

The application was for outline planning permission for the demolition of all existing buildings at the former Seabridge Community Education Centre, and the erection of circa 55 dwellings with associated infrastructure, landscaping and open space. The application was refused by the Planning Authority on 25th September 2019 and that decision is now the subject of an appeal.

RECOMMENDATIONS

That the Committee confirms:

- 1) that it wishes officers to now write to the appellant to confirm that the obligations referred to in the recommendation that was provided to the Planning Committee on 10th September 2019 are required by the Local Planning Authority should the appeal be allowed;
- 2) that in preparing the Council's Statement of Case, officers include reference to these above requirements; and
- 3) that should the appellant seek before the appeal is determined to enter into a Section 106 agreement with the Council containing such obligations, officers have the appropriate authority to enter into such an agreement.

Reason for report

The application was refused planning permission on the 25th September 2019. An appeal has been lodged against the Council's decision. This report is solely concerned with the issue of planning obligations.

Background

The Planning Authority refused planning permission for this application on the 25th September 2019 for the following reasons:

1. *The proposed development represents an inappropriate overdevelopment of the site by virtue of the number of dwellings proposed which would harm the character and appearance of the area contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026, the aims and objectives of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document, in particular Section 7, and the aims and objectives of the National Planning Policy Framework (2019).*
2. *The access to the site is inadequate and unable to accommodate the scale of the development proposed and as such the development would result in issues of highway safety contrary to the aims and objectives of the National Planning Policy Framework (2019).*

The recommendation before the Planning Committee was that planning permission be granted subject to the applicant first entering into Section 106 obligations to secure the following:-

- i. A management agreement for the long-term maintenance of the open space on the site
- ii. A contribution of £144,815.00 (on the basis that the development as built is for the full 55 units and of the type indicated) or such other sum as determined by the Head of Planning as appropriate on the basis of policy), towards the provision of education places at Seabridge Primary School
- iii. In perpetuity, provision of 25% of the dwellings on-site as affordable units

The decision notice of the Local Planning Authority, drawn up on the basis of the resolution of the Planning Committee of the 10th September 2019, makes no express reference to these obligations, which at the time of the decision of the Committee were not “on the table”.

An appeal has now been lodged against the Council’s decision and the appellant has confirmed that they wish to prepare planning obligations for consideration by the Inspector.

The decision of the Authority has been made with respect to 19/00515/OUT, the decision notice has been issued, and 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, your officers would submit that it is appropriate and timely to make the Local Planning Authority’s position with respect to planning obligations absolutely clear.

The appellant has requested that the Borough Council, and other parties including the County Council, enter into an agreement under Section 106 that would become operative should the appeal be allowed - there being limitations in the use of obligations by unilateral undertakings as it is arguable that they cannot impose requirements or obligations upon any person other than the signing party. The obligations that were sought in this case should be secured by agreement rather than by unilateral undertaking. Agreeing to enter into an Agreement will not undermine the Council’s position with respect to the principle of the development - that it is unacceptable.