

1.	<u>LAND ADJACENT 16 ST GILES ROAD, KNUTTON</u>	<u>18/00016/FUL</u>
2.	<u>FORMER PLAYGROUND BRUTUS ROAD, CHESTERTON</u>	<u>18/00243/FUL</u>
3.	<u>LAND OFF ST BERNARDS ROAD, KNUTTON</u>	<u>18/00443/FUL</u>
4.	<u>LAND BETWEEN 155 AND 161 KNUTTON LANE</u>	<u>18/00441/FUL</u>
5.	<u>LAND ADJACENT 25 ARTHUR STREET, KNUTTON</u>	<u>18/00461/FUL</u>
6.	<u>LAND ADJACENT 45 MORAN ROAD, KNUTTON</u>	<u>18/00465/FUL</u>

### ASPIRE HOUSING GROUP

Full planning permission for the developments set out below has been approved under delegated authority subject to the applicant first entering into a planning obligation (unilateral undertaking) to secure a public open space contribution. The date of the interim approval, the amount of public open space required and the location as to where the contribution is to be spent is also set out below.

1. 18/00016/FUL Construction of four flats for affordable rent on land adjacent 16 St Giles Road, Knutton. Decision to grant planning permission is subject to the requirement that a planning obligation is entered into to secure a financial contribution of £9,866 towards public open space improvements and maintenance at the Wammy. Date of interim approval 26<sup>th</sup> April 2018.
2. 18/00243/FUL Construction of four 3 bed semi-detached houses and one 4 bed detached house on the former playground on Brutus Road, Chesterton. Decision to grant planning permission is subject to the requirement that a planning obligation is entered into to secure a financial contribution of £27,895 towards public open space improvements and maintenance at Loomer Road. Date of interim approval 15<sup>th</sup> January 2019.
3. 18/00443/FUL Construction of 8 houses for affordable rent on land at St Bernards Road, Knutton. Decision to grant planning permission is subject to the requirement that a planning obligation is entered into to secure a financial contribution of £44,632 towards public open space improvements and maintenance at the Wammy. Date of interim approval 31<sup>st</sup> October 2018.
4. 18/00441/FUL Construction of two flats for affordable rent on land between 155 and 161 Knutton Lane. Decision to grant planning permission is subject to the requirement that a planning obligation is entered into to secure a financial contribution of £11,144 towards public open space improvements and maintenance at the Wammy. Date of interim approval 21<sup>st</sup> December 2018.
5. 18/00461/FUL Construction of two houses for affordable rent on land adjacent 25 Arthur Street, Knutton. Decision to grant planning permission is subject to the requirement that a planning obligation is entered into to secure a financial contribution of £9,866 towards public open space improvements and maintenance at the Wammy. Date of interim approval 24<sup>th</sup> September 2018.

Full planning permission, reference 18/00465/FUL, was also granted by Planning Committee at its meeting of 11<sup>th</sup> September 2018 for the construction of two flats for affordable rent on land adjacent to 45 Moran Road, Knutton. The resolution of Committee to grant planning permission is subject to the requirement that a planning obligation is first entered into to secure financial contribution of £9,866 towards public open space improvements and maintenance at Pool Dam Local Nature Reserve.

The developer has, following the decisions above, advised that the requirements to provide contributions towards public open space would render these developments unviable and has requested that such requirements are reconsidered. This matter is being brought to Planning Committee for a decision as to whether to accept the request of the developer and agree not to require some/all of the policy compliant contributions.

## **RECOMMENDATION**

**A. That the Council agree not to require the provision of a contribution towards improvement and maintenance of public open space in respect of the following applications subject to the applicant entering into a Section 106 obligation by 28<sup>th</sup> February 2019 that includes a review mechanism of the schemes' ability to make some or fully policy compliant contributions to public open space and public realm enhancement and maintenance, should the developments be not substantially commenced within 12 months of date of the decisions and payment of such additional contribution if then found financially viable;**

- 1. Land adjacent 16 St Giles Road, Knutton. 18/00016/FUL**
- 2. Former playground Brutus Road, Chesterton. 18/00243/FUL**
- 3. Land off St Bernards Road, Knutton. 18/00443/FUL**
- 4. Land between 155 and 161 Knutton Lane. 18/00441/FUL**
- 5. Land adjacent 25 Arthur Street, Knutton. 18/00461/FUL**
- 6. Land adjacent 45 Moran Road, Knutton. 18/00465/FUL**

**B. Subject to the planning obligations as referred to in recommendation A being completed, the Head of Planning exercise the delegated authority to issue planning permissions subject to the conditions as set out in the approved interim reports and in the case of 18/00465/FUL the resolution of the 11<sup>th</sup> September Planning Committee allowing for any changes to such conditions as may be necessary.**

**C. Failing completion of the above planning obligations by 28<sup>th</sup> February 2019 referred to in recommendation A, that the Head of Planning either refuse the application on the grounds that without the obligation being secured, the development would fail to secure an appropriate contribution for off-site public open space which would reflect the infrastructure needs of the development; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

## **Reason for Recommendation**

The proposed developments on five of the sites have been approved under delegated authority, and in the case of 18/00465/FUL by the Planning Committee, subject to the completion of a planning obligation to secure policy compliant contributions to public open space. It is now accepted, following the obtaining of independent financial advice, that policy compliant schemes are not viable and that the schemes cannot sustain any contributions. However the benefits of the developments are considered to outweigh the harm caused by the additional unaddressed demand created by the development on the public open space in the area. A Section 106 planning obligation is required in each case to secure a viability review mechanism should substantial commencement not be achieved promptly.

## **Key Issues**

It has been agreed, under delegated authority, and in the case of 18/00465/FUL by the Planning Committee, that the public open space contributions as set out above are required to comply with current policy as set out in the adopted Development Plan, would meet the test set out in Section 122 of the Community Infrastructure Levy (CIL) Regulations, and would also comply with Section 123 of the CIL Regulations.

In respect of each of the applications referred to above, and following the interim decisions reached under delegated authority and in the case of 18/00465/FUL the decision of the Committee, the developer has submitted that such contributions as required would render the schemes unviable and has requested that the Council grant planning permission without such contributions being required.

It is acknowledged by the Council's Supplementary Planning Document on Developer Contributions highlights that in some circumstances an applicant may believe what is being asked for by the Council will render a scheme unviable.

The SPD indicates that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is on the applicant to justify how and why special circumstances apply. The applicant has submitted some financial information to make a case that in for each proposal the development will not be viable with such an obligation.

The new NPPF marks a significant change in the approach to be adopted to viability. It indicates that where up-to-date policies have set out the contributions expected from the development, planning applications that comply with them should be assumed to be viable, and it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. However in the Borough it is not presently the case that up-to-date development plan policies, which have been subject of a viability appraisal at plan-making stage, have set out the contributions expected from development, so the presumption against viability appraisals at application stage does not apply. That will not be the case until the Joint Local Plan is finalised.

The NPPF goes on to say that all viability assessments should reflect the recommended approach in the National Planning Practice Guidance, including standardised inputs.

The information received has been the subject of an independent viability appraisal to further to examine the financial impact of seeking the contribution specified. The independent viability appraisals undertaken in December conclude that for each of the proposed developments the sites in question are not commercially viable for the development of private housing and only marginally viable for the proposed 100% Affordable Rent schemes as proposed by virtue of a grant from Homes England estimated to be in the region of £41,000 or £45,000 per unit. As such none of the schemes can support any level of policy compliant Section 106 contributions whether they are for affordable housing or open market housing.

The evidence received for this assessment to substantiate the applicant's claim that the Council's requirements render the scheme unviable, needs to be read in the context of the new National Planning Policy Framework. If a scheme is unviable it will not proceed and as such will not contribute to the supply of housing in a sustainable location and will not assist in housing delivery. These are material considerations and in light of such considerations it is concluded that it would not be appropriate to insist upon the payment of the public open space contribution.

## **APPENDIX**

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

[National Planning Policy Framework](#) (July 2018)

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

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

*[Supplementary Planning Guidance/Documents](#)*

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

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

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00016/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00243/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00441/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00443/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00461/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/18/00465/FUL>

### **Background papers**

Planning files referred to

Planning Documents referred to

### **Date report prepared**

15<sup>th</sup> January 2019