

FORMER HALMEREND WORKINGMENS CLUB, COOPERATIVE LANE
MR TONY KELLY

18/00329/FUL

The application is for full planning permission for a residential development of 7 dwellings.

The application site, of approximately 0.3 hectares, is within the village envelope of Halmer End, as indicated on the Local Development Framework Proposals Map.

The site is accessed off Minnie Close which is an Unclassified Road.

Public footpaths (Audley 40 and Audley 87) run beyond the north, east and southern boundaries of the site.

The 8 week period for the determination of this application expired on the 22nd June 2018.

RECOMMENDATION

A. Subject to the applicant first entering into a Section 106 agreement by 20th November 2018 to secure a contribution towards Public Open Space of £39,053, or a reduced amount/no contribution dependent upon the conclusion reached on the issue of viability in which case the agreement would secure a review mechanism of the scheme's ability to make a policy compliant contributions to public open space, if the development is not substantially commenced within 12 months from the date of the decision, and the payment of such a contribution if found financially viable, PERMIT the application subject to conditions relating to the following matters:-

- 1. Standard Time limit for commencement of development**
- 2. Approved Plans**
- 3. Facing and Roofing Materials**
- 4. Boundary Treatments, including retaining walls**
- 5. Finished Ground and Floor Levels**
- 6. Removal of permitted development rights**
- 7. Visibility splays prior to occupation (and kept free from obstruction)**
- 8. Road, parking and turning areas prior to occupation**
- 9. Surfacing, surface water drainage and delineation of car parking spaces;**
- 10. Existing site access made redundant to be closed and the crossing reinstated to footway;**
- 11. Garages retained for parking;**
- 12. Construction management plan**
- 13. Tree protection plan**
- 14. Arboricultural Method Statement**
- 15. Detailed Landscaping Scheme, including tree retention, replacement tree planting, and tree and hedge planting at the rear of plots 3 and 4.**
- 16. Land Contamination**
- 17. Construction Hours**
- 18. Design measures to minimise noise on future occupiers**
- 19. Foul and surface water drainage details**
- 20. Ecology mitigation measures**

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning either refuse the application on the grounds that without the obligation being secured, the development would fail to secure an appropriate contribution for off-site public open space which would reflect the infrastructure needs of the development and (should there be a viability case for non-policy compliant contributions) there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The principle of residential development on this site, which represents previously developed land within a sustainable rural area, is considered acceptable and the scheme would enhance the appearance of the site which has been left in an untidy state for a number of years. The impact of the development on neighbouring occupiers can be suitably mitigated to an acceptable extent through conditions and highway safety can also be addressed by condition. The scheme would also make a contribution towards public open space unless it is proven that the scheme is not financially viable with a contribution – a further update will be given taking into account the submitted information.

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

Officers of the Authority have requested further information from the applicant during the consideration of the planning application following concerns and this has been received.

KEY ISSUES

This application is for full planning permission for a residential development comprising 7 dwellings on the site of the former Halmer End workingmen's club which is on the edge, but located within, the village envelope of Halmer End with land beyond the northern and eastern boundaries being designated as Green Belt.

Access to the proposed development would be Co-Operative Lane which leads to Minnie Close, a cul-de-sac of residential dwellings.

It is considered that the main issues for consideration in the determination of this application are:

- Is the principle of the development on this site acceptable?
- 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 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?

Is the principle of the development on this site acceptable?

The site lies in the rural area within the village envelope of Halmer End, which is a village within the Audley Parish.

CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods within General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. It goes on to say that new development will be prioritised in favour of previously developed land where it can support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

Policy ASP6 is more specific towards housing in rural areas and states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing. This is to allow only enough growth to support the provision of essential services in the Rural Service Centres.

Furthermore, policy H1 of the Local Plan seeks to support housing within the urban area of Newcastle or Kidsgrove or one of the village envelopes.

Paragraph 117 of the National Planning Policy Framework 2018 states that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

Paragraph 11 of the Framework states that Plans and decisions should apply a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of

housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Paragraph 12 also highlights that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

Whilst a report on the latest five year housing land supply position is to be considered by the Council's Planning Committee on 27th September, the position at the time of writing is that the Borough Council has yet to determine that it is able to demonstrate a supply of deliverable housing sites sufficient to provide a minimum of 5 years' worth of housing against its local housing need. As such whilst policies on the location of housing within the Development Plan are supportive of the proposal, they are out of date and have limited weight. However even if the Council were to determine that it does have such a supply, and policies on the supply of housing are not out of date, such policies are supportive of the principle of the development given the location.

The application site is currently occupied by an existing workingmen's club building which has fallen into a state of disrepair having being redundant for a number of years. As such the site meets the definition of previously developed land (PDL) as identified within annex 2 of the NPPF.

The principle of residential development on this site by virtue of it representing development of PDL in a sustainable rural location is considered to comply with policies SP1 and ASP6 of the CSS, policy H1 of the local plan. The starting point is a strong presumption in favour of development unless any adverse impacts of doing so would outweigh the presumption.

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

Paragraph 124 of the recently published revised National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Furthermore, paragraph 127 of the revised framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the Core Spatial Strategy (CSS) lists a series of criteria against which proposals are to be judged including contributing positively to an area's identity in terms of scale, density, layout and use of materials. This policy is considered to be consistent with the revised NPPF.

Section 7 of the adopted Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document (2010) provides residential design guidance. R3 of Section 7 of that document states that new development must relate well to its surroundings. It should not ignore the existing environment but should respond to and enhance it.

Section 10.1 of the SPD indicates that the aims for development within, or to extend, existing rural settlements are:-

- To respond to the unique character and setting of each settlement
- Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location
- Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character

As identified, the application site is currently occupied by an existing workingmen's club building which has fallen into a state of disrepair having being redundant for a number of years. The site is overgrown and has an untidy appearance within this village location.

The proposal is to replace the existing building with 7 detached dwellings in a cul-de-sac arrangement.

The appearance of the proposed dwellings would all be similar, other than plot 7 (to the front of the site), and have a suburban appearance, nearly identical to the existing properties on Minnie Close to the west of the application site.

It is clear that the proposed development seeks to maximise development on the site with 7 detached dwellings and associated garages but the proposed layout and appearance of the development would be in keeping with the area.

The Landscape Development Section (LDS) have raised a number of concerns with the proposal, including the impact and potential loss of trees. These trees are not covered by a tree preservation order (TPO) and whilst they do act as screening of the site (and existing buildings) from the north your officers do not consider them to be visually significant and are therefore not covered by the requirements of policy N12 of the local plan. Furthermore, a tree survey has been submitted to support the application and indicates that the better quality trees will be retained. Subject to the development being carried out in accordance with the tree report, suitable tree protection during construction and further landscaping to supplement the existing trees it is considered that the proposal would enhance the appearance of the area and protect the visual amenity of this edge of village location.

Subject to conditions, which would secure appropriate facing materials, boundary treatments, finished ground levels and soft landscaping, it is accepted that the proposals would meet the guidance and requirements of the NPPF and the Council's Urban Design Guidance SPD.

Would there be any adverse impact on residential amenity?

Paragraph 127 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 Council's Supplementary Planning Guidance (SPG) - Space Around Dwelling provides more detailed guidance on privacy and daylight standards including separation distances between proposed dwellings and new development in relation to existing dwellings.

The application site is adjacent to a number of residential properties, in particular no. 266 Heathcote Road beyond the eastern boundary and properties on Minnie Close beyond the western boundary.

266 Heathcote Road is set on a lower level compared to the application site and in parts the difference is as much as 3-4 metres. Plots 3 and 4 of the proposed development would have rear elevations with principal windows which are angled towards the rear elevation of no. 266 which also has principal windows. The SPG advises that where principal windows do not directly overlook each other the 21m separation distance may be reduced to 17 metres, depending on height and topography. In this instance the properties would not face each other directly and a distance of 18 metres is achieved. This is considered acceptable when factoring in the change in ground levels and the position of windows in the proposed and existing dwelling.

Sections have also been submitted which show the elevated nature of the rear gardens of plots 3, 4 & 5. Details of the boundary treatments have not been submitted but carefully positioned fences, with an appropriate height, would mitigate the impact on no. 266 Heathcote Road. This should also be supplemented by tree or hedge planting on the slope between any rear fence line and the retaining wall which abuts the public footpath. This would help to minimise the impact from overlooking of the garden area of no. 266 but by virtue of the proposed development it is acknowledged that some level of overlooking, when compared to the current circumstance, is inevitable.

Acceptable separation distances would also be achieved between the proposed plots and properties on Minnie Close, in accordance with the SPG.

As discussed, the LDS has raised a number of concerns with the proposals including the steepness of some of the rear garden areas and whether this would make these areas under used. It is accepted that the rear gardens of plots 4, 5 and 6 in particular would have a steep gradient and an amended layout has been submitted which shows a stepped rear garden and retaining structures. It is

accepted that this solution now provides an acceptable level of usable private amenity space for each plot. Other areas of the rear garden will need to be left as soft landscaping due to the steepness but these areas should be protected by condition so that any tree and hedge planting is maintained for privacy reasons.

There is also a need to remove permitted development rights for extensions, roof alterations and outbuildings (classes A, B, C & E of part 1, schedule 2 of the General permitted Development Order 2015, as amended) due to the constraints of the site and due to the proximity of neighbouring residential properties and the further likely further impact that such additions could have if not suitably controlled.

In conclusion it is considered that subject to suitably boundary treatment and landscaping which can be secured through suitably worded conditions a good standard of amenity for all existing and future occupants of land and buildings, as required by the NPPF, could be achieved.

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

The proposed main access is to be formed off Co-Operative Lane with a cul-de-sac arrangement serving 6 of the proposed dwellings with one of the dwellings also direct access off the lane.

The submitted plans show that adequate visibility can be provided for the proposed dwellings and also how a refuse truck would manoeuvre the main access and site.

Local Plan Policy T16 details that for four bedroom dwellings there should be a maximum of three off street car parking spaces per dwelling. In this instance each dwelling would have two spaces on the drive and a private garage.

The Highways Authority has raised no objections subject to conditions which would ensure satisfactory access and car parking arrangements for the seven dwellings.

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

S106 obligation considerations

The proposals generate a floor area of less than 1000 square metres of floor space and the PPG sets out that affordable housing should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres.

Paragraph 34 of the Framework states that plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

Saved NLP policy C4 (part of the approved development plan) does not support the seeking of a contribution for developments of less than 10 units or less than 0.4 ha. Policy CSP5 of the more recent Core Spatial Strategy (also part of the development plan), indicates that developer contributions will be sought to provide a key funding source to meet the needs of new residents and for the delivery interalia of the Urban North Staffordshire Green Space Strategy and any approved revisions or replacement strategies. There is such a replacement strategy, the Open Space Strategy that was adopted by Cabinet at its meeting on the 22nd March 2017.

The recommendation contained within the Development Strategy of the OSS is that as good practice for residential development 0.004 ha per dwelling of open space should be provided for the total number of dwellings; and that such open space will be provided in areas of not less than 0.1 ha regardless of development size. It goes on to indicate that a cost model for offsite contributions will need to be agreed based upon a Table contained within the OSS that is itself an update of the cost model that was contained within the 2007 Urban North Staffordshire Green Space Strategy.

In this case LDS are not seeking open space on the site itself but instead are requesting a total contribution of £39,053 (7 x £5579) for the development to be secured for Public Open Space (POS) improvement and maintenance. The sum, it is proposed, would be spent on improvements to the play area at Station Road, Miles Green, which is approximately 870m from the application site.

Both the NLP and the CSS form part of the approved development plan for the area. In this case the CSS is more up to date than the NLP. In addition the application of the Open Space Strategy in the determination of planning application is consistent with paragraph 96 of the Framework which indicates that policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision.

The development applied for is below the local plan policy C4 trigger threshold and it could be argued that the request is contrary to policy. It is, however, considered that the contribution accords with the CSP5 of the CSS which, as indicated above, specifies that developer contributions will be sought in accordance with the Green Space Strategy or any approved or replacement Strategy. As this policy is more up to date and is fully compliant with the Framework it should be given greater weight than LP policy C4.

Any developer contribution to be sought must be both lawful, having regard to the statutory tests set out in Regulation 122 and 123 of the CIL Regulations, and take into account guidance. It must be:-

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

It must also comply with national planning practice guidance on the seeking of contributions for small scale developments. Most importantly ministerial policy as set out in a Ministerial Statement of the 28th November 2014, since confirmed by the Court of Appeal in May 2016, indicates that “tariff-style contributions” should not be sought from developments of 10 units or less which have a maximum combined gross floor space of no more than 1,000 square metres. The proposal is such a development.

A tariff style contribution is defined as one where the intention is to require contributions to pooled funding pots intended to fund the provision of general infrastructure in the wider area. The Landscape Development Section has indicated that they propose that the contribution in this case would be applied to improvements to the playground at Station Road, Miles Green. The parish council have requested that any POS contribution received should be allocated and spent at a play area at Harrison Close which is a 410m walk from the application site. LDS have raised no objections to this and on balance it is considered more directly related than to the proposed development than the Station Road playground.

Whilst the amount is calculated on a “sum per dwelling” basis it is not considered to meet the definition in the Guidance or Statement of a tariff-style contribution and therefore the guidance does not rule out seeking such contributions in this case.

The Framework advises that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Paragraph 1 of the Framework states that planning law requires that applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

The applicant has stated that the scheme cannot support the requested policy compliant contributions towards POS and independent financial advice is now being sought by the Authority.

A further report will therefore be provided following an assessment of the independent appraisal that has been received from Butters John Bee.

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](#)

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 Framework](#) (July 2018)

[Planning Practice Guidance](#) (March 2014, as updated)

[Community Infrastructure Levy Regulations](#) (2010) as amended and related statutory guidance

[Supplementary Planning Guidance/Documents](#)

[Developer contributions SPD](#) (September 2007)

[Newcastle-under-Lyme Open Space Strategy](#) – adopted March 2017

[Space Around Dwellings SPG](#) (SAD) (July 2004)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)

[Waste Management and Recycling Planning Practice Guidance Note](#) approved in 2003 and last updated in February 2016

[Relevant Planning History](#)

None considered relevant to the determination of this planning application.

[Views of Consultees](#)

Audley Parish Council supports the principle of development on the brownfield site, subject to the Highways department's comments and the layout/design then being amended to comply. There may be a mine shaft (unregistered) under the site, which should be explored. The noted that the current scheme would seem to be overdevelopment. Sewage should connect down Cooperative Lane to the High Street. Any Section 106 open space contribution should be attributed to Halmer End (Harrison Close) play area.

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

The **Highway Authority** raises no objections subject to conditions that secure the following;

- visibility splays prior to occupation (and kept free from obstruction);
- no occupation of the dwellings until the road, parking and turning areas have been provided;
- submission and approval of surfacing, surface water drainage and delineation of car parking spaces;
- access made redundant and the crossing to be reinstated to footway;
- the garages retained for parking; and
- submission and approval of a construction management plan

The **Landscape Section** raises concerns regarding the proposed development affecting trees roots which are important trees which are visually prominent and provide an important buffer/screen from the open countryside to the north. The layout should be revised in this area to better avoid the trees. There is also likely to be post development resentment of the trees by the occupants and would result in subsequent pressure for the felling or pruning of the trees. Concerns are also expressed about the steepness of the proposed rear gardens of certain plots. Conditions regarding tree protection/ Arboricultural Method Statement and a landscaping scheme are advised.

They also request a financial contribution for capital development/improvement of offsite open space of £4,427 in addition to £1,152 (per dwelling) for 60% of maintenance costs for 10 years. Total contribution £5,579 (per dwelling). The contribution is to be used for improvements to the play area at Station Road, Miles Green, which is approximately 870m away.

The **Coal Authority** raises no objections

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

The **Mineral and Waste Planning Authority** indicate that they have no comments on this application as the site is not within or near to any permitted waste management facility; and is exempt from the requirements of Policy 3 – Mineral Safeguarding in the Minerals Local Plan for Staffordshire 2015 – 2030 (site is within the village boundary).

Representations

Three letters of objection have been received raising the following concerns;

- Loss of light and privacy to neighbouring rear gardens,
- On street car parking would be exacerbated,
- Existing trees should be maintained,
- The development would be overbearing, and
- Properties should be 21 metres from neighbouring properties,

Applicant/agent's submission

The application is accompanied by a Design & Access Statement, Arboricultural Report, Ecology Report and a Phase 1 Contamination Report. These documents are available for inspection at the Guildhall and searching under the application reference number 18/00329/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00329/FUL>

Background Papers

Planning files referred to

Planning Documents referred to

Date report prepared

25th September 2018