

The application is for full planning permission for a residential development comprising 12 houses and is a resubmission following a previous refusal for 14 houses.

The application site, of approximately 0.33 hectares, is within the village envelope of Bignall End, as indicated on the Local Development Framework Proposals Map.

The site is accessed off New Road which is a B classified Road.

A grade II Listed milepost is sited located on New Road opposite and in close proximity to the site.

**The 13 week period for the determination of this application expired on the 23<sup>rd</sup> December 2015.**

### **RECOMMENDATION**

**Refuse for the following reason:-**

**The applicant by refusing to pay for the obtaining of an independent, impartial review undertaken by appropriately qualified and experienced valuers are not providing evidence that has been appropriately tested, as required by the Developer Contributions SPD, and in the circumstances it would not be appropriate to accept that the scheme cannot support policy compliant financial contributions towards public open space and education, without which needs generated by the development would not be mitigated.**

### **Reason for Recommendation**

The reduction in the number of dwellings from 14 to 12 enables a more appropriate scheme to be progressed in terms of the design and the impact on highway safety. The principle of the development was accepted previously and no significant harm would be caused to neighbouring properties. However, whilst the applicant has provided evidence to suggest that the scheme is unviable if financial contributions towards POS and education facilities are sought they are unwilling to pay the costs of the Council in seeking independent advice, as advised by government guidance and the Councils Developer Contributions SPD. Without an appropriate secured financial contribution relating to public open space and education facilities the development would be contrary to policies of the development plan and the aims and objectives of the National Planning Policy Framework (NPPF) .

### **Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

Discussions with the applicant have resolved matters of design and highway safety but despite efforts to achieve an appropriate assessment of the financial viability of the scheme it has not been possible to reach agreement and in order to progress the application in a more timely manner a decision on the application should now be made.

### **KEY ISSUES**

The application is for full planning permission for 12 dwellings on the former Audley Workingmen's Club site located on New Road in the village envelope of Bignall End.

Access to the proposed development would be off New Road and a grade II Listed milepost is located on New Road opposite and in close proximity to the site. The proposal is not considered to adversely affect the setting of this milepost.

The application is a resubmission following a previous refusal (15/00279/FUL) made on the grounds that that proposal (for 14 dwellings) would have resulted in an overdevelopment of the site, with an

unacceptable level of off street car parking leading leading to highway safety issues. The proposal also was considered to fail to make an appropriate financial contribution relating to public open space and education places.

The principle of the development for housing was accepted during the consideration of the previous application and the main issues for consideration in the determination of this new application are now:-

- Would the proposed development have a significant adverse impact on the character and appearance of the area?
- Would there be any adverse impact on residential amenity?
- Would the proposed development have any significant adverse impact upon highway safety?
- S106 obligation considerations
- Do the adverse impacts of the development significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole?

Would the proposed development have a significant adverse impact on the character and appearance of the area?

Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Paragraph 64 states 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 CSP1 of the CSS under the heading of 'Design Quality' advises new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape. The Urban Design SPD further expands on this by advising in R14 that "Developments must provide an appropriate balance of variety and consistency, for example by relating groups of buildings to common themes, such as building and/ or eaves lines, rhythms, materials, or any combination of them."

The scheme has been reduced from 14 dwellings down to 12 which results in the scheme having a layout that would be less cramped. The density of the scheme is also now more appropriate for this area of Bignall End. The dwellings are well spaced and three pairs of dwellings are located at the end of the internal access road which is an improvement on the linear style which was proposed previously.

Whilst the individual design of the plots, which are all very similar with identical features within the front elevations, are acceptable the submission and approval of facing materials should be conditioned. The reduction in the number of dwellings proposed also allows soft landscaping to be increased, particularly in relation to front gardens.

A condition removing permitted development rights for hardstandings to be formed on front gardens is advised along with the submission and approval of a landscaping scheme. Subject to the advised conditions the design of the scheme is now considered acceptable and would not harm the form and character of the area. This would meet the guidance and requirements of the NPPF which is considered acceptable.

Would there be any adverse impact on residential amenity?

Paragraph 17 of the NPPF lists a set of core land-use planning principles that should underpin decision-taking, one of which states 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.

The revised layout results in the rear elevations of plots 7-12 facing towards the side boundary of no.9 Rileys Way but the development would comply with the requirements of the SPG.

Were planning permission to be granted it is advised that permitted development rights for all of the plots should be removed for extensions and outbuildings due to the limited rear garden sizes. The

ability to undertake alterations to the roof of each dwelling without the need for planning permission should also be removed to ensure that no harm is caused to the amenity of neighbouring occupiers.,.

#### Would the proposed development have any adverse impact upon highway safety?

Local Plan Policy T16 details that for a two/ three bedroom dwelling there should be a maximum of two off street car parking spaces per dwelling.

In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. The NPPF also seeks to promote sustainable development and development in sustainable locations. 'Audley Parish' is identified in the Core Strategy as a Rural Service Centre and this location has public transport opportunities (in the form of a bus service) operating on New Road with schools and other amenities within easy walking distance. Audley village centre is also within easy walking and cycling distance from the application site.

Insufficient off street car parking and the ability to manoeuvre a refuse lorry in the site were a reason for refusal of the previous application. The revised layout and a reduction in the number of dwellings now allows each property to have a minimum of two off street car parking spaces which would accord with Local Plan policy T16 for 2 and 3 bed properties.

It is acknowledged that certain plots have parking spaces that are not immediately adjacent to the front door which could result in cars being parked on the access road. However, the potential harm is considered minimal and this would not raise a significant concern.

The Waste Management Section has also removed their objections and the development would allow a refuse lorry to manoeuvre within the site.

Subject to the conditions advised by HA the development is unlikely to cause any significant highway safety concerns.

#### S106 obligation considerations

The Landscape and Development Section (LDS) and the Education Authority (EA) have indicated that the proposed development would require a contribution to be secured for Public Open Space and Education respectively. These being a contribution of £33,093 to primary school provision (3 pupil places) at Ravensmead Primary School and a contribution of £41,202 for capital development/improvement of greenspace and maintenance of Local playground facilities at Bignall End Road which is the only public open space within the locality.

The NPPF advises developments should optimise the potential of site accommodate development, create and sustain an appropriate mix of uses, including public open spaces (paragraph 58), it also advises the local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (paragraph 203).

Both contributions were considered during the previous application and were considered to be consistent with the provisions of the NPPF and the tests of the CIL regulations, as amended, which are that a planning obligation should be:-

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

In the absence of a planning obligation the previous application failed to secure the required financial contributions and was subsequently refused because without these contributions the development would be contrary to policies of the development plan and the NPPF.

The applicant has submitted a viability report to suggest that the contributions would make the scheme financially unviable. This appraisal has been undertaken on a 'developers return' basis and has been undertaken by the firm of BJB.

Members will be aware that in these cases it is usual practice for the matter to be referred to the District Valuer (DVS) for their impartial and objective review of the submitted appraisal. The applicant is of the opinion that, given that an appraisal has been submitted, there is no need for it to be appraised by an independent third party and indeed that it is perfectly possible for this to be undertaken by officers. Comparison is made with a not dissimilar sized scheme which was the subject of an appraisal by the same company (which concluded that that development was not viable) and which, following the obtaining of the advice of the District Valuer, officers advised the Committee that that scheme could not, at present, fund any of the contributions required of it to be policy compliant.

Such a position is not accepted by your officers. Each site has different constraints and thus costs, the appraisal referred to was undertaken some considerable time ago and whilst the District Valuer may have concluded that the development in question could not sustain any section 106 contributions, there was a considerable variance between the DV and BJB as to the figures in that case. The Council moreover do not have the resources and knowledge to in most circumstances deal with these matters. Your officers have sought to come to a compromise and have proposed that the Council should manage, in consultation with the applicant and at the cost to the applicant, the appointment of a consultant other than the DV, but with certain safeguards so as to ensure that a person of appropriate qualifications and experience is employed.

This is not acceptable to the applicant. He has asked that the application be kept in abeyance whilst his client reflects on the Council's position. There being no end date to such an arrangement, the application is being brought to the Committee for decision.

The Council's Developer Contributions Supplementary Planning Document (adopted in 2007) is a material consideration of significant weight in the determination of planning applications and states that "The Council may seek independent third party advice and the cost of this is expected to be borne by the developer". It is not unreasonable to submit that where an applicant refuses to pay for the obtaining of such advice they are not providing evidence that has been appropriately tested as required by the SPD.

Without an independent, impartial and objective review of the submitted appraisal and the preparation of a Residual Value appraisal undertaken in accordance with the RICS Guidance Note : Financial Viability in Planning , and any appropriate sensitivity testing (to determine whether or not the scheme can support part, but not all, of the policy compliant contributions), your officers cannot support the development as not requiring the payment of policy compliant contributions, and it should be refused.

## **APPENDIX**

### **Policies and Proposals in the approved Development Plan relevant to this decision:-**

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS) 2006-2026 (adopted 2009)

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP6: Rural Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP5: Open Space/Sport/Recreation  
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan (NLP) 2011

Policy H1: Residential Development: Sustainable Location and Protection of the Countryside  
Policy T16: Development – General Parking Requirements  
Policy C4: Open Space in New Housing Areas  
Policy C22: Protection of Community Facilities  
Policy IM1: Provision of Essential supporting Infrastructure

### **Other Material Considerations**

National Planning Policy

National Planning Policy Framework (2012)  
Planning Practice Guidance (March 2014)

Community Infrastructure Levy Regulations 2010, as amended

Supplementary Planning Guidance/Documents

Space Around Dwellings SPG (July 2004)

Developer Contributions Supplementary Planning Document (SPD) (September 2007)

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010)

RICS Guidance Note 'Financial Viability in Planning' 1<sup>st</sup> Edition

HCA Good Practice Note Investment and Planning Obligations – responding to the downturn

Relevant Planning History

15/00279/FUL Proposed Re-development at Audley Workingmens Club for the erection of 14 houses **Refused**

Views of Consultees

**Audley Parish Council** support t the application for 12 dwellings.

The **Environmental Health Division** has no objections to the proposal subject to conditions regarding construction hours, contaminated land and design measures to mitigate future occupiers from noise.

The **Highway Authority** raises no objections subject to conditions which secure the access prior to the occupation of any of the dwellings, surfacing, parking and turning are provided, the access remaining un-gated and the submission and approval of a Construction Method Statement.

The **Landscape Section** has raised no objections subject to conditions regarding tree protection, tree pruning and a landscaping scheme.

A contribution of £ 2,943 per dwelling should be secured towards the improvement and maintenance of local playground facilities at Bignall End Road which is a 644 metre walk from the site.

The **Education Authority** states that the development falls within the catchments of Sir Thomas Boughey High School and Ravensmead Primary School. A development of this size could add 3 primary aged pupils and 2 secondary aged pupils. Sir Thomas Boughey High School is projected to have sufficient space to accommodate the likely demand. Ravensmead Primary School is projected to be full for the foreseeable future and an education contribution for 3 Primary School places (3 x £11,031) = £33,093 is therefore required.

**United Utilities** raise no objections subject to foul water and surface water conditions along with advisory notes regarding water supply.

The **Waste Management Section** raises no objections.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** supports the redevelopment of the site for housing. They have offered advice on the boundary treatment on the eastern boundary which borders the neighbouring open space. 1800mm high railings or a low brick wall/blunted rod topped railings 1800mm high combination should be considered. This could provide greater natural surveillance over the public open space making it safer, reduce the likelihood of any anti-social behaviour in that corner of the public open space including graffiti, and provide a greater sense of visual connection for the new residents with the wider area.

#### Representations

One letter of support has been received indicating that the site needs to be developed.

#### Applicant/agent's submission

The application is accompanied by a Design & Access Statement and a Site Investigation Desk Study report. These documents are available for inspection at the Guildhall and searching under the application reference number 15/00692/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

#### Background Papers

Planning files referred to  
Planning Documents referred to

#### Date report prepared

22nd January 2016