

The application was for outline planning permission for the erection of up to 128 dwellings at Tadgedale Quarry, Loggerheads. The application was refused by the Planning Authority on the 12th January 2016 and that decision is now the subject of an appeal which will be determined following the holding of a Public Local Inquiry, the opening day of which is on the 24th January and is expected to conclude on the 28th January.

RECOMMENDATION

That the decision of your Officer, following consultation with the Chair, that the Council as the Local Planning Authority should not pursue the obtaining of a planning obligation requiring the payment of a financial contribution towards primary school places, be noted

Reason for Recommendation

The matter was urgent, in the light of the very recently received notification of a change in the position of the County Council as Education Authority, and an immediate decision was required to avoid given the imminence of the Public Local Inquiry that opened on the 24th January.

KEY ISSUES

As Members may perhaps recall, officers brought a report to the Planning Committee on the 19th July 2016 regarding the appeal against the Tadgedale Quarry decision

One of the resolutions of the Planning Committee on the 19th July was that officers should write to the appellant to confirm that the obligations in the recommendation that was provided to the Planning Committee on the 5th January 2016 are required with an amendment to the education contribution referred to in point (ii) of that recommendation to be for both primary and secondary education. The primary school contribution requirement was indicated to be £297,837.

The County Education Authority have very recently sent the attached letter dated 17th January 2017 to the Planning Inspectorate which self-explanatory. Members will note that that the County Council no longer consider that a financial contribution towards primary school places is required (but one, of £216,086, is still necessary for the provision of additional secondary places at Madeley High School).

The County have therefore significantly changed their position from that which the Borough Council considered in January 2016 and July 2016 and have explained the basis for that change.

Given the new position of the County Council (as the Education Authority), the Borough Council as the Local Planning Authority in the opinion of your officer now had no alternative in these appeal proceedings but to withdraw its request that an obligation be entered into to provide a financial contribution towards the provision of primary school places. If the Borough Council had continued to pursue such a requirement in the appeal proceeding, it would have been unable to bring any substantive evidence in support of that requirement, and therefore almost certainly not only would it be unsuccessful (in the light of the policy guidance on planning obligations, and the legal tests as well) but that would also have lead to an award of costs against the Local Planning Authority on the grounds of it being considered to be requiring that the appellant enter into a planning obligation which does not accord with the law or relevant national policy in the [National Planning Policy Framework](#).

In that such a position is contrary to the terms of the resolution of the 19th July Planning Committee and there was no scheduled meeting of the Planning Committee where the matter could be considered by that Committee, your Officer having consulted with the Chair of the Planning Committee had delegated authority to take such action, under the matter of urgency provisions contained within Appendix 4 of the Council's Constitution.

The action taken is reported to the Planning Committee as required.

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)

Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy IM1: Planning obligations

Other material considerations include:

National Planning Policy Framework (on planning obligations)

National Planning Practice Guidance (on planning obligations, on appeals and the award of costs in appeal proceedings)

Supplementary Planning Guidance/Documents

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

Background Papers

Planning file

Planning documents referred to

Date report prepared

24th January 2017