

The application seeks full planning permission for the erection of 14 dwellings

The site lies within the urban area of Chesterton, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.32 hectares

Access is proposed off Sandford Street and the site was previously occupied by Chesterton Ex-Servicemen's Club.

The application site also includes public footpath (Newcastle 36a) which runs through the northwest corner of the site and would need to be diverted.

**The statutory 13 week determination period for this application expires on the 5<sup>th</sup> September 2017**

### **RECOMMENDATION**

**A. Subject to the applicant first entering into a Section 106 agreement by 4<sup>th</sup> September 2017 to secure a review mechanism of the scheme's ability to make a policy compliant financial contribution of £33,244 (index linked) towards the provision of education places and the discounted financial contribution of £23,202 (index linked) 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 contributions if found financially viable with preference being given to the making of a policy compliant contribution to the provision of education places first followed by the above contribution to public open space, PERMIT the application subject to conditions relating to the following matters:-**

- 1. Standard Time limit for commencement of development**
- 2. Approved Plans**
- 3. Materials**
- 4. Boundary treatments, including acoustic fence**
- 5. Landscaping Plan**
- 6. Tree Protection measures**
- 7. Submission and approval of noise report. Mitigation measures**
- 8. Design Measures to Secure Noise Levels**
- 9. Construction hours**
- 10. Contaminated land treatment**
- 11. Visibility splays**
- 12. Surfacing and drainage details**
- 13. The access and access road being completed prior to occupation**
- 14. The existing access permanently closed and footway reinstated**

**B. Should the matters referred to above not be secured within the above period, that the Head of Planning be given delegated authority to refuse the application on the grounds that without such an obligation there would not be an appropriate review mechanism to allow for changed financial circumstances, and, in such circumstances, the potential financial contributions towards education places and public open space; or if he considers it appropriate to extend the time period within which the obligation referred to above can be secured.**

### **Reason for recommendation**

The development is located within a highly sustainable urban area and given that there is a strong presumption in favour of sustainable development in the context of the Council's inability to be able to demonstrate a 5 year supply of deliverable housing it is considered that the development is acceptable in principle. The design of the scheme, highway safety and noise impacts are considered acceptable subject to conditions. It is also accepted, following the obtaining of independent financial

advice, that the scheme is not viable with any financial contribution towards education places and public open space, and whilst these policy compliant requirements are not sought, given the benefits of the scheme, a S106 agreement should be secured to achieve a review mechanism should substantial commencement not be achieved promptly.

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

Pre application advice was sought from the applicant and discussions with officers of the LPA have been ongoing during the application to resolve any matters. The proposed development is still considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

### **KEY ISSUES**

1.1 The application seeks full planning permission for the erection of 14 dwellings.

1.2 The site was the former Chesterton Ex-Servicemen's Club and is accessed off Sandford Street in the urban area of Chesterton which has a mixed land-use.

1.3 The application site includes a public footpath (Newcastle 36a) which runs through the northwest corner of the site and would need to be diverted. This matter is dealt with separately but would not raise any significant concerns with the proposed re-diversion being along an existing footpath that adjoins the site and runs from Sandford Street to Rosevale Road.

1.4 The site has planning permission for the construction of 19 dwellings approved under 07/00620/OUT & its subsequent approval of some of its reserved matters 08/00800/REM but whilst a material commencement has taken place to implement and keep extant the planning permission the site presently remains undeveloped. Permission 07/00620/OUT did also include outline consent for commercial/replacement club development on land between the site and Sandford Street, and that commercial/club development consent has now in effect lapsed.

1.5 The main issues for consideration in the determination of this application are accordingly:-

- The principle of residential development
- The design and impact on the character and appearance of the area
- Car parking and highway safety
- Residential amenity matters
- Planning obligation considerations

### **2.0 The principle of residential development**

2.1. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

2.2 Saved Newcastle Local Plan (NLP) policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with policy ASP5 of the Core Spatial Strategy (CSS) – the most up-to-date and relevant part of the development plan - setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

2.3 Policy SP1 of the CSS states 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. The CSS goes on to state that sustainable transformation can only be achieved if a brownfield site offers the best overall sustainable solution and its development will work to promote key spatial considerations. Priority will be given to developing sites which are well located in relation to existing neighbourhoods, employment, services and infrastructure and also taking into account how the site connects to and impacts positively on the growth of the locality.

2.4 The land is located in the urban area within an area of mixed land use and is considered to represent a sustainable location for housing development by virtue of its location in close proximity to services, amenities and employment opportunities.

2.5 Furthermore, the site has had planning permission granted previously for the erection of 19 dwellings and this development is still capable of being implemented which is a fall-back position should this application be refused. However, the applicant has identified in their submission that a scheme of 19 dwellings would be hard to deliver but a scheme of 14 dwellings could be delivered and a timetable for that has been set out by them.

2.6 The proposed development complies with local and national planning policy guidance. The construction of 14 dwellings would contribute to the area's housing supply and the principle of residential development on this site is considered acceptable.

### 3.0 The design and impact on the character and appearance of the area?

3.1 The NPPF provides more general guidance on the design of development proposals. It indicates at paragraph 56 that great importance should be attached to design which is a key aspect of sustainable development that should contribute positively to making places better for people. It further states at paragraph 64 that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

3.2 The site has been cleared for a number of years but was previously occupied by a building which was in use as Chesterton Ex-Servicemen's Club.

3.3 The site is within a mixed area with varying styles of buildings and uses. In particular the site adjoins Parkhouse Industrial Estate beyond its north-west boundary. There is also a row of terrace residential properties that front Heathcote Street beyond the southern boundary.

3.4 The layout of the scheme would be similar to the previously approved extant scheme that has not been implemented. However, the density of the proposed scheme is much less than that previously approved. The design of the dwellings would all be of an identical appearance but represent an acceptable design.

3.5 It is considered that whilst the design of the dwellings has a suburban style they would be similar in appearance to a nearby development at the former Corona Works which is located in the locality on Sandford Street. The scheme would allow for some landscaping to the front of the site on one side of the street – the other side would have frontage parking. The approved scheme had frontage parking on both sides, so the revised scheme is an improvement in these terms.

3.6 As is indicated below an acoustic fence is proposed on the north eastern boundary of the site. The height of this will be determined by the submission of a noise report which will be secured via condition but is unlikely to raise any concerns regarding impact on the visual amenity of the area due to its location. The Police have requested further planting to deter crime and anti-social behaviour but the requested location for this (on the industrial estate side) is outside of the applicants' control and an acoustic fence is likely to exceed 2 metres in height and be designed in a manner that would not make it easy for people to scale. Other boundary treatments will be designed to deter crime also.

3.7 On balance it is considered that the design of the proposed scheme would enhance the appearance of this vacant site that has remained undeveloped for a number of years. This would enhance the visual amenity of the area and it is considered to be in accordance with policy CSP1 of the CSS and the guidance and requirements of the NPPF.

### 4.0 Residential amenity matters

4.1 Paragraph 17 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.

4.2 Due to the layout of the scheme and the relationship of the proposed dwellings with the limited number of existing dwellings the proposed development would comply with the Council's SPG – Space Around Dwellings which sets out separation distances between what are termed principal windows of proposed and existing residential properties. An adequate level of private amenity space for each dwelling would also be achieved.

4.3 The site does however adjoin an established industrial estate and the Environmental Health Department (EHD) has advised that acoustic assessment standards and acoustic criteria have evolved significantly since the original application such that an updated noise assessment is now required in order to identify appropriate noise mitigation measures. Notwithstanding this the EHD raises no objections subject to design measures being incorporated into the dwellings that secure appropriate noise mitigation. This is likely to result in an acoustic fence being proposed on the north eastern boundary of the site. However, the height has not been indicated but is unlikely to harm the visual amenity of the area due to its location (as discussed above). The noise assessment and suitable design measures can be secured via condition, as advised by EHD.

4.4. Subject to the advised conditions it is considered that the residential amenity levels of future occupiers of the development and amenity of any existing neighbouring properties would be protected.

#### 5.0 Car parking and highway safety

5.1 The access to the site would be taken off Sandford Street and is fundamentally the same access arrangements as the previously approved scheme. The comments of the Highway Authority have been sought and they have requested further information regarding the turning area which has now been submitted. As discussed the access point and road remains as per the previous permission and whilst further views of the HA have been sought on the additional information received the conditions secured on previous permission are reasonable - the existing access being made redundant being closed and reinstated to footway, surfacing details, drainage, the access road being completed prior to occupation, and visibility splays being secured.

5.2 NLP policy T16 states that development which provides significantly less parking than the maximum specified levels will not be permitted if this would create or aggravate a local on-street parking or traffic problem. The NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. In March 2015 the Secretary of State gave a statement on maximum parking standards indicating that the government is keen to ensure that there is adequate parking provision both in new residential developments and around town centres and high streets. LPAs have also been encouraged not to set maximum limits on the amount of parking either.

5.3 The parking standards identified in the Local Plan indicates that for a three bedroom dwelling a maximum of two off street car parking spaces should be provided and in this instance the scheme achieves this requirement.

#### 6.0 Planning obligation considerations

6.1 The previous planning permission for 19 dwellings, approved under 07/00620/OUT & 08/00800/REM, secured a minimum of 20% on site affordable housing and a financial contribution of £18,000 towards open space enhancement/ improvements. An education contribution was not requested by the County Council or sought by the LPA at the time because the schools in the catchment area had sufficient capacity to accommodate any extra pupils from the development.

6.2 A policy compliant scheme would require 25% on site affordable housing for a development of 15 or more dwellings.

6.3 Whilst the proposal is for 14 dwellings, which is under the 15 dwelling threshold, the previous permission for 19 dwellings demonstrates that the application site could accommodate 15 or more dwellings (in that such a scheme obtained planning permission). The 19 dwelling scheme was a high density development and whilst a material commencement of the development was undertaken the site has remained undeveloped. The applicant indicates that the reason for the amended design is

that a scheme for 19 dwellings would not be capable of being delivered in this location within a realistic time period. In their experience (of delivering housing on other sites in Stoke on Trent successfully) a scheme for 14 dwellings, of the design standard proposed, could be delivered in 12 months.

6.4 Your officers have no evidence to dispute the position and indeed the fact that the 19 house permission has not progressed over nearly a 10 year period is testimony in itself. It would not appear that the numbers of dwellings is being artificially reduced to below 15, but rather that the developer is presenting a proposal that is more aligned with market requirements and to seek affordable housing for this smaller development appears to your officers in this case to be unreasonable, even though there is a consent for a 19 house development.

6.5 The open space contribution secured by the Section 106 agreement entered into prior to the grant of the previous permission was paid in full on commencement of that development.

6.6 The required level of developer contributions increased with the adoption of the North Staffordshire Green Space Strategy soon after the 2007 decision.. The Landscape Development Section has sought a POS contribution of £2,943 per dwelling towards off site improvement and maintenance which for 14 dwellings amounts to £41,202. This is an additional £23,202 on top of the £18,000 already paid by the previous developer which they recognise should be allowed for.

6.7 The LDS have indicated that the POS money will be spent at Chesterton Memorial Park or Crackley Recreation Ground. Seeking this additional payment would reflect the change in circumstances (the increased contribution required per dwelling from developers), whilst at the same time recognising that some payment has been received. Such sum could be secured by a planning obligation

6.8 The Education Authority are requesting a financial contribution of £33,244 because the development is likely to increase demand on Chesterton Community High School and this school is now projected to be full for the foreseeable future. This is a material change in circumstances since the previous decision and appropriate to take into account, and such sum could be secured via a planning obligation.

6.9 Your Officer is satisfied that such obligations would comply with both Regulation 122 and 123 of the CIL Regulations, Regulation 123 stipulates that a planning obligation may not constitute a reason for granting planning permission if it provides funding in respect of a specific infrastructure project or a type of infrastructure and, if five or more obligations providing funding for that project or type of infrastructure have already been entered into since 6 April 2010. Whilst contributions have been requested for Chesterton High School only two have been secured since April 2010. No contributions have been secured for Chesterton Memorial Park but one has previously been secured for Crackley Recreation Ground.

6.10 Since the submission of the application and the request from the Education Authority for a financial contribution the applicant has advised that the scheme would be financially unviable with a policy compliant education contribution, let alone also a public open space contribution.

6.11 Paragraph 173 of the NPPF states that: 'to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking in account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.' It also states at paragraph 205 that where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

6.12 The District Valuer's advice has been obtained by the Authority and that advice has concluded that the development is financially unviable with any level of financial contribution towards education places. Whilst the DVS were not informed of the request from the LDS for a further POS contribution of £23,202 it is evident that if this contribution is requested then the scheme would be even more financially unviable.

6.13 Members will also recall a report that came before the 28<sup>th</sup> March Planning Committee for an application to discharge or lift the planning obligations entered into on outline planning permission (10/00480/FUL) for the erection of 16 terraced dwellings on Sandford Street, Chesterton. That application was approved on the basis that with such obligations the scheme would not be financially viable. The financial viability of schemes in this area seems to be an issue preventing the delivery of housing in this part of the Borough. The benefits both to the Borough as a whole (in terms of housing delivery) and to the regeneration of Chesterton in particular are proper material planning considerations, although it is recognised that in the case of funding additional school places to meet additional demand a failure to obtain contributions will if often repeated cause difficulties for the Education Authority. .

6.14 The application will still need to be the subject of a planning obligation which would secure a financial viability reappraisal mechanism, should a substantial commencement of the development not occur within 12 months of the date of any decision on the application, and then payment of an appropriate contribution towards education places and POS, if the development were to be found capable of financially supporting a contribution. If the reappraisal mechanism is triggered and the DVS (at that time) concludes that the scheme can support a certain level of contributions that is still less than policy would require, the obligation must direct how such financial value is to be apportioned. There are two approaches that need to be considered. The first is to 'top-slice' both the education and public open space contributions that are required (i.e. reduce both by the same proportion) or alternatively to seek in full one of the contributions (i.e to 'ringfence' it) and allow the other contribution to be more substantially reduced or indeed not provided at all. In several cases the Committee have agreed to ringfence education contributions, on the basis of the view that the provision of education facilities where new housing development is proposed is of overriding importance. This is considered the preference in this instance. The fact that some POS money has already been received in relation to this site (and spent) is relevant to this decision. This is the approach that is recommended.

## **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 ASP5	Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP5	Open Space/Sport/Recreation
Policy CSP6	Affordable Housing
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

### **Other material considerations include:**

#### National Planning Policy Framework (NPPF) (2012)

#### Planning Practice Guidance (PPG) (2014)

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

#### Supplementary Planning Guidance/Documents

#### Developer contributions SPD (September 2007)

#### Affordable Housing SPD (2009)

#### 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

Outline planning permission was granted in 2008 under reference 07/00620/OUT for a mixed use development including new clubhouse, dwellings and commercial unit on a wider site including the current one. A subsequent reserved matters application (ref 08/00800/REM) was permitted later in 2008 for the residential development element only which was for 19 dwellings. A material commencement of the development occurred and this permission is still extant.

#### Views of Consultees

The **Education Authority** states that the proposed development falls within the catchments of Chesterton Primary School and Chesterton Community High School. The development is scheduled to provide 14 dwellings and a development of this size could add 3 Primary School aged pupils and 2 High School aged pupils. Chesterton Primary School is projected to have sufficient space to accommodate the likely demand from pupils generated by the development. However, Chesterton Community High School is projected to be full for the foreseeable future. Therefore an Education Contribution for 2 High School places (2 x £16,622 = £33,244.00) is sought.

The **Highway Authority** seek a swept path analysis for the Refuse Collection Vehicle at the turning area shown on drawing number 100-01B and confirmation that the access road is proposed to be adopted or not.

The **Environmental Health Division** raises no objections subject to the submission and approval of an acoustic report, design measures to secure appropriate noise levels, construction hours and contaminated land treatment.

The **Landscape Development Section** express concerns about the large expanse of hard surfacing between the proposed property frontages with no provision for soft landscaping to alleviate the resultant empty space and shrub/tree planting are submitted to address this. The proposed acoustic fencing on the boundary with Rosevale Road should be carried out in accordance with BS5837:2012 to protect the existing trees in the road verge and prevent damage to them. A contribution by the developer for capital development/improvement of off site green space of £1,791 per dwelling in addition to £1,152 per dwelling for 60% of maintenance costs for 10 years is sought. Total contribution £2,943 per dwelling.

**Housing Strategy Section** advises that as this is for 14 units, the policy would not be activated – unless, it is deemed from a development control viewpoint that the land is being underdeveloped with the purposes of circumventing the requirement in the Affordable Housing SPD.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** has no objection to the principle of development nor the diversion of the footpath. There should be plenty of natural surveillance within the development with properties facing each other and the parking overlooked from the respective properties and those opposite. Access to the private rear of the properties should be restricted by the placement of (lockable?) gating either at or as close to the front of the building line as possible. A number of design measures for boundary walls and fencing, along with planting to prevent crime and anti-social behaviour. The applicant is advised that from the viewpoint of Staffordshire Police and undoubtedly for the long-term benefit of the future residents, it would be highly desirable for the properties to meet the minimum physical security standards contained within the Secured by Design Homes 2016 document.

The **Waste Management Section** advises that the preferable solution would have been for the turning head to be beyond the new properties, but that isn't going to happen. They express concerns that the turning area will be used as a supplementary parking area, which seems quite a likely issue. Comments were also invited from the **Greater Chesterton Locality Action Partnership** and in the absence of any comments from them by the due date it must be assumed that they have no observations to make upon the application.

#### Representations

No letters of representation have been received.

#### Applicant/agent's submission

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00417/FUL>

#### Background Papers

Planning File

Development Plan

#### Date report prepared

01 August 2017