

The application is for full planning permission for a building comprising 20no. self-contained flats with associated parking.

The site lies within the urban area of Chesterton, as indicated on the Local Development Framework Proposals Map. The site extends to approximately 0.18 hectares.

Access to the site is via an existing vehicle access point off Apedale Road.

The statutory 8 week determination period for this application expired on the 16th February 2021 but the applicant has agreed an extension of time to the statutory determination period to the 11th March 2022.

RECOMMENDATION

A. Subject to the applicant first entering into a Section 106 agreement by 22nd April 2022 to secure a review mechanism of the scheme's ability to provide affordable housing in accordance with policy and to make a policy compliant financial contribution of £103,838 (index linked) towards 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,

PERMIT the application subject to conditions relating to the following matters:-

- 1. Standard time limit for commencement of development**
- 2. Approved plans**
- 3. Facing and roofing materials**
- 4. Boundary treatments**
- 5. Soft landscaping scheme to include replacement tree planting**
- 6. Electric vehicle charging provision**
- 7. Prior approval of visibility splays for the access**
- 8. Provision of access, parking and turning areas prior to occupation**
- 9. Details of the surfacing of the access, parking and turning areas and delineation of the parking bays**
- 10. Car parking management/ allocation plan**
- 11. Prior approval of weatherproof parking for 20 cycles**
- 12. Access ungated**
- 13. Prior approval of a Construction Environmental Management Plan (CEMP)**
- 14. Design Measures to Secure Noise Levels – upgraded glazing specification**
- 15. Overheating assessment/ mitigation**
- 16. External lighting scheme for parking area**
- 17. Prior approval of security measures**
- 18. Contaminated land**
- 19. Construction hours**

B. Failing completion of the above planning obligation by the date referred to in the above recommendation, that the Head of Planning either refuse the application on the grounds that without the obligation being secured, the development would fail to secure affordable housing and an appropriate contribution for off-site public open space which would reflect the infrastructure needs of the development and there would be no provision made to take into account a change in financial circumstances in the event of the development not proceeding promptly; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for recommendation

The development is located within a highly sustainable urban area, which results in the development being considered acceptable in principle. The design of the scheme, highway safety and noise impacts are considered acceptable subject to conditions. It is accepted, following the obtaining of independent financial advice, that the scheme is not viable if policy compliant financial contributions towards affordable housing and public open space are required and whilst it is recommended that these policy compliant requirements are not sought, given the contribution the development makes to housing supply and the regeneration of this part of Chesterton, a Section 106 agreement is required to secure 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

The Authority has requested additional information during the consideration of the planning application to address specific concerns, and has arranged for an appraisal of the viability of the scheme.

KEY ISSUES

The application seeks full planning permission for a building comprising 20 no. self-contained flats with associated parking.

The site lies within the urban area of Chesterton and within an Area of Landscape Regeneration, as indicated on the Local Development Framework Proposals Map.

Access to the site is via an existing vehicle access point off Apedale Road.

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, and
- Planning obligations and financial viability

Principle of residential development

Policy H1 supports new housing in the urban area of Newcastle and Kidsgrove with Policy ASP5 of the Core Spatial Strategy (CSS) setting a requirement for at least 4,800 net additional dwellings in the urban area of Newcastle-under-Lyme by 2026.

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.

The NPPF seeks to support the Government's objective of significantly boosting the supply of homes. It also sets out that there is a presumption in favour of sustainable development.

The Council is currently able to demonstrate a five year supply of specific deliverable housing sites, with the appropriate buffer, with a supply of 5.2 years as at the 31st March 2020. Given this, it is appropriate to consider the proposal in the context of the policies contained within the approved development plan. Local and national planning policy seeks to provide new housing development within existing urban development boundaries on previously developed land.

The site is classed as previously developed land within the urban area and it is considered to represent a sustainable location for housing development by virtue of its close proximity to services, amenities and employment opportunities.

The principle of the proposed development complies with local and national planning policy guidance.

Design and Impact on the Character and Appearance of the Area

Paragraph 126 of the recently published revised National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 of the revised framework lists 6 criterion, a) – f) with which planning policies and decisions should accord and details, amongst other things, that developments should be visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting while not preventing or discouraging appropriate innovation or change.

Policy CSP1 of the adopted Newcastle under Lyme and Stoke on Trent Core Spatial Strategy (CSS) details that new development should be well designed to respect the character, identity and context of the area.

Saved policy N22 of the Local Plan states that within Areas of Landscape Regeneration the Council will support, subject to other plan policies, proposals that would regenerate the landscape appropriate to its urban or rural location. Where development can be permitted, developers will be expected to use the opportunity provided by the development to make a positive contribution towards landscape regeneration.

The application site is located on Apedale Road which has a mix of different industrial, commercial and residential buildings in close proximity. The grounds of Chesterton Community Sports College is beyond the southern and western boundaries. Residential bungalows are located to the east of the site.

The proposed development comprises a two storey building with an 'L' shaped footprint that would extend along the majority of the site boundary with Apedale Road close to the back of the pavement providing little opportunity to provide any landscaping on the site frontage. It is proposed to be of a facing brick and roof tile construction.

The proposed building is designed to allow vehicle access to the rear of the site via an archway through the building where car parking would be provided for the proposed flats.

The site has been vacant and overgrown for a number of years and its appearance results in some harm to the visual amenity of the area.

It is acknowledged that the proposed building has a simple design but it would not be dissimilar, in terms of its scale and appearance, to other buildings in the locality. However, residential bungalows are located immediately to the east of the site and the scale of the proposed building would contrast with this row of bungalows.

Whilst the scale of the proposed building would be at odds with the bungalows to the east the impact on the street scene would be limited. Subject to conditions that secure appropriate facing materials and boundary treatments it is accepted that the design of the proposed scheme would enhance the appearance of this site and 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.

Car parking and any highway safety implications

Policy T16 of the Local Plan states that development will not be permitted to provide more parking than the maximum levels specified in the Local Plan Table 3.2. The policy goes on to specify that development which provides significantly less parking than the maximum specified standards will not be permitted if this would create or aggravate a local on street parking or traffic problem. Such a

policy is however of limited weight as it not in accordance with the Framework. The Framework indicates at paragraph 108 that maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport.

The site is located within a highly sustainable urban area in close proximity to the services and amenities of Chesterton, along with schools, employment opportunities and popular areas of open space.

The submitted plans show that 20 off street car parking spaces are proposed which amounts to one space per unit for the 12 single bedroom and 8 two bedroom flats. A covered cycle parking area is also proposed for 20 bicycles. This is 8 parking spaces less than the maximum standards set out in Policy T16, however in light of national policy and in consideration that this is a highly sustainable location it is considered that the proposal achieves an acceptable level of car parking.

The access arrangements are also considered acceptable and the Highway Authority has raised no objections subject to conditions.

The proposed development would not lead to significant highway or car parking implications and accords with policy T16 of the local plan and the requirements of the NPPF.

Impact on residential amenity

Paragraph 130 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. It further sets out at paragraph 185 that decisions should also ensure that new development reduces potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and quality of life.

Supplementary Planning Guidance (SPG) Space Around Dwellings provides guidance on new dwellings including the need for privacy, daylight standards, and environmental considerations.

As discussed, the site is within a mixed area with varying uses in the locality. In particular, there are existing residential dwellings beyond the eastern boundary and heavy industrial uses to the north.

The proposed building also fronts Apedale Road which provides direct access to the Rowhurst Industrial Estate.

There have been objections to the proposed development from neighbouring properties and the Councils Environmental Health Division (EHD).

Ibstock Brick Limited (Ibstock) have also made representations on the application because their site is located directly to the north of the application site.

The application is supported by a Noise Impact Assessment (NIA) which has been revised following comments made by EHD and Ibstock, on the analysis, findings and mitigations measures identified within the report. In particular EHD have advised that the Council is currently investigating complaints relating to noise from the clay preparation area, the main brick making works and from vehicle movements upon the roadways and stockyard within the vicinity of the development site.

EHD objected to the application because the original NIA had not considered noise from vehicle movements to and from Ibstock. This resulted in ongoing discussions between EHD and the applicant has recently submitted a revised NIA.

The revised NIA now includes an assessment of HGV movements associated with Ibstock and it is accepted that there will be impacts from noise sources on future occupiers of the flats, particular flats 1-6 at ground floor and flats 10-17 at first floor. Therefore, it will not be possible for occupiers to open windows without a significant adverse impact to their amenity levels. This results in suitable mitigation

being required including upgraded glazing and overheating mitigation if windows need to be kept permanently shut.

Subject to conditions which secure appropriate glazing specification and overheating assessment/mitigation the amenity of future occupiers can be protected to an appropriate level.

The proposed development shows principal bedroom windows in the side/ east facing elevation of the building at ground floor and first floor and a number of objections have been received on the grounds of loss of privacy to neighbouring gardens and bedroom windows.

Only flat no. 19, which is situated at first floor, would have a principal bedroom window in the side elevation that could overlook neighbouring gardens. However, amended plans have been received which reposition this window so that the outlook would now be restricted and any loss of privacy would not be significant. This window would not breach the guidance of the Councils SPG and in all other respects the proposed development would accord with the SPG also and no significant loss of amenity would be caused to neighbouring occupiers in terms of any loss of privacy, light or overbearing impact.

EHD also request conditions which secure contaminated land, electric vehicle charging points, a construction environmental management plan and a condition to require prior approval of the external lighting serving the parking areas.

Subject to conditions the scheme can provide an acceptable level of amenity for future occupiers and neighbouring properties. The proposed development therefore accords with the guidance and requirements of the NPPF.

Planning obligations and financial viability

Policy CSP6 of the CSS states that residential development within the urban areas will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. This application proposes 20 (one and two bed) flats and 5 of the units will need to be affordable to make the development accord with policy.

The Education Authority states that it is not current policy to request a contribution from developments purely consisting of 1 or 2 bed flats.

The Landscape Development Section (LDS) has requested a financial contribution of £103,838 towards Public Open Space in the vicinity of the site, namely Chesterton Memorial Park which is less than 100m away.

Any S106 Obligations, in order to be lawful, must be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in scale and kind to the development

The applicant has advised that the scheme cannot support the requested policy compliant contributions towards affordable housing and public open space. Therefore, your officers have sought independent financial advice from Butters John Bee (BJB) and their report has been received. The report concludes that the scheme cannot support any level of financial contribution or affordable housing. In reaching this conclusion BJB advises that the financial viability of this scheme is affected by two significant factors;

- i. Sales Values - Chesterton is not a high value area, and accordingly any residential development is likely to have viability issues based end values, which are only marginally higher than build costs. Notwithstanding this, the end values proposed by the Applicant are lower than our assessment of values, which we have revised as part of our assessment; and
- ii. Build Costs – Based in the BCIS costs, the site is wholly unviable, however the scheme is marginally to the Applicant, if the reduced build costs are adopted.

The NPPF sets out the approach to be adopted to viability in planning decisions. 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. Policies about contributions and the level of affordable housing need however to be realistic and not undermine the deliverability of the Plan. 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 a Local Plan is finalised. The scheme does provide benefits, which include the redevelopment of a redundant site which would contribute to housing supply in the Borough and provide 20 flats in a highly sustainable area. These benefits are considered to outweigh the harm caused by the additional demand created by the development and the lack of affordable housing provision.

Market conditions and viability can change over time and it is reasonable and necessary for the Local Planning Authority to require the independent financial assessment of the scheme to be reviewed if the development has not been substantially commenced within 12 months of the grant of the permission, and alterations then made to the level of obligations if the scheme is then evaluated to be able to support higher contributions. This would need to be secured via a Section 106 agreement.

Reducing Inequalities

The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

With regard to this proposal it is considered that it will not have a differential impact on those with protected characteristics.

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](#)

Strategic Aim 16: To eliminate poor quality development;

Policy SP1: Spatial Principles of Targeted Regeneration
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 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
Policy N22: Areas of Landscape Regeneration
Policy IM1: Provision of Essential supporting Infrastructure

Other material considerations include:

[National Planning Policy Framework \(2021\)](#)

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

[Supplementary Planning Guidance/Documents](#)

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

[Affordable Housing SPD \(2009\)](#)

[Newcastle-under-Lyme Open Space Strategy](#) – adopted March 2017

[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](#)

None.

[Views of Consultees](#)

The **Environmental Health Division** has originally raised concerns about the impact of noise on future occupiers but following the submission of a revised Noise Assessment they now have no objections subject to conditions relating to the following;

- Design measures to secure noise levels – upgraded glazing specification,
- Overheating assessment/ mitigation,
- External lighting scheme for parking area,
- Electric vehicle charging provision,
- Contaminated land, and

- Construction hours

The **Highways Authority** raises no objections subject to conditions which secure the following;

- Prior approval of visibility splays for the access;
- Provision of access, parking and turning areas prior to occupation – parking spaces to be a minimum dimension of 2.4m x 4.8m;
- Details of the surfacing of the access, parking and turning areas and delineation of the parking bays;
- Car parking management/ allocation plan;
- Prior approval of weatherproof parking for 20 cycles;
- The access shall remain ungated; and
- Prior approval of a Construction Environmental Management Plan (CEMP)

The **Landscape and Development Section** raises no objections to the recommendations of the submitted Arboricultural Impact Assessment subject to tree replacement planting on the southern and western boundaries to mitigate the loss of the existing trees, which should be included as part of the overall landscaping proposals.

A S106 contribution by the developer for capital development/improvement of off-site open space of £103,838 to be spent at Chesterton Memorial Park which is less than 100m away.

The **Waste management Section** advises that given the mix of property sizes then it is suggested that 2 x 1100ltr refuse euros and potentially 2 x 1100ltr recycling euros (1 for paper/card and 1 for plastic/cans/glass) are required. The bins need a storage area which is at or near to the entrance to the site.

The **Staffordshire Police Crime Prevention Design Advisor (SPCPDA)** raises a number of concerns with the design of the scheme in relation to the impact of crime and anti-social behaviour. In particular the layout of the building at the front of the site is considered a missed opportunity and there will be no defensible space for the ground floor apartments that front Apedale Road. The car park, archway, cycle parking, communal entrances and routes to them will need to be well lit to enhance the level of natural surveillance; the presence of covered cycle parking which will be out of general public sight at the rear is welcomed. A number of security measures for access to the building and apartments is recommended. An extensive set of guidance and recommendations have also been set out in their response.

Comments were also invited from the Councils **Housing Strategy Section** but 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

Six representations have been received raising the following objections;

- The site is an eyesore but the parking should be located to the front of the building;
- The building will overlook neighbouring gardens;
- Loss of privacy to neighbouring bedroom windows;
- Loss of light to rear garden areas;
- Future occupiers will be disrupted by the adjacent brick works;
- One car parking space per flat is not sufficient;
- Existing car parking problems will be exacerbated;
- Increased congestion and restricted access for emergency vehicles;
- Neighbouring accesses could be blocked;
- The proposed building is out of character with the neighbouring bungalows;
- The scale of the building is a concern; and
- The proposed building will overlook the school playing field;

Ibstock Brick Limited have also submitted a representation which focuses on the submitted noise assessment.

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/20/01079/FUL>

Background Papers

Planning File

Development Plan

Date report prepared

14th February 2022