74 Sutton Road, Kirkby in Ashfield.

It was moved, seconded and **RESOLVED** that planning permission be granted, subject to conditions.

Councillor Madden returned to the room and re-joined the meeting at this point (8:07pm).

3. V/2016/0569 - Lovel (East Midlands) Ltd. - Outline Application with Some Matters Reserved for A Residential Development for a Maximum of 322 Dwellings - Land at Beck Lane Sutton in Ashfield.

The Interim Director – Place and Communities, submitted a report to advise that an appeal had been lodged against the non-determination of this application. It was therefore being reported to Planning Committee seeking a decision as to what view the Planning Committee would have

taken on the proposals if the Council had been in a position to determine the application. It was noted that the decision of the Committee would inform the Council's case for the appeal process that would be determined by the appointed Inspector at a Public Inquiry. It was also noted that once an appeal has been lodged against non-determination a formal decision could not be taken by the Local Planning Authority on the application.

In accordance with the Council's Policy for dealing with late matters in relation to planning applications (Minute No. D4.17, 1993/94), the Assistant Director for Planning and Regulatory Services gave a verbal report on additional comments received in relation to the application after the agenda had been finalised as follows:

Two additional letters of objection had been received from residents raising concerns over additional traffic, insufficient infrastructure in the form of schools, doctors and bus services and the impact on wildlife. The comments raised no new issues, all of which have been discussed within the main committee report.

An email had been received from Nottinghamshire County Council regarding education requirements. They had identified options for using the section 106 obligations to expand local primary schools. These included expanding Brierley Forest School.

The applicant's agent had reviewed the s106 requirements and was content with the suggestions and advised that with regards to the Highways situation they were currently working with NCC in order to resolve the issue and come up with a collaborative solution. Both sides had agreed a solution is achievable.

Councillors Butler and Smith advised that they had been received further representations directly from a member of the public with regard to the application. The Chairman advised that in accordance with Policy 33 of Part 10 of the Council's Constitution the only information which could be taken into account in determining a planning application was that which had formally been submitted to the Service Manager in advance of the meeting, and that as this representation had not been submitted to the Service Manager it could not be admitted to the meeting for the consideration of the item.

Mr Hugh Nicoll (objector), Mr Jason Tait of Planning Prospects (agent for the applicant) and Councillor Tony Brewer (ward member), took the opportunity to address the meeting in respect of this matter.

At 8:51pm it was moved by Cllr P Rostance, seconded by Councillor Smith and **RESOLVED** that in accordance with Rule of Procedure No.23 (The Conclusion of Proceedings) that the meeting be extended to 9:30pm.

It was moved by Councillor Smith, seconded by Councillor Hollis, and **RESOLVED** that the member steer was that the Planning Inspector be informed that the Council would have **REFUSED** planning permission.

This is due to concerns regarding the sustainability of the site due to its distance from community facilities and amenities, lack of accessibility to public transport links and availability of local primary school places, and concerns on the impact that development would have on the highway network in respect of highway safety and capacity.

4. V/2018/0120 - Harron Homes Ltd - Application for Approval of Reserved Matters following Outline Planning Permission V/2016/0208 for Residential Development for 172 Dwellings and Associated Access - Land Off Brand Lane, Stanton Hill, Sutton in Ashfield.

In accordance with the Council's Policy for dealing with late matters in relation to planning applications (Minute No. D4.17, 1993/94), the Assistant Director for Planning and Regulatory Services gave a verbal report on additional comments received in relation to the application after the agenda had been finalised as follows:

A neighbouring resident had submitted a further letter of objection, raising issues over highways safety and noise and disturbance from the kick about area. These matters were covered, in depth, within the body of the report.

Mr Mark Beevers and Mr Carl Oxley of Harron Homes (the applicant), took the opportunity to address the meeting in respect of this matter.

It was moved, seconded and **RESOLVED** that planning permission be granted, subject to conditions.

P.21 TPO 64 Plainspot Road

The Interim Director of Place and Communities submitted a report to advise the committee of an objection that had been received in response to the making of a Tree Preservation Order at 64 Plainspot Road, Underwood.

It was moved, seconded and **RESOLVED** that consideration of the objection to the TPO be deferred to the next meeting of the Planning Committee in order to allow members of the Planning Committee the opportunity to carry out a site visit.

P.22 Planning appeal decisions

The Interim Director – Place and Communities submitted a report to advise the committee of the outcome of recent Planning Appeal decisions.

RESOLVED

that the report be noted.

The meeting closed at 9.18 pm

Chairman.

BACKGROUND PAPERS AND AVAILABILITY OF PLANS

Under the terms of the Local Government (Access to Information) Act 1985 the Authority is required to list the background papers used in preparing all recommendations relating to planning applications.

The background papers forming the planning application file include:

- A Planning Application file, incorporating consultation records, site appraisal and records of meetings and telephone conversations.
- B Planning Policy
- C Local Resident Comments
- D Highway Authority Consultation
- E Environmental Health (ADC)
- F Severn Trent Water plc/Environment Agency
- G Parish Council
- H Local Societies
- I Government Circulars/PPGs
- J Listed Building Consultees
- K Other

Letters received prior to preparation of the Agenda are summarised to indicate the main points and incorporated in the Report to the Members. Any comments received after that date, but before 3pm of the day before Committee, will be reported verbally.

The full text of all correspondence is available to Members.

If a member of the public wishes to view any Background Papers an appointment should be made (giving at least 48 hours notice) with the appropriate Officer in the Council's Development Control Section.

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Site Visits Planning Committee

Members will be aware of the procedure regarding Site Visits as outlined in the Councils Constitution.

Should any Planning Committee Member wish to visit any site on this agenda they are advised to contact either the Interim Director – Place and Communities or the Corporate Manager by 4pm Friday 7 December 2018.

This can be done by either telephone or e-mail and should include the reason as to the request for the site visit. The necessary arrangements will then be made to obtain access to the site or an objector's property, if such is required.

Members are asked to use their own means of transport and those Members attending site visits should meet at the Council Offices at Urban Road at 10am on the Tuesday before Planning Committee. If there is any difficulty in obtaining transport please make contact with the above named officers where alternative arrangements can be made.

C. Cooper-Smith

Interim Service Director – Place and Communities

Tel: 01623 457365


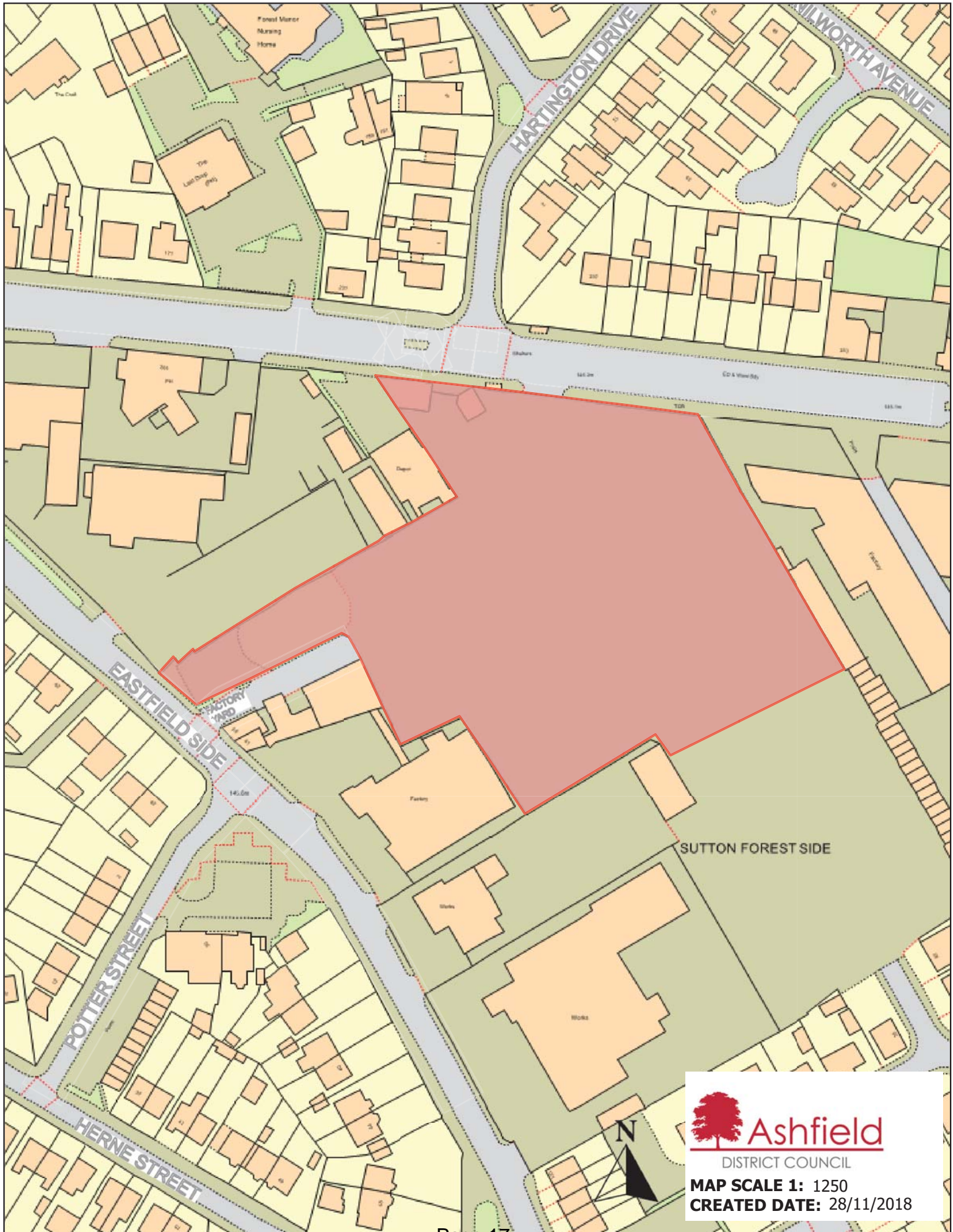
E-mail: c.cooper-smith@ashfield.gov.uk

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**PLANNING COMMITTEE – 13 December
2018**

Page	App No	Applicant	Recommendation	Proposal	Location
Central and New Cross					
17 - 29	V/2018/0221	Lidl UK	Refuse	Erection of Retail Store with Car Parking and Landscaping	Land Off Mansfield Road and Eastfield Side, Sutton in Ashfield
31 - 43	V/2018/0408	Chardstock Management Services Ltd	Approval	Erection of 4 Five Bedroom And 2 Six Bedroom Dwelling Units, (Class C4) Within A Two Storey Block With Ancillary Car Parking And New Vehicular Access.	Land at Junction of Outram Street and Park Street, Sutton in Ashfield
45 - 58	V/2018/0262	Chardstock Management Services Ltd	Approval	Outline Application for A Maximum of 24 Apartments and Associated Works	Land at Junction of Outram Street and Park Street, Sutton in Ashfield

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Ashfield
DISTRICT COUNCIL
MAP SCALE 1: 1250
CREATED DATE: 28/11/2018

COMMITTEE DATE 13 December 2018 **WARD** Central and New Cross

APP REF V/2018/0221

APPLICANT Lidl UK GmbH

PROPOSAL Erection of Retail Store with Car Parking and Landscaping

LOCATION Land Off Mansfield Road and Eastfield Side, Sutton in Ashfield Nottinghamshire. NG17 4HR

BACKGROUND PAPERS A; B; C; D; E; F; I; K

WEBLINK <https://www.google.co.uk/maps/@53.1317049,-1.2460504,73m/data=!3m1!1e3>

App Registered 09/04/2018

Expiry Date 23/11/2018

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Councillor L Anderson with concerns over traffic and the impact upon residential amenity and local businesses.

THE SITE & HISTORY

The application site comprises part of the former Courtaulds 'Pretty Polly' Factory site and extends to around 1ha in area. Following closure of this business, an outline application (V/2007/0384) was received to change the use of the site to residential; B1; & B2 uses. This was granted on 4th January 2008, with reserved matters being approved in 2009. This approved scheme has now been built out by Peveril Homes.

A subsequent application V/2012/0297 for the erection of 50 dwellings was granted conditionally 15th November 2013. This application site correlates to the current application site for a retail store.

A small residual area between the initial Peveril Homes site and the current application site has since been approved for a development of 18 dwellings for Peveril Homes, under reference V/2017/0049.

THE APPLICATION

This is an application for Erection of Retail Store with Car Parking and Landscaping. The scheme is essentially a repeat of that considered under reference V/2017/0318 with modifications to design and layout to meet the previous reasons for refusal. The principle changes are:

- A change in the Lidl model building to a non-standard building measuring 59.6m x 34.6m. This is almost 10m shorter than the previous scheme, which measured 69m x 30m.
- The shortening of the building enables the provision of an 8m deep landscaping buffer to be created between the application site and the adjacent Peveril Homes site, to the south. This will supplement the proposed acoustic fencing.
- Changes to the footprint and additional landscaping has however reduced the car parking from 149 spaces in the previous application to 133 spaces for this proposal.

The building footprint is around 2055m², accommodating a sales area of 1309m². The associated car park comprises 118 standard parking bays; 7 disabled bays; 8 parent & child bays and a single motorcycle space.

A scheme of on-site landscaping and boundary treatments has been submitted which includes for the provision of a 3m high close boarded fence along the southern side of the proposed servicing yard, designed to protect the amenity of adjoining residents.

Highway improvements works within Mansfield Road are proposed, as agreed with the Nottinghamshire County Council Highways Authority, to ensure the safe and free flow of traffic along the road and enabling safe access to and egress from the store car park. This would include turning refuges, lane segregation lining and re-location of a bus stop.

ADC Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

Ashfield Local Plan Review 2002 [Saved Policies 2007] (ALPR)

- **EM5** : Protection of Existing Employment sites
- **ST1** : Development
- **ST2** : Main Urban Areas
- **SH5** : Retail development to meet local needs
- **SH8** : Commercial / Retail development.

National Planning Policy Framework 2018 (NPPF)

- **Part 6** : Building a strong, competitive economy

- **Part 7** : Ensuring the vitality of town centres
- **Part 8** : Promoting healthy and safe communities
- **Part 9** : Promoting sustainable transport
- **Part 11** : Making effective use of land
- **Part 12** : Achieving well designed places.

CONSULTATIONS

Site Notices and a Press Notice have been posted, together with significant individual notifications to surrounding residents.

ADC Drainage

No known drainage issues with this site.

ADC Environmental Protection – Air

No objection to the proposals subject to a condition requiring a scheme of dust management to be submitted and approved prior to commencement.

ADC Environmental Protection – Noise

Extensive discussions have been held with the applicant's consultants regarding the Council's initial concerns over the noise impact assessment. Most of the concerns have been resolved, barring the noise assessment for the servicing yard / adjacent dwellings and the intended hours of operation, particularly the 11pm servicing. Since the applicant has now conceded that a restriction of servicing to 7pm will be accepted, the noise assessment is considered acceptable, subject to the stated conditions particularly restricting the servicing hours.

ADC Environmental Protection – Contamination

Under planning reference V/2017/0318, a Phase 1 Desk Study and a Phase 2 Ground Investigation Report was submitted. Based on this, it is now necessary for any future planning permission to be conditioned to require parts 3 and 4 of our full four phase condition to be submitted.

ADC Place & Wellbeing / Landscaping

Public realm improvements are required to Portland Square and Outram Street. Whilst a nominal costing of £600,000 has been quoted for Portland Square, there are no budget costings for Outram Street and no detailed schemes have yet been produced for either project.

The landscaping scheme submitted is reasonable for the site, however, need to query:

- Omission of specimen trees within the car park.
- Maintenance of the grassed zone along the eastern boundary, suggest gravel area or low ground cover would be preferable.
- Boundary treatments details required
- Opportunity to create a more imposing public realm frontage to Mansfield Rd.

ADC Heritage

The application site does not contain or affect the setting of any designated or non-designated heritage assets. Conservation has no further observations to make.

Nottinghamshire County Council - Highways Authority

These proposals have been subject to lengthy consultations with the Highway Authority (HA). The HA has now appraised and considered issues of highway access, capacity and safety, and sustainability and are of the opinion that there are insufficient grounds to contest the application. The HA therefore have no objections, subject to conditions.

Nottinghamshire County Council - Lead Local Flood Authority [LLFA]

The LLFA have no objections to the development, providing a detailed surface water design and management plan are approved by the Council prior to any construction starting on site. The should follow the principals set out within the LLFA response.

Environment Agency

Due to the sites history and potential for contamination the Environment Agency recommend that a planning condition relating to contamination is included in any subsequent grant of permission.

Severn Trent Water Authority

The development shall not be commenced until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority.

OTHER REPRESENTATIONS

Community Responses

58 representations have been received:

44 support the proposal on the grounds that:

- it will improve an eyesore site;
- good for the community;
- cheap produce; provides jobs;
- good access on foot or public transport;
- aid local businesses;
- improve security;
- quality building will uplift the area;
- sell different goods to Outram St therefore no conflict or harm;
- walkable store;
- better than take-aways;
- better amenities in the area;

14 object on the grounds that:

- road too busy already;
- access from drives and road junctions will be a nightmare;
- will worsen already bad situation of traffic build up at A38 junction;
- one store in small town should be enough;
- need bungalows for elderly and affordables,
- no more supermarkets of any sort;
- Sutton Town centre will suffer massively,
- Outram St is already a run down disgrace, this is where money should be spent;
- land is needed for housing;
- conflict with bus stops;
- store rather than houses will downgrade the area

Commercial Responses

Objections have been made to the proposed development on behalf of the Idlewell's Shopping Centre and Asda. Concerns expressed relate to the inadequacy and inaccuracy of the sequential and impact assessments undertaken; failure to recognize the impact on Lidl's existing store which is a town centre location and the potential for this to close; the significant impact upon the town centre and local centre; and the non-compliance with the NPPF and local planning policies.

RELEVANT PLANNING HISTORY

V/2007/0384: Outline application for use of site for residential; B1; & B2 uses - Conditionally Granted 4/1/2008

V/2012/0297: Erection of 50 dwellings - Granted conditionally 15th November 2013

V/2017/0318: Erection of retail store with car parking and landscaping. Refused 8th December 2017.

ASSESSMENT

Having regard to national and local planning policy the main issues are considered to be:

- Whether there would be a sequentially preferable location for the development;
- What impact the development would have the vitality and viability of the town centre and/or local shopping centres;
- Highway Safety;
- Residential amenity;
- Character and Appearance of the area.

Retail Position

Existing development plan policies have to be considered in relation to NPPF paragraph 213, which identifies that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The application site is not located within the town centre or edge of centre in relation to Sutton in Ashfield town centre as defined by the ALPR. The proposed use is a main town centre use as defined by the NPPF, Appendix 2.

Policy SH1 identifies suitable uses with the town centres as defined on the proposals map with retail development sites being identified in Policy SH2. Policy SH5 on minor shopping centres and single shops identifies that retail development will be permitted to meet local shopping needs where it primarily involves the sale of convenience goods and the net retail floor space is under 500 sq m. This proposal would not meet that requirement.

Policy SH3 was not saved consequently the ALPR is silent on the sequential test. Therefore, the NPPF provisions will apply. The NPPF stresses that town centres are at the heart of the local community (Paragraph 85). The NPPF sets out 2 key tests for applications for town centre uses which are not in the existing town centre, or which are not in accordance with an up to date Local Plan:

1. Sequential Test, and
2. Impact Test.

To place this in context, the protection of high streets and town centres is at the forefront of the current governments agenda. This includes the announcement of a new £675 million Future High Streets Fund, set up to help local areas respond and adapt to changes.

Sequential Test

Paragraph 86 of Part 7 of the 2018 NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. The focus and preference is for town centre sites. The NPPF paragraph 86 identifies that the key sequential test is *“only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered”*. Neither, the NPPF nor the Planning Practice Guidance [PPG] specify what is meant by ‘suitable’ or ‘available’. However, the emphasis under the PPG is that it is for the applicant to demonstrate compliance with the sequential test.

A degree of clarification was however provided by Ouseley J in paragraph 42 of the Aldergate Properties Ltd v Mansfield DC EWHC 2016 judgement, which set out the following:

“A town centre site may be owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer. It is plainly available for retailing though only to one retailer. That does not mean that another retailer can thus satisfy the sequential test and so go straight to sites outside the town centre. Available cannot mean available to a particular retailer but must mean available for the type of retail use for which permission is sought”.

Two sites have been considered which relate to the previous reasons for refusal, namely northern Bridge Road and Fox Street. Considering Fox Street, the Council concede that, notwithstanding the degree of flexibility demanded by the test in terms of format and scale of the development, the site is too small to accommodate the applicant's requirements.

Regarding Northern Bridge Road however, it is noted that the applicant does not claim the site is unviable, merely unavailable. Lidl has submitted to demonstrate they have made reasonable efforts to acquire the land but that Asda (the vendor) is for commercial reasons, obstructing this. The applicant has also supplied evidence stating they cannot progress this site until and unless a site cost is confirmed.

The Northern Bridge Road site meets the search parameters. The latest correspondence submitted on behalf of Asda, confirms that, in principle, they are willing to dispose of the site. However, no offer has yet been received from Lidl. Lidl's failure to make an offer on this site means the applicant has failed to fully explore the availability of a locationally preferable site. It cannot therefore be reasonably concluded that the site is unavailable.

In light of the above, it can only be concluded that the applicant has failed the sequential test. In this regard NPPF paragraph 90 identifies that, *‘where an application fails to satisfy the sequential test ... it should be refused’.*

Impact Test

The NPPF at paragraph 89 requires that an impact test should be undertaken if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

The impact test should identify that the development does not have a significant adverse impact on the town centre. The proposed Lidl development would sit below the floor space threshold set out within the NPPF.

In terms of the ALPR (2002) Policy SH5 sets out that retail development to meet local shopping needs will be permitted where it primarily involves the sale of convenience goods and net retail floorspace is under 500 square metres.

The proposal is located within walking distance of Outram Street Local Shopping Centre and within close proximity to Sutton Town Centre, which includes a Lidl store. It is of significant concern that the proposal could have an adverse effect on local businesses and the health of the town centre. The applicant has submitted an impact test and below are the Councils observations:

State of Existing Town Centres

The information submitted by the applicant examines the health of two centres within the catchment area; Sutton-in-Ashfield Town Centre and Outram Street Local Centre. The broad picture based on an assessment of vacancy rates, Sutton (8.5%) is performing slightly better than the UK average (11.2%), whilst Outram Street (25.25) is performing significantly worse. Evidence submitted in the Ashfield Retail Study (2016) also indicates that Outram Street Local Shopping Centre is performing poorly.

Trade Draw

The applicant supporting information compares the goods to be sold from the Lidl store, to the range of other stores and centres in the catchment area stating that if the Council were to grant planning permission, they would be doing so for a store selling 80% convenience goods and 20% comparison goods. Whilst acknowledging the range of goods usually sold from a Lidl store, any grant of planning permission to Lidl would not be a personal permission, and Lidl would not be restricted to specific items within the convenience and comparison goods sectors. Further, their retail statement confirms that the 265 sq m net of comparison goods sales are usually not re-stocked, meaning that there is a constant turnover of new items, and the exact nature of the comparison goods sold is unpredictable.

We can agree with the applicant that the 'like-affects-like' principle should guide their trade diversion assessment, but we disagree with the extent to which they seek to define the divide between the proposed Lidl store and the range of existing retailers. For instance, their report states:

- At 6.15 – *“The frozen food and specialist shops will not compete with Lidl on a like-for-like basis because Lidl has a different role and product offer”* - Lidl will and do sell frozen food;
- At 6.19 – *“Owing to the nature of the products and the limited sale opportunity, the sale of these items [comparison goods] will have very little impact on the town centre comparison retailers”* - This is not correct, as Lidl could sell any item of comparison goods on an occasional basis, and it is their specific business model to do so.
- At 6.34 – *“Lidl’s limited non-food offer is unlikely to draw trade from the independent shops within Outram Street”* – This cannot be certain due to the Lidl trading model.

It is also noted that the application offers little in terms of assessment of the impact of comparison goods. Outram Street Local Centre, in particular, could be susceptible to a diversion of comparison goods trade and it is important to model this aspect in order to present an impact figure for the centres as a whole, as well as on a goods basis. Outram Street has established businesses, some with over 50 years’ experience, trading in whitegoods, small appliances, spares, flowers, petfoods, bedding, fishing tackle, prams pushchairs and associated products.

Considering the above, the applicant would have been asked to revise their cumulative convenience goods trade diversion assessment and to produce a cumulative comparison goods trade diversion. However, the agent has confirmed in their email 29th October 2018 that the communication was *“...their final position on all outstanding matters”* and that they, *“.... request again that the application be considered by the Committee in November.”* In the absence of this information therefore, it cannot be concluded that the proposal would not have any significant adverse impacts.

Accordingly, there are concerns the proposal could impact upon recent public investment within the town centre and the Councils aspiration for place making. The NPPF (para 89) requires the retail impact test to take into account any existing, planned and committed public and private sector investment. In terms of existing investment, this includes - over the past five years’ - projects at the Idlewells Centre, Market Square public realm initiatives and shop frontage enhancement schemes - seeking to drive further investment through environmental and physical improvements to boost confidence in and attraction to those retailing zones. There have been substantial improvements made and it is also expected the Council will be actively seeking further funding through the Future High Street Fund.

In view of the above, it must be concluded therefore that neither the sequential test, nor the impact test, has been passed and that the proposals as currently presented are unacceptable on retail policy grounds [NPPF, Paragraph 90] and should be refused.

Highway Safety & Traffic Implications

The Highway Authority has considered the issues of highway access, capacity, safety, and sustainability and are of the opinion that there are insufficient grounds to contest the application. Taking all the information submitted to this application into consideration, the Highway Authority request that the conditions and informatives, as advised, be appended to any grant of permission.

Residential Amenity

The applicant stipulates that the store will be consistent with the road level which necessitates that the floor level of the store is raised by 0.70m above the site level. With the general slope of the land, the southern extent of the store building will be lifted 1.84m above current ground levels, necessitating a considerable retaining wall and acoustic fencing to be erected close to the boundary with the new housing, segregated by an 8m wide landscaping belt.

The nearest residential dwellings are found to the south of the site (PP ref: V/2017/0049). The submitted drawings indicate the new store would sit approximately 2m higher than these properties. Since the submission of the previous application the layout has been altered, moving the building farther away from the dwellings, with the inclusion of a landscaping belt. The dwellings to south are orientated with gable walls facing onto the site, with a separation distance of approx. 10m to the nearest garden area. The overall height of the building at this point, intervening separation distance, boundary treatment and landscaping would mean the development would not appear as unduly oppressive from the neighbouring dwellings or garden areas, nor would there be a significant degree of overshadowing.

The previous application was refused on the basis of the potential for noises, disturbance and pollution due to the proximity of a servicing road. The applicant has submitted a Noise Impact Assessment and Air Quality Assessment. The Councils Environmental Health Team have been in close contact with the applicant and considered these to be acceptable, subject to conditions, particularly the restriction of servicing hours to 7pm to limit the potential for noise disturbances. These conditions, coupled with the changes to the layout, landscaping bund and acoustic fencing are considered sufficient to protect the amenity of neighbouring residents.

Character and Appearance

The previous application was refused for, amongst other things, a potential impact on the visual amenity of the area. The site is the former factory and is currently derelict. The wider street scene contains a variety uses and building styles, with no particularly prevailing design or type. As a result, the contemporary design of the

building, with a long rectangular shape, monopitch roof and modern materials would appear as an acceptable juxtaposition to the surrounding buildings.

The previous application raised concerns surrounding the building coming forward of the building line, however the building line along Mansfield Road features a degree of variety; including buildings to the east sitting flush with the pavement, whereas buildings to the west being set back. The proposed building has been amended from the original application and sits an angle with Mansfield Road. Areas of landscaping are to be formed around the entrance and side of the building, which soften the impact within the street scape. Overall, the proposal would raise no concerns surrounding an adverse impact of the character and appearance of the area.

Other Issues

Section 106 Contributions

The Council has requested that the applicant provides S106 contributions towards Public realm improvements at Portland Square and shop front improvements on Outram Street. Lidl have presently offered £100,000, whereas the improvements to Portland Square will amount to £600,000 and a shop front grant is normally £10,000 at 50% of cost. The figure provided is significantly below what would amount to a meaningful contribution to the two schemes - to offset any impact the proposal would have on these areas.

Planning Balance and Conclusion

As outlined above, it is considered the proposal would not harm the amenities of nearby residents, the character and appearance of the area, or highways safety

In terms of benefits, the applicant has stated the proposal would bring investment into the area and result in the creation of around 40 jobs. Although it is unclear the nature of the roles and whether these would be part or full time. The submitted application form states that 40 full time roles would be provided, however this number seems unusually high. Nonetheless, these new roles would potentially bring economic benefit through increased expenditure within the local economy. Further benefit would be provided through the applicants offer of £100,000 to make improvements to the Town Centre and Outram Street.

The proposal would also redevelop a presently vacant brownfield site thereby enhancing the street scene. Although given the sites history and potential for redevelopment for housing, these environmental improvements could potentially be achieved through alternate means.

In terms of the adverse impacts, the proposal is considered to fail both the sequential and retail impact tests. As a result, there would potentially be a significant adverse impact upon the vitality and viability of Sutton in Ashfield Town Centre and Outram

Street Local Shopping Centre. In accordance with Part 7 of the NPPF decisions should support the role town centres play at the heart of local communities. This proposal would run contrary to that objective.

Overall, it is considered, the proposed benefits and all other considerations do not outweigh the potential harm to the town and local shopping centre. Planning permission should therefore be refused.

RECOMMENDATION: REFUSE

REASONS

- 1. The Council considers that the applicant has failed the sequential test, as they failed to demonstrate there are no other available or suitable sites in a town centre, or edge of centre location. The proposal is also likely to draw trade from Sutton Town Centre and/or The Local Shopping Centre of Outram Street, potentially adversely affecting local business. The proposal is therefore considered to be harmful to the vitality and viability of Sutton Town Centre and Outram Street Local Shopping Centre and would be contrary to Part 7 of the National Planning Policy Framework and Policy SH5 of the Ashfield District Councils Local Plan Review 2002.**

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Ashfield
DISTRICT COUNCIL
MAP SCALE 1: 1250
CREATED DATE: 28/11/2018

COMMITTEE DATE 13 December 2018 **WARD** Central and New Cross

APP REF V/2018/0408

APPLICANT A McGivern Chardstock Management Services Ltd

PROPOSAL Erection of 4 Five Bedroom And 2 Six Bedroom Dwelling Units, (Class C4) Within A Two Storey Block With Ancillary Car Parking And New Vehicular Access.

LOCATION Land at Junction of Outram Street and Park Street
Sutton in Ashfield Nottingham NG17 4BB

BACKGROUND PAPERS A, B, C, D, E, I

App Registered 04/07/2018

Expiry Date 28/08/2018

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee by Cllr Helen Smith on the grounds of over intensification of the site.

The Application

The application seeks planning permission for the erection of 4 x five-bedroom and 2 x six-bedroom dwelling units within a two storey block, with ancillary car parking and the creation of a new vehicular access.

Location of the Site

The site is located at the junction of Outram Street and Park Street close to the centre of Sutton in Ashfield. It lies immediately outside of the District Centre as identified by the Ashfield Local Plan Review 2002 but within the identified Outram Street Local Centre although the site has no previous history of retail use.

The site is currently vacant and has been so for some years. It is surrounded by close boarded fencing to Outram and Park Street, with an adjacent residential property to the north west. The fourth boundary, which is a public footpath/cycleway, is formed by galvanised steel fencing.

Consultations

Site Notices have been posted together with individual notification of surrounding residents. The proposal has also been advertised within the local press. Below is a summary of the responses received:

Ashfield District Council Landscaping – The development of the site is welcomed, due to it being vacant for many years. A detailed landscaping scheme should be provided along with details of the sites boundaries.

Ashfield District Council Housing – Registered Providers are unlikely to take apartments within a block due to management and leasehold issues, however it is expected they should be approached. A commuted sum might be most appropriate for the development.

Ashfield District Council Drainage – No known drainage issues with the site, but guidance from the Local Lead Flood Authority and Severn Trent Should be followed.

Ashfield District Council Planning Policy - The proposal site is located within the main Urban Area and the principle of development for residential use has been established. Due to the size of the site and the need to consider the number of planning units as oppose to households, it is unlikely that any developer contributions can be sought.

The lack of outdoor amenity space, especially in light of the cramped indoor living space, is of concern, as is the large amount of impermeable hard surfacing which fundamentally covers the whole site along with the new building.

Ashfield District Council Land Contamination – Request a full four stage contamination condition.

Nottinghamshire County Council Rights of Way. – No definitive paths are affected by this development, but it is possible that other public rights of way exist, which have not been registered.

Nottinghamshire County Council Planning Policy – No comments.

Local Lead Flood Authority – No objections.

Severn Trent Water –Request a condition for the applicant to submit detailed drainage plans prior to works commencing on site.

Nottinghamshire County Council Highways – 17 unallocated spaces are provided across 32 bedrooms, which gives a rate of 0.53 spaces per bedroom. This should be acceptable for this use in this location. Details of the cycle shelter should also be provided.

Pedestrian visibility splays of 2x2m should be provided at the entrance, with the height of the fencing reduced and the gate set back 5m. Parking bay 17 should also be increased by 0.5m in width.

A response from County Highways also brought to our attention that a section of adopted highways land fell within the red boundary of site. The plan has been amended to omit this area and NCC have provided comments on how to remove highway rights.

A.D.C Housing - In the area that this proposal covers (Sutton Central) there are currently two Licensed HMO's; both of these are at the further end of Outram Street and approximately a 1/3 of a mile away from the proposed development. Evidence from our records at this time do not indicate that this would lead to unbalanced concentration.

As a result of the legal change which came into force on the 1st October 2018, each unit will require a Mandatory HMO licence, so a total of 6 Mandatory HMO licences. Although the proposal would place the HMOs in the currently designated selective licensing area, this would have no bearing as a selective licence would not apply to this type of accommodation.

Local Community

A total of 5 local residents have objected to the planning application on the following grounds:

Highways Safety

- Existing parking problems in the vicinity and requests made for resident permits on Park Street.
- Concerns over traffic on Outram Street and children traveling to school being affected.

Residential Amenity

- Anti-social behavior emanating from the potential residents in this type of accommodation.
- Concerns over the type of residents to be housed.
- Concerns raised over a facility on Welbeck Street
- Disruption during building works.
- High levels of noise and rubbish existing in the area.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

Ashfield Local Plan Review (2002)

ST1 – Development

ST2 – Main Urban Areas

TR6 – Developer contributions to transport improvements

HG3 – Housing density

HG5 – New Residential Development

HG6 – Open Space in Residential Developments
SH4 – Local Shopping Centres
HG8 – Residential Care Facilities, HMOs, Bedsits, Flats and Hostels

National Planning Policy Framework (2018)

Part 4 – Decision making
Part 5 – Delivering a sufficient supply of homes.
Part 7 – Ensuring the vitality of town centres.
Part 8 – Promoting healthy and safe communities
Part 9 – Promoting sustainable transport
Part 12 – Achieving well-designed places
Part 14 – Meeting the challenge of climate change, flooding and coastal change

Other Relevant Documents:

- Affordable Housing SPD, 2009 (updates Policy HG4 Affordable Housing).
- Residential Design Guide SPD, 2014
- Residential Car Parking SPD, 2014

Relevant Planning History

V/2004/0653: Erection of 28 flats. Conditionally Approved subject to S106 Agreement, which required contributions of £42,000 towards Public Open Space improvements and £64,000 towards off-site affordable housing.

V/2005/1073: Erection of 37 apartments. Refused but allowed on appeal subject to conditions requiring schemes to be submitted for off-site public open space improvements and the provision for off-site affordable housing.

V/2016/0737: Outline application for the erection of 24 one and two bedroom apartments and associated works. Refused for the applicant not being willing to enter into a Section 106 agreement, and the proposal therefore representing unsustainable development.

V/2018/0262: Outline application for the erection of 24 one and two bedroom apartments and associated works. Ongoing.

Comment:

The main considerations are the principal of development, visual amenity, residential amenity, highways safety. These are discussed in turn below:

Principle of Development

The site is located close to Sutton in Ashfield Town Centre in an area containing and mixture of commercial, retail and residential uses. As such it has good access to the range of services and facilities afforded by its central location as well as being

served by well-defined pedestrian routes and crossing facilities. The site also has good access to public transport facilities with bus stops close by.

Planning permission has previously been granted on two separate occasions for the development of the site for the erection of dwellings and flats.

It is therefore accepted that in principle the development of the site for residential purposes would be in accordance with both national and development plan policies.

Visual Amenity

The site has been vacant for many years and has become colonised by a number of self-set trees and ruderal species, which will be cleared to facilitate the development. The proposed development comprises a two-storey apartment block, which continues the built edge along Outram Street, with active frontages also facing onto Park Street and the adjacent footpath.

The design of the proposal reflects the Victoria terraced properties found along Outram Street with the use of red brick and stone cills. The proposal features landscaping around the peripheral of the site, complimented by low brick walls, which is welcomed by the Councils Landscaping Team. The layout, scale and appearance of the building complements the existing street scene and is likely to enhance the character and appearance of the area.

Residential Amenity

Existing Occupiers

The nearest residential dwelling to the site is found on Park Street, where its gable-end wall faces onto the site. The location of the building toward the front of the site results in a separation from the rear boundary of approx. 19m, which is considered sufficient to ensure there would be minimal impact on the amenities and privacy enjoyed by the residents. Likewise, the intervening separation distances to neighbouring businesses and properties on Outram Street ensures the building would not result in any loss of privacy, or overshadowing concerns.

Neighbouring residents have raised concerns surrounding ongoing anti-social behaviour problems in the vicinity and the type of apartments proposed potentially exacerbating the issue.

Paragraph 91 of the National Planning Policy Framework sets out that planning decision should aim to achieve healthy, inclusive and safe places, where crime and disorder, and the fear of crime do not undermine the quality of life, or community cohesion. Fear of crime is therefore a material consideration in planning decisions, although the weight that can be given to it is often limited unless there is significant

evidence to show that the increased fear of crime would actually occur as a result of the development.

The genuine concerns of local residents surrounding a potential increase in crime, vandalism and anti-social behaviour are acknowledged. However, there is no firm evidence that such occurrences, which are ultimately a matter for the relevant authorities in specific instances, would be attributed to future occupants of the proposed development. It is also considered that crime and disorder is not an inevitable consequent of multi-occupation, but rather a question of individual behaviour and appropriate management.

The property will require 6 HMO licenses from the Council. The requirement for a license places strict management controls on the licence holder and in turn the occupants; as such there is no requirement to place a planning condition that would be covered under a separate regime. The requirement for licenses should ensure the building is appropriately managed and, in turn, reduce the potential for instances of anti-social behavior, rubbish being left out etc. This is administered by Private Sector Enforcement and is not a planning matter.

A.D.C Housing have noted that the proposal in Sutton Central only contains two Licensed HMO's. Consequently, the evidence suggests the proposal would not lead to an unbalanced concentration of HMO within the area.

In terms of the design, the proposal features low level boundary walls, providing high level of natural surveillance to the car parking area, Outram Street, Park Street and the adjacent footpath. Measures such as CCTV and lighting, could be imposed through a planning condition, setting out how the development meets the Secured by Design Specification. Meeting this specification will further assist in securing a safe environment for future and existing residents.

A resident has raised concerns surrounding disruption during construction works. A condition requiring a Construction Management Plan to be submitted should ensure that disruption during construction phase is minimised.

In light of the above, it is considered that the neighbouring amenity of residents would not be unduly affected and the proposal would comply with Local Plan policies ST1 (a) and HG8 (a), which seek to protect the amenity of neighbouring residents. It would also comply with paragraph 91 of the NPPF, which seeks that planning should not undermine safe inclusive places.

Proposed Occupiers

The overall floor space for the five bedroom units would be approx. 106sqm, for the six bedroom units this would be 120sqm. The proposed bedrooms measure between 11 – 18sqm, potentially providing a mixture of single and double rooms. Each of the flats would also be served by a shared kitchen, dining and living area. All rooms

within the development would receive adequate amounts of light and have a good outlook.

In terms of comparing the room sizes to national and local standards, the Councils Supplementary Planning Guidance only goes as far as 4 bedroom properties. The National Standards are set out within the Department for Communities and Local Government Technical Housing standards (2015) and set minimum bedroom sizes and overall floor-space. The bedroom sizes would accord, with these standards in terms of single and double rooms.

The proposal would provide limited amenity space, to the rear of building, however, given the proximity to the town Centre and walking distance to areas of open space - the lack of private garden area, would not unduly undermine the living conditions of future occupiers. Overall, it is considered the proposal would provide a good standard of living for future occupants.

Highways Safety

A number of residents have voiced concerns surrounding highways safety, specifically concerns have been raised over parking problems within the vicinity. The proposal would provide a total of 17 unallocated spaces across 32 bedrooms, which gives a rate of 0.53 spaces per bedroom. A cycle store is also provided with space for up to 10 cycles. The Highways Authority have assessed the level of parking and considered it to be sufficient. The proposal is located in a highly accessible location with excellent access to services and facilities. As a result, the parking provided is considered to be sufficient.

In terms of access into the site, no gate is to be provided, thereby cars could pull straight into the development and not impede the flow of traffic on Park Street. Adequate vehicular visibility splays have also been provided. Overall, it is considered that the number of vehicle movements would not result in any congestion, or highway safety risk.

Other Matters

Affordable Housing (S106 Contributions)

The current affordable housing requirement is set out in the Affordable Housing SPD 2009 which updates and supplements 'saved' ALPR policy HG4. This sets a threshold above which contributions will be sought at 15 dwellings. As the proposed accommodation only amounts to 6 planning units, this policy requirement will not apply. Similarly, NPPF para 64 which expects at least 10% of the homes to be available for affordable home ownership will not apply as this specifically refers to 'major' development which is defined as 10 or more homes or sites over 0.5 hectares. The site, measuring 0.12 hectares, falls below this requirement.

Flooding

The NPPF highlights that it is important to meet the challenge of climate change, and flooding. Council records indicate that part of the site is affected by surface water flooding.

The applicant has confirmed that proposed levels in the parking court would be designed to channel the surface flood water across the site and that the proposed drainage system will be designed to accommodate some of the surface water. The Local Lead Flood Authority have raised no concerns with this approach and planning conditions are recommended for the applicant to submit a drainage scheme.

Intensification

The application was referred to planning committee due to concerns over intensification. The proposal, in theory, represents 6 planning units due to the non-self-contained nature of the flats. The overall bedspaces to be provided is however 32.

The proposal is, however, fairly commensurate with the sites planning history, where 37 apartments were granted permission in 2004. Also, under planning permission V/2016/0737, the Planning Committee initially resolved to approve 24 one and two bedroom apartments, although the applicant eventually declined to enter into the section 106.

Conclusion

It is considered that the proposal, subject to conditions, would not have a materially harmful effect on the fear of crime in the locality. The building is of high quality design and would complement the existing street scene. The parking provided is considered to be sufficient and there are no highways safety concerns. On balance, having regard to all other matters raised, it is concluded that the benefits of the proposal outweigh the harm and approval is recommended, subject to the conditions outlined below:

Recommendation: - Approve Subject to Conditions

1. The development hereby approved shall be begun before the expiration of 3 years from the date of this permission.
2. This permission shall be read in accordance with the following plans:
 - Location Plan. Rev PL02
 - Existing Site Plan. Rev PL02
 - Proposed Site Plan. Rev PL03
 - Street Scenes. PL02
 - Ground Floor Plan. PL01

- First Floor Plan. PL01
- Elevations 1of2. PL02
- Elevations 2of2. PL02

The development shall thereafter be undertaken in accordance with these plans unless otherwise agreed in writing by the Local Planning Authority.

3. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
4. No work shall commence until such time as a scheme indicating proposed floor levels of all buildings, and the relationship of such to the existing dwellings has been submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the agreed levels.
5. No development shall take place until details of the materials and finishes to be used for the external elevations, roof of the proposal and boundary treatments have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those materials, unless the Local Planning Authority gives written approval to any variation.
6. The development shall not be occupied until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
7. No development shall take place until details to show how it complies with Secured by Design specification have been submitted to and approved in writing by the local planning authority. The approved details shall be carried out prior to the occupation of the building and shall be retained at all times thereafter.
8. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
 - a) details of the parking arrangements for vehicles of site operatives, delivery vehicles and visitors;

- b) details of arrangements for loading and unloading of plant and materials;
 - c) details of the arrangements for storage of plant and materials used in constructing the development;
 - d) details of wheel washing facilities;
 - e) measures to control and minimise noise from plant and machinery
 - f) details of the hours the of construction.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) Class A of Part 2 of Schedule 2 - no gates shall be erected at the entrance to the car park without the prior written approval of the Local Planning Authority.
10. Prior to the commencement of any works pursuant to this permission the applicant shall submit the following to the Local Planning Authority:
- i. A desktop study/Phase I report documenting the previous history of the site and its immediate environs.
 - ii. A site investigation/Phase II report where any previous use of the site indicates a potential contaminative use. The applicant/developer shall submit a Site Investigation/Phase II Report documenting the characteristics of the ground at the site. The Site Investigation should establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas monitoring and chemical analysis, identified as being appropriate by the Desktop Study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. All technical data must be submitted to the Local Planning Authority.
 - iii. A Scheme of Remedial Works where the Site Investigation has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently occupied.

Any variation to the Remediation Scheme shall be agreed in writing with the Local Planning Authority, in advance of works being undertaken. All remediation should be carried out safely, ensuring that no significant risk(s) remain. The applicant will need to have a contingency plan should the primary remediation or subsequent construction phase reveal any additional contamination. Where additional contamination is found the applicant must

submit in writing, details of the contingency plan for the written approval by the Local Planning Authority.

On completion of remedial works and prior to the occupation/use of the development, the applicant must submit to the Local Planning Authority:

- i. A Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the Local Planning Authority prior to the development being put to its intended use

REASONS:

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.
2. To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.
3. To ensure that the development provides a satisfactory means of drainage, in order to reduce the risk of creating; or exacerbating a flooding problem, and to minimise the risk of pollution.
4. To protect the amenity of the area.
5. To ensure the satisfactory appearance of the development.
6. In the interests of visual amenity.
7. In the interests of security and safety.
8. In the interests of safety.
9. In the interests of highways safety.
10. To ensure the site is developed free from contamination

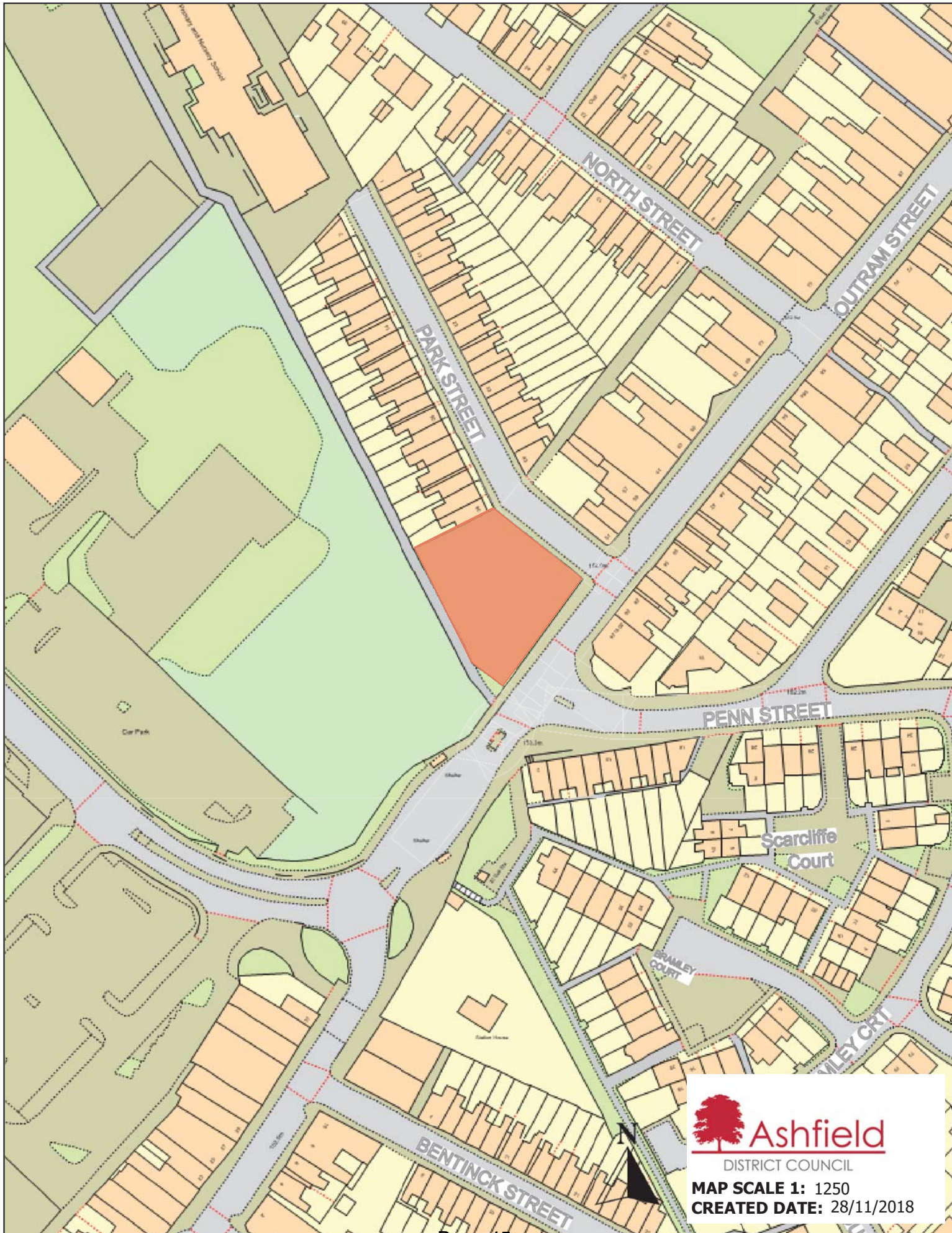
INFORMATIVES

1. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions, then do not

hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).

2. The applicant is advised that the proposed development will require a HMO License. The applicant should contact the team to make applications for the 6 Mandatory HMO's please email the Private Sector Enforcement Team at privatesectorenforcement@ashfield.gov.uk or phone 01623 457345 .

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Ashfield
DISTRICT COUNCIL
MAP SCALE 1: 1250
CREATED DATE: 28/11/2018

COMMITTEE DATE 13 December 2018 **WARD** Central and New Cross

APP REF V/2018/0262

APPLICANT A McGivern Chardstock Management Services

PROPOSAL Outline Application for A Maximum of 24 Apartments and Associated Works

LOCATION Land at Junction of Outram Street and Park Street Sutton in Ashfield Nottingham NG17 4BB

WEB-LINK <https://www.google.co.uk/maps/@53.1275873,-1.2580441,160m/data=!3m1!1e3>

BACKGROUND PAPERS A, B, C, D, E, I

App Registered 30/04/2018

Expiry Date 30/07/2018

Consideration has been given to the Equalities Act 2010 in processing this application.

This application has been referred to Planning Committee as previous applications on this site were Committee decisions

The Application

This is an outline application with all matters reserved (except access). It seeks permission for the erection of up to 24 one and two bedroom flats with associated works. The illustrative plans accompanying the submission have been amended to indicate how the development could be accommodated on the site with access from Park Street.

Location of the Site

The site is located at the junction of Outram Street and Park Street close to the centre of Sutton in Ashfield. It lies immediately outside of the District Centre as identified by the Ashfield Local Plan Review 2002 but within the identified Outram Street Local Centre although the site has no previous history of retail use.

The site is currently vacant and has been so for some years. It is surrounded by close boarded fencing to Outram and Park Street, with an adjacent residential property to the north west. The fourth boundary, which is a public footpath/cycleway, is formed by galvanised steel fencing.

Consultations

Press and Site Notices have been posted together with individual notification of surrounding residents.

ADC Drainage

No known drainage issues with this site.

ADC Policy

The site lies within the Main Urban Area of Sutton in Ashfield as identified under saved policy ST2 of the Ashfield Local Plan Review (ALPR), which aims to concentrate development within existing urban areas (defined on the Proposals Map). Policy ST1 of the ALPR 2002 recommends that development will be permitted where it will not conflict with other policies in the Local Plan, and it will not adversely affect the character, quality, amenity or safety of the environment. The proposal site also lies within a secondary shopping area as set out in saved ALPR policy SH4.

Outline planning consent for residential development was granted in 2005 (V/2004/0653). There has been no material change in circumstances since this permission to suggest that the site is no longer suitable; therefore, it is considered that the principle of development is established. Being located within the secondary shopping area does not preclude residential development, and furthermore NPPF Para. 85 recognises that such development can play an important role in ensuring the vitality of town centres.

Affordable housing requirements are set out in the Affordable Housing SPD 2009 which updates and supplements 'saved' ALPR policy HG4. 10% of dwellings should be affordable on sites of 15 dwellings or more. Similarly, Para. 64 of the NPPF expects at least 10% of the homes to be affordable unless this exceeds the amount required locally.

ADC Housing Policy

10% affordable housing provision is required on this site through a S106 legal agreement, which should include the option to have units on site on the ability to negotiate a commuted sum for providing Affordable homes elsewhere in the District.

ADC Landscaping

- A full landscape scheme will be required for the application, should it be approved, showing car park / boundary treatments, hard landscaping details and planting proposals.
- The parking bays and hard standing areas should be permeable to minimise surface water runoff.
- Further consideration should be given to the positioning and storage of bins within the parking court. The ones in front of parking spaces 17-19 are going to be a prominent feature, better positioning and / or screening is required.

- The boundary next to the footpath access (Priestsic Road to Outram Street link) requires sensitive treatment to ensure privacy for the residents but also visibility for pedestrians using this narrow access way.

The following Section 106 contributions are requested:

Sutton Lawn improvements £24,000 - required for sports facilities and / or lower park natural play provision as identified in the park management plan. Sutton Lawn will be used by future residents as it is the nearest open space.

A contribution of £48,000 towards public realm improvements is sought from this site in line with Ashfield District Council's adopted plans and policies, for one of the following projects -

- a) Improvements to Low Street for the resurfacing, street furniture and public art.
- b) Improvements to Albert Square for the resurfacing works and street furniture to promote this entrance to the town centre.

ADC Environmental Health

Recommend a full four phase contamination condition be applied to any favourable planning consent granted for this application.

Nottinghamshire County Council Highways

The Highway Authority (HA) has appraised the revised proposals and supporting information and provides the following comment;

- The requisite visibility splays at the entrance onto Park Street can be achieved.
- At 5.8m wide for the first 5m the entrance is in accordance with the 6C's highway design guidance and is sufficient to allow two vehicles to enter and exit simultaneously
- The indicative plans show sufficient off street parking provision at 1 space per property, however, the HA recognises that current ministerial policy indicates that car parking levels should be set and determined by Local Planning Authorities (LPA) through appropriate supplementary planning documents (SPG). Therefore, the HA expects the LPA to thoroughly consider this when determining this application.
- There are also Traffic Regulation Orders (double yellow lines) which prevent drivers parking on the street adjacent to the site.

When taking the above points into consideration the HA has no objection to the proposed access out onto Park St, subject to conditions being applied to any planning approval.

Nottinghamshire County Council – Strategic Planning

The site is small in size, not covered by any ecological designations and has previously been developed. It is unlikely to support any notable habitats or protected

species although no preliminary ecological appraisal has been submitted to verify this. Standing Advice would therefore seek to ensure that conditions are used to control vegetation clearance during the bird nesting season and the provision of bat / bird nesting boxes into the fabric of buildings to encourage wildlife.

In terms of waste, an application of this scale would not attract the need for a waste audit. However, details of the bin storage areas should be required by condition.

Nottinghamshire County Council - Education

The County Council require that both primary and secondary education contributions are required in order to make this development acceptable, suggesting that a development of 24 dwellings would yield an additional 5 primary and 4 secondary places at £11,455 and £17,260 per place respectively.

NCC would therefore wish to seek an education contribution of £57,275 for primary and £69,040 for secondary provision, to accommodate the additional pupils projected to arise from the proposed development.

Nottinghamshire County Council Local Lead Flood Authority

Raise no objections subject to conditions

Nottinghamshire County Council – Rights of Way

No definitive paths affected.

Severn Trent Water Authority

Raise no objections subject to the development not commencing until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Community Representations

6 responses have been received from local residents, concerned at the following: -

- On-street parking along both sides of Park Street is horrendous especially during school term when staff from Priestsic Primary School park there. Shoppers / delivery vehicles on Outram Street do the same. We have no turning facility on Park Street, it is a dead end!
- Additional dwellings will create further problems with overspill parking from residents and visitors alike.
- Construction traffic/workers parking/material stores will be an issue.
- Safety of schoolchildren walking past the site
- Who is the accommodation for? Similar local developments are regularly visited by police due to anti-social behaviour.
- Development higher than surrounding properties, leading to loss of light, privacy.
- Site contains several trees and bushes and is a haven for wildlife.

Policy

Having regard to Section 38 of the Planning and Compulsory Purchase Act 2004 the main policy considerations are as follows:

National Planning Policy Framework 2018

Part 2 – Achieving Sustainable Development
Part 5 – Delivering a Sufficient Supply of Homes
Part 7 – Ensuring the Vitality of Town Centres
Part 8 – Promoting Healthy & Safe Communities
Part 9 – Promoting Sustainable Transport
Part 11 – Making Effective Use of Land
Part 12 – Achieving Well-Designed Places

Ashfield Local Plan Review 2002 [Saved Policies]

EM5 - Protection of Existing Employment land and Buildings
HG3 - Housing Density
HG4 - Affordable Housing
HG5 - New Residential development
HG6 - Public Open Space
SH2 - Local Shopping Centre
ST1 - Development
ST2 - Main Urban Area

SPD Residential Design Guide
SPD Residential Car Parking Standards
6C's Design Guide

Relevant Planning History

V/2004/0653 : The development of site by the erection of 28 no flats with car parking – approved

V/2005/1073 : The development of site by the erection of 37 apartments – application refused, allowed on appeal

V/2016/0737 : Outline application for up to 24 apartments. Committee resolved to grant subject to conditions and the signing of a section 106 agreement at Committee on the 2nd March 2017. The applicant refused to reimburse the Council's costs to have their viability independently assessed by the District Valuer and hence refused to enter into the S106 Agreement. Accordingly, the matter was referred back to Members on 14th December 2017 and was Refused Permission.

Comment:

The main issues for consideration in the determination of this application are as follows:

- Principle of development
- Visual Amenity
- Residential Amenity
- Highways Safety and
- Viability.

Principle of Development

The site is located close to Sutton in Ashfield Town Centre in an area containing a mixture of commercial, retail and residential uses. As such it has good access to the range of services and facilities afforded by its central location as well as being served by well-defined pedestrian routes and crossing facilities. The site also has good access to public transport facilities with bus stops close by.

Planning permission has previously been granted on two separate occasions for the development of the site for the erection of dwellings and flats. A third application for an identical development was agreed in principle by the Committee but was eventually refused as the applicant would not fund the cost of a viability assessment and hence would not sign up to the S106 Agreement.

It is therefore accepted that in principle the development of the site for residential purposes would be in accordance with both national and development plan policies.

Visual Amenity

Although this is an outline proposal illustrative plans have been submitted with the application. These indicate the development of the site by the erection of a part three, part four storey flat roof building which is situated towards the front of the site facing towards Outram Street. Although a plain elevational treatment is indicated, it is considered that the detailed design should incorporate design/fenestration features that would create interest and character to the benefit of the locality.

In terms of landscaping, this is a high density scheme providing smaller 1 and 2 bed flats accommodation. As such there are limited opportunities within the site for landscaping, however the illustrative plan does suggest that some ancillary landscaping could be undertaken both within the central courtyard and along the street frontages to enhance the character of the development.

Residential Amenity

The location of the building towards the front of the site results in its separation from the rear boundary with the adjacent end terraced property on Park Street such that there would be minimal impact on the amenities and privacy currently enjoyed by the residents. The scheme does however include on-site parking (see Highways considerations) which would extend up to the boundary of this neighbouring

property. It is considered that any adverse impacts due to the proximity of the parking could be successfully mitigated through the provision of a suitably designed boundary treatment.

Highway Safety

Visibility at the access is sufficient and wide enough to allow two vehicles to enter and exit simultaneously. The gate is also set back sufficient distance to ensure that vehicles can pull into the site, without affecting the flow of traffic on Park Street.

The proposals would provide one parking space per property, which is considered sufficient for this type of property, located adjacent to the town Centre in close proximity to shops and public transport links. Double yellow lines also surround much of the perimeter of the site on Outram Street and Park Street, which would help alleviate indiscriminate parking.

This is an Outline application with “some matters reserved” in this case the reserved matter is for the access. When taking the above points into consideration the HA has no objection to the proposed access out onto Park St, subject to the conditions being applied to any planning approval given by the LPA.

S106 Agreement and Viability

For a development of this size, it would usually be expected that the applicant enters into a Section 106 agreement to provide for affordable housing, education, regeneration, open space etc.

The Committee initially resolved to grant approval for a similar scheme, subject to a S106 agreement, however the applicant did not sign the agreement and questioned the viability of the scheme. The applicant refused to reimburse the Councils costs to have the Viability Appraisal independently assessed by the District Valuer (DV). As a result, the application was brought back before committee and refused on the basis of being unsustainable.

The applicant has now covered the Councils costs and the Viability Appraisal has been assessed by the District Valuer. The conclusion of the DV is that the scheme is unviable to provide any affordable housing, or 106 Contributions. He has identified differences between his assessment and that of the applicant, but still concludes in his independent assessment that the scheme is unviable.

The applicant concluded that the scheme would only result in a profit of 4.4%, which is significantly below the minimum expectations. Based on the information provided by the DV, even without affordable housing and 106 contributions, the scheme is unviable. In view of the comments received by the DV, a refusal on the grounds of failing to provide S106 contributions would be difficult to sustain.

Other Issues

Wildlife

A resident has raised concerns over potential wildlife at the site. Nottinghamshire County Council Ecology have noted that the site is small in size, not covered by any ecological designations and has previously been developed. It is unlikely to support any notable habitats or protected species although no preliminary ecological appraisal has been submitted to verify this.

Conclusion

The principle of the proposal and the access arrangement as amended is considered to provide a suitable and acceptable form of development in this location. Although this is an outline application the amended illustrative plans showing on-site car parking and cycle storage together with revised illustrative layout providing suitable on site surveillance are considered to be acceptable.

Although an outline proposal the illustrative plans and elevations suggest that the detailed scheme can come forward which would be in keeping with the existing character of the area and result in a good quality building for this site. The location of the building within the site fronting onto Outram Street and Park Street reduces any impact on neighbouring amenity from massing and overshadowing and the orientation of windows etc. will minimise the opportunity for overlooking.

This proposal will provide an additional 24 dwellings within the District, supporting the Core Principles of the NPPF in re-using land that has previously been developed and Part 5 of the NPPF which seeks to boost housing delivery.

Recommendation: - Grant Outline Planning Permission

CONDITIONS

1. The formal approval of the Local Planning Authority shall be obtained prior to the commencement of any development with regard to the following Reserved Matters:
 - a) Layout
 - b) Scale
 - c) Appearance
 - d) Landscaping
2. Application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development to which this permission relates shall be begun not later than the expiration of 2 years from the final approval of the Reserved Matters

or, in the case of approval on different dates, the final approval of the last such matter to be approved.

4. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
5. No development shall take place until samples of the materials and finishes to be used for the external elevations and roof of the proposal have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those materials, unless the Local Planning Authority gives written approval to any variation.
6. Prior to the commencement of any works pursuant to this permission the applicant shall submit the following to the Local Planning Authority:
 - i. A desktop study/Phase I report documenting the previous history of the site and its immediate environs.
 - ii. A site investigation/Phase II report where any previous use of the site indicates a potential contaminative use. The applicant/developer shall submit a Site Investigation/Phase II Report documenting the characteristics of the ground at the site. The Site Investigation should establish the full extent, depth and cross-section, nature and composition of the contamination. Ground gas monitoring and chemical analysis, identified as being appropriate by the Desktop Study, should be carried out in accordance with current guidance using UKAS/MCERTS accredited methods. All technical data must be submitted to the Local Planning Authority.
 - iii. A Scheme of Remedial Works where the Site Investigation has identified the presence of significant levels of harmful ground gas and/or significant levels of chemical contamination. The scheme should include a Remediation Statement and Risk Assessment Strategy to prevent any significant risk arising when the site is being developed or subsequently occupied.

Any variation to the Remediation Scheme shall be agreed in writing with the Local Planning Authority, in advance of works being undertaken.

All remediation should be carried out safely, ensuring that no significant risk(s) remain. The applicant will need to have a contingency plan should the primary remediation or subsequent construction phase

reveal any additional contamination. Where additional contamination is found the applicant must submit in writing, details of the contingency plan for the written approval by the Local Planning Authority.

On completion of remedial works and prior to the occupation/use of the development, the applicant must submit to the Local Planning Authority:

- iv. A Validation Report with confirmation that all remedial works have been completed and validated, in accordance with the agreed details. The Validation Report must be submitted for the written approval of the Local Planning Authority prior to the development being put to its intended use.
7. The access shall be constructed and surfaced in a bound material in accordance with (Drawing Number: 1642/04 Rev B- Simmons Building Design, November 2016) and no other part of the development shall be commenced until the access has been completed in accordance with those plans.
 8. No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the unregulated discharge of surface water from the driveway, parking, and turning areas to the public highway in accordance with details first submitted to and approved in writing by the LPA. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
 9. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:
 - a) details of the parking arrangements for vehicles of site operatives, delivery vehicles and visitors;
 - b) details of arrangements for loading and unloading of plant and materials;
 - c) details of the arrangements for storage of plant and materials used in constructing the development;
 - d) details of wheel washing facilities;
 - e) measures to control and minimise noise from plant and machinery;
 - f) details of the hours the of construction;

has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period.

REASONS

1. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
2. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
3. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
4. To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended.
5. To ensure the satisfactory appearance of the development.
6. To ensure that the site, when developed, is free from contamination, in the interests of safety.
7. In the interests of highway safety.
8. In the interests of highways safety.
9. To minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase and to accord with Ashfield Local Plan Review 2002; Policy ST1

INFORMATIVE

1. To ensure the satisfactory overall appearance of the completed development and to help assimilate it into its surroundings reserved matters shall present a scheme of hard and soft landscaping. This should establish that all planting, seeding or turfing shall be carried out in the first planting and seeding season following completion of the development. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species. In addition, the landscaping scheme shall present proposals for allotment plots that can contribute to the current shortfall in their provision in Sutton.

2. The applicant/developer is strongly advised to ensure compliance with all planning conditions, if any, attached to the decision. Failure to do so could result in LEGAL action being taken by the Ashfield District Council at an appropriate time, to ensure full compliance. If you require any guidance or clarification with regard to the terms of any planning conditions, then do not hesitate to contact the Development & Building Control Section of the Authority on Mansfield (01623 450000).
3. To safeguard the amenities of residents living in the vicinity of the application site, full details of the proposed treatment of the site's boundaries and a phasing scheme for the implementation of the agreed boundary treatment should be presented through reserved matters.
4. The Design and Access Statement provided in support of a Reserved Matters application should clearly and unambiguously establish how the layout, scale, appearance and landscaping has responded to the Council's Residential Design Guide (2014).
5. The developer must produce a comprehensive drainage strategy for the site. This strategy must include how surface water is to be dealt with. In particular showing how no surface water will be allowed to enter the foul or combined system through any means. Surface water should be drained using sustainable techniques.
6. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - a. Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - b. Include a timetable for its implementation; and
 - c. Provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
 - d. The strategy will also demonstrate how any land drainage issues will be resolved. The developer may have to commission a hydraulic modelling study to determine if the proposed flows can be accommodated within the existing system. And if not, to identify what improvements may be required. If the surface water is drained sustainably, this will only apply to the foul drainage.
 - e. Severn Trent may need to undertake a more comprehensive study of the catchment to determine if capital improvements are required.
 - f. If Severn Trent needs to undertake capital improvements, a reasonable amount of time will need to be determined to allow these works to be completed before any additional flows are connected.

7. Reference in any condition contained in this permission to any Statute, Statutory Instrument, Order, Regulation, Design Guide or other document shall be taken to include any amendment, replacement consolidation or variation that shall from time to time be in force and any reference to anybody or organisation (public or private) shall be taken to include any successor-body or organisation exercising relevant functions in place of or alongside the body named.
8. All required access and forward visibility splays must be adopted and constructed using low maintenance engineered specification. The HA will not accept free hold title deeds' incorporating positive/restrictive maintenance covenants, as this invariably generates difficulties for successive owners.
9. In order to carry out the off-site works (access/entrance) onto Park Street required the applicant will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which the applicant has no control. In order to undertake the works, the applicant will need to enter into an agreement under Section 278 of the Act

Agenda Item 5



Report To:	PLANNING COMMITTEE	Date:	13 December 2018
Heading:	TREE PRESERVATION ORDER – 64 PLAINSPOT ROAD, UNDERWOOD		
Portfolio Holder:	DEPUTY LEADER – PLACE AND ECONOMIC GROWTH		
Ward/s:	UNDERWOOD		
Key Decision:	NO		
Subject to Call-In:	NO		

Purpose Of Report:

This application is referred back to committee to allow members to visit the site to view the trees in the street scene.

To advise Members of one objection received in response to the making of a Tree Preservation Order at 64 Plainspot Road, Under, NG16 5BS

Recommendation(s):

Having considered and notwithstanding the objection, the Council proceeds to confirm the Tree Preservation Order without modification, on terms outlined in the report.

Reasons for Recommendation(s):

The Tree Preservation Order is in respect of one Scots Pine and one Silver Birch to the front of 64 Plainspot, Underwood, NG16 5BS. The trees in question are considered to contribute to the visual amenity of the street scene, and their removal would be detrimental to the character of the area. Both trees are adjacent to the public highway of Plainspot Road, Underwood. The trees have been inspected by a fully qualified arboriculturist and both trees have been considered worthy of TPO status due to their sound health and structural stability.

The removal of, or further uneven pruning works to the trees in question, would severely reduce the visual amenity benefit that the trees currently provide. The two trees were heavily pruned on one side before the provisional Order was placed, and therefore the permanent placement of the Order will allow regulated pruning and management of the tree to help maintain the trees visual appearance. If the trees are not protected there is no other statutory control other than the issuing of a felling licence by the Forestry Commission that could limit or control the removal of the trees in question.

It is considered that the placing of a Tree Preservation Order on both trees is in the interests of public amenity.

Alternative Options Considered (With Reasons Why Not Adopted):

- A) To confirm the Tree Preservation Order subject to modifications.
- B) To refuse to confirm the Tree Preservation Order.

The alternative options above are not recommended as they would not adequately protect the trees and the visual amenity value within the area. Both trees recommended for protection make a contribution to the amenity of Plainspot Road and the wider area.

Detailed Information:

On the 20 September 2018, a formal notice was provided to interested parties advising them that the Council had made a Tree Preservation Order in respect of one Scots Pine and one Silver Birch at 64 Plainspot, Underwood, NG16 5BS.

The Legal power to make a Tree Preservation Order is drawn from the Town and Country Planning Act 1990, and in particular section 198(1) of the Act which states:

'If it appears to a Local Planning Authority that it is expedient in the interest of amenity to make a provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order'.

Amenity:

Both trees are prominent in siting to the front of the property and are clearly visible from the street scene along Plainspot Road. As a result, the trees are considered to have a high amenity value as they are a positive feature within the street scene and the wider surrounding area therefore affording great weight to the protection of these two trees.

Letter of Objection:

The Council received one letter of objection from a neighbouring property in relation to the Tree Preservation Order being placed, and the concerns raised are as follows:

- The trees are too big (40 feet high) for such a small garden and are too close to their property.
- The trees create significant mess for the objector and neighbouring properties including falling branches, leaves and seeds.
- The roots of the trees are lifting their driveway and public causeway.
- The leaves block drains and gutters of the objectors property. This incurs a financial cost.
- The trees block light to the front of the property, in particular the living room. Loss of light causes algae and moss to grow and causes a potential slipping hazard.
- Branches from the trees overhang their boundary, causing debris to frequently fall on their driveway.
- During spring and summer months seeds fall into their property when windows and doors are left open. This really affects home living of the objector.

- The owner of the trees will only trim them on their side of their property.
- No other trees of the same species have been proposed for protection.
- The trees are not of high visual amenity value.
- Cleaning the driveway incurs high financial cost.
- Future owners of the site where the trees are located may not want these trees protected.
- Scots Pines are forest trees and not suitable for residential areas.

Officers Comments:

Several of the reasons for objecting to the protection of the two trees relate to day-to-day up keep of the trees that would be necessary regardless of statutory protection of the trees. For example, the collection of leaves, seed cases and other detritus from trees on the driveway of 64 Plainspot Road is an unavoidable part of living in the close proximity of trees. Such a nuisance caused by living nearby these trees does not outweigh the positive impact provided to the street scene and therefore it is considered this does not warrant refusal for the protection such trees.

Furthermore there has been a lack of technical evidence submitted by the objector for damage caused or financial costs incurred. The photographs that were submitted do not clearly indicate any root damage to the pedestrian walkway of Plainspot Road. The Councils tree officer has advised if damage can be proven to have occurred this matter can be handled through the submission of a TPO application to allow limited root pruning to overcome any areas of concern. A TPO application for any works would be free of financial cost to the applicant and this could be an alternative option for the objector.

The trees do provide some shade to the front of the property however, they are approximately a minimum of 15m from the front elevation of 64 Plainspot Road. Such a separation distance does not cause an excessive amount of shadowing which would be significantly detrimental to the residential amenity of 64 Plainspot Road.

It was observed by the Councils tree officer after completing a site visit that both trees were heavily pruned up to the objector's boundary before the placement of the provisional TPO. Whether the trees in question were afforded statutory protection or not, the relationship between neighbours is not a consideration in the placement of a TPO and is a civil matter.

Considering the above, it is in the opinion of the Local Planning Authority that both trees, due to their large size and prominent location offering high visual amenity value, warrant protection under a TPO.

Options available to the Committee:

Members are reminded that they must properly consider the above issues before coming to a fully reasoned conclusion as to whether to:

- 1) Confirm the Tree Preservation Order as drafted; or
- 2) To refuse to confirm the Tree Preservation Order; or
- 3) To confirm the Tree Preservation Order with modifications.

In doing so, Members must clearly give reasons as to why they have reached their decision.

Implications

Corporate Plan:

To support the Council's place aspirations by using TPO legislation to proactively ensure the ingredients for a good quality of life are in place and ensure attractive neighbourhoods are protected.

Legal:

Legal issues are identified in the report.

Finance:

No financial implications resulting from this report

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

N/A

Risk	Mitigation

Human Resources:

No implications

Equalities

No implications.

Other Implications:

None.

Reason(s) for Urgency (if applicable):

None.

Background Papers

None.

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Interim Director of Place and Communities

Report To:	PLANNING COMMITTEE	Date:	13 DECEMBER 2018
Heading:	NATIONAL CONSULTATION - PLANNING REFORM: SUPPORTING THE HIGH STREET AND INCREASING THE DELIVERY OF NEW HOMES		
Portfolio Holder:	CLLR.J.ZADROZNY, LEADER OF THE COUNCIL		
Ward/s:	ALL ASHFIELD		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

To inform Members of the possible implications set out in the Government's consultation on Planning Reform: supporting the high street and increasing the delivery of new homes. To set out a potential response to the consultation.

Recommendation(s)

The Committee notes and approve the contents of the report. The Committee grants delegated authority to the Assistant Director Planning and Regulatory Services, in consultation with the Chairman of the Planning Committee to make additions/amendments to the response.

Reasons for Recommendation(s)

To bring to Members' attention the more significant implications arising from the consultation and ensure that the view of the Council is taken into account.

Alternative Options Considered

Not to respond to the consultation.

Detailed Information

The Ministry for Housing, Communities and Local Government (MHCLG) has issued a consultation paper on 'Planning reform: supporting the high street and increasing the delivery of new homes.' The consultation comprises of 4 parts covering:

- **Part 1: Permitted development rights and use classes.**
- **Part 2: Disposal of local authority land** – It is proposed to extend local authorities' freedoms to dispose of surplus land at less than best consideration without seeking consent from the Secretary of State.
- **Part 3: Canal & River Trust: Draft listed building consent order** - The Government is proposing to make the first listed building consent order, which will allow minor, routine works to the Canal & River Trust's listed waterway structures without the need for individual listed building consent applications.
- **Part 4: New town development corporations: Draft compulsory purchase guidance** - The Government is seeking views on draft guidance on the compulsory purchase powers of new town development corporations.

In Part 1, the Government is setting out significant changes to the planning system and to permitted development rights. These include:

Shop to office conversions - A new Permitted Development (PD) right is proposed '*to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and launderettes to change to office use (B1)*'"

New Homes - To allow the change of use of hot food takeaways (A5) to residential use (C3) without planning permission and the introduction of a new PD right '*allowing for the demolition of commercial buildings and redevelopment as residential*'

Upward extensions - The consultation proposed to allow property owners to use the airspace above existing buildings for new homes without planning permission but subject to prior approval. The new PD right could apply to premises in a terrace of two or more joined properties where there is at least one higher building in the terrace and the proposed roof would be no higher than the main roofline of the highest building. There is also an alternative proposal to permit additional storeys more widely to height no higher than the prevailing roof height of the local area. A maximum limit of five storeys from ground levels is proposed for the extended buildings, requiring the additional storey not to exceed 3m in height.

Extending temporary change of use for community uses – Proposed to extend the existing PD right for the temporary change of use from shops (A1), financial and professional services (A2), restaurants and cafes (A3), hot food takeaways (A5), assembly and leisure uses (D2), betting shops and pay day loan shops to certain community uses as public library, exhibition hall, museum, clinic or health centre. The extension of the period of the temporary use from to 2 years to 3 years is also proposed.

Making permanent existing time-limited permitted development rights - The existing time-limited PD rights that will currently cease to have effect in May 2019 are proposed to become permanent. The change will apply to:

- Change of use from storage or distribution (B8) to residential use (C3) (up to 500sq m),
- Single storey rear extension to a house (8m beyond the original rear wall for detached houses and 6m beyond the rear wall for the semi-detached and terraced homes)

Town centres and Use Class Orders - The Government, in considering "*how operation of the Use Classes Order can support greater flexibility*" at high streets, sets out there "*could be scope for a*

new use class that provides for a mix of uses within the A1, A2 and A3 uses beyond that which is considered to be ancillary, which would support the diversification of high street businesses." This would replace the existing A1, A2, A3 use classes and result in a single use class to cover shops, financial and professional services, restaurants and cafes.

Public phone boxes - The government proposed to remove the PD right allowing the installation of new public phone boxes and the associated advertising consent without planning permission.

The consultation closes at 11:45pm on 14th January 2019.

Further information on the consultation questions and draft responses related to planning (Part 1) are set out in Appendix One.

Implications

Corporate Plan: There are no direct implications in relation to responding to the consultation.

Legal: There are no Legal implications contained within the Report.

Finance: There are no direct financial implication in relation to responding to the consultation.

Budget Area	Implication
General Fund – Revenue Budget	N/A
General Fund – Capital Programme	N/A
Housing Revenue Account – Revenue Budget	N/A
Housing Revenue Account – Capital Programme	N/A

Risk:

Risk	Mitigation
None	-

Human Resources:

There are no Human Resources implications contained in the report.

Equalities:

There are no Equalities implications contained in the report.

Other Implications:

There are no other implications contained in the report.

Reason(s) for Urgency

Not applicable

Reason(s) for Exemption

Not applicable

Background Papers

The consultation document is available on the Government's website at:

<https://www.gov.uk/government/consultations/planning-reform-supporting-the-high-street-and-increasing-the-delivery-of-new-homes>

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INTERIM DIRECTOR – PLACE AND COMMUNITIES

Appendix One - Planning reform: supporting the high street and increasing the delivery of new homes Consultation Response

Part 1. Permitted development rights and use classes

Allow greater change of use to support high streets to adapt and diversify

The Table below illustrates the existing permitted development rights and the changes proposed in the consultation relating to A1, A2, A3, A4 and A5 uses.

Use Class	Existing Permitted Changes	Proposed changes in the consultation
A1 Shops	<ul style="list-style-type: none"> • Permitted change to mixed A1 with up to 2 flats • Permitted change to A2 or Mixed A2 with up to 2 flats • Temporary permitted use (2 years) as flexible A1/A2/A3/B1 (interchangeable with notification) • Permitted change of A1 or mixed A1 and dwellinghouse to C3 (subject to prior approval) (see also 2018 Order) • Permitted change to A2(see also 2016 Order) • Permitted change to A3 (subject to prior approval) (see also the 2018 Order) • Permitted change to D2 (subject to prior approval) 	<ul style="list-style-type: none"> • Change to office use (B1) • Temporary changes to permit certain community uses: public library, exhibition hall, museum, clinic or health centre. (See question 1.4).
A2 Financial & professional services	<ul style="list-style-type: none"> • Permitted change to A1 where there is a display window at ground floor level. Permitted change to or from a mixed use for any purpose within A2 and up to 2 flats. To A1 and up to 2 flats, where there is a display window at ground floor level • Temporary permitted change (2 years) to A1, A3, B1 (interchangeable with notification) • Permitted change from A2 or mixed A2 and dwellinghouse to C3 (subject to prior approval) • Permitted change to A3 (subject to prior approval) • Permitted change to D2 (subject to prior approval) 	<ul style="list-style-type: none"> • Change to office use (B1) • Temporary changes to permit certain community uses: public library, exhibition hall, museum, clinic or health centre. (See question 1.4).
A3 Food & drink	<ul style="list-style-type: none"> • Permitted change to Class A1 and Class A2 • Temporary permitted change (2 years) to A1, A2, B1 (interchangeable with notification) 	<ul style="list-style-type: none"> • Change to office use (B1) • Temporary changes to permit certain community uses: public library, exhibition hall, museum, clinic or health centre. (See question 1.4).

A4 Public houses, wine bars or other drinking establishments	<ul style="list-style-type: none"> • Permitted change to or from a use falling “within Class A4 with a use falling within Class A3” (“drinking establishments with expanded food provision”) 	
A5 Hot food takeaways	<ul style="list-style-type: none"> • Permitted change to A1, A2 or A3 • Temporary permitted change (2 years) to A1, A2, A3, B1 (interchangeable with notification) 	<ul style="list-style-type: none"> • Change to office use (B1) • Change to residential use (C3) • Temporary changes to permit certain community uses: public library, exhibition hall, museum, clinic or health centre. (See question 1.4).
Sui Generis including betting shops, payday loan shops and laundrettes	<ul style="list-style-type: none"> • Casino to A3 (subject to prior approval) • Casino to D2 • Amusement centre or casino to C3 (subject to prior approval) (see also 2018 Order) • Betting office or pay day loan shop to A1, A2, A3, D2 (subject to prior approval) • Betting office or pay day loan shop to mixed use A1 and up to two flats (if a display window at ground floor level), or mixed A2 and up to two flats, or mixed use betting office or pay day loan shop and up to two flats • Betting office, pay day loan shop or launderette to C3 (subject to prior approval) • Mixed use betting office, pay day loan shop or launderette and dwellinghouse to C3 (subject to prior approval) • Mixed use betting office and up to two flats to A1 (if a display window at ground floor level), A2 or betting office • Temporary permitted change (2 years) from betting office or pay day loan shop to A1, A2, A3 or B1 	<ul style="list-style-type: none"> • Change to office use (B1)

Question 1.1: Do you agree that there should be a new permitted development right to allow shops (A1) financial and professional services (A2), hot food takeaways (A5), betting shops, pay day loan shop and laundrettes to change to office use (B1)? Please give your reasons.

No. The Council does not consider that this is necessary.

The Council considers that town centres are the most sustainable locations to live, work, shop, socialise and conduct business. The proposals largely affect retail and leisure uses. However, it is important that town centres retain a range of shops to facilitate their attractiveness to shoppers and the local community. There are already substantial permitted development rights, which, potentially, may have an impact on vitality of these centres. The concern for the Council would be the loss of additional shops in town centres will takes away from a retail environment. This may not

have a major impact in secondary locations but are offices likely to be located in secondary locations?

In larger centres, there may be a demand for office space (given the permitted development rights for the conversion of offices to residential) but this is likely to be in the primary shopping areas, where it is key to the vitality and vibrancy of the centre for retail activities needs to be retained.

The Council is actively considering the future of its town centres recognising that it is necessary to be flexible in relation to use on the high street. However, the random nature of permitted development rights is considered to be a threat to investors in the town centre (through property ownership) and to the local community in terms of the vitality of those town centres. The evidence, to date, would suggest that we might end up with poor quality housing which has a detrimental impact on the built environment and the success of the high street.

Question 1.2: Do you agree that there should be a new permitted development right to allow hot food takeaways (A5) to change to residential use (C3)? Please give your reasons.

No. The Council is supportive of residential development in town centres. However, there needs to be a range of shops and other facilities for town centres to be attractive to the local community bringing people into those centres. The proposal removes control over this aspect and together with other permitted changes could result in negative aspects for the vitality of town centres.

Question 1.3: Are there any specific matters that should be considered for prior approval to change to office use?

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There are existing permitted development rights for the temporary change of use for 2 year from shops (A1) financial and professional services (A2), restaurants and cafes (A3), hot food takeaways (A5), offices (B1), non-residential institutions (D1), assembly and leisure uses (D2), betting shops and pay day loan shops to change to shops (A1) financial and professional services (A2), restaurants and cafes (A3) or offices (B1).

The purpose is to enabling new business start-ups to test the market and help ensure premises are not left empty.

Changes proposed are:

- a. Extending these allowable uses to certain community uses: public library, exhibition hall, museum, clinic or health centre.
- b. The extension of the temporary use from 2 years to 3 years.

Question 1.4: Do you agree that the permitted development right for the temporary change of use of the premises listed in paragraph 1.9 should allow change to a public library, exhibition hall, museum, clinic or health centre?

It is not clear from the consultation whether the proposal includes all uses with Use Class D1. Use Class D1 includes day nurseries and similar uses. Potentially these uses can have significant issues in relation to traffic, noise, and children's safety. This is particularly relevant when people are 'living over the shop'.

If specific uses were identified the Council would have no issue with this as a temporary means of exploring the vibrancy of high street within town centres. However, the consultation does not define what is meant by 'high street'. Outside town centres, there are potential issues such as car parking relating to these named uses.

If the proposal is introduced for a limited time, it is important that this aspect be monitored to establish whether there is any positive effect.

Question 1.5: Are there other community uses to which temporary change of use should be allowed?

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Question 1.6: Do you agree that the temporary change of use should be extended from 2 years to 3 years?

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The A1 use class captures commonly found shops on the high street. However, The Government wished to enable a broader definition of uses for the sale, display or service to visiting members of the public.

Question 1.7: Would changes to certain of the A use classes be helpful in supporting high streets?

The Council is not aware of any evidence that suggest that this aspect is having a negative impact on high streets. The merger of A3 uses into a wider use class has the potential to impact on the living conditions of anyone 'living above the shop'. This could result in issues relating to noise, smell and disturbance with noise being a particular issue in the evening. Consequently, it should be an issue to be considered as part of a planning application. Consequently, this is considered a detrimental step.

Question 1.8: If so, which would be the most suitable approach:

a. that the A1 use class should be simplified to ensure it captures current and future retail models;
or,

b. that the A1, A2 and A3 use classes should be merged to create a single use class?

Please give your reasons.

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Allow certain building types in particular uses to extend upwards to create additional new homes

The Government proposes a new permitted development right to extend certain existing buildings upwards to provide additional, well designed, new homes to meet local housing need. The consultation identifies that this proposal is to create much needed additional new homes which fit within the existing streetscape and can enhance the local area.

The consultation proposes a new permitted development right, **subject to prior approval by the local planning authority**, to allow additional storeys to be built above certain buildings, in particular those in commercial or residential (C3) use.

Question 1.9: Do you think there is a role for a permitted development right to provide additional self-contained homes by extending certain premises upwards?

No. The key aspect of development is the impact on good design, place making, and the visual and amenity impact of such a development. This is not simply reflective of the architecture of the building but the relationship with its surroundings.

The Council is in the process of adopting a supplementary planning document on a design guide for converting shops to residential properties due to concerns over the poor quality design aspects of conversions.

It is noted that:

- the report set out in the consultation relates to London and not the whole country;
- Paragraph 1.14 sets out where permitted development does not apply. However, it does not include locally listed buildings, which are considered important at a local level by the community. In this context, it is not clear how this would fit in with the provisions of the NPPF, which highlights local listed buildings as heritage assets.

While acknowledging the possibility that densities in urban areas could be increased it is considered that this aspect should be subject to a full application rather than undertaken by prior approval. In practice, the factors that would have to be considered as part of any prior approval would be similar to a planning application. However, the use of prior approval potentially involves a limited range of issues preventing the full consideration of the matter. In addition, the more limited period for approving/refusing a prior approval application does not allow sufficient time to consider the matter in detail.

Given the guidance for planning policy and decisions set out in National Planning Policy Framework paragraph 118 e) why is there any necessity to introduce permitted development rights?

Question 1.10: Do you think there is a role for local design codes to improve outcomes from the application of the proposed right?

The Council does not consider that it is appropriate to have permitted development on this aspect.

It is suggested that the option may be:

- Applied to the airspace above premises in a terrace of two or more joined properties where there is at least one higher building in the terrace. The roof of the premises extending upward would be no higher than the main roofline of the highest building in the existing terrace.
- Permit upward extensions more widely to a height no higher than the prevailing roof height in the locality.

Suggested that there should be a maximum limit of 5 storeys from ground level for a building once extended, with anything higher requiring a planning application. This would be based on an additional storey not exceeding 3 metres in height.

Separately, purpose built, free standing blocks of flats (C3) over 5 storeys are identified as providing an opportunity to deliver additional new homes through upwards extensions. It raised whether there should be a limit on the number of additional storeys.

Question 1.11: Which is the more suitable approach to a new permitted development right:

- a. that it allows premises to extend up to the roofline of the highest building in a terrace; or
- b. that it allows building up to the prevailing roof height in the locality?

The Council does not consider that it is appropriate to have permitted development on this aspect.

Question 1.12: Do you agree that there should be an overall limit of no more than 5 storeys above ground level once extended?

The Council does not consider that it is appropriate to have permitted development on this aspect.

Question 1.13: How do you think a permitted development right should address the impact where the ground is not level?

The Council does not consider that it is appropriate to have permitted development on this aspect.

Question 1.14: Do you agree that, separately, there should be a right for additional storeys on purpose built free standing blocks of flats? If so, how many storeys should be allowed?

The Council does not consider that it is appropriate to have permitted development on this aspect.

Premises that would benefit from a permitted development right to build upwards

The Consultation sets out in para 1.21 that the government proposes that upward extensions could include existing C3 residential premises, those A class and sui generis high street uses that can already change use to housing under a permitted development right (shops (A1), financial and professional services (A2), restaurants and cafes (A3), betting shops, pay day loan shops and launderettes), offices (B1 (a)), and buildings in mixed use within these uses.

Question 1.15: Do you agree that the premises in paragraph 1.21 would be suitable to include in a permitted development right to extend upwards to create additional new homes?

No - The context is key to any question of upward extensions. This could have a major impact on the visual appearance of a building and the amenity of neighbours. It is considered this should remain a matter for consideration by planning permission rather than permitted development.

Question 1.16: Are there other types of premises, such as those in paragraph 1.22 that would be suitable to include in a permitted development right to extend upwards to create additional new homes?

No - The context is key to any question of upward extensions. This could have a major impact on the visual appearance of a building and the amenity of neighbours. It is considered this should remain a matter for consideration by planning permission rather than permitted development.

Works to extend upwards

The permitted development right would need to allow for the physical works required to construct or install additional storeys on a building. Where relevant, development must comply with Building Regulations and Fire Regulations, the Party Wall Act and other legislation as appropriate.

Question 1.17: Do you agree that a permitted development right should allow the local authority to consider the extent of the works proposed?

If the proposal is taken forward, a key aspect will be for the local authority to consider the extent of the works proposed.

Prior Approval

The Government propose applying those prior approvals that have already proved beneficial in permitted development rights for change to residential use. These would include matters such as flooding and contamination risks, transport and highways and the impact of additional new homes on existing occupiers and businesses.

The prior approval would also:

- Assess the impacts of any works external to the building and within the curtilage, including fire escapes.
- The design, siting and appearance of the upward extension and its impact on the amenity and character of the area, taking account of the form of neighbouring properties. It is set out that 'We expect prior approval on design to be granted where the design is in keeping with the existing design of the building'.
- consider the impact of the development on the amenity of neighbouring premises, for example, from obscuring existing windows, reducing access to light or resulting in unacceptable impact on neighbours' privacy from overlooking. It would also consider measures to mitigate these impacts, and enable the neighbours, including owners and occupiers of premises impacted, to comment on the proposal.

Proposed that applications for prior approval should be accompanied by an appropriate fee per dwelling proposed, recognising the range and complexity of issues for local authority consideration.

Question 1.18: Do you agree that in managing the impact of the proposal, the matters set out in paragraphs 1.25 -1.27 should be considered in a prior approval?

The Council view is that upward extensions should be retained as a planning application rather than prior approval. However, if taken forward, the impact of these matters should be considered in prior approval, particularly the design aspects. The quality of converting shops into residential units is a major concern of the Council. This has resulted in the Council looking to bring forward a supplementary planning guidance on converting shops to residential properties.

Question 1.19: Are there any other planning matters that should be considered?

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Permitted development rights already allow the enlargement, improvement or alteration of existing homes to provide additional living space. This includes up to 50 cubic metres of additional roof space, such as a loft extension (which is no higher than the existing roof). We are seeking views on whether the proposed right to build upwards to create new homes should additionally allow householders to extend their own homes.

Question 1.20: Should a permitted development right also allow for the upward extension of a dwelling for the enlargement of an existing home? If so, what considerations should apply?

No - The context is key to any question of upward extensions. This could have a major impact on the visual appearance of a building and the amenity of neighbours. It is considered that this should remain a matter for consideration by planning permission rather than permitted development.

Remove the existing right that allows the installation of, and advertising on, new public call boxes

The placing of public call boxes would now benefit from the greater consideration of their impact on the local amenity. Any adverts on new public call boxes would similarly be subject to local consideration.

Question 1.21: Do you agree that the permitted development right for public call boxes (telephone kiosks) should be removed?

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Question 1.22: Do you agree that deemed consent which allows an advertisement to be placed on a single side of a telephone kiosk should be removed?

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Increased size limits for off-street electric vehicle charging points

Existing permitted development rights allow the installation of an upstand, no greater than 1.6 metres in height, for recharging electric vehicles in a space located in an area legally used for off-street parking. Recent improvements in the technology and effectiveness of rapid charging points for electric vehicles could require a larger unit than allowed by the existing right. It is proposed to increase the existing height limit to allow a charging point upstand no greater than 2.3 metres high. In order to protect the amenity and character of residential areas it is not propose increasing the height limit for a charging point upstand within the curtilage of a dwelling house.

Question 1.23: Do you agree the proposed increased height limit for an electrical vehicle charging point upstand in an off-street parking space that is not within the curtilage of a dwelling house?

The Council is supportive of measures to facilitate charging points for electric vehicles.

Make permanent two time-limited rights

The Government propose to make permanent two time-limited permitted development rights that will currently cease to have effect in 2019:

- Subject to prior approval, there are permitted development right, which for a limited period allows buildings of up to 500 square metres of floorspace in use as B8 storage or distribution on 19 March 2014, which had been in such use for four years, to change to residential use.

- Larger extensions to dwellinghouses, introduced in 2013. The right allows for a single-storey rear extension of up to 8 metres in length for detached houses, and up to 6 metres in length for semi-detached and terrace houses, subject to consultation with neighbours on amenity.

Question 1.24: Do you agree that the existing time-limited permitted development right for change of use from storage or distribution to residential is made permanent?

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Question 1.25: Do you agree that the time-limited permitted development right for larger extensions to dwellinghouses is made permanent?

Permitted development rights are a blunt instrument of planning policy. It assumes that a consistent national approach should prevail in the face of local circumstances. The substantial extent to which permitted development are allowed (currently temporarily) impacts on adjoining occupiers and results in the erosion of green space in the form of gardens. It does not negate the significant cost of drawing up plans. The role of the planning process is to consider the economic, social and environmental aspects of development. This includes being a means to resolve and head-off disputes with neighbours over extensions and ensures there is no unacceptable impact on amenity. An issue highlighted by the Council's strategic housing needs assessment and the neighbourhood plans is the need for a housing mix, which included smaller properties to meet local needs. The scale of the permitted development can result in this aspect being negated. It also raises the issue of design quality for extensions. In these circumstances, the Council considers the scale of the permitted development rights is excessive and should not be introduced on a permanent basis.

Question 1.26: Do you agree that a fee should be charged for a prior approval application for a larger extension to a dwellinghouse?

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Explore the feasibility of a new right to allow for the demolition of existing commercial buildings and their redevelopment as residential

Currently permitted development rights deliver new homes through the change of use of existing buildings. The Government is seeking views on whether it would be feasible for a permitted development right to be designed that could allow for the redevelopment of a commercial site to create new homes.

Question 1.27: Do you support a permitted development right for the high quality redevelopment of commercial sites, including demolition and replacement build as residential, which retained the existing developer contributions?

No. The Council has substantial concern over the blanket approach to this aspect rather than an approach being identified at a local level.

The consultation does not appear to define what is meant by 'commercial' sites and this can cover a broad spectrum of uses. However, the evidence base for the emerging local plan indicates that it is likely to have negative impacts. This has to be seen in the context that:

- a. The Employment Land Study identifies that the local economy is changing so that there is a move away from B2 and B8 to offices B1 in the future;
- b. The Council's Whole Plan Viability Assessment 2016 raised issues regarding the viability of a substantial number of commercial uses including offices. Other than retail, the appraisals indicated negative viability including for offices.

The Council has had a positive approach to employment sites being utilised for residential purposes. A substantial number of former colliery and textile factory sites have been utilised for homes. However, this was achieved through local plan policies and planning decisions based on evidence. The proposal negates a local approach. Consequently, if permitted development rights are granted they could well result in commercial buildings being lost and not replaced. Ultimately, this has a negative impact on job opportunities at a local level resulting in negative sustainable aspects and people have a home but have to travel much further to their job.

It is clear from the consultation specifically raising the issue, that there are no proposals as it stands on how the proposed permitted development rights will meet the implications arising from additional infrastructure requirements, affordable housing needs and the impact on place making.

A further issue is that no reference is made in the consultation to the status of the existing building. What happens if the building is a heritage asset, including local listed heritage assets, which contributes to the character and appears of the area?

While appreciating the need for additional dwellings, this should not override the place making aspect of planning and the need to provide jobs for local people.

Question 1.28: What considerations would be important in framing any future right for the demolition of commercial buildings and their redevelopment as residential to ensure that it brings the most sites forward for redevelopment?

The Council considers that it is not appropriate for permitted development rights to be granted for the demolition of commercial buildings. (See the response to question 1.27).

Impact Assessment

Question 1.29: Do you have any comments on the impact of any of the measures?

- i. **Allow greater change of use to support high streets to adapt and diversify**
- ii. **Introducing a new right to extend existing buildings upwards to create additional new homes**
- iii. **Removing permitted development rights and advertisement consent in respect of public call boxes (telephone kiosks).**
- iv. **Increasing the height limits for electric vehicle charging points in off-street parking spaces**
- v. **Making permanent the right for the change of use from storage to residential**
- vi. **Making permanent the right for larger extensions to dwellinghouses**

Please see the responses to questions 1.1 to 1.28.

Public sector equality duty

Question 1.30: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equality Act 2010? What evidence do you have on these matters? Is there anything that could be done to mitigate any impact identified?

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