



**Ashfield**  
DISTRICT COUNCIL  
**MAP SCALE 1: 1250**  
**CREATED DATE: 9/1/2019**

**COMMITTEE DATE** 24<sup>th</sup> January 2018      **WARD** Central and New Cross

**APP REF** V/2018/0262

**APPLICANT** A McGivern  
Chardstock Management Services Ltd

**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 decision*

### **The Application**

This is an outline application with all matters (except access) reserved for further approval for the erection of up to 24 one and two bedroom flats with associated works.

### **Comment**

At the previous Planning Committee, members deferred the application, seeking to ascertain if the applicant would be willing to restrict the occupancy of the flats to persons over 55 years only. The applicant has considered this request and is unwilling to limit occupation of the dwellings. The applicant has stated that:

- An identical scheme was resolved to be approved by Ashfield District Council, save for a Section 106 agreement,
- an independent surveyor has confirmed that the viability assessment demonstrates the development is not viable if it includes contributions under Section 106 and;

- that permission should be granted, unless there has been a change in planning policy, since the Committee resolved to grant the previous scheme.

The Planning Committee resolved to grant an almost identical scheme at Committee on 2<sup>nd</sup> March 2017. Since this time, the two main changes in planning policy terms are the introduction of the revised NPPF and the withdrawal of the Councils Emerging Local Plan. However, neither of these changes would give grounds to refuse the application. The proposals have been assessed against the NPPF, Adopted Local Plan and Supplementary planning guidance within the original Committee report.

A restriction placed on the occupancy of the units to over 55's, serves no planning purpose in this location. Any condition used to restrict occupancy on these terms would fail to meet paragraph 56 of the NPPF, due it being unnecessary to make the development acceptable in planning terms. It is also considered that such a restriction would be entirely unreasonable.

## **Conclusion**

The applicant is unwilling to restrict the occupation of the flats to over 55's, considering this be an unnecessary and onerous condition. The site has previously been granted permission for 28 and 37 flats in 2004 and 2005 respectively, with members also resolving to grant an identical scheme in March 2017.

An assessment of the proposal is detailed within the original report, where it considered the proposals would result in no harm to visual amenity, residential amenity or highways safety. The report is attached for your convenience.

On the basis of the above, it is considered there would be no substantive grounds on which to refuse planning permission. Approval is therefore recommended, subject to the conditions detailed within the original report.

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

**APP REF** V/2018/0262

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*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 2<sup>nd</sup> 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 14<sup>th</sup> 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;
    - c) details of wheel washing facilities;
    - d) 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.
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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