

**DELEGATED**

**AGENDA NO  
PLANNING COMMITTEE**

**6 October 2010**

**REPORT OF CORPORATE DIRECTOR,  
DEVELOPMENT AND NEIGHBOURHOOD  
SERVICES**

**10/1778/FUL**

**Land North Of Blair Avenue, Ingleby Barwick, Stockton-on-Tees**

**Part retrospective application for mixed use development comprising 81no. bedroom residential care home, 2no. sheltered accommodation units containing 24no. apartments and associated access, parking and landscaping.**

**Expiry Date 8 October 2010**

**REPORT UNDER PROTOCOL**

**SUMMARY**

At the 15 September 2010 Planning Committee Members resolved that they were minded to refuse planning permission for the above development on four grounds, namely:-

**Reason 1**

In the opinion of the Local Planning Authority the proposed development would be contrary to policy CS8 3. of the adopted Stockton on Tees Core Strategy as higher density development is considered to be inappropriate in Ingleby Barwick due to the impact on traffic generation, and will therefore be an over development of the site.

**Reason 2**

In the opinion of the Local Planning Authority the proposed development is contrary to the guidance in Planning Policy Statement 1 that Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted and developments should be designed as places where people will wish to live and include good amenity space The proposal is considered to be overdeveloped and therefore deficient in amenity space for the residents and is not considered to result in good design or good planning contrary to Government advice in PPS1 Delivering Sustainable Development.

**Reason 3**

In the opinion of the Local Planning Authority the proposed development would be contrary to saved Policy HO3 (6) of the adopted Stockton on Tees Local Plan 1997 in that inadequate on site car parking provision is proposed in the interests of highway safety.

#### **Reason 4**

In the opinion of the Local Planning Authority the proposed development would be contrary to policy CS 3 paragraphs 1, 2,3,4,5, of the adopted Stockton on Tees Core Strategy in that no evidence has been submitted that these requirements will be met:

1. All new residential developments will achieve a minimum of Level 3 of the Code for Sustainable Homes up to 2013, and thereafter a minimum of Code Level 4.
2. All new non-residential developments will be completed to a Building Research Establishment Environmental Assessment Method (BREEAM) of 'very good' up to 2013 and thereafter a minimum rating of 'excellent'.
3. The minimum carbon reduction targets will remain in line with Part L of the Building Regulations, achieving carbon neutral domestic properties by 2016, and non domestic properties by 2019, although it is expected that developers will aspire to meet targets prior to these dates.
4. To meet carbon reduction targets, energy efficiency measures should be embedded in all new buildings. If this is not possible, or the targets are not met, then on-site district renewable and low carbon energy schemes will be used. Where it can be demonstrated that neither of these options is suitable, micro renewable, micro carbon energy technologies or a contribution towards an off-site renewable energy scheme will be considered.
5. For all major developments, including residential developments comprising 10 or more units, and non-residential developments exceeding 1000 square metres gross floor space, at least 10% of total predicted energy requirements will be provided, on site, from renewable energy sources.

#### **PLANNING CONSIDERATIONS**

As the decision would be contrary to the recommendation made to committee by the Head of Planning, the Head of Planning and Principal Solicitor agreed that the Protocol for Decisions Contrary to Officers Recommendation should be invoked to give further consideration to the reasons for refusal. The determination of the application was deferred and the Protocol requires that the application be reported back to the next Planning Committee for Members to give consideration to any further advice from Officers before making a final determination.

In consultation with the Head of Planning, Principal Solicitor, Corporate Director of Development and Neighbourhood Services and Director of Law and Democracy the following advice is offered to members should they be minded to refuse the application to ensure the reasons for refusal are reasonable and can be supported on appeal. A copy of the original Planning Committee report and update report are attached at Appendix 1 and 2

With regard to Reason 1, higher density development is not considered appropriate in Ingleby Barwick due to the impact on traffic generation. However, as reported, the proposed development would have a lower traffic generation than previously approved schemes on this site. Furthermore it should be noted that the site conforms with the location criteria for flats in SPG4 'High Density Development: Flats and Apartments April 2005. It is within the limits to development of Ingleby Barwick; on previously developed land; within 500m of a main bus route and within 500m of the Myton Way Local Centre. In addition it must be noted that as of June 2010 density requirements have been removed from PPS3 Housing. Therefore it is considered that in these particular circumstances the proposal by generating less traffic than the previously approved scheme does not conflict with the Core Strategy policy. CS8. 3 and the areas of concern relate more to the proposed second reason for refusal

With regard to Reason 2 it is recommended to include PPS3 as well as PPS1 as applicable policy that is a material planning consideration as PPS3 is also concerned with providing good design in housing developments including access to sufficient amenity space.

With regard to Reason 3 the parking provision as set out in the SPD3 has been reviewed by Officers and it has been found that the current guidance levels are insufficient in similar developments elsewhere in the Borough. The review has also examined available data in relation to car ownership and the client population. It is therefore proposed to increase the current maximum standard in line with the research and consultation will commence early Autumn on all changes to SPD3.

However the proposal meets the existing standards through the adopted SPD3 which would be the document relied upon at appeal. Members must also be mindful of PPG13 Transport and PPS4 Planning for Sustainable Economic Growth which both require local planning authorities to, amongst other things, encourage the use of public transport and reduce carbon emissions, in effect by minimising the levels of car parking available and reducing the reliance on the private car. It is accepted that measures to encourage sustainable modes of transport are available for the elderly in the form of bus passes, this however does not appear to affect the levels of car ownership. A local planning authority must have justifiable planning reasons and evidence why they are departing from that guidance, given the proposal is considered to have adequate car parking in the opinion of the Head of Technical Services and there is no significant evidence to the contrary Reason 3 is not considered to be sustainable.

Members may wish to consider whether it is appropriate to use Reason 4 in a refusal relating to Core Strategy Policy CS3 when this could be dealt with by a condition on an approval and is also dealt with under the Building Regulations which will change on 1<sup>st</sup> October 2010 to include greater levels of sustainable building and energy conservation. Therefore it is considered that this reason for refusal cannot be sustained as it is covered by other legislation and can be conditioned to make it acceptable.

Notwithstanding the above it is recommended that the planning application 10/1778/FUL be Approved subject to the applicant entering into a Section 106 Agreement in accordance with the Heads of Terms below and the conditions as set out in the attached reports presented to Members at the 15 September 2010 Planning Committee with an additional condition requiring the development to comply with paragraphs 1 to 5 of CS3. In the event of the legal agreement having not been signed prior to the 8 October 2010 that the application be refused.

In the event that members are still minded to refuse the application the reason below is recommended:-

## **REASON FOR REFUSAL**

### **Reason**

In the opinion of the Local Planning Authority the proposed development is contrary to the guidance in Planning Policy Statement 1 and Planning Policy Statement 3 that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted and developments should be designed as places where people will wish to live and include good amenity space The proposed site is considered to be overdeveloped and therefore deficient in amenity space for the residents and is not considered to result in good design or good planning contrary to Government advice in PPS1 Delivering Sustainable Development and PPS3 Housing.

## **CONCLUSION**

In accordance with Council Protocol, Members are recommended to use the above reason for refusal, excluding reasons 1, 3 and 4 as originally proposed by Planning Committee on 15<sup>th</sup> September 2010, should they remain minded to refuse planning permission. The Officer's recommendation remains as previously set out in the report and update report made to Members at the Planning Committee on 15 September 2010 that the application be granted conditional Approval subject to the applicant entering into a Section 106 Agreement in accordance with the Heads of Terms and the conditions as amended. An additional condition would be included to require the development to meet the requirements of paragraphs 1 to 5 of Policy CS3. In the event of the legal agreement having not been signed prior to the 8 October 2010 that the application be refused.

**Corporate Director of Development and Neighbourhood Services**  
**Contact Officer Mrs C Straughan Telephone No 01642 527027**

## **IMPLICATIONS**

### **Financial Implications:**

Possible award of costs should the application be dismissed at appeal.

### **Environmental Implications:**

See report.

### **Human Rights Implications:**

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

### **Community Safety Implications:**

The provisions of Section 17 of the Crime and Disorder Act 1998 have been taken into account in the preparation of this report.

### **Background Papers:**

Core Strategy Development Plan Document  
Strategic Housing Land Availability Assessment 2009  
Strategic Housing Land Availability Assessment 2010  
Stockton-on-Tees Local Plan Saved Policies

Stockton-on-Tees Borough Council Design Guide and Specification.

Strategic Housing Market Assessment (2009)  
Housing, care and support strategy for older people in Stockton (2005)  
Master Plan for Ingleby Barwick of 1991  
Borough of Stockton-On-Tees Open Space Audit (2003)

### **Application files**

03/2212/OUT, 05/0870/OUT, 06/0823/OUT, 06/3752/OUT, 07/0492/REM, 07/1136/REM, 08/2977/FUL, 09/1135/APC, 09/1395/APC, 09/2076/FUL, 09/2957/FUL, 10/1480/ARC, 10/1501/FUL.

## **WARD AND WARD COUNCILLORS**

**Ward** Ingleby Barwick West  
**Ward Councillor** Councillor K Dixon

**Ward** Ingleby Barwick West  
**Ward Councillor** Councillor R Patterson

**Ward** Ingleby Barwick West  
**Ward Councillor** Councillor Jean Kirby