

Application No: 19/01305/FUL Author: Julia Dawson
Date valid: 12 November 2019 ☎: 0191 643 6314
Target: 11 February 2020 Ward: Whitley Bay
decision date:

Application type: full planning application

Location: Trinity United Reformed Church, Esplanade Place, Whitley Bay, Tyne And Wear,

Proposal: Demolition of former Church and Church Hall to accommodate new residential development comprising 28no. apartments with associated underground and ground level parking with landscaping

Applicant: Mr G O'Brien, LA Brias Limited C/o Agent

Agent: Michael Convery Town Planning Consultants, 62 Victoria Embankment
Darlington DL1 5JS

RECOMMENDATION: Application Refused

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 Main Issues

1.1 The main issues for Members to consider in this case are;

- Principle of the proposed development
- North Tyneside 5-year housing land supply
- Impact on surrounding occupiers and the standard of amenity provided for future occupiers
- Impact on character and appearance of site and surrounding area
- Highway impact; and
- Other Matters including ecology, flood risk, landscaping and viability

2.0 Description of the Site

2.1 The site to which the application relates is the former Trinity United Reformed Church and Church Hall located on Esplanade Place in Whitley Bay town centre. The site has been vacant for several years and in this time the buildings have suffered fire damage on at least two occasions. The site is now derelict and unsightly. The immediate surrounding area is largely residential in nature consisting of two storey terraced properties, many with additional habitable rooms within the roof space having been extended by dormer windows of various styles and sizes. The properties are generally a mixture of flats, houses and some guest houses. The front elevations of properties on Esplanade (to the east), Esplanade Place (to the north) and Linden Terrace (to the south) face onto

the application site. The gable ends of two residential dwellings face onto the site from the west. A small number of commercial uses (barbers, dental surgery, restaurant, etc.) are located to the south east on Esplanade.

3.0 Description of the Proposed Development

3.1 Planning permission is sought for the construction of 28no. apartments with associated underground and ground level parking with landscaping. The existing buildings on the site are to be demolished.

4.0 Relevant Planning History

None.

5.0 Development Plan

5.1 North Tyneside Local Plan 2017

6.0 Government Policy

6.1 National Planning Policy Framework (February 2019)

6.2 Planning Practice Guidance (As amended)

6.3 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires LPAs to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Main Issues

7.1 The main issues for Members to consider in this case are;

- Principle of the proposed development
- North Tyneside 5 year housing land supply
- Impact on surrounding occupiers and the standard of amenity provided for future occupiers
- Impact on character and appearance of site and surrounding area
- Highway impact; and
- Other Matters including ecology, flood risk, landscaping and viability.

7.2 Consultation responses and representations received as a result of the publicity given to this application are set out in the appendix to the report.

8.0 Principle of the Proposed Development

8.1 The National Planning Policy Framework (NPPF) states that at the heart of the Framework is a presumption in favour of sustainable development running through both plan-making and decision taking. However, in terms of the principle of development because the development requires appropriate assessment following the advice in paragraph 177 of National Planning Policy Framework, the presumption in favour of sustainable development does not apply. It follows

therefore that that this application should be determined in accordance with the development plan, unless material considerations indicate otherwise.

8.2 To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed. In order to achieve this objective Government requires local planning authorities to identify annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer of 5% to ensure choice and competition in the market for land. Where there has been a significant under delivery of housing over the previous three years, the buffer should be increased by 20%.

8.3 The underlying principle of national policy is to deliver sustainable development to secure a better quality of life for everyone now and future generations. This principle is key to the role of the planning system in the development process. The aims of how the Local Plan contributes towards achieving sustainable development for North Tyneside are set out under Policy S1.1 'Spatial Strategy for Sustainable Development'. This policy sets out the broad spatial strategy for the delivery of the objectives of the Plan.

8.4 Policy S1.4 'General Development Principles' states that proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of this Plan. Should the overall evidence-based needs for development already be met additional proposals will be considered positively in accordance with the principles for sustainable development.

8.5 S4.3 'Distribution of Housing Development Sites' lists the allocated housing sites within the borough.

8.6 The application involves the demolition of the remainder of the derelict former Trinity United Reformed Church and Church Hall and its replacement with 28no. apartments (22no. two bed and 6no. one bed). The site has been vacant for a considerable length of time and has suffered fire damage in this time. During this time complaints have been made to the Council regarding the untidy nature of the site, which clearly detracts from the character of the surrounding area.

8.7 Policy S4.3 identifies the application site as a Local Plan Housing Site (138) with potential for 28 homes. The application site is also a previously developed brownfield site in a built-up residential area. The principle of the proposed development is considered to be in accordance with the aims of the NPPF to increase the delivery of new homes and policies S1.4 and S4.3 in that it will make effective and efficient use of this allocated housing site, whilst making a positive contribution to the identified housing needs of the borough and contributing to an existing sustainable residential community within the designated town centre of Whitley Bay.

8.9 Having regard to the above, the principle of the proposed development is considered acceptable subject to consideration of the following matters.

9.0 North Tyneside 5-Year Housing Land Supply

9.1 Paragraph 73 of National Planning Policy Framework (NPPF) requires local planning authorities to identify and maintain a rolling five-year supply of deliverable housing land. This includes an additional buffer of at least 5%, in order to ensure choice and competition in the market for housing land.

9.2 The most up to date assessment of housing land supply informed by the March 2019 five-year Housing Land Supply Summary identifies the total potential five-year housing land supply in the borough at 5,396 new homes (a total which includes delivery from sites yet to gain planning permission). This represents a surplus against the Local Plan requirement (or a 6.1-year supply of housing land). It is important to note that this assessment of five-year land supply includes just over 2,000 homes at proposed housing allocations within the Local Plan (2017).

9.3 The potential housing land supply from this proposal is included in the assessment that North Tyneside has a 6.1-year supply of housing land. The potential housing land supply from this proposal is included in the assessment that North Tyneside has a 6.1 year supply of housing land and it is officer opinion that the proposed 28 dwellings will make a small, but valuable contribution towards the five year housing land supply.

10.0 Impact on Amenity

10.1 The NPPF states that there are three dimensions to sustainable development; economic, social and environmental. The planning system needs to perform each of these roles. The environmental role contributes to protecting and enhancing our natural, built and historic environment, and as part of this, helping minimise waste and pollution.

10.2 Policy S1.4 'General Development Principles' states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

10.3 Policy DM6.1 'Design of Development' states that proposals are expected to demonstrate a good standard of amenity for existing and future residents and users of buildings and spaces.

10.4 Policy DM5.19 'Pollution' states that development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity.

10.5 Policy DM7.9 'New Development and Waste' states that all developments are expected to:

- a. Provide sustainable waste management during construction and use.
- b. Ensure a suitable location for the storage and collection of waste.

c. Consider the use of innovative communal waste facilities where practicable.

10.6 Policy DM4.9 'Housing Standards' states that all new homes, both market and affordable, will meet the Government's Nationally Described Space Standard (NDSS).

10.7 The Manager of Environmental Health has raised no objection to the proposed development subject to the attachment of conditions to control the hours of demolition and construction and dust suppression measures.

10.8 The main impact of the proposed development will be on the surrounding dwellings on Linden Terrace, Esplanade Place and Esplanade, particularly No's 8 Esplanade Place and 22 Linden Terrace located to the north west, which are the most directly affected dwellings. However, the proposed development will be located to the south east/east of the gable ends of these dwellings and, whilst it will be visible from their rear yards and windows (at an oblique angle) it is not considered that it will introduce such a significant and harmful loss of privacy, outlook or daylight for the occupants of these dwellings that refusal of the application could be justified on these grounds.

10.9 Several objections have been received from the occupants of nearby dwellings and the content of these is noted, with particular reference to the proximity to Linden Terrace to the south west, and the impact on natural light to the surrounding dwellings. However, whilst the footprint of the proposed development will be slightly larger than the existing buildings on the site, the south west facing elevation will be located just over 20m from the front elevations of the facing dwellings. This is considered acceptable in terms of retaining an acceptable separation distances in respect of outlook, daylight, sunlight and privacy on this town centre infill site.

10.10 Accessibility, floor areas and built in storage comply with the new housing standards for each of the flats, in compliance with the requirements of the NDSS, apart from Apartment 14 (Type H). This two bedroomed four person apartment will have an overall internal floor area of 61.6sqm, whereas the NDSS requirement is 70sqm. However, it is noted that the bedroom floor areas and the storage are actually in excess of the minimum required by the NDSS (bedroom one will be 15.3sqm and bedroom two will be 14.3sqm, with storage at 2.07sqm). The NDSS requires a minimum of 11.5sqm floor area for each double/twin bedroom and at least 2.0sqm storage. Whilst the shortfall in overall floor area for this apartment is noted, it is not considered that it will result in such a substandard quality of accommodation that refusal of the application is warranted for this reason.

10.11 It is considered that the proposed dwellings will provide an acceptable standard of internal and external habitable space, with sufficient incurtilage refuse storage facilities for the dwellings. Therefore, the proposal is considered to comply with policy DM4.9 of the Local Plan.

10.12 Members need to consider whether the impact on surrounding occupiers is acceptable and whether acceptable living conditions would be provided for future

occupiers. In officer opinion the impact is acceptable subject to the conditions discussed above.

11.0 Character and Appearance

11.1 The National Planning Policy Framework states that good design is a key aspect of sustainable development and that permission should be refused for development of poor design.

11.2 Policy DM6.1 states that applications will only be permitted where they demonstrate high and consistent design standards. Designs should be specific to the place, based on a clear analysis the characteristics of the site, its wider context and the surrounding area.

11.3 Design guidance for high quality design is set out in the Council's Supplementary Planning Document on Design Quality (2018).

11.4 Objections have been received in relation to the design of the proposed development and its impact on the character and appearance of the host site and surrounding area. It has been suggested that the existing building should be retained and used for any new development. These points are noted. However, it must be pointed out that the existing site is not within Council ownership and is not formally listed. It has also been significantly damaged by fire. Therefore, whilst the LPA can control the method of demolition, it cannot currently prevent its demolition or insist that it is retained in any future development.

11.5 It has also been suggested that the proposed development is overdevelopment of the site, and this concern is also noted. The Council's Design Officer has commented on the proposed development. He has offered his support of the proposal noting that whilst the proposed building is larger than the surrounding dwellings, it is largely lower than the original ridgeline of the Church (with the exception of the northern section of the site). The design of the building follows the topography of the area, stepping down the street, and respecting the surrounding building pattern.

11.6 Windows have been designed to add detail and interest to the design with a mixture of sizes but all with a vertical emphasis which reflect the traditional proportions of the surrounding properties. He has also noted that low level soft landscaping will soften the proposed undercroft car parking and the existing low-level brick wall will be retained.

11.7 Overall, it is considered that the proposed layout, design and materials respond well to the street scene and will positively improve the character and appearance of the area. Appropriate locations are shown on the layout for car parking and refuse storage to support the street scene. Boundary treatments have been appropriately chosen.

11.8 Members need to determine whether the proposed development would be acceptable in terms of its impact on the character and appearance of the site and the surrounding area. It is officer opinion that the development will result in the regeneration of this vacant and derelict site which would result in a positive

impact on the street scene. The proposal is therefore considered to accord with the NPPF and Policy DM6.1 of the North Tyneside Local Plan 2017.

12.0 Car Parking and Access

12.1 NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals. It states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

12.2 Paragraph 109 of NPPF states that development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts of development are severe.

12.3 Local Plan Policy DM7.4 New Development and Transport states that the Council and its partners will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support resident's health and well-being.

12.4 LDD12 Transport and Highways SPD set out the parking standards for new development.

12.5 30no. parking spaces are proposed, 2no. of these will be allocated for disabled parking and 2no. for visitor parking. Vehicular access to the 21no. parking spaces in the undercroft parking area and the 8no. parking spaces on the ground level to the front of the north east elevation will be provided from Esplanade Place with 1no. disabled space being accessed from the service lane that runs parallel with the Esplanade.

12.6 A number of objections have been submitted on highways grounds with concerns raised regarding the amount of parking proposed, which some residents consider to be insufficient, and the impact the proposed development will have on the existing on street parking provision. These concerns are noted. However, the Council's Highway Network Manager has raised no objection to the proposed development advising that a suitable level of parking will be provided with cycle parking and refuse storage provided within the development. The site is in Whitley Bay town centre with good links to public transport and there are parking control measures in the vicinity of the site, although new residents are unlikely to be entitled to any permits in this area. On this basis, he has recommended approval of the application, subject to a number of conditions.

12.7 Members need to consider whether the proposal would accord with the advice in NPPF, Policy DM7.4 and the Transport and Highways SPD. It is officer advice that the development is acceptable in terms of its impact on highway safety.

13.0 Impact on Biodiversity and Landscaping

13.1 The National Planning Policy Framework states that the planning system should contribute to and enhance the natural and local environment.

13.2 Policy S5.4 'Biodiversity and Geodiversity' states that the Borough's biodiversity and geodiversity resources will be protected, created, enhanced and managed having regard to their relative significance. Priority will be given to:

- a. The protection of both statutory and non-statutory designated sites within the Borough, as shown on the Policies Map;
- b. Achieving the objectives and targets set out in the UK Post-2010 Biodiversity Framework and Local Biodiversity Action Plan;
- c. Conserving, enhancing and managing a Borough-wide network of local sites and wildlife corridors, as shown on the Policies Map; and
- d. Protecting, enhancing and creating new wildlife links.

Where development proposals are considered to meet the exceptional circumstances above, permission will only be granted where alternative provision, equivalent to or better than in terms of its quantity and quality, can be provided in equally accessible locations that maintain or create new green infrastructure connections.

13.3 Policy DM5.5 'Managing effects on Biodiversity and Geodiversity' states that all development proposals should:

- a. Protect the biodiversity and geodiversity value of land, protected and priority species and buildings and minimise fragmentation of habitats and wildlife links; and,
- b. Maximise opportunities for creation, restoration, enhancement, management and connection of natural habitats; and,
- c. Incorporate beneficial biodiversity and geodiversity conservation features providing net gains to biodiversity, unless otherwise shown to be inappropriate.

It also states that development on land within or outside a SSSI likely to have an adverse effect on that site would only be permitted where the benefits of the development clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the SSSI national network.

13.4 Policy DM5.6 'Management of International Sites' states that proposals that adversely affect a site's integrity can only proceed where there are no alternatives, imperative reasons of overriding interest are proven and the effects are compensated. Expert advice will be sought on such proposals and, if necessary, developer contributions or conditions secured to implement measures to ensure avoidance or mitigation of, or compensation for, adverse effects. Such measures would involve working in partnership with the Council (and potentially other bodies) and could include a combination of two or more of the following mitigation measures:

- a. Appropriate signage to encourage responsible behaviour;
- b. Distribution of information to raise public awareness;
- c. Working with local schools, forums and groups to increase public understanding and ownership;
- d. Use of on-site wardens to inform the public of site sensitivities;
- e. Adoption of a code-of conduct;
- f. Zoning and/or seasonal restrictions to minimise disturbance in particular sensitive areas at particularly sensitive times;
- g. Specially considered design and use of access points and routes;
- h. Undertaking monitoring of the site's condition and species count;

i. Provision of a Suitable Accessible Natural Green Space (SANGS).

13.5 The application site is located within 6km of the Northumbria Coast Special Protection Area and Ramsar Site, the Northumberland Shore Site of Special Scientific Interest (SSSI) and Tynemouth to Seaton Sluice SSSI. Natural England and the Council's Biodiversity Officer have both advised that the proposed development will have an impact on the coast as a result of an increase in recreational disturbance and that the scheme will, therefore, need to comply with the Council's Coastal Mitigation SPD. The SPD provides guidance and information on the mitigation required from development within North Tyneside to prevent adverse impacts on the internationally protected coastline.

13.6 The SPD sets out a tariff for a financial contribution per new dwelling in the Borough. For new dwellings within the 6km buffer zone of the SPA (as per the application site) this is £337 per dwelling and it would normally be secured by a Unilateral Undertaking. However, the applicant has not agreed to this financial contribution, without which the development is contrary to the requirements of the Coastal Mitigation SPD and Local Plan policies.

13.7 The Council's Biodiversity Officer has also reviewed the submitted bat survey. The survey concluded that the structure was classified as low suitability for bats and a dusk emergence survey carried out in June 2019 found no evidence of roosting bats and recorded no bat activity on site. However, it did make a number of findings with regard to feral pigeons and nesting birds. The Bat Survey report recommended a number of key mitigation measures and the Biodiversity Officer has recommended several conditions in order to mitigate the impacts of the proposed development on the SPA and nesting birds, invasive species and bats.

13.8 In addition, although new landscaping is limited as a result of the nature of the site, the Biodiversity Officer has noted the findings of the Bat Survey report which states that landscaping should enhance structural diversity, with plants bearing flowers, nectar and fruits that are attractive to invertebrates and a food resource for bats and wildlife generally. The submitted landscape plan indicates some hedge, tree and shrub planting but this is all ornamental. As such, she has recommended a condition requiring a landscape plan for the site which should incorporate a native mixed hedge on site to enhance biodiversity as well as a mix of native and ornamental trees and shrubs that will benefit wildlife.

13.9 Subject to the suggested conditions and the securing of the financial contribution towards the Coastal Mitigation Service, it is not considered that the proposed development will result in harm to the ecology or the designated sites and it would therefore not conflict with policies S5.4, DM5.5, and DM5.6 in this regard.

13.10 The applicant has not agreed to enter into a legal agreement to secure the financial contribution towards the Coastal Mitigation Service to address the impact on the SPA as a result of 28no. new dwellings in this location and therefore it is officer advice that the proposal would conflict with policies S5.4, DM5.5, DM5.6 and the Coastal Mitigation SPD (2019). Members need to consider whether they agree and weight this in their decision.

Other Issues

14.0 Flood Risk

14.1 The National Planning Policy Framework states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

14.2 Policy DM5.12 of the Local Plan states that all major developments will be required to demonstrate that flood risk does not increase as a result of the development proposed, and that options have been taken to reduce overall flood risk from all sources, taking into account the impact of climate change over its lifetime.

14.3 All new development should contribute positively to actively reducing flood risk in line with national policy, through avoidance, reduction, management and mitigation.

In addition to the requirements of national policy, development will avoid and manage flood risk by:

- a. Helping to achieve the flood management goals of the North Tyneside Surface Water Management Plan and Northumbria Catchment Flood Management Plans; and
- b. According with the Council's Strategic Flood Risk Assessment, including meeting the requirement for a Flood Risk Assessment for sites over 0.5ha in identified Critical Drainage Areas.

14.4 Policy DM5.14 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded). A reduction in surface water run off rates will be sought for all new development. On brownfield sites, surface water run off rates post development should be limited to a maximum of 50% of the flows discharged immediately prior to development where appropriate and achievable.

14.5 Policy DM5.15 states that applicants will be required to show, with evidence, they comply with the Defra technical standards for sustainable drainage systems (unless otherwise updated and/or superseded).

14.6 The application site is located within Flood Zone 1 and occupies less than 1ha. In accordance with the requirements for an application of this nature and a site of this size the applicant has submitted a Flood Risk and Drainage Assessment. The Local Lead Flood Authority has raised no objection to the proposed development subject to a condition to ensure the surface water drainage system is installed as per the planning application submission.

14.7 Members must determine whether the proposed development is acceptable in terms of flood risk and surface water drainage. Officer advice is that the development is acceptable in this regard and is in accordance with policies DM5.12 and DM5.14 of the Local Plan.

15.1 Land Stability and Contamination

15.2 NPPF states that planning policies and decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination.

15.3 Policy DM5.18 of the Local Plan states that where the future users or occupiers of a development would be affected by contamination or stability issues, or where contamination may present a risk to the water environment, proposals must be accompanied by a report which shows that investigations have been carried and set out detailed measures to allow the development to go ahead safely and without adverse affect.

15.4 The Contaminated Land Officer has been consulted. She has recommended conditional approval.

15.5 The Coal Authority has reviewed the submitted Coal Authority Mining Review report and has recommended that a condition be attached to the grant of approval to ensure that intrusive site investigations area undertaken to determine the exact ground conditions and the presence or otherwise shallow coal mine workings prior to construction works commencing.

15.6 Members must determine whether the proposed development is acceptable in terms of contamination and land stability. Officer advice is that the development is acceptable in these regards subject to the suggested conditions and it is in accordance with policy DM5.18 of the Local Plan.

16.0 S106 Contributions

16.1 The NPPF states that planning obligations must only be sought where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.

16.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations makes it unlawful for a planning obligation to be taken into account in determining a planning application, if it does not meet the three tests set out in Regulation 122. This states that a planning obligation may only constitute a reason for granting permission for the development if the obligation is:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

16.3 The Council's adopted SPD on Planning Obligations (2018) states that the planning obligations are considered an appropriate tool to ensure that the environment is safeguarded and that the necessary infrastructure facilities are provided to mitigate impacts, ensure enhancements and achieve a high-quality environment where people choose to live, work, learn and play.

16.4 The SPD states that the Council will take a robust stance in relation to the requirements for new development to mitigate its impact on the physical, social, economic and green infrastructure of North Tyneside.

16.5 Policy S7.1 'General Infrastructure and Funding' states that the Council will ensure appropriate infrastructure is delivered so it can support new development and continue to meet existing needs. Where appropriate and through a range of means, the Council will seek to improve any deficiencies in the current level of provision. The Council will also work together with other public sector organisations, within and beyond the Borough, to achieve funding for other necessary items of infrastructure. This will include the use of combined and innovative funding schemes to maximise the amount and impact of funding. New development may be required to contribute to infrastructure provision to meet the impact of that growth, through the use of planning obligations and other means including the Community Infrastructure Levy (CIL). Planning obligations will be sought where:

a. It is not possible to address unacceptable impacts through the use of a condition; and b. The contributions are fair, reasonable, directly related to the development and necessary to make the application acceptable. In determining the level of contributions required from a development, regard will be given to the impact on the economic viability of the scheme."

16.6 Policy DM7.2 'Development Viability' advises that the Council is committed to enabling viable and deliverable sustainable development. If the economic viability of a new development is such that it is not reasonably possible to make payments to fund all or part of the infrastructure required to support it, applicants will need to provide robust evidence of the viability of the proposal to demonstrate this. In these circumstances the Council may:

a. Enter negotiations with the applicant over a suitable contribution towards the infrastructure costs of the proposed development, whilst continuing to enable viable and sustainable development;
b. Consider alternative phasing, through the development period, of any contributions where to do so would sufficiently improve the economic viability of the scheme to enable payment.

When determining the contributions required, consideration will be given to the application's overall conformity with the presumption in favour of sustainable development.

16.7 Policy DM7.5 'Employment and Skills' states that the Council will seek applicants of major development proposals to contribute towards the creation of local employment opportunities and support growth in skills through an increase in the overall proportion of local residents in education or training.

16.8 Policy DM4.7 Affordable Housing of the Local Plan states that the Council will seek 25% of new homes to be affordable, on new housing developments of 11 or more dwellings and gross internal area of more than 1000m², taking into consideration specific site circumstances and economic viability.

16.9 The S106 subgroup of the Investment Programme Board (IPB) has considered the S106 contributions being sought, including viability. The following contributions have been sought:

25% affordable housing

£2,700 towards the provision of 1 new allotment plot;

£10,080 towards equipped play/multi use games area;
£62,500 towards primary education (5 primary aged pupils);
£7,000 towards employment and training;
£1,000.00 towards other infrastructure (1 litter/dog fouling bin);
£9,436 towards a Coastal Mitigation Service to mitigate for the impacts on the Northumbria Coast Special Protection Area.

16.10 These contributions are considered necessary, directly related to the development and fairly and reasonable relate in scale and kind to the development and therefore comply with the CIL Regulations.

16.11 The applicant has advised that the provision of affordable housing and S106 contributions would make the development unviable. A Viability Assessment has been submitted. This has been assessed to determine its robustness. The review of the appraisal disagrees with applicants Viability Assessment and concludes that the development would be viable with 25% affordable housing and full S106 contributions.

16.12 The applicant considers that Covid-19 has created an unprecedented situation in that its impact on the housing market is currently unknown. They have advised that they are not objecting per se to meeting any reasonable financial contributions sought by the Council, but that they consider that it would be more appropriate to enter into a legal agreement now requiring the level of contributions to be determined at a later date, post decision but prior to occupation, when the impact of the pandemic on the housing market is clearer. This point is fully acknowledged and the Local Planning Authority agrees that the impact is unknown. However, information submitted within the Viability Assessment does not demonstrate that the proposed development will be financially unviable with the required contributions. Therefore, in terms of assessing and determining the current planning application it would be contrary to the SPD and local and national planning policies to recommend approval of the application without first securing the identified contributions by way of a S106 agreement.

16.13 Furthermore, S106A, Town and Country Planning Act 1990 ('Modification and discharge of planning obligations.') provides the applicant and the LPA with scope to review the specified contributions at a later date by mutual agreement. This would be the correct mechanism to allow for the contributions to be reviewed and potentially renegotiated when the effects of Covid-19 will have become clearer.

16.14 It is officer advice that the Council should maintain its position and insist upon 25% affordable housing and all of the S106 contributions sought as these are required to mitigate the impacts of the developments. The applicant has failed to demonstrate that the site is not viable and that all of the required S106 contributions cannot be afforded. It is officer advice that the proposal is contrary policies S7.1, DM4.7, DM7.2, DM7.5 of the North Tyneside Local Plan (2017) and the advice in Planning Obligations SPD (2018). Members need to consider whether they agree and weight it in their decision.

17.0 Local Financial Considerations

17.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to local finance considerations as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local financial consideration as a grant or other financial assistance that has been, that will or could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments).

17.2 The proposal involves the creation of 28no. new dwellings. Granting planning permission for new dwellings therefore increases the amount of New Homes Bonus, which the Council will potentially receive. As the system currently stands, for North Tyneside for the new increase in dwellings built 2017/18, the council will receive funding for five years. However, the Secretary of State has confirmed that in 2018/19 New Homes Bonus payments will be made for four rather than five years. In addition, the new homes will bring additional revenue in terms of Council Tax and jobs created during the construction period.

17.3 Members should give appropriate weight to amongst all other material considerations to the benefit of the Council as a result of the monies received from central Government.

17.4 In addition, the new homes will bring additional revenue in terms of Council Tax and jobs created during the construction period.

17.5 Members should give appropriate weight to amongst all other material considerations to the benefit of the Council as a result of the monies received from central Government.

18.0 Conclusion

18.1 Members should consider carefully the balance of issues before them and the need to take in account national policy within NPPF and the weight to be accorded to this as well as current local planning policy.

18.2 Specifically NPPF states that LPA's should approve development proposals that accord with an up-to-date development plan without delay. However, the NPPF also recognises that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

18.3 The application site is a designated housing site within the Local Plan.

18.4 In terms of the impact of the development, it is considered that the development is acceptable in terms of its impact on the highway network, the amenity of future occupants and surrounding land uses, flood risk, land stability and contaminated land issues.

18.5 However, the development does not make contributions to infrastructure requirements to make the impacts of the development acceptable and therefore on balance it is recommended for refusal.

RECOMMENDATION: Application Refused

Conditions/Reasons

1. The applicant has failed to demonstrate that the development is not viable with the contributions that the Council is seeking, therefore the development fails to mitigate against the unacceptable impacts of the development contrary to Planning Obligations Supplementary Planning Document LDD8 (2018), and Policies DM4.7, S7.1, DM7.2 and DM7.5 of the North Tyneside Local Plan 2017.
2. In the absence of a scheme of mitigation to address the impact on the Northumbria Coast Special Protection Area and Ramsar Site, the Northumberland Shore SSSI and Tynemouth to Seaton Sluice SSSI, the additional residents at the coast as a result of the proposed development and a subsequent increase in recreational activity, particularly in relation to cumulative impacts with other residential schemes at the coast and the wider area, will result in significant harm to the designated sites. This is contrary to policies S5.4, DM5.5, and DM5.6 of the North Tyneside Local Plan 2017 and the Coastal Mitigation SPD July 2019.

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

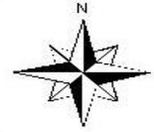
The Local Planning Authority offered solutions to the applicant in order to make the development acceptable. The applicant was however unwilling to amend the plans. Without these amendments the proposal would not improve the economic, social and environmental conditions of the area and therefore does not comprise sustainable development. In the absence of amendments or conditions which could reasonably have been imposed to make the development acceptable it was not possible to approve the application. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.



Application reference: 19/01305/FUL
Location: Trinity United Reformed Church, Esplanade Place, Whitley Bay
Proposal: Demolition of former Church and Church Hall to accommodate new residential development comprising 28no. apartments with associated underground and ground level parking with landscaping

Not to scale
 Date: 25.06.2020

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**Appendix 1 – 19/01305/FUL
Item 1**

Consultations/representations

1.0 Internal Consultees

1.1 Design Officer

1.2 The design and layout reflects the pre-application advice and is supported. The building steps down the street which responds to the topography of the area and the surrounding building pattern. Windows have been designed to add detail and interest to the design with a mixture of sizes but all with a vertical emphasis which reflect the traditional proportions of the surrounding properties.

1.3 The proposed development is larger than its surrounding residential neighbours, however it is largely lower than the ridgeline of the church with exception of the northern section of the site where the building height is increased when compared to the church. Although the building is a similar scale and mass to the church, there is potential for an impact on residential amenity due to the number of proposed habitable windows. This should be considered further by the Case Officer.

1.4 Undercroft car parking is not generally supported, however on this site it appears to be the only viable solution to address car parking on the site. Low level soft landscaping is incorporated to help soften this. The existing brick wall with stone topping will also remain as part of the proposal which is welcomed.

1.5 Recommended conditions:

- Natural slate roof tiles. Other proposed materials should be submitted to the LPA and approved.
- Construction details of windows and doors should be submitted to the LPA and approved. Windows should be set back within the window reveal unless otherwise agreed by the LPA.
- No alarm boxes or other external features, including meter boxes, satellite dishes or ventilation extraction shall be installed unless approved by the LPA
- Details of surface materials should be submitted to the LPA and approved.

1.6 Contaminated Land Officer

1.7 The site lies within a coal referral area. There may be the potential for mine gas to affect the development. The building was destroyed by fire, the age of the building may mean that there was asbestos present. Photos sourced on the internet show the building had lead flashing. The fire itself would give rise to Polyaromatic hydrocarbons.

1.8 Due to above issues and the proposed sensitive end use the following must be applied: Gas 006 and Con 001.

1.9 Highway Network Manager

1.10 This application is for the demolition of the former church and church Hall to accommodate a new residential development comprising 28 apartments with associated underground and ground level parking with landscaping.

1.11 The site is accessed via Esplanade Place and a suitable level of parking will be provided with cycle parking and refuse storage provided within the development. The site is in Whitley Bay town centre with good links to public transport and there are parking control measures in the vicinity of the site, although new residents are unlikely to be entitled to any permits in this area. Conditional approval is recommended.

1.12 The applicant will be required to enter into an appropriate legal agreement with the Local Authority for the following works:

New access

Upgrade of footpath abutting the site

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated Traffic Regulation Orders

1.13 Conditions:

ACC11 - New Access: Access prior to Occ

ACC25 - Turning Areas: Before Occ

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT06 - Construction Method Statement (Minor)

1.14 No part of the development shall be occupied until a scheme to manage refuse collection has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.15 No part of the development shall be occupied until a scheme to manage parking has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.16 No part of the development shall be occupied until a scheme for the provision of secure undercover cycle parking has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.17 No part of the development shall be occupied until a scheme for the following off-site highway works has been submitted to and approved by in writing the Local Planning Authority:

New access

Upgrade of footpath abutting the site

Associated highway drainage

Associated street lighting

Associated road markings

Associated signage

Associated Traffic Regulation Orders

Thereafter, this scheme shall be implemented in accordance with the approved details and retained thereafter.

Reason: In the interests of highway safety.

1.18 Informatives:

I05 - Contact ERH: Construct Highway Access

I08 - Contact ERH: Works to footway.

I10 - No Doors/Gates to Project over Highways

I12 - Contact ERH Erect Scaffolding on Rd

I13 - Don't obstruct Highway, Build Materials

I45 - Street Naming and Numbering

I46 - Highway Inspection before dvlp

1.19 The applicant is advised that end users are unlikely to be eligible for any parking permits in this area nor for any and the onus will be on the developer to convey this information to these users. Please contact the Parking Control team on e-mail at parking.control@northtyneside.gov.uk or telephone number (0191) 643 2121 for further information.

1.20 Local Lead Flood Authority

1.21 I can confirm that I have no objections to the surface water drainage proposals for this proposed development. The applicant is proposing to attenuate surface water within the site for a 1in100yr +40% climate change rainfall event by installing a 40cu.m underground storage tank to be located in the car park area of the development. This will then discharge into the adjacent combined sewer at a restricted discharge rate of 4l/s controlled by a vortex control device.

1.22 I would recommend a condition is placed on the application to ensure the surface water drainage system is installed as per the planning application submission.

1.23 Biodiversity Officer

1.24 Bat Survey 2019 (E3):

The 2019 inspection found that the former church building has been significantly damaged from a fire which is thought to have occurred around 2017. The southern section of the site is now standing in a state of disrepair with only external walls standing following a roof collapse. The northern section is remaining but the structure is derelict. Some features suitable for use by roosting bats were recorded, predominantly associated with hanging tiles and loose brickwork, however conditions are very exposed. A loft void is present within the northern section and will provide suitable roosting opportunities, however internal inspection could not be undertaken.

1.25 Overall, the structure was classified as low suitability for bats. A dusk emergence survey carried out in June 2019 found no evidence of roosting bats and recorded no bat activity on site.

1.26 Feral pigeon were recorded roosting within the burnt structure, and the remaining northern section of the church and shrubs present in the church grounds are suitable for use by nesting birds. Additional notable species

recorded on site include wall cotoneaster (*Cotoneaster horizontalis*). This is listed as a schedule 9 invasive species on the Wildlife and Countryside Act 1981 and will require removal to an invasive species method statement.

The building was classified as low suitability for bats and both historic and recent survey data did not record any evidence of roosts or activity on site. As a result, no further survey work was recommended.

1.27 The Bat Survey report recommends the following key mitigation measures:-

- A detailed method statement will be provided to contractors prior to the start of works.
- Where safe and practicable, old slates, water tables and ridge tiles will be removed carefully by hand, being aware that bats may be present beneath slates or ridge tiles, within mortise joints, cavity walls, between loose stones, between lintels and in gaps around window frames.
- If bats are found during works, works will stop in that area and the ecological consultant will be contacted immediately. If it is necessary to move the bats for their safety, this will be undertaken by a licensed bat handler.
- Vegetation clearance/tree felling will be undertaken outside of the bird nesting season (March to August inclusive) unless a checking survey by a suitably experienced ornithologist confirms the absence of active nests.
- Removal of wall cotoneaster will be undertaken by a specialist contractor and works carried out to an invasive species method statement.
- External lighting that may reduce bat usage of the site will be avoided.
- Bat bricks and slates may be incorporated within the new apartment building to enhance opportunities for bats.

1.28 Landscape Plan:

The Bat Survey Report recommends that landscape planting is designed to enhance structural diversity, with plants bearing flowers, nectar and fruits that are attractive to invertebrates and a food resource for bats and wildlife generally. The submitted Landscape Plan indicates some hedge, tree and shrub planting but this is all ornamental. The landscape plan for the site should incorporate a native mixed hedge on site to enhance biodiversity as well as a mix of native and ornamental trees and shrubs that will benefit wildlife. This should be made a condition of the application.

1.29 Designated Coastal Sites:

The scheme is within 6km of the Northumbria Coast SPA and will have an impact on the coast as a result of an increase in recreational disturbance. The scheme will, therefore, need to comply with the Councils Coastal Mitigation SPD. The SPD provides guidance and information on the mitigation required from development within North Tyneside to prevent adverse impacts on the internationally protected coastline

1.30 I have no objection to the above scheme subject to the following conditions being attached to the application:-

Conditions:

- A Bat Method Statement will be submitted to the Local Planning Authority for approval prior to development commencing. All demolition works must be undertaken in accordance with the approved Method Statement.

- An Invasive Species Method Statement will be submitted to the Local Planning Authority for approval prior to development commencing. Removal of wall cotoneaster will be undertaken by a specialist contractor and in accordance with the approved Method Statement.
- If demolition does not commence within 12 months of the date of the Bat Survey (August 2019) an updated bat activity survey must be undertaken between May and August prior to demolition commencing and the details submitted to the LPA for approval.
- 4no. bat roosting features will be incorporated into the new build through the provision of internal bat features (2no. bat slates and 2no. bat bricks). Details of the bat roosting features and their locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing and will be installed in accordance with the approved plans.
- External lighting that may reduce bat use of potential roost sites (retained and/or new) will be avoided. High intensity security lights will be avoided as far as practical, and any lighting in areas identified as being important for bats will be low level (2m) and low lumen. Light spillage to areas used by foraging or commuting bats should be less than 2 lux. No lighting will be installed along the flyways between the roosts and adjacent trees, woodland and foraging areas. Where security lights are required, these will be of minimum practicable brightness, be set on a short timer and will be motion sensitive only to larger objects.
- Demolition of the northern section of the church and adjoining southern wall will not take place during the hibernation period (mid-November to mid-March inclusive), this is to minimise risk of harm/disturbance to hibernating bats, if present, within the loft void.
- No vegetation removal or building works shall take place during the bird nesting season (March- August inclusive) unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing
- 4no. swallow/house martin nest boxes will be incorporated into the new build in suitable locations. Details of bird box specification and locations must be submitted to and approved in writing by the Local Planning Authority within 4 weeks of development commencing on site and will be installed in accordance with the approved plans.
- A detailed Landscape Plan will be submitted to the Local Planning Authority for approval within 4 weeks of development commencing on site. Planting will include a mixed native species hedgerow as well as a mixture of native and ornamental trees and shrubs that are of benefit to wildlife.
- In order to address the recreational impacts of the scheme on the Northumbria Coast SPA, an appropriate financial contribution will be required towards the delivery of a Coastal Mitigation Service in accordance with the Councils Coastal Mitigation SPD.

1.31 Environmental Health (Pollution)

1.32 I have no objection in principle to this development but would recommend condition be attached to any approval to control construction hours and dusts during construction: HOU04; HOU05, and; SIT03.

2.0 External Consultees

2.1 Natural England

2.2 No objection – subject to appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Northumbria Coast Special protection Area (SPA) and Ramsar <https://designatedsites.naturalengland.org.uk/>.

2.3 In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

2.4 The proposal has the potential to have significant adverse effect on the special interest features of the sites named above. It is advised that likely significant effects would be presented through recreational disturbance, increased by the provision of dwellings at this location.

2.5 Survey data of recreational visitors to the Northumbria Coast SPA and Ramsar highlight that a high percentage of visitors reside within a 10km buffer zone of the coast., with this part of the coastline offering significant opportunity for access to the aforementioned designated sites.

2.6 Appropriate mitigation may take the form of various schemes and provisions and the developer should liaise with the LPA on how to address the issue of mitigation as and where appropriate. Details of a strategy to mitigate against recreational disturbance needs to be submitted within the context of this application. We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

2.7 The Coal Authority

2.8 Final Comments (10.03.20):

The Coal Authority recommends the imposition of the following conditions:

- No development shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

- Where the findings of the intrusive site investigations (required by condition XX above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.

- Following implementation and completion of the approved remediation scheme (required by condition XX above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

2.9 The Coal Authority therefore has no objection to the proposed development subject to the imposition of the conditions to secure the above. This is our recommendation for condition wording.

2.10 Northumbrian Police Architectural Liaison Officer

2.11 I have considered it from a crime prevention point of view and can find no grounds on which to object to it. I would, however, recommend that the applicant considers using the guidance set out in the police approved security scheme Secured by Design (SBD) 2019 Homes guide to provide a safe and secure environment for residents and visitors. Details of SBD can be found at www.securedbydesign.com and following the links to Design Guides.

2.12 Tyne and Wear Archaeology Officer

2.13 The applicant has submitted a heritage statement and a report on the archaeological building recording of the church. This fulfils the requirements of the NPPF in describing the significance of the heritage asset (para 189) and making a record of the heritage asset prior to its loss (para 199). No further archaeological investigation is required prior to the redevelopment of the site.

3.0 Representations

Thirteen representations have been received from the occupants of ten separate addresses. The issues raised are summarised below:

- Overdevelopment of site.
- Out of keeping with area and site.
- Original structure of church should be incorporated into development plans.
- Too many flats which are too small with no outdoor space.
- Concerns regarding demolition/construction. Please restrict operating hours and also make for a compulsory skin around the building during demolition to stop dust omissions.
- Impact on privacy of surrounding properties as the apartments would look directly onto these properties.
- Detrimental highway impact.
- Inadequate vehicle and cycle parking provision provided as part of development
- Proposal will exacerbate existing parking problems as the street is already overcrowded. All or part of Esplanade should be made residents only to alleviate this issue alongside new development.
- Too close to pedestrian road on south west side.
- Inadequate space to dry clothes (ongoing environmental issue), no specification to make dwellings passive which use far less energy.
- There are existing unsold flats in Whitley Bay.
- Building is too high and will impact light of neighbouring properties.
- Concerns regarding possible structural damage to surrounding properties as a result of underground car park.
- There needs to be a lift (in addition to the stairs) to make the development accessible.
- No benefit to community as per the original use which allowed for worship and community groups.