

### **TO:- Planning Committee**

Councillor Mark Evans , Councillor Bob Cope , Councillor Helen Adams , Councillor Jeff Ashley , Councillor Barry Bond M.B.E. , Councillor Gary Burnett , Councillor Val Chapman , Councillor Philip Davis , Councillor Robert Duncan , Councillor Sam Harper-Wallis , Councillor Rita Heseltine , Councillor Diane Holmes , Councillor Victor Kelly , Councillor Kath Perry M.B.E. , Councillor Robert Reade , Councillor Gregory Spruce , Councillor Christopher Steel , Councillor Wendy Sutton

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, 19 September 2023

Time: 18:30

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



D. Heywood  
Chief Executive

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## **A G E N D A**

### **Part I – Public Session**

- |          |   |                 |
|----------|---|-----------------|
| <b>1</b> | Minutes<br>To approve the minutes of the Planning Committee meeting of 18 July 2023.    | <b>1 - 2</b>    |
| <b>2</b> | Apologies<br><br>To receive any apologies for non-attendance.                           |                 |
| <b>3</b> | Declarations of Interest<br><br>To receive any declarations of interest.                |                 |
| <b>4</b> | Determination of Planning Applications<br>Report of Development Management Team Manager | <b>3 - 62</b>   |
| <b>5</b> | Monthly Update Report<br>Report of Lead Planning Manager                                | <b>63 - 106</b> |

### **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](mailto: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](http://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, 18 July 2023 at 18:30

**Present:-**

Councillor Helen Adams, Councillor Jeff Ashley, Councillor Gary Burnett, Councillor Bob Cope, Councillor Philip Davis, Councillor Mark Evans, Councillor Sam Harper-Wallis, Councillor Rita Heseltine, Councillor Diane Holmes, Councillor Kath Perry, Councillor Robert Reade, Councillor Gregory Spruce, Councillor Christopher Steel, Councillor Wendy Sutton

**06 MINUTES OF MEETING - 20 JUNE 2023**

**RESOLVED:** that the minutes of the Planning Committee held on 20 June 2023 be approved and signed by the Chairman

**07 APOLOGIES**

Apologies were received from Councillors B Bond, R Duncan, V Chapman and V Kelly.

**08 DECLARATIONS OF INTEREST**

There were no declarations of interest.

Members had been granted a dispensation by the Council's Monitoring Officer to determine application 23/00494/FUL which pertained to Council property.

**09 DETERMINATION OF PLANNING APPLICATION**

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

23/00494/FUL – 6 HINKSFORD PARK, SWINDON ROAD, HINKSFORD, KINGSWINFORD, DY6 0BG - APPLICANT – MR CARL BENNETT - PARISH – SWINDON.

**RESOLVED** That the application be **APPROVED** subject to the conditions as set out in the Planning Officers report.

23/00296/COU – ORTON MEADOWS, 91 ORTON LANE, WOMBOURNE, WV4 4XA – APPLICANT – MR CARL BENNETT - PARISH – WOMBOURNE

**RESOLVED** That the application be **APPROVED** subject to conditions as set out in the Planning Officers report.

**10 MONTHLY UPDATE REPORT**

The Committee received the report of the Lead Planning Manager informing the committee on key matters including training; changes that

20 July 2023

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.

The Meeting ended at: 18:45

**CHAIRMAN**

**SOUTH STAFFORDSHIRE COUNCIL****PLANNING COMMITTEE – 19 SEPTEMBER 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](http://www.sstaffs.gov.uk)

Report prepared by: Helen Benbow - Development Management Team Manager



<b>App no</b>	<b>Applicant/Address</b>	<b>Parish and Ward Councillors</b>	<b>Recommendation</b>	<b>Page</b>
22/00936/FUL MAJOR	Mr Sean Murphy  Land At Littywood Farm Toft Lane Coppenhall Staffordshire	DUNSTON AND COPPENHALL  Councillor A Adams Councillor S Harper- Wallis	APPROVE – Subject to conditions	<b>9-53</b>
23/00419/FULHH NON MAJOR	Mr And Mrs  Windridge Elsfield Dunsley Drive Kinver STOURBRIDGE DY7 6NB	KINVER  Councillor S Dufty Councillor P Harrison Councillor G Spruce	APPROVE – Subject to conditions	<b>55-62</b>



**22/00936/FUL**

**Mr Sean Murphy**

**DUNSTON AND COPPENHALL**

Councillor Andrew J Adams  
Councillor Samuel G Harper-Wallis

**Land At Littywood Farm Toft Lane Coppenhall Staffordshire**

**The installation of a ground mounted solar array and associated infrastructure**

<b>Pre-commencement conditions required:</b>	<b>Pre-commencement conditions Agreed:</b>	<b>Agreed Extension of Time until</b>
<b>YES</b>	REQUESTED 21/08/23	22 <sup>nd</sup> September 2023

**1.0 SITE DESCRIPTION AND APPLICATION DETAILS**

The installation of a ground mounted solar array and associated infrastructure

Date of site visit - 11 January 2023

**1.1 Site Description**

1.1.1. The application site is an irregularly shaped piece of arable farmland which extends to approximately 70.77 hectares and is situated around 1 mile south-west of Coppenhall village. The site is within a rural area characterised by open fields and is bounded to the south-east by Levedale Road and to the south and south-west by an access track which curves around the western site boundary.

1.1.2. Although the site is within a rural area there are a number of residential properties on the periphery of the site including The Toft (adjacent to the north-east corner) which is a Grade II listed building and Toft House which is situated adjacent to the southern tip of the site. There are several other residential uses in close proximity to the east. Littywood Farm, which comprises of 400 acres of land for the production of soft fruits, is situated immediately to the north-west. There is a public bridleway which enters the site along the south-western site boundary and travels north towards Butterhill Farm. The site slopes gently from north-east to south-west and there is a localised high point within the south of the site.

**1.2 SITE HISTORY**

Planning Applications

22/01119/EIASC Request for Screening Opinion under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. Proposed Solar Farm and Ancillary development on Land at Littywood Farm, Coppenhall, South Staffordshire, ST18 9AH, EIA not required, 22nd December 2022

**1.3 APPLICATION DETAILS**

**The Proposal**

1.3.1. The application proposes the installation of a solar photovoltaic electricity generating station extending to approximately 70.77 hectares. The main components of the facility are the solar panels and

frames, inverters, transformers, cabling and a sub-station. The dark blue or black panels would be situated in a series of rows installed up to a height of 3.2m and tilted southwards at between 10 and 25 degrees.

1.3.2. For health and safety and security purposes, 2.4m high timber post and wire fencing is proposed which would be set in 5m from the existing hedgerows with vegetation surrounding. The proposal would also require an upgraded site access and new aggregate access tracks within the site. A 'biodiversity buffer' is shown running along the eastern side of the site which wraps around the rear of The Toft (in the north-east corner) and Toft House (in the southern part of the site).

1.3.3. The Transport Statement advises that the proposed vehicular access route for deliveries and construction vehicles would be via the M6, A449, School Lane and Long Lane, and the Butterhill Road and the route for egressing the site would be via Whittamoor Lane, School Lane and A449. Due to the road characteristics for accessing and egressing the Site, a Temporary Traffic Regulation Order (TTRO) is proposed to be implemented for a one-way system for the 16-week construction period. Access into the site would be via an upgraded existing field access north-west of The Toft and egress via an upgraded access roughly halfway along the south-eastern site boundary, turning right out of the site and left at the Whittamoor Lane / Levedale Road junction. HGV's could not access the site of the sub-station therefore it is proposed to deliver materials to the main site which would be taken over via trailer or tractor.

1.3.4. As part of the operation the following components would be installed on the site:

- Solar panels with galvanised steel/aluminium mounting frames arranged in south-facing rows across the site.
- A series of Inverters across the site consisting of pre-fabricated metal green or grey containers measuring approximately 7-10m x 2.2-3m, with a flat roof to a height of 3m.
- A sub-station to be situated next to an existing infrastructure pylon within the northern part of the site. The sub-station compound would extend to 73.6m by 51.5m with 2.45m high panel fencing surrounding. The control room, which is the largest element, would extend to approximately 144 sq.m. in area with a flat roof to a height of 5.5m. Vegetation/screen is proposed west of the lane to screen this element from the west.
- CCTV cameras mounted at 3m in height around the perimeter of the site to monitor the solar farm.
- Several permeable stone access tracks
- 2.4m high timber and post security fence with bottom gaps to allow for movement of wildlife.
- Underground cabling to connect the panels, inverters and sub-station.

1.3.5. Once operational the site would be monitored remotely and any visits would be occasional (typically less than once a fortnight) for maintenance and inspection.

1.3.6. The application states that the solar farm would provide a generation capacity of approximately 40MW, generating enough power for approximately 9,330 typical family homes, resulting in an approximate saving of 480,000 tonnes of CO<sup>2</sup> per annum. The design of the equipment is reversible and the anticipated lifespan of the facility is 40 years, after which time the site could be decommissioned and returned to agricultural use.

1.3.7. The plans have been amended to move the solar panels further away from the rear of The Toft, a Grade II Listed building. The landscaped buffer along the south-eastern boundary has been widened and the panels have been moved further away from Toft House in the southern corner. One CCTV camera has also been omitted from the rear boundary of this dwelling. Hedgerow planting has been incorporated either side of the Public Right of Way (PROW) to soften the visual impact of the fencing for PROW users. To compensate for the areas of panels that have been removed, a new triangular area of panels has been added in the northern part of the site further away from The Toft and other residential uses.

### **Agent Submission**

1.3.8. The application is accompanied by the following:

- Agricultural Land Classification Report
- Arboricultural Report
- Construction Traffic Management Plan
- Transport Statement
- Design & Access Statement plus addendum
- Planning Statement plus addendum
- Heritage Statement
- Flood Risk Assessment
- Geo-environmental Desktop Study and Preliminary Risk Assessment
- Landscape and Visual Impact Assessment
- Noise Impact Assessment
- Preliminary Ecological Appraisal
- Solar PV Glint and Glare Study
- Transport Statement
- Bat Roost and Barn Owl Assessment
- BNG Assessment
- Biodiversity Metric
- Wintering Bird Survey
- Breeding Bird Survey
- NatureSpace Report

## **1.4 POLICY**

### **1.4.1. Constraints**

Newt - Impact Risk Zone Red Name: RED ZONE:

Newt - Strategic Opportunity Area Name: West Staffordshire Pondscape (North):

Newt - Impact Risk Zone Amber Name: AMBER ZONE:

Public Right of Way Name: Dunston 13, PROW ID: 2035, Status: BRIDLEWAY

Public Right of Way Name: Bradley 7, PROW ID: 1101, Status: BRIDLEWAY

Public Right of Way Name: Dunston 12, PROW ID: 1890, Status: BRIDLEWAY

Public Right of Way Name: Dunston 11, PROW ID: 1743, Status: BRIDLEWAY

Public Right of Way Name: Penkridge 34, PROW ID: 4365, Status: FOOTPATH

Public Right of Way Name: Bradley 30, PROW ID: 4019, Status: BRIDLEWAY

SAC Zone- 8km Buffer Buffer Zone: 8km

### **1.4.2. Policies**

- Within the Open Countryside

- Core Strategy

Core Policy 1 The Spatial Strategy for South Staffordshire

OC1 Development in the Open Countryside Beyond the West Midlands Green Belt

Core Policy 2 Protecting and Enhancing the Natural and Historic Environment

EQ1 Protecting, Enhancing and Expanding Natural Assets

EQ3 Conservation, Preservation and Protection of Heritage Assets

EQ4 Protecting and Enhancing the Character and Appearance of the Landscape

Core Policy 3 Sustainable Development and Climate Change

EQ6 Renewable Energy

EQ7 Water Quality

EQ9 Protecting Residential Amenity

EQ11 Wider Design Considerations

EQ12 Landscaping

EV11 Sustainable Travel

- National Planning Policy Framework (NPPF)

Chapter 2 Achieving sustainable development

Chapter 4 Decision-making

Chapter 14 Meeting the challenge of climate change, flooding and coastal change

Chapter 15 Conserving and enhancing the natural environment

Chapter 16 Conserving and enhancing the historic environment

- Evidence base for the Local Plan Review (Publication Plan)

Sustainable Construction & Renewable Energy Topic Paper November 2022

## 1.5 CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise and representations may be summarised.

Site Notice Expires	Press Notice Expires
1 February 2022	25 January 2023

### **Councillor Andrew Adams - Penkridge North & Acton Trussell**

5th January 2023

Call in to committee.

Contrary to SSDC adopted core strategy (local plan) adopted 11th December 2012, Valid until 2028

Page 5 paragraph 7: Proposed development is within "open countryside" (Planning statement page 21 paragraph 7.26

Relevant policy in Plan or NPPF: Contrary to spatial and environmental strategies and policies

CP1,CP2,CP9,EQ6

### **Councillor Samuel Harper-Wallis-Penkridge North & A Trussell**

No Response Received

### **Councillor Leonard Bates - Penkridge NE-Acton Trussell Ward**

No Response Received

**Councillor Josephine Chapman - Penkridge West Ward**

No Response Received

**Penkridge Parish Council**

No Response Received

**Dunston & Coppenhall Parish Council**

26th January 2023

1. The proposed development is significant in its nature and (if passed) would be expected to have a considerable impact on the local environment and its residents. Hence, we decided to carry out a consultation exercise:

- a) To tell residents about the proposed development and planning application.
- b) To tell them how and where to find out about the application.
- c) To tell them about the planning portal, and the process to follow if they wanted to comment on the application.

This response has been collated by the members of our Parish Council, following consultation with residents within both parishes who live within proximity of the proposed development.

Our consultation was carried out on the following dates:

Friday 6th January (all day)

Friday 20th January (afternoon)

Sunday 22nd January (afternoon)

2. During our consultation, we asked each resident to tell us if they knew about the application already. Some people had heard about the possibility of such a development, but very few knew that any application had been submitted. We were also concerned to learn that more than half of those who live close to the proposed site (including residents from Little Heath, area surrounding The Toft and Butterhill), had not received any notification from the District Council whatsoever. If we had not told them about it, the application may have gone unnoticed and without comment from any of these people.

1. Having consulted widely, here is a summary of findings:

- a) Most residents were unaware that a planning application had been submitted.
- b) Most residents were concerned about the potential impact of the proposed development (explained later in this document).
- c) A handful of residents (mainly those in Coppenhall, who live a bit further away) were ambivalent about the proposed development.
- d) A few people were under the misconception that a solar farm in the neighbourhood may result in them receiving cheaper electricity supplies to their homes.
- e) Only one resident openly expressed their support for the proposed development, on the basis that the UK needs to have access to more and cheaper energy supplies.

4. The Parish Council were also concerned to find out that District Councillor Bates had visited the site with representatives from Elgin Energy some months before the company contacted us about their proposal to develop an application. We understand that he is cabinet member for climate change, and as such has an interest in projects and developments of this nature. That said, we were disappointed that the information was not shared with us at the earliest opportunity.

5. Summary of key concerns raised by residents:

- a) The proposed site comprises 170 acres of agricultural land, all of which for many years has been used solely for the purpose of growing crops to feed our people.
- b) A significant share of the site is high quality agricultural land, with some parts graded as one, two and three. As such, development of any kind on this land would be in contravention of current Government policy.
- c) The whole site sits within the local open countryside, which is currently protected from development under the terms of the current South Staffordshire District local development plan. The open countryside is a valuable and beautiful agricultural resource. Destruction of open countryside is a high-risk strategy, because we need it to grow food and feed the nation. Once destroyed, it cannot be recovered.
- d) The proposed site may lead to localised flooding in the fields and lanes because the solar panels may interrupt the flow of rainwater and prevent it from soaking away as it naturally would if the field were planted with crops. The proposed site has previously been used by Mr. Busby for cultivation of strawberries underneath polythene tunnels. This started in the early 2000's, with soft fruits grown for several years on the trot, interspersed with a few years fallow and arable crops to help the field recover its nutrients. During the soft fruit periods, considerable and regular flooding was observed on the lane adjacent to the field (which also bounds to the turkey farm on the opposite side of the lane). Flooding started happening when water could not soak into the land because of the polytunnels (there for some of the year) and ground covering insulation materials (there all the year round), which prevented water from soaking away. The problem was particularly bad near to the Calamer Pits, with floods of two feet or more regularly observed. Indeed, I remember those floods very clearly, often having to reverse up to one quarter of a mile because my car is too low to drive through safely. The problem may also be exacerbated because the ground underneath any solar panels would remain dry, and this would reduce the soil permeability. If the ground becomes hard and dry, water is even more likely to run off the land into the nearby lanes.
- e) Concerns about flooding and drainage are much more serious for residents of Little Heath (The Paddock, Toft House, Little Heath House, and Heath Ridge) because these properties are among the nearest to the proposed site, and they all rely on bore holes for their own water supplies (pumped electrically to each home), and they all rely on septic tanks for drainage purposes. None of these properties are on mains water or drainage.
- f) Concerns about the visual impact. The proposed development would be located on a field located immediately opposite to a turkey farm, which, in its appearance resembles a factory unit (it does not look like a farm). The positioning of solar panels and energy storage units in a neighbouring field would result in a significant, detrimental and long-term change to the appearance and visual impact of the local area. Residents are concerned that the open countryside would be transformed into an unpleasant industrial landscape. This would be detrimental to the wellbeing of residents across the whole community.
- g) Concerns about permanent change of land use classification from open countryside to industrial land. Residents are worried that a potential change of use may have adverse consequences for the neighbourhood, such as potential for future residential or industrial developments.
- h) Concerns about the possible noise from solar panels. We understand that solar panels generate a buzzing noise which is constant, but even louder at night than during the daytime.

Summary: We have taken account of the views of all residents we spoke to during our consultation exercise in deciding our position. The Parish Council of Dunston with Coppenhall, and all its members have unanimously agreed to object to this application.

**Senior Ecologist - South Staffordshire**  
15th August 2023 (latest comments)



**Designated Wildlife Sites:** The removal of fertiliser use and high-intensity cattle grazing on the site is likely to result in an overall reduction of ammonia and nitrogen pollutants. On this basis, I agree with the assessment of ammonia and other nitrogen emissions from the site in paragraph 4.1.21 of the ecological impact assessment, and do not consider that the proposed development needs to be screened into further assessment for the purposes of Habitat Regulation Assessment. Significant effects to SACs and RAMSAR sites are unlikely to occur as a result of the proposed development.

**Habitats:** Further to my previous comments, I have recommended a condition for a combined landscape and ecological management plan to secure management of the created and enhanced habitats in the long-term to ensure they meet the target conditions stated within the submitted metric.

**Protected Species:** I am satisfied with the ecological survey information relating to protected species for the site, and have no significant concerns regarding the survey methods, assessments or approach. I note that the applicant has progressed the district level licensing option from Naturespace, and the conditions and informative notes as stated on Pages 7 and 8 of the Naturespace impact report must be adhered to any decision notice. I have recommended that the combined LEMP also include species-specific enhancements across the site, including bat and bird boxes. I welcome the inclusion of monitoring in the EclA report, and I have also required species monitoring to be progressed as part of the combined LEMP to ensure that management measures will achieve the positive outcomes for species as identified within the EclA. This will also ensure that ongoing management is iterative and informed by the results of monitoring.

**Recommendations:** No objections subject to conditions.

**NB -** A district-level licence has been granted to South Staffordshire Council in relation to great crested newts which is administered by Naturespace. The applicant has paid an initial fee to Naturespace to provisionally enter the district level licence scheme subject to a second stage payment which will be paid post-decision. This licence fulfils the requirements of the Habitat Regulations and no further consideration of the regulations is therefore considered to be necessary.

### **Conservation Consultation**

31st January 2023

The site is within open countryside and is adjacent to a Grade II listed building. The Toft is a Grade II listed and stands approximately 60m from the edge of the site. Having looked at the layout plan there are a significant number of solar panels to be located in the field immediately adjacent to the listed building.

Having looked at the plans and the site it is my professional opinion that the proposed development causes harm to the setting of the listed building. There is a significant change to the setting of the listed building with the addition of solar panels within such close proximity to the designated heritage asset. It is felt that the change causes less than substantial harm to the setting of the listed building (in this instance to the higher end of the spectrum). Therefore, in line with the NPPF, as the scheme stands I cannot support the application on heritage grounds.

### **Conservation Consultation**

Further comments received 6th June 2023

Amended plans have been submitted following on from my previous comments. My previous comments predominantly related to the impact of the panels on the Toft, which is Grade II listed. Since the initial comments were made the scheme has been revised and the panels have been moved away from the Grade II listed building. This increased open space between the listed building and the first panels does help in creating a buffer between the listed building and the array. However, there will still be panels visible in some views from the property and potential views towards the property.

Based upon the changes it is felt that whilst there is an improvement to the scheme in terms of the impact upon designated heritage assets, there is still harm caused by the proposals. This harm is considered to be less than substantial.

#### **Environmental Health Protection**

3rd January 2023

I have no comments to make in respect of this application.

#### **Arboricultural Officer Consultation**

6th February 2023

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

There are a significant number of trees on the development site, mostly located on the boundary. These boundary trees will be more than adequately protected by the construction of a dual purpose site boundary fence / tree protection fence located well within the development red edge. The location of the solar farm equipment and associated infrastructure is set back from this fence so as to provide an appropriate construction exclusion zone. Those trees located within the site that are to be retained will be protected by tree protection fencing of a specification equivalent to BS5837:2012 standard. The only tree that has been specified for removal is a comparatively small Hawthorn which is in poor condition. This tree does not merit being a material constraint to development and its loss will be more than adequately compensated for by the landscaping provision.

The information submitted to date for the landscaping lacks detail in terms of species mix, nursery stock types and planting specifications. However, the outline specification for the landscaping provision as a whole appears to be of a high standard and should adequately screen / filter the visual impact of the site within the surrounding area within 3 - 4 growing seasons. Conditions are recommended.

#### **Local Plans**

No Response Received

#### **County Planning**

29th December 2022

The County Council as the Mineral and Waste Planning Authority has no comments on this application as the site is:

- Not within or near to any permitted waste management facility; or
- Exempt from the requirements of Policy 3 Mineral Safeguarding in the Minerals Local Plan for Staffordshire (2015 - 2030); or
- Is development subject to our standing advice for development proposals within mineral safeguarding areas.

#### **County Highways**

8th May 2023

Personal Injury Collisions: Current records show that there was not any Personal Injury Collision (PIC) on Toft Lane either side of the proposal within 215m for the previous five years.

Background: Toft Lane is an unclassified road (Road No. D4275) with a speed limit of 60mph. The road has no footways on either side of the carriageway. The road is unlit.

The proposal is to have two access points. One access for ingress and the other access for egress. The proposed Northern vehicular access route will be via the A449, School Lane, Long Lane, and the Butterhill Road.

The route for Eastern egressing the Site will be via Whittamoor Lane, School Lane and A449. The proposal is to have a one-way system for the local highway network which require a Temporary Traffic Regulation Order (TTRO) as shown in Figure 37: One-Way System in the accompanying Transport Statement. This will cover the 16 weeks construction period.

The site access on the northern boundary would require an upgrade to the existing farm access in order to allow HGVs to manoeuvre into the Site as shown on RPS Drawing Number JNY11456/01.

The visibility for a 60mph speed will not be met and therefore it is proposed to have a Temporary Traffic Regulation Order (TTRO) which will be implemented within the vicinity of the northern access and substation access to enact a temporary 40mph speed restriction over the duration of the construction works. Similarly, the egress access on the eastern boundary would require an upgrade to the existing farm access in order to allow HGVs to manoeuvre out of the Site as shown on RPS Drg No. JNY11456/02 Visibility splays of 2.4 x 105m are achievable to the northeast (to the left) of the access for construction vehicles exiting the Site only. This does not meet the 60mph speed limit visibility of 215m. Tracking has been shown on main route turns and for the access and egress.

Construction Traffic Management Plan (CTMP) has been provided which shall be the base of the construction phase. It states that all deliveries by goods vehicles (>3.5 tonnes) will be undertaken outside of the school peaks of 08:00 to 09:00 and 15:00 to 16:00.

Road condition surveys and inspections of roads bordering the Site to the south (Hyde Lea Bank) and to the east (Toft Lane) of the Site will be undertaken to ensure that the local road users are not unnecessarily adversely affected by construction activities.

- o A road condition survey will be undertaken prior to commencing construction; and
- o A road condition survey will be undertaken upon completion of the construction works.

Should any new or significant defects be identified, repairs will be undertaken immediately and the road made good in liaison with SCC.

Recommendations: No objections subject to conditions.

### **County Countryside and Rights of Way Officer**

23rd December 2022

The following should be brought to the attention of the applicant and noted in the planning consent if granted:

- Public Bridleway No. 11 Dunston Parish runs across the application site along the southern boundary.
- Public Bridleway No. 12 Dunston Parish runs through the centre of the site in a north - south east direction .
- As Public Bridleway No. 13 Dunston Parish need diverting as part of these proposals the developer must apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the public rights of way to allow the development to commence. For further information the applicant must read section 7 of DEFRA's Rights of Way Circular (1/09). It is also strongly suggested, in order to avoid unwanted complications, that guidance should be sought from Staffordshire County Council as Highways Authority, regarding the exact position of the Public Right of Way shown on the Definitive Map.

The granting of planning permission does not constitute authority for any interference with the public right of way and associated items - or its obstruction (temporary or permanent). The term obstruction, in this context, also applies to items such as gates or stiles which are regarded as licenced obstructions which must be sanctioned by the highways authority. Users of the bridleways must be able to exercise their public rights

safely and at all times and the bridleway/s be reinstated if any damage to the surface occurs as a result of the proposed development.

**Historic Environment Officer Archaeology**

11th January 2023

Archaeological/Historic Environment Interest: The application has been reviewed against the information held by the Staffordshire Historic Environment Record (HER), including the South Staffordshire Historic Character Assessment (HECA - HECA 5b Southern Stafford, Coppenhall and Acton Trussell - search for Historic Environment Character Assessment on the county council website for more), and a Heritage Statement (HS), and Landscape and Visual Impact Assessment (LVIA) produced in support of the application. The HS has been produced in line with the relevant Chartered Institute for Archaeologists' and Historic England Standard and Guidance, has provided a useful understanding of the developmental history and archaeological potential of the application site. The HS and the LVIA have also assessed the potential impact of the proposals on nearby designated heritage assets such as listed buildings and scheduled monuments, whilst also assessing the potential cumulative impact of the proposals on the historic agricultural landscape.

From an archaeological point of view, the HS has concluded, based on the known archaeological resource within the application site and the wider study area, that there is some, albeit low, archaeological potential/interest in the application site for all periods. This assessment is generally supported, however I am also quite mindful of the fact that there has been a relative lack of previous archaeological works in the wider area, and the location of a number of significant archaeological sites relatively nearby, including a number of scheduled moated sites, the scheduled Iron Age Hillfort at Berry Hill (approx. 2km to the northwest of the site) and a multi-phase site, which includes a Roman villa, at Acton Trussell, approx. 3km to the southeast. This latter concern is supported by the aforementioned HECA, which states that earlier activity has been recorded in the character area in the form of the hillfort at Berry Ring and evidence for prehistoric to Roman settlement at Acton Trussell. Such sites suggest the potential for further unknown archaeological deposits to survive across the HECA.

Archaeological Recommendations: Taking the above into account with regards to the archaeological potential of the site, and considering the potential impact of the scheme, it is advised that, whilst I do not wish to raise any archaeological objections to the proposed development, should permission be granted, a further stage of archaeological evaluation, in the form of a staged evaluation, initially comprising a geophysical survey, should be carried out across the site. This evaluation should be undertaken in advance of any groundworks in order for the results to inform the need for further staged works and to inform the scale and extent of these further archaeological works (such as trial trenching, excavation, watching brief etc.), and indeed assist the applicant in developing alternative design or installation options, should the results deem it necessary.

The above approach, i.e. evaluation, is supported by NPPF (2021) para 194, while any works which stem from the evaluation and the earthwork survey are supported by NPPF (2021) para 205. All archaeological works must be undertaken by an appropriately experienced archaeological organisation (with suitably experienced personnel) or historic environment professional/ archaeologist 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.

**Staffordshire County Council Flood Risk Management Team**

12th January 2023

Flood Zone - The site is within Flood Zone 1. Surface water risk- Yes, the updated Flood Map for Surface Water (uFMfSW), shows a minor flow path in the eastern area of the site around the site boundary which flows south. This is unlikely to affect the solar arrays as they are situated off the ground.

Past flooding- None

Watercourse within 5m of site- Yes, an ordinary unnamed watercourse is present along the western boundary extent. The watercourse is an upper tributary of a small catchment network that drains the land surrounding the settlement of Bradley and flows south before discharging into the Eaton Brook (EA Main River).

Other observations- There are 2 no. ponds/ lagoons located on the sites western boundary.

We are satisfied with the submitted proposals and have no objection to the granting of planning permission, subject to conditions.

#### **Development And Waste Management Unit**

No Response Received

#### **Cannock Chase AONB Officer**

23rd February 2023

The site lies approximately 5.9km west of the AONB. The AONB therefore falls just outside the 5km study area for the Landscape and Visual Impact Assessment (LVIA). The AONB and its position in relation to the site is noted in the study, which is welcomed. As most of development proposed on site is not higher than 3.7 metres and no permanent lighting is proposed, the study area is considered appropriate.

The site lies between 108 - 116m AOD. Land between the AONB and the site is gently undulating rising to approximately 140-150m AOD on the AONB boundary and then to the higher levels of the plateau around 200m AOD. Theoretically the site could be visible from the AONB. The AONB Management Plan 2019-2024 notes that one of the special qualities of the AONB is inspiring views. It is important therefore to avoid development that would disrupt these views.

The AONB Views and Setting Guide includes Viewpoint 18 as a representative viewpoint looking west. Evidence in the guide suggests that structures 3.7m high would be unlikely to detrimentally affect views from the AONB, due distance and intervening landform and vegetation which filter views. The exception to this may be the taller main substation proposed close to the connecting pylon. Spatial Guidance refers mainly to avoiding the introduction of bulky development or tall structures including those that might interrupt the skyline that might interrupt views to the Wrekin or disrupt the rural outlook from the AONB.

Overall, the potential for detrimental effects from the proposed development on the AONB is considered to be low, but there is potential for disruption of views towards the AONB from rights of way crossing the site. The AONB requests assessment of possible effects of glare on views from elevated locations in the AONB such as Tar Hill or at Bednall Belt on the eastern boundary, to establish whether mitigation would be appropriate. The proposed Area for Biodiversity on the eastern site boundary is noted. Additional tree planting along the eastern flank of the buffer would have potential to enhance site screening from elevated viewpoints and reduce potential for glare on views from the AONB.

#### **Stafford Borough Council**

10th January 2023

Stafford Borough Council have considered this application and raises no objection to the scheme.

Policy N3 of The Plan for Stafford Borough supports development for the generation of renewable energy resources and initiatives for a low carbon economy, where;

- a. The technology is suitable for the proposed location, does not cause harm to residential amenity, the significance of heritage assets and their setting and has limited adverse effects on the surrounding landscape and townscape character;
- b. Levels of noise, overshadow, flicker (associated with some wind turbines), or other harmful emissions are minimised and there is no adverse effect on public safety;
- c. The technology does not affect the integrity of the water environment, or locally, nationally and internationally designated sites;
- d. Every proposal is accompanied by decommissioning conditions and the ability to ensure restoration of the site following cessation of energy production.

In areas where other renewable energy schemes are in operation, the cumulative effect of additional developments will be an important factor that will be taken into consideration. Large scale renewable energy proposals should deliver economic, social and environmental benefits that are directly related to the proposed development. It is considered that the scheme would comply with our local plan subject to decommissioning conditions.

#### **NatureSpace Partnership Newt Officer (Staffordshire)**

4th January 2023

- The development falls within the red 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 red impact zone, there is highly suitable habitat and a high likelihood of great crested newt presence.
- There are 53 ponds within 500m of the development proposal. 5 of which are within the red line boundary.
- There are great crested newt records within the red line boundary.
- There is direct connectivity between the development and surrounding features in the landscape.

In line with the guidance from Natural England (Great crested newts: District Level Licensing for development projects, Natural England, March 2021), there is a reasonable likelihood that great crested newts will be impacted by the development proposals and therefore, the applicant must obtain further ecological information and then either:

- Submit a NatureSpace Report or Certificate to demonstrate that the impacts of the proposed development can be addressed through South Staffordshire Council's District Licence; or
- Provide further information (6 presence absence surveys of all the ponds within 500m of the red line boundary and of the ponds located on site) in line with Natural England's Standing Advice, to rule out impacts to great crested newts, or demonstrate how any impacts can be addressed through appropriate mitigation/compensation proposals.

#### **Natural England**

31st May 2023

Natural England has previously commented on this proposal and made comments to the authority in our response dated 31/01/2023 reference 417690.

The advice provided in our previous response applies equally to this amendment. The proposed amendments to the original application are unlikely to have significant different impacts on the natural environment than the original proposal.

#### **Natural England**

16th January 2023

#### SUMMARY OF NATURAL ENGLAND'S ADVICE: NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Landscape advice (AONB): The proposed development is for a site within 10km a nationally designated landscape namely Cannock Chase AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

Soils and Agricultural Land Quality: Under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) Natural England is a statutory consultee on development that would lead to the loss of over 20ha of 'best and most versatile' (BMV) agricultural land (land graded as 1, 2 and 3a in the Agricultural Land Classification (ALC) system, where this is not in accordance with an approved plan.

From the description of the development this application is likely to affect 28.99 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.

However, during the life of the proposed development it is likely that there will be a reduction in agricultural production over the whole development area. Your authority should therefore consider whether this is an effective use of land in line with planning practice guidance which encourages the siting of large-scale solar farms on previously developed and non-agricultural land. Paragraph 174b and footnote 53 of the National Planning Policy Framework (NPPF) states that: Planning policies and decisions should contribute to and enhance the natural and local environment by 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.

Footnote 53: Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013) and advise you to fully consider best and most versatile land issues in accordance with that guidance. Local planning authorities are responsible for ensuring that they have sufficient information to apply the requirements of the NPPF. The weighting attached to a particular consideration is a matter of judgement for the local authority as decision maker. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Should you have any questions about ALC or the reliability of information submitted with regard to BMV land please refer to Natural England's 'Guide to assessing

Development proposals on Agricultural Land'. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required.

Soil is a finite resource which plays an essential role within sustainable ecosystems, performing an array of functions supporting a range of ecosystem services, including storage of carbon, the infiltration and transport of water, nutrient cycling, and provision of food. It is recognised that a proportion of the agricultural land will experience temporary land loss. In order to both retain the long term potential of this land and to safeguard all soil resources as part of the overall sustainability of the whole development, it is important that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management and appropriate soil use, with consideration on how any adverse impacts on soils can be avoided or minimised.

#### **Historic England**

21st February 2023

Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application. We suggest that you seek the views of your specialist conservation and archaeological advisers. You may also find it helpful to refer to our published advice at <https://historicengland.org.uk/advice/find/>

#### **National Grid Transco**

7th February 2023

I can advise that there is a 132kV line running through the site which has been taken into account on their design plan. The installer/client will need to consult with NGED Primary systems team in order to ascertain any restrictions, diversions or costing offers from the NGED side prior to any installation works taking place.

#### **Western Power Distribution - Formerly Central Networks**

No Response Received

#### **Kully Tanda - Designing Out Crime Officer**

11th January 2023

I have some concerns for this application, mainly the perimeter fencing and the two Public Rights of Way which pass through the site.

Design Concerns:

1. Over the past couple of years there has been a national problem of cable theft from Solar Farms, this has also occurred at several sites across Staffordshire. Some sites have been repeated targets a weeks after the original theft, allowing the solar companies to replace the stolen items before targeting them again. This is an organised crime, which involves multiple vehicles and individuals, some of whom act as 'spotters' to look out for police or security.
2. The plans indicate the installation of a 2.4m High Tensile Wire deer fence. I do not support the use of this High Tensile Wire fence, as this will not keep out thieves, nor prevent the theft of the either the solar panels themselves or the cable theft.
3. The site has two Public Rights of Way (PRoW) through the site, resulting in people legally having the right to cut through this site. Access to the site may result in accidental damage to the photovoltaic (PV) panels. The problem arises when potential thieves also use the PRoW to access the site and walk off with extremely high value items.



4. I support the intention to install a CCTV, and the use of infrared lights to assist the CCTV visual capability in these proposals. I recommend this CCTV should be monitored, and the vulnerable areas are covered and where possible alarmed. Views from boundary corners and down straight lengths of the boundary, as well as covering access from the PRow should be considered. If the CCTV system is monitored, the presence of ramblers etc on the PRow will activate the camera sensors. This may result in complacency in monitoring the CCTV, and criminal behaviour and or theft may be missed.

5. The site is in a very remote location. I recommend an alarm system should be considered for the site. It may be beneficial to install a Perimeter Intruder Detection System (PIDS) within the site, with infrared beams running adjacent to the perimeter fence line, the presence of intruders will activate the alarm as soon as they enter the site, therefore allowing the police to respond whilst the intruders are still onsite.

The only way to prevent this method of criminal attack or theft is to provide Monitored CCTV and a Robust Boundary.

#### Recommendations:

Public Right of Way - Consult with the Council with the possibility of rerouting the Public Right of Way along the edge of the site. If this is not an option, I recommend PV Panels are not installed in this section of the site. This will allow the remaining of the site to have the recommended perimeter fencing installed.

Perimeter Fencing - I recommend that the 2.4m Paladin fencing planned for installation, meets the LPS 1175: issue 6, Security Rating (SR) 1. The base of the fence should preferably be surrounded with well-compacted gravel. The rivets should have rounded fixings and joints should be welded. Gate locks should not aid climbing. Chain link or uncertified palisade fencing is not recommended.

A low growing thorny hedge planted adjacent to the fence will increase security whilst retaining natural surveillance and should not interfere with formal surveillance. It may be beneficial if the fence was alarmed for intruder interference.

CCTV Systems – advice given regarding certification and appropriate BS standards.

Secured By Design - It is recommended that the development should be built to Secured By Design Standards (SBD), which considers security within the design of any development. Guidance can be found in the Secured By Design Commercial 2015 V2 guide SBD Design Guides ([securedbydesign.com](https://www.securedbydesign.com)).

#### **Staffordshire Fire and Rescue Service**

3rd January 2023

FIRE MAINS, HYDRANTS AND VEHICLE ACCESS - Appropriate supplies of water for fire fighting and vehicle access should be provided at the site, as indicated in Approved Document B Volume 2 requirement B5, section 15 and 16. I would remind you that the roads and drives upon which appliances would have to travel in order to proceed to within 45 metres of any point within the property, should be capable of withstanding the weight of a Staffordshire firefighting appliance (G.V.W. of 17800 Kg).

AUTOMATIC WATER SUPPRESSION SYSTEMS (SPRINKLERS) - I wish to draw to your attention Staffordshire Fire and Rescue Service's stance regarding sprinklers.

Staffordshire Fire & Rescue Service (SFRS) would strongly recommend that consideration be given to include the installation of Automatic Water Suppression Systems (AWSS). Further information can be found at [www.bafsa.org.uk/](http://www.bafsa.org.uk/) - the website of the British Automatic Fire Sprinklers Association Ltd.

**Badger Conservation Group**

No Response Received

**Campaign To Protect Rural England Staffordshire**

No Response Received

**Environment Agency**

10th January 2023

We would not wish to provide any bespoke comments on the proposal and refer you to our standing advice.

**Staffordshire Wildlife Trust**

No Response Received

**Severn Trent Water Ltd**

No Response Received

**Open Spaces Society**

No Response Received

**Ramblers Association**

12th January 2023

The Ramblers' Association wishes to lodge a strong objection to the above mentioned proposal. The reasons for our objection are listed below.

- 1) The proposal breaches Policy EC4 of The Open Countryside in the new Local Plan. The development would cause harm to the character of the area at Little Heath. It would change the appearance and cause visual intrusion for all those residents living along the perimeter of the area.
- 2) This would be a huge development which constitutes industrialisation of The Open Countryside.
- 3) Any pleasure obtained by horse riders or pedestrians using the bridleway No. 12 across the field from bridleway No. 11 up to Butterhill would be totally negated by a view of solar panels and the path bounded by security fencing and surveillance cameras. The path could also suffer from flooding and be unusable.
- 4) The solar array could cause significant flooding around the area, especially along Toft Lane which regularly floods in periods of heavy rain.
- 5) Last year the Government stated quite clearly that solar arrays must not be erected on good quality land capable of growing good crops. I have known this area for many years and it has always grown good crops, several years of soft fruit and years of wheat, barley and oil seed rape which we now need to boost our food security. Grazing sheep beneath the panels would not do much to boost our food security.
- 6) Bridleway No. 13 may be needed to be diverted on to an adjacent track which could also suffer from flooding and end up very unpleasant to use.

**Contributors**

Please note that responses may be summarised.

Mrs D Richardson **OBJECTS**

Date Received 12.01.2023

- It is contrary to local plans to conserve open countryside and green belt land - it would fundamentally change the character of the natural environment in the area with large size panels; high wire fencing; CCTV installed; associated infrastructure.
- It is contrary to national plans to preserve arable land for future food production. Over time this land has been seen as highly desirable agricultural land and the assessment of it as anything less than this does not correspond with previous advertisements and previous successful production on the land and it should not be lost to a large scale solar development. We should be committed to securing the agricultural viability of the land for food security into the future.
- It is not an accessible area with single lanes - if lanes have to be widened for access there will be loss of hedgerows and again change of the distinctive character of the area. It would increase risk in the area and not be acceptable in highway safety terms.
- The planning application states token gestures to wildlife - but evidence from CPRE shows that solar farms can be harmful with the fencing preventing transitory animals from their traditional routes; bird and bat deaths being common as the panels are mistaken for water; installation practices of removing topsoil damages the environment; cleaning materials may be harmful in the soil;
- Alternative use of brownfield sites or warehouse roofing for solar panels would avoid the loss of agricultural land.

The comments already made to Parliament by R. Kendrick MP are relevant here:

The National Planning Policy Framework expects local authorities to protect and enhance valued landscapes and sites of biodiversity and recognise the character and beauty of the countryside and the benefits of the best and most versatile farmland in their policies and decisions' ..... 'a number of proposals for solar farms in the countryside have been rejected as causing visual harm, harm to amenity or harm to openness. ...local authorities should protect all that we value in landscapes and natural capital' ..... 'we place great importance upon our agriculture and food production, and this is reflected in the NPPF.

Gordon And Ann Pamela Burrows **OBJECTS**

Date Received 13.01.2023 and 09.06.2023

The application contravenes with the adopted core strategy/local plan, is contrary to specific policies of the local plan and the NPPF. The council's adopted plan is confirmed as being sound and runs for a fifteen-year period until 2028. Open countryside is protected by the local plan. The application is away from main, small or local service centres and away from where development is to be focused under the local plan. The application is set amongst 'other small villages and hamlets' where development is severely restricted. The application is woefully insensitive and dismissive to the open countryside and is not a development that can help the local communities to sustain essential local facilities and services.

The application would fundamentally and irretrievably destroy the attractiveness and character of the open countryside, visually dominating and scarring the entire area. The application completely dismisses the clear vision of maintaining and protecting the environment.

OC1 confirms that the open countryside will be 'protected for its own sake, particularly for its landscapes, agriculture and recreational value. The applicant proposes a vast and unprecedented development of 170 acres of solar development, densely congested black solar panels, 3.2 metres high, surrounded by a metal mesh fence 2.4 metres high, watched over by security cameras. To say the least, this would constitute the most extraordinary material change of use achieving a staggeringly destructive affect on the appearance to the open countryside.

The applicant claims support for the application in relation to renewable energy from policy EQ6 and CP9, which make provision for renewable energy production in South Staffordshire. However, this must be read in

conjunction with the fundamental intention contained in the aims of the plan CP1 and CP2 which are directly aimed at protecting open countryside and diverting development away from those areas.

Furthermore, the application is inconsistent with rural diversification, claiming support from the specifics contained within CP9, requiring that applications comply with appropriate diversification of the agricultural economy and of small-scale renewable energy projects. A proposed solar array of 170 acres is not small scale.

Due consideration must be given to the classification of land contained within the application. A topic of utmost importance both locally and nationally in respect of our nation's food security, needs and sustainability. Government policy aims to protect Best and Most Versatile Land from significant, inappropriate, or unsustainable development, encouraging local planning authorities to consider the economic and other benefits of Best and Most Versatile Land, to try to use areas of poorer quality land instead of higher quality, productive arable land.

In 2021 Nock Deighton LLP, specialist agricultural branch, advertised a larger land advertisement for letting identifying and labelling the applicants site as 'Block A', describing the particular area as 'Good productive land'. I have seen year upon year of productive yields of crops in rotation, from wheat, barley, oilseed rape and tracts of land used rotationally for strawberries. Not crops aligned with subgrade land. The land cannot be classified or advertised as 'good productive land' for the purpose of arable letting and yet graded as moderate quality for the purposes of this planning application.

Additionally, and in support of the above objection, as recently as November 2022 the Government and DEFRA were looking to redefine Best and Most Versatile Land to include Grade 3b land. Acknowledgement of our increasing need to make the best use of our land to have food security and emphasising the importance of giving due consideration to the location of renewable energy sites, using our best agricultural land for farming, and making use of brownfield or poor-quality land for energy projects.

The Environment Secretary raises the topic of national food security and the necessity to strengthen our domestic food production capabilities. We currently face shortages, increasing prices, exacerbated by the recent and ongoing invasion of Ukraine. The NFU as recently as 14th December 2022 have secured Government commitment to consult on safeguarding agricultural land for food production.

The Proposal to destroy the openness and beauty of hundreds of acres of green belt farmland for a period of 40 years or more is simply outrageous. No single area should suffer an intrusion on the massive scale of this proposal.

Public footpaths thread through and around the proposed site, they along with narrow country lanes, much used by the public and local residents for walking, cycling and enjoyment will be destroyed by an ocean of hideously unattractive structures and impenetrable prison like fencing, an area of beauty, peace and tranquillity. Destroyed yet further by the prospect of incessant noise pollution from the cooling fans.

Wildlife and their habitats will be lost, transitory animals will have their traditional routes blocked, birds and bat deaths will be common as they mistake the glass for water. The land would be degraded with little potential for biodiversity, creating permanent shadow and rainwater run-off creating set channels without proper dispersal. Topsoil is removed and cleaning materials can contaminate the soil. There is a possibility of toxic chemicals leaching out from the panels.

Noise, peace and quiet would be destroyed by industrial grade traffic and light pollution. Prevailing winds are south westerly and will carry the noise to the residences of Dunston Heath, Coppenhall and beyond.

Traffic Management Plan is woefully inadequate with the proposed entrance to the site on Toft Lane, little more than a pot-holed agricultural track, access prior to reaching Toft Lane to the proposed site is primarily on single track country lanes with no provision or capacity for passing. The site is entirely inadequate for commercial vehicles. Is the intention to tear out the existing hedgerows along Toft Lane?

High voltage power lines cross the north-eastern section of the proposed site. Should a power conductor fall on to a sea of solar panels, what serious repercussions would result?

Flooding, the site already suffers from significant surface water build up, Levedale Road and Toft Lane are frequently unpassable in times of persistent rain. 170 acres of sloping solar panels would naturally lead to faster water run-off, significantly increasing the risk of flooding. Water already runs in torrents down Long Lane. We live in times of ever-increasing flash flooding and storms.

Residents were advised and assured that prior to the submission of a full planning application neighbouring residents would be provided with a full and detailed planting proposal in mitigation to our deep concerns at the possibility of such a proposal being submitted. This has not been forthcoming. Additionally, there are discrepancies between the site layout plan of 3rd October 2022 and the site layout plan of 5th December 2022, in connection with a biodiversity 'buffer' zone. I and other neighbouring residents require absolute clarity to make sound assessment and judgements.

Whilst we appreciate the need for renewable energy, more suitable sites should be utilised e.g. roof tops of large buildings/warehouses, all new build houses, sites situated close to motorways or on low grade land.

Kaye Dixon **OBJECTS**

Date Received 09.06.2023

- There have been additional documents which were not submitted previously which contradict some original information. The effect of this amended information gives lack of confidence, credence, clarity and trust in any of the information and intentions in the original planning application. T
- Since the application there is an increase in the need of more local crop production (which this area currently offers). Lack of foodstuffs caused by climate changes, European war and network problems has resulted in empty supermarket shelves and rationing of some products. Nationally and locally the drive and need is to produce more and use available land to grow produce. Necessity requires more crop production and this application for change of land use contravenes government initiatives and societies need for food production.
- Livestock would not graze beneath any panels therefore the area cannot be maintained without other machinery being bought on site adding further distress to the environment and community.

This application represents an unnecessary and detrimental blot on the landscape. The effect of any change in land use will be an overall loss to the economy, welfare and structure of the area.

Mr John Sutton **OBJECTS**

Date Received 13.01.2023

1. The proposed development goes against the principles and strategy of the SSDC local plan that was adopted in December 2012 and runs until 2028.
2. The land classification does not reflect the government guide to assessing land as it states in section 5.9 of the planning statement that the "...The ALC Assessment confirmed that the majority of the site comprises Subgrade 3b agricultural land with some areas of Grade 2 and Subgrade 3a. ..". Whereas the government

guide would classify the land as a minimum of 3a but more towards grade 2 based on recent use, as it has been successfully used for the production of the following crops over the past 8 years:

- Soft Fruits
- Cereals
- Rape seed oil

The land bordering the site is still used for soft fruits and top fruits.

This surely would go against the guidance regarding protecting BMV land and the goal to alleviate any future concerns about food security.

3. The development goes against the planning principal of protecting the character of the countryside as per the definition in the NPPF framework 174.

4. The proposed relocation of the footpath is unacceptable as it will change it from being a true footpath going across the heart of the field with no vehicle access to being part of a farmers track that is regularly used by tractors, vans, cars, buses and even HGV's to access the farm from the Levedale Road.

The other footpath that will be retained will lose all of its character as it will change from being an open path across the middle of the field with views across the crops to being a path fenced in either side by wire mesh security fencing (2.5m high) and the view across the fields will be lost completely.

5. There are no specific benefits or added value for the local community or countryside as a whole. There is a loose commitment via a Voluntary Unilateral Agreement to make what appears to be a one off payment post go live to the local Parish Council but no details are provided. There is no mention or offer of any Section 106 agreement.

6. There are fundamental inaccuracies in the reports provided demonstrating a lack of onsite investigation work:

- a. Pollution: the land has been contaminated by plastics both buried in bulk onsite and ploughed into the ground over the years of strawberry production. The plastics still come off the land and blow across the adjoining fields. This problem should be addressed in the construction statement.
- b. Land Use: the site and adjoining land has been consistently used for soft fruit production over the past 8 years which is not truly reflected in the reports.
- c. Water extraction: there are groundwater extraction points for drinking water on the properties adjoining the site.

7. The consultation period should be extended as it was started just before the Christmas break and the delivery of the notices were disrupted by postal issues. As a minimum the response from Natural England should be made available to the public before the consultation process is closed.

#### Specific Issues

1. Location of cameras: there appears to be a CCTV camera located outside the back of our house and at the entrance to the lane leading to our house and across the whole site including the public right of ways. There appears to be no references to the purpose of these cameras and how the personal data captured by these cameras will be used, stored and who will have access to it as required by GDPR.

2. Details of planting scheme - we appreciate the planting splays that have been introduced but would like to understand more details about the type of planting that is proposed and how long it is anticipated to take effect as it could be years before they reach their maintained heights. The plans provided do not provide enough detail about this. Even with these splays the proposed development will decimate the view from our property.

3. There must be assurances in place that there will be zero impact from glint and glare from the panels

4. Assurances must be given regarding construction traffic and the impact on the residents and infrastructure.

5. Similarly any construction and subsequent operating noise should be addressed in the planning response.

Mrs Catherine Taylor **OBJECTS**

Date Received 31.01.2023

It contravenes the SSDC Core Strategy (local plan) which was adopted for 15 years, 2012-2028 which strives to retain the countryside of the locality.

The Government Policy is to retain and protect the most versatile agricultural land and utilise poorer quality land for development. This application directly contravenes this policy. This area is in the main Grade 3(a) - Good quality agricultural land. which has been used for > 10 years to grow strawberries, wheat, barley and rapeseed. The UK must grow more of its own food and the utilisation of good quality arable land for other purposes damages the country's ability to secure its future food provision.

It is contrary to local plans to conserve open countryside and green belt land and it would fundamentally change the character of the natural environment in the area.

The infrastructure and creation of the solar farm would damage hedgerows and have a detrimental impact on wildlife. Any security installation, e.g. fencing, lighting would create light pollution and interfere with the natural habitat and negatively impact the movement of wildlife.

There is a flood risk associated with the size and scale of the proposed panels.

Alternative use of brownfield sites or warehouse roofing for solar panels would avoid the loss of agricultural land. There are multiple brownfield sites that appear derelict that could be used and would not have the harmful impact mentioned above.

In summary, this installation would have a longstanding negative impact on the environment, local community, wildlife and be in direct contravention of government and local policy.

Andrew Jennings **OBJECTS**

Date Received 17.01.2023

1. The loss of prime, agricultural land that is being used for growing cereal crops.
2. Drainage flooding: this ground is at a higher level than the road network and already discharged and floods the area
3. Loss of countryside, enjoyed by walkers, cyclists, horse men & women from the near villages of Penkridge, Coppenhall and Dunston
4. Ecological disturbance: there is a bat roost located at Croft Barn, there are also buzzards, owls, newts & many other species
- 5.... is a grade 2 listed building and this solar factory will impact on the heritage.
6. Loss of food production with the uncertain times throughout the world we live in. Rape seed, wheat and other cereal crops costs have increased tremendously. If this land was used for grazing and a low grade I could understand with the new part L regs coming in and all new housing development will require renewable solar I believe placing solar panels on roofs of houses and factories, farm, buildings, schools, and is much more desirable than industrialising. The countryside is very precious resource.

Mr David Martin **OBJECTS**

Date Received 08.06.2023

The applicant's need to upload 6x amended docs and 2x additional information docs highlights the lack of accuracy present within their initial application. In particular the credibility, reliability and accuracy of the

applicant's ALC is seriously undermined. The initial planning statement (05 Dec 22) dedicated just 5x paras (8.5-8.9) to this crucial topic and concluded "The majority of the site would comprise subgrade 3b and non-agricultural" (5% Grade 2, 36% Grade 3a). This was misleading, incorrect and would have affected the planning balance. Following comments raised, the applicant has now amended its analysis (Addendum to planning statement 15 Feb 23) and now concludes:

- 10% Grade 2
- 40% Grade 3a

The quantity of Grade 2 land has doubled, the quantity of Grade 3a land has increased 11% plus  
The amount of BMV land overall has increased over 20%.

The application has lost the ability to state that the majority of the site would compromise non-BMV land. At least half of the site is BMV land, which weighs heavy in the planning balance against the application.

There is a shortage of BMV land within South Staffordshire (Natural England BMV-West Mids map ALC016 and the Council's own assessment). The NPPF protects BMV land from development. BMV land is not abundant in South Staffordshire and this application site consists of at least 50% BMV land. More appropriate sites exist (rooftops, non-BMV land).

Furthermore, the issue of the nation's food security and ensuring our ability as a nation to continue to feed ourselves (achieved by protecting our best crop-producing, agricultural land) has become more prominent this year, highlighted by:

- Recent fruit and vegetable shortages/rationing;
- Government's current campaign for supermarkets to agree to price caps on fruit and vegetables given the price rises caused by supply shortages.

Mr Robert and Judith Lawrence **OBJECTS**

Date Received 30.01.2023

The development;

1. contravenes the SSDC Core Strategy (local plan) which was adopted for 15 years, 2012-2028 and strives to retain the countryside of the locality;
2. contravenes the NPPF. The Government Policy is to retain and protect the most versatile agricultural land for food production - this seems to be especially relevant in current times. In recent years this land has been used to grow wheat, barley, rapeseed and strawberries;
3. is further industrialisation of the countryside with inappropriate fencing, more suited to an industrial estate, consequently scarring the area;
4. is not served by suitable infrastructure - already the narrow lanes are crumbling and heavy vehicles would cause more damage to verges and hedgerows. Proposals to widen the access route would damage the environment and be inappropriate in the area;
5. would create both noise and light pollution which would be detrimental to the environment and have an impact on surrounding residents;
6. will have a negative impact on the local countryside, especially for walkers and users of the public rights of way that cross the proposed development.

We recognise the country desperately needs more renewable energy generation but firmly believe that inland solar energy generation should not be positioned in places which will destroy good and productive agricultural land. Why not site solar panels on the roofs of buildings and, in particular, on the industrial buildings to be constructed on the 700 acre site of the West Midlands Strategic Rail Freight Interchange at Gailey which will also contribute to the loss of green belt land in the South Staffordshire District!. This Solar Farm brings no benefits to the hamlets and villages it damages surrounding the development and is further industrialisation of our precious and irreplaceable countryside.



Mr Gary Pliva **OBJECTS**

Date Received 26.01.2023

we would like to object to the proposed solar farm for the following reasons

1. We are concerned about the use of 170 acres of good agricultural land which we feel should be kept as farmland to grow crops and produce much needed food in these times, the import of food from overseas causes a large carbon footprint.
2. This site is in open countryside and hence should be protected, we need this farmland to help the country become more self-sufficient.
3. We are concerned about the flood risk associated with this type of development which has a detrimental effect on rainfall soak away, it will cause significant run off as we saw when the land was used to grow strawberries under polytunnels.
4. We are also worried that the land will get a permanent change of use and become an industrial site which will have a detrimental effect on our countryside.
5. We believe that there is a significant noise (Hum) from solar panels particularly at night or in bad weather. We also note that wind farms and solar farms are being fitted with stand by diesel and/or gas turbines so as to back up the national grid when there is no wind or daylight when possible demand is high, do we need this in our countryside?
6. We feel that these developments would be better placed on brown field sites .g. decommissioned power stations or poor agricultural land, there is also a case for installing solar panels on all new builds particularly large warehouse units.

Mr Martin Howes **OBJECTS**

Date Received 11.01.2023

- 1) It will be a misuse of good quality arable crop land approx. 70ha/100 acres of UK food production will be lost for 40 years in a time of turmoil and grain shortages due to the events in Ukraine, full crop production will no return for years in an area known as the bread basket of Europe.
- 2)It will be a detriment to the outlook of the local countryside an views across Butterhill for walkers and users of the public rights of way that cross the proposed development.
- 3) There will be an increase in road traffic during the construction phase on already crumbling lanes where approximately 80,000 panels will have to be transported to site, the proposed route for construction traffic will pass St Leonards school Dunston where the road is congested with no footpaths it would make it more dangerous for the attending children.

This Solar Farm brings no benefits to the hamlet of Little Heath or areas, properties surrounding the development and is futher industrialisation of the countryside.

Mr Paul Russell **OBJECTS**

Date Received 22.01.2023

Whilst the country desperately needs more renewable energy generation, we also need to be more self-sufficient in food production and this field is good agricultural land. All inland solar energy generation should be positioned in places which do not limit the use of the land for other purposes so positioning on, for example, the roofs of buildings. Electricity should be generated by more wind farms, which do not significantly impede the use of the land other than by the area of each pole.

Further, when the applicant had a public consultation in Hyde Lea & Coppenhall Village Hall, I asked how this development would benefit the local community and was told that the company sometimes made a one-off

grant to the local area. If this application is successful, it should include a s.106 (Town and Country Planning Act 1990) agreement requiring an annual grant to be paid to Dunston with Coppenhall Parish Council to provide for an ongoing benefit for the local community in perpetuity.

## **1.6 APPRAISAL**

The application has been called in by Councillor Andrew Adams who considers that the proposal does not comply with the policies of the Core Strategy.

### **1.7. Key Issues**

- Principle of development
- Contribution to Climate Change
- Site selection/loss of agricultural land
- Impact on the character and appearance of the Landscape including cumulative impact
- Impact on Heritage Assets
- Highways
- Neighbour Amenity
- Trees and Ecology
- Developer Contributions
- Human Rights

### **1.8. Principle of development**

1.8.1 Planning law requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions. When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

1.8.2. The site is situated within the Open Countryside where Policy OC1 applies, which states that the Open Countryside will be protected for its own sake, particularly for its landscapes, areas of ecological, historic, archaeological, agricultural and recreational value. Paragraph 174 of the NPPF states that planning 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); and

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.

1.8.3. In line with Policy OC1 there is a presumption against development subject to a number of exceptions. One of the exceptions listed under OC1 f) is *“the carrying out of engineering or other operations, or the making of a material change of use of land, where the works or use proposed would have no material effect on the appearance and character of the Open Countryside beyond the Green Belt”*.

1.8.4. A solar farm of this scale and associated infrastructure (to include a sub-station, several inverters, CCTV cameras and perimeter fencing) would clearly have a material effect on the appearance and character of the Open Countryside, given that this is currently a large open green piece of agricultural land with views

available from several vantage points. The proposal would not, therefore, meet the exception listed under Policy OC1 f) and it would not meet with any of the other exceptions to the presumption against development. On that basis there is conflict with Core Strategy Policy OC1, and consideration should therefore be given to the impact of the development as to whether it would harm the intrinsic character of the Open Countryside. Other material planning considerations that weigh in the planning balance, including the proposal's potential contribution to climate change, will be discussed as follows.

## **1.9 Contribution to Climate Change**

1.9.1 The applicant's Planning Design & Access Statement highlights the need to establish renewable energy generation and the proposals potential contribution towards national targets. The UK is required under the Climate Change Act (2008) to reduce carbon emissions and through Renewable Energy Directive 2009/28/EC to increase electricity consumption from renewable resources. Additionally, on 1 May 2019, the United Kingdom ('UK') Parliament declared a climate change emergency and on 27 June 2019 the UK became the first major economy in the world to legislate a legally binding target of net zero emissions by 2050. That year, Staffordshire County Council, South Staffordshire Council and many other Councils across the country declared a climate emergency, making a firm commitment to achieve the Government target of net zero carbon emissions by 2050.

1.9.2 In order to achieve net zero, National Grid (in its 'Future Energy Scenarios July 2021') has confirmed that in all scenarios, the demand for electricity increases; which is brought about by shifting away from high carbon fuels to hit the Government's net zero emissions target by 2050 and the predicted increase in electric vehicles ahead of the 2040 ban on petrol/diesel driven vehicles. Solar energy generation combined with 'smart charging' electric vehicles will be a key component of achieving the 2050 target.

1.9.3. NPPF paragraph 152 states that local planning authorities (LPA) should, through planning decisions, support the transition to a low carbon future in a changing climate by supporting renewable and low carbon energy and associated infrastructure. Paragraph 158 goes on to say that when determining planning applications for renewable and low carbon development, LPA's should:

a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

b) approve the application if its impacts are (or can be made) acceptable

1.9.4. Core Policy 3 of the Core Strategy states that the Council will require development to be designed to cater for climate change and to enable opportunities for renewable energy. This is intended to be achieved by giving preference to development on brownfield land, provided it is not of high environmental value. The policy goes on to say that the District's natural and historic assets including the character and quality of the landscape should be protected and enhanced by mitigating against the worst effects of climate change and pursuing biodiversity enhancement schemes.

1.9.5. Policy EQ6 also requires that provision is made for renewable energy generation to maximise environmental and economic benefits whilst minimising any local adverse impacts. The policy does not specifically reference solar, however the Council's recent Sustainable Construction & Renewable Energy Topic Paper (November 2022) which was produced as part of the Local Plan Review, highlights the need for a sustained increase in solar developments to meet Government's net zero and energy strategies.

1.9.6. The application states that the solar farm would contribute to national and local targets, providing a generation capacity of approximately 40MW, which would generate enough power for approximately over

9,330 typical family homes and resulting in an approximate saving of 480,000 tonnes of CO<sup>2</sup> per annum. The solar panels would be secured to the ground via a static table and post system to minimise ground disruption and the amount of concrete and hardstanding required is minimal to ensure that ground conditions would remain relatively unchanged. The design of the equipment is therefore reversible, and the anticipated lifespan of the facility is 40 years after which time the site could be decommissioned and returned to agricultural use.

## **2.0 Site selection/loss of agricultural land**

2.0.1. A number of local residents have objected to the proposal due to the loss of agricultural land, with the site having been recently marketed as good productive land. A number of objectors and the Parish Council note that the land within the site has been successfully laid to crop for many years. Concerns are also raised that the proposal contradicts the hierarchical approach within the Core Strategy (Core Policy 1) which sets out a strategy to direct development towards the larger villages and brownfield sites and away from the more sensitive rural areas such as here.

- **Site Selection**

2.0.2. The Planning Statement explains that the applicant initially carried out a site selection exercise with the district network operator (Western Power Distribution) to identify any suitable sites with a point of connection with capacity for additional generation. However due to the extent of land required, none of the non-agricultural, urban or brownfield sites looked at were deemed suitable. Areas of very high sensitivity, for example, within the Green Belt, AONB, SSSI's etc were also discounted, along with any sites containing heritage assets or earmarked for development within the emerging local plan.

2.0.3. The use of agricultural / greenfield land is necessary as there is an absence of previously developed land of an equivalent size with any fewer environmental and physical constraints than the application site; this is also true when considering commercial roof space. Furthermore, the majority of the District is covered in Green Belt and to find a site of this size that is previously developed land or in an urban area is at a premium. Therefore, such sites could be used more productively for regeneration purposes such as housing or employment use rather than a solar panel farm.

2.0.4. With regards to Core Policy 1 (Spatial Strategy) it is accepted that this area is outside of a service village and is not, therefore, intended for growth. However given the nature of the proposal and the extent of land needed, it is not likely that a proposal of this scale could be accommodated within or close to a village boundary due to existing built form and physical constraints, coupled with the need to be situated next to an existing pylon/connection point. In any case, the aim of the Spatial Strategy is to direct growth in a sustainable way to ensure that development has access to services and facilities. In this case, once operational the solar farm would be subject only to very minimal visits for the purpose of maintenance and would not be disadvantaged by the rural location.

- **Loss of Agricultural Land**

2.0.5. In 2013 The Rt Hon Gregory Barker made a speech to the solar PV industry wherein he outlined his support for a significant increase in solar installations but only where they are sensitively designed and are mindful of the wider environmental and visual impacts. He considered that for larger deployments, brownfield land should always be preferred, and where solar farms are not on brownfield land, low grade agricultural land ought to be prioritised, working with farmers to allow grazing in parallel with energy generation and incorporating well thought out visual screening and involving communities in developing projects.

2.0.6. Subsequently, in 2015 Government published a written ministerial statement on solar energy, which stated that where possible, solar energy should be focused on domestic and commercial roof space and previously developed land. Where a proposal involves agricultural land, it must be clear that this is necessary and poorer quality land is to be used in preference to higher quality land.

2.0.7. Paragraph 013 of the Planning Practice Guidance (PPG) acknowledges that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, it is also noted that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. The guidance recommends that proposals allow for continued agricultural use where possible and/or encourages biodiversity improvements around arrays. Planning conditions can also be used to ensure that installations are removed when no longer in use and the land is restored to its previous use. Impacts on glint and glare, the need for security measures, the conservation of heritage assets and the potential to mitigate landscape impacts must all be carefully considered.

2.0.8. Turning back to the wording of NPPF paragraph 174, it states that valued landscapes should be protected and that the economic and other benefits of the best and most versatile agricultural land should be recognised. The footnote further advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Best and Most Versatile (or BMV) land is defined within the NPPF as Land in grades 1, 2 and 3a of the Agricultural Land Classification.

2.0.9. An Agricultural Land Classification Assessment has been carried out which identifies the following:

Grade 2 land (very good quality): 10%  
Grade 3a (good quality): 40%  
Grade 3b (moderate quality): 46%  
Not surveyed: 4%

2.1.0. On that basis, 50 to 54% of the BMV is sub-grade 3a which is good quality land capable of consistently producing moderate to high yields of a narrow range of arable crops. 10% is Grade 2 which is very good quality land capable of growing a wide range of agricultural and horticultural crops. Indeed during consideration of the planning application the site was planted with Rapeseed. The area not surveyed at the northern corner of the site adjoins an area of grade 2 and 3a land therefore it will be assumed this is also BMV. The total area of BMV would therefore equate to around 54%, with the remainder of the site providing moderate quality land.

2.1.1. There have been concerns raised by local residents that the BMV figures have changed through the life of the application and the full ALC report was not submitted initially. Although the extent of BMV set out in the ALC report is larger than originally stated, it is still the case that the site comprises mainly of grade 3a and 3b land with a smaller portion of grade 2 land.

2.1.2. The site layout plan has been amended to move the extent of panels away from the boundaries of The Toft (north-eastern corner of the site) in recognition of its historic interest. This has resulted in the addition of an area of panels in the northern tip of the site (the surveyed area) which is largely grade 3a land with a very small piece of grade 2 land. A wider landscaped buffer has also been incorporated along the eastern site boundary which has marginally reduced the impact on the grade 2 land.

2.1.3. Natural England are a statutory consultee on development that would result in the loss of over 20ha of 'best and most versatile' (BMV) agricultural land. They advocate that soils should be managed in a sustainable way and protected from contamination. The ALC has been carried out using a system of 134 hand

auger borings and 2 soil pits which is in line with their guidance. Natural England have reviewed the application and no objections are raised. They consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future. No permanent loss of agricultural land quality is likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.

2.1.4. The ground around and beneath the arrays would be seeded with a species rich grass mix. This could be managed by occasional mowing, especially in early years when the solar farm and new planting is bedding-in. However, for the majority of the solar farm's operational life the ground cover would be managed by light sheep grazing as part of an ongoing pastoral operation in collaboration with the landowner. The application states that at no time would pesticide treatments be used as part of a grounds-keeping regime.

2.1.5. Reference to DEFRA's Agricultural Land Classification Maps confirms that the District benefits from a plethora of good quality agricultural land in the areas surrounding the site. On that basis, although it is accepted that the development would prevent any food production taking place on this site for the lifetime of the development, it is not anticipated that the temporary loss of this land from arable farming would compromise the District's overall farming ability.

## **2.2 Impact on the character and appearance of the Landscape and the Street-scene**

2.2.1 As previously discussed, paragraph 174 of the NPPF sets out protection for valued landscapes and advocates the recognition of the intrinsic character and beauty of the countryside. The site is roughly 6 miles west of the Cannock Chase Area of Outstanding Natural Beauty (AONB). Policy EQ4 specifies that development within the AONB and its setting will be subject to special scrutiny in order to conserve and enhance the landscape, nature conservation and recreation interests in the area. Policy EQ11 states that proposals should respect local character and distinctiveness, including that of the surrounding landscape, by enhancing the positive aspects and mitigating the negative aspects.

2.2.2. A Landscape and Visual Impact Assessment (LVIA) has been submitted which identifies that the application site comprises of large open fields, lain to pasture and arable crops with occasional animal grazing including cattle. The site slopes gently north-east to south-west with some topographical variation across it. Overall, it is considered that the site is of good quality and typical of the landscape within the wider study area.

- **Cumulative Impact**

2.2.3. The LVIA has been amended to account for another proposed development within Penkridge (Preston Hill Solar Farm - planning application reference: 23/00009/FUL), still pending consideration, which is situated approximately 2.3km to the south/south-east of the application site. There is potential impact for a temporary period during the construction period, should both applications be approved and overlap, however given the separation distance between the two sites this is not considered to be significant. Taking into consideration the landscape structure and enhancements of the proposals, the two schemes would not be considered to have a significant adverse effect. Local road users would have glimpse views of the schemes however these would be transient and short lived-in nature.

- **Impact on the Landscape**

2.2.4 The Ramblers association have objected to the proposal, raising concerns that any pleasure obtained by horse riders or pedestrians using the bridleway No. 12 across the field from bridleway No. 11 up to Butterhill would be negated by a view of solar panels and the path bounded by security fencing and surveillance cameras.

2.2.5 The addition of the Littywood Solar Farm would introduce a new element into the landscape, however there is not anticipated to be any significant effects upon the character of the local landscape as a result of the proposed development. The majority of existing vegetation to the site boundaries would be retained and enhanced as part of the proposed development. Enhancement and new planting would be included at those parts of the site close to existing residential properties to the south (Toft House) and north-east (The Toft), with further areas set back from Levedale Road.

2.2.6 In respect of potential visual effects, it is anticipated that a low-lying development of this scale would inevitably cause some localised change to views available from the local landscape, particularly from the local public rights of way that pass through, or in close proximity to it. It is considered that the proposed development would give rise to a majorly adverse significant visual effect at winter year 1 only, from the lengths of PROW Dunston 11 (situated at the southern boundary of the site travelling east to west) and Dunston 13 which passes through the application site. With the establishment of mitigation planting, it is anticipated that these significant effects would reduce to 'moderate adverse' at summer year 15, however, it is likely that more open and therefore noticeable views towards the proposed development would remain where parts of the PROW network pass in close proximity to, or through it. These effects would remain for the lifetime of the development. Subsequently, the application has been amended to incorporate hedgerow planting along the PROW which would soften the appearance of the perimeter fencing and reduce its visual impact for PROW users.

2.2.7 Beyond the immediate vicinity of the proposed development and due to its low-lying nature, substantial layered vegetation and topographical variation would partly or entirely screen potential views to much of the proposed development from the surrounding landscape. The design of the scheme is of standard appearance for ground mounted solar panels and associated components and considering the existing and proposed screening around the site, extensive views from the street-scene would not be achieved. The layout of the scheme is in linear fashion which is typical of this type of development, and the panels would be mounted on metal frames and would not be bulky in appearance. An element of openness would be maintained, as opposed to if large amounts of buildings were to be constructed on the site. Parts of the proposed development would be a noticeable feature from higher ground within the local landscape (the area in the vicinity of Butterhill Windmill listed building). However overall, it is concluded that the quality and character of the landscape would be maintained and that the proposed development could be accommodated without significant effects beyond those identified at a local level.

- **Impact on the Cannock Chase AONB**

2.2.8 Natural England note that the proposed development is within 10km of Cannock Chase AONB, a nationally designated landscape, and advise that the Council's decision should be guided by paragraphs 176 and 177 of the NPPF which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs.

2.2.9 The AONB officer notes that the AONB falls just outside the 5km study area for the Landscape and Visual Impact Assessment (LVIA) however the AONB and its position in relation to the site is noted in the study. Whilst inspiring views are one of the special qualities of the AONB, evidence in the AONB Views and Setting Guide suggests that structures 3.7m high would be unlikely to detrimentally affect views from the AONB due to the distance and intervening landform and vegetation which filter views. The exception to this

may be the taller main substation proposed close to the connecting pylon. Spatial Guidance refers mainly to avoiding the introduction of bulky development or tall structures including those that might interrupt the skyline that might interrupt views to the Wrekin or disrupt the rural outlook from the AONB.

2.3.0. The officer goes on to say that although there is potential for disruption of views towards the AONB from rights of way crossing the site, overall, the potential for detrimental effects from the proposed development on the AONB is considered to be low. Possible effects of glare on views from elevated locations in the AONB such as Tar Hill or at Bednall Belt on the eastern boundary need to be considered to establish whether mitigation would be appropriate. The proposed Area for biodiversity on the eastern site boundary is noted and additional tree planting along the eastern flank of the buffer would have potential to enhance site screening from elevated viewpoints and reduce potential for glare on views from the AONB. New tree planting is proposed along the north-eastern to south-eastern site boundaries which would achieve this aim.

- **Glint and Glare Study**

2.3.1. A Glint and Glare Study has been carried out which considers impact on observer viewpoints, road safety and aviation safety.

2.3.2. In respect of airfields, some reflections are predicted towards Valley Farm (runway 29 approach) and Mitton Airfields (runway 10 approach) however there are mitigating factors that would reduce the impact, including the short duration of effects and low air traffic volumes. The impact is considered to be low and could be accommodated operationally. It is recommended within the report that the potential glare times are made available to the owners of these airfields so that it can be considered in the context of their operations and the occupiers of both airfields have been consulted on this application. No significant impact on aviation activity associated with Seighford Airfield and Otherton Airfield is expected with respect to glint and glare and no further technical assessment is recommended.

2.3.3. In terms of existing dwellings, for 11 of the 46 assessed, screening in the form of existing vegetation, buildings, and/or terrain would significantly obstruct views of the reflecting panels. For 3 of the dwellings, views of the reflecting panels are considered possible however a low impact is predicted, and no further mitigation is recommended because the duration would not be significant and the separation distance is sufficiently large.

2.3.4. Mitigation is recommended for two dwellings (Croft Barn and The Toft in the north-eastern part of the site) due to the duration of effects and predicted visibility of and proximity to the reflecting panels. Screening along their western site boundary is suggested in the form of an opaque fence or planting. Referring back to the Landscape Strategy it is noted that hedgerow reinforcement to be maintained to a height of 2m is proposed along here, along with new tree planting which should be sufficient to screen any glare.

2.3.5. No significant impacts upon road users are predicted and no mitigation is required.

## **2.4 Impact on Heritage Assets**

2.4.0. The Planning (Listed Building and Conservation Areas) Act 1990 requires Local Planning Authorities, to have special regard to the desirability of preserving heritage assets and their settings including any features of special architectural or historic interest which they possess. Any development which affects a heritage asset, or its setting, should therefore be informed by a proportionate assessment of the significance of the asset which is likely to be affected by the proposals and the impact of a development upon the asset.



2.4.1. Paragraph 195 of the NPPF states that local planning authorities should take into account the significance of heritage assets and how they may be affected by proposals, together with the desirability of sustaining and enhancing their significance whilst making a positive contribution to local character and distinctiveness (paragraph 197). Paragraph 200 goes on to say that "any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification". Where a proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal. This requirement is followed through within Policy EQ3 of the Core Strategy.

- **Impact on Listed Buildings**

2.4.2. The Toft, which is situated, adjacent to the north-east corner of the site, is a Grade II listed building and stands approximately 60m from the edge of the site. Butterhill Windmill Tower, a disused Grade II listed windmill is situated approximately 300m west of the northernmost tip of the site (on the other side of Butterhill Farm).

2.4.3. The Heritage Statement submitted flags the Historic England publication 'Commercial Renewable Energy Development and the Historic Environment', which gives advice on large scale renewable projects. Paragraph 70 of the guidance states that *"harmful visual impacts on the settings of heritage assets can be avoided or reduced through sensitive design and layout, and mitigation measures such as tree and hedge planting to screen the development. However, care needs to be taken that these measures do not themselves have an adverse impact on the heritage setting or landscape character"*.

2.4.4. The Heritage Statement identifies that the setting of The Toft (a Grade II Listed Building) includes the adjacent buildings, and in particular the older farm buildings directly to the north-west (now Croft Barn), along with the grounds of the property. Overall the current setting of The Toft is considered to make a reasonable contribution towards its significance.

2.4.5. The windmill tower is of probable 18th century origins and has good evidential and historical values linked to the potential for examination to reveal further details of the origin and use of the structure, along with aesthetic values derived from its design and appearance. The setting of the windmill tower takes in an extensive area within which it is visible with varying degrees of clarity. It is not located at the highest point on Butterhill, which is further to the west, consequently the setting does not extend very far in that direction, but in all other directions the setting extends for a considerable distance. Overall the setting of the Grade II listed windmill tower makes a strong contribution towards its significance.

2.4.6. The Church of St Lawrence in Coppenhall is listed at Grade II\* and is approximately 700m north-east of the proposal site, however the assessment concludes that there is no intervisibility with any part of the proposal site due to the presence of intervening later buildings and mature hedgerows.

2.4.7. The Grade II listed Levedale House is located approximately 960m south of the proposal site, with the Grade II listed Field House Farmhouse a further 200m to the south. The proposed development would not be visible in any views from, towards or across either of these two Grade II listed buildings due to the presence of other built development and also mature vegetation around the property boundaries, therefore these designated heritage assets would not be affected by the proposed development. The study, in conjunction with the LVIA, also found that there would be no intervisibility towards Conservation Areas at Penkrige and Bradley and no visibility towards nearby villages to the east.

2.4.8. There is a greater level of visibility between the proposal site and the former farm buildings immediately north-west of The Toft, now known as Croft Barn, due to the limited planting along the north-west boundary of that property. Croft Barn should be regarded as a non-designated heritage asset as a

result of its age and its association with The Toft. Whilst much of the significance of Croft Barn lies in its fabric and its association with The Toft and any other remaining historic farm buildings within this complex, there is still some significance derived from its wider rural setting. However, the scheme design shows substantial biodiversity buffer zone in the land to the north-west of Croft Barn and hedgerow reinforcement to a height of 2m is proposed to thicken up the existing boundary along the north-west side of the property, along with new tree planting. The proposed development would represent a change with the wider rural setting of Croft Barn, but would not result in any harm to the significance of this non-designated heritage asset.

2.4.9. The report goes on to state that there is limited intervisibility between the proposed development and The Toft and that a bio-diversity buffer and planting/hedgerow thickening could be used to enhance the site boundary. However, setting is not just about visibility and the proposed development would represent a change within the wider rural setting of the former farmhouse, which is currently largely surrounded by farmland.

2.5.0. The Council's Conservation Officer originally objected to the scheme due to the significant change to the setting of the listed building with the addition of solar panels within close proximity to the designated heritage asset. The layout plan has subsequently been amended to provide a biodiversity buffer measuring approximately 60m to the south-west of The Toft and Croft Barn, with hedge reinforcement planting on the adjoining site boundary and a further planting screen adjacent to the fencing.

2.5.1. Although the amendments have reduced the impact on the Listed Building, the Conservation Officer remains of the view that the proposal causes less than substantial harm to the setting of the Listed Building. In line with paragraph 202 of the NPPF, 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.

2.5.2. In conclusion, the setting of the designated and non-designated Heritage Assets is characterised by a rural agricultural landscape. Although the proposal would change that setting, the biodiversity screening proposed along with the separation distance to any fencing or panels would limit visibility towards the development, accordingly there would be less of an impact on the rural setting. The fencing detail shows that the perimeter would be formed of a fine mesh fence with timber posts which would not appear overly obtrusive within the landscape and the solar panels themselves would be low lying. The closest inverters would be around 150m away from the boundaries with the heritage assets and would also be low lying, extending to between 2.2m and 3m in height.

2.5.3. In terms of the sub-station, whilst this would be a taller structure at 5.5m, the extent of the compound would be relatively small in the context of the overall site and would be positioned over 400m away from The Toft and Croft Barn. The Listed windmill is positioned around 500m from the proposed sub-station and would be screened by a thick border of vegetation/screen planting.

2.5.4. Taking into account the amendments to the scheme it is considered, on balance, that the public benefits of the development in terms of renewable energy generation would outweigh the harm identified to the setting of the Heritage Assets, bearing in mind that the harm is considered to be 'less than substantial'. Although The Toft is a nationally significant building, there is clear advice within the NPPF that renewable energy schemes should be supported where the impacts can be made acceptable (paragraph 158) and a condition could be imposed on an approval to secure the implementation of the landscaping buffer shown on the submitted plans.

- **Impact on Archaeology**

2.5.6 As previously discussed, national and local policy sets out protection for heritage assets which includes historic landscapes and below ground archaeological evidence. The County Archaeologist has reviewed the application and considers that the Heritage Statement (HS) submitted has provided a useful understanding of the developmental history and archaeological potential of the application site.

2.5.7 From an archaeological point of view, the HS has concluded, that there is some, albeit low, archaeological potential/interest in the application site for all periods. This assessment is generally supported, however there has been a relative lack of previous archaeological works in the wider area and there are a number of significant archaeological sites relatively nearby, including a number of scheduled moated sites, the scheduled Iron Age Hillfort at Berry Hill (approx. 2km to the northwest of the site) and a multi-phase site, which includes a Roman villa, at Acton Trussell, approx. 3km to the southeast. This latter concern is supported by the South Staffs Historic Character Assessment (HECA), which states that 'earlier activity has been recorded in the character area in the form of the hillfort at Berry Ring and evidence for prehistoric to Roman settlement at Acton Trussell. Such sites suggest the potential for further unknown archaeological deposits to survive across the HECA'.

2.5.8 Whilst no objections are raised on archaeological grounds, a further stage of archaeological evaluation, in the form of a staged evaluation, initially comprising a geophysical survey, should be carried out across the site in advance of any groundworks to inform the need for any further works. The applicant has agreed to a pre-commencement condition to secure these works should the Council be minded to approve the application.

## **2.6. Highways**

2.6.0 In line with paragraphs 110 and 111 of the NPPF, the impact of development proposals on the highway network should be considered. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

2.6.1 The County Highways Officer initially requested further information regarding the condition of the roads surrounding the site, the routing of construction traffic through the road network and the means of implementing the Temporary Traffic Regulation Order (TTRO) proposed for the 16-week construction period.

2.6.2 A Transport Statement (TS) and Construction Traffic Management Plan (CTMP) have been submitted which identify that the site would be accessed via an existing access at the north of the site and egressed via the existing access on the south-eastern site boundary. A TTRO would be put in place on local roads to create a one-way system for construction HGVs and other vehicles using these local roads for the temporary construction period and all deliveries by goods vehicles would be undertaken outside of the school peaks of 08:00 to 09:00 and 15:00 to 16:00.

2.6.3 Construction HGV's would be subject to a booking system to ensure that vehicles would not be arriving or leaving at the same time and construction times would be limited to between 08:00 and 18:00 hours Monday to Friday with limited construction activities on Saturdays between 08:00-13:00. No construction activities would take place on a Sunday or Bank Holiday. Space would be available for all workers to park on site and the Transport Statement states that this would be strictly enforced to ensure no parking on the public highway.

2.6.4 Based on the revised information submitted the County Highways Officer has raised no objections on highway safety grounds subject to conditions to secure the measures set out in the application. Road

condition surveys would also need to be carried out prior to and post development to identify any new or significant defects on the local road network so that appropriate repairs could be undertaken.

## **2.7. Drainage/Flooding**

2.7.0. Policy EQ7 of the Core Strategy sets out that development should not be permitted where it would have a direct or indirect impact on water quality or flooding.

2.7.1. The Drainage Strategy indicates that French drains would be installed around any structures with impermeable bases (such as the inverters). Vegetated ground should be provided under and around arrays and maintained to avoid bare earth but as long as this is followed through the solar farm would have no impact on runoff characteristics. In order to meet DEFRA Code of Practice, soil compaction would be limited through the construction phase by the use of light machinery. For any areas of soil compaction, the earth between the rows of panels would be tilled / scarified to an appropriate depth and re-seeded. The access tracks would also be formed of permeable materials.

2.7.2. The County Flood Risk Officer notes that the site is within Flood Zone 1, which is at low risk of flooding. The updated Flood Map for Surface Water shows a minor flow path in the eastern area of the site around the site boundary which flows south however this is unlikely to affect the solar arrays as they are situated off the ground. No objections are raised on flooding grounds subject to a condition to secure the measures set out in the Flood Risk Assessment and Drainage Strategy submitted.

## **2.8. Neighbour Amenity**

2.8.0. Policy EQ9 seeks to protect the amenity of nearby residents and requires that developments likely to generate noise are directed to appropriate locations away from noise sensitive areas.

2.8.1. The Noise Impact Assessment submitted has been undertaken on the basis of 'worst-case scenario' assumptions and shows that in the current layout, the plant is unlikely to result in adverse noise impacts at nearby receptors at any time. A condition is suggested to ensure that the sound level is limited to acceptable levels, which could be achieved by limiting the sound power level of each inverter to 78 dB LWA. The Council's Environmental Protection team have raised no objections and it is considered that the proposal would not cause noise disturbance to nearby properties.

2.8.2. In terms of visual amenity, views of the solar farm from the dwellings adjacent to the north-eastern corner of the site would be screened by intervening vegetation and tree planting. The dwelling adjacent to the south of the site, Toft House, would be positioned approximately 28m from the closest panel and 1 No. CCTV camera, and approximately 20m from the perimeter fence. A further CCTV camera which was originally proposed to the rear boundary of this property has been omitted from the plans. The security fencing is proposed to be a light wire fence and would be screened from Toft House by new hedge planting either side of the Public Right of Way. The CCTV camera would be mounted at height for the purpose of overseeing the solar farm, as such it would not face towards or overlook this dwelling.

2.8.3. The Construction Traffic Management Plan submitted details the construction delivery times, working times, traffic signage and parking arrangements, and would form part of the approved documents to ensure that the development was carried out in an appropriate manner. In conclusion it is therefore considered that the proposal would not cause an adverse impact upon the amenity of neighbouring residential dwellings, thereby complying with Policy EQ9.

## **2.9 Trees and Ecology**

## Protected Species

2.9.0 The Wildlife and Countryside Act 1981 (as amended) 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 of Habitats and Species Regulations 2017 (as amended) 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 Natural Environment and Rural Communities Act 2006 (as amended) places a duty on local planning authorities to conserve and enhance 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.

2.9.1 Policy EQ1 of the Core Strategy sets out that permission will not be granted for development that causes significant harm to sites of nature conservation including trees and hedgerows, together with species that are protected or under threat.

2.9.2 A Preliminary Ecological Appraisal (PEA) of the site was carried out in September 2022. The document assessed the potential of the site to support a range of European and nationally protected species and searched for evidence of use by protected species. The protected species identified as having the potential to use the site were bats, nesting and over wintering birds and Great Crested Newts.

2.9.3 Given the findings of the PEA, a Wintering Bird Survey and Breeding Bird Survey, a Potential Bat Roost and a Barn Owl Assessment were submitted with the application. The reports demonstrate that the likelihood of a significant adverse effect to roosting bats, barn owls or birds is unlikely, as a result of the proposed development, with the buffer zones around retained trees providing sufficient offset to preclude any potential harm.

2.9.4 In order to secure habitat uplift for protected species through the development, a combined Landscape and Ecological Management Plan is recommended to be secured via condition, which would include species-specific enhancements across the site, including bat and bird boxes.

2.9.5 The development falls within the red Impact Risk Zone (IRZ) for Great Crested Newt (GCN) (as defined within the Council's District License), where there is highly suitable habitat and a high likelihood of GCN being present. There are 53 ponds within 500m of the development proposal, 5 of which are within the red line boundary. There are also great crested newt records within the red line boundary and there is direct connectivity between the development and surrounding features in the landscape. To address this matter, the applicant has begun to enter into the Council's District Licensing Scheme. Completion of this process is required prior to the issuing of a formal decision and therefore, it is requested that should members recommend the approval of this application that delegated authority be given to the Planning Manager to issue the decision once addressed. In addition, the conditions and informative notes included within the NatureSpace impact report must be adhered to, as detailed within the decision notice, should the application be approved.

2.9.6 Given the above assessment, subject to applicant completing the District Licensing process and adhering to the relevant conditions as recommended, the LPA is therefore in a position to demonstrate compliance with regulation 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended), which places a duty on the planning authority when considering an application for planning permission, to have regard to its effects on European protected species.

## Biodiversity

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

2.9.8 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 the Environment Act); 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".

2.9.9 The current proposals do not result in significant loss of any habitats of principal importance, and result in a net gain for biodiversity equating to 61.26% in habitat units and 114.56% in hedgerow units. A condition to secure the delivery of this uplift is recommended for members, along with a management scheme to ensure on-going provision for a minimum of 30 years. Subject to the inclusion of this condition, appropriate material planning weight must be given to this uplift within the planning balance.

## Impact on Special Areas of Conservation

2.9.10 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".

2.9.11 The Site is located approximately 3.6km to the east of Allimore Green Common SSSI and 6.4km to the south west of Cannock Chase Special Area of Conservation and SSSI. There are no Special Protection Areas (SPA) or Ramsar sites within the surrounding area.

2.9.12 The Government's advice as set out in the 'Habitats regulations assessments: protecting a European site' is that when checking whether a proposal could impact upon a protected site is "You only need to carry out an HRA if the proposal might affect a European site. The effect of your proposal may depend on its location. It could be:

- on the site
- near the site
- some distance away, for example by causing air, water or noise pollution or affecting a feeding area used by one of the site's designated species".

2.9.13 The advice continues to advise that "You can check if there's an impact risk zone (IRZ) around a protected site. This will help you assess if a proposal might affect a site". IRZ's are detailed on DEFRA's Magic Map dataset. It is acknowledged that IRZs within this dataset are specifically for Sites of Special Scientific Interest (SSSI), albeit they do include occasional data specific SACs etc, so they are a useful guide, but not absolute. However, given Government advice on this matter, as quoted above, they are a useful way to determine an initial Zone of Influence (Zoi), for which to undertake an assessment within, to consider a proposed development's impact upon a protected site. Beyond this broad-brush approach however, there is a more detailed consideration of Source, Pathway and Receptor for which regard must be had.

2.9.14 The Zols for the abovementioned SAC and SSSI, as shown on the Magic Maps dataset, both cover this site. In terms of the CCSAC, the Zol extends to 15km, due to recreational impact. Given this development does not involve the creation of any residential units, the LPA as the Competent Authority on this matter, can determine no harm will arise, through this consideration, prior to the screening process. In terms of other potential harm arising, as evidenced by paragraph 4.1.19 of the Ecological Impact Assessment “The installation of the solar arrays will result in the conversion of fields currently used for arable crop production and an area subject to high intensity cattle grazing into grassland/pasture subject to low intensity sheep grazing.”. The removal of fertiliser use and high-intensity cattle grazing on the site is likely to result in an overall reduction of ammonia and nitrogen pollutants. Subsequently, the proposed development does not need to be screened further for the purposes of Habitat Regulation Assessment and significant effects to SACs and RAMSAR sites are unlikely to occur as a result of the proposed development. Given this assessment no further consideration of impact from the scheme upon protected sites is required.

### **3.0 Developer Contributions**

3.0.1. Local residents have raised the matter of a financial contribution by the applicant for the purpose of community benefit, which is understood to have been discussed at a consultation meeting. One local resident has commented that this should be secured by way of S.106 agreement with the Council.

3.0.2. In line with the provisions of the NPPF, contributions should only be sought where they are necessary to make the development acceptable in planning terms. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition and must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

3.0.3. In this case, a financial contribution for community benefit would not meet the tests outlined above, as such it could not be secured by way of S.106 agreement however the developer could make a voluntary contribution to the Parish should they wish to do so.

### **3.1. Human Rights**

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.

### **4.0 CONCLUSION**

4.0.1. The proposed solar farm would have a material impact on the character and appearance of the Open Countryside, a Landscape that is valued for its own sake. However, the development would make a significant contribution to the production of renewable energy which is a key target from national and local government as well as delivering a significant uplift in biodiversity, both matters are apportioned significant weight. The proposal would result in less than substantial harm to the setting of a Listed Building which, in this instance, is considered to be outweighed by the considerable public/environmental benefits of the scheme. Although the

site comprises of good quality agricultural land, the quality of the land would not be compromised as it could revert back to arable farming in future and the proposed development resulting in a different type of agricultural land use being provided. Further, it is considered there is ample good quality farming land remaining in the District. The proposal incorporates biodiversity zones and enhanced planting buffers, as such the development would not detrimentally impact upon the landscape of the area nor harm biodiversity, and there would be no undue harm to neighbouring amenity.

4.0.2. Therefore, taking all factors into consideration, the wider benefits of the development are considered to significantly and demonstrably outweigh the adverse impacts of the proposal. The balance is therefore considered to tip in favour of the application and the proposal is considered to comply with the overarching aims of the NPPF. Accordingly, approval is recommended subject to conditions.

## **5.0. RECOMMENDATION - APPROVE Subject to Conditions**

### **DELEGATE APPROVAL TO THE DEVELOPMENT TEAM MANAGER TO ISSUE DECISION ON COMPLETION OF A NATURESPACE DISTRICT LICENSE.**

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. Notwithstanding the details shown on the approved plans, the access and egress improvements shown on drawing no. JNY11456/01 and drawing no. JNY11456/02 of the Construction Traffic Management Plan (version 02b dated 14 March 2023) shall be fully completed prior to commencement of the development.
4. The one-way system to be put in place via a Temporary Traffic Regulation Order (TTRO) as per details set out in the Construction Traffic Management Plan (version 02b dated 14 March 2023) shall be fully in place prior to the commencement of the development.
5. Prior to commencement of the development a road condition survey and inspections of roads bordering the site to the south (Hyde Lea Bank) and to the east (Toft Lane) of the site shall be carried and submitted to the local planning authority;
  - Prior to commencement of development; and
  - Prior to first use of the development.Should any new or significant defects be identified, repairs shall be undertaken immediately and the road shall be made good in liaison with the County Highways Authority.
6. All site operations shall be undertaken strictly in accordance with the approved Construction Traffic Management Plan (version 02b dated 14 March 2023) for the duration of the construction programme.
7. 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-excavation reporting and appropriate publication.



8. The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition 8.
9. The development hereby approved shall not be brought into use until the site investigation and post-excavation assessment has been completed in accordance with the written scheme of archaeological investigation approved under conditions 8 and 9 and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.
10. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's Organisational Licence (WML-OR112, or a Further Licence) and with the proposals detailed on plan titled Land at Littywood Farm: Impact plan for great crested newt District Licensing (Version 1) dated 29th June 2023.
11. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112, or a 'Further Licence'), confirming that all necessary measures regarding great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the planning authority and the authority has provided authorisation for the development to proceed under the district newt licence. The delivery partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.
12. No development hereby permitted shall take place except in accordance with Part 1 of the Great Crested Newt Mitigation Principles, as set out in the District Licence WML-OR112 (or a 'Further Licence') and in addition in compliance with the following:
  - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians
  - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e., hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).
  - Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.
13. The development hereby permitted shall not be brought into use until the approved measures set out within the Flood Risk Assessment and Drainage Strategy dated 1st December 2022 have been implemented in full and therefore retained for the lifetime of the development.
14. All tree protection measures within the approved RPS Tree Protection Plans (Ref. JSL4559, Dwg Nos. 710 - 717 incl. (Rev P03)) and the associated Arboricultural Impact Assessment (Ref. JSL4559\_770), 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.

15. Within three months of the development commencing, full details of tree / hedge / screen planting provision shall be submitted and approved in writing by the local planning authority. All measures within the approved landscaping / tree planting scheme shall be implemented within the first planting season (Oct - Mar) following completion of construction. Any trees that die or become unsuitable for retention within 5 years of the initial planting date will be replaced on a like for like basis.
16. No development shall take place, including demolition, groundworks or any necessary vegetation clearance until a construction and environmental management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
  - a) A risk assessment of potentially damaging activities and the phases associated with them.
  - b) Identification of biodiversity protection zones.
  - c) Practical measures (both physical measures and sensitive working practices such as timing) to avoid or reduce impacts during site clearance and construction.
  - d) The location and timing of sensitive works to avoid harm to ecological features.
  - e) The times during construction when an ecological clerk of works (ECoW) needs to be present (if appropriate).
  - f) Role and responsibilities of the ECoW if appropriate.
  - g) Responsible persons and lines of communication.The approved CEMP scheme shall thereafter be fully implemented throughout all construction work and any physical protective measures kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.
17. Prior to commencement of development (excluding demolition or ground works), a combined Landscape and Ecological Management Plan (LEMP) must be submitted to and approved in writing by the local planning authority. The content of the LEMP shall include the following:
  - a) Description and evaluation of features to be managed.
  - b) Ecological trends and constraints on the site that might influence management.
  - c) Aims and objectives of management.
  - d) Appropriate management options to achieve aims and objectives.
  - e) Detailed management prescriptions and a work schedule with annual plan.
  - f) Detailed species-specific enhancements such as bat and bird boxes, and any associated management/monitoring requirements.
  - g) Responsibilities of bodies/organisations for implementation against actions.
  - h) Monitoring and remedial measures including monitoring of habitats to ensure the stated condition for biodiversity net gain is met, and species monitoring as appropriate to ensure management is iterative and delivers benefits for species as detailed within the submitted ecological impact assessment report.The LEMP shall also include details of the management body(s) responsible for delivery and future maintenance.

The plan shall also set out (where monitoring shows that aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan shall cover the life of the proposed development and must be implemented in full accordance with the approved details prior to first use of the development hereby permitted.
18. Site working hours shall be in accordance with the Construction Traffic Management Plan version 02b dated 14 March 2023. All work will be conducted between 08:00 and 18:00 hours Monday to Friday with limited construction activities on Saturdays between 08:00-13:00. No construction activities will take place on a Sunday or Bank Holiday.

19. In accordance with the Construction Traffic Management Plan version 02b dated 14 March 2023, all deliveries by goods vehicles (>3.5 tonnes) shall be undertaken outside of the school peaks of 08:00 to 09:00 and 15:00 to 16:00.
20. In line with the Noise Impact Assessment prepared by RPS dated 24/11/2022, unless agreed otherwise in writing by the Local Planning Authority, the sound power level of each inverter shall be limited to a maximum of 78 dB LWA for the lifetime of the development.
21. The permission hereby granted does not grant or imply consent for the installation of any means of lighting on the site. No lighting shall be installed on site other than with the written approval of the Local Planning Authority.
22. The development hereby approved shall be removed in its entirety and the land restored to its former condition on or before the expiry of this permission, which for the avoidance of doubt is 19<sup>th</sup> September 2063, in accordance with a scheme of work to be submitted to and approved in writing by the local planning authority.

#### Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
4. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
5. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy, to ensure that the local road users are not unnecessarily adversely affected by construction activities.
6. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
7. To inform the need for further staged works and to inform the scale and extent of these further archaeological works in accordance with Policy EQ3 and paragraph 194 of the NPPF.
8. To secure an appropriate record of any archaeological remains that may be uncovered in accordance with Core Strategy Policy EQ3.
9. To secure an appropriate record of any archaeological remains that may be uncovered in accordance with Core Strategy Policy EQ3.
10. In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WMLOR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.

11. In order to adequately compensate for negative impacts to great crested newts, and in line with section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.
12. In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the Organisational Licence (WML-OR112, or a 'Further Licence'), section 15 of the National Planning Policy Framework, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006.
13. To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development in accordance with the provisions of the NPPF.
14. To protect the existing trees on the site during construction work in accordance with policy EQ12 of the adopted Core Strategy
15. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
16. To prevent harm to habitats of conservation value in accordance with Policy EQ1 of the adopted Core Strategy.
17. 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.
18. To ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.
19. To prevent large delivery vehicles from passing the local school during peak times for the purpose of pedestrian safety.
20. To ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.
21. To protect the character of area and the Cannock Chase AONB in accordance with Policies EQ1 and EQ11.
22. To allow the land to revert back to agricultural use.

## INFORMATIVES

### ECOLOGY

The applicant is reminded that under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. Trees and scrub are likely to contain nesting birds between 1 March and 31 August inclusive. Trees and scrub are present on the application site and should be assumed to contain nesting birds between the above dates unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is absolutely certain that nesting birds are not present. Please note that planning permission does not override or preclude the requirement to comply with protected species legislation. 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.

#### GREAT CRESTED NEWTS

It is recommended that the NatureSpace Best Practice Principles are considered and implemented where possible and appropriate. It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site. It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WML-OR112, or a 'Further Licence') are not licensed under the great crested newt District Licence. Any such works or activities have no legal protection under the great crested newt District Licence and if offences against great crested newts are thereby committed then criminal investigation and prosecution by the police may follow. It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those detailed in the planning condition above which refers to the NatureSpace great crested newt mitigation principles would give rise to separate criminal liability under the District Licence, requiring authorised developers to comply with the District Licence and (in certain cases) with the GCN Mitigation Principles (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (as amended) (for which the Police would be the enforcing authority).

#### PUBLIC RIGHTS OF WAY

Public Bridleway No. 11 Dunston Parish runs across the application site along the southern boundary. Public Bridleway No. 12 Dunston Parish runs through the centre of the site in a north - south east direction . As Public Bridleway No. 13 Dunston Parish need diverting as part of these proposals the developer must apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the public rights of way to allow the development to commence. For further information the applicant must read section 7 of DEFRA's Rights of Way Circular (1/09). It is also strongly suggested, in order to avoid unwanted complications, that guidance should be sought from Staffordshire County Council as Highways Authority, regarding the exact position of the Public Right of Way shown on the Definitive Map.

The granting of planning permission does not constitute authority for any interference with the public right of way and associated items - or its obstruction (temporary or permanent). The term obstruction, in this context, also applies to items such as gates or stiles which are regarded as licenced obstructions which must be sanctioned by the highways authority.

Users of the bridleways must be able to exercise their public rights safely and at all times and the bridleway/s be reinstated if any damage to the surface occurs as a result of the proposed development. Any trees/shrubs/hedging planted within 3 metres of the public right of way are the responsibility of the Landowner not the Highways Authority (including maintenance and liability).

Where private rights exist that allow the use of vehicles along a bridleway, drivers of vehicles must give way to pedestrians, cyclists and horse riders. In the absence of private rights, driving a vehicle on a public right of way is a criminal offence. NPPF 100. states that: Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

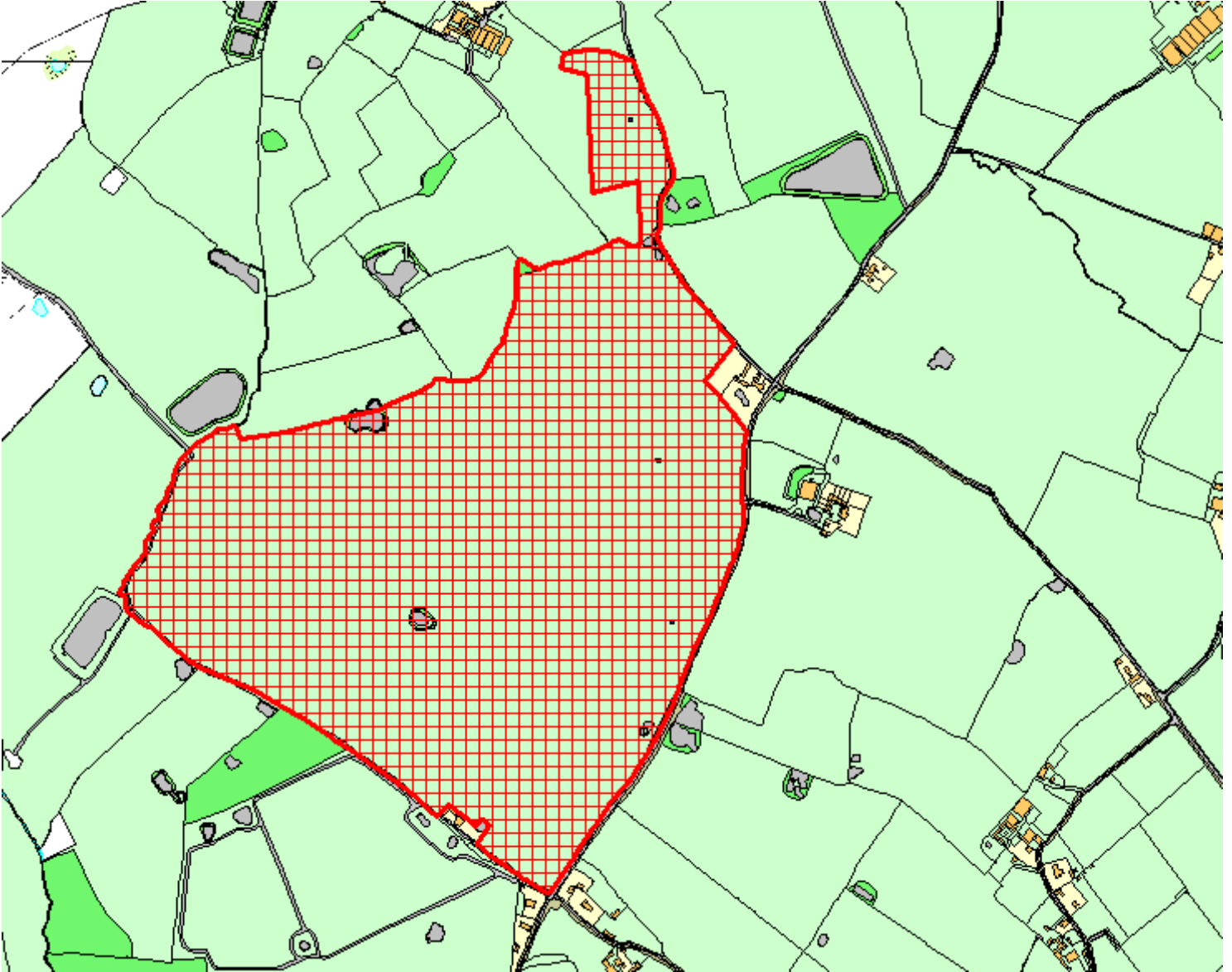
Should this planning application be approved and any right of way require a temporary diversion, please see the County Council website for guidance and an application form. It is advised the County Council Rights of Way Team are contacted at the earliest possible opportunity to informally discuss the proposals. Staffordshire County Council has not received any application to add to or modify the Definitive Map of Public Rights of Way in that vicinity. The possibility of the existence of a currently unrecognised public right of way, makes it

advisable that the applicant pursue further enquiries and seek legal advice regarding any visible route affecting the land, or the apparent exercise of a right of way by members of the public.

Proactive Statement - In dealing with the planning application the Local Planning Authority has worked in a positive and proactive manner by agreeing amendments to the application and in accordance with paragraph 38 of the National Planning Policy Framework 2021.

**Plans on which this Assessment is based**

Plan Type	Reference	Version	Received
Other Plans	JNY11456-01		5 December 2022
Other Plans	JNY11456-02		5 December 2022
Proposed Plans and Elevations	ELGIN-132Kv T-CONNECT-001		5 December 2022
Proposed Elevations	ELGIN-CCTV-001	A	5 December 2022
Other Plans	ELGIN-FENCE-001	A	5 December 2022
Proposed Plans and Elevations	ELGIN-INVERTER-001	E	5 December 2022
Location Plan	1091-LITTYW OOD-003	Rev A	3 October 2022
Other Plans	1091-LITTYW OOD-002	Rev A	3 October 2022
Landscape Plan	JSL4548 100	C	12 May 2023
Planning Layout	1091-LITTYW OOD-001	I	22 June 2023



**Land At Littywood Farm Toft Lane Coppenhall**





**23/00419/FULHH**

**Mr And Mrs Windridge**

**KINVER**

Councillor Stephanie Dufty  
Councillor Paul Harrison  
Councillor Gregory Spruce

**Elsfield Dunsley Drive Kinver STOURBRIDGE DY7 6NB**

**Proposed garage and storage room to frontage, retrospective front porch, and single-storey extension to form utility.**

<b>Pre-commencement conditions required:</b>	<b>Pre-commencement conditions Agreed</b>	<b>Agreed Extension of Time until</b>
<b>No</b>	<b>N/A</b>	<b>19 September 2023</b>

## **1. SITE DESCRIPTION**

1.1 This application relates to a detached property within the Kinver Development Boundary that has a recently added lower ground floor extension (21/00962/FUL) and a conservatory constructed under Permitted Development.

1.2 The property is located on Dunsley Drive, which slopes downwards towards its south end. As a result, the dwelling and its frontage have a higher ground level than the neighbour to the south (West Point House).

1.3 The front of the property faces the driveways of Dunsley House and The Winery.

## **2. APPLICATION DETAILS**

2.1 The existing property has a W.C/Laundry that extends forward of the principal front building line of the dwelling by 2.8 metres. The applicants propose to construct an extension on the south side of this, to create a utility room. This would have a flat roof with a height of 2.9 metres when measured from the highest point of the sloping ground level.

2.2 The existing property has a 2.8-metre-high garage and a 2.5-metre-high carport to the front of the dwelling. These structures would be replaced with a double-garage and a storage room that would be located on a separate floor above the garage. The roof would be hipped and would have a height of 4.55 metres. This new structure would cover a similar footprint as the existing garage and carport, and the north elevation would feature two garage doors and a window. It would attach onto the east side of the existing W.C and proposed utility room.

2.3 Additionally, a retrospective porch is included within this application. This is constructed on the front entrance of the property and covers a space of 5.3 square metres and has a dual-pitched roof with a height of 3.4 metres.

Date of site visit - 21 June 2023

## **SITE HISTORY**

Planning Applications

21/00962/FUL: Single storey lower ground floor extension to provide dependent relative accommodation.  
**Approved Subject to Conditions**, 29th October 2021

15/00357/FUL: Replacement detached garage. **Approved Subject to Conditions**, 19th June 2015

10/00201/FUL: Single-storey front extension. **Withdrawn**, 11th May 2010

#### Appeal Details

None

#### **POLICY**

##### **Constraints**

Within Kinver Development Boundary  
Great Crested Newt Green Impact Zone  
Newt - Impact Risk Zone White

##### **Policies**

National Planning Policy Framework  
National Planning Practice Guidance

Policy EQ9: Protecting Residential Amenity  
Policy EQ11: Wider Design Considerations

Supplementary Planning Document - Design Guide 2018  
Supplementary Planning Document - Sustainable Development 2018

#### **CONSULTATION RESPONSES**

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
N/A	N/A

#### **Kinver Parish Council**

Received 13.07.2023

- Overdevelopment
- Infringement of neighbour's privacy
- Major impact on the street scene
- Not in keeping with other frontages in the road
- In front of the building line
- Due to the slope of the land, the proposal will have a greater impact on a neighbouring property.
- The garage and storage room should not change in use

#### **Contributors**

Objections were received from 5 members of the public. Below is a summary of these comments:

- Overlooking
- Overshadowing

- Not subservient to the dwelling
- Detracts from the dwelling
- In front of the building line
- Much higher than West Point House, blocking light.
- 45 Degree Planning Code will be contravened.
- Overdevelopment
- The potential to become an annexe
- It does not respect the scale and form of the dwelling or surrounding properties.
- Incongruous
- Negative visual impact on the street scene
- Garage would stand abruptly from its surroundings.
- Near the Green Belt, Kinver Conservation Area and the Canal Conservation Area
- Near Dunsley House, a non-designated Heritage Asset

## **APPRAISAL**

This application has been called into planning committee by Councillor Paul Harrison.

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

### 1. Policy & principle of development

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).

1.2 The property is within a development boundary where alterations to dwellings such as this can be considered to be an acceptable form of development, providing there is no adverse impact on neighbouring properties or the amenity of the area.

### 2. Layout, Design and Appearance

2.1 Policy EQ11 advises that new development should seek to achieve creative and sustainable designs that consider local character and distinctiveness, whilst having regard to matters of use, movement, form and space. The Council's Design Guide SPD amplifies the principles set out in Policy EQ11 of the Core Strategy.

2.2 The NPPF (Section 12) advises that “good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”. The document continues to state that “development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”.

2.3 Paragraph 130 of the NPPF also attaches great importance to the design of the built environment, which should contribute positively to making places better for people. As well as understanding and evaluating an area's defining characteristics, it states that developments should:

- function well and add to the overall quality of the area;

- establish a strong sense of place;
- respond to local character and history, and reflect local surroundings and materials;
- create safe and accessible environments; and
- be visually attractive as a result of good architecture and appropriate landscaping.

#### 2.4 Garage and Storage Room

2.4.1 The proposal garnered objection comments that largely related to with the proposed garage and storage room. This shall be considered first:

2.4.2 Although varying in design and finish, the presence of a garage structure forward of the dwelling is not unprecedented within the street scene, as there are other examples of this, including that of the north and south side neighbours (Highfield House and West Point House), in addition to others in the street, such as Kyntor Cottage. Therefore, the proposal would be in keeping with the form of nearby properties.

2.4.3 The applicant's dwelling sits further forward in its plot than properties either side, making it more prominent in the street scene. Initially, the applicants proposed a 5.5-metre-high structure featuring dormer windows. Considering its proposed position and the presence of dormer windows, this would have been far more prominent and would not have appeared subservient to the dwelling. This view was also echoed by objection comments made in response to the original proposal that described it as incongruous. As a result, through the request of amended plans, it was then reduced to 4.55 metres in height and the dormer windows were removed.

2.4.4 The amended proposal would be 1.8 metres higher than the existing garage, which is currently well screened from the street scene by boundary treatments. Although the proposal would be taller and therefore more visible, the small section of roof that would protrude above the existing boundary fence is unlikely to create an overbearing presence in the street scene or stand out abruptly from its surroundings creating an incongruous feature.

2.4.5 As its amended height is 1.2 metres lower than the eaves of the dwelling and there has been a reduction in bulk, due to the removal of the dormer windows, the proposal would better respect the scale of the existing dwelling and appear as a subservient addition that would not detract from the host property.

2.4.6 The Design Guide (2012) states that "it is generally not appropriate for extensions (other than small porches or canopies) to project forward of the existing front facade of a building" However, the proposed garage and storage room would replace the already existing garage and carport positioned forward of the dwelling.

2.4.7 Objection comments expressed concern of overdevelopment. The proposal would be constructed over an already developed area and although the dwelling has been extensively enlarged from the original dwelling, the site is large, with only 16% of its footprint covered in buildings, including the original dwelling. Also, space for at least three cars in the driveway would remain. Hence, when looking at the site as a whole, it does not appear overdeveloped.

2.4.8 Additionally, it would fit in with the character and form of the existing building, as both the roof tiles and facing brickwork would match the dwelling, as would its roof pitch. Hence, as the proposed garage and storage room is in keeping with the existing dwelling, its design is unlikely to impact the nearby Conservation Areas or any non-designated Heritage Assets as mentioned by neighboring residents. The Local Planning Authority do not consider the proposed development to impact at all on the Conservation Area to the southeast and as such have not advertised the development as such.

2.4.9 Although consideration is not usually given to the Green Belt for properties that fall outside of this designation, this was present in objection comments, due to the proximity of Dunsley Drive to the Green Belt. As the proposal would be constructed over an already developed area and would not exceed the height of the existing dwelling, it would be read in the context of the dwelling and would have no adverse impact on the nearby Green Belt.

### 2.5 Retrospective Front Porch

2.5.1 The volume, scale and massing of the retrospective front porch is similar to those in the surrounding area and is in scale with the existing property. As it is finished in matching brickwork and tiles, it does not have a negative impact on the street scene or character or appearance of the dwelling.

### 2.6 Extension to Form Utility

2.6.1 Although the proposed utility room extension would have a flat roof and would partly extend forward of the principal front building line of the existing dwelling, the north and east sides that would otherwise be visible from the street, would be blocked from view by the proposed garage and the existing W.C extension. Considering these factors, and that it would be finished in matching brickwork, it would not adversely impact the street scene or character or appearance of the dwelling..

2.7 Therefore, it is considered that there will be no adverse impact on the character and appearance of this established residential area due to any aspect of the development. As such, the proposal is in accordance with the aims of policy EQ11.

## 3. Access, Parking & Highway Safety

3.1 Paragraph 110 of the NPPF requires that consideration should be given to the opportunities for sustainable transport modes, that safe and suitable access to a development site can be achieved for all people, and that improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Paragraph 111 goes on to state that development should only be refused on transport grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts of development are severe.

3.2 Paragraph 105 of the NPPF seeks to ensure that developments which would generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

3.3 Appendix 5 of the Core Strategy provides guidance on the Council's off street car Parking Standards for new development. Although the existing carport and garage provide 3 parking spaces and the replacement garage would only provide two, another 3 cars could fit onto the driveway space that is to remain. This would meet the requirements of the Parking Standards in Appendix 5.

## 4. Residential Amenity

4.1 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.

4.2 During both the first and second consultation, comments were received expressing privacy concerns, particularly as there were also concerns that the garage and storage room would be converted into habitable rooms. As a result, all windows and rooflights have been removed from the first floor of the proposal. As there

are no windows serving the storage room, the privacy of neighbours would not be impacted by this aspect of the proposal.

4.3 As the storage room ceiling height would be a low 1.785 metres, it is unlikely that this space would be used as a habitable room without alterations. Once constructed, if the applicants wished to raise the height of this structure or install windows or rooflights that are not obscure-glazed and non-opening, they would need to apply for Planning Permission.

4.4 Concerns were also expressed that due to the sloping nature of Dunsley Drive, the proposal would overshadow West Point House that sits on a lower ground level. Although there would be some reduction in light, this neighbour's property sits south of the applicant's property and has no nearby south side neighbour. Much of the sunlight would come from this direction and not north where the applicant's property is located.

4.5 Additionally, the proposed utility would sit 8.3 metres forward from the nearest habitable room of this neighbour and the garage would sit 11.8 metres away. A comment received stated that the 45-degree planning test would be contravened. This test, along with the 25-degree test, indicates whether a proposal would materially impact the light reaching neighbouring properties, but these are usually applied when the applicant's property is perpendicular or opposite to the neighbour's window, which is not the case here. Considering the distance between the proposal and the front elevation of West Point House, in addition to its southerly position, the proposal would not materially reduce the daylight reaching this neighbour's dwelling.

4.6 Although the new utility/W.C and garage would have windows facing north and west, they would serve non-habitable rooms and would not directly face any neighbouring dwellings. Hence, the privacy of both West Point House to the south and Highfield House to the north would not be impacted by these windows.

4.7 The porch would not feature any windows, only a door, and as it would sit 5.7 metres from the north side boundary and would be blocked from view on the south side by the existing W.C extension, it would not impact the daylight reaching adjoining properties.

4.8 Therefore, the proposal is in accordance with Planning Policy EQ9.

4.9 Space about Dwellings: The proposal would not breach the Space about Dwelling (SAD) Standards in Appendix 6 of the Adopted Core Strategy.

## 5. Human Rights

5.1 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 proposed garage, first-floor storage room, utility and porch are considered acceptable in principle because they would not cause material harm to neighbouring amenity and there would be no adverse effect on the street scene or character and appearance of the existing dwelling. The development also raises no material concerns in relation to parking or highway safety. The proposal is therefore considered acceptable.

and is in accordance with the aims of Local Plan Policy EQ9 and EQ11. As such, it is appropriate to recommend that the application be approved.

## **7. RECOMMENDATION - APPROVE Subject to Conditions**

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. The materials to be used on the walls and roof of the extension shall match those of the existing building

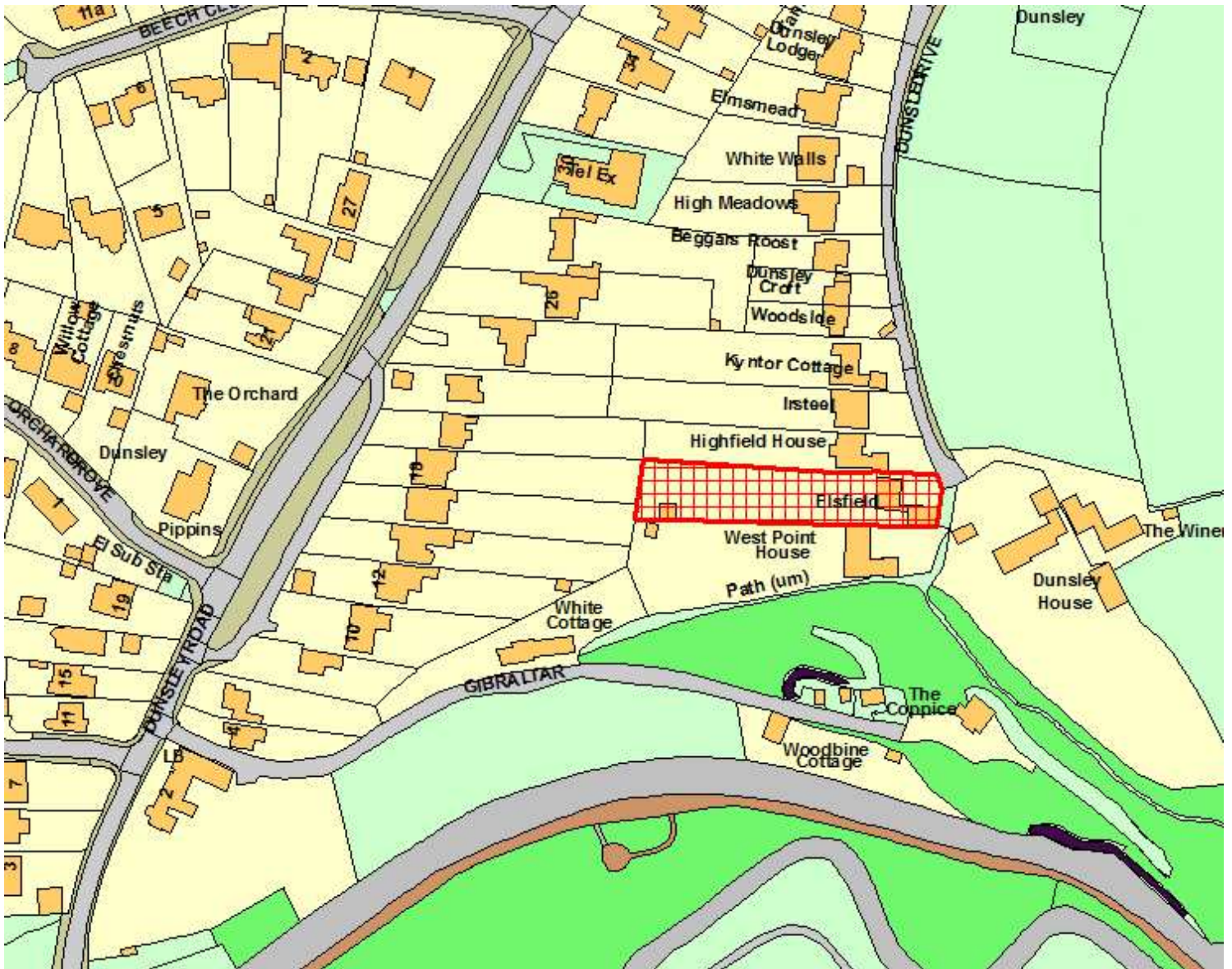
### **Reasons**

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.

Proactive Statement - In dealing with the application, the Local Planning Authority has approached decision making in a positive and creative way, seeking to approve sustainable development where possible, in accordance with paragraph 38 of the National Planning Policy Framework, 2021.

### **Plans on which this Assessment is based:**

Plan Type	Reference	Version	Received
Proposed Block Plan	2395		29 June 2023
Proposed Floor Plan	2395/P10B		17 July 2023
Proposed Elevations	2395/P11C		21 July 2023



**Elsfield Dunsley Drive Kinver Stourbridge DY7 6NB**



**SOUTH STAFFORDSHIRE COUNCIL**

**PLANNING COMMITTEE – 19<sup>th</sup> September 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	18 <sup>th</sup> July 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 The Statement of Community Involvement (SCI) is currently being reviewed. This document is a statutory planning document that sets out how the Local Planning Authority intends to engage with local communities and stakeholders during the process of plan preparation and when determining planning applications. It is proposed to update the method of consulting member on planning applications received. Further information will follow in this report and under separate cover.

#### **5. Training Update**

- 5.1 The schedule of both mandatory and optional training has now been completed. It is the intention to undertake training for members on bespoke topics going forward before alternate planning committees (5.15-6.15pm) in the Council chamber. This will commence in September, topic to be advised. Any area of planning and/or topics members would like guidance on then do let the author of this report know.

#### **6. Monthly Planning Statistics**

<b>June 2023</b>	
Applications received	88
Application determined	104
Pre-application enquiries received	11
Pre-application enquiries determined	8

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

- 7.1 Officers have completed a proposed response to “changes to permitted development rights” consultation which closes on the 25<sup>th</sup> September. The council response will be subject to the separate formal scrutiny process and member considerations.

7.2 It has been confirmed by central government that planning fees will increase from April 2024. Further changes to the fee regulations are also proposed.

## 8. Appeals

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

8.2 **Planning reference:** 22/00714/OUT

**Site Address:** Brookside Farm, Codsall Road, Codsall, Staffordshire, WV6 9QG

**Date of Inspectors Decision:** 2nd August 2023

**Decision:** Dismissed (Appendix 1)

This appeal related to an outline approval for a single dwelling with all matters reserved except access.

The main issue was:

- Whether the proposal would be 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; and,
- Whether any harm, by reasons 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.

The inspector concluded that due to the siting of the proposed dwelling “the proposal would be an extension of development into the open Green Belt rather than the infilling of a gap”. On this basis it is not considered to be “limited infilling” and is therefore inappropriate development within the Green Belt.

8.3 **Planning Reference:** 22/00993/FUL

**Site Address:** 7 County Lane, Iverley, STOURBRIDGE DY8 2SB

**Date of Inspectors Decision:** 5 July 2023

**Decision:** Dismissed (Appendix 2)

The development proposed roof alterations and a loft conversion.

The main issue were:

- whether the proposed extension would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (The Framework) and any relevant development plan policies;
- the effect on the openness of the Green Belt; and

- if the proposal would be inappropriate development, whether any harm is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

The inspector agreed with the officers refusal noting that the proposed roof alterations would be “disproportionate to the size of the original dwelling” and that as such would constitute inappropriate development in the Green Belt. It follows that the proposed extension would cause harm to openness as a result. No very special circumstances were considered to exist in this case.

#### 8.4 **Planning Reference:** 22/01012/ADV

**Site Address:** 66 Stafford Road, Huntington WS12 4PE

**Date of Inspectors Decision:** 23rd August 2023

**Decision:** Dismissed (Appendix 3)

This appeal was against the refusal of advertisement consent for a single sided, illuminated 48 sheet digital poster display.

The main issue was:

- The main issue is the effect of the proposed advertisement on the amenity of the local area, which includes the setting of a listed building.

The inspector noted that the location was inappropriate for an advertisement of this nature, despite its mixed character. He concludes that the proposed display “would be detrimental to the interests of amenity, including the setting of a listed building.”.

#### 8.5 **Planning Reference:** 22/01076/FUL

**Site Address:** 1 Filance Lane, Penkridge, Stafford, Staffordshire ST19 5HU

**Date of Inspectors Decision:** 01 September 2023

**Decision:** Dismissed (Appendix 4)

This appeal was against the refusal for a single dormer bungalow on a corner lot.

The main issue was:

- The main issue is the effect of the proposal on the character and appearance of the area.

The inspector noted that the location was inappropriate for a new dwelling in this location despite the design and height being comparable to surrounding dwelling types. This was due to the corner plot location and the proposed dwelling resulting in “an abrupt visual interruption, undermining the consistent set back and building line pattern that contributes to the cohesive character of the area”. This would have been further exacerbated by the proposed boundary fencing and bland side elevation proposed.

- 8.6 **Planning Reference:** 20/00801/COU,  
**Site Address:** Squirrels Rest, Poplar Lane, Hatherton, Cannock WS11 1RS  
**Date of Inspectors Decision:** 25 August 2023  
**Decision:** Dismissed (Appendix 5)

The development proposed is change of use of land to mixed use for the keeping of horses and as a residential gypsy caravan site for the stationing of three caravans, together with laying of hardstanding, erection of amenity building, stable and haybarn..

The main issue were:

- whether the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt,
- the effect of the development on the landscape character of the area,
- the effect of the proposal on the integrity of the Cannock Chase Special Area of Conservation,
- the provision and need for Gypsy and Traveller sites,
- the personal circumstances of the family including the best interests of the children, and,
- if the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

The appeal decision balances all of the above material considerations and balances the facts apportioning weight. Members are encouraged to read this decision in full. In summary there was found to be harm to the openness of the Green Belt as a result of the proposed development being inappropriate. No very special circumstances were established and matters pertaining to need for Gypsy and Traveller sites, human rights and the best interest of the child were considered.

- 8.7 **Planning Reference:** 18/00676/UNCOU  
**Site Address:** Willow Farm, Hollies Lane, Pattingham, Wolverhampton WV6 7HJ  
**Date of Inspectors Decision:** 3rd August 2023  
**Decision:** Dismissed and enforcement notices upheld (Appendix 6)

This appeal related to both an enforcement notice and against the refusal of planning permission for change of use of the Land, to a mixed use for residential and agricultural use together with the siting of a caravan with a wooden extension to facilitate that material change of use; and an earth bund.

In this case the inspector upheld the enforcement notice subject to a correction allowing for more time for compliance with the notice. The inspector found that the siting of the caravan and the bund was inappropriate development in the Green Belt

and that the proposed rural enterprise was not based on sound financial planning. As such no very special circumstances for the development were considered to exist.

## 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%	89%	91%
21-22 Major		100%	100%	100%	85%	93%
20-21 Major		100%	75%	100%	90%	93%
22-23 Minor	70%	89%	90%	86%	100%	91%
21-22 Minor		82%	84%	81%	89%	84%
20-21 Minor		80%	93%	70%	72%	78%
22-23 Other	70%	93%	96%	96%	96%	95%
21-22 Other		88%	87%	83%	87%	86%
20-21 Other		85%	95%	87%	82%	87%

#### Stats for the rolling 24 month to March 2023

Total (overall) - 90%

Major - 92%

Minor - 87%

Other - 90%

This category includes Adverts/Change of Use/Householder/Listed Buildings.

#### Position in National Performance Tables (24 months to December 2022)

Majors 124<sup>th</sup> from 329 authorities

Non-Major 157<sup>th</sup> from 329 authorities

Report prepared by:

Helen Benbow

Development Management Team Manager

# Appeal Decision

Site visit made on 20 June 2023

**by Samuel Watson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02<sup>nd</sup> August 2023**

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**Appeal Ref: APP/C3430/W/22/3312627**

**Brookside Farm, Codsall Road, Codsall, Staffordshire, WV6 9QG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Nigel Holmes against the decision of South Staffordshire District Council.
  - The application Ref 22/00714/OUT, dated 20 July 2022, was refused by notice dated 4 October 2022.
  - The development proposed is outline planning application for the erection of a single dwelling with all matters reserved apart from access.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal before me has been made in outline with only the matter of access being considered at this stage. All other matters, namely appearance, landscape, scale and layout, have been reserved for a subsequent application. I understand from the appellant's case that the submitted drawings, in these respects, are for illustrative purposes only and I have considered them as such.

## Main Issues

3. The appeal site is located within the Green Belt and therefore the main issues are:
  - Whether the proposal would be 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; and,
  - Whether any harm, by reasons 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.

## Reasons

### *Whether Inappropriate Development*

4. Paragraph 147 of the Framework establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of

inappropriateness, and any other harm, is clearly outweighed by other considerations.

5. Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded as inappropriate in the Green Belt. The listed exceptions include limited infilling in villages. Policy GB1 of the South Staffordshire Local Plan (the SSLP) in part relies upon the Framework but additionally defines what the Council consider to be limited infilling.
6. In short, the definition reads that limited infilling is the filling of small gaps within a built up frontage of development with 1 or 2 buildings. These must not exceed the height of the existing buildings, 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 purposes of including land within it.
7. I note the appellant's concerns that this goes beyond the Framework which does not define infilling. However, local policies may go beyond the level of detail provided by the Framework so long as they do not conflict with the national policies. In this case it is clear that SSLP Policy GB1 does not conflict with the Framework or the purposes of the exception.
8. The appeal site is located off Codsall Road at the edge of Wolverhampton. The main body of the site is to the rear of a former farm unit. This unit contains three dwellings and two significant farm buildings. I understand from the appeal submissions that the barns have planning permission for conversion to further residential dwellings. Surrounding this cluster of development, the area is split between the edge of Wolverhampton and the open countryside.
9. The edge of the Wolverhampton near the appeal site is characterised by outcroppings of development on the appeal site side of Codsall Road. The cluster of development adjoining the appeal site reads as one of these outcrops rather than a discrete cluster of development. Its connection to Wolverhampton is furthered by its closeness to the dense pattern of dwellings and pavement on the opposite side of Codsall Road. This cluster is therefore, both visually and physically within the settlement for the purposes of this Green Belt exception.
10. The proposal would include the erection of 1 dwelling and would be within a relatively small plot. To this end, the proposal would be limited development.
11. However, the dwelling would be at the edge of the cluster of development within a paddock that is read in relation to the wider open countryside. While there are existing dwellings on two sides of the appeal site, their relationship is such that the appeal site sits behind them and the 'gap' between them is to the front of the proposed dwelling. Whilst I recognise that Brookside Farm House is part of the same cluster of development, only the rear portion of the garden adjoins the appeal site. Therefore, given the above and whilst sitting alongside a cluster of development, the proposal would be an extension of development into the open Green Belt rather than the infilling of a gap.
12. The Green Belt and Open Countryside Supplementary Planning Document (the SPD) supports limited infilling where it does not harm the character or openness of the Green Belt. However, as outlined above, the proposal would not be infilling and would therefore not be limited infilling within a village as



required by Framework Paragraph 149(e). The SPD does not therefore support the proposal before me.

13. In light of the above, the proposed new dwelling would not be limited infilling in a village, would not comply with exception (e) set out under Paragraph 149 of the Framework and would be inappropriate development within the Green Belt. The proposal would therefore result in an unacceptable effect on the spatial and visual aspects of the openness of the Green Belt. Whilst this loss of openness would be limited, relatively to the Green Belt as a whole, harm to the Green Belt would nevertheless occur. This matter therefore carries substantial weight.

#### *Other Considerations*

14. The appellant has suggested that the appeal site forms part of the former gardens serving Jasmine Cottage. However, no evidence has been submitted to demonstrate this to be the case and, from my observations on site, the site read as a paddock associated with the adjoining fields rather than a garden. Nevertheless, no evidence has been submitted to demonstrate what, if any, permitted development could be carried out at the appeal site. I therefore find that there is less than a theoretical possibility for this fallback position.
15. The appellant has also submitted that the appeal site is close to services and facilities. Whilst this may be the case, I do not find this to be a benefit in itself of the development and I attribute it neutral weight.

#### *Green Belt Conclusion*

16. The proposal would amount to inappropriate development in the Green Belt, and further harm to the Green Belt would be caused as a result of loss of openness. These matters carry substantial weight and no considerations put forward in support of the proposal outweigh this. Consequently, the very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with SSIP Policy GB1 and the guidance contained within the SPD as outlined above.

#### **Conclusion**

17. The proposal would be inappropriate development in the Green Belt and would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Samuel Watson*

INSPECTOR



# Appeal Decision

Site visit made on 26 June 2023

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5 July 2023**

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**Appeal Ref: APP/C3430/D/23/3314550**

**7 County Lane, Iverley, STOURBRIDGE DY8 2SB**

- 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 and Mrs S Pizzie against the decision of South Staffordshire District Council.
  - The application Ref 22/00993/FUL, dated 20 October 2022, was refused by notice dated 16 December 2022.
  - The development proposed is roof alteration and loft conversion.
- 

## Decision

1. The appeal is dismissed.

## Preliminary matters

2. The Council approved single-storey front and rear extensions in 2019 despite these being deemed to be disproportionate to the original dwelling (the 2019 approval). This was approved under very special circumstances as the fall-back position was deemed to have a more harmful impact on the Green Belt than the proposed scheme. That approval was subject to a condition that removed Permitted Development (PD) Rights for extensions and alterations to the building, outbuildings and means of enclosure. However, some PD Rights were subsequently regained by a later S73 application, that reinstated Rights to build outbuildings and means of enclosure.

## Main Issues

3. The main issues are:
  - whether the proposed extension would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (The Framework) and any relevant development plan policies;
  - the effect on the openness of the Green Belt; and
  - if the proposal would be inappropriate development, whether any harm is clearly outweighed by other considerations, so as to amount to very special circumstances to justify it.

## Reasons

### *Inappropriate development*

4. The appeal site is within the Green Belt. Policy GB1, of the South Staffordshire Core Strategy [2012] (CS), states that development in the Green Belt will be

- permitted where it accords with the Framework. It also states that extensions to buildings should be limited and not disproportionate to the size of the original building.
5. Paragraph 149, of the Framework, establishes that buildings in the Green Belt would be inappropriate unless they would meet a listed exception. Paragraph 149(c) explains that the extension or alteration of a building would not be inappropriate provided that it would not result in a disproportionate addition over and above the size of the original dwelling. Accordingly, CS policy GB1 is largely consistent with the Framework.
  6. The Framework does not define 'disproportionate'. As such, consideration of proportionality is a matter of planning judgement taking into account a range of factors including a proposal's height, floorspace, volume, design and the configuration of the plot and dwelling.
  7. The host dwelling is a detached bungalow set within spacious grounds. The original bungalow was relatively modest in size and has since been extended several times. The site is at the end of a row of residential plots which include dwellings of various heights, scales and styles. The proposed extension includes roof additions. These would include extending a hipped roof to a gable and adding a pitched roof over a flat roof section. The works would result in the creation of a large rear dormer window that would span the length of the dwelling. These works would increase the mass of the roof with the additions forming a mass of substantial height and scale.
  8. The Council's Green Belt and Open Countryside SPD identifies that extensions to buildings in the Green Belt above the range of 20 and 40% of the original floor area would be likely to be disproportionate. Although, the use of a purely numerical standard is not advocated by the Framework, it is noted that this provides a useful guide to indicate a size the Council would normally consider to be proportionate. The previous extensions to the dwelling have increased its volume by around 66%. The Council identify that the proposal would more than double the volume of the dwelling with an increase of around 129%. These calculations are undisputed between main parties.
  9. The proposal would create a large addition to the building. The rear dormer would be substantial and would extend the existing roof in a manner that would fundamentally alter the overall shape of the roof and its current comparatively low profile. Accordingly, the proposed addition, in combination with previous extensions, would be disproportionate to the size of the original dwelling. This finding is reflected by the significant increase in floorspace, volume and massing compared to the size of the original dwelling.
  10. As it has not been demonstrated that the proposal would be any of the exceptions listed in Paragraph 149 of the Framework, it would amount to inappropriate development in the Green Belt. This would be, by definition, harmful to the Green Belt and would conflict with CS policy GB1 for the above reasons.

#### *Effect on openness*

11. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and its essential characteristics are therefore its permanence and openness. Considerations of openness have both visual

and spatial aspects. This means that the absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as a result. In spatial terms the proposal would result in a substantial additional mass to the dwelling.

12. The appeal site is enclosed by tree and hedge screening to its rear and side. Consequently, its rear garden is enclosed and provides only limited views of the surrounding open countryside. Nonetheless, the roof of the dwelling would be widened in comparison to its current profile forming a substantial increased mass that would be partially visible from the frontage. This would result in an increased visual impact that would erode the openness of the site. As such, the proposal would cause harm, albeit lessened by its context, to the openness of the Green Belt.

#### *Other Considerations*

13. The appeal site is a large plot, with a wide and deep rear garden. It seems likely that if no further extensions were approved to the dwelling the Appellant would be likely to exercise their PD Rights to erect an outbuilding to form a home office. Although I am doubtful that an outbuilding would be built up to its maximum permitted footprint, it is recognised that a freestanding structure on this site could have a large footprint. However, despite this, its overall form would be limited by PD restrictions. These would limit its height and proximity to boundaries and thus its wider effects on the Green Belt. As such, I am unconvinced that PD Rights would create a building of sufficient scale and prominence to be patently more harmful to the Green Belt than that proposed.
14. The 2019 approval was allowed by the Council, despite being a large extension, due to very special circumstances. The Council accepted that the Appellant's ability to implement PD Rights formed a compelling fall-back position. This enabled the scheme to be allowed subject to the removal of most of these Rights. However, it does not necessarily follow that this rationale can be applied to the current case. This proposal represents a further addition to the original dwelling beyond that which was previously allowed, that would further increase its size. Also, the scope of the fallback position is now lessened due to condition 4 of the 2019 approval removing the PD Rights of Classes A, B, C and D. As such, the policy and planning history context of this site is now materially different.
15. The evidence demonstrates that the Council approved a large extension to a dwelling at the nearby property of 'Farthingdale'. In that case, the Council commented that "the dwelling sits within a well-established ribbon/cluster of dwellings, many of which have also been extended. It has long been accepted by the Authority that such a factor amounts as Very Special Circumstances". Whilst noted, it is also recognised that the report described the site as being within a row of semi-detached and detached properties of varying architectural styles. This seems to describe a unified block of development which appears to be markedly different to the context and pattern of development associated with the appeal site and its surroundings.
16. The appeal scheme is within a dispersed form of ribbon development, with widely spaced dwellings standing within spacious plots. As such, the appeal site appears to be in a substantially different context to 'Farthingdale'. Therefore, this does not provide a compelling reason to find the proposed addition would not be inappropriate, taking the site's wider context into account.

17. Dwellings within the row of ribbon development, adjacent to the appeal site, have been extended and some of these include changes to their roofs to form habitable space. Nonetheless, most of the examples provided by the Appellants appear to relate to minimal roof additions that have not materially altered their profiles. Only 4 County Lane appears to have a large roof addition, as part of a large side extension, but it is undisclosed when this gained planning permission and it may have been allowed in a different planning context. As such, local additions to dwellings identified in evidence do not share sufficient common characteristics with the proposal to establish a clear precedent.
18. The proposed extension would be constructed of traditional materials, matching the existing dwelling. This would assist in the proposed works being well integrated with the existing dwelling. However, an absence of harm in this respect can only be considered as a neutral factor in the planning balance.
19. The Appellants suggest that the proposal would be appropriate infilling within the ribbon development. However, reference to infilling is not a test in the Framework for extensions to buildings and is instead concerned with the erection of new buildings.

*Whether there would be Very Special Circumstances*

20. Paragraphs 147 and 148 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development will not exist unless harm to the Green Belt, by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
21. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. I have also concluded that the appeal scheme would result in harm to the openness of the Green Belt. Paragraph 148 of the Framework requires substantial weight to be given to any harm to the Green Belt.
22. On the other hand, it has been demonstrated that large extensions to buildings within an established ribbon development in the Green Belt can be acceptable in certain circumstances, and that a clear fall-back position exists. However, the examples identified by the Appellants do not illustrate to me that such circumstances exist in this case, or that the fall-back position would be of greater harm than the proposed development. Accordingly, in these specific circumstances, I consider that the harm to the Green Belt is not clearly outweighed by other considerations and therefore the very special circumstances necessary to justify the development do not exist.

**Conclusion**

23. For the above reasons, the appeal is dismissed.

*Ben Plenty*

INSPECTOR

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# Appeal Decision

Site visit made on 8 August 2023

**by Gary Deane BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 23<sup>rd</sup> August 2023**

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**Appeal Ref: APP/C3430/Z/23/3316570**  
**66 Stafford Road, Huntington WS12 4PE**

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
  - The appeal is made by Clear Channel against the decision of South Staffordshire District Council.
  - The application Ref 22/01012/ADV, dated 26 October 2022, was refused by notice dated 19 December 2022.
  - The advertisement proposed is a single illuminated 48 sheet digital poster display.
- 

## Decision

1. The appeal is dismissed.

## Procedural matter

2. The name of the appellant is given as Mr Benjamin Porte of Clear Channel UK on the planning appeal form, whereas the name appearing on the application form lodged with the Council is Clear Channel. As the right of appeal rests solely with the original applicant, I have proceeded on the basis that Clear Channel is the appellant in this case.

## Main issue

3. The main issue is the effect of the proposed advertisement on the amenity of the local area, which includes the setting of a listed building.

## Reasons

4. The proposal is an internally illuminated digital display on the upper gable wall of the appeal property, which is an end terrace building that addresses Stafford Road within the village of Huntington. In this position, the proposal would face towards the roundabout junction of Stafford Road, Cocksparrow Lane and Limepit Lane. For brevity, I shall refer to this junction as the roundabout.
5. The area to which the site belongs is mixed in character with housing, a public house, a car park, school, and a hotel all close to the site. Although the local area contains some commercial advertisements and it is well lit, I saw very few examples of display units that would be similar in scale and type to the proposal nor have any examples been drawn to my attention. Notwithstanding its urban roadside context, the appeal scheme, due to its scale, illumination, frequently changing display and elevated position would introduce an overly dominant and incongruous feature into a highly prominent location to the detriment of area's amenity.



6. That impression would be evident particularly from two vantage points. Firstly, when seen from Stafford Road on the northbound approach to the site, the new advertisement would be a substantial feature in the street scene due to its size and high-level position. Its illumination and changing display would cause the new display to be obtrusive, projecting above the commercial frontage of the public house opposite, roadside signs and alongside street lighting columns.
7. Secondly, the proposal would be visible from the main entrance to the Littleton Green Community School and the pedestrian crossing of Cocksparrow Lane leading to its reception. From this location, the frequently changing and illuminated display would be highly conspicuous given that some views would be almost direct and from a reasonably close range.
8. The site is not within a conservation area although The Barns is a Grade II listed building that is located to the west of the site. The listed building description refers to this property as Huntington Farmhouse. Accordingly, I have paid special attention to the desirability of preserving the listed building or its setting<sup>1</sup>. In views from Limepit Lane on the immediate approach to the roundabout, the proposal would be evident together with the side elevation of The Barns some distance beyond the intervening car park, vegetation and the signs associated with the roundabout. When seen from this location, the new display would visually compete with, and thus detract from, the setting of this designated heritage asset.
9. The harm caused by the proposal would be localised and so the effect on the setting of The Barns would be less than substantial. In those circumstances, the National Planning Policy Framework (the Framework) notes that the harm should be weighed against the public benefits of the scheme. No such benefits have been put forward and none would outweigh the identified harm. On the main issue, I therefore conclude that the proposal would be detrimental to the interests of amenity, including the setting of a listed building.
10. In reaching this conclusion, I have had regard to the conditions suggested by the appellant including those to control the images shown and the brightness of the new display and noted that the advertisement would not operate between midnight and 0500 hours. However, these conditions would not overcome my concerns regarding the visual prominence of the proposal and the changing display that would draw the eye outside of these hours.
11. The main parties have referred to various planning policies and to the Framework. The Regulations to control advertisements require that decisions be made only in the interests of amenity and public safety, taking account of cumulative impacts. As such, the planning policies cited cannot, therefore, be decisive, but I have taken them into account as a material consideration.
12. The Council raises no issue in relation to public safety although the Parish Council states that the proposal would be a distraction to highway users and therefore a safety hazard. However, the County Highways Officer raises no objection and I have no reason to disagree with that finding. Nevertheless, for the reasons given I conclude that the appeal should be dismissed.

*Gary Deane*      INSPECTOR

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<sup>1</sup> As required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended.





# Appeal Decision

Site visit made on 1 August 2023

**by H Smith BSc (Hons) MSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 01 September 2023**

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**Appeal Ref: APP/C3430/W/23/3317081**

**1 Filance Lane, Penkridge, Stafford, Staffordshire ST19 5HU**

- 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 Garratt against the decision of South Staffordshire Council.
  - The application Ref 22/01076/FUL, dated 4 April 2022, was refused by notice dated 24 January 2023.
  - The development proposed is for a new dormer bungalow.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

## Reasons

3. The appeal site is located on a prominent corner plot to the side of 1 Filance Lane (No 1). No 1 is a detached dormer bungalow at the end of a row of detached bungalows of similar architectural style. The surrounding area is predominantly residential, consisting mainly of detached and semi-detached bungalows that are set back from the road within established building lines.
4. Whilst plot sizes vary, the end corner plots typically enjoy more generous surrounding space compared to the other dwellings. These spacious corner plots, combined with the existing dwellings being set back from the road, contribute positively to an overall sense of openness in the area.
5. The proposed dormer bungalow would be located significantly closer to the road than the side elevation of No 1 and the front elevation of the neighbouring dwelling at 10 Haling Close. As such, it would project beyond the established building line, and it would uncharacteristically protrude towards the road. This deviation from the established building line would create an abrupt visual interruption, undermining the consistent set back and building line pattern that contributes to the cohesive character of the area.
6. Furthermore, the proposal's side elevation would exhibit a predominantly plain brick appearance, and this sense of blandness would be further accentuated by the inclusion of the proposal's closeboard fencing that would abut the footpath along Haling Close.
7. When observed from Haling Close and from the junction of Filance Road and Haling Close, this additional building would stand out as an incongruous

- structure, disrupting the visual balance and harmony of the existing built form. Additionally, due to the plot's irregular shape, its corner location, and the scale of the development, the proposed development would seem cramped and inconsistent with the existing patterns of development in the surrounding area.
8. Consequently, the presence and massing of the proposed dwelling would be out of keeping with the prevailing pattern of the existing development and would significantly erode the sense of openness of this prominent corner plot.
  9. I acknowledge that the proposed dwelling would be of similar height to the neighbouring bungalow and would include sympathetic detailing and matching materials that could be reasonably secured through the imposition of planning conditions. However, these acceptable aspects would not outweigh the harm identified above.
  10. Although the appellant has submitted visualisations of the proposal, these visualisations only show the alignment of the proposed dwelling with No 1. Thus, it fails to clearly show the proposal's alignment with the neighbouring dwelling at 10 Haling Close and the wider street scene.
  11. While the proposed landscape planting could provide some degree of screening and could be secured by condition, the proposal would nonetheless be highly visible from the surrounding area. This is due to the proposal's positioning on a prominent corner plot and its proximity to the highway. In addition, the proposed planting could not be guaranteed to survive or be maintained in the longer term.
  12. My attention has been drawn to an existing property at 21 Filance Lane. Whilst this property does occupy a corner plot, the side of the property that extends towards the road is a garage that is set back from the main building's front elevation and set down from its ridge height. Therefore, the garage appears subservient to the main building and its footprint is likely to be smaller than the proposal before me. Thus, it is not directly comparable to the current appeal. Its relevance is therefore limited for the purposes of my determination of this appeal.
  13. Though there are some exceptions where development has been constructed deviating from the established building line, the overriding character in the immediate vicinity of the appeal site is predominantly of linear form, set back and fronting the road. Furthermore, I am not fully aware of all the circumstances relating to these other developments. In any event, I have determined this appeal on its own merits and its site-specific characteristics.
  14. For the reasons given, the proposal would have a detrimental effect on the character and appearance of the area. As such, it would fail to accord with Policy EQ11 of the South Staffordshire Core Strategy (2012). Amongst other things, this policy seeks to ensure developments are of high quality that respect the local character and distinctiveness of the area and contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area. The proposal would also conflict with the design objectives of the National Planning Policy Framework, which seeks to ensure developments are sympathetic to local character.
  15. In reaching this conclusion I have had regard to the guidance contained within the Council's South Staffordshire Design Guide (2018), which sets out

principles for good design and seeks to ensure new development respects local character and distinctiveness. For the reasons above, the proposal would be contrary to the Council's Design Guide.

### **Other Matters**

16. The appellant has submitted a signed Unilateral Undertaking dated 21 February 2023 to address the issue of recreation activities on the Cannock Chase Special Area of Conservation. However, given my findings in respect of the character and appearance of the area, it is not necessary for me to ascertain the appropriateness of the scheme or the necessity for mitigation within an Appropriate Assessment. Consequently, as I am dismissing the appeal for other reasons, I have not taken this matter further.
17. The proposal would make a small windfall contribution to the delivery of housing for the area on a site that is accessible to local services and facilities. However, these modest benefits would not be sufficient to outweigh the harm I have identified.
18. I acknowledge the representations submitted in support of the proposal, which included the tidying up of the site that is currently unmaintained and considered to be an eyesore. However, none of the evidence before me leads me to a different view.
19. The lack of objections from consultees and the absence of harm in respect of the living conditions of neighbours are neutral factors which do not weigh in favour or against the proposal.

### **Conclusion**

20. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

*H Smith*

INSPECTOR



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# Appeal Decision

Site visit made on 21 July 2023

**by D Hartley BA (Hons) MTP MBA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25 August 2023**

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**Appeal Ref: APP/C3430/W/21/3282975**

**Squirrels Rest, Poplar Lane, Hatherton, Cannock, Staffordshire WS11 1RS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
  - The appeal is made by Mr Luke Lee against the decision of South Staffordshire Council.
  - The application Ref 20/00801/COU, dated 18 September 2020, was refused by notice dated 18 March 2021.
  - The development proposed is change of use of land to mixed use for the keeping of horses and as a residential gypsy caravan site for the stationing of three caravans, together with laying of hardstanding, erection of amenity building, stable and haybarn.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The appeal site falls within land designated as Green Belt. Therefore, the main issues are: -
  - whether the proposal would be inappropriate development in the Green Belt including its effect on openness and the purposes of the Green Belt,
  - the effect of the development on the landscape character of the area,
  - the effect of the proposal on the integrity of the Cannock Chase Special Area of Conservation,
  - the provision and need for Gypsy and Traveller sites,
  - the personal circumstances of the family including the best interests of the children, and,
  - if the development is inappropriate in the Green Belt, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

## Reasons

### *Site and proposal*

3. The appeal site is situated to the north side of Poplar Lane about 350 metres south-west of the built-up residential suburb of Cannock. Bridleway No. 4 runs alongside the western boundary of the site and separates it from the neighbouring and lawful Gypsy and Traveller site known as 'The Stables'. The

boundary of Cannock Chase Area of Outstanding Natural Beauty (along Sandy Lane) is about 400 metres to the north of the application site at its nearest point. There is a dwelling adjacent to the appeal site known as 'Squirrels Rest' which falls within blue edged land on the site location plan. This is occupied by the appellant and his family.

4. The appeal site is to the north of 'Squirrels Rest' and includes an existing manege. The existing vehicular access from Poplar Lane would be used for the purpose of reaching the appeal site. On one side of the site (i.e., the existing manege), the proposal would include two static caravans, one of which would be used by the appellant's daughter and her spouse for residential purposes and the other to be specifically used by the appellant's child in connection with educational and social development requirements. On this part of the site, there would also be a touring caravan and a horizontal timber boarded clad amenity building. On the eastern part of the site, it is proposed to erect a wooden stable building (i.e., two loose boxes and a store) and a corrugated metal sheet hay barn.
5. One-metre-high timber post and rail fencing would be erected on the eastern boundary of the appeal site and hedge and tree planting is proposed immediately to the east and north of the proposed static caravans, touring caravan and amenity building, thereby physically separating this area from the proposed barn and stable building.

*Whether inappropriate development in the Green Belt*

6. The appeal development falls within land designated as Green Belt. There is no dispute that the appeal site would be used by those that meet the definition of a Gypsy/Traveller in annex 1 of the Government's Planning Policy for Traveller Sites (PPTS).
7. It is noteworthy that that the above definition has recently been the subject of the Court of Appeal judgement of *Smith v SSLUHC & Ors* (2022) EWCA (Smith judgment). The definition of Gypsies/Travellers was found to be discriminatory in that it made it harder for elderly and disabled ethnic Gypsies and Travellers to obtain planning permission in so far that it does not include persons of nomadic habitat of life who, on grounds of their own or family's dependants' educational or health needs or old age, have ceased to travel permanently. The above legal judgement is not determinative in terms of this appeal as the main parties agree that the occupiers of the appeal site would, in any event, meet the definition as contained within annex 1 of the PPTS. I have no reason to disagree with this finding.
8. The proposal is for a mixed use where one of the primary uses is a caravan site. Policy E of the PPTS states that '*Traveller sites (temporary or permanent) in the Green Belt are inappropriate development*'. I therefore find that the proposal would amount to inappropriate development in the Green Belt. This is also a common ground position reached by the main parties.
9. Paragraphs 147 and 148 of the Framework state that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to any harm to it. For the reasons outlined above, the proposal would amount to inappropriate development in the Green Belt and, in this regard, it would not accord with policies GB1 and H6 of the South

Staffordshire Core Strategy Development Plan Document 2012 (CS), the Framework and the PPTS.

*Effect on the openness and purposes of the Green Belt*

10. The essential characteristics of Green Belts are their openness and their permanence. The Court of Appeal<sup>1</sup> has confirmed that the openness of the Green Belt can have both a spatial and a visual dimension.
11. The proposal would include three buildings, two static caravans, a touring caravan, fencing, parked vehicles and other likely associated domestic paraphernalia. Despite some existing and proposed landscaping, the development would be visible from the bridleway close to the site and, to a more limited degree, from longer distance views to the east (e.g., from Hatton Road). While I acknowledge that there is an established Gypsy and Traveller site adjacent to the appeal site, I find that in spatial terms the proposed development would cause harm the openness of the Green Belt. Indeed, a substantial amount of development, including caravans, structures and vehicles, would be introduced on the site which is currently very open in character.
12. The proposed stable building would be positioned away from existing built form and considering its size and relatively remote location, I do not find that it would preserve the openness of the Green Belt. In reaching this view, I accept that it would be screened in part from some longer distance views due to intervening existing vegetation, but the building would nonetheless be conspicuous when seen from parts of bridleway No. 4 which runs immediately to the side of the appeal site. When the stable building is considered alongside the other proposed development, I find that there would be a noticeable loss of the openness of the Green Belt in spatial terms.
13. I accept that the existing appeal site includes a manege. That has some, albeit a limited, impact on the openness of the Green Belt. On my site visit, I noticed that a wooden cabin style building had been erected on the appeal site. It was to the north of the manege and alongside the fence associated with bridleway No. 4. I do not know if this is lawful as there is no reference to it in the respective statements of case. I have assumed that it is lawful for the purposes of assessing the impact of the proposed development on the openness of the Green Belt.
14. I acknowledge that views of the proposed development from the west would be limited given the intervening neighbouring Gypsy and Traveller site. Given this, coupled with the fact that part of the site includes an existing manege, I find that the proposed development as a whole would have a moderately adverse impact on the openness of the Green Belt in visual terms.
15. Paragraph 138 of the Framework states that the Green Belt serves five purposes. I am satisfied that the appeal proposal would not conflict with four of the Green Belt purposes, namely that it would not lead to the sprawl of a large built up area, would not lead to neighbouring towns merging into one another, would not cause any harm to the setting and special character of any historic town and, given the scale and nature of the appeal proposal, could not reasonably be said to directly prevent urban regeneration elsewhere.

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<sup>1</sup> *Turner v SSLG & East Dorset Council* [2016]



16. Nonetheless, there is no doubt that the development as a whole would have the effect of urbanising what is otherwise a predominantly open and undeveloped site in the countryside. Harm would be caused in this regard, from areas of hardstanding, the provision of caravans, vehicles, from the erection of buildings and the likely provision of associated domestic paraphernalia. I therefore find that when the proposal is considered as a whole, it would not safeguard the countryside from encroachment. Therefore, there would be conflict with one of the purposes of the Green Belt. This weighs against allowing the appeal and there would therefore be conflict with paragraph 138 of the Framework.

*Effect on the landscape character of the area*

17. The appeal site is located within an area which is described in the 2019 South Staffordshire Green Belt study as making a strong contribution towards the openness of the Green Belt and where protection against encroachment is particularly important. The study states that *'in South Staffordshire around 80% of the district is designated as Green Belt, which has broadly prevented the outward spread of the West Midlands conurbation to the northwest'*. The appeal site is in the *'Cannock Chase and Cank Wood'* national character area in the South Staffordshire Design Guide 2018 (Design Guide). This identifies that the area *'is characterised by rolling plateaux with scattered woodlands and a peaceful, strongly rural character in the northern part of the area'*.
18. As part of my site visit, I was able to experience that the landscape character of this part of the countryside is predominantly open and rural and that the land topography is gently undulating. The appeal site is quite close to the built-up edge of Cannock, but given the degree of separation from it, coupled with intervening landscaping, it is very much seen as being part of the countryside rather than being very closely aligned with the settlement edge.
19. While there is some sporadic development in this part of the countryside, including the Gypsy and Traveller site adjacent to Squirrels Rest, this is the exception rather than the norm in this environment. Overall, the area is experienced by passers-by, including walkers and horse riders, as one with narrow country lanes lined with trees and hedgerows as well as mainly open fields some of which include field boundary vegetation. These attributes add positively and distinctively to the landscape character of this part of the countryside, particularly when appreciated from the lanes, public rights of way and bridleway No. 4.
20. There is no doubt that the proposed development would have the effect of urbanising this part of the countryside. While the stables and hay storage building would be more rural in character and appearance than the proposed caravans and amenity building, they would nonetheless be positioned on land where there is a distinctive absence of built form. The caravans, amenity building, hardstanding areas and associated vehicular parking would be particularly urban in character. While I acknowledge that the stable and hay storage buildings, and proposed planting, would to some extent screen the more urban development, particularly from views from the east, even with planting the development would be conspicuous from more localised viewpoints such as bridleway No. 4.
21. From bridleway No. 4, I find that unacceptable harm would be caused to the landscape character of the area, and, in this regard, some harm would



therefore also be caused to the way that walkers and horse riders experienced the immediate countryside setting. The harm caused would essentially be localised, albeit that there would be recognisable encroachment into the countryside. I accept that the proposed development would be adjacent to an existing Gypsy and Traveller site. Owing to this, as well as to the intervening landscaping and the separation distances involved, I find that the proposal would not cause material harm to landscape character in terms of longer distance views. For these reasons, I also find that in setting terms, the proposal would conserve the landscape and scenic beauty of the nearby Cannock Chase Area of Outstanding Natural Beauty.

22. For the above reasons, I find that the proposal would cause moderate localised harm to the landscape character of the area. Therefore, I conclude that the development would not accord with the landscape character, countryside, and design requirements of policies EQ4, H6(8) and EQ11 of the CS, paragraphs 174(b) and 130(c) of the Framework and the Design Guide.

*Effect on the integrity of the Cannock Chase Special Area of Conservation*

23. Policy EQ2 of the CS safeguards the Cannock Chase Special Area of Conservation (SAC), which has been designated for its unique heathland habitat. The evidence is that adverse effects on the SAC would arise from an increase in recreation over the local plan period and comprise the creation of new paths, path widening, erosion and nutrient enrichment from visitor use and vehicle emissions.
24. The above is controlled in respect of the Council's 'Guidance to Mitigate the Impact of Residential Development' 2022 (SAC Guidance). The SAC Guidance states that evidence produced to inform the production of the development plan for the area, by consultants Footprint Ecology, together with that of partner Local Planning Authorities in the Cannock Chase SAC Partnership (Stafford Borough, Cannock Chase, Lichfield, East Staffordshire, Walsall Metropolitan Borough Council and Wolverhampton City Council), shows 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. The appeal site lies within the consultation zone of influence of the SAC.
25. The SAC Guidance requires mitigation to include a financial payment to be used towards the funding of specific projects as listed in table 1 at paragraph 3.1. The payment in the SAC Guidance is set for each net new home created through development within 15km of the Cannock Chase SAC.
26. In this case, and considering the information in the SAC Guidance, I find that the proposal would be likely to lead to recreational pressure in the SAC. I consider that the effects of the proposed residential development, both on its own and in combination with other development projects, is such that it would be likely to have significant effects on the European protected site. On the evidence that is before me, as part of my appropriate assessment, I find that the proposal would on its own and in combination with other projects adversely affect the integrity of the SAC.
27. As the competent authority, I must therefore consider whether measures could be put in place to avoid or mitigate the impacts of increased recreational pressure arising from the proposed development. The appellant has provided

me with a completed planning obligation dated 16 August 2023 which requires, within ten days of the grant of planning permission, the payment of £329.83 to be paid towards strategic access management and monitoring measures to mitigate against the adverse impacts of recreational activities on the integrity of the SAC. Natural England, who were consulted as part of this appeal, do not object to the proposal, as acceptable mitigation, subject to the said above payment being made in accordance with the SAC Guidance.

28. Given the completed planning obligation, I find that the proposal would not have an adverse effect on the integrity of the SAC. In this regard, I therefore conclude that the proposal would accord with the biodiversity requirements of policies EQ2 and H6(8) of the CS, paragraph 175 of the Framework and the Conservation of Habitats and Species Regulations 2017 (as amended). In reaching this conclusion, I am satisfied that the planning obligation meets the tests as laid out in paragraph 57 of the Framework.

*The provision and need for Gypsy and Traveller sites*

29. There is no dispute between the main parties that the local planning authority (LPA) cannot demonstrate a five-year supply of deliverable Gypsy and Traveller pitches and, in addition, that there are no available existing Gypsy and Traveller pitches in the area to meet the needs of the family, particularly the appellant's daughter, spouse and unborn child.
30. The LPA has started to review its local plan and it has reached Regulation 19 Publication Plan stage. Of relevance to this appeal, is the evidence base relating to Gypsy and Traveller need in the form of the Gypsy and Traveller Accommodation Assessment 2021 (GTAA) and Pitch Deliverability Study 2021. The GTAA, which has not been tested as part of a local plan examination, identifies a need for 121 pitches for the period 2021-2038 (plus additional provision for 'undetermined' and 'non-definition' need) and a five year need of 72 pitches.
31. There is common ground between the main parties that until a new local plan is adopted, and further land allocated for Gypsy and Traveller pitches, the LPA will not be able to meet required need or to demonstrate at least a five-year supply of deliverable pitches. The adoption of the new local plan is anticipated at the end of 2025 and the LPA claims that the delivery of pitches on newly allocated sites can be anticipated by the end of 2026.
32. The appellant has stressed that about 80% of the district is designated as Green Belt. He asserts that it is likely that new Gypsy and Traveller sites will therefore need to be found in the Green Belt. As a proportion of the district is not in Green Belt, it does not automatically follow that all sites that come forward as part of the review of the development plan will be in Green Belt or, in any event, that less harmful sites will not be allocated or come forward in the Green Belt as part of the development plan Examination process.
33. Notwithstanding the above, the unmet need for Gypsy and Traveller pitches and absence of any currently available pitches on authorised sites to accommodate the needs of the appellant's daughter (including unborn baby) and spouse are material considerations that weigh in favour of allowing the appeal.

*The personal circumstances of the family & best interests of the children*

34. Article 8 of the European Convention on Human Rights as incorporated into Human Rights Act 1998 (HRA) states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
35. I am also mindful that Article 3(1) of the United Nations Convention on the Rights of the Child provides that the best interests of the child shall be a primary consideration in all actions by public authorities concerning children.
36. Furthermore, in exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity. The Act recognises that race constitutes a relevant protected characteristic for the purposes of PSED. Romany Gypsies and Irish Travellers are ethnic minorities and thus have the protected characteristic of race. This appeal also involves the consideration of disability which is also a protected characteristic.
37. I acknowledge that the appellant's child, who currently lives in the dwellinghouse at 'Squirrels Rest' adjacent to the appeal site, has a particular disability that requires special educational and social support. I do not doubt that having a caravan on the appeal site for use by the appellant's child as a 'sensory room' would allow the child to receive tuition separately from the appellant's other children and in an environment which, in relative terms, is likely to be quieter. In this regard, the provision of a caravan on the appeal site for use as a 'sensory room' for the appellant's child would have some positive impacts.
38. Notwithstanding the above, the provision of a proposed 'sensory room' in a proposed caravan on the appeal site must be weighed against the fact that it would amount to inappropriate development in the Green Belt. While planning applications have previously been refused for the erection of a sensory building in connection with the property known as Squirrels Rest<sup>2</sup>, such proposals were in combination with other proposed development and partly outside the residential curtilage of Squirrels Rest.
39. I have read the associated reports and decisions relating to the above planning applications and considered the proposed drawings. The evidence does not indicate that it would not be possible, in principle, to provide a well-designed and proportionate extension to Squirrels Rest to provide a 'sensory room' in accordance with paragraph 149(c) of the Framework, while at the same time retaining the integral character and appearance of the dwellinghouse. Indeed, as part of this appeal, the LPA has commented that it *'would encourage an alternative application compliant with NPPF paragraph 149(c) that is proportionate, well-designed in relation to the existing building, and does not encroach beyond the approved domestic curtilage, and would treat such an application on its merits'*.
40. In other words, the evidence indicates that it may be possible to apply for a proportionate sensory room extension to Squirrels Rest that would not amount to inappropriate development in the Green Belt and hence meet the needs of the appellant's child without, in relative terms, causing the same degree of

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<sup>2</sup> Planning applications 16/00972/VAR and 18/00350/FUL

planning harm. In this regard, I therefore afford limited weight to the proposed provision of a sensory room/caravan on the appeal site as the evidence indicates that there is a real possibility of planning permission being granted for alternative development that would achieve a similar outcome, albeit without causing harm to the Green Belt.

41. Furthermore, and noting the best interests of the child, a refusal of planning permission would not, in any event, mean that the child in question could not continue to be home tutored, or that arrangements could not be made within the family to ensure an acceptable level of peace and quiet at particular times. Indeed, the evidence is that home tutoring takes place at times when some of the appellant's other children are away from the site at school. There is little evidence before me to indicate that distractions are very significant from family life within the home when tutoring takes place.
42. The evidence is that the appellant's daughter has recently married and hence would like her own independence and to live on her own site/in her own residential caravan with her spouse albeit near to her family. The evidence also indicates that the daughter is pregnant with the baby due to be born in December 2023. A home will therefore also be needed for the baby in the coming months. The appellant's daughter has a disability and the appellant states that she can require assistance at short notice. I do not doubt that the care of her parents, at times when her spouse is away, would both provide reassurance and direct support to her in the event of a health emergency.
43. While the evidence before me does not indicate how regularly the daughter requires the support of others or indeed the severity of her disability, I do not doubt that the proposal would be beneficial in so far that living adjacent to the wider family would ensure continuity of care for her, as well as support and assistance provided for the currently unborn baby.
44. The above matters need to be weighed against the evidence which indicates that a refusal of planning permission would not make the appellant's daughter (including unborn baby) or spouse homeless, or that they would have to move away from the site at Squirrels Rest. Indeed, I was able to see on my site visit that two large touring caravans were sited immediately adjacent to Squirrels Rest and within the associated yard area. The evidence is that one touring caravan belonged to the appellant and the other was in active use by the appellant's daughter and spouse. I was also able to see on my site visit that a portacabin had been positioned close to the touring caravans and was in use as an amenity block.
45. I do not know if use of the touring caravan and the portacabin outside of the red edged appeal site is lawful. However, there is no evidence to indicate that if planning permission were refused for the proposed development, it would mean that Squirrels Rest would not continue to be available for use by the whole of the family and hence mutual support (include health care) provided from one another from living on this land, whether that be from living in the dwellinghouse itself or from occupation of an adjacent caravan on an incidental residential basis.
46. Given that the appellant's children and recently married daughter currently reside on land at Squirrels Rest, I do not therefore agree with the appellant that a refusal of planning permission would necessarily mean that the children's social and educational development would be '*severely prejudiced by a*

*roadside existence*'. I accept that the appellant's daughter would prefer to live in a caravan and on a site that is adjacent to but separate from Squirrels Rest. However, I am not persuaded, based on the evidence before me, that it would not continue to be possible for the daughter, spouse and baby to live at Squirrels Rest, whether that be within the dwellinghouse itself or in respect of occupation of a caravan on land within its residential curtilage and on an incidental basis.

47. Overall, and for the reasons outlined above, I therefore afford the personal circumstances of the family, including the best interests of the children, moderate weight in the overall planning balance.

#### *Other benefits*

48. The proposal would bring some benefits to the construction industry although such benefits would be short lived. Use of the site for the keeping of horses would provide a healthy and active pastime for users of the site. However, the appeal site is within the countryside where there are other opportunities to walk and undertake horse riding. In this context, I afford only limited weight to this matter in the overall planning balance.

#### **Planning Balance**

49. Given the completed planning obligation, and hence mitigation, I have concluded that the proposed development would not cause harm to the integrity of the SAC. In this regard, the proposal would accord with the biodiversity requirements of policy EQ2 and H6(8) of the CS and paragraph 175 of the Framework. However, this is a matter of neutral consequence in the planning balance.
50. I have found that the development would amount to inappropriate development in the Green Belt. This is a matter to which I afford substantial adverse weight in decision making terms. Furthermore, moderate harm would be caused to the openness of the Green Belt and there would be conflict with one of the purposes of the Green Belt, namely safeguarding the countryside from encroachment. In addition, there would be moderate harm caused to the landscape character of the area. For these collective reasons, the proposal would conflict with policies EQ2, EQ4, EQ11, GB1 and H6 of the CS. Collectively, the I afford the above harms very substantial adverse weight in the planning balance.
51. In this case, the provision of a 'sensory room' in a caravan on the appeal site may, in relative terms, have some advantages in terms of supporting the education of the appellant's child who has a disability. However, this proposal would amount to inappropriate development in the Green Belt. Furthermore, the evidence is that despite planning application refusals for sensory room buildings at Squirrels Rest, the LPA would consider a proportionate and well-designed sensory room extension to the existing dwellinghouse in accordance with paragraph 149(c) of the Framework. Such an extension need not amount to inappropriate development in the Green Belt and there is nothing to suggest that it could not be designed in such a way as to give the child acceptable peace and quiet. In this regard, I afford limited weight to the need for the proposed 'sensory' room on the appeal site as the evidence is that, in principle, it would be capable of being provided in a different way in accordance with Green Belt policy in the development plan and Framework.



52. In addition, and, in any event, it is not the case that a refusal of planning permission would mean that the child would not continue to be able to be home tutored, or that the family could not make some arrangements to ensure improved peace and quiet during these times based on current arrangements. Furthermore, a refusal of planning permission would not mean that a roadside existence was an inevitable outcome. Indeed, the land at Squirrels Rest is currently occupied by the appellant and his family (including his daughter) and there is nothing to indicate that there is any immediate urgency in terms of changing this arrangement and prior to new pitches being allocated in a new development plan and coming forward for residential occupation.
53. I have considered whether a temporary planning permission would be justified. I have considered a period up to 31 December 2026 on the basis that I have no reason to doubt the claim made by the LPA that the new local plan will be '*adopted by the end of 2025*' and '*allowing a subsequent 12-month period for the preparation and determination of planning applications, allocated sites should be available on the ground by the end of 2026*'. The evidence is not certain in terms of whether the provision of new and policy compliant alternative sites, if close by, would suitably address the care needs of the appellant's daughter. However, and, in any event, the care needs of the appellant's daughter must be weighed against the substantial harm that would be caused by the proposal to the Green Belt.
54. I find that while the identified planning harms would be for a limited period arising from the grant of temporary planning permission, such harms would nonetheless still be collectively substantial. Furthermore, it is noteworthy that a refusal of planning permission would not make the appellant or any of his family homeless. Indeed, they all currently live on the adjacent site at Squirrels Rest. For these reasons, coupled with the overall very substantial planning harm that would be caused by the development, I do not find that a temporary planning permission would be appropriate or justified.
55. In favour of the appeal is the unmet need for Gypsy and Traveller pitches, the current lack of available alternative Gypsy and Traveller sites which may potentially provide a new home for the appellant's daughter and her spouse and unborn child, and the keeping of horses which would facilitate an active lifestyle for users of the site. Furthermore, the opportunity afforded to the appellant's daughter to live independently with her spouse (including unborn baby), albeit close to her parents to enable support in the event of a health emergency, are matters that weigh in favour of allowing the appeal. However, Policy E of the PPTS states that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and other harm so as to establish very special circumstances.
56. I conclude, on balance, that the harm caused to the Green Belt by reason of inappropriateness, and the other identified harm, would not be clearly outweighed by other considerations, including the best interests of the children, the personal circumstances of the family and unmet need, so as to amount to the very special circumstances necessary to justify either temporary or permanent planning permission.
57. In reaching the above conclusion, I have considered Article 8 of the European Convention on Human Rights, as incorporated into the HRA, which provides

that everyone has a right to respect private and family life, their home and correspondence. My decision would deny some members of the family the opportunity to live in a new home in the manner proposed. In this regard, my decision would lead to a significant interference of Article 8 rights. However, the collective planning harm that I have identified is of such weight that a refusal of planning permission is a proportionate, legitimate and necessary response that would not violate those persons rights under Article 8. I find that the protection of the public interest cannot therefore be achieved by means that are less interfering of the rights of members of the family. I have had also due regard to the PSED. In this case, the harm caused to the Green Belt, and the other identified planning harms, outweigh the benefits of the proposal from a disability point of view. I conclude that it is proportionate and necessary to therefore dismiss the appeal.

### **Conclusion**

58. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

*D Hartley*

INSPECTOR





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## Appeal Decisions

Site visit made on 18 July 2023

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 August 2023**

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**Appeal A Ref: APP/C3430/C/22/3306177**

**Appeal B Ref: APP/C3430/C/22/3306178**

**Willow Farm, Hollies Lane, Pattingham, Wolverhampton WV6 7HJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended.
- Appeal A is made by Mrs Caroline Anning against an enforcement notice issued by South Staffordshire District Council. Appeal B is made by Mr Gary Anning.
- The notice, numbered 18/00676/UNCOU, was issued on 2 August 2022.
- The breach of planning control as alleged in the notice is i) Without planning permission, the making of a material change of use of the Land, to a mixed use for residential and agricultural use together with the siting of a caravan with a wooden extension to facilitate that material change of use; and ii) Without planning permission, unauthorised operational development consisting of an earth bund.
- The requirements of the notice are to:
  - i) Cease the use of the land for domestic residential purposes.
  - ii) Remove the caravan and wooden extension from the Land, (shaded blue in the approximate location shown on the red line plan).
  - iii) Remove from the Land all materials and waste arising from ii) above.
  - iv) Remove the unauthorised operational development consisting of the earth bund from the Land, (shaded green in the approximate position shown on the red line plan).
- The period for compliance with the requirements is 6 months.
- Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act. Appeal B is proceeding on grounds (f) and (g).

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### Decisions

1. It is directed that the enforcement notice is corrected and varied by:

In section (5) The periods for compliance – the words ‘within six months from the date the notice takes effect’ are deleted and replaced with:

‘For steps i), ii), and iii) above, nine months from the date the notice takes effect; and,

For step iv) above, six months from the date the notice takes effect’.

The plan attached to the Notice is substituted by the plan attached to this Decision.

**Appeal A** - Subject to the correction and variation the appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

**Appeal B** - Subject to the correction and variation the appeal is dismissed and the enforcement notice is upheld.

### **Procedural Matters**

2. The Land was the subject of appeal Ref. APP/C3430/W/20/3253786 under s78 of the Act for the siting of a caravan as a temporary agricultural worker's dwelling. That appeal was dismissed in 2021. Subsequent appeals<sup>1</sup> under s174 of the Act against an enforcement notice served by the Council which sought the cessation of the use of the land for the siting of a caravan used for residential purposes, associated structures and the removal of an earth bund were successful. On that occasion, the notice was determined to be invalid and was quashed.
3. For the purposes of the ground (a) appeal, the appellant in Appeal A has provided details of a log cabin in lieu of the existing caravan and extension referenced in the Notice. This sought to address concerns raised in the s78 appeal and formed the basis of a planning application which was declined to be considered by the Council pursuant to the provisions in s70C(1) of the Act.
4. However, the deemed planning application under s174(2) ground (a) is limited to the matters stated in the Notice. The operational development consisting of a log cabin as a temporary form of rural worker's accommodation is distinct from the allegations in the Notice. The log cabin proposal is not therefore considered in the appeal.

### **The Notice**

5. For the avoidance of doubt, the plan attached to the Notice is amended to show a more accurate representation of the location and orientation of the earth bund. As it merely improves the accuracy of the Notice, no party is prejudiced by my correction.

### **Ground (a) / the deemed application for planning permission**

#### *Background and Main Issues*

6. The Notice identifies the Land as consisting of some 6.7 Ha. The majority is sloping pasture. Operational areas and a recently constructed agricultural shed are located on a more level area of the site towards its northern extent. A caravan, container and other small structures lie close to the shed approved under planning permission Ref. 20/00223/AGR. The wider site is bordered by hedging and trees. At the time of my site visit, the major part of the site was in use for the keeping of livestock including the grazing of sheep and cows.
7. The site lies within the Green Belt. There is no dispute between the main parties that the material change of use of the land for the siting of a caravan for residential purposes constitutes inappropriate development in the Green Belt. However, there is little commentary provided by the appellant on the matter of the presence of the earth bund or its purpose.

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<sup>1</sup> APP/C3430/C/21/3288846 and 3288847

8. Accordingly, the main issues are:

- whether the earth bund is inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (the Framework) and any relevant development plan policies
- the effect of the development on the character and appearance of the locality
- whether or not there is an essential need for a dwelling to accommodate a rural worker on the Land
- 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.

*Green Belt – inappropriateness*

9. The Government attaches great importance to Green Belts, the essential characteristics of Green Belts are their openness and their permanence. Section 13 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
10. Policy GB1 of the South Staffordshire Council Core Strategy Development Plan Document [2012] (the CS) states that the West Midlands Green Belt will be protected from inappropriate development and proposals will be considered in the light of other local planning policies and the policy restrictions relating to Green Belt in the Framework.
11. Paragraph 150 of the Framework states that certain forms of development are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Para. 150 b) includes engineering operations.
12. At my site visit I saw that the bund appears as a linear stockpile of earth. It is several metres wide at its base reducing in width at a few metres in height. The mound is located close to the western boundary and extends across the larger proportion of the width of the fenced upper pasture. It has some vegetation cover establishing along the top and parts of its slopes.
13. As a feature of some scale, the bund gives rise to both visual and spatial effects on openness. It is visible on the approach road from the south. From elsewhere, views are more limited on account of the existing boundary hedges and trees. However, as much of the surrounding vegetation is seasonal in nature, the effect on visual openness will vary throughout the year.
14. As a purposefully formed stockpile, it appears as a form of encroachment into the gentle slope of the open rural pasture. Accordingly, I find it neither preserves the openness of the Green Belt nor avoids conflict with the purpose of safeguarding the countryside from encroachment.
15. For those reasons, I conclude that the bund constitutes inappropriate development within the Green Belt. As such, it is contrary to Policy GB1 of the CS. For similar reasons, the development does not fall within the exceptions outlined in the Framework.

### *Rural workers accommodation*

16. Subject to compliance with other policies in the CS, Policy EV8 supports agricultural and related development by encouraging farm diversification which is complimentary to and helps sustain the existing agricultural enterprise. This may include agricultural workers dwellings provided that they are guided to the least environmentally sensitive locations.
17. Part g) of the policy sets out the local requirements for temporary and permanent dwellings for agricultural workers to be supported. I consider these in turn below.

### *The proposed enterprise*

18. The enterprise considered under the s78 appeal was materially different to that now proposed. The earlier appeal considered the retained sheep breeding enterprise, consisting of some 270 ewes and 10 rams, alongside a livestock procurement enterprise and a beef finishing enterprise. A calf-rearing enterprise was not envisaged until year-3 in the previously considered scenario. The appeal concluded that only a seasonal functional need for full-time accommodation existed. This was primarily for the duration of the lambing season.
19. The appellants have since ceased the procurement element of the business and state that they are seeking to develop a new enterprise alongside the sheep breeding business. This would be a diversification project to reduce the business' susceptibility to fluctuating market conditions. The cattle rearing business would consist of the purchase of up to 5 batches of 60 young calves at 2-3 weeks of age per year. The calves would be milk fed before being weaned and reared further for a period of about 10-12 weeks in total before onward sale.
20. The process would involve housing the calves in 'igloos' and under verandas in groups of 15-30 individuals depending on their size, age and condition. The livestock would require arrival management, feeding training and supervising, general welfare management and associated administrative duties.

### *Intention and ability to develop the enterprise concerned*

21. As a new-start business, there is a high degree of uncertainty as to whether the proposed calf-rearing could achieve long-term sustainability as a viable commercial enterprise in conjunction with the existing lambing business. In such circumstances the Planning Practice Guidance (the PPG) provides for consideration of a temporary dwelling. This requirement could be met by the existing caravan.
22. As the appellants have invested in the purchase of the Land, have recently installed a modern agricultural storage building, and have operated other livestock businesses both on the site and utilising rented land, I have little doubt about their intention to develop a complementary business alongside the established sheep operations. Furthermore, there is little before me to indicate that their ability to do so is doubted.

### *Functional need for a full-time worker*

23. At the projected numbers and young age of the cattle, I also have little doubt that an on-site presence would be required for the majority of the time. Requirements to isolate individual animals, administer medication at short notice, or deal with emergencies to manage losses or down-the-line higher costs, provide a legitimate justification in ensuring high standards of animal welfare.
24. I note the Council indicates that as signs of illness would largely be identifiable during the daytime and emergency situations during the nighttime would be infrequent such that an overnight presence would be an unusual requirement. However, I find it is not unreasonable to allocate more time requirements to the earlier weeks of care compared to a standardised figure for worker requirements considered over the first 6 months of calf rearing.
25. Accordingly, the likely hours of attendance to perform the necessary tasks to achieve a high standard of animal welfare, to minimise risk, or to deal quickly with emergencies would be considerable. They would be well beyond that of a standard working day.
26. There is no dispute between the main parties that, as the sheep-rearing enterprise remains at a similar level to that previously considered, the associated seasonal requirement for a continuous site presence remains in conjunction with that element of the enterprise. When at the projected year-3 capacities, I find the combined on-site requirement would result in the need for an on-site presence for much of the year in order to sustain the business.

*Other accommodation*

27. There is no other accommodation on the site. More distant accommodation would not provide the same degree of livestock monitoring or ability to quickly react to welfare requirements. As I have found that a full-time presence would be required to effectively deliver the combined rural enterprise, there is no further need to consider potential alternative housing elsewhere.

*Sound financial basis*

28. In support of the proposal, the appellant has provided revised forecast profit and loss accounts for the combined enterprise. It is claimed that the level of profits would support an individual worker. However, there is some dispute between the main parties as to the actual income that could be generated by the combined businesses.
29. As a new enterprise, the financial assessment of the proposed calf-rearing business relies on industry standard guidelines against anticipated costs. Some variation to those standardised figures are justified to reflect the particular circumstances of the earlier stage of life of the animals. Additionally, reasonable adjustments could be made for the size of the holding.
30. However, the functional requirement is based on the combined enterprises. The calf business would initially be dependent on the provision of moveable structures on the Land. This would consist of igloos and verandas paired to provide optimum environmental conditions for the young calves. The Council's evidence suggests a single igloo and veranda would cost some £7,250 as a minimum in 2021. Longer term, the appellant anticipates that the numbers of cattle per year would require a more permanent purposely designed cattle building. Although the accounts seek to demonstrate the self-funding of the

capital investments in acquiring additional livestock, the infrastructure to keep them has not been factored into the accounts.

31. Furthermore, as a diversification project, the calf-rearing business would be financially interdependent with the sheep enterprise. The s78 appeal concluding in 2021 found that losses had occurred during 2018 and 2019. No accounts were provided for 2020. Although the business had existed on the land for more than 3 years, the viability of the enterprise in its various guises and over its time of development were found to be unclear and at the time of the decision were not considered sustainable.
32. Notwithstanding that the current combined scheme is a different enterprise to that considered under the previous s78 appeal, the level of detail in relation to sheep rearing element of the business has not been duly clarified. Despite concerns raised by the previous Inspector, there is little substantive supporting evidence to validate the claims in relation to costs or productivity associated with the existing sheep enterprise.
33. The absence of detailed trading accounts or tax returns to demonstrate the progress of the sheep business to date, and its potential to become independently or codependently financially sustaining, substantially reduce confidence in the financial planning figures provided. Furthermore, figures such as land rental costs - highlighted as omitted in the previous appeal, have also not been accounted. The appellant has neither demonstrated that profits to date could facilitate purchase of initial stock and infrastructure or, in the alternative, account for the cost of borrowing to provide them.
34. Moreover, when seeking to demonstrate the potential long-term viability of the business, alongside which the appellant anticipates a permanent dwelling on the site, there is little evidence that this cost has been factored into the business accounting. Any likely viability beyond a stay of 3 years (being the typical tolerance for establishing new rural land-based enterprises) has therefore not been proven.
35. I note the appellant's contention that the existing trading accounts are not likely to prove useful to assess fixed costs as the proposal includes a new enterprise. However, they would describe the condition and status of the existing enterprise which is to be retained. They would demonstrate the reliability of that element of the proposed enterprise and capability to cross-fund.
36. Even when accounting for the consideration in the Planning Practice Guidance's allowance allows for temporary forms of rural worker's accommodation, the gaps in the financial planning for the enterprise limit the degree to which there is confidence that the agricultural enterprise will become viable in the foreseeable future. For those reasons, I am not persuaded on the evidence before me that the enterprise as proposed is financially viable, it would conflict with Policy EV8 of the CS as it requires clear evidence that the proposed enterprise has been planned on a sound financial basis.

#### *Character and appearance*

37. The Land is located within an undulating rural landscape of open fields, wooded areas and sporadic buildings which are primarily in residential or agricultural use. As an isolated residential caravan with a lean-to appendage, it appears



incongruous with the prevailing character of development in the locality. Although the accommodation benefits from the established hedgerows and some screening afforded by the agricultural shed, they are visible from within the wider landscape as noted by the previous Inspector.

38. A planning condition requiring new site landscaping would potentially provide a degree of assimilation. However, given my finding that the sustainability of the enterprise remains unproven such that a time-limited permission might be appropriate if permission were to be granted, then it is unlikely, in my view, that landscape planting would be effective in addressing the visual impact of the accommodation.
39. As an artificial landform with little apparent functional purpose, the earth bund also appears discordant in its setting. Although inevitable colonisation by vegetation would increase its assimilation to some degree over time, it would retain a predominantly unnatural appearance as a man-made element of the local landscape. Notwithstanding that the location benefits from the site's peripheral screening, as above, it is visible from the roadway and will appear prominent in the outlook from the nearby buildings at Grange Farm.
40. For those reasons, I find the development conflicts with Policies EQ4 and EQ11 of the CS as they seek development to be of high-quality design and account for local character and distinctiveness and its landscape setting.

#### *Other considerations*

41. The appellant contends that a caravan could be sited on the land for use solely in conjunction with the use of the site for agricultural purposes. This would potentially have similar effects on the openness of the Green Belt and on the character and appearance of the locality as the existing caravan. As a measure that could be undertaken without recourse to seek planning permission, I recognise that the siting of an incidental agricultural welfare facility could have some similar effects on the openness of the Green Belt. It could also affect the character and appearance of the landscape in a similar way. However, as a residential use of the land could introduce associated domestic paraphernalia and activities not characteristic of agricultural uses, I find this is a matter of only moderate weight.
42. As a low cost form of accommodation, the presence of a residential caravan on the site would contribute to the range of affordable types of housing in the local area. However, as a temporary form of 'housing' and one requiring strict justification such that wider availability would be restricted, I find this a matter of only limited weight.
43. The site borders the grounds of the Grade II Listed Building at Grange Farmhouse. The farmhouse is set within a traditional farmstead group which is partially screened from the Land by a line of established trees along the site's western boundary. There is no dispute between the main parties that the Listed Building and its setting would not be harmed. Given the modest scale of the caravan and the distance from the Listed Building, I find no reason to disagree with that conclusion. As a requirement of local and national policy, this is not a benefit in favour of the development.
44. I note the appellant's contention that justified rural workers dwellings are, in themselves, capable of providing the necessary very special circumstances to

justify development in the Green Belt. However, consequent to my finding that the financial planning of the enterprise has not provided sufficient confidence that it will become viable in the short term, this is a matter of limited weight.

45. I acknowledge the Council's concerns in relation to the effect of a legal covenant covering part of the site. However, this is beyond the scope of my considerations; it is therefore of negligible weight in the context of the appeal.

### *Conclusion*

46. The siting of the caravan, its extension and the bund are inappropriate development in the Green Belt. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and that substantial weight should be given to that and any other harm to it. In addition, the development causes harm to the spatial and visual openness of the Green Belt and conflicts with one of its purposes. These matters also attract substantial weight. The effect on the character and appearance of the locality and the quality of the landscape would be modest.
47. In the absence of demonstrating that the proposed rural enterprise would be based on sound financial planning, I find that the considerations presented by the appellant, whether taken individually or together, do not clearly outweigh the totality of the harm to the Green Belt and the character and appearance of the locality. Consequently, the very special circumstances necessary to justify granting planning permission do not exist. Furthermore, the development would be contrary to the adopted development plan and there are no other material considerations to indicate a decision otherwise than in accordance with it.
48. For the reasons set out above, I conclude that the appeal on ground (a) should not succeed.

### **The appeals on ground (f)**

49. For the appeals to succeed on this ground, I need to be satisfied that the steps in the requirements of the Notice exceed what is necessary to remedy the breach of planning control or any injury to amenity.
50. The appellants have not forwarded arguments in relation to the earth bund and no alternative steps are proposed by them. Pursuant to my finding that it causes harm to the Green Belt and the landscape character and appearance, I find no lesser steps than specified would remedy the effects of this element of the breach.
51. The appellants contend that following *Wealden DC v SSE & Day* [1988] JPL 268, the Council cannot require the removal of the caravan and extension. However, in that instance, a caravan sited on agricultural land for the purpose of storage, shelter and food preparation was considered as ancillary to the primary agricultural use of the land. It did not introduce an additional primary use. It is therefore distinct from the case before me.
52. It is settled case law (*Mansi v Elstree RDC* [1964] 16 P&CR 153387) that the requirements of the enforcement notice must not purport to stop a developer from doing something they are entitled to do without planning permission by relying on existing lawful use rights. The latter includes rights under the Town and Country Planning (General Permitted Development) (England) Order 2015



(the GPDO) and the right to carry out anything exempted from the definition of development under section 55(2) of the 1990 Act.

53. I acknowledge that a welfare facility could be provided on the site in the form of a caravan, within part of the recently erected building, or through provisions in the GPDO. I also note that a caravan was previously sited elsewhere on the Land for that purpose.
54. However, as the caravan and extension are used in conjunction with a continuous residential use of the Land, and therefore core to the alleged change of use, their removal is necessary to prevent its recurrence and effectively secure the purpose of the Notice. The retention of a caravan and an extension designed for human habitation, would unreasonably frustrate the Council's ability to monitor compliance with the requirements of the Notice. Accordingly, I find the requirements in the Notice do not exceed what is necessary to remedy the breach of planning control by discontinuing any use of the land, or by restoring the land to its condition before the breach took place.
55. Moreover, as a Notice concerned at addressing the residential use of the Land, the requirements in step 5 ii) do not affect lawful use rights in relation to default agricultural uses.
56. For the above reasons, the appeals on ground (f) fail.

### **The appeals on ground (g)**

57. The ground of appeal is that the period for compliance specified in the Notice falls short of what should reasonably be allowed. The period for compliance is 6 months.
58. The appeal on ground (g) is substantially made out in conjunction with the case supporting the change of use of the site. There is little reference to the earth bund, or the requirement for its removal. In the absence of any substantive case for extending the time in relation to the bund, and as the period for compliance includes months when weather conditions are likely to be more favourable to carry out such works, I find little justification to extend the time for the removal of the bund in order to remedy the breach of planning control. Accordingly, the appeals on ground (g) in relation to the earth bund fail.
59. In regard to the residential use of the site, as the requirements of the Notice would have effects on both the appellants' home and business, and the timeframe for compliance would coincide with the next lambing season, I find a period of 9 months would be more reasonable. This would allow time to plan and implement alternative living and working arrangements. It could also provide time for further discussions with the Council, as sought by the appellants.
60. A period of 18 months as suggested by the appellants, however, would be tantamount to a temporary planning permission. It would not provide the necessary balance between the public interest in securing expeditious compliance with the Notice and the private interest bound up in the development, which has persisted for some time.
61. On this basis, the appeals on ground (g) are successful in part, and I shall vary the Notice accordingly.

## Other Matters

62. The appellants reside exclusively at the appeal premises and in light of the extant enforcement notice I recognise that the failure of this appeal would put the residential occupation of the Land by the appellant at risk. This would represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998.
63. However, having regard to the legitimate and well-established planning policy aims to protect the Green Belt and avoid harm to the character and appearance of the rural landscape, in this case I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellants.

## Conclusions

64. For the reasons given above, I conclude that the ground (a) appeal in **Appeal A** should not succeed. However, in both **Appeals A and B**, I conclude that the period for compliance with the requirements at 5 i), 5 ii) and 5 iii) of the notice falls short of what is reasonable. The appeals on ground (g) succeed to that extent. I shall uphold the enforcement notice with a correction and variation and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*R Hitchcock*

INSPECTOR

## Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/C3430/C/22/3306177	Mrs Caroline Anning
Appeal B	APP/C3430/C/22/3306178	Mr Gary Anning





The Planning Inspectorate

## Plan

This is the plan referred to in my decision dated: 03 August 2023

**by R Hitchcock BSc(Hons) DipCD MRTPI**

**Land at: Willow Farm, Hollies Lane, Pattingham, Wolverhampton WV6 7HJ**

**References: APP/C3240/C/22/3306177 and APP/C3430/C/22/3306178**

Scale: not to scale

### RED LINE PLAN TO ACCOMPANY ENFORCEMENT NOTICE

