

TO:- Planning Committee

Councillor Michael Lawrence , Councillor Philip Davis , Councillor Penny Allen , Councillor Len Bates B.E.M. , Councillor Barry Bond M.B.E. , Councillor Mike Boyle , Councillor Jo Chapman , Councillor Bob Cope , Councillor Brian Cox , Councillor Mark Evans , Councillor Rita Heseltine , Councillor Diane Holmes , Councillor Kath Perry M.B.E. , Councillor Robert Reade , Councillor Ian Sadler , Councillor Christopher Steel , Councillor Wendy Sutton , Councillor Victoria Wilson

Notice is hereby given that a meeting of the Planning Committee will be held as detailed below for the purpose of transacting the business set out below.

Date: Tuesday, 25 April 2023

Time: 18:30

Venue: Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX



D. Heywood
Chief Executive

AGENDA

Part I – Public Session

- | | | |
|----------|---|------------------|
| 1 | Minutes of the previous meeting held on 28 March 2023
To approve the minutes of the Planning Committee held on 28 March 2023 | 3 - 6 |
| 2 | Apologies

To receive any apologies for non-attendance. | |
| 3 | Declarations of Interest

To receive any declarations of interest. | |
| 4 | Determination of Planning Applications
Report of Development Management Team Manager | 7 - 100 |
| 5 | Monthly Update Report
Report of Lead Planning Manager | 101 - 142 |

RECORDING

Please note that this meeting will be recorded.

Any person wishing to speak must confirm their intention to speak in writing to Development Management by 5pm on the Thursday before Planning Committee

- E-mail: SpeakingatPlanningCommittee@sstaffs.gov.uk
- Telephone: (01902 696000)
- Write to: Development Management Team
South Staffordshire Council
Wolverhampton Road
Codsall
WV8 1PX

PUBLIC ACCESS TO AGENDA AND REPORTS

Spare paper copies of committee agenda and reports are no longer available. Therefore should any member of the public wish to view the agenda or report(s) for this meeting, please go to www.sstaffs.gov.uk/council-democracy.

Minutes of the meeting of the **Planning Committee** South Staffordshire Council held in the Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX on Tuesday, 28 March 2023 at 18:30

Present:-

Councillor Len Bates, Councillor Barry Bond, Councillor Jo Chapman, Councillor Bob Cope, Councillor Brian Cox, Councillor Philip Davis, Councillor Rita Heseltine, Councillor Diane Holmes, Councillor Kath Perry, Councillor Robert Reade, Councillor Ian Sadler, Councillor Christopher Steel, Councillor Wendy Sutton

39 **MINUTES**

RESOLVED: That the Minutes of the Planning Committee meeting held on 24 January 2023 be approved and signed by the Chairman.

40 **APOLOGIES**

Apologies were received from Councillors M Boyle, M Evans and M Lawrence.

41 **DECLARATIONS OF INTEREST**

Councillor D. Holmes declared an interest in application 22/00494/FUL and after speaking on the application, left the chamber for consideration of this item.

42 **DETERMINATION OF PLANNING APPLICATIONS**

The Committee received the report of the Development Management Manager, together with information and details received after the agenda was prepared.

22/00494/FUL – 5 SANDY LANE, BREWOOD, ST19 9ET - APPLICANT – MR WARREN HAYNES – PARISH – BREWOOD AND COVEN

Warren Haynes (Applicant) spoke in support of the application.

Dr Richard Taylor (Parish Council, Brewood Civic Society) spoke against the application. Councillor D Holmes (Ward Member) spoke against the application and then left the chamber for consideration of this application.

Councillor L Bates proposed a motion to refuse the application which he believed had an adverse impact on the character of the local landscape and the Brewood heritage asset and did not accord with NPPF section 12 or paragraph EQ4 and EQ3.

Councillor C Steel seconded the motion. The motion was carried unanimously.

RESOLVED: that the application be refused.

22/01193/VAR – FIELD AT (PENN 1) PENSTONE LANE, LOWER PENN –

APPLICANT – MR JAMES STONE – ANGLO RENEWABLES - PARISH – LOWER PENN

Duncan Howie (Agent) - spoke in support of the application. Nigel Cox (Parish Councillor, Lower Penn) spoke against the application. Councillor Kinsey (Ward Member) spoke against the application.

Councillor C Steel proposed a motion to defer the application for variation pending submission of an up to date fire systems safety design and battery safety management plan.

Councillor I Sadler seconded the motion.

Councillor L Bates abstained from voting.

Councillor R Reade proposed a motion to refuse the variation as he believed significant harm would be caused to the Green Belt by the proposed increase in battery storage capacity.

Councillor B Bond seconded the motion. The motion was lost.

Councillors L Bates, J Chapman, D Holmes, I Sadler, C Steel and W Sutton abstained from voting.

RESOLVED: that the application be approved subject to the conditions set out in the Planning Officer's report.

Councillors L Bates, J Chapman, D Holmes, I Sadler, C Steel and W Sutton abstained from voting.

22/01193/VAR – FIELD AT (PENN 2) PENSTONE LANE, LOWER PENN – APPLICANT – MR JAMES STONE – ANGLO RENEWABLES - PARISH – LOWER PENN

RESOLVED: that the application be approved, subject to the conditions set out in the Planning Officer's report.

Councillors L Bates, J Chapman, D Holmes, I Sadler, C Steel and W Sutton abstained from voting.

43 PLANNING PERFORMANCE REPORT

The Committee received the report of the Lead Planning Manager informing the committee on key matters including training; changes that impact on National Policy; any recent appeal decisions; relevant planning enforcement cases (quarterly); and latest data produced by the Ministry of Housing Communities and Local Government.

RESOLVED That the Committee note the update report.

30 March 2023

The Meeting ended at: 20:45

CHAIRMAN

SOUTH STAFFORDSHIRE COUNCIL**PLANNING COMMITTEE – 25 April 2023****DETERMINATION OF PLANNING APPLICATIONS****REPORT OF DEVELOPMENT MANAGEMENT TEAM MANAGER****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

To determine the planning applications as set out in the attached Appendix.

2. RECOMMENDATIONS

2.1 That the planning applications be determined.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	The reasons for the recommendation for each application addresses issued pertaining to the Council's Plan.
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Determination of individual planning applications so not applicable- see below for equalities comment.
SCRUTINY POWERS APPLICABLE	No	
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	N/A	
FINANCIAL IMPACT	No	Unless otherwise stated in the Appendix, there are no direct financial implications arising from this report.
LEGAL ISSUES	Yes	Town and Country Planning Act 1990 Planning (Listed Buildings and Conservation Areas) Act 1990 Planning (Consequential Provisions) Act 1990 Planning (Hazardous Substances) Act 1990 Planning and Compensation Act 1991 Planning and Compulsory Purchase Act 2004

OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	Equality and HRA impacts set out below.
IMPACT ON SPECIFIC WARDS	Yes	As set out in Appendix

PART B – ADDITIONAL INFORMATION

4. INFORMATION

All relevant information is contained within the Appendix.

Advice to Applicants and the Public

The recommendations and reports of the Development Management Team Manager contained in this schedule may, on occasions, be changed or updated as a result of any additional information received by the Local Planning Authority between the time of its preparation and the appropriate meeting of the Authority.

Where updates have been received before the Planning Committee's meeting, a written summary of these is published generally by 5pm on the day before the Committee Meeting. Please note that verbal updates may still be made at the meeting itself.

With regard to the individual application reports set out in the Appendix then unless otherwise specifically stated in the individual report the following general statements will apply.

Unless otherwise stated any dimensions quoted in the reports on applications are scaled from the submitted plans or Ordnance Survey maps.

Equality Act Duty

Unless otherwise stated all matters reported are not considered to have any adverse impact on equalities and the public sector equality duty under section 149 of the Equality Act 2010 has been considered. Any impact for an individual application will be addressed as part of the individual officer report on that application.

Human Rights Implications

If an objection has been received to the application then the proposals set out in this report are considered to be compatible with the Human Rights Act 1998.

The recommendation to approve the application aims to secure the proper planning of the area in the public interest. The potential interference with rights under Article 8 and Article 1 of the First Protocol has been considered and the recommendation is considered to strike an appropriate balance between the interests of the applicant and those of the occupants of neighbouring property and is therefore proportionate. The issues arising have been considered in detail

in the report and it is considered that, on balance, the proposals comply with Core Strategy and are appropriate.

If the application is recommended for refusal then the proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The recommendation to refuse accords with the policies of the Core Strategy and the applicant has the right of appeal against this decision.

Consultations Undertaken

The results of consultations with interested parties, organisations, neighbours and Councillors are reported in each report in the Appendix.

CONSULTEES

CH – County Highways
CLBO – Conservation Officer
CPO – County Planning Officer
CPRE – Campaign to Protect Rural England
CPSO – County Property Services Officer
CA – County Archaeologist
CS – Civic Society
EA – Environment Agency
EHGS – Environmental Health Officer
ENGs – Engineer
FC – The Forestry Commission
HA – Highways Agency
LPM – Landscape Planning Manager
HENGs – Engineer
NE – Natural England
PC – Parish Council
OSS – Open Space Society
STW – Severn Trent Water
SWT – Staffordshire Wildlife Trust

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

N/A

6. PREVIOUS MINUTES

Details if issue has been previously considered

7. BACKGROUND PAPERS

Background papers used in compiling the schedule of applications consist of:-

- (i) The individual planning application (which may include supplementary information supplied by or on behalf of the applicant) and representations received from persons or bodies consulted upon the application by the Local Planning Authority, and from members of the public and interested bodies, by the time of preparation of the schedule.
- (ii) The Town and Country Planning Act, 1990, as amended and related Acts, Orders and Regulations, the National Planning Policy Framework (NPPF), the Planning Practice Guidance Notes, any Circulars, Ministerial Statements and Policy Guidance published by or on behalf of the Secretary of State for the Department for Communities and Local Government.
- (iii) The Core Strategy for South Staffordshire adopted in December 2012 and Supplementary Planning Documents
- (iv) Relevant decisions of the Secretary of State in relation to planning appeals and relevant decisions of the courts.

These documents are available for inspection by Members or any member of the public and will remain available for a period of up to 4 years from the date of the meeting, during the normal office hours. Requests to see them should be made to our Customer Services Officers on 01902 696000 and arrangements will be made to comply with the request as soon as practicable. The Core Strategy and the individual planning applications can be viewed on our web site www.sstaffs.gov.uk

Report prepared by: Kelly Harris - Lead Planning Manager

App no	Applicant/Address	Parish and Ward Councillors	Recommendation	Page
22/00083/FUL MAJOR	Harlaston (Packington) Ltd Patshull Park Hotel Golf And Country Club Patshull Park Burnhill Green WV6 7HR	PATTINGHAM & PATSHULL Councillor T Mason	REFUSE	13 - 58
22/00084/LBC NON MAJOR	Harlaston (Packington) Ltd Patshull Park Hotel Golf And Country Club Patshull Park Burnhill Green WV6 7HR	PATTINGHAM & PATSHULL Councillor T Mason	REFUSE	59 - 70
22/00670/VAR NON MAJOR	Mr J Cunningham Fair Haven Shaw Hall Lane Coven Heath Staffordshire WV10 7HE	BREWOD & COVEN Councillor W Sutton Councillor J Bolton Councillor D Holmes	APPROVE Subject to Conditions	71 - 86
23/00024/FUL NON MAJOR	Mr B Saunders Tree Tops School Lane Coven Staffordshire WV9 5AN	BREWOD & COVEN Councillor W Sutton Councillor J Bolton Councillor D Holmes	REFUSE	87 - 100

22/00083/FUL
MAJOR

Harlaston (Packington) Ltd

PATTINGHAM & PATSHULL
Councillor T Mason

Patshull Park Hotel Golf And Country Club, Patshull Park Burnhill Green WV6 7HR

Demolition of the modern hotel extensions and removal of hard standing car parking, retention and resetting of the Grade II* listed Temple and siting of 62 lodges, construction of Central Facilities Building (CFB) and associated access, parking and servicing.

Pre-commencement conditions required:	Pre-commencement conditions Agreed	Agreed Extension of Time until
n/a	n/a	28 April 2023

Date of site visit – 7th September 2022

1. SITE DESCRIPTION AND APPLICATION DETAILS

1.1 Site Description

1.1.1 The site lies in an isolated rural area to the south of the A464 and the A41, and the nearest settlement is Pattingham to the east. It has a rural setting including lakes, which is the landscaped parkland of Patshull Hall, which is listed Grade I. The land around Patshull Hall was formed into formal gardens and pleasure grounds in the late 17C and was altered in each century since, including by Capability Brown. This extends to 183 hectares and lie within a Grade II designated Historic Landscape Area and are registered as Historic Parks and Gardens by English Heritage for their special historic interest.

1.1.2 The western branch of Patshull Hall's Y shaped Great Pool had a Doric temple (the listed building) built on the bank of the southern tip in the mid 18th Century. Brick wings were added to this around 1840 and in 1980 it was incorporated as part of a hotel, now known as Patshull Park Hotel, which has a total site of 1.8 hectares. Part of the Historic parkland surrounding the hotel is a golf course which is now redundant. The hotel consists of 49 en-suite bedrooms, swimming pool, gym, beauty salon, conference facilities for 250, a restaurant, a bar, lounge and seminar rooms. The hotel also has a wedding licence and there are 200 parking spaces. The site was closed some time ago around the start of lockdown in 2019.

1.2 SITE HISTORY

Planning Applications

00/01130/FUL Greenkeepers facilities **Approve Subject to Conditions** 20th December 2000

01/01034/LBC Relocation of Grade 2 listed wall, gate piers and gates to boundary of Patshull Hall and Hack Cottage **Approve Subject to Conditions** 20th December 2001

01/01237/FUL Extension to gymnasium at first floor level over balcony and alterations **Approve Subject to Conditions** 9th January 2002

01/01238/LBC Extension to gymnasium at first floor level over balcony and alterations **Approve Subject to Conditions** 9th January 2002

01/01263/FUL Use of existing escape staircase to create 2 meeting rooms and new external escape staircase **Approve** 9th January 2002

01/01264/LBC Change of use of escape staircase to create 2 meeting rooms with new external escape staircase **Approve** 9th January 2002

76/00981 Amenity Centre **Approve Subject to Conditions** 19th January 1978

76/00982 Recreational

77/00047 Recreational **Approve Subject to Conditions** 19th January 1978

96/00951 Irrigation Lagoon And Realignment Of Track **Approve Subject to Conditions** 18th February 1997

87/01149 Conversion Of Courtyard To Functions Room Office And Store **Approve Subject to Conditions** 7th April 1988

87/00673 Erection Of Bedroom Block **Approve Subject to Conditions** 14th November 1987

85/01055/FUL Extensions To Hotel To Provide Bedroom And Recreational Facilities **Approve Subject to Conditions** 16th June 1986

96/00021/LBC Removal Of Glazed Screen And Erection Of Wall To Form Meeting Room **Approve Subject to Conditions** 10th September 1996

78/01408 Golf Course Storm Shelter And Associated Toilets For Occasional Use **Approve Subject to Conditions** 6th December 1978

76/00981/COU Change Of Use for recreational/sporting activities **Approve Subject to Conditions** 19th January 1978

81/00535 Erection Of Buildings In Connection With The Use Of The Land As A Recreational Centre **Withdrawn** 28th January 1981

97/00273 Sewage Treatment Plant **Approve Subject to Conditions** 10th June 1997

97/00987 Pump House For Irrigation Lagoon For Golf Course **Approve Subject to Conditions** 6th January 1998

76/00982 The Erection Of Buildings In Connection With The Use Of Land As Part Of An Amenity Centre For Recreational And Sporting Activities 19th January 1977

77/00047 Erection of buildings in connection with new use of land as recreational/sporting centre 12th October 1977

88/00885 Extension To Form 4 Additional Bedrooms **Withdrawn** 11th April 1989

89/00566 4 Bedroom Extension 14th November 1987

90/00342 Erection Of Golf Clubhouse Ancillary Buildings And Car Parking **Approve Subject to Conditions** 24th April 1990

04/00183/FUL Retention of 4 shallow fairway bunkers on corrent holes of golf course **Approve** 26th May 2004

86/00001/LBC Extensions To Hotel To Provide Bedroom And Recreational Facilities **Approve Subject to Conditions** 16th June 1986

87/00032/LBC Erection Of Bedroom Block

87/00045/LBC Conversion Of Courtyard To Functions Room Office And Store

88/00033/LBC Extension to form 4 additional bedrooms **Approve Subject to Conditions**

89/00021/LBC 4 bedroom extension **Approve Subject to Conditions**

83/00044/ADV Advance Sign **Withdrawn** 15th November 2018

11/00319/FUL Extension to provide 18 new, en-suite guest bedrooms [revival of 673/87] **Refuse** 13th June 2011

11/01018/FUL 16-bedroom extension [revival of 673/87] [resubmission of 11/00319/FUL] **Approve Subject to Conditions** 2nd February 2012

12/00064/LBC 16-bedroom extension to existing hotel complex **Approve Subject to Conditions** 12th March 2012

12/00064/COND Discharge of condition nos: 3 (12/00064/LBC) 5th December 2014

11/01018/COND Discharge of conditions nos 3 (11/01018/FUL) 19th November 2014

22/00083/FUL Demolition of the modern hotel extensions and removal of hard standing car parking, retention and resetting of the Grade II* listed Temple and siting of 62 lodges, construction of Central Facilities Building (CFB) and associated access, parking and servicing.

22/00084/LBC Removal of modern hotel to provide for the retention and resetting of the Grade II* listed Temple

1.3 Pre-apps

21/00024/PREAPP Siting of 133 holiday lodges and the demolition and re-development of Patshull Park Hotel, including a new facilities and spa building and the restoration of the temple and re-instatement of the historical park and grounds – unacceptable 23rd March 2021

2. APPLICATION DETAILS

2.1 The Proposal

2.1.1 The scheme as amended will see the erection of 63 'lodges' holiday lodges spread across the northern half of the existing golf course, beyond the site of the existing hotel, terminating at the southerly side of the Great Pool. The scheme would be for 100% holiday rental.

2.1.2 The existing hotel building would be demolished, and the listed Temple structure would be retained.

2.1.3 A modest amenity building would be erected not far from the site entrance. The design of this building is modern with contrasting roof pitches and timber cladding. It would house the reception, a small café, staff facilities and a meeting room.

2.1.4 An existing machinery store used in association with the golf course would be converted and used for housekeeping and general maintenance.

2.1.5 The application proposes an ongoing maintenance scheme for the grounds and a footpath linking the far northern site to the village of Pattingham that both the users of the site can use, as well as Members of the public.

2.2 Applicants Submission

2.2.1 The following documents have been submitted:

- Design and Access statement
- Drainage strategy
- Economic statement/Business case
- Flood risk assessment and drainage strategy
- Heritage statement
- Landscape strategy
- Planning statement
- Statement of community involvement
- Transport assessment
- Travel plan framework
- Tree survey
- Various Updated and addendums to existing reports to address amendments to the scheme and consultee comments

3. POLICY

Within the West Midlands Green Belt, Registered Park and Garden and various listed properties (Designated Heritage Assets) multiple protected trees

3.1 Core Strategy

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

EQ1: Protecting, Enhancing and Expanding Natural Assets

Policy EQ3: Conservation, Preservation and Protection of Heritage Assets

Policy EQ4: Protecting, Expanding and Enhancing Natural Assets

Policy EQ5: Sustainable Resources and Energy Efficiency

Policy EQ7: Water Quality

Core Policy 3: Sustainable Development and Climate Change

Policy EQ9: Protecting Residential Amenity

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Policy EQ12: Landscaping

Core Policy 7: Employment and Economic Development

EV1: Retention of existing employment sites

EV2: Sustainable tourism

Core Policy 9: Rural Diversification

Policy EV6: Re-use of Redundant Rural Buildings

Core Policy 11: Sustainable Transport

Policy EV11: Sustainable Travel

Policy EV12: Parking Provision

Core Policy 13: Community Safety

Policy CS1: Designing Out Crime

Core Policy 14: Open Space, Sport and Recreation

HWB2: Green Infrastructure

Statutory duty set out in Planning (Listed Buildings and Conservation Areas) Act 1990 that requires that special regard be given to the desirability of preserving listed buildings and their settings.

3.2 National Planning Policy Framework [NPPF] – to be read as a whole, but specifically:

Achieving sustainable development

Requiring good design

Protecting Green Belt land

Meeting the challenge of climate change, flooding and coastal change

Conserving and enhancing the natural environment

Conserving and protecting the Historic environment

Decision taking pre-application engagement and front loading

3.3 Constraints

Newt - Impact Risk Zone Amber Name: AMBER ZONE:

Newt - Impact Risk Zone Green Name: GREEN ZONE:

Newt - Impact Risk Zone White Name: Impact Risk Zone White:

Listed Building Listed Building Ref: 11/154B

Grade: Grade II Listed Building

Group Details: NGV

Date of Listing: 28/03/1985 00:00:00

Listed Building Listed Building Ref: 11/160

Grade: Grade II*

4. CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
23 March 2022	5 April 2022

The application was subject to an initial consultation period and then further rounds when an amended site plan and updated reports were received. The comments below are the most recent comments unless otherwise stated. Some consultees did not respond to consultation on amended plans.

Councillor T Mason (received February 2023) called the application to committee for discussion on the planning balance.

No comments were received from Pattingham Parish Council (expired 29/07/2022)

Conservation Consultation (received 21 February 2023) Amended plans have been submitted following on from previous discussions. Based upon the latest iteration of the plans there are still objections to the proposals on heritage grounds.

The number of units has been reduced from the previous versions of the proposals, however there are still a significant number of lodges and new infrastructure proposed to be constructed across a wide area of the site. Previous versions of the plans had more of the units located on the side of the ridge towards the lake. This would assist in screening the units from the access road. These have now been moved closer to the drive to Patshull Hall. This track represents one of the access drives to Grade I listed hall and the Grade II* listed church.

Whilst I would accept that there is an improvement to the immediate setting of the temple (as the modern hotel buildings are proposed to be removed), there is a considerable additional amount of extra harm caused by the location of the units within the historic park. It is felt that this harm is cumulatively greater than the harm currently caused by the modern structures.

The harm that is caused by the proposals (whilst only in one small area of the park) impacts upon how the entrance into the wider park is perceived. There are areas of land within the ownership of the applicants where lodges could be potentially sited more sensitively allowing this area to be restored to its original character, however these don't appear to have been considered.

Based upon the changes that have been made to the scheme, my previous objections still stand. It is felt that the scheme causes harm to the character of the park and the setting of listed buildings. In its current form I could not support the application on heritage grounds.

Local Plans (received 07 April 2022)

Green belt, Landscape and character/appearance

The site is located within the Green Belt. Policy GB1 of the adopted Local Plan and national Policy (NPPF paragraph 147) set out that inappropriate development should not be permitted except in very special circumstances (VSC).

The Planning Statement make a case for VSC - this including:

1. Protection and Enhancement of Heritage
2. Previously Developed Land (PDL) and the Green Belt
3. Sustainable Economic Benefits

4. Public Benefits

5. Visual Containment, Landscape Enhancement and Biodiversity

The Planning Statement quote a 77% reduction permanent 'built' development.

However, most of this reduction is through the removal of 5,000 sqm of parking. The parking will currently be at ground level and not consist of built form of any height.

In addition, it is my understanding that this calculation does not consider the 7,500 sqm of the holiday lodges themselves due to them being 'temporary development'. However, in reality, the lodges will be fixed and unless time limited via condition, an established use for the site.

Therefore, the proposed development will result in an increase in built form across the site which will impact upon the openness of the Green Belt and how the parkland setting is appreciated.

Tourism

Policy EV2: Sustainable Tourism

The Planning Statement highlights the benefit of tourism and the associated economic benefits of the proposal. The application also advocates that these benefits contributes towards the VSC case in order to approve development within the Green Belt.

Policy EV2 states that for proposals: 'outside development boundaries it will be necessary for a business case to be made, which identifies how the development will support and make a sustainable contribution to the local economy'.

Although some information has been provided through the Planning Statement and Market Review of Accommodation Options, a detailed business case setting out how the business will be viable in the long has not been provided. In addition, it is only proposed that 25% of the lodges will be guaranteed to be provided for general tourist accommodation rather than private use.

The policy goes on to state that: 'the provision of tourist accommodation, including the location of static and touring caravans, will only be permitted if it does not adversely affect the character and appearance of the area'.

The impact on character and appearance as well as on the Green Belt has been considered above.

Finally, the policy states: 'Development proposals should be consistent with other local planning policies'.

Business Model

The Planning Statement sets out that the lodges will be sold privately rather than the ownership being retained by the applicant and them being let out for holiday rental. Paragraph 1.3.8 states that 25% of the units will be offered for rental through agreements with future owners. This will leave 75% of units which may be purchased and used privately by individuals which may or may not be offered as tourist accommodation.

The sale of the holiday lodges will provide an initial income for the scheme. However, no details have been provided of the likely revenue this will raise and if it will cover the costs of the work proposed. The application has also not provided any details of why 100 lodges are required in order to make the scheme viable and that the scheme would not be viable with a lower number of lodges.

As set out in the Market Review of Accommodation Options document. The Lodges will be charged a service / ground rent top pay for the maintenance and upkeep of the park and facilities (as stated in para 1.1.3 of the Planning Statement). However, not enough detail has been provided in relation to if this will meet the on-going cost of maintaining the parkland.

Overall, the application does not include enough detail on the business case in order for officers to assess the viability of the scheme and that the scheme will be sustainable in the longer term.

Heritage Impact

The application references heritage benefits of the proposed scheme. With the proposed development enabling the management of the historic parkland and facilitating access to the general public for them to enjoy. The application also states that the development would enable the restoration of heritage assets including the Temple.

Although these heritage improvements / benefits are acknowledged, they would be facilitated through the introduction of 100 lodges and associated infrastructure. This development would therefore significantly change how the historic parkland is appreciated and potentially cause harm to the heritage assets.

The private ownership of the lodges could lead to them gaining a domestic appearance over time as individuals personalise them to meet their needs. This could lead to a greater level of harm.

Advice received from the Councils heritage consultant and Historic England should be considered.

Planning Balance

It is acknowledged that there are several benefits associated with the proposal including increased tourism (although there are concerns over private ownership of lodges), economic benefits, heritage benefits and public benefits such as the opening of the parkland to the public and continued management.

However, the introduction of the holiday lodges and associated infrastructure would have a significant impact upon the parkland settings with significant heritage and landscape impacts.

The proposals have not demonstrated through the application that 100 lodges are required to make the scheme viable or details of how the ongoing management of the parkland will be achieved.

Based on the above, it is considered that the application has not demonstrated the VSC which is required to approve inappropriate development within the Green Belt. The proposal would therefore conflict with National Planning Policy Framework and Local Plan policies on Green Belt.

It is considered that the benefits of the scheme do not outweigh identified harm or the conflict with the Development Plan. Therefore, Planning Policy does not support this application.

Environmental Health (received 01 April 2022) This development must comply with relevant legislation including Health and Safety at Work etc Act 1974 and Food Safety Act 1990 and all associated legislation and guidance.

Any catering provision (including storage and preparation space) must be of sufficient size to safely cater for the number of people expected to use the facility.

County Highways (received 04 November 2022)

Recommendation Summary: Acceptance
Site Visit Conducted on: 03-Nov-2022
Informative for Decision Notice.

This Form X is issued on the assumption that the developer enters into a Section 106 Agreement to secure the following:

- Travel Plan Framework with Outcomes and Measures and £7,000 towards the travel plan costs.

Notes to Planning Officer.

i). The above comment relates purely to the effects of the development on roads for which Staffordshire County Council is the Highway Authority. For consideration to be given to the effects of the development at the access and surrounding highway network, it will be necessary for you to consult Shropshire Council.

ii). This Form X supersedes previous dated 15th June 2022.

Historic Environment Officer Archaeology (received 14 November 2022) Thank you for consulting with Staffordshire County Council's Historic Environment Team with regards to the additional information submitted in support of the above applications. I have reviewed the revised Masterplan and do not have anything to add to our previous response on these applications (dated 23/6/22) which remain valid. I will also take this opportunity reiterate our support for Historic England's position about the impact of this application on this nationally significant parkland.

Archaeological Interest

The application has been reviewed against information held by the Staffordshire Historic Environment Record (HER), and a comprehensive Historic Environment Desk-based Assessment (HEDBA) and Historic Buildings Assessment (HBA) submitted in support of the application. The findings of these studies will not be repeated in detail here, however, there is some potential for the proposals to impact upon the above and below ground archaeological resource. In summary, the proposed demolition of the late 20th century hotel buildings attached to and around the Grade II star listed temple folly and its late 19th century annexe have the potential to reveal original/historic fabric and provides an opportunity to appropriately record the interior and exterior of the building to an appropriate level before any further works are undertaken. In addition, the HEDBA provides a useful understanding of the archaeological potential of the application site and the potential impact of the proposals on the below ground archaeological resource. This report highlights the potential of below ground remains of a road of at least 18th century date and a ride of at least early 19th century date surviving within the application site, whilst they highlight the potential for a medieval or later small settlement, recorded as Oulton on historic mapping, being located within the application site. However, with regards to the latter they have noted that LiDAR data and later mapping indicates that the most likely location of this settlement or farmstead was to the west of the application site. Furthermore, they have postulated that the upcast from the creation of the Great Pool during its construction in the late 18th century may have been spread across the application site, and also highlight the level of landscaping that would have been associated with the development of the golf course and levelling works that accompanied the construction of the hotel and ancillary facilities, which would have further compromised the significance and survival of below ground archaeological remains in the site.

Recommendations

Taking the above into account, I am satisfied that no further archaeological evaluation works, as per Par 194 of the NPPF is required pre-determination, however, should permission be granted for the application in its

current form, it is recommended that the following archaeological evaluation/recording works are included as a condition of:

- Archaeological monitoring during demolition works at and around the historic temple and its annex building that have the potential to reveal/disturb historic fabric
- Historic building recording to an appropriate level (minimum level 2 but to be determined subsequent to the demolition works) of the temple and annex building
- Archaeological evaluation works to assess the survival and make-up of the historic road and historic ride identified by the HEDBA, and to provide a clearer understanding as to why the landscape in this area of the park is slightly raised above the surroundings (I am happy to discuss alternative means of achieving the latter - for example an archaeological monitoring of geotechnical investigations should they be deemed necessary). This work should be carried out sufficiently in advance of construction so that, should the evaluation results indicate the need for subsequent archaeological mitigation, this can be designed and fully implemented.

This approach, i.e. archaeological monitoring and historic building recording, is supported by NPPF (2021) para 205, whilst the further archaeological evaluation works are in line with the requirements of Par 194. The works should be undertaken by an appropriately experienced archaeologist/historic environment specialist working to the requirements of a brief prepared by this office (or approved Written Scheme of Investigation - WSI), the Chartered Institute for Archaeologists (CIfA) Code of Conduct (or equivalent) and to a level commensurate with the relevant CIfA Standards and Guidance. The historic building recording should be carried out in line with Historic England's 'Understanding Historic Buildings' (2016) guidance. Condition recommended.

County Ecologist (received 16 February 2023) I have been commissioned by South Staffordshire Council to review the planning application documentation for the above application.

Documents and plans reviewed:

- Design and Access Statement
- Site plans
- Revised biodiversity metric
- Ecological Impact Assessment (EclA)(SLR, January 2023)
- Arboricultural Impact Assessment and Arboricultural Method Statement (SLR, December 2022)
- Tree Survey (Treework, December 2021)

I have not visited the site but have viewed aerial photographs, application photographs, Great Crested Newt Impact Risk Zones, and data held by Staffordshire Ecological Record.

Assessment of Submitted Documents and Plans

The Arboricultural report section 5.2 Trees to be Removed appears ambiguous, implying that tree protection / retention will be subject to additional factors.

Trees requiring removal are shown on the Tree Protection Plans - 406.V11343.00001.ARB.D.001 to 005. It should be noted that there are many aspects to design development and the retention of trees may be influenced by other factors, such as: land use, planning policies, replacement planting proposals, ecological considerations and the practicality of ensuring adequate provision to protect the trees physically during construction.

The Schemes arboriculturist and/or ECoW will attend site prior to construction to confirm which trees are to be retained and protected or removed. This will be undertaken in consultation with the site contractors

This is unacceptable, given the importance of mature and veteran trees on site. There must be absolute certainty over which trees will be retained and protected.

Cabling / pipework - the Arboricultural Impact Assessment does not show cabling or pipework routes. The drainage strategy does show main routes for foul water, but not connections to individual lodges, and does not show Root Protection Areas.

The most recent tree survey (Arboricultural Impact Assessment and Arboricultural Method Statement (SLR, December 2022) only refers to three veteran trees, where the previous one (Tree Survey (Treework, December 2021) listed 22 veteran or ancient trees. Consequently, the necessary wider root protection area has not been applied to the remaining 19 trees. Where veteran trees are potentially affected by development this protection should apply. Therefore, the arboricultural impact assessment understates the potential impact.

The Arboricultural Impact Assessment and Arboricultural Method Statement (SLR, December 2022) gives no explanation of the importance of the site for veteran trees,) or the sensitivity of such trees to relatively minor stresses, referring merely to 'older trees' (page 4. The report author/s is not acknowledged as a specialist in veteran tree work (that is does not appear to hold a Vet Tree certificate).

The revised Ecological Impact Assessment (EcIA)(SLR, January 2023) refers to the importance of veteran trees, mainly in quoting policy and in acknowledging that scheme design seeks to avoid veteran trees and impacts on specialist invertebrates. However, this report does not refer to the importance of continuity of deadwood habitat or to the extreme sensitivity of veteran trees to stress. I am broadly in agreement with its conclusions regarding other habitats.

Even if no direct construction impacts on the veteran trees can be assured, there are likely effects from operation of the site, including people trampling round them, damage, pressure to tidy up dead wood/fell. There appears to be little or no consideration of post-construction protection for the 22 veteran trees, including protective fencing.

There certainly should be no log burners or other solid fuel devices allowed anywhere on site. This is to prevent deliberate assessment of trees as 'dangerous' in future to facilitate their removal for logs, and also to prevent individuals from collecting 'fallen' timber, which tends to become aggressive with timber 'assisted' to fall. Future interpretation of the importance of veteran trees and the site should be assured.

There needs to also be a consideration of the continuity of veteran trees, so late mature trees (27 according to the Tree Survey (Treework, December 2021) plus any other trees with deadwood habitat (around 9) need protecting. Large dead wood should be retained on site as whole boles, for example tree 52

The fundamental principles of this development still being very dense for the setting, and there being far less control as units are sold, than with a managed, rented resort setting may not appear to be strictly ecological matters but they will have a negative effect on the future ecology of the site.

I remain unconvinced that the construction or post-construction impacts on veteran trees will be adequately prevented and the development is likely to be contrary to NPPF180:

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists

I therefore wish to sustain an objection to the proposal.

Updated comments (received 28 March 2023) I welcome clarification from the applicant on several points, including Root Protection Areas (revised Tree Protection Plans) and management of the site as managed and rented, rather than through sold units. I apologise for misunderstanding the latter point. I note and support my colleague's response regarding arboriculture, which are in line with many of my concerns regarding veteran trees.

Regarding my concerns about log burners and collection of timber, the applicant has provided no assurance that log burners etc will not be installed on site. While there are assurances that site rules will prevent the collection of wood, it is difficult to see how this will be policed. If cabins have log burners it is likely that emissions including smoke will have a negative direct or indirect impact on birds, bats and invertebrates.

I have remaining concerns about the continuing continuity of veteran trees, including the protection of late mature trees and other trees with deadwood habitat, and the retention of large dead wood.

Arboricultural Officer Consultation (received 15 February 2023) Having reviewed the latest information submitted in support of the application I can confirm that the objection I originally raised on June 9th 2022 and reaffirmed on November 30th remains unchanged.

Whilst it appears that some of the detail regarding tree protection, especially of veteran trees, is now potentially less robust than before, the main concern remains that this type of development is simply inappropriate for a site with a tree stock of this nature.

The arboricultural impact assessment and method statement submission states in section 5.4 that:

- 'Occasional removal of dead wood or other remedial works to address significant defects may be required in areas of frequent access. This is unlikely to be overly onerous and will be the responsibility of the tree owner. This will not represent a significant change from the current situation on site.'

However, this statement does not explain how remedial works and the general health and safety maintenance regime more widely won't be significantly different than the current situation.

At present, assuming the existing hotel were operational, the visitors to the site would be concentrated primarily in one area and only transiently venturing further afield within the site. With the proposed use of the site the visitors would be permanently dispersed across the wider area and to one degree or another constantly present in close proximity to mature and over-mature / veteran trees.

This will lead to increased health and safety risks, a more intense tree management regime, ground compaction and potentially contamination issues. All of these pose a very real threat to the long term health and viability of the tree stock across the area.

In addition to the above, details regarding underground utility installations remain unconfirmed with the Arboricultural Method Statement itself not able to rule out their location within nominal root protection areas.

It remains my opinion that a development of this nature is not appropriate for a site that presents the arboricultural challenges that exist at Patshull Park.

Update comments in response to additional details (received 27 March 2023)

My concerns were in relation to that the fact that the H&S regime WOULD need to be significantly different, with a raised bar required for managing a site as set out in the proposal. Such an increase in H&S standards would inevitably require an increased level of tree pruning across the site with the impacts that brings for many mature / veteran trees. I concede that presently there is no H&S regime in place and that the site could resume operation with it's current designation and that this would be far from arboricultural best practice. However, this would be of concern only to the site owner and their liability, not a planning matter. Assessing any aspect of the current proposal against the existing tree maintenance baseline is not appropriate. The ideal solution would be for the tree stock to be maintained via an appropriate 'light touch' approach consistent with it's previous use as an open parkland. The implications of a more stringent H&S regime for the existing trees should then be assessed against this nominal light touch approach which would, at this point, become a planning issue if for no other consideration than the ongoing maintenance of trees covered by Tree Preservation Order.

Nothing within this statement or that I have read within the example Management Plans expressly provides confirmation that utility runs within RPAs at Patshull Park is ruled out. The running of utility trenching is a critical stage for tree retention on any development site and if not done appropriately first time it is highly unlikely that the ramifications can be corrected after the event. Dealing with this critical aspect of tree retention retrospective to the issuing of planning consent by way of a planning condition is not something I feel is appropriate as it can make the difference between what could be a viable scheme and one that is not.

Staffordshire County Council Flood Risk Management Team (received 13 February 2023)

Disclaimer

This response is made by the County Council in its capacity as a Lead Local Flood Authority as a statutory consultee. As a Lead Local Flood Authority we respond to Planning Applications where resources allow and considering where development has the greatest ability to affect flood risk.

These comments should be taken as general comments on flood risk and drainage only. A detailed review of any technical methodology and results has not been undertaken by the Council. Liability for such technical work therefore rests with organisation(s) who have undertaken the said work.

General observations/ local flooding information

Flood Zone- Flood Zone 1

The Environment Agency should also be consulted for bespoke comments where a development is in Flood Zones 2 or 3

Surface water risk- No

Past flooding- None Known

Our information about past flooding is based on data that the Flood Risk Management team holds. Where other authorities (such as LPAs) have been made aware of issues, we cannot guarantee they have passed this information on to us.

Watercourse within 5m of site- There is a pond within the northern and western part of the site boundary. The Great Pool is a large pool situated along the eastern boundary of the site.

Other observations- N/a

Response

Thank you for consulting us on this planning application, our response is as follows:

Advice to LPA:

We ask to be consulted on the details submitted for approval to your Authority to discharge this condition and on any subsequent amendments/alterations. Please also consult us again on any future major changes to the proposed development or drainage scheme.

Staffordshire County Council Flood Risk Management Position

The proposed development will only be acceptable if the following planning condition is imposed:

Condition

No development shall take place until a fully detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- Surface water drainage system(s) designed in accordance with the Non-Statutory Technical Standards for sustainable drainage systems,(SuDS), (DEFRA, March 2015).
- Sustainable Drainage Systems design in full accordance with the Staffordshire County Council SuDs Handbook.
- Full and complete infiltration testing is to be carried out. This is to be in full accordance with BRE 365 best practice guidance, in order to confirm the viability of infiltration in this area of the proposed development. A testing report and log document, demonstrating complete concordance with BRE 365 best practice guidance, is to be submitted for review by the LLFA to demonstrate that infiltration via soakaway is a viable means of surface water discharge and that satisfactory infiltration rates have been proven and evidenced. This should be carried out in a location as close to the proximity of any proposed infiltration systems as is reasonably practicable.
- Detailed design (plans, network details and calculations), in support of any surface water drainage scheme, including details of any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the full and complete designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 plus 40% climate change return periods.
- Utilisation of infiltration as a viable and effective means of surface water discharge, wherever possible. Soak-away-to-ground is to be promoted as a positive means of surface water management on this site.
- Limiting the discharge rates generated by all rainfall events up to the 100 years plus 40% (for climate change), critical duration storms, to the corresponding, equivalent greenfield rates.
- Provision of, where appropriate, necessary surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.
- The incorporation of adequate surface water treatment in accordance with CIRIA C753 - The Simple Index approach, to mitigate water quality pollution.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.
- Provision of a Construction Environment Management Plan to evidence that surface water runoff quality and quantity will be appropriately managed during any construction phase.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water systems shall be maintained and managed for the lifetime of the development.

Reason

To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

Thank you for consulting us on this planning application, our response is as follows:

The applicant has submitted a thorough and comprehensive Flood Risk Assessment and Drainage Strategy reflecting the updated site layout.

However, the LLFA would like to clarify a few things prior to recommending any approval.

Advice to LPA:

We recommend that planning permission is not granted on the following grounds. If you are minded to approve the application contrary to this advice, we request that you contact us again to allow further discussion.

Staffordshire County Council Flood Risk Management position

In the absence of an acceptable Flood Risk Assessment (FRA) and Drainage Strategy, we recommend that planning permission is not granted on this basis for the following reasons.

Infiltration Testing

It is noted that one of the proposed basins is designed to discharge surface water flows by infiltration (soak-away to ground). There, to this point, does not seem to be any evidence of satisfactory infiltration testing (yielding compliant infiltration rates), in a location proximal to where the basin is to be site, in the south of the proposed development area. Please may the LLFA request details as to the infiltration rates here.

Exceedance Flow Plan

Please may the LLFA request details, in the form of a plan or diagram, of the exceedance flow routes on the site? Currently it only seems that a descriptive paragraph of text has been provided. These routes should be directed away from any vulnerable receptors, such as the lodges or any other buildings.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

Thank you for consulting us on this planning application, our response is as follows:

Advice to LPA:

We ask to be consulted on the details submitted for approval to your Authority to discharge this condition and on any subsequent amendments/alterations. Please also consult us again on any future major changes to the proposed development or drainage scheme.

Staffordshire County Council Flood Risk Management Position

The proposed development will only be acceptable if the following planning condition is imposed:

Condition

No development shall take place until a fully detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- Surface water drainage system(s) designed in accordance with the Non-Statutory Technical Standards for sustainable drainage systems, (SuDS), (DEFRA, March 2015).
- Sustainable Drainage Systems design in full accordance with the Staffordshire County Council SuDs Handbook.
- Detailed design (plans, network details and calculations), in support of any surface water drainage scheme, including details of any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the full and complete designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 plus 40% climate change return periods.

- Utilisation of infiltration as a viable and effective means of surface water discharge, wherever possible. Soak-away-to-ground is to be promoted as a positive means of surface water management on this site.
- Limiting the discharge rates generated by all rainfall events up to the 100 years plus 40% (for climate change), critical duration storms, to the corresponding, equivalent greenfield rates.
- Provision of, where appropriate, necessary surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.
- The incorporation of adequate surface water treatment in accordance with CIRIA C753 - The Simple Index approach, to mitigate water quality pollution.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.
- Provision of a Construction Environment Management Plan to evidence that surface water runoff quality and quantity will be appropriately managed during any construction phase.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water systems shall be maintained and managed for the lifetime of the development.

Reason

To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site.

Historic England (received 26 January 2023) Thank you for your letter of 13 January 2023 regarding further information on the above application for planning permission. On the basis of this information, we offer the following advice to assist your authority in determining the application.

Historic England Advice

As you are aware, we have previously provided detailed comments on the above application in our letters dated 11 March 2022 and 7 June 2022, and with specific reference to Masterplan C in our letter dated 10 November 2022.

Having considered the further information that has been submitted we have no additional comments and would refer you to our previous letters.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Original advice (received 11 March 2022)

Summary

Historic England considers the current proposals to be over intensive, and would cause harm to the significance of the Grade II Historic Park and Garden and the Grade I Patshull Hall and its setting, the significance of the Grade II* listed Temple and its setting, and the approach and context of the Grade II* listed Church of St Mary.

We are therefore unable to support the current applications.

Further detailed analysis and understanding of the site within the context of the Hall, the historic circulation routes and wider parkland setting would be helpful as part of any future proposals.

Historic England Advice

The Patshull estate is of some considerable pedigree. Built for the honourable Sir John Astley between 1754 and 1758, the impressive Patshull Hall was designed by one of the prominent architects of the day James Gibbs, and is set within grounds laid out by the great landscaper Lancelot 'Capability' Brown for Sir George Pigot on his return as Governor of Madras for the East India Company.

Reflective of this considerable architectural and historic importance and notable associations, this extremely fine country house is listed Grade I. Only 2.5% of all listed buildings warrant this highest of statutory grades.

The surrounding estate boasts all the hallmarks of a Brown landscape with its formal pleasure grounds awash with separately listed garden features and structures, not one but two feature lakes including the expansive Great Pool, and sweeping parkland crisscrossed with riding and carriageway routes, affording set views and vistas to amuse and delight.

As such the surrounding landscape not only contributes positively to the significance of the Hall and its setting, it is also designated in its own right as a Grade II Registered Historic Park and Garden.

The application site is located to the south of the Hall across the Great Pool, and is flanked to the west by an important access route to both Patshull Hall and the Grade II* Church of St Mary. Although used more recently as a golf course and hotel complex the application site is still clearly perceived as part of the wider parkland landscape showcasing the prominently positioned Grade II* Temple folly.

The Patshull estate is therefore a complex and sensitive series of nationally important buildings, structures and integrated landscape. As such the proposed creation of 100 holiday lodges, a facilities building, parking, servicing etc requires the utmost deliberation.

With this in mind, we would refer you to the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework. As you are aware the Act requires that special regard be given to the desirability of preserving listed buildings and their settings.

Section 16 of the NPPF further highlights the need to fully understand the significance of a heritage asset in order to assess the impact, and potential harm, of new development. Local authorities are also instructed to identify and assess the particular significance of any heritage assets, including by development in their settings, to avoid or minimise any conflict.

Furthermore, there is an expectation within the NPPF that great weight be given to the conservation of a designated heritage asset, and any harm to, or loss of, that significance including from development within its setting, should require clear and convincing justification. Where harm does occur, this must be weighed against the public benefits of the proposals.

Section 12 of the NPPF is focused on achieving well-designed places, and states that planning decisions should ensure that development adds to the overall quality of an area; is visually attractive as a result of good architecture, layout and appropriate and effective landscaping; is sympathetic to local character and history including surrounding landscape setting, and establishes or maintains a strong sense of place. Development that is not well designed should be refused.

The application site occupies the southern section of the Patshull Hall parkland landscape, and is flanked to the west by an important access route to Patshull Hall, and the Grade II* Church of St Mary. Within the site is the 18th century, Grade II* Temple folly, and an early 19th century boathouse which is listed Grade II. We also note from the application that there is evidence of potential remains of a road of at least mid-18th century and a ride of at least early 19th century.

Follies, such as the classically inspired 18th century Doric Temple (possibly designed by Gibbs), were key features of such grand designed landscapes. These picturesque, extravagant architectural features were intended to be focal points of interest generating curiosity and delight, to be glimpsed across the lake or come up 'by chance' on walks and rides through the parkland grounds. Often, as is the Temple they are elevated, and were intended to be seen in splendid isolation. From the evidence found of the former circulation routes, and the historic maps, it is clear that the Temple and this part of the parkland, was an important part of the designed landscape.

Therefore, whilst we welcome the removal of the late 20th century hotel accretions from the Temple, we do not agree that the proposed swathe of lodges, extensive car parking, access roads and large central facilities building would be 'highly beneficial' as suggested by the Historic Building Assessment.

Clearly the hotel complex and golf course has resulted in some change to this area of the park. However, as noted within the Historic Building Assessment much of the character and appearance of the former parkland landscape is retained. The introduction of such extensive development would severely compromise the existing open, green landscape, resulting in a far more intensive, built character. As such this would not only dramatically impact upon the registered park and garden, but would also harm the significance of the associated listed buildings and their setting.

We therefore consider that the current proposals would harm the significance of the Patshull Historic Park and Garden and as such the setting of Patshull Hall, the significance of the listed Temple and its setting, and the approach and context of the listed Church of St Mary.

No clear and convincing justification has been provided within the application and, in our view, there are limited heritage benefits to offset the harm identified. As required by the NPPF, it is necessary to weigh any harm identified against the public benefits of the proposals. Clearly this is the role of your authority. However, we would emphasise that this should be a very high bar.

Given that the application site is an existing golf course and hotel complex Historic England is not opposed to the principle of some further development. However, we are concerned that the current proposals are far too intensive. Additional analysis and understanding of the contribution of the application site to the wider parkland, the kinetic experience of the landscape from the historic routes and rides, and the relationship of the Temple to views and vistas from the pleasure grounds and Great Pool would be helpful in formulating any future proposals for this important site. Any future scheme should also consider the reinstatement and celebration of the historic circulation routes through the parkland.

Recommendation

Historic England is unable to support the current proposals on heritage grounds.

We would therefore recommend that the applicant works with your conservation adviser to bring forward a less intensive scheme, more sympathetic to the character of the historic park and the significance of the surrounding listed buildings and their settings.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Shropshire Council (received 27 April 2022) I refer to your consultation with Shropshire Council on the above applications, which relate to a site located close to the Shropshire border.

We have consulted with our own specialist teams and would offer the following comments:

Comments of Shropshire Council Historic Conservation team

The proposal affects the historic curtilage of Patshull Hall which is grade I listed (dating from the 1730s) and lies within the Patshull Hall registered Park and Garden that is grade II listed. The Hall is accompanied by other associated historic structures that are listed in their own right including The Temple (grade IIstar), the Boathouse (grade II listed) and flanking ranges (Grade IIstar listed). These heritage asset predominantly lie within South Staffordshire District, though some heritage assets lie to the north (as part of the principal north entrance) and south-west within Shropshire including part of the registered Park and Garden, the Walled Garden (grade II listed structures) and Badger Conservation Area that contains other heritage assets including the Badger Dingle Registered Park and Garden designation (grade II listed). In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable: policies CS5, CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of SAMDev, along with emerging policies SP1 and DP23 of the Submission Local Plan, and with national policies and guidance, National Planning Policy Framework (NPPF) revised and published in July 2021 and the relevant Planning Practice Guidance. Sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended).

These comments are in relation to a dual application submitted to South Staffordshire District Council (22/00083/FUL and 22/00084/LBC), where having discussed this proposal with the SSDC Conservation Officer, mainly considers that of the proposed lodges (planning application) that may have a potential impact on heritage assets that lie within Shropshire.

The Patshull Hall Registered Park and Garden is significant being designed by Capability Brown during the 1770s, a renowned landscape architect. The proposal is considerable consisting of 100 holiday lodges that given such quantum would have a significant impact upon the Registered Park and Garden as well as potentially other heritage assets and their respective settings. The submitted Heritage Impact Assessment has been considered where it states that there would be 'no harm' to the Patshull Registered Park and Garden, Temple and Boathouse. SC Conservation would question this view where there shall be some inevitable impact especially to the Registered Park and Garden and that the HIA contains little evidence to prove that there is no intervisibility with the other heritage assets, such as through photographic evidence to confirm such assumptions.

Assessment of other heritage assets such as the Badger Conservation Area is absent, whilst that existing tree cover may limit intervisibility, the HIA should confirm this. Whilst the lodges may consist of a sensitive design, there is considerable concern (as per many of these type of proposals) with regards to the other accompanying infrastructure that is required such as parking, service buildings, electricity substations etc that would also have a potential considerable visual impact and would not have a high degree of reversibility. Whilst it is acknowledged that the late twentieth century golf course would have had some inevitable impact upon the historic designed landscape, it is therefore imperative that the remaining historic landscape is not further compromised/harmed.

Overall there is objection to the proposal where it is considered to be contrary to paragraphs 197 and 202 of the NPPF, policies CS6 and CS17 of the Core Strategy, policies MD2 and MD13 of SAMDev and emerging policy DP23 of the Submission Local Plan. With regards to paragraph 202 of the NPPF, it is considered that the proposal consists of 'less than substantial harm' on the upper end of the scale, where it is considered that there would be 'negligible' public benefit such as local businesses benefitting from footfall/tourism benefits etc.

Comments of Shropshire Council Ecology team

A small part of the site is within Shropshire - the access point (which is existing) goes through woodland, designated as an ecological corridor and protected by policies CS17 and MD12 of the Shropshire Local Plan. As long as the existing access is not altered, I do not anticipate any impacts to the corridor. The submitted EclA outlines enhancement measures for biodiversity to be incorporated into the scheme, which apart from the access is wholly within South Staffordshire.

Detailed species surveys were not accessible for viewing.

Impacts identified and mitigation and enhancement measures proposed are best assessed in the context of South Staffordshire Council's local planning policy context, also including consideration of protected species legislation.

Comments of Shropshire Council landscape consultant

Thank you for forwarding this application for consultation. I note that a small area of the proposed development falls within the Council's administrative area and I have reviewed a number of documents submitted for application 22/00083/FUL on South Staffordshire's planning pages. I note the history of engagement with South Staffordshire on this application, their agreement to the proposed viewpoints and the amendments to the proposed development that have resulted. I have reviewed the methodology and the assessments of landscape and visual effects which appear to be proportionate and appropriate, and given South Staffordshire's engagement to date and the minimal impact on Shropshire's landscape and visual resources do not wish to make any further representations on the proposals.

I trust that the above comments are helpful and that they will be taken into consideration as part of the determination of the application.

Further to our comments on this application which we provided to you in a letter dated 27th April 2022, we included below the comments of Shropshire Council as highway authority.

Comments of Shropshire Council highways team

Main Comments

- Due to the location of the site it is considered the vast majority of guest and staff to the lodges will come by car and not by PT or cycle. The location of the nearest bus stops is 2.7km. However there may be propensity of leisure journeys on foot or cycle.
- The assessment of local services and amenities in Table 3.4 shows that these are not ideally located within easy walking distance and therefore are likely to be accessible by car. The proposed Framework Travel Plan is negated by poor transport links and access to local amenities therefore it is unclear how effective the travel plan will be. The report has not provided any measures or initiatives as part of the Framework Travel Plan.
- The full travel plan should be provided to the LPA for review as part of a condition.
- Of concern is the PIC review which shows two fatalities have occurred, although in 2003 and 2012, which could be seen as every 10 years. Further comments are shown below.
- It is understood that the road serving the site is subject to the national speed limit. This is considered an issue as vehicles exiting the access, in particular when turning right, will need to be cautious of oncoming speeding vehicles - and vice versa.

- This situation is exacerbated by the bend of the road adjacent to the existing access and the lack of visibility due to its proximity to the bend which is amplified by overgrown trees and foliage in the summer months.
 - Additionally there is no lighting provision or footway provided at the access further limiting pedestrian movements to the site. The lack of lighting will also impair driver visibility on approach to the existing access during darker or night time conditions.
 - A speed reduction on approach to the existing access from both directions and provision of lighting at the access should be considered.
 - This should be reviewed following a visibility splay assessment carried out based on the speed limit of the road in proximity to the access. A speed survey should be considered which would identify the speed limit of vehicles at this location.
 - Additionally although there is no amendment to the existing access a Stage 1 Road Safety audit by an independent road safety auditors may also be appropriate due to highlighted safety concerns.
 - Although it is considered that the proposed traffic generation will not have a significant impact both the existing and proposed TRICS data have not been provided. Further comments on these outputs are show below.
 - The report states that trip rates for the existing use are not available and that an alternative site in a different category was used. The TRICS data in Appendix 03 have not been reviewed as they are not provided within Appendix 03. Therefore based on the TRICS review and provision of 50 bedroom hotel, golf course and supporting amenities with 194 parking spaces it is considered that the existing trip generation figures could underestimate the actual trip generation for the existing site.
 - The traffic generation for the Fishery could be considered to be lower than normally expected as there are now limited uses on site and there no longer any crossover trips from the hotel and golf course patrons due to its closure. Additionally if the proposed development is to be approved the use of the Fishery is likely to increase although it is expected that these trips will be internal.
- It understood that a single survey site has been used to derive the TRICS rates for the proposed site. However the full output included In Appendix 03 does not include the trip rates as per Table 6.2. This should be provided. There are also a second set of trip rates provided based on 03 Residential J - Holiday Accommodation.
- Details of trip generation for spa and restaurant use by public use are not provided.
 - Additional details of trip generation for larger events such as weddings are not provided.
 - It is understood that "Each lodge unit is to be provided with 2 spaces per unit at least, and further 80 spaces are to be provided at the new main facilities building for staff, fishery and visitor use". This results in total of 280 spaces. This should be confirmed.
 - Is there any overflow car park to be provided in particular in the event of large event such as a weddings, visits to the spa, restaurant, temple and historical park and grounds etc. Or is this to be accommodated with the further 80 spaces.
 - Additionally there are no details of staff and shifts for the proposed use.

I trust that the above comments are helpful and that they will be taken into consideration as part of the determination of the application.

Severn Trent Water (received 16/06/2022) Having received the consultation for the above planning application, I have the following comments to make.

The submitted drainage plan shows no foul sewage or surface water is proposed to be discharged to the public sewerage system and therefore have no comment to make on the proposals.

Based upon these proposals I can confirm we have no objections to the discharge of the drainage related condition.

Catchment Team Comments: Located within SPZ3 of multiple active GWS. It is advised that any new treatment plant follows British Standard and EA guidance. An adequate infiltration system should be installed to minimise the risk to groundwater and is appropriate to the rate of discharge and the infiltration capacity of the ground. The facility should provide a suitable train of treatment for infiltration systems designed within SPZ3.

Natural England (received 15 March 2022) No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Natural England's generic advice on other natural environment issues is set out at Annex A.

Priority Habitat as identified on Section 41 list of the Natural Environmental and Rural Communities (NERC) Act 2006

The consultation documents indicate that this development includes [an area / areas] of priority habitat, as listed on Section 41 of the Natural Environmental and Rural Communities (NERC) Act 2006.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website

Environment Agency (received 09 March 2022) Parts of this site along the edge of the lake lie within Flood Zone 3 of an Ordinary Watercourse. We note that a FRA has been submitted in support of this application, and that we have previously provided pre-application advice ... which provides advice on flood risk requirements.

In respect of flood risk this category of consultation is now replied to with the use of flood risk standing advice, not bespoke comment. Please find attached a copy of the appropriate local flood risk advice (2022 Process Note) for your consideration.

Police (received 09 June 2022) advice in relation to secure by design

Nature space (received 21 March 2022) This planning application is for: Demolition of modern hotel extensions and removal of hard standing car parking, retention of the listed Temple, siting of 100 holiday

lodges and construction of new Boathouse Central Facilities Building, including associated access, parking and servicing at Patshull Park Hotel Golf and Country Club, Patshull Park, Burnhill Green WV6 7HR.

- The development falls within the amber impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the amber impact zone, there is suitable habitat and a high likelihood of great crested newt presence.
- There are 3 ponds on site, with an additional 3 ponds within 500m of the development proposal.
- GCN surveys related

This image shows the site (red outline, based on location plan) in the context of the surrounding landscape, including the impact risk zones. 250m (green) and 500m (blue) buffers around the site are shown. Ponds are shown in light blue.

Summary

The applicant has provided an ecological report [Ecological Impact Assessment; Patshull Park Proposed Lodge Development; SLR Consulting; January 2022; Document ref: 406.11343.00001]. Within this report it states that:

“A medium population of great crested newts has been recorded at the site, comprising a peak count of seven great crested newts in Pond 2 and four in Pond 5.”

“Ponds 2 and 5 are located immediately adjacent to the western boundary of the application site”

“The potential impacts to great crested newt relate to the killing or injury of animals during construction and the associated loss of terrestrial habitats present which could be used for foraging and dispersal. The application site, in its current state, generally has limited potential to provide suitable terrestrial habitat for amphibians. The majority of habitat to be lost is frequently-mown modified grassland. Higher value woodland habitats surround the ponds, beyond the application site, although there are areas of rough grassland and woodland within 250m which may be used by great crested newt. The likelihood of the presence of commuting and foraging individuals within the application site is low but cannot be ruled out.”

The report states that mitigation measures for GCN will be carried out under a European Protected Species Licence.

Conclusion and recommendation for conditions:

I am satisfied with this ecological report and agree with that a licence is required to address the impacts to great crested newts.

The applicant must provide further information, including a mitigation method statement for the site, which must prove to the Council that the applicant is likely to be granted an EPSL by Natural England if they are granted planning permission.

Garden History Society (received 16 March 2022) First is the potential harm to management and conservation of the RPG (or at the very least its coordinated management) from fragmentation of ownership of the chalets if they are sold to up to 100 private individual owners. This could aggravate the harm from the development itself.

Second is the lack of any management proposals for the RPG to mitigate or offset the harm from the development. This could form another strand of any refusal of consent or, if SSDC is minded to approve, a condition requiring a management and conservation plan to be prepared for the site and approved by SSDC together with a binding timetable plan for implementation.

I hope these additional views can be taken into account.

Thank you for consulting The Gardens Trust (TGT) in its role as Statutory Consultee over proposed development affecting Patshull Park a site included at grade II on the Historic England Register of Parks and Gardens. Staffordshire Gardens and Parks Trust (SGPT) is a member organisation of TGT and works in partnership with it concerning the protection and conservation of registered sites. SGPT is authorised to respond on behalf of both Trusts in respect of planning consultations.

The Trusts object strongly to application 22/00083/FUL

Patshull Park is listed grade II on the Historic England register of Historic Parks and Gardens and lies within the South Staffordshire Green Belt. It extends over 500 hectares and encompasses the grade II* listed Patshull Hall and St Mary's Church and a designed landscape around the Y shaped lakes comprising Great Pool and Church Pool. The historic landscape appears to have originated in the 17th century in the Pleasure Grounds around the Hall and to have been extended southwards from the 1760s when the two pools were either extended or remodelled. Although no plans are known to survive the mid-18th century work is thought to have been influenced by Lancelot "Capability" Brown who is known to have provided a "general plan for the place". The design of the lakes is very characteristic of Brown's work.

The application site lies in the southern part of the park to the west of Great Pool in the area associated with the Brownian remodelling. An 18th century boathouse and small garden temple, both listed buildings, survive in this area together with a number of ancient trees possibly part of the 18th century planting scheme. The character of this part of the park was substantially altered in the latter part of the 20th century by the intrusion of a golf course, the attachment of a sprawling hotel extension to the rear of the grade II* Temple, and construction of large associated car parking areas. Notwithstanding these harmful changes the underlying historic significance of the 18th century designed landscape remains intact, legible and capable of reinstatement.

The harm and incongruity of the modern golf course in this historic setting is fully acknowledged. In principle its removal is to be welcomed. However, the erection of 100 chalets (in reality Park Homes or enlarged static caravans) of uninspired design will have a seriously harmful impact on the appearance and significance of the historic designed landscape. Their axial north-south distribution along a metalled roadway running through centre of the former wood pasture at the heart of the one-time golf course has all the appearance of an uninspired housing estate. This is not compatible with its location within the Green Belt. The Trusts have expressed support in principle for related application 22/00084/LBC for demolition of the unsightly modern hotel extensions which will enhance the openness and appearance of the historic park. Any benefit gained thereby would be vitiated by construction of chalets offering an equivalent floor area but dispersed across the landscape. No information is provided about the design of the proposed new housekeeping building shown in footprint only on the Masterplan. This appears to be a sizeable structure, prominently and harmfully located without any mitigating screen planting.

Although the area allocated to collective car parking will be reduced in this scheme (compared to the present arrangement) the overall provision for circa 150 spaces will remain constant but now the intrusive presence of parked vehicles will be distributed throughout the landscape. No screen planting is shown around the car park for the proposed new facilities building: the mass of parked vehicles will stand out in the landscape.

No clarification is provided within the submitted documents but it is inferred that the lodges are to be within a fenced compound. Paragraphs 3.3 and 3.4 of the Design and Access Statement refer to a security gate across the drive (also shown on the Masterplan) to prevent public access around the chalets. No details are provided

of the lodge or fence. Its erection would be quite at variance with the open nature of the grade II registered historic landscape and is opposed.

The proposed new restaurant and facilities building will have a smaller footprint than the present hotel but its location and dominant massing on the banks of the lake will have a more deleterious and urbanising impact on the rural tranquillity of the Great Pool. It will be an unattractive and unwelcome encroachment into the designed historic landscape.

The Trusts have read the supporting statements submitted with the application and take issue with the claimed benefits for the scheme. We are disappointed by the very general and superficial analysis of the historic parkland in the Historic Environment DBA and astonished by its conclusions at paragraph 5.2.4. that the development would be an "overall positive benefit" and paragraph 6.0. that there would be no harm to the RPG. The ARC Market Review does not mention the RPG. The Landscape and Visual Appraisal scarcely mentions this designation; does not seek to assess the age structure of the existing planting and its significance; to identify any sightlines or views which might need protection; or to advise how any harmful visual impact from the development might be mitigated. Its findings at 4.16 and 4.18 that the development reinstates a naturalistic parkland configuration and allows a better interpretation of the park is contradicted by the very intrusive proposals it seeks to support. The Landscape Appraisal, Design and Access, and Planning Statements all make great play that with the closure of the hotel and golf course the proposed development is the only means of preventing dereliction of the site. The Trusts strongly dispute this assertion and suggest that there are many appropriate low key, conservation and heritage friendly management regimes which could be explored, for example reversion to grazing pasture. Even were all management to cease and the park became "rewilded" historic wood pasture landscapes are very resilient and capable of reclamation over time. It is troubling that no mention is made of a future management regime for the upkeep and curation and enhancement of the historic landscape and only a tangential reference at para 4.17 of the Landscape Report to the risk of differing standards of upkeep of the chalets if they are sold to multifarious individual owners. The proffered benefits to the heritage asset arising from removal of the modern hotel extensions and car parks, and cessation of use as a golf course are fully endorsed but the Trusts believe these could be achieved satisfactorily without recourse to extensive new development across the parkland. Mention is made *passim* in the documentation of improved public access to the historic landscape, but it is not specified how this would be achieved.

In summary the Trusts find that this application is inadequately prepared, poorly justified and lacking in detail. Notwithstanding, at root the proposed development will cause substantial harm to the Green Belt and the grade II RPG for which there is no overriding public benefit. The Trusts recommend that the application be refused planning permission.

In response to amended scheme (Received 20/06/2022) Thank you for consulting the SGPT and The Gardens Trust on the additional information submitted by the applicants' agent. As in our initial consultation response of 16 March 2022 SGPT is commenting on behalf of both trusts in accordance with working arrangements agreed between the two organisations.

The Trusts have carefully reviewed the additional material and rebuttal statements provided by the planning agent and heritage advisor. While we remain supportive of the principle of demolishing the modern hotel extensions attached to the grade II star listed Temple we remain concerned at the lack of information about the extent of demolition anticipated (e.g does it include the 19th century cottage for example, a feature of historic interest in its own right), treatment of demolition scars, fabric repairs and proposed future use. Fuller information is required before we can fully endorse this aspect of the applications.

The Trusts remain concerned at the lack of analysis of the historic landscape; how missing or damaged features and planting might be recreated and managed for the future; and how the proposed holiday

chalets/lodges would be accommodated within it. Insufficient information is provided about the proposed fence around the development such as its height, design, colour and any measures to avert it appearing an arbitrary intrusion into the parkland. The proposed design of the chalets/lodges remains insensitive; the tenancy/lease/licence arrangements for individual occupiers remains unclear. These and other matters must be clarified in detail before determination of the applications. This would demonstrate that the applicants have a clear understanding of the historic significance of the site; how the development has been devised to respect and integrate into the historic setting and that they have prepared robust, enforceable management procedures in place to protect and uphold that heritage significance. The answers to these matters are fundamental to understanding the impact of the scheme in heritage terms and cannot be deferred, as suggested by the applicants' agents, to resolution through planning conditions. Their absence is a serious omission from the application.

The Trusts dispute the applicants' argument that because the development site comprises only a limited proportion of the RPG and designed landscape it should be found acceptable thereby. Designed landscapes can rarely be divided into self-contained compartments. Their character and appearance derives from the integrity of the whole design whether as the work of a single creation or from cumulative evolution over time. Although Patshull Park contains elements from the 17th, 18th and 19th centuries the key components pertinent to the current applications are the sequence of wood pastures running south from the Hall across Middle Ley past the church into Far Ley where they are bound together by the mid 18th century Great Pool created by Lancelot Brown. The current proposal to subdivide this sequence would create an artificial segregation at variance with its historic character. The intrusion into the open space of roadways and other structures at the high density shown on the revised Masterplan of 19 May 2022 would harmfully alter both its internal appearance and views of it from other parts of the wider historic park (for example from across Great Pool). Redistributing the lodges further away from the Temple would be useful but would not mitigate their overall intrusive presence in the historic park.

While the Trusts agree there is potential public benefit from increased public access to and across the site as suggested in the submission creation of permissive rights of way is not exclusively contingent on granting planning permission for the development. The applicants' arguments in this respect are misleading. No compelling argument has been submitted to show that commercial development is a public benefit essential for the future upkeep of the parkland such as to outweigh harm to the heritage of the park. The Trusts reiterate that reversion to grazing would be an acceptable reuse of the site and be fully in accordance with its use historically.

In conclusion the Trusts concur with the views of Historic England and your Council's conservation officer that the rebuttal material submitted by the planning agent and heritage advisor does not give cause to revise our previous overall objection to the applications. While supportive of the principle of demolishing the existing modern hotel as an enhancement to the setting of the grade II star listed temple and the wider setting of the grade II Registered Historic Park and Garden the Trusts remain of the view that these applications are deficient in information and, on the basis of the evidence provided, will cause severe harm to the significance of the heritage assets. No overriding public benefits are adduced. The Trusts still consider the applications should be refused.

Capability Brown Society (received 05 April 2022) We have reviewed the Application and for the reasons set out in our Submission we consider that the Planning Application by the current owner of the golf course, should be refused.

The Capability Brown Society (TCBS) is obliged to assess the application 22/00083/FUL to provide 100 holiday lodges, central facility buildings and associated access, parking and services. TCBS is an independent not for profit organisation. The Society is still in its infancy and was established to promote and help conserve Brown's historic landscapes. The Landscape Institute and many others celebrated the 300th year anniversary of

Brown's birth in 2016 and the Society was founded to continue to promote his legacy subsequently. The Society currently has over 350 members.

TCBS opposes this application for all the reasons set out succinctly by both Historic England and the Garden's Trust. The development is too intensive, too widely spread and completely out of character with the Grade 11 registered pastoral parkland landscape. Significant irreversible harm would be caused to the open parkland character of the land, and to the setting of the lake.

The application site is in a very prominent part of the 529 hectare registered parkland. Even though the site covers only 3.9% of the area it is flanked by the 18th C lake and an historic access to listed properties. It would reasonably be considered to fall within the wider curtilage of the Grade 1 Patshull Hall, a listing that is of the highest national significance, as well as the Grade II star Church of St Mary. Recovery of the setting of the Grade II Temple by its separation from the hotel that is proposed to be demolished, and which is welcomed, is not adequately achieved by the very close proximity of the proposed large new boathouse with associated car parking of a size significantly greater than the Temple; siting should be more carefully considered. There would be harm to the setting of all these listings. There is no "clear and convincing justification" offered for the proposals that, in paragraph 200 of the NPPF, needs to be either "exceptional" (for the Temple and Parkland) or "wholly exceptional" within the curtilage of the Hall and Church. As Historic England state there is a very high bar on this site for any development to "Very Special Circumstances" to be considered.

The applicant's planning statement shows that the removal of the existing hotel and replacement by the new 1690m² boathouse central facility would lead to a 69% reduction in floor area for the replacement building assuming that the existing hotel development had a floor area of 5380m² (stated in Table I of the planning statement as reconfigured after the pre-app rather than the original 7380m²). The statement however fails to properly record that the 100 new single storey lodges would cover a further 7454m² of floor space and would be widely spread throughout the application site. The proposals would therefore cover a very significant additional 70% of floor area over the existing which would be spread out in a very wide disposition. In addition the masterplan proposes a "housekeeping and maintenance building which may be a repurposing of the former green keeper's shed but appears to have significance in size and location beside an historic drive and with no detail provided. This extent of development would lead both to a loss of visual and special openness contrary to NPPF policy and significantly impact on the character of the open historic parkland. The significant increase in floor area of the holiday lodges would not be considered to be one of the seven exceptions to inappropriate development in the Green Belt as set out in NPPF paragraph 149.

For the future users of the proposed lodges there would be a loss of privacy and any sense of being in a pastoral Brownian landscape. Views would be to a scattering of other identical buildings. The design of these buildings is poor and with their scattered disposition fails to reflect the historic character of the site. The planning statement refers to the intention of the applicant to create a "retreat... which provides a quiet, rural escape, with accessible walking routes and areas for relaxation and reflection, taking full advantage of the lakeside views and wider landscape." How can this be.

Although set out between conserved mature trees their canopies would be above eye level and future users would have clear views of their neighbours under the trees with other buildings interrupting views of the lake. No landscape proposals are offered to show screening and privacy for users as might reasonably be required for a higher quality "quiet" holiday destination. Were a detailed landscape scheme to be submitted addressing the issue of privacy this very poor and ill considered layout would further erode the visual openness of the historic parkland setting. The question might then reasonably be asked what the future users of these holiday lodges might do on this site when in residence. There is very limited recreational provision. Will such very poor provision require further development for its long term viability.

In considering proposals for the Registered Parkland the applicant should reasonably be seen to have considered its entirety and its management. The applicant should, in this case, have been seen to have liaised with the owner of Patshull Hall particularly to address the boundary security issues that might arise from the introduction of an intensive holiday development next door and to carefully assess privacy, nuisance and noise issues that might impact from holidaymakers on the users of Hall land. This appears not to be addressed in the submission.

It is noted that the applicant owns 65% of the registered parkland covering 346.9 hectares of the registered land, besides significant land holdings beyond the registration giving a large holding of 761.4 hectares in total. In stating that this development is necessary to secure the economic viability of the registered parkland it might have been appropriate, by way of justification, to present an analysis of the use and management of the entire land holding. There could even be an economic case, given new land management grants, as a viable and reasonable alternative, either for returning the land to pastoral meadow, or for its partial re-wilding or to combine this with a very few more discreetly located rental lodges more suited to quiet reflection so long as there is demonstrably no additional loss of special or visual openness.

Updated comments (received 16 November 2022) **OBJECTION** The new submission of the Patshull Park Masterplan version C relocates both the proposed new main facility building to the south west and also about 20 of the proposed lodge buildings. The redesigned building is poor and unsympathetic to the site particularly in such a prominent new location given that the proposed development shifts far closer to the historic access road to Patshull Hall and St Mary's Church. Although the relocation of so much development provides welcome open land around the listed temple and to the south, where the former hotel would now be demolished and the lake shore line restored, the impact of the proposals on the historic access road would now be greater than previously and the visual loss of openness, and any appreciation of the Capability Brown setting, particularly to all those entering the site, would result in even greater harm. The Societies previous statement challenged the very basis of the proposals, irrespective of layout, for so many holiday lodges on this site which, with a vastly greater extent of development and footprint than currently exists, would be contrary to all planning policies on Green Belt land, would irretrievably damage the heritage status of the site, would be intrusive to neighbours and, with such a concentration of lodges, would not offer the high quality quiet holiday accommodation described in the application statements. There are therefore no wholly exceptional, or even new exceptional circumstances, that would now be considered to override the substantial harm that these new proposals would cause.

Georgian Group (received 24 March 2022) The Georgian Group has considerable concerns about this proposal on heritage grounds.

The application site incorporates the Doric Garden Temple which stands within the registered landscape to the grade I listed Patshull Hall. The Temple sits on the west bank of the park's ornamental lake at its southern end on land shown on the 1888 OS map as open parkland, whilst the mansion itself stands on higher ground overlooking the lake to its north. The Y-shaped lake itself was possibly enlarged and improved by Lancelot 'Capability' Brown in the later eighteenth century but has much earlier origins. The Temple is a grade II listed mid eighteenth-century structure which was extended c1840 and incorporated within a hotel development c1980. It is proposed to demolish the 1980s hotel buildings and replace them with a development of a 100 lakeside holiday lodges, a restaurant, spa, and new boat house facilities with a waterside decking area.

The heritage appraisal and landscape impact assessment documents provided are to an extent inadequate in that they fail to pay sufficient regard to the fact that the mansion and nearby church, historic parkland, and subsidiary listed buildings together constitute a heritage asset of national importance. This asset itself is made up of numerous grade one, grade II star and grade II listed buildings, many of which are, or were historically visually linked by designed views within the surrounding registered landscape. The historic visual interrelationship between these individual heritage assets has not been clearly set out within the supporting

document provided, and neither has the impact of the proposed development on the setting of these assets when viewed from historic planned routes within the designed landscape such as the drives and pleasure walks surrounding the house and church.

The proposed chalet development is an intensive and prominently located lakeside one which is likely to have a detrimental impact on the setting of a number of nationally designated heritage assets. Whilst the demolition of the late twentieth century buildings surrounding the grade II listed classical temple will probably bring some heritage gain, it is difficult with the limited information provided to reach an informed decision as to the extent to which this will be at the expense of causing a considerable degree of harm to the historic parkland, and to the wider setting of those adjoining nationally designated heritage assets with which it is historically and visually associated. This is particularly problematic as the proposed chalet development would cover a much larger area within the historic parkland than the existing hotel complex, and thus has the potential to disrupt a considerable number of planned vistas. We also note that the proposed waterside facilities building, restaurant and decking area has been deliberately located to exploit views over the lake, yet its potential impact on key views from the mansion, and from within the park has not been inadequately explained. The potential impact of any associated artificial lighting both within these new buildings, within the car park area, and upon routes between the chalets, upon the registered parkland and setting of nearby heritage assets has also not been adequately made clear. This is an important issue given the fact that the site will be occupied during the evenings and during months where artificial light may be needed during parts of the day.

It is also not entirely clear to what extent the proposed new landscaping works and planting are designed to reinstate documented lost features within the registered landscape (and thus whether they can thus be regarded as conservation gain) or whether much of it will be new interventions, which whilst screening the new buildings will itself to an extent further eroded the historic designed landscape surround Patshull Hall. Where existing tree belts and planting are to be removed, it is again not always clear what role they play within planned vistas in the historic designed landscape.

The justification for causing further harm to the registered parkland and to the setting of the individual listed structures which stand within it is also insufficiently robust. Paragraph 200 of the 2021 NPPF makes clear that 'any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.'

When making a decision on all listed building consent applications or any decision on a planning application for development that affects a listed building, registered landscape, or their setting, a local planning authority must have special regard to the desirability of preserving the heritage asset or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the special interest of the building, as opposed to keeping it utterly unchanged. This obligation, found in sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1), applies to all decisions concerning listed buildings. Under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 they also have a duty Page 1/2 Casework Database response to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

This is a controversial and intensive development on a highly sensitive site which has the potential to have a detrimental impact both on both the registered historic landscape and on the wider setting of a number of highly graded nationally designated heritage assets which are located within it. The supporting documentation provided to date is insufficiently detailed to explain the significance of the heritage assets affected, or the potential impact of the proposed development upon these sensitive assets. Without further information we would advise that your authority will not be able to meet the obligations set out by the Secretary of State within NPPF 195 and 197 when determining this application. We therefore would strongly recommend that

the applicant withdraws this proposal until they can provide the information required. If they are unwilling to do so, then consent should be refused.

The Woodland Trust (received 24 March 2023)

Thank you for re-consulting the Woodland Trust on this proposal.

I have reviewed the Tree and Ecology Response, plus the revised Tree Protection Plans, and wish to withdraw our objection to this proposal.

Enjoy Staffordshire (received 07 December 2022)

I am writing to you in my capacity of Chair of the Enjoy Staffordshire Destination Management Partnership to outline our strong support for the above development proposal.

As you may be aware, Enjoy Staffordshire promotes the interest of the visitor economy of Staffordshire, with an overall ambition to grow the volume and value of the sector.

Following a turbulent period of uncertainty because of the Covid pandemic, our visitor economy is emerging with a renewed confidence and a clear direction of travel for future growth.

Our ambitions are set out in our Visitor Economy Action Plan (VEAP) which was endorsed by the Staffordshire Leaders Board on 1 December 2022, with unanimous support from all of Staffordshire's local authorities including South Staffordshire District Council.

The VEAP clearly sets out a number of key priorities which will provide the framework for growth within the sector and identifies Product Development, and in particular, the growth in the quality and scale of accommodation options in Staffordshire as its greatest priority.

The Action Plan identified creating the conditions for more people to be able to stay overnight in Staffordshire as one of our key challenges. The provision of more high-quality accommodation will bring benefits for us all and allow more visitors to enjoy our multitude of attractions, countryside, and hospitality sectors. It will also provide additional employment, especially for younger people who make up a significant proportion of workers in the hospitality sector.

I was therefore delighted to recently learn about proposals to secure the long-term future of the Patshull Park estate by bringing forward a high-quality accommodation development to be operated by the nationally recognised log cabin operator Forest Holidays.

Their developments have been sensitively located in some of the country's finest landscapes and I am sure that this proposal would be equally sensitive to the environs of Patshull Park. I note that the proposals have been amended in scale following feedback received from your planning team, whilst also allowing for the scheme to retain its viability.

Furthermore, I understand that the proposals will actively seek to restore and enable access to the Capability Brown designed landscapes within the Park which have been allowed to deteriorate over recent years. The proposals will also allow for public access to these important landscapes which will provide an additional attraction to the South Staffordshire visitor economy offer.

Whilst I understand that these proposals will rightly be considered within the framework of local and national planning policies, I would urge South Staffordshire District Council's Planning Committee to consider them favourably given their substantial economic and wider benefits which are projected to include:

- additional estimated spend within the local area of circa £2.5 million
- more than 80 full time equivalent jobs and additional construction jobs
- improved public access to a valued Capability Brown landscape which has hitherto been inaccessible to the public and has not formed a part of the local visitor economy offering a substantial direct financial investment into the local community with secondary benefits to established local businesses.

I would therefore also urge your officers to look favourably on the proposals which should be classed as demonstrating very special circumstances within the planning balance, given the value and quality of the proposals being put forward.

As the Destination Management Partnership promoting the visitor economy for Staffordshire, these are exactly the kind of developments that we would wish to see in growing the quality and value of our product and I would therefore be grateful for your time in considering this letter of support.

Nature Space (received 22 March 2022)

- The development falls within the amber impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the amber impact zone, there is suitable habitat and a high likelihood of great crested newt presence.

- There are 3 ponds on site, with an additional 3 ponds within 500m of the development proposal.

- GCN surveys related

This image shows the site (red outline, based on location plan) in the context of the surrounding landscape, including the impact risk zones. 250m (green) and 500m (blue) buffers around the site are shown. Ponds are shown in light blue.

Summary

The applicant has provided an ecological report [Ecological Impact Assessment; Patshull Park Proposed Lodge Development; SLR Consulting; January 2022; Document ref: 406.11343.00001]. Within this report it states that:

"A medium population of great crested newts has been recorded at the site, comprising a peak count of seven great crested newts in Pond 2 and four in Pond 5."

"Ponds 2 and 5 are located immediately adjacent to the western boundary of the application site"

"The potential impacts to great crested newt relate to the killing or injury of animals during construction and the associated loss of terrestrial habitats present which could be used for foraging and dispersal. The application site, in its current state, generally has limited potential to provide suitable terrestrial habitat for amphibians. The majority of habitat to be lost is frequently-mown modified grassland. Higher value woodland habitats surround the ponds, beyond the application site, although there are areas of rough grassland and woodland within 250m which may be used by great crested newt. The likelihood of the presence of commuting and foraging individuals within the application site is low but cannot be ruled out."

The report states that mitigation measures for GCN will be carried out under a European Protected Species Licence.

Conclusion and recommendation for conditions:

I am satisfied with this ecological report and agree with that a licence is required to address the impacts to great crested newts.

The applicant must provide further information, including a mitigation method statement for the site, which must prove to the Council that the applicant is likely to be granted an EPSL by Natural England if they are granted planning permission.

The applicant also has the option to apply for South Staffordshire Council's District Licence. This would require them to present a NatureSpace report or certificate to demonstrate that the impacts of the proposed development can be addressed through the District Licence.

More details on the District Licensing Scheme operated by the council can be found at

www.naturespaceuk.com

Legislation, Policy and Guidance

Reasonable Likelihood of Protected Species

Permission can be refused if adequate information on protected species is not provided by an applicant, as it will be unable to assess the impacts on the species and thus meet the requirements of the National Planning Policy Framework (2021), ODPM Circular 06/2005 or the Conservation of Habitats and Species Regulations 2017 (as amended). The Council has the power to request information under Article 4 of the Town and Country (Planning Applications) Regulations 1988 (SI1988.1812) (S3) which covers general information for full applications. CLG 2007 'The validation of planning applications' states that applications should not be registered if there is a requirement for an assessment of the impacts of a development on biodiversity interests.

Section 99 of ODPM Circular 06/2005 states:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and / or planning obligations before permission is granted."

Great crested newts

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local Planning Authorities have a statutory duty in exercising of all their functions to 'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity', as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC). As a result, GCN and their habitats are a material consideration in the planning process.

Gavin Williamson MP (received 12 April 2022) I do hope that the historic aspects of the park are properly protected.

No comments were received from the following:

Historic Buildings & Places

The Council For British Archaeology

Twentieth Century Society

The Victorian Society

Society For Protection Of Ancient Building

Badger Group

County Planning

Campaign to Protect rural England

Cadent gas limited

Staffordshire Wildlife Trust
National Grid

12 objection letters were received (Green Belt, impact on highways, ecology in summary)
28 were received in support

APPRAISAL

5. APPRAISAL

The application is being heard at Planning Committee at the request of Councillor Mason who considers the circumstances advanced as part of the planning balance should be given full consideration by Members.

5.1 Key Issues

- Principle of development
- Impact on openness
- Reasons for including land within the Green Belt
- Case for very special circumstances
- Impact on Heritage
- Impact on highways
- Impact on Ecology and veteran trees
- Drainage
- Impact on neighbours

5.2 Principle of the development

5.2.1 The site is located in the West Midlands Green Belt. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

5.2.2 Both local policy GB1 and the NPPF notes the construction of new buildings other than for agricultural or forestry purposes is generally considered to represent inappropriate development. It is noted that the lodges do meet the definition of caravans and as such would be better be considered as a change of use of the land. As the applicant's case relies on both elements, both points will be covered in this report.

5.2.3 Local Plan policy GB1 is silent on the issue of sites within the Green Belt that are previously developed (brownfield land); i.e. land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole curtilage should be developed). However, the supporting text to policy GB1 states that development within the Green Belt will normally be permitted where it is acceptable "within the terms of national planning policy". It therefore follows that for any development to be acceptable any proposal must comply with the provisions of the NPPF. In addition to this where the local plan is silent, then the NPPF is a material consideration.

5.2.4 In this light, part 6 of paragraph 145 of the NPPF specifies that for the construction of new buildings, limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development is an exception to inappropriate development in the Green Belt.

5.2.5 Does section g) of paragraph 145 therefore apply?

5.2.6 The NPPF offers a definition of previously developed land in the glossary stating:

Land which is or was occupied by permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry infrastructure; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

5.2.7 In that the application site consists of buildings, a large expanse of hard standing as well as a golf course, I consider that it does comprise a site that has been previously developed. As the proposal involves demolition, rebuilding, new construction and an entirely new use, it is for the complete redevelopment of the site. Therefore, I consider that the sixth bullet point of paragraph 149 is engaged.

5.2.8 That is not the end of the matter however. Before the exception principle in the sixth bullet point is met, it has to be demonstrated that "the redevelopment would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development".

5.2.9 As well as the redevelopment of previously developed sites, the erection of lodges may meet the change of use principle given in paragraph 150 of the NPPF and echoed in GB1 of the Core Strategy. This exemption states certain forms of development are also not inappropriate provided they preserve its openness and do not conflict with the purposes of including land within it.

5.2.10 An assessment on openness can be found in the next section of this report.

5.3 Impact on openness

5.3.1 Paragraph 133 of the NPPF states that, 'The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'.

5.3.2 There has been much dispute in recent years in case law in defining openness. A defining case in R (Timmins & Anr.) v Gedling BC & Anr. helps to define whether the visual impact of a development could be taken in account in considering 'openness'. It was held that 'openness' is characterised by the lack of buildings but not by buildings that are un-obtrusive or screened in some way. It was also held that 'openness' and 'visual impact are different concepts', although they could 'relate to each other'.

5.3.3 The PPG has been updated (July 2019) with guidance on factors taken into account when considering the potential impact of development on the openness of the Green Belt. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

5.3.4 R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) (2020) states The concept of "openness" in para 90 of the NPPF seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim

of Green Belt policy, stated at the beginning of this section: "to prevent urban sprawl by keeping land permanently open ...". Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As PPG2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land."

5.3.5 Although not the only consideration here, a good starting point when considering impact on openness is the existing built form on site. The applicants have provided that:

- The existing hotel provides around 7380 sqm.
- The proposed 62 lodges provide around 4632 sqm
- There is to be a facility building that provides around 278 sqm.

5.3.6 This would result in a reduction of built form of around 2470 sqm. However, the existing hotel is concentrated around the listed temple that was part of the overall estate belonging to Patshull Park. The temple was set on a ridge and the hotel building has been built around it, enclosing it to the rear and sides. The building is single storey (but with a pitched roof) to the south of the temple with two storey elements to the west and south sides. It is therefore contended that the existing built form is currently concentrated in one small part of the site.

5.3.7 The proposal would introduce sixty-two lodges that would sprawl across the northern part of the site, starting some distance away from the listed temple, and reaching all the way to the top of the site, to where the lake splits into two arms. The lodges would be accessed by a main artery road with the lodges scattered sporadically. Every plot would sit on an individual concrete pad and each unit is to be provided with mains water, electric, foul drainage, piped gas, TV and WIFI through an internal private network of services. Whilst not detailed in the submission the lodges would naturally provide an external amenity area for residents to sit and spend time in the summer and a parking area increasing the domestic appearance of the site.

5.3.8 The lodges would significantly affect the openness of the green belt when compared to the existing undeveloped nature of this part of the site. There is therefore spatial harm from the proposal. Overall, the lodges cause a significant level of harm to both the spatial and visual amenity of the Green Belt.

5.3.9 As well as the lodges the proposal would also see the introduction of an amenity building towards the entrance to the site which is certainly a more modest and discrete design than the previous 'boat house' building that was to be located on the Great Pool. The current built form of the hotel is located discreetly in the landscape and the main bulk of the building cannot be viewed until one is well within the site. Locating the amenity building in such a prominent location along with the sprawl of the lodges would again cause significant harm to the visual amenity of the Green Belt.

5.3.10 The site would give rise to a high number of vehicles trips to and from the site, particularly at peak holiday times during the year such as school holidays. However, the existing site has an approved leisure use in the shape of a golf course, as well as having the potential to reopen a restaurant and café facilities and of course the main use as a hotel and conferencing facility. Only the trip movements from the proposed use as a holiday lodge retreat is therefore unlikely to cause any greater harm to openness than the existing use.

5.3.11 In terms of the duration of the development whilst it is acknowledged that the lodges are not of permanent construction and can be dismantled and removed from site, no temporary permission is sought and the lodges have a far longer lifespan than traditional mobile homes, indeed after undertaking some research, many companies claiming around 80 years. All lodges will be based on a concrete pan with all modern facilities one would expect from a residential dwelling. The roadways will be of durable construction. When combined with the permanence of the amenity building, the duration of the development increases and the 'temporary' nature of lodges somewhat falls away. Notwithstanding this, there is the very permanent nature of the existing hotel building. The duration element in comparison with the existing use, as with trip movement is not likely to have any more impact on openness than the existing use of the site as a hotel and conference facility.

5.3.12 Overall, therefore due to the spread of the development throughout the site, I consider there would be significant harm to openness of the green belt caused by the proposed development. The proposal is inappropriate, harmful to openness by definition and should not be approved except in very special circumstances.

5.4 Reasons for including land within the Green Belt

5.4.1 The Green Belt serves five purposes as defined in the NPPF. They are:

- To check the unrestricted sprawl of large built-up areas,
- To prevent neighbouring towns from merging into one another,
- To assist in safeguarding the countryside from encroachment,
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

5.4.2 Regarding the first and second purpose of the Green Belt, the site is located in an open area of the countryside and would not attract additional development to locate with or beside it. The site does not form part of a large built-up area and therefore the development would not encourage sprawl or cause the merging of towns; particularly as the site is surrounded by other open fields.

5.4.3 The site is not within a historic town or adjacent to any historic assets therefore satisfying the fourth purpose.

5.4.4 The fifth purpose encourages urban regeneration and the recycling of derelict land. Whilst the land is considered to be previously developed, it is not derelict, nor is it in an urban location.

5.4.5 Regarding the third purpose, this proposal would develop the site which is in the countryside and distributing the built form throughout the site where it is currently concentrated in a small part. This causes direct conflict with the purpose of safeguarding the countryside from encroachment. This is reflected in the proposal being inappropriate development by definition.

5.5 Impact on Heritage

5.5.1 Local Plan policy EQ3 states that the Council will consider the significance of all proposed works to heritage assets, informed by relevant guidance that is supported by Historic England.

5.5.2 Section 16 of the NPPF states that when determining planning applications LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting and an appropriate assessment should be submitted in support.

5.5.3 Paragraph 199 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important

the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

5.5.4 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.5.5 Member will have to have regard to the statutory duty set out in Planning (Listed Buildings and Conservation Areas) Act 1990 that requires that special regard be given to the desirability of preserving listed buildings and their settings.

5.5.6 Proposed development affecting a heritage asset may have no impact on its significance or may enhance its significance and therefore cause no harm to the heritage asset. Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm (which includes total loss) in order to identify which policies in the NPPF apply.

5.5.7 Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

5.5.8 Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

5.5.9 What is optimum viable use?

If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes.

5.5.10 For clarification purposes, the application site is contained wholly within, and is considered to be, a Grade II listed registered park and garden (RPG) and contains but is not limited to the following listed structures:

5.5.11 Boathouse approximately 400 yards south of Church of St Mary – Grade II: Listing entry 1039291
The Temple – Grade II Star: Listing entry 1374062
Boathouse approximately 25 yards north of The Temple: Listing entry 1039294

5.5.12 The listed parkland was designed by Lancelot 'Capability' Brown which formed part of the pleasure grounds to the Grade I listed Patshull Hall. The site and hall were unfortunately split into separate ownership in the past and the application site was developed into a golf course. There remains a further area of RPG that extends to the north and includes a number of listed structures most notably:

- Gate, piers and wall at of Church of St Mary – Grade II: Listing entry 1039331, 1188257, 1188233
- Church of St Mary – Grade II star: listing entry 1039330
- Boathouse approximately 100 yards west of Church of St Mary – Grade II: Listing entry: 1039290

5.5.13 The listing entry of the RPG gives a good summary of the site's history and significance, and the reader is encouraged to refer to it as a useful independent (and unusually detailed) backdrop to this report as it is too lengthy to include here. Most noteworthy sections state:

By the end of the C18 the pools on either side of the house had been extended to form a Y-shaped lake, the western branch of which is called Church Pool. The Doric temple was built, possibly by Gibbs, in the mid C18, on the west bank of the southern tip of the lake. Brick wings were added c.1840 and in 1980 it was incorporated as part of Temple hotel.

To the east of the lake is the Old Park and, beyond this, the High Park, now used as a golf course. To the west the park is divided into fields and edged with plantations.

5.5.14 As detailed in the comments from Historic England, the grounds around large country homes such as Patshull Hall were designed specifically for the enjoyment of the owners and any visitors. The landscapes would include pools, fountains and follies to excite and surprise on their walks. Both the pool and the landscape are entirely manmade and were designed in consultation with Lancelot Brown. There is an undated entry in Browns account book under 'Lord Pigot' for £52 10s for a 'general plan for the Place and Journeys'.

5.5.15 The listed Temple would have been one of the follies built in the mid to late 18th Century and later extended sympathetically. Follies were an 'eyecatcher' and were usually unused structures that were located in landscapes to create an enhancement and to excite landowners and visitors.

5.5.16 Comments submitted by the Gardens Trust state:

The application site lies in the southern part of the park to the west of Great Pool in the area associated with the Brownian remodelling. An 18th century boathouse and small garden temple, both listed buildings, survive in this area together with a number of ancient trees possibly part of the 18th century planting scheme. The character of this part of the park was substantially altered in the latter part of the 20th century by the intrusion of a golf course, the attachment of a sprawling hotel extension to the rear of the grade II Temple, and construction of large associated car parking areas. Notwithstanding these harmful changes the underlying historic significance of the 18th century designed landscape remains intact, legible and capable of reinstatement.*

5.5.17 This is reinforced by Historic England (comments to be found in full in section 4. of this report) who state;

Although used more recently as a golf course and hotel complex the application site is still clearly perceived as part of the wider parkland landscape showcasing the prominently positioned Grade II Temple folly.*

The Patshull estate is therefore a complex and sensitive series of nationally important buildings, structures and integrated landscape. As such the proposed creation of holiday lodges, a facilities building, parking, servicing etc requires the utmost deliberation.

5.5.18 None of the statutory consultees consider that the supporting evidence submitted provides sufficient justification or understanding of either the settings of the listed building nor the impact on the RPG. These comments were relayed to the agent who amended the layout of the lodges to the layout considered here and provided a rebuttal on the comments.

5.5.19 The lodges would result in an intensive spread of development within the listed RPG and would also result in harm to the setting of some listed structures. The applicants contend that the development is contained to just a small part of the RPG however it cannot be split and compartmentalised in such a way,

even the golf course doesn't harm it to such an extent. I would contend that what is left of the registered park land must be preserved and a number of consultees have commented that they would prefer to see the site rewild as it has already started to do which in some way has regained some of the Brownian design principles. Whilst the amendments have reduced the number of lodges and moved them further away from the listed folly, they remain wholly within the registered parkland and within close proximity of the listed church, boathouse and most crucially within the Grade I Hall. Having walked the park on a number of occasions and stood on the northern part of the park, close to the bridge but south of the hall, the lodges would be clearly viewed across The Great Pool. The RPG and all of the associated listed structures are inextricably linked and cannot be separated from the Grade I listed Hall. Any development close to or within the RPF will have an impact on the significance of the Hall. The Hall is listed as Grade I and its conservation should be afforded significant weight, as should the comments from the statutory consultees.

5.5.20 It is considered that the proposal is 'as good as it's going to get' and it is now in the best position should the applicants appeal any refusal issued but in spite of these amendments there remains firm objections from a number of statutory heritage consultees as detailed in Section 4. of this report. The Council's Conservation Officer considers there to be both harm to the listed RPG as well as the setting of a number of listed structures on site. However, he contends that this harm is less than substantial. The serious concerns that have been raised cannot be discarded. However, the NPPF does allow for development to be approved if there are public benefits that outweigh the less than substantial harm. It is the decision maker who is to balance and consider the matter of public benefit as is the case with very special circumstances and this is discussed in the next section of this report.

5.6 Case for very special circumstances and justification for harm to Heritage (public benefit) and optimum viable use

5.6.1 When considering planning applications, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.6.2 Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework ([paragraph 8](#)). Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.

5.6.3 Examples of heritage benefits may include:

- sustaining or enhancing the significance of a heritage asset and the contribution of its setting
- reducing or removing risks to a heritage asset
- securing the optimum viable use of a heritage asset in support of its long term conservation

5.6.4 The case for very special circumstances/public benefits can be summarised as follows:

- Protection and enhancement of Heritage
- Sustainable economic benefits
- Public benefits
- Visual containment, landscape enhancement and biodiversity

Protection and enhancement of Heritage

5.6.5 The case for the protection and enhancement of the existing heritage is welcomed by the Council. The site has a number of listed buildings on it, most likely to benefit here is the Grade II star listed temple and the listed boathouse. However, no case has been presented that concludes the existing structures are falling into a state of disrepair and urgently need funds to allow for their maintenance and repair. The applicants also detail that access would be granted to the registered parkland when there has previously been none, other than those playing golf, and that the costs of the maintenance of the trees would thus increase.

5.6.6 Whilst the Council would welcome the restoration of the listed Temple this is a 'two wrongs don't make a right' scenario. The current built form would be removed from the listed structure however it's setting would once again be compromised by both the erection of the lodges and the facilities building. I would defer the reader to the next section of my report for further details. Because of the actual harm caused to the Heritage assets, only limited if any weight is attributed this consideration.

Public Benefits - Installation of footpath and access to parkland

5.6.7 A proposed new footpath would lead from the village of Pattingham to the registered parkland that is not within the redline boundary. It is also important to note that there are two public rights of way that already exist throughout the site; Pattingham and Patshull 26 which leads to the church from an access track north of the application site as well as Pattingham and Patshull 25 which runs through the site to the east of the Great Pool from Patshull Road to the south. It is contended that access could be granted to the park immediately without significant costs to the applicants if the intention is to allow public access for the good of the community, it is my understanding that this will not be provided unless the development is approved. In addition, the Council's arboricultural officer comments that the erection of lodges would in fact, increase the need for maintenance of the existing trees for safety purposes where there is currently none. Due to the existence of two public rights of way across the parkland already, only limited weight is attributed to a new footpath linking the site to the village of Pattingham.

5.6.8 A plan submitted with the application shows indicative permissive routes. However, it should be noted that permissive path, is not a public right of way. It is a path clearly signed as a permissive path that a landowner allows the public to use. This may be for walkers, riders, cyclists, or any combination. However, there is no statutory right of access, and the landowner can withdraw public right use at any time. Therefore, permissive path arrangements should be given limited weight in the planning balance given that it is entirely a voluntary arrangement by a Landowner.

5.6.9 Creating statutory public rights of access can only be done through a public path creation order under the Highways Act as set out below and in consultation with Staffordshire County Council:

Creating a Right of Way through a Creation Agreement (Highways Act 1980 Section 25)

5.6.10 Only the owner of the land crossed by the proposed new path has legal capacity to enter a creation agreement with the Council/County Council to dedicate it as a public footpath, bridleway or restricted byway. Any stiles or gates on the path will be limitations on the path and will, thus, be on the Definitive Statement. A way created under an agreement becomes maintainable at public expense.

Creating a Right of Way through a Creation Order (Highways Act 1980 Section 26)

5.6.11 The creation of a public right of way, uses a Public Path Creation Order under Section 26 of the Highways Act 1980. A new public footpath, bridleway or restricted byway can only be created if the County Council deemed the creation would add convenience or enjoyment to a large section of the public or local residents.

5.6.12 The recent case of DB Symmetry Ltd v Swindon Borough Council [2022] UKSC 33 has made it clear that a planning condition cannot be used to create a public right of way or rights of access. The Council would require all proposed public rights of access to be in perpetuity, which the landowner can set out in section 106 agreement in the first instance, and then regularise by public path creation orders under the Highways Act.

Economic Benefit

5.6.13 The Council would welcome the regeneration of the site and recognises that there would be economic benefits from the scheme that would include the spend from users as well as job creation. The application has been amended to provide 100% holiday rentals which will create an anticipated 36 full time equivalent jobs (which may increase by 47) and £2.5 million spend in the local economy per year whilst the construction phase would create up to 45 full time jobs. The applicants have also got a well-respected and recognised end user in mind if planning permission is granted. It is certainly welcomed that such a provider would be facilitating a tourism destination within the district, but this is not an appropriate site for them, nor is there a mechanism for this end user to be secured either now or in perpetuity. Any permission would be for the erection of the lodges alone and would not be a personal permission to the business. I note the letter of support submitted by the Staffordshire Tourism Board.

5.6.14 Overall, the economic benefits are afforded moderate weight in the planning balance.

Biodiversity Enhancement

5.6.15 Part of the very special circumstances case also rests on the landscape and biodiversity enhancement. Objections have been submitted by both the County Ecologist and the Council's Senior Arboricultural officer who have serious concerns over the detrimental impact the development would have on the ongoing health of a number of trees on site, many of which are veteran. It is agreed that the site is laid out as formal golf course, however many of the bunkers and greens have started to rewild and there has already been advantages to the both the landscape and biodiversity from this. It is recognised that the site could be reverted back to a 'working' golf course and hotel tomorrow but a high number of the visitors to the venue would either be concentrated at the hotel for the facilities there, or visitors would play golf where users simply hit a ball and follow it around the site. There would not be concentrated numbers of people and development within the locations of the existing trees, and certainly none would need to be removed as is proposed with this scheme.

5.6.16 Notwithstanding that the areas below the veteran trees are proposed to be planted, this would not prevent young children from playing within these areas and pressures would inevitably come to the Council requesting permission to prune to keep the trees 'safe'. In light of these objections and in spite of the fact that there would be some biodiversity gain at the site, there are objections submitted and only limited weight can be applied to this element of the applicants very special circumstances case.

Optimum Viable Use

5.6.17 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the [National Planning Policy Framework \(paragraph 196\)](#) requires that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing the optimum viable use of that asset.

5.6.18 Where a heritage asset is capable of having a use, then securing its optimum viable use should be taken into account in assessing the public benefits of a proposed development.

5.6.19 ‘Area-based’ designated heritage assets such as World Heritage Sites and conservation areas will not themselves have a single use (though any individual heritage assets within them may). Therefore, securing the optimum viable use of the area-based asset as a whole is not a relevant consideration in assessing the public benefits of development proposals affecting such heritage assets. However, securing the optimum viable use of any individual heritage assets within the area-based designated heritage asset may still be a relevant consideration.

5.6.20 Appropriate marketing is required to demonstrate that a heritage asset has no viable use in the circumstances set out in [paragraph 195b of the National Planning Policy Framework](#). The aim of such marketing is to reach potential buyers who may be willing to find a viable use for the site that still provides for its conservation to some degree. If such a purchaser comes forward, there is no obligation to sell to them, but it will not have been demonstrated that the heritage asset has no viable use.

5.6.21 A confidential business case was submitted in support of the application in an attempt to demonstrate that the site is unviable in its current form (hotel and golf course). The case states that the rebuilding of the hotel may not be viable due to the costs involved with demolition, but this is somewhat confusing given the hotel is proposed to be demolished here and a significant amount of money would be spent providing the services and associated works needed for the erection of the lodges (circa £20 million). There is no evidence giving likely build costs to either revamp the hotel or to replace it for it to be considered as truly unviable to re-instate this use. A letter was submitted by Knight Frank that detailed how and when the site was marketed and why the hotel and golf/spa business model is failing in the current economic climate. This was an exercise that was undertaken at an unusual time in the market, given the ongoing effects of lockdown and Covid as well as the effect of Brexit. The letter details that an offer was made on the hotel but this was withdrawn due to potential issues including poor water supply to the hotel as well as boundary issues. It is noted that a purchase was made in spite of these issues. The letter goes on to explain that the amount of money needed to spend on the revamp of the hotel, could not be recouped at the local room rates. However there is no mention of revenue from weddings or other events. It is stated that staff being able to access the hotel would be an issue, this is somewhat confusing as the use as a holiday lodge would need also need staff to be able to access the site. The letter ends by stating that alternative uses should be considered for Patshull Park as the viability of the site for the continued hotel use is extremely low. It does not conclude that the only viable use would be holiday lodges.

5.6.22 If there is a range of alternative economically viable uses, the optimum viable use is the one likely to cause the least harm to the significance of the asset, not just through necessary initial changes, but also as a result of subsequent wear and tear and likely future changes. Nothing has been presented to denote that other ideas were considered or explored, say for example, other pieces of land not within the RPG were looked at from a sequential approach, for locating the lodges. It is indeed in fact considered that the RPG is the *preferred* location by the applicant, as it would create a ‘pretty’ location for a tourism destination. No viability case has been submitted. As the decision maker, it is not considered that sufficient evidence has been provided that the use proposed is in fact the optimum viable use.

5.7 VSC and public benefit conclusions

5.7.1 It is important here to point out that if one were to consider the case as a set of scales, the harm to the Green Belt and the harm to the designated heritage assets (albeit less than substantial) were weighing down one side, the benefits as detailed above would need to tip the scales in the favour of the development. In this instance, given the two elements of harm, this is an exceptionally high bar to overcome. The reader will be aware that national policy requires any harm to the Green Belt to be attached significant weight, as well as this as decision makers, we also have the weight attributed to the harm to the designated assets, and the plural here is given emphasis. The harm to Heritage has been outlined by a number of expert consultees.

5.7.2 Whilst it is recognised that it would be of some benefit to the community for them to have access across the entire RPG, this should not be at the detriment to part of it and furthermore the new rights of way would have to be created under a separate statutory process which is not guaranteed. There are also two existing PRoWs across the site. It is noted that there would be welcomed economic benefits but again, it is not considered that these are so great to overcome both elements of harm. As with the case for very special circumstances, it is not considered that there are any public benefits that would outweigh the harm, albeit less than substantial and these have been discussed in detail above. Insufficient evidence has been presented that demonstrates the proposed use is the optimum viable use.

5.8 Impact on Highways

5.8.1 Section 9 of the NPPF requires LPAs to consider and promote sustainable forms of transport, whilst addressing community needs and creating places that are safe, secure and attractive; which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards. Local Plan policy CP11 and EV11 echo these themes.

5.8.2 The application has been considered by both the County Highways Team and the Highways Team at the neighbouring authority of Shropshire Council, neither of which has objected. County Highways have requested a monetary sum to allow for the monitoring of the Travel Plan.

5.8.3 In light of the above, I consider the proposal in accordance with the aims of the NPPF and the relevant policies in the Core Strategy.

5.9 Impact on Ecology and veteran trees

5.9.1 Core Policy 2 of the Core Strategy states the Council will support development or other initiatives where they protect, conserve and enhance the District's natural and heritage assets. EQ1 provides that developments should not cause significant harm to habitats of nature conservation, including woodlands and hedgerows, together with species that are protected or under threat. Support will be given to proposals which enhance and increase the number of sites and habitats of nature conservation value, and to meeting the objectives of the Staffordshire Biodiversity Action Plan. These principles are echoed and supported through the Sustainable Developments SPD 2018. Section 15 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;
- and f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

5.9.2 Overall the County Ecologist has no objections to the mitigation proposal suggested by the applicants to satisfy the 'net gain' requirements of national planning policy. Despite the additional work carried out by the

applicants in response to objections submitted there remains an objection from both the County Ecologist and the Council's Senior Arboricultural Officer in relation to the impact on the existing trees on site. As detailed in the very special circumstances section of this report a high number of the visitors to the existing hotel and golf course use would either be concentrated at the hotel for the facilities there, or visitors would play golf and wander through the site in small numbers throughout dispersed times of the day. There would not be concentrated numbers of people and development within the locations of the existing trees as would undoubtedly happen if the lodges were to be approved.

5.9.3 Notwithstanding that the areas below the veteran trees are proposed to be planted, this would not prevent children and adults alike from playing or walking within these areas and as such pressures would inevitably come to the Council requesting permission to prune to keep the trees 'safe' as well as potentially causing compaction issues. In spite of the additional information provided by the applicants, there remains concerns from the Senior Arboricultural Officer and County Ecologist that the underground service runs would cause harm to the tree roots. The proposed loss of trees is predominantly those that were planted when the golf course was created or were self-seeded and have been considered acceptable as their loss would be mitigated by replacement planting. I note the Woodland Trust have withdrawn their objection.

5.9.4 The supporting report states that mitigation measures for great crested newts will be carried out under a European Protected Species Licence and the applicant must provide further information, including a mitigation method statement for the site, which must prove to the Council that the applicant is likely to be granted an EPSL by Natural England if they are granted planning permission. This has not been received to date. It is considered that this could be resolved at appeal and would be willing to work with the applicants and the Inspector to get this in place should Members agree with the recommendation presented to them here. If not, it would need to be resolved before permission is granted.

5.9.5 In light of these objections and in spite of the fact that there would be some biodiversity gain at the site, there remains an objection that has not been overcome during the course of the application and planning conditions would not overcome this objection. The proposal is contrary to national and local policy that seeks to protect and enhance natural assets.

5.10 Drainage

5.10.1 Core Policy 3 of the Core Strategy states the Council will require development to be designed to cater for the effects of climate change, making prudent use of natural resources, enabling opportunities for renewable energy and energy efficiency and helping to minimise any environmental impacts by:

- guiding development away from known areas of flood risk as identified in the Strategic Flood risk assessment, surface water management plan and consistent with the NPPF,
- ensuring the use of sustainable drainage (SUDS) in all new development and promoting the retro-fitting of SUDS where possible,
- ensuring that all development includes pollution prevention measures where appropriate, to prevent risk of pollution to controlled waters.

5.10.2 EQ7 requires new development to include SUDS, which is further echoed in the Sustainable Development SPD 2018.

5.10.3 Paragraph 163 of the NPPF states:

When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk

assessment⁵⁰. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

A number of concerns were raised initially by the Lead local flood authority, and these were addressed accordingly by the applicants. The holding objection was withdrawn and a pre-commencement condition was recommended.

In light of the above, I consider the proposal to be in accordance with CP3 and EQ7 of the Core Strategy.

Impact on neighbours

In accordance with Local Plan Policy EQ9, all development proposals should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution, odours and daylight.

I have taken into account the comments received from residents and addressed the points within the relevant sections of this report. Overall, there is no concern with regard to neighbour amenity. The two properties at the site entrance would most likely be effected by the number of cars to-ing and go-ing from the site. However the hotel and golf use could be re-instated tomorrow, and as detailed earlier in the report, the trip generation is not likely to materially increase, despite there being peak arrival and departures times.

6. CONCLUSIONS

The proposed development is inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the openness of the Green Belt and should not be approved except in very special circumstances. Harm by reason of inappropriateness should be given substantial weight in the decision-making process.

The proposal would create significant harm to both the spatial element of the openness of the Green Belt as well as the visual element, this harm shall be attributed substantial weight in the planning balance. In addition to the Green Belt harm there is harm to a number of designated Heritage Assets, albeit this is less than substantial harm it is not outweighed by any public benefit arising from the proposal. The applicant has advanced a number of considerations, but it is not considered that these matters clearly outweigh the substantial weight that must be attached to the Green Belt harm identified above.

Full consideration has been given to the case presented by the applicants, that there are public and economic benefits, some ecological benefits as well as benefits to the Heritage on site. It is recognised that there would be some economic benefit from the proposal however this can only be afforded moderate in the planning balance and that the benefits to tourism would be negligible arising from 62 holiday lodges. Any ecological benefit is counteracted by concerns that the proposal would have a seriously detrimental effect on the health of a number of trees on site, some of which are veteran as the use is incompatible and would result in pressure to prune and potentially remove such trees on 'safety grounds'.

Decision maker should attach considerable weight to representations made by statutory consultees and the statutory duty set out in Planning (Listed Buildings and Conservation Areas) Act 1990 that requires that special regard be given to the desirability of preserving listed buildings and their settings.

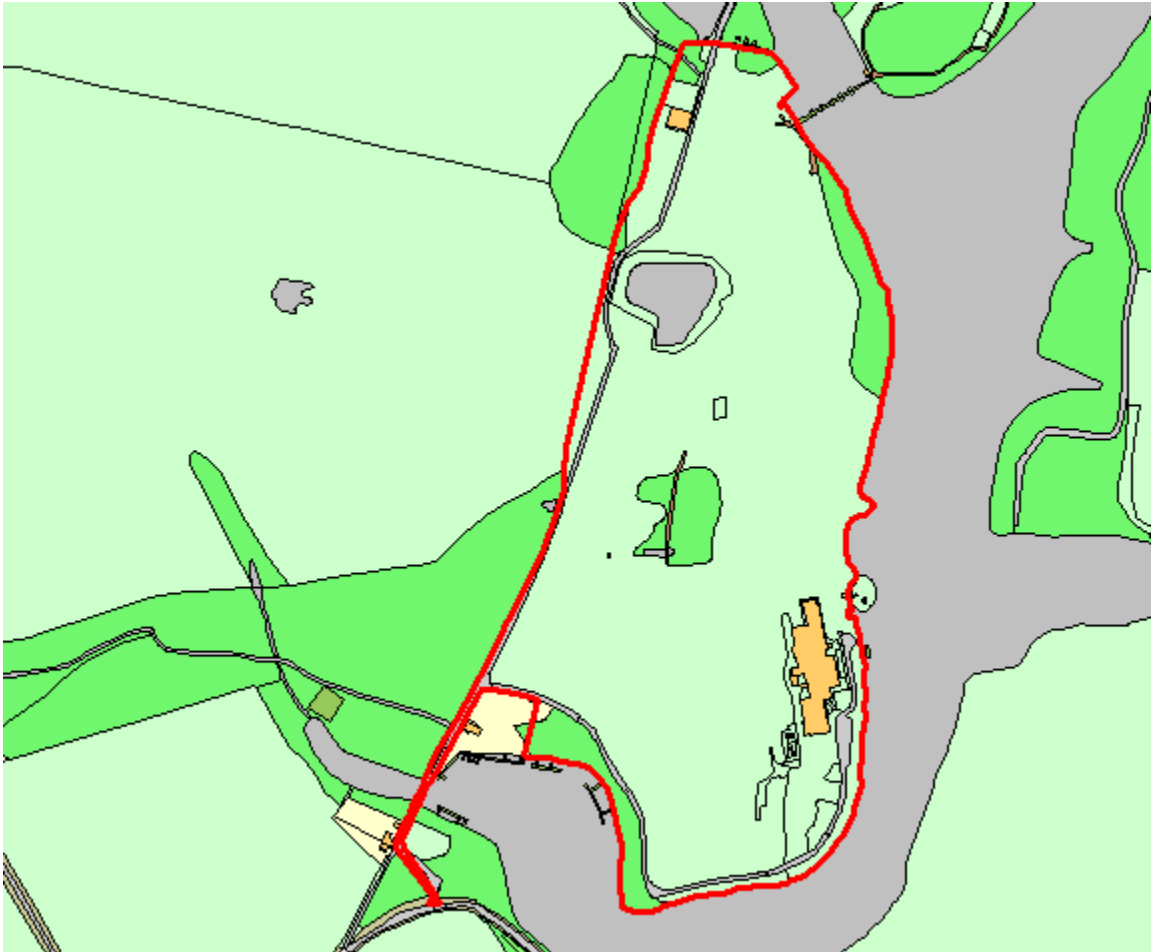
Taking the above into consideration I am recommending the application be refused.

7. RECOMMENDATION - REFUSE

Reasons

1. The site is within the Green Belt and the proposed development is considered to be inappropriate development as set out in policy GB1 of the adopted Core Strategy. The development is therefore harmful to the Green Belt, contrary to policy GB1 of the adopted Core Strategy
2. The Local Planning Authority has considered the reasons advanced but does not consider that these reasons constitute the very special circumstances required to clearly outweigh the harm to the Green Belt by reason of inappropriateness.
3. The proposal would cause harm to a number of designated Heritage Assets including the character of the Grade II listed Park and Garden as well as the setting of the Grade I listed Hall, Grade II* listed Temple and Grade II boathouse. Any public benefit it would not outweigh the harm contrary to Local Plan policy EQ3 and Part 16 of the NPPF. Insufficient evidence has been presented that demonstrates the proposed use is the optimum viable use and that the development is necessary to secure the economic viability of the site.
4. The Veteran trees on site, of which there are a significant number will need to effectively be isolated from casual access by residents. Retaining Veteran trees in high usage areas carries an inherent risk that needs to be managed. Simply providing extra space around them is not sufficient and it is unclear as to whether this has been given ample consideration; even if adequate provisions were made however, there is then the question of whether this in turn would have further impact on the character of the Brownian landscape. Such a high intensity development of the site would only lead to the long term degradation of a high value tree stock contrary to local plan policy EQ4 and Part 15 of the NPPF.
5. Insufficient detail has been submitted to demonstrate suitable mitigation measures for Great Crested Newts will be carried out under a European Protected Species Licence (EPSL). The applicant has not provided a suitable mitigation method statement for the site, which must prove to the Council that the applicant is likely to be granted an EPSL

Proactive Statement -The Local Planning Authority has worked in a positive and proactive manner in accord with National Planning Policy Framework 2021, paragraph 38, by attempting to seek solutions with the applicant to problems associated with the application. A solution could not be found and so the development fails both with regards to the NPPF and the adopted Core Strategy 2012.



Patshull Park Hotel Golf And Country Club, Patshull Park, Burnhill Green WV6 7HR

22/00084/LBC
NON MAJOR

Harlaston (Packington) Ltd

PATTINGHAM & PATSHULL
Councillor T Mason

Patshull Park Hotel Golf And Country Club Patshull Park Burnhill Green WV6 7HR

Demolition of the modern hotel extensions and removal of hard standing car parking, retention and resetting of the Grade II* listed Temple and siting of 62 lodges, construction of Central Facilities Building (CFB) and associated access, parking and servicing.

Pre-commencement conditions required:	Pre-commencement conditions Agreed	Agreed Extension of Time until
n/a	n/a	28 April 2023

Date of site visit – 7th September 2022

1. SITE DESCRIPTION AND APPLICATION DETAILS

1.1 Site Description

1.1.1 The site lies in an isolated rural area to the south of the A464 and the A41, and the nearest settlement is Pattingham to the east. It has a rural setting including lakes, which is the landscaped parkland of Patshull Hall, which is Grade I Listed. The land around Patshull Hall was formed into formal gardens and pleasure grounds in the late 17C and was altered in each century since, including by Capability Brown. This extends to 183 hectares and lies within a Grade II designated Historic Landscape Area and are registered as Historic Parks and Gardens by English Heritage for their special historic interest.

1.1.2 The western branch of Patshull Hall's Y shaped Great Pool had a Doric temple (the listed building) built on the bank of the southern tip in the mid 18th Century. Brick wings were added to this around 1840 and in 1980 it was incorporated as part of a hotel, now known as Patshull Park Hotel, which has a total site of 1.8 hectares. Part of the Historic parkland surrounding the hotel is a golf course which is now redundant. The hotel consists of 49 en-suite bedrooms, swimming pool, gym, beauty salon, conference facilities for 250, a restaurant, a bar, lounge and seminar rooms. The hotel also has a wedding licence and there are 200 parking spaces. The site was closed some time ago around the start of the covid-19 lockdown in 2019.

1.2 SITE HISTORY

Planning Applications

00/01130/FUL Greenkeepers facilities **Approve Subject to Conditions** 20th December 2000
01/01034/LBC Relocation of Grade 2 listed wall, gate piers and gates to boundary of Patshull Hall and Hack Cottage **Approve Subject to Conditions** 20th December 2001
01/01237/FUL Extension to gymnasium at first floor level over balcony and alterations **Approve Subject to Conditions** 9th January 2002
01/01238/LBC Extension to gymnasium at first floor level over balcony and alterations **Approve Subject to Conditions** 9th January 2002
01/01263/FUL Use of existing escape staircase to create 2 meeting rooms and new external escape staircase **Approve** 9th January 2002
01/01264/LBC Change of use of escape staircase to create 2 meeting rooms with new external escape staircase **Approve** 9th January 2002

76/00981 Amenity Centre **Approve Subject to Conditions** 19th January 1978
76/00982 Recreational
77/00047 Recreational **Approve Subject to Conditions** 19th January 1978
96/00951 Irrigation Lagoon And Realignment Of Track **Approve Subject to Conditions** 18th February 1997
87/01149 Conversion Of Courtyard To Functions Room Office And Store **Approve Subject to Conditions** 7th April 1988
87/00673 Erection Of Bedroom Block **Approve Subject to Conditions** 14th November 1987
85/01055/FUL Extensions To Hotel To Provide Bedroom And Recreational Facilities **Approve Subject to Conditions** 16th June 1986
96/00021/LBC Removal Of Glazed Screen And Erection Of Wall To Form Meeting Room **Approve Subject to Conditions** 10th September 1996
78/01408 Golf Course Storm Shelter And Associated Toilets For Occasional Use **Approve Subject to Conditions** 6th December 1978
76/00981/COU Change Of Use for recreational/sporting activities **Approve Subject to Conditions** 19th January 1978
81/00535 Erection Of Buildings In Connection With The Use Of The Land As A Recreational Centre **Withdrawn** 28th January 1981
97/00273 Sewage Treatment Plant **Approve Subject to Conditions** 10th June 1997
97/00987 Pump House For Irrigation Lagoon For Golf Course **Approve Subject to Conditions** 6th January 1998
76/00982 The Erection Of Buildings In Connection With The Use Of Land As Part Of An Amenity Centre For Recreational And Sporting Activities 19th January 1977
77/00047 Erection of buildings in connection with new use of land as recreational/sporting centre 12th October 1977
88/00885 Extension To Form 4 Additional Bedrooms **Withdrawn** 11th April 1989
89/00566 4 Bedroom Extension 14th November 1987
90/00342 Erection Of Golf Clubhouse Ancillary Buildings And Car Parking **Approve Subject to Conditions** 24th April 1990
04/00183/FUL Retention of 4 shallow fairway bunkers on corrent holes of golf course **Approve** 26th May 2004
86/00001/LBC Extensions To Hotel To Provide Bedroom And Recreational Facilities **Approve Subject to Conditions** 16th June 1986
87/00032/LBC Erection Of Bedroom Block
87/00045/LBC Conversion Of Courtyard To Functions Room Office And Store
88/00033/LBC Extension to form 4 additional bedrooms **Approve Subject to Conditions**
89/00021/LBC 4 bedroom extension **Approve Subject to Conditions**
83/00044/ADV Advance Sign **Withdrawn** 15th November 2018
11/00319/FUL Extension to provide 18 new, en-suite guest bedrooms [revival of 673/87] **Refuse** 13th June 2011
11/01018/FUL 16-bedroom extension [revival of 673/87] [resubmission of 11/00319/FUL] **Approve Subject to Conditions** 2nd February 2012
12/00064/LBC 16-bedroom extension to existing hotel complex **Approve Subject to Conditions** 12th March 2012
12/00064/COND Discharge of condition nos: 3 (12/00064/LBC) 5th December 2014
11/01018/COND Discharge of conditions nos 3 (11/01018/FUL) 19th November 2014
22/00083/FUL Demolition of the modern hotel extensions and removal of hard standing car parking, retention and resetting of the Grade II* listed Temple and siting of 62 lodges, construction of Central Facilities Building (CFB) and associated access, parking and servicing.
22/00084/LBC Removal of modern hotel to provide for the retention and resetting of the Grade II* listed Temple

1.3 Pre-apps

21/00024/PREAPP Siting of 133 holiday lodges and the demolition and re-development of Patshull Park Hotel, including a new facilities and spa building and the restoration of the temple and re-instatement of the historical park and grounds – unacceptable 23rd March 2021

2. APPLICATION DETAILS

2.1 The Proposal

2.1.1 This application seeks Listed Building Consent and is submitted alongside full planning application Reference. 22/00083/FUL for the demolition of the modern hotel extensions and removal of hard standing car parking, retention of the listed Temple, siting of holiday lodges and construction of new Boathouse Central Facilities Building, including associated access, parking and servicing.

2.1.2 The full application, as amended, will see the erection of 62 ‘lodges’ spread across the northern half of the existing golf course, beyond the site of the existing hotel, terminating at the southerly side of the Great Pool. If that permission is not granted, it is considered a demolition notification would be needed for the hotel’s removal. This has not been considered at this stage, no such application has been made and it should not prevent the determination of this consent.

2.2 Applicants Submission

2.2.1 The following documents have been submitted:

- Heritage statement
- Planning statement
- Various Updated and addendums to existing reports to address amendments to the scheme and consultee comments

3. POLICY

Within the West Midlands Green Belt, Registered Park and Garden and various listed properties (Designated Heritage Assets) multiple protected trees

3.1 Core Strategy

Core Policy 1: The Spatial Strategy

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

Policy EQ3: Conservation, Preservation and Protection of Heritage Assets

3.2 National Planning Policy Framework [NPPF] – to be read as a whole, but specifically:

Conserving and protecting the Historic environment

4. CONSULTATION RESPONSES

Site Notice Expires	Press Notice Expires
23 March 2022	5 April 2022

The Garden Trust (received 16 March 2022) Thank you for consulting The Gardens Trust (TGT) in its role as Statutory Consultee over proposed development affecting Patshull Park a site included at grade II on the Historic England Register of Parks and Gardens. Staffordshire Gardens and Parks Trust (SGPT) is a member organisation of TGT and works in partnership with it concerning the protection and conservation of registered sites. SGPT is authorised to respond on behalf of both Trusts in respect of planning consultations.

The Trusts consider that the application description for 22/00084/LBC is invalid and much of the supporting information is irrelevant. The proposals relating to erection of new chalets, boathouse facility, car parking etc are outwith the scope of listed building legislation and should be deleted from this application which should relate solely to the works of demolition. The application description should be reworded and only information relevant to consideration of the demolition works included in the revised submission. To save delay we are submitting our comments as if the application papers had been amended.

Patshull Park is listed grade II on the Historic England register of Historic Parks and Gardens and lies within the South Staffordshire Green Belt. It extends over 500 hectares and encompasses the grade II* listed Patshull Hall and St Mary's Church and a designed landscape around the Y shaped lakes comprising Great Pool and Church Pool. The historic landscape appears to have originated in the 17th century in the Pleasure Grounds around the Hall and to have been extended southwards from the 1760s when the two pools were either extended or remodelled. Although no plans are known to survive the mid 18th century work is thought to have been influenced by Lancelot "Capability" Brown who is known to have provided a "general plan for the place". The design of the lakes is very characteristic of Brown's work.

The Temple appears to be contemporary with the mid 18th century remodelling of the park and is possibly to the design of James Gibbs, a leading architect of the period and with whom Brown worked at Chillington and Weston parks. Originally a small garden ornament overlooking the Great Pool the building was enlarged at the rear in the mid 19th century to form a staff cottage. It was again extended in the latter part of the 20th century by the attachment of a sprawling hotel range to which it became a diminutive classical style "porch". What remains of its setting has been diminished by construction of a large tarmac car park alongside. The hotel extension is of no intrinsic architectural merit is out of scale with and overwhelms the 18th century structure causing serious harm to the significance of the grade II* heritage asset and its setting in the RPG.

The Trusts have no objection in principle to the proposed demolition of the modern hotel extensions to the rear of the grade II* listed temple. The careful demolition of these additions will better reveal the significance of the original building and its place in the parkland and is fully supported.

It is unfortunate, however, that the application does not contain any proposals for removal of modern interventions to the temple (for example the fully glazed frontage), any conservative repair to its historic fabric, provision for remediation of scarred fabric after demolition of the extensions nor for its future use and upkeep. Further information on these matters should be obtained before determination of the application.

Historic England (received 7 June 2022)

Having considered all the submitted information we continue to be unable to support either the original or revised proposals on heritage grounds. Regardless of the revised masterplan, we continue to consider that the proposals are far too intensive, and would harm the significance of the Patshull Historic Park and Garden and as such the setting of Patshull Hall, the significance of the listed Temple and its setting, and the approach and context of the listed Church of St Mary. We therefore refer you to the content and recommendations of our previous letter.

Original Response received 11 March 2022

The Patshull estate is of some considerable pedigree. Built for the honourable Sir John Astley between 1754 and 1758, the impressive Patshull Hall was designed by one of the preeminent architects of the day James Gibbs, and is set within grounds laid out by the great landscaper

Lancelot 'Capability' Brown for Sir George Pigot on his return as Governor of Madras for the East India Company.

Reflective of this considerable architectural and historic importance and notable associations, this extremely fine country house is listed Grade I. Only 2.5% of all listed buildings warrant this highest of statutory grades.

The surrounding estate boasts all the hallmarks of a Brown landscape with its formal pleasure grounds awash with separately listed garden features and structures, not one but two feature lakes including the expansive Great Pool, and sweeping parkland crisscrossed with riding and carriageway routes, affording set views and vistas to amuse and delight.

As such the surrounding landscape not only contributes positively to the significance of the Hall and its setting, it is also designated in its own right as a Grade II Registered Historic Park and Garden.

The application site is located to the south of the Hall across the Great Pool, and is flanked to the west by an important access route to both Patshull Hall and the Grade II* Church of St Mary. Although used more recently as a golf course and hotel complex the application site is still clearly perceived as part of the wider parkland landscape showcasing the prominently positioned Grade II* Temple folly.

The Patshull estate is therefore a complex and sensitive series of nationally important buildings, structures and integrated landscape. As such the proposed creation of 100 holiday lodges, a facilities building, parking, servicing etc requires the utmost deliberation.

With this in mind, we would refer you to the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the National Planning Policy Framework. As you are aware the Act requires that special regard be given to the desirability of preserving listed buildings and their settings.

Section 16 of the NPPF further highlights the need to fully understand the significance of a heritage asset in order to assess the impact, and potential harm, of new development. Local authorities are also instructed to identify and assess the particular significance of any heritage assets, including by development in their settings, to avoid or minimise any conflict.

Furthermore, there is an expectation within the NPPF that great weight be given to the conservation of a designated heritage asset, and any harm to, or loss of, that significance including from development within its setting, should require clear and convincing justification. Where harm does occur, this must be weighed against the public benefits of the proposals.

Section 12 of the NPPF is focused on achieving well-designed places, and states that planning decisions should ensure that development adds to the overall quality of an area; is visually attractive as a result of good architecture, layout and appropriate and effective landscaping; is sympathetic to local character and history including surrounding landscape setting, and establishes or maintains a strong sense of place. Development that is not well designed should be refused.

The application site occupies the southern section of the Patshull Hall parkland landscape, and is flanked to the west by an important access route to Patshull Hall, and the Grade II* Church of St Mary. Within the site is the 18th century, Grade II* Temple folly, and an early 19th century boathouse which is listed Grade II. We also note from the application that there is evidence of potential remains of a road of at least mid-18th century and a ride of at least early 19th century.

Follies, such as the classically inspired 18th century Doric Temple (possibly designed by Gibbs), were key features of such grand designed landscapes. These picturesque, extravagant architectural features were intended to be focal points of interest generating curiosity and delight, to be glimpsed across the lake or come up 'by chance' on walks and rides through the parkland grounds. Often, as is the Temple they are elevated, and were intended to be seen in splendid isolation. From the evidence found of the former circulation routes, and the historic maps, it is clear that the Temple and this part of the parkland, was an important part of the designed landscape.

Therefore, whilst we welcome the removal of the late 20th century hotel accretions from the Temple, we do not agree that the proposed swathe of lodges, extensive car parking, access roads and large central facilities building would be 'highly beneficial' as suggested by the Historic Building Assessment.

Clearly the hotel complex and golf course has resulted in some change to this area of the park. However, as noted within the Historic Building Assessment much of the character and appearance of the former parkland landscape is retained. The introduction of such extensive development would severely compromise the existing open, green landscape, resulting in a far more intensive, built character. As such this would not only dramatically impact upon the registered park and garden, but would also harm the significance of the associated listed buildings and their setting.

We therefore consider that the current proposals would harm the significance of the Patshull Historic Park and Garden and as such the setting of Patshull Hall, the significance of the listed Temple and its setting, and the approach and context of the listed Church of St Mary.

No clear and convincing justification has been provided within the application and, in our view, there are limited heritage benefits to offset the harm identified. As required by the NPPF, it is necessary to weigh any harm identified against the public benefits of the proposals. Clearly this is the role of your authority. However, we would emphasize that this should be a very high bar.

Given that the application site is an existing golf course and hotel complex Historic England is not opposed to the principle of some further development. However, we are concerned that the current proposals are far too intensive. Additional analysis and understanding of the contribution of the application site to the wider parkland, the kinetic experience of the landscape from the historic routes and rides, and the relationship of the Temple to views and vistas from the pleasure grounds and Great Pool would be helpful in formulating any future proposals for this important site. Any future scheme should also consider the reinstatement and celebration of the historic circulation routes through the parkland.

Conservation Officer (received 7 June 2022) Amendments have been made to the proposed scheme following previous comments. However, based upon the changes made there are still concerns with the proposed development, which shouldn't be supported in heritage terms.

Whilst the scheme will result in the listed Temple building being separated from the current hotel complex, the other changes proposed will cause harm to the setting of the Temple, the Grade II listed boathouse and the parkland surroundings in general.

It is acknowledged that the lodges have been moved further from the Temple, however they will be still clearly visible within its context. The benefit of removing the modern structures from the temple is counteracted by the significant harm caused to its wider setting. There are still other large structures being built close to the lake to the south of the temple which will have a detrimental impact upon its setting.

There are still significant conservation concerns with regards to the proposed impact of the development in terms of the numerous significant heritage assets. Based upon this I cannot support the application which creates less than substantial harm (be it at the higher end of the spectrum) to significant heritage assets, without providing the heritage related public benefits to outweigh this harm.

Original Response received 22 March 2022

The application is for works to a Grade II* listed building located within a registered park. There are serious conservation concerns with the proposed level and form of development. The site is a significant area of parkland associated with the Grade I listed Patshull Hall, and forms part of the approach to the Grade II* listed Church of St. Mary (now within the ownership of the Churches Conservation Trust). The connection between this area of parkland and the hall itself is picked up on within the list description for the registered park (Grade II);

“A drive from a lodge on Patshull Road, south of the house, leads across the park, over the dam which divides Church Pool from The Great Pool, and enters the forecourt from the west side.”

The proposed works would see the bulk of the un-sympathetic modern hotel building being removed from the existing Grade II* listed building. I would concur with the comments made by Historic England;

“Therefore, whilst we welcome the removal of the late 20th century hotel accretions from the Temple, we do not agree that the proposed swathe of lodges, extensive car parking, access roads and large central facilities building would be ‘highly beneficial’ as suggested by the Historic Building Assessment.”

Whilst the temple will become an independent structure again, it will still not sit as a prominent feature within the landscape. The addition of a large contemporary building close to the waters edge will draw focus away from the temple. The lodges will also visually clutter the landscape and place the temple within a developed setting as opposed to an open landscape setting, this will further erode its significance.

As well as the application for the works to the temple building, the application is for the location of 100 lodges within the parkland. Whilst this has been modified in the later C20 by the conversion of the site to form a golf course, this remains an open landscape, the addition of a large number of lodge style structures into the landscape will have a detrimental impact upon this character.

As well as the impact upon the setting of the Grade II* listed temple, the impact of the proposed scheme upon the setting of the Grade II listed boathouse will need to be taken into consideration. The boathouse itself is built into the bank of the lake and is only visible from the water as a low stone wall and archway for the boat to enter. This has been designed specifically in the early C19 in order to minimise the visual impact of the structure upon the temple whilst still allowing it to be accessed from the lake.

Due to the level of impact from the proposed scheme upon numerous heritage assets, the application cannot be supported in this form.

Shropshire Council [Conservation] received 27 April 2022

The proposal affects the historic curtilage of Patshull Hall which is grade I listed (dating from the 1730s) and lies within the Patshull Hall registered Park and Garden that is grade II listed. The Hall is accompanied by other associated historic structures that are listed in their own right including The Temple (grade II*), the Boathouse (grade II listed) and flanking ranges (Grade II* listed). These heritage asset predominantly lie within South Staffordshire District, though some heritage

assets lie to the north (as part of the principal north entrance) and south-west within Shropshire including part of the registered Park and Garden, the Walled Garden (grade II listed structures) and Badger Conservation Area that contains other heritage assets including the Badger Dingle Registered Park and Garden designation (grade II listed). In considering the proposal due regard to the following local and national policies and guidance has been taken, when applicable: policies CS5, CS6 and CS17 of the Core Strategy and policies MD2 and MD13 of SAMDev, along with emerging policies SP1 and DP23 of the Submission Local Plan, and with national policies and guidance, National Planning Policy Framework (NPPF) revised and published in July 2021 and the relevant Planning Practice Guidance. Sections 16, 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended). These comments are in relation to a dual application submitted to South Staffordshire District Council (22/00083/FUL & 22/00084/LBC), where having discussed this proposal with the SSDC Conservation Officer, mainly considers that of the proposed lodges (planning application) that may have a potential impact on heritage assets that lie within Shropshire. The Patshull Hall Registered Park and Garden is significant being designed by Capability Brown during the 1770s, a renowned landscape architect. The proposal is considerable consisting of 100 holiday lodges that given such quantum would have a significant impact upon the Registered Park and Garden as well as potentially other heritage assets and their respective settings. The submitted Heritage Impact Assessment has been considered where it states that there would be 'no harm' to the Patshull Registered Park and Garden, Temple and Boathouse. SC Conservation would question this view where that shall be some inevitable impact especially to the Registered Park and Garden and that the HIA contains little evidence to prove that there is no intervisibility with the other heritage assets, such as through photographic evidence to confirm such assumptions. Assessment of other heritage assets such as the Badger Conservation Area is absent, whilst that existing tree cover may limit intervisibility, the HIA should confirm this. Whilst the lodges may consist of a sensitive design, there is considerable concern (as per many of these type of proposals) with regards to the other accompanying infrastructure that is required such as parking, service buildings, electricity substations etc that would also have a potential considerable visual impact and would not have a high degree of reversibility. Whilst it is acknowledged that the late twentieth century golf course would have had some inevitable impact upon the historic designed landscape, it is therefore imperative that the remaining historic landscape is not further compromised/harmed. Overall there is objection to the proposal where it is considered to be contrary to paragraphs 197 and 202 of the NPPF, policies CS6 and CS17 of the Core Strategy, policies MD2 and MD13 of SAMDev and emerging policy DP23 of the Submission Local Plan. With regards to paragraph 202 of the NPPF, it is considered that the proposal consists of 'less than substantial harm' on the upper end of the scale, where it is considered that there would be 'negligible' public benefit such as local businesses benefitting from footfall/tourism benefits etc.

Archaeology (received 22 March 22)

It is noted that the South Staffordshire Council Conservation Officer has been consulted regarding the direct and indirect impact of the proposals on the designated heritage assets in the area, such as the Grade II* listed temple folly building and Patshull Park itself which is a Grade II listed registered park and garden, and that Historic England and relevant statutory consultees, such as the Garden History Society, have provided detailed comment, and indeed raised very strong concerns about the impact of the proposals on the significance of Rural County (Environmental Advice) Staffordshire County Council 1 Staffordshire Place Tipping Street Stafford ST16 2DH Telephone: (01785) 276580 Email: shane.kelleher@staffordshire.gov.uk Please ask for: Mr. Shane Kelleher 22 March 2022 FAO Lucy Duffy Development Management Team, South Staffordshire Council, Wolverhampton Road, Codsall, South Staffordshire Our Ref: HoEC/EC3210/SS/SK/CST8495 Your Ref: 22/00083/FUL & 22/00084/LBC these nationally significant heritage assets, and as such our response will focus on the potential archaeological impact (above and below ground) of the proposals. We are happy to defer to the knowledge and

experience of the Conservation Officer and Historic England on these matters and to strongly support their advice and conclusions.

Recommend conditions should planning permission be granted:

- A) "Prior to the commencement of the development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-fieldwork reporting and appropriate publication.
- B) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition (A).
- C) The development shall not be occupied until the site investigation and post-fieldwork assessment has been completed in accordance with the written scheme of archaeological investigation approved under condition (A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured."

5. APPRAISAL

The application is being heard at Planning Committee at the request of Councillor Mason who considers the circumstances advanced as part of the planning balance for the associated application 22/000083/FUL should be given full consideration by Members.

5.1 Key Issues

- Principle of development
- Impact on the Heritage Asset

5.2 Principle of development

5.2.1 The Temple is a Grade II* Listed building and therefore any proposal should not cause any undue harm to the Heritage Asset.

5.3 Impact on the Heritage Asset

5.3.1 Members will have to have regard to the statutory duty set out in Planning (Listed Buildings and Conservation Areas) Act 1990 that requires that special regard be given to the desirability of preserving listed buildings and their settings.

5.3.2 Local Plan policy EQ3 states that the Council will consider the significance of all proposed works to heritage assets, informed by relevant guidance that is supported by Historic England.

5.3.3 The Council will consider the significance and setting of all proposed works to heritage assets, informed by relevant guidance that is supported by English Heritage. In addition the following principles will be adhered to:

- minimising the loss and disturbance of historic materials
- using appropriate materials, and
- ensuring alterations are reversible

5.3.4 Section 16 of the NPPF states that when determining planning applications LPAs should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting and an appropriate assessment should be submitted in support.

5.3.5 Paragraph 199 states when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

5.3.6 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

5.3.7 There is a significant lack of supporting information submitted with this application in order to properly assess the impact the removal of the hotel would have on the fabric of the Listed Building and therefore the application is contrary to Policy EQ3 and the aforementioned guidance contained within the NPPF

6. CONCLUSIONS

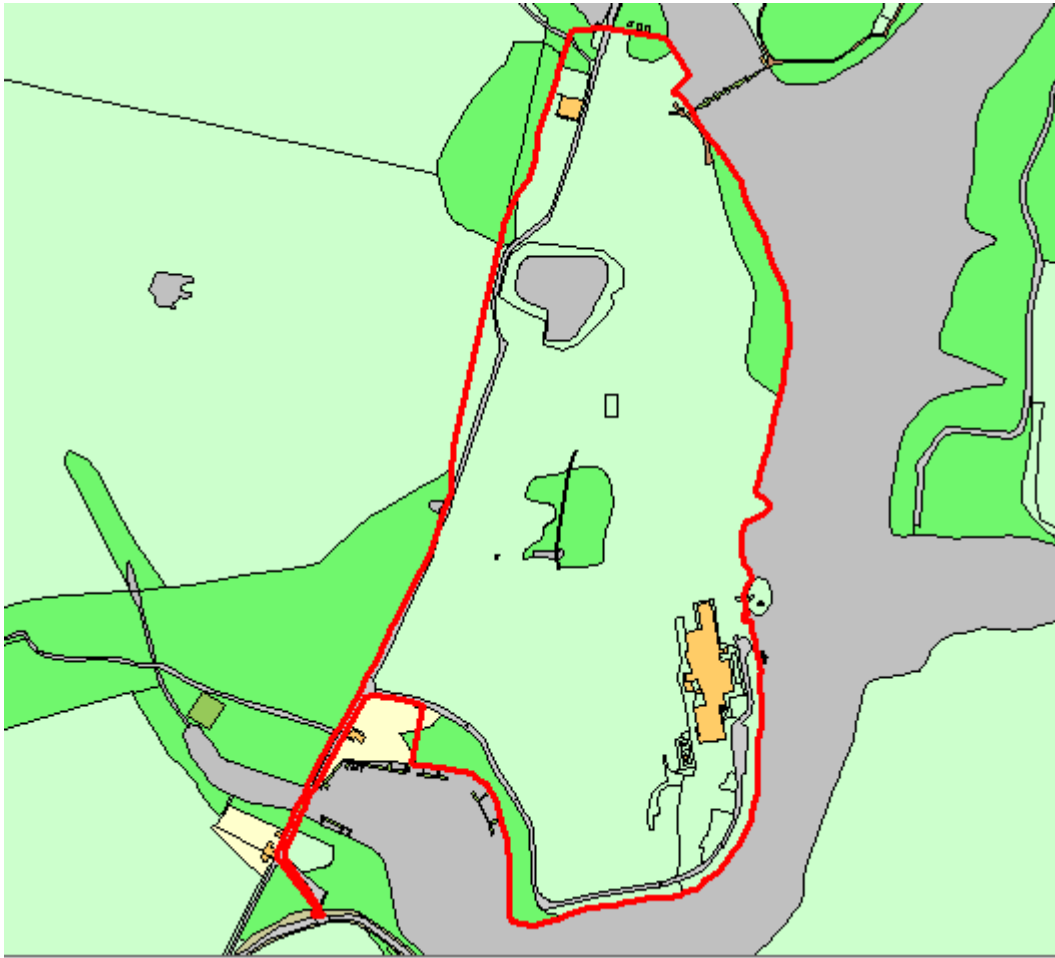
6.1 There is insufficient information contained within the application in order to properly consider the affect the proposal will have on the fabric of the Grade II* listed building. I therefore recommend the application for refusal.

7. RECOMMENDATION - REFUSE

Reasons

1. There is insufficient information contained within the application in order to properly consider the affect the proposal will have on the fabric of the listed building, contrary to Policy EQ3 of the Local Plan.

Proactive Statement -The Local Planning Authority has worked in a positive and proactive manner in accord with National Planning Policy Framework 2021, paragraph 38, by attempting to seek solutions with the applicant to problems associated with the application. A solution could not be found and so the development fails both with regards to the NPPF and the adopted Core Strategy 2012.



Patshull Park Hotel Golf And Country Club, Patshull Park, Burnhill Green WV6 7HR

**22/00670/VAR
NON MAJOR**

Mr J Cunningham

BREWOD & COVEN

Councillor W Sutton

Councillor J Bolton

Councillor D Holmes

Fair Haven Shaw Hall Lane Coven Heath Staffordshire WV10 7HE

Remove Conditions 1 and 2 of application reference 15/00746/FUL (Appeal reference APP/C3430/W/15/3140299)

Pre-commencement conditions required: n/a	Pre-commencement conditions Agreed n/a	Agreed Extension of Time until n/a
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1. SITE DESCRIPTION AND APPLICATION DETAILS

Remove Conditions 1 and 2 of application reference 15/00746/FUL (Appeal reference APP/C3430/W/15/3140299)

Date of site visit – Not applicable

1.1 Site Description

1.1.1 The application relates to a roughly rectangular shaped, 70m x 85m (approximately 0.6 ha.) field situated to the east of Shaw Hall Lane at Coven Heath. It is the frontage portion of a larger (total 1.3 ha.) field in the same ownership. The site is within the proposed GT Site Allocation boundary (reference GT 33) proposed for 4 permanent pitches in the South Staffordshire Publication Plan of the Local Plan Review.

1.1.2 Shaw Hall Lane is a rural, single vehicle width, highway serving a small, dispersed scatter of dwellings and a horticultural nursery in the immediate vicinity of the appeal site.

1.1.3 The site is located within the West Midlands Green Belt approximately 0.5 km north of the M54/A449 traffic island junction and Wolverhampton City boundary. Coven service village is located 1km to the north. The Staffordshire & Worcestershire Canal and the associated tree and hedge lined Canal Conservation Area bound the ownership site to the east. There is open land to the immediate north and south.

1.2 SITE HISTORY

Planning Applications

15/00746/FUL The use of the land as a private gypsy and traveller caravan site consisting of 4 no pitches and ancillary development [Part-Retrospective] **Refuse** 8th December 2015

15/00746/COND Discharge Conditions 5i and 7i of Appeal Decision reference APP/C3430/W/15/3140299 (following refusal of planning permission, reference 15/00746/FUL). 7th April 2017

18/00805/VAR To make the personal temporary permission (15/00746/FUL) permanent.

19/00800/VAR To extend the period of the temporary consent (15/00746/FUL) to 02.12.2023 **Approve Subject to Conditions** 19th March 2020

20/00279/COU The use of the land as a private gypsy and traveller caravan site consisting of 4No. pitches

22/00670/VAR Remove Conditions 1 and 2 of application reference 15/00746/FUL (Appeal reference APP/C3430/W/15/3140299)

Appeal Details

15/00040/ENF Without planning permission, the import of materials on to the Land to form a hardstanding area on part of the Land for the siting of caravans in association with the unauthorised use of the Land as a gypsy traveller site and the unauthorised development of an access on the Land, including fencing and gate and the unauthorised development of a brick, concrete and wood structure on the Land. **Appeal Dismissed** 2nd December 2016

15/00041/ENF Without planning permission, the import of materials on to the Land to form a hardstanding area on part of the Land for the siting of caravans in association with the unauthorised use of the Land as a gypsy traveller site and the unauthorised development of an access on the Land, including fencing and gate and the unauthorised development of a brick, concrete and wood structure on the Land. **Appeal Dismissed** 2nd December 2016

15/00042/ENF Without planning permission the unauthorised material change of use of the land from an agricultural use to a mixed use of agricultural and unauthorised use of part of the land as a residential gypsy traveller site. 2nd December 2016

15/00043/ENF Without planning permission the unauthorised material change of use of the land from an agricultural use to a mixed use of agricultural and unauthorised use of part of the land as a residential gypsy traveller site. 2nd December 2016

15/00050/REF The use of the land as a private gypsy and traveller caravan site consisting of 4 no pitches and ancillary development [Part-Retrospective] **Appeal Allowed** 2nd December 2016

2. APPLICATION DETAILS

2.1 Proposal

2.1.1 The application proposes making the 4 Gypsy and Traveller pitches, granted temporary planning permission at appeal in 2016 permanent. The site layout, approved under the discharge of conditions application (15/00746/COND) related to the appeal consent has 4 mobile homes (3 single and 1 double), a day room, 2 parking spaces for each pitch, 4 van spaces (1 per pitch) together with turning space and planting/amenity areas. There is no proposal to change this layout. The site is well screened behind the existing mature highways frontage hedgerow alongside Shaw Hall Lane.

2.1.2 The mobile homes come under the definition of The Caravan Sites Act 1968 of max. size 20m x 6.8m x 3.05m internal height.

2.2 AGENTS SUBMISSION:

2.2.1 The application is to vary the current temporary planning permission to a permanent one. The proposed use of the site complies with the Development Plan policies so far as they are relevant and up to date as very special circumstances exist. Furthermore, and significantly, the site has been consulted on in the SAD Options and has become a Preferred Option for the Council in 2021 (GT33 p159).

2.2.2 Mr. and Mrs. Cunningham are Romany Gypsy Travellers by birth, culture and descent, having been born and brought up in the traditional Gypsy way of life. The applicants and their family satisfy the definition of a

Gypsy and Traveller for the purposes of Annex 1 Planning Policy for Travellers Sites 2015 in that they have travelled nomadically to make a living all their lives.

2.2.3 As is the custom with traditional Gypsies, the family lives in an extended family group comprising three generations. This would be compatible with PPTS which states that The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community.

2.2.4 The family bought this site because they needed to have a stable base where the eldest child could attend school in an area where the family has local connections. The site was granted a temporary permission on Appeal in 2016 on the expectation that suitable alternative site would be available within that period. The Local Planning Authority extended that temporary period until 2023, which is now very close. The allocation of sufficient sites has not yet occurred and the family is very concerned that they will become homeless once the temporary permission expires next year. In the absence of a suitable alternative site this would result in a roadside existence which would be contrary to the best interests of their children, a factor that attracts substantial weight.

2.2.5 The following material considerations combine to clearly outweigh the harm caused by inappropriateness, together with the other harm identified, thereby constituting those very special circumstances:

- i) the need for further sites for Gypsies and Travellers a) nationally b) regionally c) locally and d) personally for these families;
- ii) the unavailability of suitable alternative sites;
- iii) the families' personal circumstances (including their status as Gypsies and Travellers) in particular their health and educational needs;
- iv) deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in South Staffordshire;
- v) the consequence of the Application being dismissed for the families;
- vi) the best interests of the children and Human Rights consideration.
- vii) The fact that the site has been consulted on in the SAD Options and has become a Preferred Option for the Council in 2021 (GT33 p159) and remains in the Regulation 19 Publication Plan for submission to Examination.

2.2.6 It is submitted that the harms identified in this case are clearly outweighed by other considerations such as to amount to very special circumstances sufficient to justify inappropriate development in the Green Belt. As the application complies with the Development Plan then full planning permission limited to Gypsies and Travellers should be granted for the use of this site.

2.2.7 In the November 2021, Preferred Options Report, the Council state:

As detailed in Chapter 4, the strategy for new Gypsy, Traveller and Travelling Showperson provision is to meet the needs of existing families that meet Planning Policy for Travellers Sites (PPTS) planning definition, as identified by the GTAA 2021 by continuing to deliver privately owned sites/pitches. The evidence supports an approach therefore of looking to allocate existing temporary or unauthorised sites to permanent (subject to other planning considerations) and looking to intensify and extend existing sites, rather than allocating wholly new sites that may have been suggested by none travellers. It is currently not possible to test an alternative strategy of dispersing new pitch allocations more widely across the district due to a lack of site options.

Para. 5.9 The GTAA identified a need for 121 pitches over the plan period for those families that meet the planning definition of Gypsies and Travellers. Where possible, the Local Plan proposes to allocate pitches to meet our families 5-year need, as reflected in the GTAA 2021 and Pitch Deliverability Study 2021. Future pitch provision beyond the 5-year requirement (including Travelling Showperson needs) will come through the Development Management process with proposals considered against a criteria-based policy (see Chapter 6 - Policy HC8). Policy HC8 and any other relevant policies (e.g., DS1: Green Belt) will also be the mechanism

through the Development Management process for considering those families/individuals with an identified need but do not meet the planning definition of a Gypsy, Traveller or Travelling Snowperson. A need of 24 pitches over the plan period for those not meeting the planning definition was identified in the GTAA 2021. Para. 5.10 Proposed allocations are informed by the Council's Pitch Deliverability Study 2021 that identifies family need, engages with families to explore what options they have.

2.2.8 This site is occupied by an existing family that comes within the definition of Traveller in Annex 1 PPTS. They are plainly in need and form part of the need in both the GTAA as well as the SAD. The site itself has been found to be suitable by the Council and has hence been promoted for allocation in the SAD. This application compliments those findings and represents the best way to achieve a resolution of this matter.

2.2.9 Agent Conclusion:

As the application complies with the Development Plan, the Framework and PPTS - as well as being entirely consistent with the Council's Preferred Approach - then permanent planning permission subject to reasonable conditions should be granted on the facts of this case.

3. POLICY

3.1 Constraints

Newt - Impact Risk Zone Amber Name: AMBER ZONE:

Newt - Impact Risk Zone Green Name: GREEN ZONE:

SAC Zone- 13km Buffer Zone: 13km

3.2 Within the Green Belt

3.3 Adopted Core Strategy

Strategic Objectives:

Strategic Objective 1: To protect and maintain the Green Belt and Open Countryside in order to sustain the distinctive character of South Staffordshire.

Strategic Objective 3: To protect and improve South Staffordshire's environmental assets.

Strategic Objective 6: To ensure that all new development is sustainable, enabling people to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations.

Strategic Objective 8: To ensure the delivery of decent homes for members of the community including the provision of more affordable housing which matches in type, tenure and size the needs of the residents of South Staffordshire and to meet the needs of an ageing population.

Core Policies:

Core Policy 1 - The Spatial Strategy for South Staffordshire

Core Policy 6 - Housing Delivery

Core Policy 11 - Sustainable Transport

Development Policies:

GB1 - Development in the Green Belt

EQ1 - Protecting, Enhancing and Expanding Natural Assets

EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape
EQ11 - Wider Design Conditions
EQ12 - Landscaping
H6 - Gypsies, Travellers and Travelling Showpeople
EV11 - Sustainable Travel
EV12 - Parking Provision

3.4 Adopted Site Allocations Document - SAD 4 Gypsy and Traveller Pitch Provision.

3.5 Joint Strategic and Site Allocations Local Plan Review (including Gypsy & Traveller provision assessment and future allocations).

Issues & Options consultations were undertaken between 8th October 2018 and 30th November 2018. The Preferred Options consultation stage, commenced on the 1st November 2021 for a period of 6 weeks ending on 13 December 2021 (adjusted to account for Covid administrative impacts and consideration of the July 2021 revised NPPF), under the provisions of the revised 2020 Local Development Scheme programme. The application site is included as a Preferred Allocation site for 4 permanent pitches within the South Staffordshire Publication Plan, currently at consultation. Examination is anticipated in Summer 2023 and Adoption in Spring 2024.

3.6 Other Policy Considerations:

Planning Policy for Traveller Sites
National Planning Policy Framework
Designing Gypsy and Traveller Sites - A Good Practice Guide Communities and Local Government
Gypsy and Traveller Accommodation Assessments (GTAA's)

4. CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
8 December 2022	n/a

Brewood & Coven Parish Council

Received 21st November 2022

The Parish Council object to the removal of Conditions 1 and 2 on the grounds that to do so will render permanency to an inappropriate development in the Green Belt (as confirmed in the decision letter attached to 19/00800/VAR)

Local Plans Comments

Received 23.12.2022

Principle of Development

The proposal seeks to remove the occupancy condition (1) and time limit of the permission to make the permission permanent (2).

Turning first to the issue of making the permission permanent, the Planning Inspector of the appeal considered it appropriate to time limit the permission stating at paragraph 126:

126. I therefore take the view that, despite the provisions of paragraphs 16 and 27, the failure of the Council to demonstrate a five year supply of pitches, the likelihood of an immediate need for additional pitch provision, the personal circumstances of most of the extended family, the advantages of having relatives close

to hand to provide childcare support, PSED and Human Rights considerations and the absence of suitable alternative accommodation at which help could be provided all weigh substantially in favour of granting temporary planning permission for the appeal scheme. However, that view does not extend to the granting of permanent planning permission.

Importantly, the inspector went on to state at paragraph 127:

127. The future allocation by the development plan of alternative sites suitable for the Appellant and his family is unlikely to include land outside the Green Belt.

Nonetheless, there seems to be a distinct possibility that the eventual Examination process may well bring forward sites not currently listed in the SAD 'Preferred Options' document against which comparison with the appeal site will be necessary. Until that process is complete, a reasonable chance remains that sites less harmful to the Green Belt in terms of relative impact on openness and encroachment and less intrusive in terms of visual amenity (for example, sites with a sounder claim to PDL status) will be released in a few years time.

Although the site was not included in the SAD allocations, the Council has progressed the emerging Local Plan to regulation 19 consultation which closed on the 23rd of December 2022. The Publication Plan identified this site as an allocation for Gypsy and Travellers (site GT33) accepting the principle of changing the pitches from temporary to permanent.

Although the emerging Plan has not yet been through examination, it is a clear indication that the Council considers this site is suitable for allocation. Especially in light of the districts unmet need as described below. A GTAA was carried out in 2022 as part of the evidence gathering for the Local Plan Review. The Council is unable to meet its full 5-year requirement (72 pitches) for gypsy and traveller pitches in the emerging Local Plan but identified suitable sites in the Publication Plan consultation to allocate 37 pitches towards the 5 year identified needs of families.

The Council therefore cannot currently demonstrate a 5-year supply of traveller sites.

National Policy

The National Planning Policy Framework (NPPF) and Planning Policy for Traveller's Sites (PPTS) imposes a duty on Local Planning Authorities (LPA'S) to provide Gypsy and Traveller pitches and plots to meet evidenced need over a plan period. The above proposal however is within the West Midlands Green Belt.

While the National Planning Policy Framework is based upon a presumption in favour of sustainable development, it is clear from the framework that Green Belt Policy cannot be overridden by this presumption (see paragraph 11 and footnote 6). Likewise, the PPTS Paragraph 16 under Policy E further enhances this stance by stating that;

"Inappropriate development is harmful to the green belt and should not be approved, except in very special circumstances"

Paragraph 16 of the PPTS also comments that;

"Subject to the best interests of the child, personal circumstances, and unmet need are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."

Very Special Circumstances (VSC)

As previously covered, the PPTS Paragraph 16 under Policy E states that:

"Inappropriate development is harmful to the green belt and should not be approved, except in very special circumstances"

Paragraph 16 of the PPTS also comments that;

"Subject to the best interests of the child, personal circumstances, and unmet need are unlikely to outweigh harm to the Green Belt and any other harm so as to establish very special circumstances."

The proposal is located in the Green Belt and therefore Very Special Circumstances (VSC) will need to be demonstrated by the applicant.

Conclusion

In conclusion the case officer will need to balance the Green Belt harm with the very special circumstances case, including best interest of any children. If the case officer did consider that the proposal would be contrary to the adopted Development Plan, they would need to consider the allocation within the emerging Local Plan Review as a material consideration (in line with paragraph 48 of the NPPF) and if this and other benefits outweigh the conflict. Overall planning policy consider that the application to remove the time restriction is capable of being supported.

In terms of the removal of the occupancy condition (1), if the time restriction was removed from the permission, it would also be logical to also amend this condition. However, totally removing the condition would leave the site vulnerable to occupancy of those not meeting the definition of a gypsy or traveller. It is therefore recommended that the condition is amended to something like the below wording which has been used before:

Other conditions:

If the time restriction was removed it would also be prudent to consider how this would impact upon condition 6 (landscape) and if it is appropriate as currently worded.

Parish Council - (Comments received 23.11.2022), OBJECTS on the following grounds:

The removal of Conditions 1 and 2 on the grounds will render permanency to an inappropriate development in the Green Belt (as confirmed in the decision letter attached to 19/00800/VAR)

No neighbour Representations (Consultation period expired 08.12.2022).

Natural England

27th February 2023

DESIGNATED SITES (EUROPEAN) - NO OBJECTION SUBJECT TO SECURING APPROPRIATE MITIGATION

This advice relates to proposed developments that falls within the 'zone of influence' (ZOI) for the following European designated site(s), Cannock Chase Special Area Conservation (SAC). It is anticipated that new residential development within this ZOI is 'likely to have a significant effect', when considered either alone or in combination, upon the qualifying features of the European Site due to the risk of increased recreational pressure that could be caused by that development. On this basis the development will require an appropriate assessment.

Your authority has measures in place to manage these potential impacts in the form of a strategic solution Natural England has advised that this solution will (in our view) be reliable and effective in preventing adverse effects on the integrity of those European Site(s) falling within the ZOI from the recreational impacts associated with this residential development.

This advice should be taken as Natural England's formal representation on appropriate assessment given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Natural England advises that the specific measures (including financial contributions) identified in the strategic solution can prevent harmful effects from increased recreational pressure on those European Site within the ZOI.

Natural England is of the view that if these measures are implemented, they will be effective and sufficiently certain to prevent an adverse impact on the integrity of those European Site(s) within the ZOI for the duration of the proposed development.

The appropriate assessment concludes that the proposal will not result in adverse effects on the

integrity of any of the sites as highlighted above (in view of its conservation objectives) with regards to recreational disturbance, on the basis that the strategic solution will be implemented by way of mitigation.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects likely to occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions. If all mitigation measures are appropriately secured, we are satisfied that there will be no adverse impact on the sites from recreational pressure.

Natural England should continue to be consulted on all proposals where provision of site specific SANGS (Suitable Alternative Natural Green Space) or other bespoke mitigation for recreational impacts that falls outside of the strategic solution is included as part of the proposal. We would also strongly recommend that applicants proposing site specific infrastructure including SANGs seek pre application advice from Natural England through its Discretionary Advice Service. If your consultation is regarding bespoke site-specific mitigation, please reconsult Natural England putting 'Bespoke Mitigation' in the email header.

Reserved Matters applications, and in some cases the discharge/removal/variation of conditions, where the permission was granted prior to the introduction of the Strategic Solution, should also be subject to the requirements of the Habitats Regulations and our advice above applies.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

Councillor Wendy Sutton - Brewwood And Coven Ward

No Response Received

Councillor Joyce Bolton - Brewwood And Coven Ward

No Response Received

Councillor Diane Holmes - Brewwood And Coven Ward

No Response Received

No Contributor responses received

5. APPRAISAL

The application is referred to planning committee as it is not listed as an acceptable type of development within the Green Belt under Core Strategy Policy GB1: Development in the Green Belt.

1. **Policy & principle of development- Local Plan policy H6**
2. **Green Belt assessment**
3. **Visual Amenity / Impact on the Canal Conservation Area**
4. **Summary of Green Belt Impact**
5. **Case for very special circumstances**
6. **Ecology & biodiversity**
7. **Arboriculture**
8. **Other matters**
9. **Human Rights**

5.1 Policy & principle of development

5.1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made, in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan for South Staffordshire District comprises the Core Strategy (2012-2028) and the Site Allocations Document (2012-2028). The Council's emerging Local Plan (2018-2038) has undertaken the Regulation 19 stage. As such, whilst it has been the subject of public consultation, it is yet to be examined. Thus, the policies contained therein, carry some, albeit minimal material planning weight.

5.1.2 This application is to retain the 4 pitches meeting acknowledged gypsy and travellers needs in accordance with the proposed Local Plan Review Site Allocation (GT 33). The details of the layout are as approved under the condition details of the temporary planning permission granted at appeal in 2016. There would be no additional physical impact on the Green Belt, landscape character or the amenity of the area.

5.1.3 The Local Plan Review is now at an advanced stage and carries some weight in the decision-making process in accordance with the advice of para. 48 of the NPPF.

5.1.4 The existing temporary planning permission expires in December 2023, before the adoption of the new Local Plan.

5.1.5 In line with Central Government advice, the application must be considered in the context of relevant Development Plan and National Planning Policy. Core Strategy Policy H6 is the relevant adopted Local Plan Policy that sets out a series of criteria against which proposals for new/extensions to existing gypsy sites should be assessed. The criteria can be summarised as follows:

- i. The applicants must meet the definition of gypsy and travellers;
- ii. Essential utility services are available to serve the site;
- iii. Site is designed to protect the amenities of proposed occupiers/ amenities of neighbouring properties;
- iv. Transit sites should have good access to highway network (NA);
- v. Sites for Travelling Show people should be large enough to accommodate ancillary yards for business use providing there is no adverse impact on residential amenity (NA);
- vi. The site can be adequately and safely accessed by vehicles towing caravans, is well related to the established local highway network and adequate space within the site to accommodate vehicle parking, turning space and to accommodate the occupants of the site;
- vii. The development is of an appropriate scale so as to not put unacceptable strain on infrastructure or dominate the nearest settled communities and avoid problems of community safety arising from poor social cohesion;
- viii. Should be suitably landscaped to limit impact on landscape character of the area;
- ix. In the Green Belt proposals should not be demonstrably harmful to openness;
- x. Should not be located in areas at high risk of flooding.

5.1.6 The proposal satisfies the site selection criteria set out in adopted Core Strategy Policy H6. The applicants have gypsy and traveller status; satisfactory services and adequate access are available. The site is well screened by established landscape features and is sustainably located; the proposed density and layout would not compromise neighbour amenities; and the site is not subject to flood risk.

5.2 Green Belt assessment

5.2.1 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of the Green Belt are their openness and their permanence.

5.2.2 The proposal intends to make the existing development on site permanent. Consequently, as found in

the original submission, because there was limited development at the site previously and the site would permanently have pitches on it, I attach "moderate weight" to the conflict with one of the 5 main purposes of including land in the Green Belt.

5.2.3 Openness is the most important attribute of Green Belts and any proposal should be assessed with reference to its nature, scale, bulk and site coverage.

5.2.4 Policy H6 requires development proposals to not cause "demonstrable harm to openness". The proposal would cause some material harm to openness given the sites location. Whilst there is a small amount of residential development opposite the site [west], immediately to the north, east, and south lies open fields.

5.3 Visual Amenity / Impact on the Canal Conservation Area

5.3.1 Policy EQ3 seeks to protect the District's conservation area resources for the benefit of future generations. The application site is partially screened by existing hedgerow and tree planting along the western boundary which provides the only public views of the site from Shaw Hall Lane. Concerning the views from the canal tow path, any partial views are limited by the dense hedgerow that runs along the canal boundary. The visual impact of the development could be further reduced through additional landscaping along the eastern boundary which is proposed to secure by a 1.5m post & rail timber fence. It is therefore not considered that the proposal would cause any additional harm to the visual amenities of the Green Belt or on the Canal Conservation Area subject to additional planting on the eastern boundary.

5.4 Summary of Green Belt Impact

5.4.1 To conclude, the proposed development would result in a reduction of openness but due to the screening at the site along with the limited numbers of pitches and associated development the harm would not be demonstrable. Consequently, there would be a degree of conflict with the eighth criterion of H6. When assessing the overall Green Belt impact, in the balancing exercise required to determine this application, "moderate weight" should therefore be attached to the reduction in openness, and "some weight" to the conflict with one of the five main purposes of including land in the Green Belt (encroachment), to add to the "significant weight" attributed to the harm caused by reason of the developments inappropriateness. In accordance with the requirements of the NPPF, the proposal cannot be approved unless there are very special circumstances that clearly outweigh the above mentioned harm.

5.5 Case for very special circumstances

5.5.1 The pitches provide a settled base for the applicant's extended family with convenient access to schools, health services and a range of services and amenities. It would also provide convenient access to the strategic highways network for work travel convenience.

5.5.2 There is an acknowledged significant shortfall in the 5-year provision of Gypsy & Traveller pitches in South Staffordshire. The most recent independent assessment, the 2021 GTAA published in August 2021, demonstrates a need for an additional 121 pitches for households meeting the definition of gypsies and travellers for the period 2021-2038. 72 of these pitches need to be delivered in the first 5-year period 2021-2025. The proposed Publication Plan makes provision for the allocation of 37 pitches. This is a significant shortfall that must be given substantial weight in the planning balance of the determination of applications and appeals. Each application should be considered on its merits under the provisions of adopted criteria-based policy H6 and relevant policies and proposals of the emerging Local Plan.

5.5.3 This application performs well against each criterion test of Policy H6, and is a proposed allocation in the Local Plan Review, now at an advanced stage.

5.5.4 There are no alternative, suitably located sites available that could meet the needs of the applicants extended family.

5.5.5 The proposed development will assist by reducing shortfall by the provision of 4 additional permanent pitches in a location with relatively low Green Belt and landscape impacts and with good sustainability and accessibility credentials.

5.5.6 Given the acute, acknowledged shortfall in the supply of pitches demonstrated by the independent evidence base of the GTAA 2021, the lack of alternative available sites, the acknowledged Gypsy and Traveller status of the residents, the assimilated nature of the site, planning history and its proposed allocation at an advanced stage towards adoption; it is appropriate to grant permission for the 4 existing pitches to become permanent and none personal to assist in meeting the shortfall in supply in the District in accordance with prevailing Central Government and Local Plan Strategy and Guidance.

5.5.7 Conditions are required to ensure that the site is maintained in accordance with the layout, access, boundary and landscape details previously approved under the terms of the appeal decision.

5.6 Ecology & Biodiversity

Protected Species

5.6.1 The Wildlife and Countryside Act (as amended) 1981 covers the protection of a wide range of protected species and habitats and provides the legislative framework for the designation of Sites of Special Scientific Interest (SSSIs). The Conservation (Natural Habitats, &c.) Regulations 1994 implement two pieces of European law and provide for the designation and protection of 'Special Protection Areas' (SPAs) and 'Special Areas of Conservation' (SACs), together with the designation of 'European Protected Species', which include bats and great crested newts. The Countryside and Rights of Way (CROW) Act 2000 compels all government departments to have regard for biodiversity when carrying out their functions. Finally, The Protection of Badgers Act 1992 consolidated existing legislation on the protection of badgers. This legislation is intended to prevent the persecution of badgers. The act protects both individual badgers and their setts.

Biodiversity

5.6.2 To comply with the guidance contained within Paragraphs 9, 108 and 118 of the NPPF and the Council's biodiversity duty as defined under section 40 of the NERC Act 2006, new development must demonstrate that it will not result in the loss of any biodiversity value of the site.

5.6.3 Due to the Local Planning Authorities obligation to "reflect and where appropriate promote relevant internal obligations and statutory requirements" (Paragraph 2 of NPPF) and the requirement, under paragraph 174 of the NPPF, for planning decisions to minimise impacts on and provide net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures (along with emerging advice within the Draft Environment (Principles and Governance) Bill 2018); the applicant must display a net gain to biodiversity value, through development, as per the requirements of the EU Biodiversity Strategy 2020. Furthermore, Paragraph 180 of the NPPF, requires that "opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity".

Impact on Special Areas of Conservation

5.6.4 Paragraph 182 of the NPPF advises that "The presumption in favour of sustainable development does

not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site”.

Recreation

5.6.5 The agreed strategy for the Cannock Chase SAC is set out in Policy EQ2 of the Core Strategy, which requires that before development is permitted, it must be demonstrated that in itself, or in combination with other development, it will not have an adverse effect, whether direct or indirect, upon the integrity of the Cannock Chase SAC, having regard to avoidance or mitigation measures. In particular, dwellings within a 15km radius of any boundary of Cannock Chase SAC, will be deemed to have an adverse impact on the SAC, unless or until satisfactory avoidance and/or mitigation measures have been secured. The agreed upon mitigation measures to enable residential development within the Zone of Influence (Zol), are detailed within the Strategic Access Management and Monitoring Measures (SAMMMs) document.

5.6.6 Under the provisions of the Conservation of Habitats and Species Regulations 2017, the Local Planning Authority as the Competent Authority, must have further consideration, beyond the above planning policy matters, to the impact of this development, in this case, due to the relative proximity, on the Cannock Chase SAC

5.6.7 Natural England are a statutory consultee on the AA stage of the Habitats Regulations process and have therefore been duly consulted. Natural England have concurred with the LPA's AA. A signed UU has been submitted to the legal team. On this basis, it is concluded that the LPA have met its requirements as the Competent Authority, as required by the Regulations and therefore the proposal will comply with the requirements of the Development Plan and the NPPF in this regard.

5.6.8 There are no other issues in relation to biodiversity.

5.7. Arboriculture

5.7.1 Paragraph 175 of the NPPF advises that permission should be refused for development resulting in the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Strategic Objective 3 and 4 seek to protect, conserve and enhance the District's natural environment, whilst Policy EQ4 states that “The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved”

5.7.2 There are no arboricultural issues.

6. Human Rights

6.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

7. CONCLUSIONS

7.1 The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the application.

7.2 The site falls within the West Midlands Green Belt wherein there is a strong policy presumption against inappropriate development. It is acknowledged that the proposed development represents inappropriate development and it is therefore essential to assess if the factors which weigh in favour of the application override the harm to the Green Belt by reason of inappropriateness combined with any other identified harm.

7.3 The proposal is in accordance with Core Strategy Policy H6 and is proposed for allocation within the proposed Site Allocations Document (Site GT33).

7.4 The proposal will assist in meeting the delivery aims of the Development Plan and is in accordance with NPPF and PPTS policy and guidance for Gypsy and Traveller development. It is considered that very special circumstances exist that would clearly outweigh the harm to Green Belt by reason of inappropriateness.

8. RECOMMENDATION - APPROVE Subject to Conditions and completion of Unilateral Undertaking for Cannock Chase SAC

1. The site shall not be occupied by persons other than gypsies and travellers as defined in Annex 1 Glossary of the National Planning Policy for Traveller Sites (as amended) (or its equivalent in replacement national policy).
2. The site shall contain no more than four pitches. There shall be no more than eight caravans on the site at any one time, all of which shall be caravans as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended. Of these, no more than four shall be static mobile homes, of which only one may be a double caravan, with the remainder all single caravans.
3. The site shall be maintained in accordance with the approved Site Development Scheme under Condition 5 of planning permission granted at appeal under reference APP/C3430/W/15/3140299 (application number 15/00746/FUL) If any tree or shrub included in the planting that forms part of the landscape scheme approved under appeal decision) is removed or destroyed, becomes seriously diseased or dies within the life of the permission, another tree or shrub shall be planted at the same place and shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
4. The day room shall not be occupied as a self-contained unit of residential accommodation at any time.
5. No more than one commercial vehicle per occupied pitch, which shall be solely for the use of the residential occupiers of the site and shall be less than 3.5 tonnes in weight, shall be stationed, parked or stored on this site. Other than vehicle parking as described, no commercial use shall take place at any time, including the external storage of materials.
6. The gate(s) at the site entrance shall be maintained at a distance set back at least 8 metres from the edge of the vehicular carriageway of Shaw Hall Lane and shall open away from the highway

Reasons

1. The proposal represents Inappropriate development in the Green Belt and the development has been justified on the basis that its occupation by gypsies and travellers represents very special circumstances to outweigh the harm to the Green Belt under Policy GB 1 of the adopted Core Strategy and Chapter 13 of the NPPF.
2. The proposal represents Inappropriate development in the Green Belt and the development has been justified on the basis that its occupation by gypsies and travellers represents very special circumstances to outweigh the harm to the Green Belt under Policy GB 1 of the adopted Core Strategy and Chapter 13 of the NPPF.
3. To safeguard the amenity of the area in accordance with policies EQ4 and EQ11 of the adopted Core Strategy.
4. In order to define the permission, avoid doubt and to comply with Green Belt Policy.
5. In the interests of highway safety and to safeguard the amenity of the area in accordance with policy EQ4 of the adopted Core Strategy.
6. In the interests of highway safety.

Proactive Statement

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner based on seeking solutions to problems in relation to dealing with the planning application, in accordance with paragraph 38 of the National Planning Policy Framework, 2021.



Fair Haven, Shaw Hall Lane, Coven Heath, Staffordshire WV10 7HE

23/00024/FUL
NON MAJOR

Mr B Saunders

BREWOOD & COVEN
Councillor W Sutton
Councillor J Bolton
Councillor D Holmes

Tree Tops School Lane Coven Staffordshire WV9 5AN

The proposals seek planning permission for the erection of a 3 bedroom bungalow style dwelling. The proposed dwelling would include an access that links to the existing entrance to Tree Tops (to form a shared entrance driveway).

Pre-commencement conditions required: N/A	Pre-commencement conditions Agreed: N/A	Agreed Extension of Time until 28/04/2023
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SITE DESCRIPTION AND APPLICATION DETAILS

1.1 Site Description

1.1.1 The application relates to a detached bungalow with a large garden and vehicle access that fronts onto School Lane. The application proposes to sub-divide the plot and erect a new dwelling in between two detached residential dwellings. Agricultural fields are located to the north beyond School Lane. Located south of the site are the village playing fields which adjoins Coven's development boundary.

1.2 The Proposal

1.2.1 The application proposes the erection of a pitched roof three bed bungalow. A shared access and drive would be formed with Tree Tops (the host property) onto School Lane. The existing trees are to be retained and new hedgerows planted within the site.

1.2.2 The property would have an internal floor area of 113sqm and there would be a side canopy to provide covered parking for one vehicle. There would also be the provision of two car parking spaces on the drive.

1.2.3 The two double bedrooms and the one single bedroom are compliant with national space standards.

1.2.4 The proposal would have a private amenity area of around 178sqm with a minimum garden depth of 12m.

1.2.5 The proposed materials are provided on the plan; the bricks and roof tiles would be

- Marley Ashmore small plain effect tiles colour smooth grey; and
- Ibstock Birtley Olde English Brickwork

1.2.6 An illustrative street scene drawing is provided on the proposed site plan (404A).

1.3 Agents Submission

1.3.1 The following documents have been submitted:

- Design and Access Statement

- Arboricultural Assessment
- Ecology Report
- Draft UU Agreement for Cannock Chase SAC mitigation

1.3.2 Date of site visit - 25 January 2023

2. SITE HISTORY

Planning Applications

21/00923/OUT Proposed demolition of Tree Tops. Construction of two detached dwellings. **Refuse** 18th October 2021

22/00588/FUL The proposals seek planning permission for the demolition of the existing dwelling Tree Tops and the erection of 3 no. modestly sized bungalows within the overall application site that still retained The Bungalow as a separate plot of land. The proposed scheme would utilize the existing vehicle accessways but would seek to layout a public pavement round the site's frontage along the sweep of School Lane. Adjacent to each proposed bungalow would be a single bay timber framed car port. **Withdrawn** 6th September 2022

22/01059/FUL Proposed front extension, rear/side extension, as well as roof height and style modifications with rear-facing dormer. **Approve Subject to Conditions** 23rd December 2022

22/01061/LUP Proposed new porch, new side extensions, and new rear extensions all of which designed to comply with permitted development criteria. Proposed detached garage also designed to comply with permitted development rights. **Approve** 23rd December 2022

3. POLICY

Constraints

Green Belt

Newt - Green Impact Risk Zone

C Class Road C0259

Cannock Chase SAC - 13km Buffer Zone

Policies

National Planning Policy Framework

National Planning Practice Guidance

Core Strategy

Core Policy 1: The Spatial Strategy

Policy GB1: Development within the Green Belt

Core Policy 2: Protecting and Enhancing the Natural and Historic Environment

Policy EQ2: Cannock Chase Special Area of Conservation

Policy EQ4: Protecting, Expanding and Enhancing the Character and Appearance of the Landscape

Core Policy 3: Sustainable Development and Climate Change

Policy EQ9: Protecting Residential Amenity

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Policy EQ12: Landscaping

Core Policy 9: Rural Diversification

Policy EV6: Re-Use of Redundant Rural Buildings

Core Policy 11: Sustainable Transport

Policy EV11: Sustainable Travel

Policy EV12: Parking Provision

- Appendix 5 Parking Standards
- Appendix 6 Space About Dwellings Standards

Supplementary Planning Documents

Green Belt and Open Countryside SPD
Design Guide

4. CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
15 February 2023	N/A

Brewood & Coven Parish Council

14th February 2023

The Parish Council object as it is a ribbon development on green belt.

Councillor Wendy Sutton - Brewood And Coven Ward

23rd March

Request for planning meeting

The suggestion that the application is outside of the village curtilage is disputed. The site is within the Green Belt and the proposed development is not inappropriate development.

Councillor Joyce Bolton - Brewood And Coven Ward

No Response Received

Councillor Diane Holmes - Brewood And Coven Ward

No Response Received

Senior Ecologist - South Staffordshire

25th January 2023

23 00024 FUL - Ecology Consultation Response.pdf

Summary of Consultee Position: No objection, subject to conditions.

Introduction

Thank you for consulting me on this application. I have reviewed the following planning application documentation for the above application:

- Location plan, existing site plan, consented site plan, proposed site plan & proposed dwelling
- Design and access statement
- Ecology report (Greenspace Environmental Ltd)
- Tree survey (Salopian Consultancy)

I undertook a drive-past of the site on 24th January 2023, and I have also viewed aerial photographs, data available on DEFRA's MAGIC map, and biological records from Staffordshire Ecological Record.

Assessment of Submitted Documents and Plans

I note that the submitted ecological report was compiled for a scheme for the construction of bungalows on the western extent of the site as indicated at Section 5 (Page 12) of the PEA report and Figure 5 (Page 4) of the Design and Access Statement.

The PEA report also does not include a habitat plan which should be included as good practice (in accordance with CIEEM guidelines), and photographs in the report appear to largely focus on the wider ownership boundary to the west rather than the application site itself; though the red line boundary on plans within the PEA report does encompass the site.

After viewing the site from the public road, I am satisfied that the habitats on site are of limited ecological importance and that the detail within the ecological report, though for a different application within the same site, still contains valid recommendations.

Designated Wildlife Sites

SSDC Cannock Chase SAC Guidance 1st April 2022 ([sstaffs.gov.uk](https://staffs.gov.uk)) states that the 'in combination' impact of proposals involving a net increase of one or more dwellings within a 15 kilometre radius of the SAC would have an adverse effect on its integrity unless avoidance and mitigation measures are in place. This proposal therefore clearly qualifies as a net increase of one dwelling within the 15km zone of influence.

A draft Appropriate Assessment has been completed by South Staffordshire Council as the Competent Authority, and Natural England have accordingly been consulted on this. Providing that Natural England agree with the Appropriate Assessment, and that the fee of £290.58 (index linked) is paid in accordance with a Unilateral Undertaking, I am satisfied that the proposal would have no adverse effect on site integrity in relation to Cannock Chase SAC.

Section 6.1.2 of the submitted ecology report discusses potential dust impacts to Somerford Wood SBI and potential runoff impacts to Saredon Brook which are both c.250m north of the site. In accordance with IAQM guidelines, dust impacts to ecological receptors only need to be considered within 50m of the site and within 50m of routes used by construction traffic up to 500m from the site entrance. The SBI falls outside of both ranges, with no main road adjacent to the SBI in respect of the latter criteria, and I do not consider it likely that significant dust impacts will occur to the SBI because of the proposal. Furthermore, the ecology report recommends silt barriers to be installed to mitigate polluted runoff to Saredon Brook. Given the intervening distance and habitats between the site and Saredon Brook, I do not consider this measure to be necessary either in relation to mitigating adverse effects to important ecological features.

Please note that the requirement for mitigation measures for dust and polluted runoff should still be considered as part of construction best practice, however given the type and scale of the proposal as well as the distance of the site from the SBI I do not think it is reasonable or proportionate to secure these measures via condition in relation to potential impacts to the SBI.

Habitats

The current proposals would increase built development and hardstanding. This clearly represents a small net loss to biodiversity, contrary to NPPF 174 and 180. Given the scale of the scheme this can be achieved through planting of native species (or those demonstrably beneficial to pollinators) within soft landscaping as part of the proposal. I therefore recommend that a landscaping scheme is secured via condition to ensure a net gain is achieved on site.

Protected Species

The site is located within the green zone for great crested newt (GCN); and I am satisfied on this basis, and on the basis of information provided by the applicant's ecologist that the proposal will not result in impacts to GCN.

I am also satisfied that the proposal will not result in adverse effects to other protected species.

The proposal provides opportunity to incorporate small-scale species enhancements such as bat boxes, bird boxes, hedgehog shelters etc. I have therefore recommended a planning condition for an ecological enhancement plan in my recommendations below.

Recommendations

Should you be minded to approve the application, I recommend the following conditions and informative notes be adhered to any decision notice:

Conditions

1. No construction above slab-level will take place until an Ecological Enhancement Plan (EEP) has been submitted to and approved in writing by the Local Planning Authority. The EEP must include details of enhancements appropriate to the scale and nature of the development, such as integrated bat and bird boxes, hedgehog highways and shelters, invertebrate houses etc. The EEP must also contain information on the number and type of enhancements to be included, suitable models, detail on their appropriate siting, and any necessary future maintenance measures. The enhancements detailed within the approved Ecological Enhancement Plan will be installed prior to the first occupation of the dwelling and will be retained for the life of the development.

Reason: In order to deliver biodiversity enhancements as part of the development, in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.

2. Prior to the commencement of development, full details of the erection and operation of any proposed external lighting, including full details of the means of illumination and design of the lighting systems, shall be submitted to and approved in writing by the Local Planning Authority. The means of external lighting shall thereafter be implemented and installed, prior to the first occupation of the building, in accordance with the approved details and shall not thereafter be amended or altered without the prior written approval on application to the Local Planning Authority.

Reason: In order to prevent harm to protected species in accordance with Policy EQ1 of the adopted Core Strategy.

3. Prior to development a detailed landscape and management plan must be submitted to and approved in writing by the local planning authority. The Plan must include details of species to be planted and maintenance of all new planting for at least a five-year period. The approved plan shall be implemented concurrently with the development and completed within 12 months of the completion of the development.

Reason: In order to deliver biodiversity enhancements as part of the development, in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.

Informative Notes:

Any vegetation suitable for nesting birds must either be removed outside of the nesting bird season (generally this is considered to be March-August inclusive) or it must be checked by an ecologist no more than 24 hours prior to removal.

Should protected species be found (or be suspected to be present) at any time during site clearance or construction, works must cease immediately and Natural England and/or a suitably qualified professional ecologist must be contacted for advice.

Policy and Legislative context in relation to this application

The National Planning Policy Framework (2021) s.174 states: "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures"

NPPF s.180 states that "When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused..."

South Staffordshire Council adopted Local Plan Core Strategy policy EQ1: Protecting, Enhancing and Expanding Natural Assets states that permission will be granted for development that would not cause significant harm to species that are protected or under threat and that wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme.

The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended); along with the Protection of Badgers Act 1992, provide the main legislative framework for protection of species. In addition to planning policy requirements, the LPA needs to be assured that this legislation will not be contravened due to planning consent. In addition to these provisions, section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Section 41 refers to a list of habitats and species of principal importance to which this duty applies.

Natural England Standing Advice which has the same status as a statutory planning response states that survey reports and mitigation plans are required for development projects that could affect protected species, as part of obtaining planning permission.

Note on Biodiversity Net Gain

Please note that under the Environment Act 2021, all planning permissions granted in England, with a few exemptions, will have to deliver 10% biodiversity net gain (BNG) from November 2023. BNG will be measured using DEFRA's biodiversity metric and management of habitats will need to be secured for at least 30 years. Prolonged delays to the submission of technical details for this site may therefore require further information to be provided on net gain to deliver the mandatory 10% BNG. Prior to November 2023, the development will only be required to deliver a net gain in accordance with Paragraph 174(d) of the NPPF.

Arboricultural Officer Consultation

7th February 2023

Having reviewed the application and supporting information I can confirm that I have no objection to the proposed development.

There are three trees within the developments potential zone of influence but, assuming that tree protection measures specified in the Salopian Consultancy appraisal are implemented, I have no reason to believe that undue harm will be caused to them.

The location of the trees is such that they are unlikely to form a constraint to development and as a result the potential for incidental damage is low.

I recommend the inclusion of the following condition with any consent issued:

Tree Protection

All tree protection measures within the approved Tree Protection Plan (Salopian Consultancy ref. Plan 2) and associated Arboricultural Appraisal shall be implemented before any construction related activity commences on site. Once implemented all such measures shall be maintained throughout development unless agreed in writing with the Local Planning Authority.

Any trees that are damaged or lost during a two year period, starting from the date of commencement, due to a failure of required tree protection measures shall be replaced. The species, size, nursery stock type and location of such replacements to be specified by the local planning authority.

County Highways

17th February 2023

Recommendation Summary: Conditional

Site Visit Conducted on: 16-Feb-2023

1. The development hereby permitted shall not be brought into use until the access drive, parking and turning areas have been provided in accordance with the approved plans.
2. The development hereby permitted shall not be brought into use until the visibility splays indicated on drawing No. 22/12560/404 A have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.
3. The garage indicated on the approved drawings shall be retained for the parking of motor vehicles and cycles. It shall at no time be converted to residential use without the express permission of the Local Planning Authority.

Reasons.

1 - 3. In the interest of highway safety.

To comply with the principles set out in the National Planning Policy Framework.

Informative for Decision Notice.

No part of the hedge shall project forward of the highway boundary and identified visibility splay.

Notes to Planning Officer.

- i). The proposed development is located on the outskirts of the village. The vehicular access is existing and visibility will be improved.
- ii). This Form X supersedes previous recommendation of refusal dated 3rd February 2023.

Severn Trent Water Ltd

10th February 2023

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

NOTE: we would not permit a surface water discharge into the public foul sewer, and recommend the applicant seeks alternative arrangements

IMPORTANT NOTE: This response only relates to the public waste water network and does not include representation from other areas of Severn Trent Water, such as the provision of water supply or the protection of drinking water quality.

Natural England

8th of February 2023

No objections subject to mitigation being secured for impact on the Cannock Chase SAC.

Contributors

Four letters received in support of the proposal:

- Bungalows welcome / contribute to need
- Visual improvement of the site.

5. APPRAISAL

The application has been called into Planning Committee at the request of Councillor Sutton who considers the proposals may represent limited infilling in a village in accordance with Paragraph 149 of the NPPF.

1. **Policy & principle of development**
2. **Layout, design & appearance**
3. **Access, parking & highway safety**
4. **Residential Amenity**
5. **Ecology & biodiversity**
6. **Arboriculture**
7. **Human Rights**

5.1 Policy & principle of development

5.1.1 Paragraph 11 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and that housing policies within the Local Plan should only be considered up to date if the Local Planning Authority is able to demonstrate a five-year supply of housing.

5.1.2 Paragraph 74 of the NPPF requires that Councils identify and update annually, a supply of specific deliverable sites sufficient to provide five years delivery of housing provision. In addition, a buffer of 5% (moved forward from later in the plan period) should also be supplied, to ensure choice and competition in the market for land, or 10% where the LPA wishes to demonstrate a 5 year supply of sites through an annual position statement, to account for fluctuations in the market during the year. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

5.1.3 The latest five-year housing land supply position for South Staffordshire District is contained within the Housing Monitoring and Five Year Housing Land Supply [2021-2022] document, which states that a supply of 5.94 years can be demonstrated within the District. Given that the Council can demonstrate a 5 year housing supply, it falls for this scheme to be considered, in accordance with paragraphs 12 and 47 of the NPPF, against the Policies contained within the Council's Development Plan, which for this area, is as stated above.

5.1.4 South Staffordshire Core Strategy Core Policy 1 states that, 'Throughout the district, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy... the Green Belt will be protected from inappropriate development and proposals will be considered in light of other local planning policies and the policy restrictions relating to Green Belt in the NPPF'.

5.1.5 The National Planning Policy Framework (NPPF) states that, 'inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'. The NPPF establishes that the construction of new buildings should be regarded as inappropriate. However, paragraphs 149 and 150 of the Framework identify exceptions to this, which include at paragraph 149 e), limited infilling in villages.

5.1.6 Core Strategy Policy GB1 d) also allows limited infilling as an exception. Footnote to Policy GB1 provides a definition of limited infilling as 'the filling of small gaps (1 or 2 buildings) within a built up frontage of development which would not exceed the height of the existing buildings, not lead to a major increase in the developed portion of the site, or have a greater impact on the openness of the Green Belt and the purpose of including land within in it.'

5.1.7 The proposed dwelling would fill a gap between two dwellings which is considered a built-up frontage. Subject to its impact on openness with regard to height, positioning and scale it would meet the criteria under Policy GB1 A) limited infilling. The proposal would not extend beyond the farthest rear building line and scale and design reflects that of the existing properties. Whilst the host property, Tree Tops is currently a flat roofed structure, planning permission and certificate of lawfulness have been obtained to add extensions and a pitched roof. Bearing these factors in mind I am satisfied that the proposal would comply with Policy GB1 A.

5.1.8 The first paragraph of Policy GB1 states that proposals which meet this criterion would normally be permitted if also acceptable within the terms of national planning policy set out in the NPPF. The relevant paragraph within the NPPF is paragraph 149 e), limited infilling in villages. There is no definition of infill within the NPPF and so the proposals are acceptable in this regard as it meets the Policy GB1 definition. The NPPF refers to infill in 'villages' whereas Policy GB1 does not. There is no definition of the word village in the NPPF, but case law has established it to be broader than would typically be defined as a village. The interpretation of 'village' in the context of NPPF paragraph 149 e) in appeal decisions is usually defined as 'within the boundaries of a recognised settlement'.

5.1.9 Whilst the application site could be considered with a ribbon of development, albeit a weak one comprising 3 dwellings, it would not be within a recognisable settlement. The village of Coven to the south is separated from the site by the playing fields and there is no footpath between the site and the village which adds to the separation. The site is therefore not in a village and therefore the proposals here do not fall under any of the exceptions within paragraph 149 of the NPPF.

5.1.10 The proposals are therefore inappropriate development and no special circumstances have been put forward by the applicant. In accordance with the NPPF paragraph 148, the harm caused to the green belt by way of inappropriateness is given substantial weight and that substantial harm is not clearly outweighed by other considerations. The proposal is therefore contrary to NPPF green belt policy and consequently fails Core Strategy Policy GB1 in that regard as that policy requires proposals to be 'acceptable within the terms of national planning policy set out in the NPPF.'

5.1.11 With regard to delivering housing in the most sustainable locations, Core Strategy Core Policy 1 states that 'Throughout the district, growth will be located at the most accessible and sustainable locations in accordance with the Settlement Hierarchy'. The application site is not within the Settlement Hierarchy as it is not in a settlement and the site is not accessible with regard to pedestrian access. The proposal is therefore contrary to Policy CP1 in this regard. Policy CP1 also reflects Policy GB1 with regard to protecting the green

belt and as detailed above the proposal is contrary to policy GB1 and therefore also policy CP1 which seeks to protect the green belt from inappropriate development.

5.1.12 In conclusion, the proposal is contrary to Core Strategy Policies CP1 and GB1, and NPPF Green Belt Policy and is therefore unacceptable in principle.

5.2 Layout, Design and Appearance

5.2.1 Policy EQ11 of the Core Strategy requires that in terms of scale, volume, massing and materials, developments should contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area. Furthermore, this policy provides that new development should respect existing plot patterns, building lines and street layout.

5.2.2 The South Staffordshire Design Guide confirms that new development should aim to continue the established pattern, without creating a sharp or sudden change in height of building scale. These policies are consistent with the National Planning Policy Framework (NPPF) which states that the creation of high-quality buildings and places is fundamental with good design being acknowledged as a key aspect of sustainable development. The NPPF continues that development should function well and add to the overall quality of the area, be visually attractive and be sympathetic to local character whilst providing high standards of amenity for existing and future occupiers.

5.2.3 The building line has been staggered between the two dwelling and its appearance will be of a similar design. An illustrative street scene drawing has been provided which shows its appropriateness. The use of materials reflects those of the surrounding properties and there is adequate room at the side of the dwelling to enable access to the rear garden area for bins etc. There are therefore no concerns over its appearance or position. The proposed planting will help soften the proposal and an adequate amount of rear amenity space is to be provided. The proposal is compliant with policy EQ11 and the design principles set out in the Design Guide.

5.3 Access, Parking & Highway Safety

5.3.1 Policy EV12 and Appendix 5 of the Local Plan sets out the Council's parking requirements for new developments. For two and three bed dwellings the requirement is for two off road parking spaces.

5.3.2 The application proposes three parking spaces which exceeds the Council's standards. The County Highways Team have expressed no concerns over safety and are happy with the proposed access and shared drive provision. Subject to the imposition of a condition to retain the visibility splays as shown, there are no highway objections.

5.4 Residential Amenity

5.4.1 New development should avoid harming the amenity of neighbouring properties and should not have any adverse impacts with loss of privacy, loss of light or overlooking to neighbouring properties, as set out in Policy EQ9 of the Core Strategy.

5.4.2 The Council's space about dwelling standards advises 21m between directly facing habitable windows over private space and 15m over public space to retain an adequate level of privacy for occupants. For habitable windows facing flank side walls it proposes a separation distance of 13m. The proposed dwelling complies with these standards.

5.4.3 The proposed dwelling would cause no undue harm on neighbouring amenity. There is no significant

increase proposed to the height of the dwelling in comparison to its neighbour's, and its layout has been carefully considered.

5.4.4 To the Bungalow (north) there would be a separation distance of 5.7m and the rear part of the proposal will be further set in from the boundary. This will ensure that the proposal will not have a material impact with regards to a loss of light to any habitable windows.

5.4.5 Turning to the host property, Tree Tops, there will be a separation gap of 3.4m and the proposal would marginally protrude 1.2m past the front building line. At the rear the proposal would extend past part of the dwelling by around 4m however given the separation gap, this raises no concern.

5.4.6 Turning to the living standards of the future occupier, the proposal complies with national space about dwelling standards and the Council Local Standards for private amenity area and outlook.

5.4.7 To conclude there is no conflict with policy EQ9.

5.5 Ecology & Biodiversity

Protected Species

5.5.1 The Wildlife and Countryside Act (as amended) 1981 covers the protection of a wide range of protected species and habitats and provides the legislative framework for the designation of Sites of Special Scientific Interest (SSSIs). To comply with the guidance contained within Paragraphs 9, 108 and 118 of the NPPF and the Council's biodiversity duty as defined under section 40 of the NERC Act 2006, new development must demonstrate that it will not result in the loss of any biodiversity value of the site.

5.5.2 Policy EQ1 of the Local Plan provides that developments should not cause significant harm to habitats of nature conservation, including woodlands and hedgerows, together with species that are protected or under threat. Support will be given to proposals which enhance and increase the number of sites and habitats of nature conservation value, and to meeting the objectives of the Staffordshire Biodiversity Action Plan. These principles are echoed and supported through the Sustainable Developments SPD 2018.

5.5.3 The current proposals would increase built development and hardstanding. This clearly represents a small net loss to biodiversity, contrary to NPPF 174 and 180. Given the scale of the scheme, the Councils Ecologist considers that this can be achieved through planting of native species (or those demonstrably beneficial to pollinators) within soft landscaping as part of the proposal. A landscape scheme has therefore been recommended.

5.5.4 The site is located within the green zone for great crested newt (GCN) and the Councils Ecologist is satisfied on the basis of information provided by the applicant's ecologist that the proposal will not result in impacts to GCN. There are also no concerns expressed to other protected species. Conditions are recommended to incorporate small-scale species enhancements such as bat boxes, bird boxes, hedgehog shelters etc.

5.5.5 Subject to the imposition of suitable conditions, the proposal is compliant with Policy EQ1 of the Local Plan.

Impact on Special Areas of Conservation

5.5.6 SDC Cannock Chase SAC Guidance 1st April 2022 ([sstaffs.gov.uk](https://staffs.gov.uk)) states that the 'in combination' impact of proposals involving a net increase of one or more dwellings within a 15 kilometre radius of the SAC would have an adverse effect on its integrity unless avoidance and mitigation measures are in place. This proposal

therefore clearly qualifies as a net increase of one dwelling within the 15km zone of influence. A draft Appropriate Assessment has been completed by South Staffordshire Council as the Competent Authority, and Natural England concur with this. Subject to the completion of Unilateral Undertaking for the mitigation payment, I am satisfied that the proposal would have no adverse effect on site integrity in relation to Cannock Chase SAC.

5.5.7 On this basis, it is concluded that the LPA have met its requirements as the Competent Authority, as required by the Regulations and therefore the proposal will comply with the requirements of the Development Plan and the NPPF in this regard.

5.6 Arboriculture

5.6.1 Paragraph 175 of the NPPF advises that permission should be refused for development resulting in the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Strategic Objective 3 and 4 seek to protect, conserve and enhance the District's natural environment, whilst Policy EQ4 states that "The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved"

5.6.2 The Council's arboricultural officer has raised no concerns over the proposal. There are three trees within the development's potential zone of influence but, assuming that tree protection measures specified in the Salopian Consultancy appraisal are implemented, no undue harm will be caused. The Officer has therefore recommended a compliance condition for the tree protection plan.

5.6.3 The proposal is compliant with policy EQ4 of the Local Plan.

5.7 Human Rights

5.7.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with an individual's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report in having regard to the representations received and, on balance, is justified and proportionate in relation to the provisions of the policies of the development plan and national planning policy.

6. CONCLUSIONS

6.1 The Council can demonstrate a 5 year housing supply and it therefore falls for this scheme to be considered, in accordance with paragraphs 12 and 47 of the NPPF, against the Policies contained within the Council's Development Plan.

6.2 The site is within the Green Belt and the proposed development is inappropriate development within the Green Belt where the harm, which is given substantial weight, is not clearly outweighed by other considerations and no special circumstances have been advanced which would overcome the harm that arises from the development. The proposal is therefore contrary to Paragraph 147, 148 and 149 of the National Planning Policy Framework and Core Policy 1 and Policy GB1 of the adopted South Staffordshire Core Strategy.

7. RECOMMENDATION REFUSE

1. The site is within the Green Belt and the proposed development is inappropriate development within the Green Belt where the harm, which is given substantial weight, is not clearly outweighed by other considerations. The proposal is therefore contrary to Paragraph 147, 148 and 149 of the National Planning Policy Framework and Core Policy 1 and Policy GB1 of the adopted South Staffordshire Core Strategy.

Proactive Statement - Whilst paragraph 38 of the National Planning Policy Framework (2021) requires the Local Planning Authority to work with applicants in a positive and proactive manner to resolve issues arising from the proposed development; in this instance a positive solution could not be found and the development fails to accord with the adopted Core Strategy (2012) and the National Planning Policy Framework (2021).



Tree Tops, School Lane, Coven, Staffordshire WV9 5AN

SOUTH STAFFORDSHIRE COUNCIL

PLANNING COMMITTEE – 25th April 2023

Planning Performance report

REPORT OF THE DEVELOPMENT MANAGEMENT TEAM MANAGER

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

1.1 This report has been updated to be reflective of the current and most relevant issues.

1.2 A monthly report to ensure that the Committee is kept informed on key matters including:

1.3 Monthly Updates on:

- Procedural updates/changes
- Proposed member training
- Monthly application update
- Update on matters relating to Department for Levelling Up, Housing and Communities (DLUHC)
- Any recent Planning Appeal Decisions

1.4 Quarterly Updates on:

- The latest data produced by the Department for Levelling Up, Housing and Communities (DLUHC)

2. RECOMMENDATION

2.1 That Committee notes the content of the update report.

3. SUMMARY IMPACT ASSESSMENT

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	
SCRUTINY POWERS APPLICABLE	Report to Planning Committee	
KEY DECISION	No	

TARGET COMPLETION/ DELIVERY DATE	25 th April 2023	
FINANCIAL IMPACT	No	There are no direct financial implications arising from this report.
LEGAL ISSUES	No	Any legal issues are covered in the report.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	No other significant impacts, risks or opportunities have been identified.
IMPACT ON SPECIFIC WARDS	No	District-wide application.

PART B ADDITIONAL INFORMATION

Monthly Updates

4. Procedure updates/changes

4.1 None to report.

5. Training Update

- 5.1 Mandatory “Planning Committee” training will be scheduled for 25th May 2023. This will be for new and existing planning committee members
- 5.2 Planning Advisory Service will be offering members training on Planning Committee process and procedures. This has been scheduled for a full day on the 7th June 2023.

6. Monthly Planning Statistics

March 2023	
Applications received	108
Application determined	104
Pre-application enquiries received	14
Pre-application enquiries determined	7

7. Update on matters relating to Department for Levelling Up, Housing and Communities (DLUHC)

- 7.1 A consultation is currently underway seeking Local Authority views on Infrastructure Levy. This is looking to reform the existing system of developer contributions. Officers will be drafting a reply on behalf of the Council which will be discussed at an upcoming Cabinet meeting. This consultation closes on the 9th June 2023.
- 7.2 A consultation is currently underway with regards to Environmental Outcomes. This is looking to introduce a new approach to environmental assessment. Officers are currently analysing this to determine if a formal response is necessary. Members will be updated in future reports. This consultation closes on the 9th June 2023.

- 7.3 The consultation on increasing planning fees and review of performance will be discussed at Cabinet on the 25th April.

8. Appeals

- 8.1 This section provides a summary of appeals decision received since the last report. Appeal decision letters are contained within the appendix of this report.

8.2 **Planning reference:** 21/01239/FUL

Site Address: 68 Sandringham Road, Wombourne WV5 8EF

Date of Inspectors Decision: 24 March 2023

Decision: Dismissed (Appendix 1)

This appeal was against the refusal of planning permission for a 2 bed detached dwelling with parking and alterations to the host property to include conversion of sitting room into integral garage.

The main issues were:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on highway safety, with particular regard to the provision of adequate off-street parking; and
- whether the living conditions of future occupiers would be acceptable, with particular regard to the provision of internal living space.

The three main issues are reflective of the case officers reasons for refusal. The inspector agreed with officers that the proposed dwelling would have a detrimental impact on the character and appearance of the area due to its cramped appearance on a corner plot. Further, the inspector found that the parking arrangements would be inappropriate noting that “the proposed parking arrangements would significantly increase the likelihood that occupants would choose to park on the highway. Given the proximity of the appeal site to the junction of Sandringham Road, Windsor Road, and Kirkstone Crescent, along with the curvature of nearby roads, I consider that this would be to the detriment of highway safety”. Finally the inspector did not agree with the case officers reason for refusal related to the impact of the size of the dwelling on the living conditions for future occupiers. Noting that “I consider that the dwelling would be of sufficient size to provide adequate internal living space. The living conditions of future occupiers would therefore not be adversely affected as a result”.

8.3 **Councils Reference:** TPO 40/1982

Site Address: Land at 20 Pineways, Wordsley, Stourbridge DY8 5JH

Date of Inspectors Decision: 28 March 2023

Decision: Allowed in part (Appendix 2)

This was an appeal against a tree replacement notice (TRN).

The main issues were:

- Whether or not a duty to plant applies or should be dispensed with, having particular regard to the requirements of the Town and Country Planning Act 1990 (the Act) and the appellants' responsibilities;
- Whether or not planting in broad accordance with the requirements of the TRN is required in the interests of amenity;
- Whether or not the requirements of the TRN are reasonable, having particular regard to the schedule of planting specified and the period of time given to plant;
- Whether or not planting in accordance with the requirements of the TRN would be contrary to good forestry practice; and
- Whether or not the place on which planting is required is suitable for that purpose.

In a summary of the inspectors decision the duty to plant was established along with planting being in accordance with the interests of amenity. The reasonableness of the TRN was questioned by the inspector with regards to reduction in the number of trees to be planted (down to 100 from 115) and the timeframes involved (next planting season rather than this year's planting season) this is what has resulted in the appeal being allowed in part. The inspector found that the requirements of the TRN to accord with good practice and that the place for planting is suitable.

8.4 Planning Reference: 22/00473/FUL

Site Address: Land off Micklewood Lane, Penkridge, South Staffordshire ST19 5SD

Date of Inspectors Decision: 23 March 2023

Decision: Dismissed (Appendix 3)

The appeal related to change of use of land to use as residential caravan site for 4 gypsy families, including stationing of 6 caravans, laying of hardstanding and erection of communal amenity building. This appeal related to the refusal of planning permission and the serving of an enforcement notice. The planning appeal was dismissed and the Enforcement notice was upheld, subject to minor corrections and variations.

This is an extensive and detailed planning and enforcement appeal which it is not appropriate to summarise given the complexities and the apportioning of weight in the planning balance. Members are encouraged to read the decision in full and contact the author of this report for further discussions should they require to.

8.5 Planning Reference: 22/00735/FUL

Site Address: 31 Meddins Lane, Kinver, Staffordshire DY7 6BZ

Date of Inspectors Decision: 20th March 2023

Decision: Allowed (Appendix 4)

This appeal related a householder extension for a loft conversion which included rear dormer windows and an increase of the roof (both eaves and ridge). Officers refused the application based on the impact of the changes to the host dwelling on the streetscene.

The main issues were:

- the effect of the proposed development on the character and appearance of the host property and the area, and
- the living conditions of the residents of neighbouring properties with particular regard to privacy, light and outlook.

The appeal was allowed as the inspector did not agree that the proposed roof alterations would be detrimental to the streetscene, noting “There is little uniformity between the surrounding properties with substantial differences in scale, roof design and distance from the highway. Further, there are considerable changes in topography which alter the perception of height from the street and contribute to a diverse roofscape.”

9. Quarterly Updates

9.1 Planning Statistics from DLUHC

Description	Target	Q1 April-June	Q2 July- September	Q3 October- December	Q4 January- March	Cumulative
22-23 Major	60%	75%	100%	100%		93% (to date)
21-22 Major		100%	100%	100%	85%	93%
20-21 Major		100%	75%	100%	90%	93%
22-23 Minor	70%	89%	90%	86%		88% (to date)
21-22 Minor		82%	84%	81%	89%	84%
20-21 Minor		80%	93%	70%	72%	78%
22-23 Other	70%	93%	96%	96%		95% (to date)
21-22 Other		88%	87%	83%	87%	86%
20-21 Other		85%	95%	87%	82%	87%

Starts for the rolling 24 month to December 2022

Total (overall) -	85%
Major -	86%
Minor -	82%
Other -	86%

This category includes Adverts/Change of Use/Householder/Listed Buildings.

Position in National Performance Tables

Majors	113 th from 329 authorities
Non-Major	165 th from 329 authorities

Report prepared by:

Helen Benbow

Development Management Team Manager



Appeal Decision

Site visit made on 10 January 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 March 2023

Appeal Ref: APP/C3430/W/22/3303455

68 Sandringham Road, Wombourne WV5 8EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Adams against the decision of South Staffordshire District Council.
 - The application Ref 21/01239/FUL, dated 20 November 2021, was refused by notice dated 3 March 2022.
 - The development proposed is described as 'the proposed conversion of siting room back to integral garage, removal of front porch together with a 2 bed detached dwelling with associated parking'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted amended plans as part of their appeal. These amend the proposal by repositioning the dwelling slightly further back from Sandringham Road and by the addition of 3no windows to its east elevation. They also include a marginal increase in the dimensions of the proposed dwelling so to increase its internal floorspace.
3. I am conscious that the appeal process should not be used as a means to progress alternatives to a scheme that has been refused. However, where amendments are proposed regard should be had to the 'Wheatcroft' principles¹, including whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity.
4. In my view, the amendments would not materially alter the proposed development such that to grant it would result in a development substantially different from that previously consulted upon. As such, I find that there is no prejudice that would justify re-consultation. In these circumstances, I see no conflict with the Wheatcroft principles. I have therefore taken the amended plans into consideration.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the area;

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL 1982]

- the effect of the proposed development on highway safety, with particular regard to the provision of adequate off-street parking; and
- whether the living conditions of future occupiers would be acceptable, with particular regard to the provision of internal living space.

Reasons

Character and Appearance

6. The appeal site is located within a residential area and comprises the existing property at 68 Sandringham Road and its curtilage. The surrounding area includes a mix of housing types and designs, however the majority of properties in the immediate vicinity are two-storey semi-detached dwellings. Irrespective of their type and design, these existing properties share a common pattern and form in that they maintain a relatively consistent building line and spacing between properties, with wide frontages that provide parking or front garden areas.
7. The site forms a corner plot which is bounded by Sandringham Road to the north and Kirkstone Crescent to the east. Dwellings which occupy corner plot locations have generally retained their generous plot sizes and are set back from the highway, providing a spacious and open feel which contributes positively to the area. The appeal proposal seeks the sub-division of the plot and the erection of a rectangular shaped two storey detached dwelling to the side of the existing property.
8. The development would be located in close proximity to the site's eastern boundary with Kirkstone Crescent. Whilst the distance between the proposed dwelling and the existing property at No 68 would be comparable to distances which exist between other dwellings in the locality, the development would result in the majority of the space to the side of No 68 being lost thus eroding the spacious and open nature of the prominent corner plot.
9. Although the overall size of the appeal site would be capable of accommodating a dwelling with sufficient private amenity space to the rear, due to the footpath which runs through the highway verge between Sandringham Road and Kirkstone Crescent the north-eastern corner of the appeal site is cut off at an oblique angle. As a result, the proposed dwelling would have a very small and narrow area to its frontage which would fail to relate to the wide driveways and gardens commonly found to the front of properties in the surrounding area.
10. This lack of space to its frontage combined with the short distance between the proposed dwelling and the site's eastern boundary would result in the development appearing cramped and uncomfortable, causing harm to the character and appearance of the area.
11. In addition, the proposed dwelling would sit noticeably behind the building line of No 68 and other properties along Sandringham Road. Consequently, whilst the height and size of the proposed dwelling would be in keeping with the surrounding properties, its positioning behind the existing building line would result in the development being at odds with the prevailing character of the area.
12. I acknowledge that the existing single storey garage at No 68 sits significantly behind the building line of the existing dwellings along Sandringham Road.

However, the garage is modest in size and scale and is clearly read as a detached outbuilding within the curtilage of No 68 and does not impact upon the general pattern and form of development in the surrounding area. Accordingly, its presence does not weigh in support of the appeal proposal.

13. The appeal site's corner plot location results in it being visible from several directions. Despite the presence of existing vegetation along the eastern boundary, the east facing side elevation of the proposed dwelling would be highly visible and prominent when viewed from Kirkstone Crescent. Although the bay window and further additional windows included within the amended plans would provide variation and break up the otherwise blank side elevation, the proposed dwelling would remain as an overly dominant and intrusive feature within the street scene.
14. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. The development would conflict with Policy EQ11 of the South Staffordshire Council Core Strategy (adopted December 2012) (CS) which seeks, amongst other matters, to ensure that developments respect local character and distinctiveness and contribute positively to the street scene.

Highway Safety

15. The proposed development would provide two car parking spaces for the new 2-bed detached dwelling. The proposal would also provide the existing 3-bed dwelling at No 68 with two car parking spaces as well as an integral garage.
16. Policy EV12 of the CS requires development proposals to make appropriate provision for off street parking, in accordance with adopted parking standards. The Council's parking standards are set out in Appendix 5 of the CS which recommends that 2 and 3 bed dwellings should provide 2 car parking spaces within their curtilage, with each parking space being a minimum size of 2.4m x 4.8m. Notwithstanding that the width of the integral garage at No 68 would be marginally below the required 2.4m, the proposal would still provide both the existing and proposed dwellings with a number of car parking spaces that would accord with the Council's parking standards.
17. However, given the limited amount of space to its frontage the arrangement of the parking spaces afforded to the proposed dwelling would see cars parked in a line one behind another. Though the combined length of these two spaces would be acceptable, this lack of external space coupled with the proximity of the two external parking spaces provided to No 68 would result in a lack of space for manoeuvring on site. I also find that the parking arrangements would be impractical as when all parking spaces were occupied, the vehicle nearest to the proposed dwelling would be unable to exit the site.
18. Consequently, I find that the proposed parking arrangements would significantly increase the likelihood that occupants would choose to park on the highway. Given the proximity of the appeal site to the junction of Sandringham Road, Windsor Road, and Kirkstone Crescent, along with the curvature of nearby roads, I consider that this would be to the detriment of highway safety. It is also apparent from several representations received from interested parties that due to the presence of nearby facilities and services there is already a demand for on-street parking in the vicinity of the appeal site, particularly at peak times. For the reasons stated above, I find that the

proposal would only serve to add to this demand for on-street parking thus making manoeuvrability on the highway more difficult which would further negatively impact upon highway safety.

19. As a result, I therefore conclude that the proposed development would fail to provide adequate off-street parking and would have a detrimental effect upon highway safety. The proposal would therefore be contrary to Policy EV12 of the CS which seeks, amongst other matters, to ensure that developments provide appropriate provision for off-street parking including having regard to the impact on highway safety from potential on-street parking.

Living Conditions

20. The appeal scheme seeks the erection of a 2-bed dwelling, with the amended plans submitted with the appeal indicating that 'bedroom 1' would be a double bedroom and 'bedroom 2' a single bedroom. Accordingly, the appellant states that the proposed scheme is for a two-bedroom, three persons dwelling over two storeys.
21. In assessing whether the amount of internal living space provided is adequate, the main parties have referred to the Technical Housing Standards - Nationally Described Space Standards (NDSS). However, the NDSS is not embedded within the CS which instead provides its own minimum space standards. Nevertheless, the NDSS still provides an indication of what amount of internal space would be reasonable for a new dwellinghouse.
22. The appellant states that the amended scheme now provides the proposed dwelling with an overall internal floor area of 70m², a figure which has not been disputed by the Council. Appendix 6 of the CS details that the overall minimum floor space for a two-bedroom, three persons dwelling should be 66m², with the NDSS stating that such a dwelling should have a minimum area of 70m². The proposed development would therefore comply with the minimum overall internal floor area as set out in both the CS and NDSS.
23. The Council however have raised concerns that given the internal layout, four persons could potentially accommodate the dwelling. Appendix 6 of the CS states that a two-bedroom, four persons dwelling should have a minimum overall internal floor area of 77m² with the NDSS requiring 79m², which the proposed development would fail to achieve.
24. Whilst I note the Council's concern, it is not substantiated. The submitted floor plans indicate a double bedroom and a single bedroom and though 'bedroom 2' could potentially also accommodate a double bed and therefore two persons, I consider that such an event would be unlikely. In any case, the overall internal floor space would not fall significantly below the minimum standards set out in the CS and the dwelling would still provide a satisfactory amount of internal space, including the ground floor which would be open plan and provide a generous amount of space for the living/dining area and kitchen.
25. In view of the above, I consider that the dwelling would be of sufficient size to provide adequate internal living space. The living conditions of future occupiers would therefore not be adversely affected as a result. Accordingly, there would be no conflict with Policies EQ9, EQ11 and Appendix 6 of the CS which seek, amongst other matters, to ensure that developments do not unacceptably affect the amenity of residents.

Other Matters

26. The appellant has referred to a dwelling known as Brook View, which is located on Kirkstone Crescent on the opposite side of the footpath that is immediately adjacent to the appeal site. The appellant considers that Brook View is a similar form of development to the appeal scheme. However, whilst there are some similarities, there are also several differences including Brook View continuing the consistent building line of adjacent properties, and it not occupying a prominent and exposed corner plot location. In any event, each case has to be assessed on its own merits. Accordingly, the presence of this property does not justify the harm which I have identified that the appeal proposal would cause.

Conclusion

27. I have identified that the proposal would cause harm to the character and appearance of the area and would be to the detriment of highway safety. Whilst the development would be acceptable in terms of its effect on the living conditions of future occupiers, this is of neutral effect when weighed in the planning balance.
28. The proposed development would conflict with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. The appeal is therefore dismissed.

David Jones

INSPECTOR



Appeal Decision

Hearing Held on 31 January 2023

Site visit made on 31 January 2023

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2023

Appeal Ref: APP/TRN/C3430/7716

Land at 20 Pineways, Wordsley, Stourbridge DY8 5JH

- The appeal is made under regulation 18 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a tree replacement notice (TRN).
 - The appeal is made by Mr and Mrs N Hill against the issuing of the notice by South Staffordshire Council.
 - The Council's reference is TPO 40/1982.
 - The notice was issued on 6 November 2019.
 - The requirements of the notice include to plant 115 trees of mixed species and size.
 - The period of compliance with the notice is by 30 March 2020.
 - The appeal is proceeding on grounds set out in section 208(1)(a), (aa), (b), (c) and (d) of the Town and Country Planning Act 1990.
 - The relevant Tree Preservation Order (TPO) is Tree Preservation Order No. 40 (1982) Friars Gorse, Wordsley, which was confirmed on 12 January 1983.
-

Decision

1. The appeal is allowed in part and I direct that the TRN issued on 6 November 2019 relating to Land at 20 Pineways, Wordsley, Stourbridge DY8 5JH be varied by deleting the initial part of Section 4 (up to and including the tabulated planting schedule) and inserting the amended text and schedule that appears at the end of this decision. I further direct that, in the fifth paragraph of Section 4, the text "shall be supported using the 2 stake with cross bar and tie method whilst the" is deleted and replaced with the text "and". I also direct that the date on which the TRN takes effect shall be the date of this decision and that the time for compliance shall be no later than 30 March 2024.

Main Issues

2. On the basis of the evidence and the grounds on which the appeal has been lodged, I consider that the main issues are:
 - Whether or not a duty to plant applies or should be dispensed with, having particular regard to the requirements of the Town and Country Planning Act 1990 (the Act) and the appellants' responsibilities;
 - Whether or not planting in broad accordance with the requirements of the TRN is required in the interests of amenity;
 - Whether or not the requirements of the TRN are reasonable, having particular regard to the schedule of planting specified and the period of time given to plant;

- Whether or not planting in accordance with the requirements of the TRN would be contrary to good forestry practice; and
- Whether or not the place on which planting is required is suitable for that purpose.

Reasons

Whether or not a duty to plant applies

3. The relevant TPO covers a woodland known as Friars Gorse as well as other adjacent areas of woodland. Friars Gorse covers a considerable area to the west of Wordsley and is comprised of a diverse mix of broadleaved tree species. The purpose of the TPO is to safeguard each protected woodland as a whole, an objective which is dependent upon regeneration or new planting. All surviving trees and saplings of whatever size within the identified area of Friars Gorse are protected, which includes those planted or growing naturally after the TPO was made.
4. The land that is the subject of the TRN (the land) comprises part of the protected woodland known as Friars Gorse. However, it is presently clear of trees and takes the appearance of grassed private garden land. It was confirmed at the hearing that the past unauthorised removal of trees from the land led to a prosecution and a fine being paid by the appellants.
5. Various photographs of the land have been submitted that assist to some degree in illustrating its former appearance at different points in time. Some of these photographs, I understand, were taken soon after the appellants took ownership and thus prior to any works to remove trees taking place, whilst others were taken more recently. It is the appellants' position that the site had a scrubland appearance in advance of any works taking place. Nevertheless, even though there is no clear evidence before me to illustrate that any individual tree of large size was removed, it is apparent that a mix of broadleaved species that still constituted woodland was in place across the land before unauthorised works took place. No convincing evidence to the contrary has been provided.
6. Reference was made at the hearing to other alleged instances along the eastern edge of Friars Gorse where land has been consumed into private gardens. Even should this be the case, such circumstances, which could merit separate investigations by the Council, would not justify a duty to replant being dispensed with. Moreover, it is my duty to focus upon the individual merits of the particular case before me whilst recognising that the woodland in question is safeguarded as a whole.
7. A Personal Search Report was submitted at the hearing, which indicates that the appellants were unaware of the woodland's protected designation when they purchased the appeal property. I have no reason to doubt this to be the case. Nonetheless, it remains that protected trees were removed from and not replaced upon the land. The Act permits the serving of a TRN in this situation.
8. For the above reasons, having particular regard to the requirements of Sections 206 and 207 of the Act and the appellants' associated responsibilities, a duty to plant applies and should not be dispensed with.

The interests of amenity

9. The land is visible, at least in part, from along the full length of Pineways and its junction with Balmoral Road. When formerly planted with trees, the land would have made a valuable contribution to the significant amenity value offered by Friars Gorse to the local area. This is despite any other incursion(s) into the protected woodland that may or may not have occurred elsewhere in the general locality. Moreover, the land, which sits adjacent to neighbouring wooded areas/features, holds the potential to once again make a valuable contribution to the amenity of the area.
10. Whilst the appellants' grounds of appeal suggest that recent planning decisions related to adjacent land may have rendered any planting scheme obsolete, this position has not been suitably substantiated. For example, it has not been clearly demonstrated how any nearby major housing development would compromise the amenity function presently performed by Friars Gorse. To the contrary, future development to its fringes would be likely to accentuate the woodland's importance to the visual amenity of the area.
11. For the above reasons, planting in broad accordance with the requirements of the TRN is required in the interests of amenity.

The requirements of the TRN

12. It is the appellants' stance that the planting schedule set out within the TRN is not representative of a like-for-like scheme when compared to what was removed. Indeed, it was suggested at the hearing that the trees required to be planted would be larger than those that were previously there. However, even should such circumstances apply to the larger trees listed in the planting schedule, it is inevitable that past works to clear the site involved a considerable loss of established root stock and coppice stools capable of rapid growth and regeneration. It was not convincingly argued otherwise at the hearing. This is an important factor to be considered when assessing the reasonableness of the TRN's requirements.
13. The Council has set out that the planting schedule was formulated in accordance with Forestry Commission guidance related to the re-stocking of woodland and that the makeup of an adjacent area of woodland was also taken account of in its calculations. I have no reason to doubt the suitability or representativeness of any of the broadleaved species identified within the schedule. Nevertheless, there was acknowledgement from the Council at the hearing that heavy standard container grown trees (12-14cm girth) may not be most appropriate. Indeed, smaller sized trees (8-10cm or 10-12cm) would be more likely to successfully establish and would offer a not dissimilar level of amenity.
14. A potential willingness of the appellants to plant up to 30 trees of mixed broadleaved species (the appellants' planting schedule) was stated at the hearing. However, this is a significantly lower figure when compared to the calculated number of 115 required by the TRN. Moreover, 30 trees, even if regularly spaced, could not reasonably be anticipated to reinstate a woodland character to the land. Instead, denser tree coverage is required.
15. Having inspected the specific makeup of the land and the effect of a recent extension to 20 Pineways and associated works upon the realistic availability

for planting of parts of the land's eastern edge, it would, to my mind, be reasonable and practical to reduce slightly the total number of trees required to 100. This would offer suitable assurances that all specimens could be planted with satisfactory separation and without prejudice to the aim of reinstating a properly functioning area of woodland across the land.

16. A reasonable timeframe for planting was discussed at the hearing. It was acknowledged by the Council that it would be unduly onerous to expect the appellants to replant in this current planting season (November to March). To my mind, full compliance by the end of the next planting season is a reasonable and fair expectation.
17. For the above reasons, the requirements of the TRN are not reasonable only in so far as they relate to the total number of trees to be planted and the sizes of container grown stock. I shall adjust the text and schedule to the initial part of Section 4 of the TRN accordingly, reducing the numbers of individual species not included in the appellants' planting schedule. Further, at the request of the Council, and as there is no prejudice to the appellants in me doing so, I shall adjust the specification of the support mechanism for larger trees. I shall also adjust the time period for compliance as set out in paragraph immediately above.

Good forestry practice

18. Although indicated as a ground of appeal on the appeal form, no supporting evidence has been put before me to demonstrate that the requirements of the TRN would be contrary to good forestry practice.

Suitability of site for planting

19. Whilst the land sits alongside trees of height, it has not been clearly substantiated how such circumstances would prejudice the establishment of new planting on the land. Indeed, it is normal for specimens of differing heights and ages to successfully co-exist in a woodland environment.
20. Thus, in the absence of convincing evidence to the contrary and notwithstanding its sloped topography, the land is suitable for planting in the most part. Only selected easternmost parts of the land, where influenced by recent developments that have included the erection of a brick retaining wall, can be fairly considered unsuitable. This is reflected in the amendments I have made to the planting schedule.

Conclusion

21. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed in part. I shall vary the TRN accordingly. These variations are formally set out under the 'Decision' heading above and via the amended text and planting schedule set out below. The TRN, as served by the Council, remains otherwise intact.

Andrew Smith

INSPECTOR

Amended text and schedule to the initial part of Section 4 of the TRN

You are required to replant trees over the area of land edged red on the attached plan. The trees to be planted shall be randomly planted in staggered rows at 3 metre spacing between trees and 3 metres between rows.

The number of trees required to be planted is 100. The trees shall be of the following species, numbers and size ranges:

No.	Species. Common names.	Size range
*10	Sweet Chestnut	8-12cm girth, container grown
20	Sweet Chestnut	1.2-1.8m tall, bare root
*10	Oak	8-12cm girth, container grown
20	Oak	1.2-1.8m tall, bare root
*5	Beech	8-12cm girth, container grown
10	Beech	1.2-1.8m tall, bare root
10	Silver Birch	1.2-1.8m tall, bare root
5	Rowan	1.2-1.8m tall, bare root
5	Hazel	1.2-1.8m tall, bare root
5	Hawthorn	1.2-1.8m tall, bare root

APPEARANCES

FOR THE APPELLANT:

Stephen Allen

Solicitor, Sherrey and Associates

FOR THE COUNCIL:

Gavin Pearce

Senior Arboricultural Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Personal Search Report – 20 Pineways, dated September 2014
2. Plan – depicting possible major house building schemes in the locality, undated
3. Photographs of the site – various, undated



Appeal Decisions

Hearing held on 24 November 2022

Site visit made on 24 November 2022

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2023

Appeal A Ref: APP/C3430/C/22/3303085

Land off Micklewood Lane, Penkridge, South Staffordshire ST19 5SD

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Bryan Rogers against an enforcement notice issued by South Staffordshire District Council.
 - The notice was issued on 14 June 2022.
 - The breach of planning control as alleged in the notice is
 - (i) Without planning permission, the material change of use of the Land to a mixed use comprising an agricultural use and the use of the Land for the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.
 - (ii) Without planning permission, the unauthorised siting of caravans on the Land for the purposes of human habitation.
 - (iii) Without planning permission, the importation of materials on to the Land to form hardstanding in the location hatched blue on the Plan for the siting of caravans to facilitate the unauthorised use of the Land as a gypsy and traveller site.
 - The requirements of the notice are to:
 - (i) Cease the unauthorised use of the Land for the stationing of caravans for residential purposes as a gypsy and traveller site.
 - (ii) Remove from the Land all unauthorised caravans.
 - (iii) Remove from the Land all vehicles associated with the unauthorised material change of use of the Land.
 - (iv) Remove from the Land the unauthorised hardstanding located in the position hatched blue on the attached plan which has been constructed to facilitate the unauthorised use referred to in (i) above.
 - (v) Reinstate the Land to agricultural land by reseeding or returfing the land where the unauthorised hardstanding is located with a mixture of wild-flower mix or a 6-% to 40% mix of wildflower and grass seed.
 - (vi) Remove from the Land all materials arising from compliance with (iii)–(v) above.
 - The periods for compliance with the requirements are:
 - Steps (i) – (iii) Two months
 - Step (iv) Four months
 - Step (v) Five months or the next available planting season, whichever is the soonest after compliance with step (iv) above.
 - Step (vi) Five months
 - The appeal is proceeding on the ground set out in section 174(2)(g) of the Town and Country Planning Act 1990 as amended.
-

Appeal B Ref: APP/C3430/W/22/3306032

Land north of Micklewood Lane, Hatherton, Penkridge ST19 5SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Bryan Rogers against the decision of South Staffordshire District Council.

- The application Ref 22/00473/FUL, dated 8 May 2022, was refused by notice dated 26 August 2022.
 - The development proposed is change of use of land to use as residential caravan site for 4 gypsy families, including stationing of 6 caravans, laying of hardstanding and erection of communal amenity building.
-

Decisions

Appeal A

1. It is directed that the notice is corrected by:

- The deletion of section 3(i) and its substitution with:

Without planning permission, the material change of use of the Land to a mixed use comprising the use of the Land for the keeping of horses and the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

- The deletion of section 3(ii) and renumbering of section 3(iii) as 3(ii)
- The deletion of section 3(ii), as renumbered, and its substitution with:

3 (ii) Without planning permission, the importation of materials on to the Land to form hardstanding in the location hatched blue on the Plan for the siting of caravans to facilitate the use of the Land for a mixed use comprising an agricultural use and the use of the Land for the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

- The deletion of section 5(i) and its substitution with:

5(i) Cease the use of the Land for a mixed use comprising the use of the Land for the keeping of horses and the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.

- The deletion of the word 'unauthorised' from sections 5(ii), 5(iii) and 5(iv).
- The deletion of section 5(v) and its substitution with:

5(v) Restore the Land to its condition before the breach took place.

2. It is also directed that the notice is varied by the deletion of the time periods of compliance set out in section 5 and the substitution of 12 months after the notice takes effect as the time period for compliance with requirements (i) to (vi).

3. Subject to the corrections and variations, Appeal A dismissed, and the enforcement notice is upheld.

Appeal B

4. Appeal B is dismissed.

Preliminary Matters

Appeal A

5. The appellant introduced an appeal under ground (d) at the Hearing. This was on the basis of information which had been submitted by the appellant shortly before the Hearing opened. The information was in the form of statutory declarations (SDs) from the previous owner of the land and his accountant and letters from local residents. The authors of the SDs were not present at the Hearing.
6. Having taken account of the late introduction of the ground (d) arguments, which had not been submitted formally in accordance with the timetable and in advance of the Hearing, I considered that the Council would be prejudiced were I to include ground (d) as an item on the agenda for the Hearing. The nature of the submissions was such that it would not be necessary to take evidence under oath, which in any case is not possible as part of a Hearing.
7. Taking all of these matters into account I decided that the most appropriate way forward, which would also make effective use of the Hearing, was to deal with Appeal B and ground (g) of Appeal A at the Hearing, and to invite written representations from the parties on ground (d) of Appeal A.

Appeal B

8. Appeal B relates to an application for planning permission and the appeal site is smaller than that which is the subject of the enforcement notice. The use of the land is confined to use as a residential caravan site for 4 gypsy families i.e. the application does not relate to a mixed use. This use has commenced, but the site is not laid out as shown on the plan submitted with the planning application. The area of new hardstanding is a different shape, and the dayroom has not been constructed. Neither the erection of post and rail fencing separating the caravan site from other land in the appellants ownership, nor the hedge/tree planting have commenced.
9. I observed during my site visit that there are a number of caravans and vehicles on the site. There was also an unused caravan and stable buildings which the appellant indicated had been left by the previous owner and a small w.c building. The appellant also said that he had installed a water treatment device and pointed to ground work which had been carried out to link the toilet to it.
10. The appellant said that he had constructed a fence around his land and this feature was present. It is not the post and rail fence shown on the submitted plans. The new fence is constructed of timber and in some areas it is topped by green netting. It is set against the roadside planting made up of trees and hedges. There was also a gate at the entrance to the site off Micklewood Lane. None of these boundary features are shown on the submitted plans. Therefore, they are not before me for consideration as part of the appeal and the extent to which they constitute development for which planning permission is required is a matter for the Council.
11. There is no dispute between the parties that the use has commenced and that this has implications for the determination of the appeal including the detailed wording of planning conditions and Unilateral Undertaking if relevant.

12. In response to my requests the Council provided more information about the Cannock Chase Special Area of Conservation (SAC) and the appellant also submitted a Unilateral Undertaking in respect of mitigation measures in relation to the SAC before the Hearing was closed in writing on 2 February 2023.

The Plans (Appeal B)

13. The plans submitted with the planning application included two layout plans. One of these plans is the proposed layout plan and I have re-labelled that plan to distinguish it from the other layout plan and determined Appeal B on the basis of the proposed layout.

The Notice (Appeal A)

14. In its response to the appellant's submissions on ground (d) the Council states that 'the established primary use of the appeal site is for the keeping of horses'. The breach as described in the notice refers to agricultural use which is not the same as a use for the keeping of horses. I have asked the Council for its views on correcting the notice to address this point and the Council has confirmed that it has no objections.
15. I shall therefore correct the notice to describe the allegation set out in 3(i) as follows:
- Without planning permission, the material change of use of the Land to a mixed use comprising the use of the Land for the keeping of horses and the stationing of caravans for residential purposes as a gypsy and traveller site and associated parking of vehicles.
16. The importation of materials to form a hardstanding is set out as a separate breach and it does not require correction.
17. The allegation is in three parts and in effect part (ii) replicates part of part (i) because both parts refer to the stationing/siting of caravans on the land. This repetition is unnecessary, and I sought comments from the parties regarding the deletion of part (ii). Neither of the parties had any objections to this correction and it would not lead to injustice.
18. The allegation relates to a mixed use of the land, however in terms of the works to set out in part 3(iii) of the notice, reference is only made to use as a gypsy and traveller site. I raised this matter at the Hearing and neither party had any concerns about the correction of the notice so that the works relate to the mixed use. There would be no injustice to either party and I shall correct the notice accordingly.
19. The requirements of the notice must flow logically from the allegation. In this case the allegations, as amended, relate to a mixed use but requirement 5(i) refers to the use of the Land as a gypsy and traveller site only. I can correct requirement 5(i) to refer to the mixed use without causing injustice to the parties.
20. Requirement (v) specifies the use of wildflower mix or a combination of wildflower and grass seed in relation to the restoration of the site. However, there is no evidence before me to demonstrate that the land sustained such plants. For that reason, requirement (v) is excessive and a straightforward requirement to return the land to its condition prior to the breach taking place

is more appropriate. Injustice would not be caused to either party if requirement (v) is varied accordingly.

21. The notice includes several instances of the word 'unauthorised' which is unnecessary and shall remove these words.

Appeal A – ground (d)

22. An appeal on ground (d) is on the basis that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters. This is a legal ground of appeal, and the onus of proof lies with the appellant. The evidence must be sufficiently precise and unambiguous, and the standard of proof is the balance of probabilities.
23. In order to achieve success under ground (d) the appellant must show that the MCU occurred on or before 14 June 2012 and has continued without interruption since that point in time.
24. The appellant has submitted what he has described as a statutory declaration (SD) by the previous owner of the site (Witness A). The veracity of the SD is limited because it does not make reference to the provisions of the Statutory Declarations Act 1835 (the SDA) or contain any sanctions for failure to tell the truth. Furthermore, the person completing the SD has also signed as a witness to his signature. As such the document cannot be classed as a SD and I have regarded its status as a signed statement which attracts limited weight.
25. However, Witness A does provide information about how the site has been used including over the time period between 14 June 2012 and when the notice was served.
26. Witness A says that he brought a caravan onto the land in 1994 and another caravan in 2000. He says that the second caravan provided all the facilities necessary for day to day living. Witness A says that he occupied a caravan on the land for residential purposes continuously for the past 30 years. However, this does not correlate with the date when he said that he brought the first caravan on, which would equate to 28 years use at the time when he wrote his statement.
27. Nevertheless, Witness A says that, whilst the site was not his sole residence, he slept in the caravan several nights a week, most weeks of the year and for more than 10 years. He says that he used to keep, breed and train horses on the land and that it was convenient for him to live close to the horses to look after them.
28. A second document which is described as a SD has been provided from the accountant and friend of the previous owner (Witness B). Again, the SD does not refer to the SDA and contains no sanctions. In this case the SD contains a witness signature, but the date of the signature by the witness is not compatible with the date of the declaration. As above, this document cannot be classed as a SD and the weight afforded to it is limited.
29. Witness B refers to Witness A keeping horses on the land and often staying overnight and at weekends in the mobile home. However, he does not say that he visited Witness A at the site and as such he does not provide first hand evidence of residential occupation.

30. A local resident stated in writing that there has been a caravan on the site for 33 years and a static home for 26 years and that Witness A spent most of his life there. Another local resident also wrote in to say that he had seen people living on the land, on and off, over the last 10-15 years in a caravan.
31. The observations by Witness B and local residents provide support for Witness A's and the appellant's description of the use of the site prior to the notice being served. Drawing these points together I find that there is evidence of some residential use taking place on the site alongside the keeping of horses. However, the evidence before me regarding a continuous occupation of the caravans is very limited at best and in the light of the limited weight which can be attached to it, is not convincing.
32. The Council argues that the primary use of the land has been for the keeping of horses/agriculture and that the use of the caravans was ancillary to this use and not a primary use of the land. The Council also says that the ancillary use could only reasonably be considered to relate to the limited footprint of the caravan and not the wider site used for the keeping of animals.
33. The residential use of a caravan is not a use which is ordinarily incidental to a primary use for either agriculture or the keeping of horses. Furthermore, even if the residential use were an ancillary element of the primary use it would not be restricted in terms of its location on the site where the development concerns a single planning unit as is the case here. In these regards the Council's position is unsound.
34. Notwithstanding the limitations of the Council's arguments, the onus of proof lies with the appellant and the evidence which he provides must be sufficiently precise and unambiguous. In this case the appellant is reliant principally on the evidence provided by Witness A because the role of Witness B and the local residents is to support what Witness A says about his occupation of the site.
35. Witness A does not provide any evidence in support of his written statement. He says that he lived on the site several nights a week most weeks of the year, but this description implies an intermittent level of occupation. In that respect evidence of an ongoing and continuous use of the caravans either since 2000 or for the ten year period prior to the notice being issued is both imprecise and ambiguous.
36. The appellant says that it is clear from Witness A's evidence that the caravan contained all of the facilities required for day-to-day living. However, there is no evidence of this beyond Witness A's statements and the appellant does not provide any first hand evidence himself of how the site was being used when he bought it. To that extent the evidence is limited. Furthermore, the appellant argues that the caravan was available for occupation. That is not the same as being occupied on a permanent basis and as I have found above Witness A refers to intermittent occupation.
37. The occupation of the caravan could have been suspended for several weeks of the year without conflicting with Witness A's evidence of occupation 'most weeks of the year'. There is no evidence to demonstrate that such periods would not have been significant breaks in what the appellant needs to establish as a continuous residential use of the caravan. At those times when Witness A was not living in the caravan it is reasonable to assume that the Council could

not have taken enforcement action against the residential use of the caravan, because it was not being used for that purpose.

38. Whilst the evidence before me shows that there has been some residential use taking place on the site alongside the keeping of horses, it has not been demonstrated on the basis of the evidence and the balance of probabilities that such a use has become immune from enforcement action by virtue of the passage of time.

39. For the reasons set out above the appeal under ground (d) fails.

Appeal B

Main Issues

40. The main issues are:

- Whether the change of use to a gypsy and traveller site is inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies.
- The effect of the proposal on the openness of the Green Belt.
- The effect of the proposal on the character and appearance of the site and the surrounding area and Mansty Wood which is an ancient woodland.
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

41. In making my decision I must have regard to the rights of the appellant and his family under Article 8 of the European Convention on Human Rights as incorporated into the Human Rights Act 1998. Article 8 affords the right to respect for private and family life and home, including the ability of Romany Gypsies to enjoy the particular lifestyle which is shared by their ethnic group. However, this is a qualified right which involves balancing the fundamental rights of individuals against the legitimate interests of others and the wider public interest. The concept of proportionality is crucial because a disproportionate or unjustified interference can result in the violation or breach of the appellant and his family's rights.

42. As required by the public sector equality duty (PSED) under the Equality Act 2010, I will also have due regard to the three aims identified in the Act – to eliminate discrimination, advance equality of opportunity and foster good relations. The families are Romany Gypsies which is an ethnic minority, and they have the protected characteristic of race under section 149(7) of the 2010 Act. I am also aware from the evidence that there are persons on the site with the protected characteristics of age. Therefore, the PSED is engaged in these appeals and the decisions must be proportionate to achieving legitimate planning aims.

Reasons

Inappropriate development in the Green Belt?

43. There is no dispute between the parties that the occupiers of the site are gypsies and that under Policy E of the Planning Policy for Travellers Sites (PPTS) the development is inappropriate development in the Green Belt.
44. The Statement of Common Ground (SOCG) sets out and the Council confirmed in the Hearing that the most relevant policies in the Development Plan, in respect of the Green Belt, are Core Policy 2, Policy GB1 and Policy H6 of the South Staffordshire Local Plan Core Strategy DPD (2012) (the Local Plan). These policies address the protection of and development within the Green Belt and Policy H6 in particular addresses development to meet the needs of gypsies, travellers and travelling showpeople in the Green Belt. The relevant policies are broadly in accordance with the National Planning Policy Framework (the Framework).
45. On the basis of the PPTS and in the light of the Framework and relevant development plan policies I conclude that the use of the site constitutes inappropriate development in the Green Belt. As such it is development which is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

Effect on openness

46. The Council explained that 80% of its area is Green Belt and that Policy H6 allows a selective approach to be adopted in relation to the harmful effects of gypsy and traveller sites in the Green Belt in terms of openness.
47. The appropriate starting point for the consideration of the effect of a development on openness, is the appearance of the site before the subject development took place and what features could be on the site in accordance with its lawful use.
48. There is no dispute between the parties that there was a building on the land before the appellant bought it and brought his family on in their caravans. Whether this building has been used as stabling for horses or not, it is part of the baseline condition of the land in terms of the assessment of openness.
49. There were also two caravans on the land before the appellant began to use it. My conclusion on the ground (d) appeal (Appeal A) is that the use of the land as a whole for a mixed residential caravan site and agricultural use has not been conclusively established. Consequently, the appellants argument that such a lawful use of the land could result in an unlimited number of residential caravans falls away and the assessment of the effect on openness has to be made on the basis of the existing two caravans only.
50. The presence of caravans on the site and the works which have been carried out to facilitate the use of the land in the form of the hardstanding and the toilet building give an indication of the effect of the proposed layout and works on openness.
51. The hardstanding which is shown on the 'existing site layout' plan is limited to a track and turning area directly adjacent to the mobile home and stable building. By contrast the hardstanding which has been laid already is more

expansive and the 'proposed layout' plan shows this extending even further across the site. The use of the hardstanding for siting caravans and parking vehicles inevitably leads to a significant loss of openness.

52. The proposed site layout includes an area of tree planting within the site. Whilst this may ensure the protection of this undeveloped part of the site, given its small size the contribution towards the retention of openness would be limited.
53. The proposed dayroom occupies roughly the same position close to the end of the access track as the existing unused caravan on the site and in this respect, there would be a neutral effect on openness.
54. The appellant owns land to either side of the proposed caravan site, but this land is not included in the application site and its future use is not shown on the plans nor has it been stated by the appellant. Therefore, its continued contribution to openness is unknown.
55. The current use of part of the wider site for the stationing of caravans demonstrates that the introduction of caravans already has a significant visual impact on the site in comparison with its prior largely open appearance. The expansion of the hardstanding and the introduction of four larger static caravans will have a greater visual impact on openness than the current arrangements and the previous condition of the land.
56. Drawing all of these points together I find that the development would have a significantly harmful effect on the openness of the Green Belt.

Character and appearance

57. Policy H6 of the Local Plan requires that gypsy and traveller sites be sited and landscaped to ensure that any impact on the character and landscape of the locality is minimised. The Council confirmed that this is a relevant policy for the consideration of character and appearance, along with, in its view, Core Policy 2 and Policies EQ4, EQ11 and EQ12.
58. Core Policy 2 concerns the protection and enhancement of the natural environment, Policy EQ4 deals with the landscape, EQ11 refers to local character and distinctiveness and EQ12 addresses landscaping.
59. The appellant considered that conflict with general policies such as Core Policy 2 should not be used to frustrate consideration of specific policies such as Policy H6. However, the development needs to be assessed against all relevant policies in the development plan which are those identified by the Council and in any event the 'general' policies allow for the flexibility required by the PPTS in relation to the development of gypsy and traveller sites in sensitive locations.
60. Mansty Wood is a dominant feature in the area comprising a densely treed space with roadside and field edge boundaries. It is an area of ancient woodland which is referenced in Policy EQ1 and EQ4 and this designation is also recognised as being of importance by the Framework.
61. The area around the site is rural in character with sporadic development which appears to be associated with its countryside location such as agricultural buildings and stables. There is some residential development associated with

these uses, but this is limited, and it does not detract from the natural environment. Although within the Green Belt, the site and the area around it does not fall under any landscape designation.

62. The appellant owns a triangular area of land at the junction of Micklewood Lane with Cannock Road and the site occupies the middle section of his land. It is accessed via a track which runs along the boundary with Mansty Wood.
63. Micklewood Lane is a meandering country road, in contrast to Cannock Road which has a straight alignment and carries more traffic. Neither Micklewood Lane nor Cannock Road have pavements or street lighting and neither highway would be an attractive walking route. The site is largely screened from view by the trees and hedges on the roadsides, which are particularly dense alongside Cannock Road. The clearest view of the site is from the access onto Micklewood Lane and most likely from passing cars.
64. Both parties are in agreement that there are gaps in the screen planting which afford views of the site and that the caravans and other features would be more visible when there are no leaves on the trees and hedges. The Council confirmed at the Hearing that its concern was in respect of views within and from the site edges as opposed to longer views from the surrounding area. From my observations during the site visit, particularly the characteristic flat landscape, I concur with the Council's view that the site is not readily visible within the countryside around it.
65. The previous development on the site, comprising the stables and two caravans, was positioned alongside the boundary with Mansty Wood and the stable in particular would have blended in with its densely treed backdrop. The restricted amount of hardstanding would have prevented any vehicles or caravans from occupying those parts of the site clear of the boundary with the wood and to that extent would have contained the views of development from Micklewood Lane. There is no evidence before me to demonstrate that the other parts of the site would have been other than open grassland consistent with the character and appearance of the wider area.
66. The existing caravans on the site are clearly visible from the access on Micklewood Lane. Their appearance is at odds with the otherwise green and natural characteristics of the site and surrounding land. As a consequence of their position on the site and finish, the caravans and associated vehicles are in stark contrast to Mansty Wood and do not merge with the natural backdrop of densely packed trees.
67. The proposed layout would lead to a further incursion into the site and would position caravans and vehicles at a significant distance from the edge of Mansty Wood. As such the development would dominate the site and the characteristic relationship between the wood and the field edge would be significantly undermined.
68. The proposed post and rail fencing and hedge planting which would differentiate the site from the adjacent land would be consistent with boundary treatment in the surrounding area.
69. Proposed tree planting is shown on the layout plan. However, there are no details regarding the size or species of trees, nor any evidence to demonstrate that the tree screen would soften views of the caravans. Thus, it has not been

shown that the development has been sited and landscaped so as to ensure that any impact on the character and landscape of the locality is minimised.

70. Even if this were to be shown it is reasonable to assume that the use of the site would give rise to frequent comings and goings of residents along the access and necessary domestic paraphernalia such as letter-boxes and refuse bins. These activities and facilities would fall outside the tree screen and would form part of the change in character of the site which would be at odds with the rural nature of the surrounding area.
71. I conclude that the change of use of land to use as a residential caravan site would have a significantly harmful effect on the character and appearance of the site and the surrounding area. The development is therefore contrary to Core Policy 2 and Policies H6, EQ4, EQ11 and EQ12 of the Local Plan which seek to protect the natural environment, landscape and local distinctiveness.

Mansty Wood

72. Mansty Wood is an ancient woodland. Although the site is not within the wood itself it shares a boundary with it and the proposed dayroom would be within the 15 metre buffer zone recommended by government guidance.¹
73. Policies EQ1 and EQ4 of the Local Plan require that ancient woodland is protected from damage and that new development will not cause significant harm to natural assets including ancient woodlands. The Framework also states that the loss or deterioration of irreplaceable habitats such as ancient woodland should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists.
74. The Council's concerns relate to both the effect of the proposals on the ancient woodland as part of the character of the area, which I have addressed above, and the potential for direct effects on it arising from the construction of the dayroom and connections to services.
75. The appellant argues that works have already been carried out within the buffer zone in the form of hardstanding and the concrete base for the mobile home and that they have not affected the woodland. However, there is no comparative information to show how those works relate to the proposed works necessary to provide the dayroom. On that basis it has not been demonstrated that the further works to form foundations for the dayroom and connections to services would not have an adverse effect on the woodland.
76. Furthermore, although a service run has been laid to join the toilet building to the treatment plant which has been installed on site, it has not been shown that these works would provide sufficient capacity for the day room.
77. There is potential for the woodland to be affected by the works. However, the dayroom has not yet been constructed and the Council has agreed that the means of its construction and connection to services could be the subject of a planning condition. Such a condition could be drafted so as to meet the tests for conditions set out in Planning Practice Guidance and I am satisfied that it would address the potential harm to the ancient woodland in this case.

¹ Natural England and Forestry Commission Ancient woodland, ancient trees and veteran trees: advice for making planning decisions January 2022

78. I conclude that subject to the imposition of a planning condition, the change of use of land to use as a residential caravan site would not have a harmful effect on Mansty Wood. The development is therefore in accordance with Core Policy 2 and Policies EQ1 and EQ4 which seek to protect the natural environment including ancient woodlands and with the Framework.

Other considerations

Local Plan Policy H6 – other criteria

79. I have found that the development would not accord with Policy H6 of the Local Plan. However, this is in respect of criterion 8 only. The Council has confirmed that in this case the use as a gypsy and traveller site would accord with the other criteria in Policy H6. To that extent the location could be said to be a good one for a gypsy and traveller site.

80. The appellant submitted two appeal decisions, one of which he subsequently confirmed was not relevant to this case. The second decision related to appeals at Shadowbrook Lane, Hampton in Arden² in which the Inspector assigned substantial weight to her assessment that when read against the relevant criteria based policy the development performed reasonably well. The approach which I have adopted in respect of the other criteria in Policy H6 concurs with this Inspector's approach.

Intentional Unauthorised Development

81. There is no dispute between the parties that the change of use of the land and some of the operational development which is the subject of the appeal was carried out in advance of planning permission being granted.

82. At the Hearing it was established that the appellant thought he could bring his caravans on because there had previously been caravans on the site. However, he did take advice and a site visit with his agent was carried out before any caravans were stationed or other works commenced. As a consequence of the advice he received, the appellant submitted a planning application which was dated 8 May 2022. The caravans were brought onto the site by 14 June 2022 when the enforcement notice was served. This was before the planning application had been determined, therefore the use and associated works which have been carried out amount to Intentional Unauthorised Development (IUD).

83. A Written Ministerial Statement (WMS) dating from August 2015 establishes that IUD is a material consideration to be weighed in the determination of planning applications and appeals. The WMS relates to all forms of development not just that relating to gypsy and traveller sites and places particular emphasis on IUD in the Green Belt.

84. The appellant was clearly aware of the need for planning permission as he had submitted a planning application. However, he says that he had no alternative site available to him and he wanted to keep his family together. The appellant has not constructed the day room and the facilities available to him and his family on the site are the minimum necessary to provide for a habitable environment for its residents.

² Appeal Refs: APP/Q4625/C/13/2209742 and APP/Q4625/C/13/2209777

85. Bringing all of these points together I find that IUD has occurred but the weight which I attach to this is reduced by the fact that the appellant had no alternative site and that he has limited the amount of development which he has carried out. Consequently, IUD attracts moderate weight against the appellant's case that planning permission should be granted.

The need for and supply of gypsy and traveller sites

86. The Council is not disputing that there is a need for gypsy and traveller sites in the district. Policy H6 of the Local Plan sets out a need for 85 pitches based on the Gypsy and Traveller Accommodation Assessment (GTAA) 2004 for the period 2007 to 2028. At the Hearing the Council confirmed that the GTAA 2021 sets out a need for 121 pitches and that there is a need for 72 pitches in the current 5 year period. The appellant's figure was slightly higher for the five year period 2022 to 2027 at 76 pitches. Notwithstanding the precise figure there is an agreement that there is a significant need for new pitches.
87. Since the appeal was submitted the Lisa Smith judgement³ has been published which relates to the interpretation of the PPTS and the application of that policy to gypsies and travellers who have ceased to pursue nomadic lifestyles. The GTAA 2021 sets out the need for households meeting the definition set out in the PPTS and also needs generated by undetermined households and those which do not meet the definition. Taking these additional households into account increases the need to a total of 154 pitches over the period 2021 to 2038.
88. In terms of the supply of pitches the Council produced a Site Allocations Document (SAD) in September 2018 which identified sites for 20 new gypsy and traveller pitches. The Council says that additional provision will come through its Local Plan Review DPD. However, it is unlikely that any sites will be brought forward as part of the review until 2025 at the earliest if the Council's anticipated programme is achieved.
89. The Council also points to its approach of using the most up to date information it has on the need for sites when it determines planning applications against the criteria in Policy H6. It also identifies 11 permanent pitches which have been granted in the Green Belt since the adoption of the SAD. This is an indication that the Council has not adopted an overly restrictive approach to supply.
90. Taking all of these points together, it has been shown that there is a need for gypsy and traveller sites in the Council's area and that the Council cannot currently identify a 5 year supply of deliverable sites. These factors, taken separately, weigh significantly in favour of the development.

Availability (or lack) of alternative accommodation

91. The appellant says that there are no suitable, affordable and acceptable sites available to him as an alternative to the appeal site. He has submitted letters from gypsy and traveller sites in the area which state that there are no vacant pitches available. His only option if he and his family were not able to stay on the site, would be to occupy an unauthorised, roadside site. The Council does not dispute the information provided by the appellant and is not aware of any sites which may provide alternative accommodation.

³ Lisa Smith v SSLUHC [2022] EWCA Civ 1391

92. On this basis there is no evidence of any alternative accommodation being available which weighs significantly in favour of the development.

Personal circumstances of the appellant and his family

93. The development allows for a family to live together enabling them to provide support for each other, which is acknowledged as of importance to the gypsy and traveller community. The site also provides a stable base from which the residents can access essential services such as education and healthcare.
94. There are eight adults and eight children who would be residents of the site. Two of the oldest children are being home-schooled and the County Council has confirmed that they are receiving a suitable and effective education. Three of the children attend a local primary school where an advisory teacher says they have settled and integrated well and are making good progress. It is hoped that one of the two youngest children will start school in January 2023 and the youngest is a baby. Two of the children have access to a speech therapist for support.
95. The appellant says that all residents of the site are registered with the doctor, and this is corroborated by the County Council. Three adult residents have health conditions which require regular treatment. In general terms it would be beneficial for all of the residents to be able to access healthcare from a settled base.
96. On the basis of the lack of any identified available, alternative accommodation there is at least a possibility that the family would have to resort to life on the road in the event that it was unable to stay on the site. Such an existence in itself presents challenges in terms of maintaining a good standard of health and wellbeing and is not in the best interests of the children.
97. The Council did not have any comments to make on the personal circumstances of the appellant and his family.
98. Taking account of all of these factors, the personal circumstances of the appellant and his family, including the best interests of children, weigh significantly in favour of the development.

Other appeal decisions

99. The Council referred to three appeal decisions at New Acre Stables⁴, 122 Streets Lane⁵ and Doveleys Farm⁶ which were issued in 2014, 2019 and 2022. The decisions all relate to sites within the South Staffordshire district and also within the Green Belt. I do not have the same detailed information before me as was before the other Inspectors and it is essential that each decision is made on its own merit. I can also see from the appeal decisions that there are differences in terms of the personal circumstances of the appellants. For these reasons the appeal decisions submitted by the Council are not determinative and have a neutral effect on the balance in favour of the appeal scheme.

⁴ Appeal Ref: APP/C3430/A/13/2210160

⁵ Appeal Ref: APP/C3430/W/18/3201530

⁶ Appeal Refs: APP/C3430/C/21/3274332, APP/C3430/C/21/3274333, APP/C3430/C/21/3274334 and APP/C3430/W/21/3287902

The Local Plan review

100. The Council provided an update at the Hearing in respect of its Local Plan Review DPD (the DPD) which has reached the Regulation 19 consultation stage. Given that this document has not been examined or found sound, the policies which it contains currently carry no weight. I have had regard to the GTAA 2021 which is a background document to the DPD. I have already assigned weight to the issues of need and supply of gypsy and traveller sites and the lack of availability of alternative sites. Therefore, the lack of progress on the DPD which contributes to these circumstances attracts neutral weight so as to avoid any double-counting.

Green Belt balance

101. I have found significant harm to the Green Belt in relation to openness and that the development would have a significantly harmful effect on the character and appearance of the site and the surrounding area, contrary to Core Policy 2 and Policies H6, EQ4, EQ11 and EQ12 of the Local Plan. I am mindful that, by virtue of paragraph 148 of the Framework substantial weight should be given to any harm to the Green Belt.

102. In accordance with the WMS, I have also found that intentional unauthorised development (IUD) has taken place and I have concluded that in this case the IUD factor attracts moderate weight against allowing the appeal.

103. In favour of allowing the appeal, I attach significant weight individually to the need for gypsy and traveller sites, the lack of supply of sites particularly given the timescale of the DPD, the lack of available alternative accommodation for the appellant and his family and the personal circumstances of the appellant and his family.

104. The best interests of the children are a primary consideration, and no other consideration is inherently more important, however, they are not a determinative factor. In this case the best interests of the children who reside on the site weigh significantly in favour of allowing the appeal.

105. My conclusion that, subject to the imposition of a planning condition, the development would not have a harmful effect on Mansty Wood and my findings in relation to the other appeal decisions which were brought to my attention by the Council are neutral the Green Belt balance.

106. The Framework establishes that substantial weight should be given to any harm to the Green Belt and that inappropriate development, such as the appeal scheme, is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Policy E of the PPTS states that, subject to the best interests of the child, unmet need and personal circumstances, are unlikely to clearly outweigh harm to the Green Belt and any other harm.

107. The Framework makes it clear that the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the development must be clearly outweighed by other considerations for planning permission to be granted. In this case I find that although there are some matters which weigh in favour of the appellant, the cumulative weight of these other considerations does not clearly outweigh the substantial harm arising to the Green Belt in combination with the harm to the character and appearance of the surrounding area and the IUD.

108. Consequently, my initial conclusion is that the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist in this case. Accordingly, the development is contrary to Core Policy 2 and Policies GB1, H6, EQ4, EQ11 and EQ12 of the Local Plan and to the Framework.

Planning permission on a temporary/personal basis

109. The appellant is clear that he is seeking planning permission on a permanent basis, however it is necessary for me to consider whether a grant of temporary and/or personal permission is justified.

110. The substantial weight attached to any harm to the Green Belt is the same for a temporary as for a permanent permission. In this case the effect on openness and the harm to the character and appearance of the surrounding area would be moderated if the permission was of a limited duration.

111. The Council requested that if planning permission was granted it should be subject to a condition limiting the duration of consent until 31 March 2025. At the Hearing it confirmed that this timescale reflects the programme for its expected adoption of the DPD.

112. There is no certainty that the DPD will be delivered in accordance with the Council's ambitions and even if it were in place by that time there is no information before me regarding the likelihood that there will be an available site for the appellants in that timescale. On that basis it cannot be said that there is a reasonable expectation of a change in planning circumstances within a two year period and throughout that period and potentially beyond the harm which I have identified would endure.

113. There is no appeal under ground (a) in relation to the enforcement appeal (Appeal A) and the upshot of dismissing Appeal B is that the appellant and his family would have no alternative but to comply with the enforcement notice and leave the site. In the absence of any evidence to suggest otherwise they would end up on the roadside.

114. A temporary consent would enable the appellant and his family to remain on the site for a longer period. However, the positive outcome for the appellant and his family of such action is outweighed by the harm to the Green Belt and to the character and appearance of the site and the surrounding area in this case.

115. Similarly, a personal consent based on the occupation of the site by the appellant and his dependents would result in a continuation of the harm to the Green Belt and the character and appearance of the site and the surrounding area. In this case such an impact even of limited duration outweighs the benefits to the appellant and his family.

116. I conclude that granting permission on a temporary and/or personal basis does not change the Green Belt balance such that planning permission should be granted on either or both of these bases.

Human Rights including the Best Interests of the Children

117. There is at least a possibility that dismissing the appeal would result in the appellant and his family becoming homeless given that I have concluded that

there is no suitable alternative site for them to move to. This would amount to significant interference with their rights under Article 8.

118. I have taken into account all of the matters raised by the appellant including the lack of availability of alternative accommodation and the personal circumstances of himself and his family. I have also given particular consideration to the best interests of the children on the site who would benefit from a settled base from which to access education and therapeutic support. The potential of a roadside existence would have significant implications for family life and could lead to separation of parts of the family from one another.
119. However, the interference with the rights of the appellant and his family would be a proportionate response in pursuance of the well-established and legitimate aim of the protection of the Green Belt.
120. Turning to the PSED, I am not aware of any local residents raising concerns about the development and letters have been submitted by local people in support of the appellant's appeal under ground (d). To that extent the relationship between the family and the settled population is a positive one. Further evidence of this is that the children have settled well at the local school. Enabling the family to remain on the site, with the benefit of planning permission to establish a lawful use of the land has the potential to continue to foster good relations between the family and other people in the local community and to eliminate discrimination.
121. Allowing the appeal and granting planning permission would also advance equality of opportunity by taking steps to meet the particular needs of the family both in terms of their ethnicity and the shared protected characteristic of age. It would also provide a settled base for the children to access education, which is in their best interest.
122. I have had due regard to the PSED and found that the development would provide the opportunity to advance its aims, however set against the well-established and legitimate aim of the protection of the Green Belt dismissing the appeals is a proportionate response in this case.

Other Matters

Cannock Chase Special Area of Conservation

123. There is no dispute between the parties that the site lies within the zone of influence of Cannock Chase Special Area of Conservation (SAC) which falls within the definition of a European Site. The appellant has provided a unilateral undertaking (UU), in a form which the Council find to be acceptable. The UU secures the payment of a financial contribution towards Strategic Access Management and Monitoring Measures to mitigate the adverse effect of recreational activities on the integrity of the SAC.
124. Cannock Chase is designated as a SAC because of the extent of European Dry Heath habitat. The evidence base document provided by the Council⁷ sets out that the SAC contains important vegetation communities, supports populations of several scarce invertebrates and is an important breeding site for the European Nightjar.

⁷ Evidence Base relating to Cannock Chase SAC and the Appropriate Assessment of the Local Authorities Core Strategies by Footprint Ecology 2009

125. The Conservation of Habitats and Species Regulations 2017 requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an appropriate assessment must be made in view of that site's conservation objectives. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further as it could not change the outcome of this appeal.

Conclusion

126. The development does not accord with the development plan and there are no other considerations to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed. This action would not unacceptably violate the family's human rights and the protection of the public interest cannot be achieved by means that are less interfering of their rights.

Appeal A – ground (g)

127. Ground (g) is that the period specified for compliance with the notice falls short of what should reasonably be allowed. The issue of proportionality is also of relevance in this case given the consideration of human rights.

128. The notice as served the Council sets out a stepped approach to compliance with the requirements of the notice. These include a compliance period of two months for the cessation of the use and removal from the land of all caravans and vehicles. The appellant considers that the compliance periods are too short because compliance with the notice would result in homelessness and place a disproportionate burden on the appellant's family and children. He suggests a compliance period of 12 months for all of the requirements of the notice.

129. During the Hearing the Council indicated that it would be content for the compliance period to be extended to 12 months in accordance with the request of the appellant. This has been confirmed in writing.

130. It will be seen from the foregoing that I have accepted that there is a current lack of supply of gypsy and traveller sites in the district and a lack of any alternative sites being available to the appellant and his family. In this context a compliance period of two months to cease the use and remove the caravans is impractical and unreasonable. It is also a disproportionate response in terms of the appellant's human rights.

131. In the light of my finding that the development has a harmful effect on the Green Belt and given the emphasis placed in the Framework on such harm I find that extending the compliance period to 12 months would be reasonable. This would allow the school age children to complete the current academic year which would be less disruptive to them and is a proportionate response in terms of the appellants' human rights.

132. For the reasons given above, I conclude that the periods for compliance with the notice falls short of what is reasonable and proportionate. I shall vary the enforcement notice prior to upholding it. The appeal on ground (g) succeeds to that extent.

Sarah Dyer

Inspector

APPEARANCES

For the appellant:

Philip Brown

Brian Rogers (appellant)

Carl Woollaston (local resident)

Peter Jones (local resident)

Simon Fowler (local resident)

For the Council:

Catherine Gutteridge

Paul Turner



Appeal Decision

Site visit made on 14 February 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 20th March 2023

Appeal Ref: APP/C3430/D/22/3310725

31 Meddins Lane, Kinver, Staffordshire DY7 6BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Adam Gatenby against the decision of South Staffordshire District Council.
 - The application Ref 22/00735/FUL, dated 27 July 2022, was refused by notice dated 13 October 2022.
 - The development proposed is described as 'loft conversion into 2 bedrooms including alterations to roof'.
-

Decision

1. The appeal is allowed, and planning permission is granted for loft conversion into 2 bedrooms including alterations to roof at 31 Meddins Lane, Kinver, Staffordshire DY7 6BZ in accordance with the terms of the application, Ref 22/00735/FUL, dated 27 July 2022, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: OS/1001, 1001-02, 1001-10, 1001-01 and 2201-01.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Preliminary Matter

2. Although the Council's decision notice does not refer to the living conditions of the residents of neighbouring properties, given the assessment within the planning officer's report and the comments within the letters of objection I have dealt with this matter as a main issue.

Main Issue

3. The main issues are (i) the effect of the proposed development on the character and appearance of the host property and the area, and (ii) the living conditions of the residents of neighbouring properties with particular regard to privacy, light and outlook.

Reasons

Character and appearance

4. The appeal property is a detached 2 storey house with shallow roof pitch, set back significantly from the Meddins Lane road frontage. Meddins Lane is characterised by its wide variety of property styles and ages. There is little uniformity between the surrounding properties with substantial differences in scale, roof design and distance from the highway. Further, there are considerable changes in topography which alter the perception of height from the street and contribute to a diverse roofscape.
5. Although the proposed loft conversion would raise both the eaves and ridge of the roof, resulting in a steeper pitch, the overall height and roof pitch would be comparable with other properties in the area and would not be overly dominant. While the development would be clearly visible within the street scene, the front dormer and decorative brickwork would be an attractive addition, mirroring existing architectural detailing.
6. While the rear dormer is substantial, the pitched roof form would add architectural interest. The reduced height of the middle section of the rear dormer would lessen its overall bulk resulting in a well-balanced and proportioned façade. Because of the host property's position, set back from the highway, the rear dormer would only be marginally visible and therefore would not unduly influence the street scene.
7. Therefore, I conclude that the proposed development would be consistent with the character and appearance of the host property and the area. Consequently, I find no conflict with Policy EQ11 of the South Staffordshire Council Core Strategy (December 2012) (SCS) which seeks to ensure developments are of the highest quality and take account of local character and distinctiveness, while making a positive contribution to the street scene through appropriate scale. The proposal would also accord with the National Planning Policy Framework (the Framework) which seeks to ensure development adds to the overall quality of the area and is visually attractive as a result of good architecture.

Living conditions

8. Nos 112a and 112b Church View Gardens as well as Nos 25 and 27 Meddins Lane are situated a significant distance behind the appeal property. While the rear dormer could be perceived as a third storey, the distances required by the SCS, between habitable rooms in three storey dwellings would be met, further, Nos 112a, 25 and 27 are offset at an oblique angle. Although No 112b Church View Garden directly faces the rear elevation of the appeal property and is single storey, due to the topography it is raised noticeably above the appeal site and benefits from boundary fencing and planting. Consequently, the privacy and outlook from Nos 112a and 112b Church View Gardens and Nos 25 and 27 Meddins Lane would not be harmed by the proposal.
9. Despite the appeal property's position behind the rear building lines of the adjacent properties No 29 and No 33 Meddins Lane, each property benefits from a long garden, high level boundary treatments and a southerly aspect. Therefore, the proposal would not have a detrimental effect on privacy or light.

10. Overall, due to the topography, intervening distances, and orientation of adjacent properties and despite the increase in height of the appeal property, the proposal would not be overbearing or result in any harmful loss of privacy or light for the residents of the neighbouring properties.
11. Therefore, I conclude that the proposal would not harm the living conditions of the residents of neighbouring properties and would conform with Policy EQ9 of the SCS which requires that residential amenity of nearby neighbours is protected. Similarly, there is no conflict with the Framework which seeks to ensure a high standard of amenity for existing and future users.

Conditions

12. In addition to the statutory time limit, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. A condition relating to materials is also necessary to ensure that the appearance of the development would be satisfactory.
13. The Council has suggested that all rear facing dormer windows be obscured glazed, this is not necessary as I have not identified any harm to the living conditions of the residents of the neighbouring properties.

Conclusion

14. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework, and therefore the appeal is allowed.

K Allen

INSPECTOR

