

The application is for full planning permission for a residential development comprising 12 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.

**A decision on the application was deferred at the meeting of the Committee held on 2<sup>nd</sup> February to enable your officers to obtain independent advice from the District Valuer (DVS) regarding the financial viability of the scheme with policy compliant financial contributions.**

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

### **RECOMMENDATION**

**A. Subject to the applicant first entering into a section 106 obligation, by 10th May 2016, to secure a review mechanism of financial contributions if the development is not substantially commenced within 12 months from the date of the decision, permit the application subject to conditions relating to the following matters:**

- 1. Standard Time limit for commencement of development**
- 2. Approved plans**
- 3. Submission and approval of external materials**
- 4. Boundary treatments**
- 5. Prior submission and approval of a landscaping scheme**
- 6. Removal of permitted development rights for hardstandings within all front gardens**
- 7. Removal of permitted development rights for extensions, roof alterations and outbuildings for all plots**
- 8. Provision of access prior to occupation**
- 9. Provision of parking and turning areas**
- 10. Surfacing details**
- 11. Access road shall remain un-gated**
- 12. A surface water interceptor**
- 13. Submission and approval of Construction Method Statement**
- 14. Tree Protection (overhanging trees)**
- 15. Tree pruning (overhanging trees)**
- 16. Design measures to secure noise levels**
- 17. Construction/ Demolition Hours**
- 18. Drainage – foul and surface water**
- 19. Full contaminated land**

**B. Should the matters referred to in (A) above not be secured within the above period, that the Head of Regeneration and Planning Services be given delegated authority to refuse the application on the grounds that without a review mechanism there would be no up to date justification for a development with no policy compliant financial contributions towards public open space and education.**

### **Reason for Recommendation**

This resubmitted application involves a reduction in the number of dwellings from 14 to 12 and this has resulted in a more appropriate scheme in terms of the design and the impact on highway safety. The principle of the development was accepted previously and circumstances have not changed. In

addition no significant harm would be caused to neighbouring properties. It is also accepted, following the obtaining of independent financial advice that the scheme is not viable with policy compliant financial contributions towards public open space and education places, and so these are not sought but a S106 agreement should be secured for a review mechanism.

### **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. Following the agreement of the applicant to pay the Council's costs, independent advice from the District Valuer (DVS) has been received. In consideration of the advice now received from the DVS it is accepted that the development is acceptable and would represent a sustainable form of development and complies with the provisions of the National Planning Policy Framework.

### **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) on the grounds that the proposal (for 14 dwellings) would have resulted in an overdevelopment of the site, with an unacceptable level of off street car parking leading to highway safety issues. The application was also refused on the grounds that the applicant had failed to make an appropriate financial contribution relating to public open space and education places.

The application came before the planning committee of the 2<sup>nd</sup> February but was deferred to enable your officers to obtain independent advice from the District Valuer (DVS) regarding the financial viability of the scheme with policy compliant financial contributions.

The principle of the development for housing was accepted during the consideration of the previous application. Circumstances have not changed since that decision to warrant reconsideration of this issues and as such the main issues to be addressed 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 in keeping with that within the wider 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 a visual improvement on the linear style which was proposed previously.

Whilst the individual design of the dwellings, 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.

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 arising from such parking arrangements 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 the site to accommodate development, create and sustain an appropriate mix of uses, including public open spaces (paragraph 58), it also advises that 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 it was concluded that they would 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 in support of this application which seeks to demonstrate that the contributions would make the scheme financially unviable. This appraisal has been undertaken on a 'developers return' basis and by the firm of Butters John Bee.

Members were advised prior to the committee meeting of the 2<sup>nd</sup> February that the applicant had agreed to pay the Councils fees in obtaining independent advice from the District Valuer (DVS) regarding the financial viability of the scheme with policy compliant financial contributions.

Your officers subsequently instructed the DVS and their final viability appraisal report has now been received and concludes that the scheme is not viable with the policy compliant financial contributions. The DVS were also asked to confirm what, if any, financial contributions the scheme could support and they have confirmed that the scheme would be unviable if any level of contribution was secured.

On the positive side there is the undoubted contribution that the development would make to housing availability which is acknowledged to be in short supply. The site does nothing to enhance the appearance of the area and its redevelopment will be beneficial to the area.

The indication is that if the Council were to pursue any contribution, the development would simply not happen and accordingly no contribution would be received and much needed housing development would not take place. The LPA is being encouraged to boost the supply of housing and whilst the case for this particular development is not based upon the lack of a 5 year supply of deliverable housing sites (the principle being in accordance with policy in both the CSS and the NLP), encouraging this undeniably sustainable development (which could form part of that supply) is a proper material consideration. Your Officer's view is that provided the case for a reduction in the required contributions is established with evidence verified by the District Valuer, there are sufficient circumstances here to justify accepting the development without the contribution that a policy-compliant scheme would require.

Market conditions and thus viability can change and within their report the DVS have advised that a review mechanism should be applied. On this basis it would be quite reasonable and necessary for the LPA, when securing less than policy compliant contributions, to require the independent financial assessment of the scheme to be reviewed if the development has not substantially commenced within one year of the grant of the planning permission. If the scheme is then evaluated to be able to support contributions then these would need to be secured via a Section 106 agreement. Members will recall that a number of previous applications have included such a mechanism within S106's and as such a draft model agreement has been prepared by the Council which secures this mechanism.

On the basis of the above the advice of officers is that financial contributions towards POS and education places are not viable at this time but a S106 agreement to secure a review mechanism is required to ensure that the viability is reappraised if the development is not commenced within 12 months of the date of any permission.

## **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 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

15<sup>th</sup> March 2016