

Planning Committee at its meeting of 6<sup>th</sup> November resolved to grant full planning permission for the change of use of first and second floor offices into 4 no. self-contained apartments subject to the applicant first entering into a Section 106 agreement to secure a review mechanism of the scheme's ability to make a policy compliant contribution 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. In reaching this decision Committee accepted the advice that the requirement to pay a contribution to public open space would render the development unviable.

Whilst the applicant has made considerable progress in the preparation of the required obligation such an Agreement has not yet been entered into and as such the decision has not, to date, been issued.

Members will recall that a report was brought to the 26<sup>th</sup> February Planning Committee following the receipt of an appeal decision against the decision of the Borough Council to refuse to grant planning permission (18/00393/FUL) for the conversion of a communal area into a 1 bedroom self-contained flat at 1 Wade Court, Market Street, Kidsgrove. The Inspector in allowing that appeal concluded that a financial contribution towards public open space was a tariff style contribution and that the seeking of such a contribution was inconsistent with Government policy, which takes precedence over the fact that such an approach was consistent with our own policy documents.

In recognition that this was the second appeal where a Planning Inspector found this to be the case Committee resolved, on 26<sup>th</sup> February, to cease to apply the policy of seeking public open space contributions in respect of developments of 10 or less dwellings, other than in circumstances expressly stated as possible in the PPG. Such circumstances do not apply in any of these cases.

The Committee also agreed that a report on this application be brought back to the Committee for reconsideration in the light of this change of policy. The sole issue for reconsideration now is that of the public open space contribution.

Given the decision to cease to apply the policy of seeking public open space contributions in respect of these developments, which all involve 10 or less dwellings, it can no longer be said that a public open space contribution is required in this case. As such it would no longer be appropriate to withhold the issuing of planning permission in the absence of a completed agreement that secures a review mechanism in accordance with the resolution of Planning Committee on 6<sup>th</sup> November as to do so would be both contrary to the Council's new position and amount to unreasonable behaviour. As such planning permission should now be issued.

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#### **RECOMMENDATIONS**

- A. That the Committee agree not to require a Section 106 agreement by 6<sup>th</sup> December to secure a review mechanism of the scheme's ability to make a policy compliant contribution to public open space, if the development is not substantially commenced within 12 months from date of the decision, and the payment of such a contribution if found financially viable**
- B. The application be permitted subject to the conditions referred to in the resolution of the 6<sup>th</sup> November 2018 Planning Committee.**

## **APPENDIX**

### **Relevant Material Considerations include:**

[National Planning Policy Framework](#) (2019)

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

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

The documents relating to the planning applications which are the subject of this report can be found at

<https://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00467/FUL>

Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

8<sup>th</sup> March 2019