

## **8 BARFORD ROAD, NEWCASTLE**

### **THE COUNCIL'S POSITION IN THE APPEAL AGAINST THE REFUSAL IN SEPTEMBER OF APPLICATION 17/00483/FUL, WITH RESPECT TO THE SEEKING OF A PUBLIC OPEN SPACE CONTRIBUTION**

The above application was for full planning permission for the demolition of the existing bungalow on this site and the construction of 3 detached dormer bungalows. The application was refused by the Planning Authority on the 26<sup>th</sup> September (in accordance with the resolution of the 12<sup>th</sup> September Planning Committee) and an appeal against that decision has now been submitted to the Planning Inspectorate.

This report concerns a different application for planning permission and should not be confused with the current application 17/00878/FUL which is reported elsewhere on this agenda

The Local Planning Authority has very recently been informed that it is required to submit its Statement of Case with respect to this appeal by the 2<sup>nd</sup> January 2018. The Authority furthermore needs to be mindful of the requirement to give appropriate notice of its position in the appeal. It is accordingly important the Council determines its position and communicates that to the appellant as a matter of urgency. To leave the matter until the 2<sup>nd</sup> January (the date of the next meeting of the Committee) would be too late.

The Chair has agreed that this item can be considered by the Planning Committee as business that is urgent within the meaning of Section 100B(4) of the Local Government Act, 1972

#### **RECOMMENDATION**

That the Committee confirms:

- 1) that it wishes officers to now write to the appellant to confirm that the obligation referred to in the recommendation that was provided to the Planning Committee on 25<sup>th</sup> are required by the Local Planning Authority;
- 2) that in preparing the Council's Statement of Case, officers include reference to the above requirement; and
- 3) that should the appellant seek before the appeal is determined to enter into a Section 106 agreement with the Council containing such an obligation, officers have the appropriate authority to enter into such an agreement.

#### **Reason for report**

The application was refused planning permission on the 26<sup>th</sup> September. An appeal against that decision has been submitted to the Planning Inspectorate. This report is solely concerned with the issue of the seeking of a planning obligation.

#### **Background**

The Planning Authority refused planning permission for this application for the following reasons:

1. *The scale, form and appearance of the development scheme is out of keeping with its immediate surroundings and is visually detrimental to Bunny Hill and the prevailing form and character of the local area. The proposal would therefore be contrary to Policies CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, Saved Policy N12 of the Newcastle under Lyme Local Plan, Policies R3 and R12 of the Newcastle-under-*

*Lyme and Stoke-on-Trent Urban Design Guidance, and the aims and objectives of the National Planning Policy Framework (2012).*

- 2. The development, due to its scale and position, would have an unacceptable impact on the occupiers of neighbouring properties by virtue of an overbearing impact and therefore contrary to Policy R15 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010), the aims and objectives of Space Around Dwellings SPG (July 2004) including Paragraph 5.7, and the aims and objectives of the National Planning Policy Framework (2012).*

The recommendation on the application before the Planning Committee of the 12<sup>th</sup> September was that planning permission be granted subject to the applicant entering into a Section 106 obligation to secure a public open space contribution of £11,158 towards improvements to Guernsey Drive Play Area, and/or Wye Road Playing fields. The amount was equivalent to the rate for two dwellings (that being the net increase in the number of dwellings on the plot).

Members will note that in reporting a subsequent planning application for the development of this site elsewhere on this agenda (Agenda item 11, application 17/00878/FUL) it is being similarly recommended that this public open space contribution is required.

The report to the 12<sup>th</sup> September Committee on the application advised that without the obligation (to secure such a contribution) the development would fail to secure the provision of appropriate play facilities (and their maintenance). A detailed justification for the obligation was contained within the body of the report. It is considered that above obligation would meet the statutory tests and would be lawful.

The decision notice of the Local Planning Authority, drawn up on the basis of the resolution of the Planning Committee of the 12<sup>th</sup> September, makes no express reference to the absence of this obligation, which at the time of the decision of the Committee was not “on the table”.

Notification by the Planning Inspectorate of its receipt of the appeal was sent to the Authority on the 14<sup>th</sup> November and confirmation of its validity was received on the 15<sup>th</sup> November. On the 28<sup>th</sup> November the Authority were advised of the timetable of the hearing of the appeal, which the Planning Inspectorate propose to deal with under the Written Representations procedure. The LPA is required by the 2<sup>nd</sup> January to send the Planning Inspectorate its Statement of Case.

The decision of the Authority has been made with respect to 17/00843/FUL, the decision notice has been issued, and that decision is now the subject of the appeal. There is no suggestion that the Council either can or should add to its grounds of refusal of the application. However, notwithstanding that the appellant may currently not wish to enter into a Section 106 obligation, your officers would submit that it is appropriate and timely to determine the Local Planning Authority’s position with respect to planning obligations. The Council needs to make its position clear and to communicate that to the appellant without delay.

Date report prepared : 6<sup>th</sup> December 2017