

The above application for planning permission for the erection of 6 dwellings was refused under delegated powers on the 29th March 2019. A subsequent appeal has been lodged against the decision of the Planning Authority and an appeal hearing is to take place on the 11th February 2020.

As part of the appeal process the appellant intends to submit a draft Section 106 Agreement to secure the dwellings as affordable housing.

The Council's scheme of delegation requires all planning applications, that are the subject of a S106 Agreement to be determined by the planning committee and the 4th February is the last planning committee prior to the appeal hearing on the 11th February for this matter to be considered. Therefore, in order to negotiate acceptable affordable housing provision on the site your officer requires committee resolution to complete such an agreement should the Planning Inspector decide to allow the appeal and grant planning permission for the proposed development.

This report is brought to the Committee as an item of Urgent Business in view of the above.

RECOMMENDATION

That the Committee agree that;

Subject to the terms for securing affordable housing being considered acceptable, the Council should enter into a Section 106 agreement that secures affordable housing on the appeal site, should the appeal be allowed

Reason for Recommendation

The matter was urgent, in the light of the deadline imposed by the Planning Inspectorate and the late information received from the appellant. The basis for the recommendation is explained in the report below.

KEY ISSUES

This planning application for 6 dwellings was refused under delegated powers on the 29th March 2019 for the following reasons;

1. *The proposed development represents inappropriate development in the Green Belt, and there are no very special circumstances that would outweigh the harm caused by virtue of the development's inappropriateness and associated harm to the openness of the Green Belt, contrary to Policy S3 of the Local Plan and the aims and objectives of the National Planning Policy Framework (2019).*

2. *The development of this Greenfield site is not considered to be an appropriate location for a Rural Exception Site as set out in Policy CSP6 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 by virtue of the site being in an unsustainable location for new housing, outside of and not immediately adjoining a village envelope. The adverse impacts of the development, namely the reliance on the use of private motor vehicles by reason of the site's location, would significantly and demonstrably outweigh any benefits of the development when assessed against the policies of the National Planning Policy Framework (2019) taken as a whole and the proposal therefore represents an unsustainable development.*

3. *The proposed development would be detrimental to the character and form of this part of Dales Green Road and to the wider landscape contrary to Policies CSP1 and CSP4 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026; saved policies N17 and N21 of the Newcastle-under-Lyme Local Plan 2011, the aims and objectives of the Newcastle-under-Lyme and*

Stoke-on-Trent Urban Design Guidance Supplementary Planning Document, in particular Section 10, and the aims and objectives of the National Planning Policy Framework (2019).

4. *The proposed development by virtue of its design and layout is likely to result in the loss of visually significant trees and hedgerows which will have a harmful and adverse impact on the character and appearance of the area. It would therefore not be a sustainable form of development of the site and would accordingly be contrary to Policy N12 of the Newcastle-under-Lyme Local Plan 2011 and the requirements and guidance of the National Planning Policy Framework (2019).*

An appeal was lodged against the decision in September last year and the Planning Inspectorate has set an appeal hearing date of the 11th February 2020.

The appellant has reduced the number of dwellings from six to five following the decision to refuse planning permission and your officers have not raised an objection to this on the basis that the proposal is for outline planning permission and the submitted layout plan is only indicative. However, the reasons for refusal remain unchanged.

In respect of reason for refusal number 2 the appellant has indicated that a draft S106 Agreement to secure the dwellings as affordable housing will be submitted by the 1st February. This is an attempt to demonstrate, in part, that the development would represent a Rural Exception Site.

The NPPF defines a Rural Exception Site as “Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. RES seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.

The intention is that all five dwellings will be for affordable housing and these would be secured as two dwellings for affordable rent and three for intermediate sale (20% below local market value). It also appears that the appellant has no objections to a Registered Provider being involved and only qualifying persons will be eligible for these properties. A mechanism to ensure affordability in perpetuity has also been suggested.

Whilst a draft S106 agreement has still not been submitted it would be unreasonable of the Authority not to enter into discussion with the aim of agreeing the terms. However, it may be the case that your officers cannot agree to the terms set out by the appellant or visa versa. In that instance the Planning Inspectorate would have the final say.

It is important to note that the Council’s position in the appeal remains that the development should be refused for the reasons set out in the decision notice.

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 CSP6 Affordable Housing
Policy CSP10 Planning Obligations

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy IM1: Provision of Essential Supporting Infrastructure and Community Facilities

Other material considerations include:

National Planning Policy Framework (on planning obligations)
National Planning Practice Guidance (on planning obligations, and on appeals)

Supplementary Planning Guidance/Documents

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

[Affordable Housing SPD](#) (2009)

Background Papers

Planning file
Planning documents referred to

Date report prepared

30th January 2020