

**Application Number** 21/00904/FUL

<b>Proposal</b>	To vary condition 1 (specifying approved plans so as to accommodate the construction of a small retaining wall at the rear of the site) of planning permission ref. 19/00614/FUL - Demolition of existing fire damaged care home to allow for the redevelopment of the site to form a new build block of 16, two bed self-contained apartments.
<b>Site</b>	(Former) Charlotte House Residential Home, Albert Road, Hyde
<b>Applicant</b>	Johnnie Johnson Housing
<b>Recommendation</b>	Approve, subject to conditions.
<b>Reason for Report</b>	A Speakers Panel decision is required in accordance with the Council's constitution because this is a major application as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**1.0 APPLICATION DESCRIPTION**

- 1.1 Where there is an extant planning permission, Section 73 (S73) of the Town and Country Planning Act 1990 allows for application to be made to vary or remove conditions associated with that planning permission. One of the uses of a S73 application is to seek what is often called a minor material amendment to an extant planning permission.
- 1.2 Initially, planning permission (ref. 15/01038/FUL), granted with conditions in November 2019, allowed for the demolition of existing fire damaged care home to allow for the redevelopment of the site to form a new build block of 16, two bed self-contained apartments at the site of the Charlotte House Residential Home, Albert Road, Hyde. A condition (no. 2) of that permission specifies the approved drawings in accordance with which the development shall be carried out.
- 1.3 Subsequently, approval (ref. 19/00614/FUL) was granted under S73 for the variation of condition 2 of the initial permission so as to allow for a minor material amendment. As varied, the condition then specified different drawings in accordance with which the development has been carried out. The minor material amendment then allowed involved changes to the elevations of the building.
- 1.4 Where an application under S73 granted, the effect is the issue of a new planning permission. In accordance with Planning Practice Guidance, the subsequent grant of planning permission under S73 should repeat the relevant conditions from the original planning permission, where these have not already been discharged.
- 1.5 The current application seeks to vary condition 2 of the latter permission, so that it specifies further alternative drawings in accordance with which the development shall be carried out, and so allow for a second minor material amendment to the initial planning permission. In this instance the amendment sought is the construction of a small retaining wall at the rear of the site.

**2.0 SITE AND SURROUNDINGS**

- 2.1 Situated on the western side of Market Street in the built-up area to the south of Hyde town centre, Charlotte House formed part of an enclave of substantial buildings close to the parish church of St George's. The area northwards towards the town centre is characterised by terraced houses built in a grid-iron formation.
- 2.2 When in the process of being vacated, Charlotte House, which was a two-storey, detached building and having accommodated a twenty-bedroom care home, was damaged by fire in December 2010. The original building had been previously unsympathetically extended to the side and rear with a poor brick and window match.
- 2.3 The site of the former building is situated less than 500m from the heart of the town centre and less than 400m from the bus corridor along Market Street.

### **3.0 PROPOSAL**

- 3.1 The new building is located towards the northern, or Albert Road, side of the wider site to allow space for access and car parking spaces on the southern side, behind the building. The land beyond the car park is at a lower level and is associated with a neighbouring building, known as the Coach House.
- 3.2 In order to ensure the stability of the land in the car park a bespoke retaining wall has been built to replace a previous dry stone wall. The height of the retaining wall varies from between approximately 950mm and approximately 1200mm, as the level of the ground changes. A close-boarded timber fence, approximately 1500mm high, has been constructed on top of the retaining wall.

### **4.0 RELEVANT PLANNING POLICIES**

- 4.1 **Tameside Unitary Development Plan (UDP) Allocation**  
Unallocated
- 4.2 Part 1 Policies
  - 1.3 Creating a Cleaner Greener Environment
  - 1.4: Providing More Choice and Quality Homes.
  - 1.5: Following the Principles of Sustainable Development.
  - 1.11: Conserving Built Heritage and Retaining Local Identity.
  - 1.12: Ensuring an Accessible, Safe and Healthy Environment.
  - 1.13: Meeting Obligations on Minerals, Waste and Energy..
- 4.3 **Part 2 Policies**
  - H2: Unallocated Sites.
  - H4: Type, Size and Affordability of Dwellings.
  - H6: Education and Community Facilities.
  - H10: Detailed Design of Housing Developments.
  - T10: Parking.
  - C1: Townscape and Urban Form.
  - N4: Trees and Woodland.
  - N5: Trees Within Development Sites.
  - MW11: Contaminated Land.

#### 4.4 **Other Policies**

Residential Design Supplementary Planning Document.

It is not considered there are any local finance considerations that are material to the application.

#### 4.5 **National Planning Policy Framework (NPPF)**

Section 2. Achieving sustainable development

Section 5. Delivering a sufficient supply of homes

Section 8. Promoting healthy and safe communities

Section 9. Promoting sustainable transport

Section 11. Making effective use of land

Section 12. Achieving well-designed places

Section 15. Conserving and enhancing the natural environment

#### 4.6 **Planning Practice Guidance (PPG)**

This is intended to complement the NPPF and to provide a single resource for planning guidance, whilst rationalising and streamlining the material. Almost all previous planning circulars and advice notes have been cancelled. Specific reference will be made to the PPG or other national advice in the Analysis section of the report, where appropriate.

### 5.0 **PUBLICITY CARRIED OUT**

- 5.1 The application has been advertised by means of: a notice being posted at the site on 25 August 2021, and being published in a local newspaper on 2 September 2021; and, neighbour notification letters dispatched on 8 September 2021 to 15 addresses in Albert Road and Chapel Street.

### 6.0 **RESPONSES FROM CONSULTEES**

- 6.1 The Environmental Services Manager (Structures and Special Projects) has raised no objections to the proposal.

### 7.0 **SUMMARY OF THIRD PARTY RESPONSES RECEIVED**

- 7.1 None received

### 8.0 **ANAYLSIS**

- 8.1 The principle of the development having been established by the grant of planning permission, and the general arrangement remaining the same, the issues to be assessed in the determination of this planning application are:

- Whether the proposed amendments can be considered to be minor in context; and, if so;
- The appropriateness of the design and appearance of the wall and fence;
- The impacts of the amendments on existing amenities; and,
- The suitability of the retaining wall to ensure land stability.

## **9.0 WHETHER THE PROPOSED AMENDMENTS CAN BE CONSIDERED TO BE MINOR**

- 9.1 The proposed amendment would not alter the general arrangement of the approved development. The proposal remains for the redevelopment of the site to provide a new-build block of 16, two bed self-contained apartments. Access, egress, and parking arrangement would be unaltered.
- 9.2 Whilst the proposed amendment would alter the development as approved, in the context of the development of a 4-storey apartment block, it may be considered that the amendment would be not be material. The amendment would certainly be minor, and can be accepted as such.

## **10.0 DESIGN AND APPEARANCE**

- 10.1 The proposal includes the provision of rubber parking stops in front of the fence so as to guard against cars colliding with the fence and causing it to become dislodged and cause a safety hazard on the opposite side.
- 10.2 Utilising similar facing material, the appearance of the new wall is akin to the one it has replaced. The close-boarded timber fence above the wall has a domestic appearance that is appropriate in the residential setting. It is therefore considered that the design, appearance, and scale of the new wall and fence remain compliant with the relevant requirements of policies 1.3, H10(a) and H10(b) of the UDP, policy RD21 of the SPD and Section 12 of the NPPF.

## **11.0 EXISTING RESIDENTIAL AMENITIES**

- 11.1 The land behind the new build apartment block, and beyond the retaining wall, is intended to be used as a residential garden in a proposal (ref. 15/00027/FUL) relating to the neighbouring Coach House (see paragraph 3.1). The fence will serve to alleviate glare from car headlights impinging on the use, or enjoyment, of the neighbouring land. It being accepted that the design and appearance of the wall and fence are appropriate in the residential setting, it is considered that the amendment sought would not impinge unduly on any existing amenities and that the development will remain compliant with policy H10(c) of the UDP and Section 12 of the NPPF.

## **12.0 LAND STABILITY**

- 12.1 According to paragraph 183 of the NPPF, planning decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability. Details of the construction or load bearing capacity of the retaining wall that has been constructed have been provided and have been considered by the Council's structural engineers and no issues or substantive concerns are raised.

## **13.0 OTHER ISSUES**

- 13.1 Following the grant of the original permission the then prospective developer entered in to a binding agreement to provide a financial contribution to compensate for the impact of the development. Under that agreement the developer was to provide £6,400 towards green

space. Where an application under section 73 is granted, the effect is the issue of a new planning permission and consequently when the previous S73 application was approved the developer entered in to a fresh agreement relating to that permission. A fresh agreement has been prepared relating to this permission, if granted, to provide the same contribution.

## **14.0 CONCLUSION**

- 14.1 The proposed amendments being considered acceptable and, in context, as being of a minor nature, according to Planning Practice Guidance the grant of planning permission under section 73 should repeat the relevant conditions from the original planning permission, unless they have already been discharged. Where an application under section 73 is granted, the effect is the issue of a new planning permission and that may be subject to conditions differing from those to which the original permission was subject.
- 14.2 Following the grant of the previous conditional planning permission, application (ref. 20/00092/PLCOND) was made for approval of details reserved by the conditions precedent. It is therefore recommended that this application be approved subject not only to condition 1, at variance to which the original permission was subject, but also, in certain instances, to conditions differing from those to which the original permission was subject where the details required by those conditions were submitted and approved previously. The conditions would then specify the approved details.

## **RECOMMENDATION**

That Members resolve that they would be MINDED TO GRANT planning permission for the development subject to the following:

- (i) The completion of a suitable legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) for a £6,400 contribution towards open space to support the development;
- (ii) The discretion to refuse the application appropriately in the circumstances where a S106 agreement has not been completed within six months of the resolution to grant planning permission; and,
- (iii) That upon satisfactory completion of the above legal agreement that planning permission be GRANTED subject to the following conditions:
  - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:-
    - Location Plan, ref. 200 a, received on 25.11.2015;
    - Planting Specification, received on 11.03.2019;
    - Proposed Floor Plans, ref. M4570 (PL) 05 D, Proposed Elevations, ref. M4570 (PL) 06 D, received on 10.07.2019;
    - Proposed Facing Materials schedule, ref. M4570, Drainage Layout drawing ref. 17-2446-500, Rev P1, received on 25.09.2019;

and, WML Consulting's letter dated 1st October 2019 (Ref: 8795G/SCS) Remediation Strategy dated October 2019 (Ref: 8795G-WML-00-XX-RP-G0003),

each approved under cover of planning permission ref. 19/00614/FUL;

Indicative Retaining Wall, ref. M4570 (SK) 101A, received on 26.07.2021; and,

External Works, ref. M4570 (90) 00 Rev L, and

Large Rubber Parking Stop specification,

received on 30.09.2021.

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

- 2) Notwithstanding the provisions within the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no television or radio aerial, satellite dish or other form of antenna shall be installed on the exterior of the building, other than that illustrated on plan ref. M4570 (20) 04 C which was approved, ref. 20/00092/PLCOND, on 23.11.2020.

Reason: In the interests of visual amenity

- 3) No external lighting shall be installed on the buildings or elsewhere on the site other than that illustrated on the plans ref M4570 (90) 00 D and ref. DCMAR19VOL1, which were approved, ref. 20/00092/PLCOND, on 23.11.2020.

Reason: In the interests of visual amenity

- 4) All hard and soft landscape works shall be carried out in accordance with the approved details illustrated on the approved Proposed Site Plan, ref. M4570 (90) 00 Rev L and Planting Specification. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed previously with the local planning authority. Any newly planted trees or plants forming part of the approved landscaping scheme which, within a period of five years from the completion of the planting, are removed, damaged, destroyed or die shall be replaced in the next appropriate planting season with others of similar size and species by the developer unless the local planning authority gives written consent to any variation.

Reason: To protect the newly created local environment in order to allow for maturity.

- 5) Following occupation of the development hereby approved, the landscaping maintenance management plan shall be implemented in accordance with the plan ref. M4570 (90) 00 D, the grounds maintenance schedule and the detailed specification by Johnnie Johnson Housing, which were approved, ref. 20/00092/PLCOND, on 23.11.2020.

Reason: In the interests of visual amenity

- 6) The development hereby approved shall be drained of foul and surface water in accordance with the details illustrated on the approved Drainage Layout drawing ref. 17-2446-500, Rev P1.

Reason: In the interests of providing a sustainable means of water drainage.

- 7) The development hereby approved shall be implemented in accordance with the The Energy Statement & Regulation 25a Low or Zero Carbon (LZC) technology feasibility study, ref. AG 73816-LZCR-Rev A, which was approved, ref. 20/00092/PLCOND, on 23.11.2020.

Reason: To achieve a sustainable development.

- 8) The proposed development should be designed and constructed in accordance Secured by Design standards and shall seek to secure the 'Secure by Design' accreditation awarded by the Greater Manchester Police.

Reason: In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well-being of the area in pursuance of the Council's powers under Section 2 of the Local Government Act 2000, and to reflect guidance contained in Circular 5/94 'Planning Out Crime'.

- 9) During construction no work shall take place on Sundays and Bank Holidays and outside the hours of 07.30 and 21.00 Monday to Friday and 08.00 and 13.00 on Saturdays.

Reason: To preserve the residential character and amenity of the area.

- 10) The bin store, illustrated on the plan ref. M4570 (40) 02a, and was approved, ref. 20/00092/PLCOND, on 23.11.2020, shall be provided, in accordance with detail included on the approved plan ref. M4570 (90) 00 Rev L, prior to the first occupation of the development hereby approved and thereafter be kept available for the intended purposes at all times.

Reason: To preserve the residential character and amenity of the area.

- 11) Prior to the first occupation of the development hereby approved, the car parking indicated on the approved plan, ref. M4570 (90) 00 Rev L shall be provided and thereafter kept unobstructed and available for its intended purpose at all times.

Reason: To ensure adequate car parking arrangements.

- 12) A clear view shall be provided on both sides of the site access where it meets the footway in Albert Road. It shall measure 2.4metres along the edge of the site access and 2.4 metres along the footway. It must be clear of anything higher than 600mm above the access, except for vertical iron railings to a design that includes rails of not greater than 15mm diameter spaced at not less than 100mm intervals.

Reason: In the interests of highway safety.

- 13) The parking stops, as illustrated on the approved plans External Works, ref. M4570 (90) 00 Rev L, and Large Rubber Parking Stop specification, shall be provided prior to the first occupation of the development hereby approved and thereafter maintained at all times.

Reason: In the interests of providing a safe environment.

- 14) Prior to the first occupation of the development hereby approved, a Validation/Completion Report demonstrating all works and measures detailed in WML Consulting's letter dated 1 October 2019 (Ref: 8795G/SCS) and Remediation Strategy dated October 2019 (Ref: 8795G-WML-00-XX-RP G0003) have been fully implemented shall be submitted to, and approved in writing by, the Local Planning Authority (LPA). If, during development, contamination not

previously identified is encountered, then no further development (unless otherwise agreed in writing with the Local Planning Authority (LPA)), shall be undertaken at the site until a remediation strategy detailing how this contamination will be appropriately addressed and the remedial works verified has been submitted to, and approved in writing by the LPA. The remediation strategy shall be fully implemented and verified as approved. The discharge of this planning condition will be given in writing by the LPA on completion of the development and once all information specified within this condition and any other requested information has been provided to the satisfaction of the LPA and occupation of the development shall not commence until this time unless otherwise agreed in writing by the LPA.

Reason: To ensure that the site is suitable for its intended end use and to remove any unacceptable risk to people/buildings/environment from contaminated land as per paragraph 121 of the National Planning Policy Framework.