

The application is to vary condition 2 of planning permission 15/00759/FUL for proposed 5 no. detached dwellings to allow the design of plot 1 of this 5 house development to be altered.

The site extends to approximately 0.21 hectares, is washed over by the Green Belt and is also within an Area of Landscape Enhancement (Policy N20), all as defined by the Local Development Framework Proposal Map.

The 8 week period for the determination of this application expires on 15th August 2016.

RECOMMENDATION

Permit with the following conditions;

1. Revised plans
2. All other conditions of the previous permission 15/00759/FUL

Reason for Recommendation

Planning permission has been granted for the development of five dwellings on the land following the entering into of an agreement requiring the payment of a commuted off-site affordable housing contribution of £45,000 upon commencement of the development, and, in the event of substantial commencement not being achieved within 12 months, a further financial appraisal being undertaken to establish whether any higher contribution towards off-site affordable housing provision should be paid. The £45,000 has been paid. The applicant seeks to vary condition 2 of the permission to change the appearance of the house on plot 1 by increasing its size. This change is considered to represent a minor alteration relative to that which has been approved and thus to be acceptable. The Council has received the above contribution towards off-site affordable housing provision, and it is not, as a result of government policy, in a position now to insist upon a review of this sum should the development not be substantially commenced within 12 months.

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

No amendments were considered necessary in this case.

KEY ISSUES

Full planning permission was granted in March for the construction of five dwellings on the former Blue Bell Public House (following the grant of a previous scheme for 5 dwellings and two apartments). This application now seeks to vary condition 2 which listed the approved plans - to change the appearance of the house on plot 1 by increasing its footprint and height. Plot 1 is the house on the northern (Betley direction) part of the site.

The increase in footprint and height involved is considered modest and in the context of the approved development does not raise any significant concerns in terms of its design, impact on the visual amenity of the area or impact on the openness of the Green Belt.

Information secured through conditions has subsequently been approved since the previous decision and the approved information should continue to apply.

Where an application under Section 73 such as this is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.

Application 15/00759/FUL was approved following the entering into in March 2016 of a Section 106 agreement for the provision of an off-site affordable housing contribution of £45,000, together with a reappraisal mechanism in the event of the development not having been “substantially commenced” within 12 months. In the normal course of events there would be a need for a similar S106 agreement to be entered into to reflect any new permission granted if obtaining an affordable housing contribution was still policy compliant.

However, since the original permission there has been a change in circumstances whereby a decision by the Court of Appeal (dated 13 May 2016) gave legal effect to the policy set out in the Written Ministerial Statement of 28 November 2014 which had previously been successfully challenged by Reading Borough Council and West Berkshire Council in July 2015. This challenge meant that this policy guidance no longer applied and the Borough Council continued to seek affordable housing as per the policy of the development plan – specifically policy CSP6 of the CSS which indicates that in the rural areas developments of 5 units or more should provide affordable housing (in the urban areas the equivalent figure is 15 units).

The Written Ministerial Statement of 28 November 2014 announced changes to national policy with regard to planning contributions. The Statement indicated, amongst other things, that contributions for affordable housing and tariff style planning obligations should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1000sq.m.

This development is both for less than 10 units and has a gross floorspace of less than 1000 sq.m.

The Court of Appeal judgement now gives legal effect to the policy guidance once again and this represents a material change since March.

At that time there was a fully justified policy requirement for off-site affordable housing and this met policy CSP6 of the CSS and Affordable Housing SPD and extant national guidance. The amount payable for the off-site affordable housing contribution was referred to the District Valuer who advised that a contribution of £45,000 should be sought, subject to a review mechanism for a financial re-appraisal if the development was not substantially commenced within 12 months of the permission.

The developer has paid the secured off-site affordable housing contribution and made a material commencement on site. Therefore the purpose of any new Section 106 agreement would only be to secure a review mechanism if a substantial commencement of the revised scheme is not made by the 21st March 2017.

Whilst the starting point for the determination of applications remains the development plan, in practice the policy guidance set out in the Ministerial Statement means that limited weight can be given to CSS Policy CSP6 (and the requirement to seek affordable housing in rural areas for developments of 5 or more unit) particularly as the CSS predates the NPPF and is not based upon an up to date evidence base.. Therefore it is the opinion of your officers that the Planning Authority should not now be seeking affordable housing from developments of 10-units or less, which have a maximum combined gross floorspace of less than than 1000sqm.

It follows that a review mechanism, if the development is not substantially commenced within 12 months, cannot now be justified and an amended S106 agreement is not now required prior to the granting of this application.

In summary the development, with the change in design to plot 1, continues to accord with policies of the development plan and the guidance and requirements of the NPPF.

APPENDIX

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

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

Strategic Aim 16: To eliminate poor quality development;
Policy CSP1: Design Quality
Policy CSP6: Affordable Housing

Newcastle-under-Lyme Local Plan 2011 (LP)

Policy S3: Development in the Green Belt
Policy N17: Landscape character – general considerations
Policy N20: Area of Landscape Enhancement

Other material considerations include:

National Planning Policy Framework (March 2012) as amended
Planning Practice Guidance (March 2014) as amended, particularly post Court of Appeal decision
May 2016

Supplementary Planning Guidance/Documents

Affordable Housing SPD (2009)
Supplementary Planning Guidance: Space about Dwellings (July 2004)
Newcastle-under-Lyme and Stoke on Trent Urban Design Guidance (adopted December 2010)

Planning for Landscape Change – Supplementary Planning Guidance to the Staffordshire and Stoke on Trent Structure Plan

Relevant Planning History

12/00357/OUT Demolition of former Public House and the erection of 9 dwelling, formation of vehicular access, associated garaging, car parking and landscaping Refused

13/00065/FUL Demolition of former public house. Erection of 5 No. Houses & 2 No. Apartments, vehicular access, associated garaging and landscaping Permitted following the completion of obligations by agreement, to provide on-site affordable housing in the event of that development proceeding

15/00759/FUL Proposed 5 No. detached dwellings Permitted March 2016 following the completion of obligations by agreement, to provide a sum for the provision of affordable housing off-site

Views of Consultees

Betley, Balterley and Wrinehill Parish Council have been consulted but no comments have been received from them by the due date of the 19.07.2016 and it is assumed that they have no objections to the application.

The **Landscape Development Section** raises no objections subject to conditions already attached previously.

The **Highway Authority** raises no objections.

The **Environmental Health Division** raises no objections.

Representations

None received.

Applicant/agent's submission

The requisite application forms and plans are available for inspection at the Guildhall and can be viewed on the website using the following link;

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/16/00518/FUL>

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

2nd August 2016