

DEVELOPMENT PLAN

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that “where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise.

Unitary Development Plan - current status

The Unitary Development Plan for Sunderland was adopted on 7th September 1998. In the report on each application specific reference will be made to those policies and proposals, which are particularly relevant to the application site and proposal. The UDP also includes a number of city wide and strategic policies and objectives, which when appropriate will be identified.

STANDARD CONDITIONS

Sections 91 and 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 require that any planning application which is granted either full or outline planning permission shall include a condition, which limits its duration.

SITE PLANS

The site plans included in each report are illustrative only.

PUBLICITY/CONSULTATIONS

The reports identify if site notices, press notices and/or neighbour notification have been undertaken. In all cases the consultations and publicity have been carried out in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These reports are held on the relevant application file and are available for inspection during normal office hours at the Commercial Development Directorate at the Customer Service Centre or via the internet at www.sunderland.gov.uk/online-applications/

Alison Fellows

Executive Director of Commercial Development

Reference No.: 16/01139/FUL Full Application

Proposal: **Erection of a two storey side extension and single storey rear extension.**

Location: 8 Mayfield Court Sunderland SR6 9HY

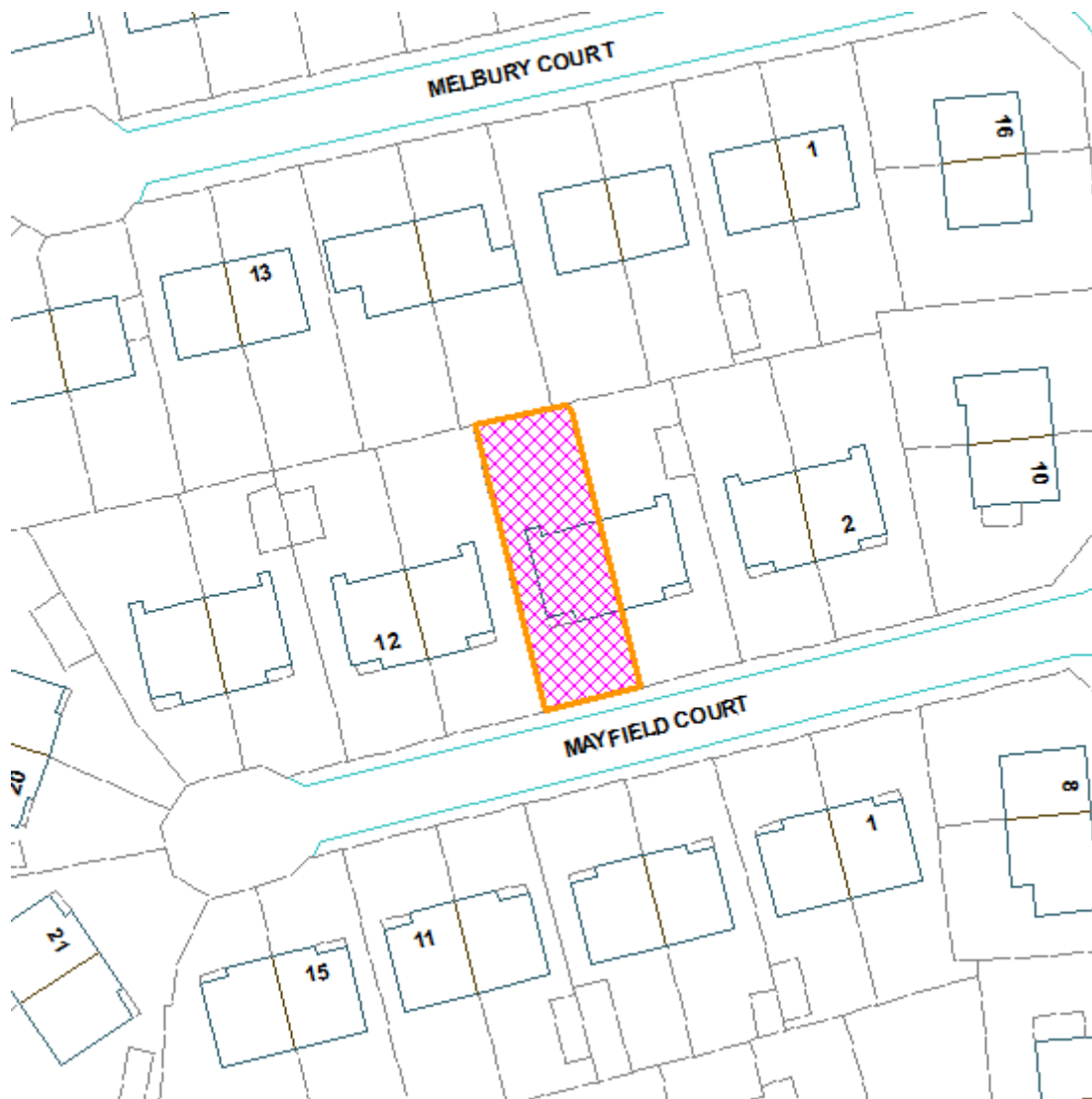
Ward: Fulwell

Applicant: Mr Damen Canavan

Date Valid: 29 June 2016

Target Date: 24 August 2016

Location Plan



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PROPOSAL:

The application site is a semi-detached two storey property situated within a cul de sac of similar properties. It has a hipped gable feature to the front occupying approximately half the frontage with bay windows to the ground and first floor windows. The remainder of the frontage is characterised by a mansard roof extending down the first floor, which leaves the first floor flat window projecting slightly. To the rear, the property has an original mono-pitched projection of just over 1m at ground floor level and a small porch and wc addition extending a further 1.5m.

The property has a small garden to the front and the rear and a driveway to the side leading to a detached garage set back to the rear of the garden. The property sits at a slightly lower ground level than that of the neighbouring property at no 10 and a very low retaining wall along the boundary secures the higher neighbouring driveway.

The proposal relates to the erection of a two storey extension to the side to provide a garage and extended kitchen/dining room on the ground floor with one extended and one additional bedroom above. To the rear, the existing ground floor projection will be replaced with a single storey extension of a further 1.5m, totalling 2.7m from the first floor elevation. The garage will be removed to accommodate the development. The mansard roof will be continued across the extension and the roof will be hipped. A box guttering system will be utilised to prevent overhanging of the boundary with no. 10.

This type of proposal would normally be determined under the powers delegated to the Executive Director of Commercial Development, however, given the objections received, the application has been referred for determination by the Development Control Sub-Committee at the request of Councillor Francis.

TYPE OF PUBLICITY:

Neighbour Notifications

CONSULTEES:

Fulwell - Ward Councillor Consultation
Network Management

Final Date for Receipt of Representations: **25.07.2016**

REPRESENTATIONS:

Two letters of objection have been received. The objectors' main concerns relate to;

- Overshadowing of the side windows of the neighbouring property at no 10,
- Overshadowing of the rear of the adjoining property at no. 6,
- Overdevelopment of the site,
- Over dominance of the development upon the street scene,
- Detrimental impact of the development upon the visual amenities of the area,
- Development being out of keeping with the existing character of the area,
- Loss of outlook from the neighbouring property,
- Development impeding access/egress to cars parked on the neighbouring driveway,

- Loss of outlook and introduction of tunnel effect from adjoining property,
- Development may set a precedent leading to other similar developments in the street, leading to terracing,
- Disruption during construction,
- Potential damage to adjoining property and the existing fence and washing line post adjacent to the boundary,
- Reduction in property values.

The latter three points are not planning matters that can be addressed within the context of the planning application. The other points will be addressed within the main body of the report.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

B_2_Scale, massing layout and setting of new developments

T_14_Accessibility of new developments, need to avoid congestion and safety problems arising

T_22_Parking standards in new developments

COMMENTS:

In assessing the proposal the main issues to consider are the impact of the development upon the appearance of the host property and the street scene in general and the effect upon the residential amenities of the neighbouring properties.

One of the core principles of the NPPF, as set out by paragraph 17, is that planning should 'always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings'. Paragraphs 56 and 57 expand upon this principle, highlighting the importance Central Government places on the design of the built environment, including individual buildings, public and private spaces and wider area development schemes. Paragraph 64 of the NPPF goes on to state that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

Policy B2 of the adopted UDP relates to new developments and extensions to existing buildings and states that their scale, massing, layout or setting should, 'respect and enhance the best qualities of nearby properties and the locality and retain acceptable levels of privacy' whilst policies T14 and T22 of the UDP specify that development should not cause traffic congestion or highways safety problems on existing roads whilst adequate provision shall be made for the parking of vehicles. Policy B2 is considered to be fully compliant with the NPPF, whilst policies T14 and T22 are considered to be broadly compliant. Following from policy B2 the adopted Household Alterations and Extensions Supplementary Planning Document provides detailed design guidance on the design of house extensions and alterations.

The proposal will see the retention of a driveway of 7.1m, in excess of the 5.5m normally required by the Household Alterations and Extensions SPD. The Network management Team has commented that the garage is undersized for the parking of an average car, although many garages are now used for storage. As the proposal complies with the parking requirement of one in-curtilage space, the Network Management Team has no objections to the proposal.

The properties within this cul de sac are slightly unusual in terms of style and design and are relatively unaltered, resulting in a street with its own character and charm. Whilst this does not preclude extensions or alterations to the houses in principle, the mansard feature does not easily lend itself to the normal requirement within section 7 of the Household Alterations and Extensions Supplementary Planning Document for the first floor to be set back from the front elevation by 1m.

The gable feature already incorporates an element of subordination. To further set back the first floor to achieve a dropped ridge line would result in a rather contrived and unsatisfactory front elevation. It is considered that the proposed design is the most appropriate solution in this case to complement the original design of the property. The development includes a hipped roof to reflect the existing design and the first floor window similarly mirrors the existing front window. It is therefore considered that the development is in keeping with the character of the host property and will not be over-dominant or incongruous in the street scene.

The rear single storey extension is not easily visible from the public viewpoint but is a standard form of development of a design and scale that is in keeping with the character of the host property and the area in general.

The rear extension will project an additional 1.5m from the original building line and from the level of the ground floor windows of the adjoining property no. 6. The roof pitch is proposed to be shallower than the existing structure so that it will be no higher than the existing mono-pitched roof. The adjoining property has a kitchen extension that projects 2.6m into the garden that potentially has more of an overshadowing effect upon the living room window than the proposed development. Given the modest projection proposed and that an extension of 3m projection could be constructed as permitted development, it is not considered likely that the proposal will result in an unacceptable level of overshadowing of the adjoining property.

The side extension is proposed to be built up to the boundary with the neighbouring property at no. 10. There are concerns regarding the ability to access a vehicle parked in the neighbouring driveway, which measures approximately 2.4m wide. At the moment, the lack of a boundary wall enables a certain amount of mutual encroachment or overhanging of the driveways when opening car doors. However, this is an informal arrangement that is a matter for the two parties to agree. It must be noted that a 2m high boundary enclosure could be erected under permitted development rights which would similarly hinder access. In planning terms, building up to the boundary is not unacceptable in principle, and is not a justified reason for refusal in this case.

The properties within this cul de sac were constructed with a small kitchen to the side/rear with a doorway accessing the rear garden and unusually the only window in the side elevation. The neighbouring property has a landing and bathroom window, both secondary windows, in the side elevation at first floor level and a kitchen and pantry window at ground floor level, the kitchen window being a main habitable room window.

Section 7 of the adopted Household Alterations and Extensions SPD states that side extensions should have minimal impact on the residential amenity of neighbouring properties and Appendix 1 details that a minimum distance of 21m should be provided between main facing windows and 14m between main windows facing onto gable or other elevations which contain no primary windows.

The existing distance between the side elevations is approximately 4.8m. The existing outlook from the neighbouring kitchen window is already limited by the proximity of the side gable wall of the application property. Whilst the separation distance between the window and the proposed two-storey extension would be reduced to 2.4 metres, the outlook from the kitchen window would

remain of the side of the application site, and would not therefore worsen significantly given the existing situation.

The orientation of the properties, with the fronts being south facing, is such that the neighbouring property will receive a good deal of natural light and sunlight from the space in between the houses, with the neighbouring property overshadowing its own window later in the afternoon/evening. Whilst there will be some reduction in light received to the kitchen, it is not considered that this will result in a significant adverse impact upon the living conditions of the neighbouring occupiers.

Given that a substantial single storey extension could be erected under permitted development rights, and that an appeal against the refusal for a two storey extension in very similar circumstances in Washington was allowed (13/01041/FUL), it is not considered that a refusal for this reason would be justified in this case.

The submitted drawings indicate that the box guttering will deal with the rain water run-off from the roof. There is no indication that the development will lead to increased run-off on the neighbouring driveway, a concern raised by the objector. The development will be the first of its type within the cul de sac, but there are examples of similar developments within neighbouring streets. Whilst it may set a precedent for other similar extensions in this street, it is considered that it will establish an acceptable design standard for others to follow. A terracing effect will be avoided by the inclusion of a hipped roof.

Given the above, the proposal is unlikely to result in any serious detriment to the residential amenities of neighbouring properties or the visual amenities of the host property and the street scene in general. For the reasons detailed above, the proposal is considered to be acceptable.

Equality Act 2010 - 149 Public Sector Equality Duty

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act.

As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- ' age;
- ' disability;
- ' gender reassignment;
- ' pregnancy and maternity;
- ' race;
- ' religion or belief;
- ' sex;
- ' sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected

characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to -

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

RECOMMENDATION: Approve subject to the conditions set out below

Conditions:

1 The development to which this permission relates must be begun not later than three years beginning with the date on which permission is granted, as required by section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 to ensure that the development is carried out within a reasonable period of time

2 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

- location plan received 29/6/16,
- site layout and roof plan received 29/6/16,
- floorplans and elevations as existing received 29/6/16,
- floorplans and elevations as proposed received 29/6/16,

in order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

3 Notwithstanding any indication of materials which may have been given in the application; the external materials to be used, including walls, roofs, doors and windows shall be of the same colour, type and texture as those used in the existing building, unless the Local Planning Authority first agrees any variation in writing; in the interests of visual amenity and to comply with policy B2 of the Unitary Development Plan.

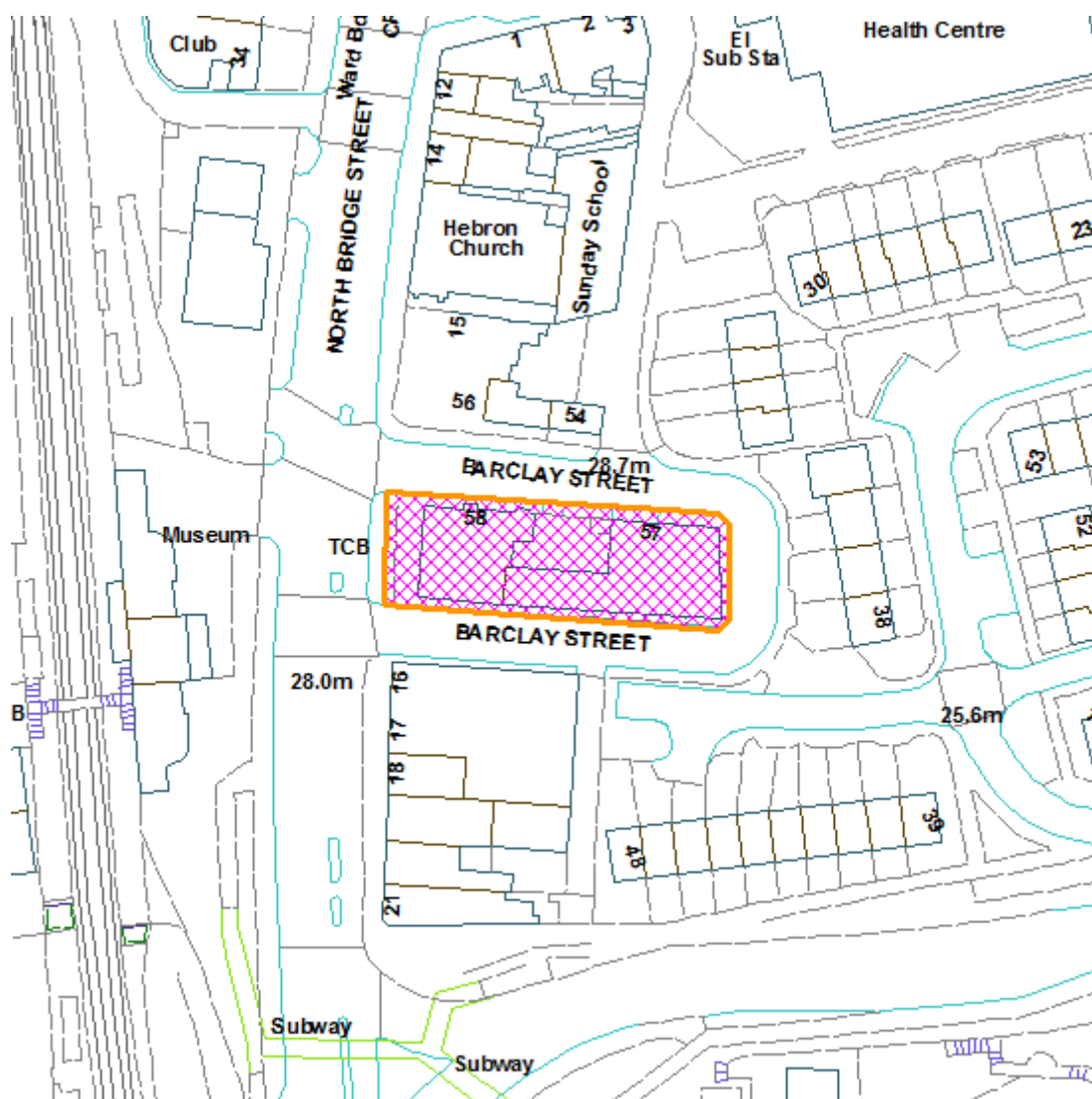
Reference No.: 16/01505/VAR Variation of Condition

Proposal: **Removal of Condition 2 attached to planning application 86/0390/VI (condition states permission to use premises as guest house for unemployed shall enure only for the benefit of the applicants).**

Location: Barclay Lodge 58 Barclay Street Sunderland SR6 0AW

Ward: St Peters
Applicant: Mr John Dickman
Date Valid: 16 August 2016
Target Date: 11 October 2016

Location Plan



PROPOSAL:

The proposal relates to the removal of condition 2 attached to planning application ref. 86/0390/V1 (condition states permission to use premises as guest house for the unemployed shall enure only to the benefit of the applicants) at Barclay Lodge, 58 Barclay Street, Monkwearmouth, Sunderland, SR6 0AW.

The proposal affects Barclay Lodge, a large two-storey property fronting the east side of North Bridge Street in Monkwearmouth. The property is detached and is flanked on its other three sides by Barclay Street, which loops around the perimeter of its plot. Barclay Lodge is a Grade-II Listed building which dates from c. 1820 and it has historically been used as a dwellinghouse, a public house and a vicarage to St. Peter's Church.

The property is currently authorised to be used as a guest house for the unemployed, a use for which planning permission was granted in 1986 (application ref. SD/390/86, approved 13.06.1986). The 1986 planning permission was subject to a condition (no. 3) which stipulated that the permission to use the premises as a guest house for the unemployed was to enure to the benefit of the applicant only (a Mr Khan). Planning permissions with such a condition imposed are known as 'personal permissions'.

The details available for the 1986 permission suggest that the condition was, at the time, considered necessary to give the Council, as Local Planning Authority, additional control over the development, particularly in relation to parking arrangements at the site. The imposition of the condition effectively meant the permission could not be transferred to another individual or organisation without first obtaining the permission of the City Council as Local Planning Authority.

An application to vary condition 3 of the 1986 approval was, however, submitted in 1992 (application ref. 86/0390/V1). The condition was proposed to be varied in order to accommodate a change in the ownership of the guest house and permission for the variation was approved by the Council's Development Control Sub-Committee on 10.03.1992. The varied condition reads:

'This permission shall enure only for the benefit of the applicants, Messrs' Dickman, Watson and Mahan, in order that the Local Planning Authority may retain control over the development'

and it continues to apply to the use of the premises as a guest house for the unemployed. It should be noted that in issuing the permission for the variation of the condition, it was re-numbered as condition no. 2 on the decision notice.

The current application seeks permission for the complete removal of the condition and has been submitted by Mr Dickman, one of the applicants named in the condition from the 1992 permission. The condition is proposed to be removed in order to provide the applicant with greater flexibility in the operation of the premises as a guest house for the unemployed.

TYPE OF PUBLICITY:

Site Notice Posted
Neighbour Notifications

CONSULTEES:

St Peters - Ward Councillors Consultation

Final Date for Receipt of Representations: **22.09.2016**

REPRESENTATIONS:

Public consultation - no representations received to date. The period for receipt of representations does not, however, expire until 22/09/2016. Details of any representations received following the preparation of this report will be provided to Members at the meeting.

POLICIES:

In the Unitary Development Plan the site is subject to the following policies;

B_2_Scale, massing layout and setting of new developments
EN_10_Proposals for unallocated sites to be compatible with the neighbourhood

COMMENTS:

CONSIDERATION OF APPLICATION

The National Planning Policy Framework (NPPF) provides the current Government planning policy guidance and development plans must be produced, and planning applications determined, with regard to it. The NPPF sets out a series of 12 'core planning principles' which should underpin plan-making and decision-taking and are considered to contribute to the over-arching aim of delivering sustainable development. Particularly relevant in this case are the principles that development should always seek to secure a high quality design and a good standard of amenity and take account of the different roles and character of different areas.

Also of relevance to the current application is paragraph 206 of the NPPF, which provides guidance on the use of planning conditions. It states that planning conditions should only be imposed on an approval where they meet six 'tests', these being that the condition must be:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other aspects

All six tests should be satisfied before any given condition is imposed on a planning permission.

Further advice on the use of planning conditions is provided by the Government's National Planning Policy Guidance (NPPG), an online resource which offers detailed planning practice guidance for all users of the planning system.

Paragraph 15 of the section of the NPPG entitled 'Use of Planning Conditions' (Reference ID: 21a-015-20140306) provides advice on the appropriateness of using conditions which limit the benefits of a planning permission to a particular person or group of people. It states that planning permissions are intended to run with the land they affect and it is rarely appropriate to provide otherwise. Only on exceptional occasions should planning permission be granted because of who would benefit from the permission (an example of an agricultural worker's accommodation is cited).

As noted previously, the condition which serves to limit the provisions of the 1992 permission to the benefit of Messrs' Dickman, Watson and Mahan only appears to have been imposed in order that the City Council could retain 'control' over the use of the building. The report to Committee produced at the time does not provide a great amount of specific detail on the reasoning behind this, other than commenting that the Council's then Director of Engineering requested that a condition restricting the use of the property be maintained due to the limited availability of in-curtilage parking at the site.

The link between being able to 'control' the use of the premises and manage parking at the site by restricting the benefit of the permission to the three persons named in the condition is not readily apparent. It is the actual use of the building as a guest house for the unemployed which determines its affect on the amenity of the locality and the demand for car parking at the site, rather than the specific identity of the applicants or managers of the accommodation. To this end, approving the removal of the condition would not serve to alter the way the facility is operated or change the nature of the permission in any other way and it is considered that its deletion would not result in any harm being caused to the amenity of the locality, in accordance with the requirements of the core principles of the NPPF and policy B2 of the Council's adopted Unitary Development Plan (1998).

Consultation comments are still awaited from the Council's Highways team, but it is anticipated that the proposal will not give rise to any concerns in relation to highway and pedestrian safety.

Given the above, there does not appear to be any sound reason to maintain the imposition of a 'personal' condition on the approval. Indeed, having regard to the guidance on the use of conditions provided by paragraph 206 of the NPPF, it would appear that the condition does not satisfy all of the six 'tests' to be met, particularly in terms of its necessity, relevance to the development and reasonableness.

Members should note that when issuing an approval for the variation or removal of a planning condition, the effect is to essentially grant a new planning permission for the development in question. This gives the opportunity for the merits of all other conditions imposed on the previous approval to be considered again as well. To this end, having reviewed the other conditions imposed on the 1992 approval, it is evident that the soundness of condition no. 4 is also questionable. The condition states that:

'No alterations shall be undertaken to the external fabric of the building without the prior approval of the Local Planning Authority, in order that the Local Planning Authority may retain control over the development'.

It is considered that this condition is wholly unnecessary for two reasons; one being that any external works to the building amounting to development would require planning permission in any case and the second being that works to the external fabric (even those which do not amount to 'development' for planning purposes) would also require Listed Building Consent given the Grade-II Listed status of Barclay Lodge. As such, even without this condition, the Council as Local Planning Authority would have full control over works to the external fabric of the building and it is

therefore suggested that in the event Members are minded to approve the deletion of condition no. 2, the decision notice is issued with condition no. 4 removed as well.

CONCLUSION

For the reasons set out above, it is considered that the proposed removal of condition no. 2 is acceptable and that its deletion will not give rise to any significant concerns in relation to the amenity of the area, in accordance with the requirements of policy B2 of the UDP. Indeed, as set out above and with regard to paragraph 206 of the NPPF, it is considered that the continued necessity, relevance and reasonableness of the condition is questionable.

However, as noted above, the period for the receipt of representations from members of the public has not yet expired, whilst comments are awaited from the Council's Highways team. Details of any representations received in response to public consultation and any comments submitted by the Council's Highways team, together with a recommended decision, will be provided to Members at the Committee meeting.

EQUALITY ACT 2010 - 149 PUBLIC SECTOR EQUALITY DUTY

During the detailed consideration of this application/proposal an equality impact assessment has been undertaken which demonstrates that due regard has been given to the duties placed on the LPA's as required by the aforementioned Act. As part of the assessment of the application/proposal due regard has been given to the following relevant protected characteristics:-

- o age;
- o disability;
- o gender reassignment;
- o pregnancy and maternity;
- o race;
- o religion or belief;
- o sex;
- o sexual orientation.

The LPA is committed to (a) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In addition, the LPA, in the assessment of this application/proposal has given due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it. This approach involves (a) removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

The LPA has taken reasonable and proportionate steps to meet the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities, as part of this planning application/proposal.

Due regard has been given to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves. Particular consideration has been given to the need to'

- (a) tackle prejudice, and
- (b) promote understanding.

Finally, the LPA recognise that compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act

RECOMMENDATION: Mind to Approve removal of condition no. 2 of planning permission ref. 86/0390/V1, subject to the following conditions:

Conditions:

1 Unless otherwise first agreed in writing with the Local Planning Authority, the development hereby granted permission shall be carried out in full accordance with the following approved plans:

- the location plan received 16/08/2016;

in order to ensure that the completed development accords with the scheme approved and to comply with policy B2 of the adopted Unitary Development Plan.

2 The premises shall only operate as a guest house for the unemployed, unless otherwise authorised by the Local Planning Authority, in order to achieve a satisfactory form of development.