

SOUTH STAFFORDSHIRE COUNCIL

PLANNING COMMITTEE – 27 SEPTEMBER 2022

MONTHLY UPDATE REPORT

REPORT OF THE LEAD PLANNING MANAGER

PART A – SUMMARY REPORT

1. SUMMARY OF PROPOSALS

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

- Proposed training
- Any changes that impact on National Policy
- Any recent Planning Appeal Decisions
- Relevant Planning Enforcement cases on a quarterly basis
- The latest data produced by the Department for Levelling Up, Housing and Communities

2. RECOMMENDATION

2.1 That Committee notes the content of the update report.

3. SUMMARY IMPACT ASSESSMENT

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| 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 | 20 September 2022 | |
| 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

4. INFORMATION

- 4.1 **Future Training** – Further training dates are being arranged to cover Permitted Development Rights and Planning Enforcement as requested in the Member questionnaire responses. Please let us know if there are other topics on which you would like training. In addition, regular training/refresher sessions on using Public Access will be organised.
- 4.2 **Changes in National Policy** – No change since previous report.
- 4.3 **Planning Appeal Decisions** – every Planning Appeal decision will now be brought to committee for the committee to consider. There have been 7 appeal decisions since my last report, copies of the decisions are attached as Appendix 1-7. These relate to:
- 1) An appeal against a refusal to allow the renovation and extension of existing barn to provide a single, two bedroom, single storey dwelling at Bull Barn, Orton Hall Farm, Lower Penn WV4 4XA. The appeal was allowed because the inspector disagreed with the Council on whether the existing building is of ‘substantial construction’. The Council’s view was that the building was not of substantial construction and therefore its re-use would not accord with the NPPF which states that the re-use of buildings is not inappropriate provided that, among other things, the buildings are of permanent and substantial construction. The inspector recognised that the barn is not substantial in that most of the doors are missing and there is no roof at all. However, as the walls are largely extant with a concrete floor, together with a structural report, the inspector concluded that it is reasonable to consider the former barn is a building that could be altered and extended. The inspector concluded therefore that it was not inappropriate development and in accordance with Green Belt policy.
 - 2) An appeal against a refusal to build a single detached dwelling at Oak Tree View, Paradise Lane, Slade Heath WV10 7NZ. The appeal was dismissed because the inspector concluded that it was inappropriate development in the Green Belt and concurred with the Council that the proposal would introduce substantial built form to this undeveloped site which would reduce the spatial openness of this part of the Green Belt. Consequently, the inspector concluded that the very special circumstances necessary to justify the proposal do not exist and dismissed the appeal.
 - 3) An appeal against a refusal for the construction of a second storey side extension to create a home gym, study and sewing room at The Farmhouse, Smestow Road, Smestow DY3 4PJ. The appeal was dismissed because the inspector concluded that the proposal, alongside the existing additions, would result in disproportionate additions over and above the size of the original building. Accordingly, the proposal would be inappropriate development in the Green Belt and have a greater impact on openness. The inspector also concluded that the other considerations cited in support of the proposal, including an existing Certificate of Lawfulness, do not either individually or cumulatively, outweigh the harm to the Green Belt. Consequently, the

inspector concluded that the very special circumstances necessary to justify inappropriate development in the Green Belt did not exist and dismissed the appeal.

- 4) An appeal against an Enforcement Notice in relation to an alleged breach of planning control. The notice states: Without planning permission, the making of a material change of use of Land, to land used as a storage facility including the storage of construction material, plant equipment and other materials and paraphernalia used in association with a civil engineering business at to build a single detached dwelling at Landywood Farm, Landywood Farm Lane, Cheslyn Hay, WS6 7AS.

The grounds for appealing an Enforcement Notice are set out in section 174(2)(of the Town and Country Planning (TCPA) Act 1990 as amended. It states that an appeal may be brought on any of the following grounds:

- a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;*
- b) that those matters have not occurred;*
- c) that those matters (if they occurred) do not constitute a breach of planning control;*
- d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;*
- e) that copies of the enforcement notice were not served as required by section 172;*
- f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;*
- g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.*

This appeal was on the grounds (e), (f) and (g) only. The appeal was dismissed, and the notice upheld, subject to some variations.

In relation to matter (e) the inspector concluded that in the absence of any evidence to show that Datom Electrical has been substantially prejudiced by a failure to serve, the ground (e) appeal fails.

In relation to matter (f) the inspector concluded that the TCPA Act specifically refers to a purpose of a notice being to restore the land to its condition before the breach took place, and that requirement is not excessive. The requirements of the Notice are therefore not excessive, and the ground (f) appeal fails.

In relation to matter (g) the inspector concluded that the reasons for the notice included amenity issues for nearby residents including noise and disturbance. The unauthorised use should not be allowed to continue for longer than is necessary, given the impacts of the development upon amenity which is a legitimate concern in

the public interest. The inspector concluded that a 4-month compliance period does appear to be an appropriate balance between the appellant's relocation plans and the public interest in securing compliance. The ground (g) appeal therefore fails. As such the notice is upheld and the appeal dismissed.

- 5) An appeal against a refusal to construct, manage and operate a battery based electrical storage scheme with associated infrastructure at Land West of Wolverhampton West Primary Substation, South Staffordshire Railway Walk, Wolverhampton, WV4 4XX. The appeal was allowed; however, the costs claim against the Council was dismissed. The appeal was allowed because the inspector concluded that the environmental benefits of the proposal and the fact that the impacts can be made acceptable, are sufficient to outweigh the harm to the Green Belt. As such, the inspector concluded that very special circumstances necessary to justify the proposal do exist and the scheme would not conflict with LP Policy GB1 or the Framework.
 - 6) An appeal against a refusal to allow a telecommunications monopole and equipment cabinets on the grass verge at Warstones Road/Stourbridge Road junction, Springhill, South Staffordshire WV4 5NB. The appeal was allowed because the inspector concluded that the siting and appearance of the proposed development would not adversely affect the character and appearance of the area.
 - 7) An appeal against a refusal to build a detached dwelling and garage on Land Adjacent to The Heathlands, Whittamoor Lane, Dunston ST18 9AQ. The appeal was dismissed because the inspector concluded that the site is not a suitable location for the development proposed in respect of accessibility to services and reliance on private motor vehicles. The inspector also concluded that the proposal would unacceptably harm the character and appearance of the area contrary to Policy EQ4 of the CS which seeks to ensure that development maintains or enhances the intrinsic rural character or local distinctiveness. As such the appeal was dismissed.
- 4.4 In May 2020 the Secretary of State for Transport made an order granting development consent West Midlands Interchange (WMI). Documents can be seen here : <https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/west-midlands-interchange/> Officers are now working with the site promoters to understand next steps.
- 4.5 In April 2022, PINS confirmed that the M54/M6 link road Development Consent Order (DCO) has been granted by the Secretary of State. Further information can be found here <http://infrastructure.planninginspectorate.gov.uk/document/TR010054-001195> . Latest communication suggests that site investigation works will soon start to take place on site.
- 4.6 **Relevant Planning Enforcement cases on a quarterly basis** – 79% of Planning Enforcement cases are currently being investigated within 12 weeks of the case being logged. This is slightly below the target of 80%. This is to be expected due to the level of high priority cases and appeals underway. The internal Service Review to look at areas for streamlining, efficiencies and service improvements is underway.

- 4.7 **The latest data produced by the Department of Levelling Up, Housing and Communities** – As members will recall, DLUHC sets designation targets that must be met regarding both quality and speed of planning decisions. The targets are broken into major and non-major development. If the targets are not met, then unless exceptional circumstances apply, DLUHC will “designate” the relevant authority and developers have the option to avoid applying to the relevant designated Local Planning Authority and apply direct, and pay the fees, to the Planning Inspectorate. Details can be seen at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760040/Improving_planning_performance.pdf
- 4.8 We will ensure that the Committee is kept informed of performance against the relevant targets including through the DLUHCs own data.
- 4.9 For Speed – the 2020 target for major developments is that 60% of decisions must be made within the relevant time frame (or with an agreed extension of time) and for non-major it is 70%. For Quality – for 2020 the threshold is 10% for both major and non-major decisions. Current performance is well within these targets and the position as set out on DLUHCs website will be shown to the Committee at the meeting – the information can be seen on the following link tables:
- 151a – speed – major
 - 152a – quality – major
 - 153 – speed – non major
 - 154 – quality – non major

The link is here – <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics>

- 4.10 The latest position is on the DLUHC website and the key figures are below:

Speed

151a – majors – target 60% (or above) – result = 90.6% (data up to March 2022)

153 – others – target 70% (or above) – result = 86.1% (data up to March 2022)

Quality

152a – majors – target 10% (or below) – result = 1.8% (date up to March 2021)

154 – others – target 10% (or below) – result = 0.6% (date up to March 2021)

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

N/A

6. PREVIOUS MINUTES

N/A

7. BACKGROUND PAPERS

Appendix 1 – Appeal Decision – Bull Barn, Orton Hall Farm, Lower Penn WV4 4XA

Appendix 2 – Appeal Decision – Oak Tree View, Paradise Lane, Slade Heath WV10 7NZ

Appendix 3 – Appeal Decision – The Farmhouse, Smestow Road, Smestow DY3 4PJ

Appendix 4 – Appeal Decision – Landywood Farm, Landywood Farm Lane, Cheslyn Hay, WS6 7AS

Appendix 5a and b – Appeal and Costs Decision – Land West of Wolverhampton West Primary Substation, South Staffordshire Railway Walk, Wolverhampton, WV4 4XX

Appendix 6 – Appeal Decision – grass verge at Warstones Road/Stourbridge Road junction, Springhill, South Staffordshire WV4 5NB

Appendix 7 – Appeal Decision – Land Adjacent to The Heathlands, Whittamoor Lane, Dunston ST18 9AQ

Report prepared by:

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