

TO:- Planning Committee

Councillor Terry Mason , Councillor Matt Ewart , Councillor Penny Allen , Councillor Len Bates B.E.M. , Councillor Chris Benton , Councillor Barry Bond , Councillor Mike Boyle , Councillor Jo Chapman , Councillor Bob Cope , Councillor Brian Cox , Councillor Isabel Ford , Councillor Rita Heseltine , Councillor Lin Hingley , Councillor Diane Holmes , Councillor Janet Johnson , Councillor Michael Lawrence , Councillor Roger Lees J.P. , Councillor Dave Lockley , Councillor Robert Reade , Councillor Robert Spencer , Councillor Christopher Steel

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, 17 November 2020

Time: 18:30

Venue: Virtual Meeting



D. Heywood
Chief Executive

A G E N D A**Part I – Public Session**

- | | | |
|----------|--|----------------|
| 1 | Minutes
To confirm the minutes of the Planning Committee held on the 20 October 2020 | 3 - 8 |
| 2 | Apologies

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

To receive any declarations of interest. | |
| 4 | Determination of Planning Applications report
Report of Development Management Team Manager | 9 - 40 |
| 5 | Monthly Update Report
Report of the Lead Planning Manager | 41 - 78 |

RECORDING

Please note that this meeting will be recorded.

PUBLIC SPEAKING

Please note: Any members of the public wishing to speak must confirm their intention to speak in writing or e-mail to Development Management no later than 1 working day before the Committee i.e. before 12.00 p.m. on the preceding Monday.

E-mails to SpeakingatPlanningCommittee@sstaffs.gov.uk

Please see Speaking at Planning Committee leaflet on the website for full details. Failure to notify the Council of your intention to speak may mean you will not be allowed to speak at Committee.

PUBLIC ACCESS TO AGENDA AND REPORTS

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

Minutes of the meeting of the **Planning Committee** South Staffordshire Council held in the Virtual Meeting [Venue Address] on Tuesday, 20 October 2020 at 18:30

Present:-

Councillor Penny Allen, Councillor Len Bates, Councillor Chris Benton, Councillor Barry Bond, Councillor Mike Boyle, Councillor Jo Chapman, Councillor Bob Cope, Councillor Brian Cox, Councillor Matt Ewart, Councillor Isabel Ford, Councillor Rita Heseltine, Councillor Lin Hingley, Councillor Diane Holmes, Councillor Janet Johnson, Councillor Michael Lawrence, Councillor Roger Lees, Councillor Terry Mason, Councillor Robert Reade, Councillor Robert Spencer, Councillor Christopher Steel

82 MINUTES

RESOLVED: that the minutes of the Planning Committee held on 15 September 2020 be approved and signed by the Chairman

83 OFFICERS IN ATTENDANCE

Annette Roberts, Sue Frith, Manjit Dhillon, Kelly Harris

84 APOLOGIES

Apologies were received from Councillor D Lockley

85 DECLARATIONS OF INTEREST

Councillor B Bond declared an interest in application 20/00639/COU and took no part in consideration of this item

86 DETERMINATION OF PLANNING APPLICATIONS

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

20/00373/FUL – STONE HOUSE, HOLYHEAD ROAD, KINGSWOOD, WOLVERHAMPTON WV7 3AN - APPLICANT – MR AND MRS I WILLIAMS – PARISH – PERTON

A statement in support of the application was read out by the Corporate Director, Planning and Infrastructure on behalf of and supplied by Vicki Williams.

A statement against the application was read out by the Corporate Director, Planning and Infrastructure on behalf of and supplied by Jacqueline DeGabriele.

Local member, Councillor P Davies was prepared to support the application as the proposed development would improve an untidy site.

Councillor P Allen moved a motion to approve the application, with conditions to ensure adequate drainage and safeguard trees as she

believed the development would improve a site which was currently a garage with dilapidated shed surrounded by overgrown shrubs. She believed the proposed dwelling would contribute positively to the street scene. Perton Parish Council had raised no objections.

Councillor M Boyle seconded the motion.

Mrs Dhillon reminded Members of the requirements set out in the Planning Protocol specifically the need to clearly identify the material considerations in moving a motion to vote against Planning Officer advice.

Mrs Harris reminded Members of the need to consider each case on its individual merits. She said that 'openness' (of green belt) was a spatial feature as well as a visual one. The proposed dwelling was much greater in size than the current garage and the dilapidated shed did not qualify as a trade-off.

Councillor Cope asked for site photographs to be shared.

Councillor Lawrence believed there would be little harm to the green belt as the dwelling would be contained within a garden boundary.

The Council's Arboriculture officer, Mr S Does, said that it was not clear how many trees would be lost if the application was successful.

Councillor Lees maintained that the proposed dwelling did not comply with Core Policy 1 and he had not heard any adequate reasons for approving it.

Councillor Reade was grateful for the additional information but believed the proposal was contrary to the Council's planning policy.

The motion was defeated.

RESOLVED: that the application be **REFUSED** as it fails to comply with Core Policy 1 of the Council's Core Strategy.

**19/00017/OUT – LAND ON NORTH WEST SIDE STAFFORD ROAD,
PENKRIDGE – APPLICANT – ROB OAKLEY - PARISH – PENKRIDGE**

Local Member, Councillor J Chapman believed that the increase from 17 dwellings previously approved to 24 was unjustifiable given that the new development underway in the adjoining field was for 200 dwellings.

Councillor L Bates BEM had serious concerns about the increase in the number of dwellings. He believed this departure from the original plan impacted on the openness of the countryside and on the amenity of neighbouring properties as well as on the A449 which was regularly congested.

Mrs Harris explained that the application was for outline development and that the development in the adjoining field had now compromised the openness of the land in question.

Councillor I Ford said that the 17 bungalows proposed were needed in Penkridge and she also felt the A449 was already overloaded.

Councillor Cope commented that County Highways had not raised any

adverse comment on the proposal.

Councillor Bates proposed a motion to refuse the application as conflicting with core policy OC1.

Councillor P Allen seconded the motion.

The motion was defeated.

RESOLVED: that **APPROVAL** be delegated to the Team Manager to issue the decision, providing no new planning issues are raised as objections as a result of the revised newspaper advertisement and on completion of a satisfactory Section 106 Agreement and Unilateral Undertaking. If by 16 February 2021, the Section 106 Agreement has not fully been executed by all the parties, the Chairman is to have delegated authority to agree a further short extension to allow for final execution and completion of the Agreement.

**19/00966/FUL – THE NEW COTTAGES, PATTINGHAM ROAD,
PERTON – APPLICANT – MR PALMINDER SINGH – PARISH –
PERTON**

Councillor P Allen as local member supported the application and said that the condition of the two cottages was deteriorating.

RESOLVED: that the application be **APPROVED** subject to the conditions contained in the Planning Officer's Report.

**19/00989/FUL – WHITEHOUSE LANE, SWINDON, DUDLEY, DY3
4PE APPLICANT – PRIME OAK LTD – PARISH – SWINDON**

A statement in support of both application 19/00989/FUL and 19/00990/FUL was read out by the Corporate Director, Planning and Infrastructure on behalf of and supplied by Jonathan Stackhouse.

Councillor R Lees as local member felt that the two sites (19/00989/FUL and 19/00990/FUL) were not coterminous but he would support the application as it would bring jobs to the area.

RESOLVED: that **APPROVAL** be delegated to the Team Manager to issue the decision on completion of a satisfactory Section 106 Agreement. If by 16 February 2021, the Section 106 Agreement has not been fully executed by all parties, the Chairman is to have delegated authority to agree a further short extension to allow for final execution and completion of the Agreement.

**19/00990/FUL – HEATH MILL ROAD, WOMBOURNE – APPLICANT
PRIME OAK LTD – PARISH – WOMBOURNE**

RESOLVED: that the application be **APPROVED** subject to the conditions contained in the Planning Officers Report.

**20/00451/FUL – THE SHIELINGS, TRYSELL ROAD, TRYSELL,
WOLVERHAMPTON, WV5 8DQ - APPLICANT – MR PATRICK
NICHOLLS – PARISH – WOMBOURNE**

Councillors R Reade, B Bond and D Kinsey raised no objection.

RESOLVED: that the application be **APPROVED** subject to the conditions contained in the Planning Officer's Report.

20/00579/FUL – LAWN FARMHOUSE, LAWN LANE, COVEN, WV89 5BA – APPLICANT – DALE HITCH – PARISH – BREWOOD AND COVEN

Councillor D Holmes as local member raised no objection.

RESOLVED: that the application be **APPROVED** subject to the conditions contained in the Planning Officer's Report.

20/00627/FUL – 6 BEECH HURST GARDENS, SEISDON, WOLVERHAMPTON, WV5 7HQ – APPLICANT – IAN MIDDLETON – PARISH – TRYSULL AND SEISDON

A statement in support of the application was read out by the Corporate Director, Planning and Infrastructure on behalf of and supplied by Ian Middleton.

A statement against the application was read out by the Corporate Director, Planning and Infrastructure on behalf of and supplied by Andrew Hingley-Smith.

Councillor V Wilson as local member did not support the recommendation for approval. She believed the development would have an adverse effect on neighbouring properties and was contrary to EQ11 in being out of character with the rest of the properties in the cul de sac.

Councillor Cope proposed a motion for deferment to enable more information to be obtained about the local area.

Councillor Reade seconded the motion.

The motion was carried.

RESOLVED: that the application be **DEFERRED** to enable more information to be obtained.

20/00639/FUL – BEARNETT HOUSE NURSING HOME, BEARNETT DRIVE, LLOYD HILL, WV4 5NN – APPLICANT – MR M MEHAN – PARISH – WOMBOURNE

Richard Jewkes (agent) spoke for the application.

Michael Gethings (on behalf of Bearnett Drive residents) spoke against the application.

Local member Councillor D Kinsey said that local residents were concerned about the proposed children's residential home but all resident children would have a Health Care Plan and this should allay the fears of local residents.

Councillor R Reade had also received concerns from local residents.

Councillor J Johnson had some involvement of children with learning disabilities and supported the application.

RESOLVED: that the application be **APPROVED** subject to the conditions contained in the Planning Officer's Report.

REPORT FOR URGENT BUSINESS – APPLICATION SITE LAND OFF COMMON LANE, BEDNALL NO. 19/00993/FUL

The Committee considered the report of the Corporate Director of Planning and Infrastructure.

RESOLVED: that the Resolution of the Planning Committee of 17 July 2020 for application 19/00993/FUL be amended so that the date for completion of the Section 106 Agreement is altered to 15 December 2020 and with an addition that if by 15 December 2020, the Section 106 Agreement has not been fully executed by all parties the Chairman will have delegated authority to agree a further short extension to allow for final execution and completion of the Agreement.

87 MONTHLY UPDATE REPORT

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

RESOLVED: that the Committee note the update report.

The Meeting ended at: 22:00

CHAIRMAN

SOUTH STAFFORDSHIRE COUNCIL**PLANNING COMMITTEE – 17 November 2020****DETERMINATION OF PLANNING APPLICATIONS****REPORT OF DEVELOPMENT MANAGEMENT TEAM MANAGER****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

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

2. RECOMMENDATIONS

2.1 That the planning applications be determined.

3. SUMMARY IMPACT ASSESSMENT

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

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

PART B – ADDITIONAL INFORMATION

4. INFORMATION

All relevant information is contained within the Appendix.

Advice to Applicants and the Public

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

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

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

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

Equality Act Duty

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

Human Rights Implications

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

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

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

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

Consultations Undertaken

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

CONSULTEES

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

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

N/A

6. PREVIOUS MINUTES

Details if issue has been previously considered

7. BACKGROUND PAPERS

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

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

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

Report prepared by: Sue Frith, Development Management Team Manager

App no	Applicant/Address	Parish and Ward Councillors	Recommendation	Page
20/00627/FUL NON MAJOR DEFERRED ITEM	Mr Ian Middleton 6 Beech Hurst Gardens Seisdon WOLVERHAMPTON WV5 7HQ	TRYSULL & SEISDON Cllr Victoria Wilson	Approve	15 - 23
20/00571/FUL MAJOR	Woodthorpe Hall Garden Centre Limited Wyevale Garden Centres Limited Wyevale Bridgnorth Road Shipley WOLVERHAMPTON WV6 7EJ	TRYSULL & SEISDON Cllr Victoria Wilson	Approve	25 - 30
20/00601/COU NON MAJOR	Mr Nino Lee Land to The Rear Of Hordern Lodge Ball Lane Coven Heath WV10 7HD	BREWOD Cllr Joyce M Bolton Cllr Wendy J Sutton Cllr Diane M Holmes	Approve	31 - 40

**20/00627/FUL
DEFERRED
NON MAJOR**

Mr Ian Middleton

**TRYSULL & SEISDON
Cllr Victoria Wilson**

6 Beech Hurst Gardens Seisdon WV5 7HQ

Proposed two storey side extension with dormer and proposed canopy to frontage

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 See Appendix A

1.2 Planning History

1.2.1 See Appendix A

2. APPLICATION DETAILS

2.1 The Proposal

2.1.1 See Appendix A

2.2 Agents Submission

2.2.1 See Appendix A

3. POLICY CONTEXT

3.1 See Appendix A

4. CONSULTATION RESPONSES

4.1 See Appendix A

5. APPRAISAL

5.1 The application was deferred by Councillors at the planning committee on the 20th of October 2020 to allow more photos and a video of the site to be taken by the case officer.

5.2 Key Issues

5.2.1 See Appendix A

5.3 Principle of development

5.3.1 See Appendix A

5.4 Impact on neighbouring properties

5.4.1 See Appendix A

5.5 Impact on the character of the area

5.5.1 See Appendix A

5.6 Space about Dwellings

5.6.1 See Appendix A

5.7 Parking

5.7.1 See Appendix A

5.8 Representations

5.8.1 See Appendix A

6. CONCLUSIONS

6.1 See Appendix A

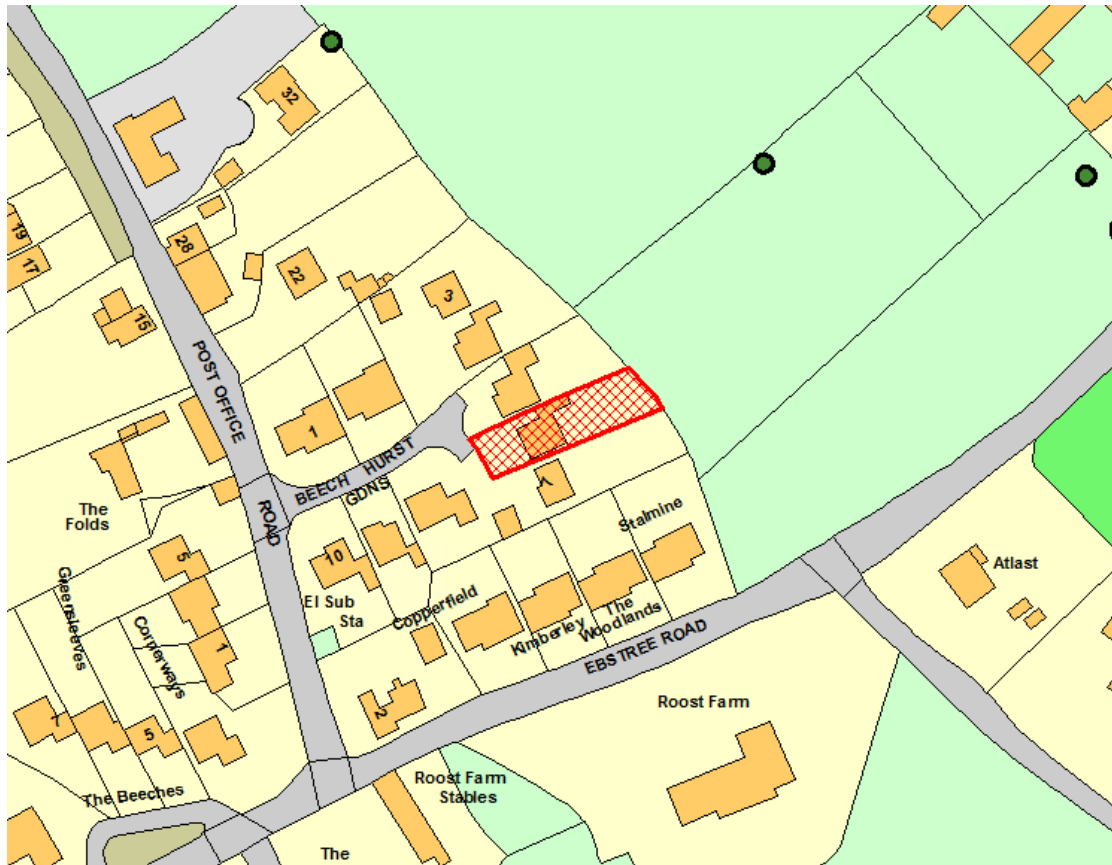
7. RECOMMENDATION - APPROVE Subject to Conditions

Subject to the following condition(s):

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 shall be carried out in accordance with the approved drawings: 2237/P100 REV B and Block Plan received 26/08/2020
3. The materials to be used on the walls and roof of the extension shall match those of the existing building unless otherwise agreed 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. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
4. Proactive Statement - In dealing with the planning application the Local Planning Authority has worked in a positive and proactive manner in accordance with paragraph 38 of the National Planning Policy Framework 2019.



6 Beech Hurst Gardens, Seisdon, WOLVERHAMPTON WV5 7HQ

APPENDIX A

**20/00627/FUL
NON MAJOR**

Mr Ian Middleton

**TRYSULL & SEISDON
Cllr Victoria Wilson**

6 Beech Hurst Gardens Seisdon WV5 7HQ

Proposed two storey side extension with dormer and proposed canopy to frontage

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 The application relates to a large detached property off the cul-de-sac Beech Hurst Gardens in Seisdon. There is a drive and small garden at the front of the site. The rear backs onto open fields with neighbouring properties adjoining either side.

1.2 Planning History

No relevant history

2. APPLICATION DETAILS

2.1 The Proposal

2.1.1 The application proposes to demolish part of the existing single storey garage and erect a new two storey side extension, comprising a garage, with bedroom and en-suite above, together with a front canopy. The two-storey element will be flush with the original building lines of the house. The single storey rear projections will remain unchanged. The proposal will also include a roof dormer [creating a 2nd floor in the roof] on the rear which will feature a Juliette balcony and the front canopy would extend between 1.6m and 2.5m. A separation gap of 0.9m would be maintained between the buildings.

2.1.2 The proposal would turn the property from a four bed into a five bed. The space created in the roof would provide a mezzanine to the master bedroom.

2.1.3 The proposal includes a garage and the block plan shows three car parking spaces on the existing drive.

2.2 Agents Submission

2.2.1 Not applicable

3. POLICY CONTEXT

3.1 Within the Development Boundary

3.2 Core Strategy

Core Policy 1: The Spatial Strategy

National Policy 1: The Presumption in Favour of Sustainable Development

Core Policy 4 Promoting High Quality Design
Policy EQ9: Protecting Residential Amenity
Policy EQ11: Wider Design Considerations
Policy EV12: Parking Provision
Appendix 5: Parking Standards
Appendix 6: Space about Dwellings

3.3 National Planning Policy Framework

3.4 Supplementary Planning Document South Staffordshire Design Guide 2018

4. CONSULTATION RESPONSES

Councillor Wilson [11/08/2020]: *I would like to call in the above application, due to impact to the local area and community, and on parking grounds.*

Trysull and Seisdon Parish Council [13/08/2020]: *Although Trysull and Seisdon Parish Council have, in principle, no objections to an extension of this property, considerable concerns exist regarding the impact of this proposed development on the well-being of neighbours and the street scene. Beech Hurst Gardens is already a concentrated area of development on which 10 detached houses are built in a small rural cul de sac. Many of these have already been extended but it is felt that the effect on the street scene of this very large proposed application would be detrimental to the local environment and will change the visual aspect of the street if granted.*

The Parish Council do feel that this proposed development will set a precedent and the area will look like a row of terraced houses. Councillors are concerned to note the rear elevation extends beyond the neighbours dwelling and overlooks the property at no5. Due to very close proximity to the boundary there is insufficient access for maintenance to the left side of proposed building when viewed from the front unless permission were to be granted by the neighbours at no 5, which is unlikely. It is also noted that the proposed addition of a 'mezzanine' on the third floor would further invade the privacy of those same neighbours when in their own rear garden. The canopy at the front of the proposed development goes beyond the building line of the existing dwelling and extends beyond the building line of the property at no. 7.

The Parish Council would point out that Beech Hurst Gardens is narrow in its layout and any roadside parking restricts vehicles turning into and out of driveways. The proposed extension will reduce the availability of on-property parking to an insufficient level and road side parking would constitute a loss of amenity to other residents. Overcrowded parking may potentially block other residents' access to their own driveways and have the potential for neighbour disputes and parking restrictions in the future.

It would be unfortunate if the application were to be approved in its present format as it would have an adverse impact on other residents and the character of the cul de sac.

Neighbours: Representations have been received from the occupiers of 7 dwellings which has expressed concerns over parking, design/impact on the character of the area, impact on neighbouring amenity [loss of light, overlooking and privacy] and disruption during construction works.

5. APPRAISAL

5.1 The application has been referred to planning committee by Councillor Wilson as there are concerns over parking, impact on the character of the area and neighbouring amenity.

5.2 Key Issues

- Principle of development
- Impact on neighbouring properties
- Impact on the character of the area
- Space about dwelling standards
- Parking
- Representations

5.3 Principle of development

5.3.1 The property is within the development boundary where extensions 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.

5.4 Impact on neighbouring properties

5.4.1 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.

5.4.2 The two-storey side extension [with rear roof dormer] would sit 2.9m behind the front building line of No.5 and project 1.9m to the rear with a separation gap of 0.9m. In terms of loss of light there are no habitable windows on the neighbour's side elevation and whilst the two storey extension would project 1.9m to the rear, the rear elevation and garden are north-east facing therefore the extension would have little impact with regards to a loss of light. The single storey rear projections will remain the same.

5.4.3 There has been concerns raised by both neighbouring dwellings over the inclusion of the Juliette balcony within the proposed roof dormer [mezzanine area] and a loss of privacy. Both neighbouring gardens are presently overlooked by the neighbour's upstairs windows and whilst the Juliette balcony would sit at a higher level and have a larger reveal in comparison, the balcony would directly face the open fields and I do not consider that would be a significant intrusion on privacy to warrant a refusal. The proposal is compliant with Policy EQ9.

5.5 Impact on the character of the area

5.5.1 Policy EQ11 of the Core Strategy states that proposals should respect local character and distinctiveness including that of the surrounding development and landscape. The South Staffordshire Design Guide provides that extensions should be subservient to the main building, respecting the scale and form and relationship to adjacent buildings.

5.5.2 In this instance the two-storey side extension would be flush with the original building lines and ridge height. Whilst the Council encourages extensions to be subservient [i.e. lower

ridges, set in etc], the key question is whether the current scheme would adversely affect the character of the area to a harmful degree.

5.5.3 Amended plans have been submitted throughout the process that has reduced the length of the front canopy and corrected the relationship of the site with the neighbouring dwellings. No changes have been made to the design of the two-storey extension.

5.5.4 The application sits within a small development of contemporary detached houses and bungalows which have no historical, architectural or cultural significance. There are a variety of separation distances between buildings and styles of extensions within the existing cul-de-sac.

5.5.5 There would a separation gap maintained between the buildings of 0.9m and the two storey projection would be set back from the neighbour's front building line by 2.9m. Whilst there may be glimpses of the site from Post Office Road it is not considered that there would be any adverse harm caused on the nearby conservation area, with the site sitting on a modern estate. The visual impact of the proposed extensions on the street scene is therefore considered acceptable.

5.6 Space about Dwellings

5.6.1 There is no infringement with the Council's space about dwelling standards.

5.7 Parking

5.7.1 The Council's parking standards for dwellings with 4 bedrooms or more is for three off road car parking spaces [2.4m x 4.8m].

5.7.2 The application includes the retention of a garage space and there are also three spaces on the existing driveway for the parking of vehicles. The application is therefore compliant with the Council's parking standards contained in Appendix 5 of the Local Plan.

5.8 Representations

5.8.1 Most of the comments received from interested parties have been addressed in the main body of the report. Throughout the course of the application the plans have been updated to correct the building lines of the neighbouring dwelling.

5.8.2 The concerns expressed from an adjoining neighbour over future maintenance is not a material planning consideration and a certain minor level of disturbance during building works is inevitable and short lived. Prior to the construction of the extension, building regulation approval would also need to be obtained to demonstrate that the structure is safe.

6. CONCLUSIONS

6.1 The proposed extensions are an acceptable form of development within the Development Boundary; no harm will be caused on the character of the area or neighbouring amenity in accordance with Policies EQ9 and EQ11; I therefore recommend the application for approval.

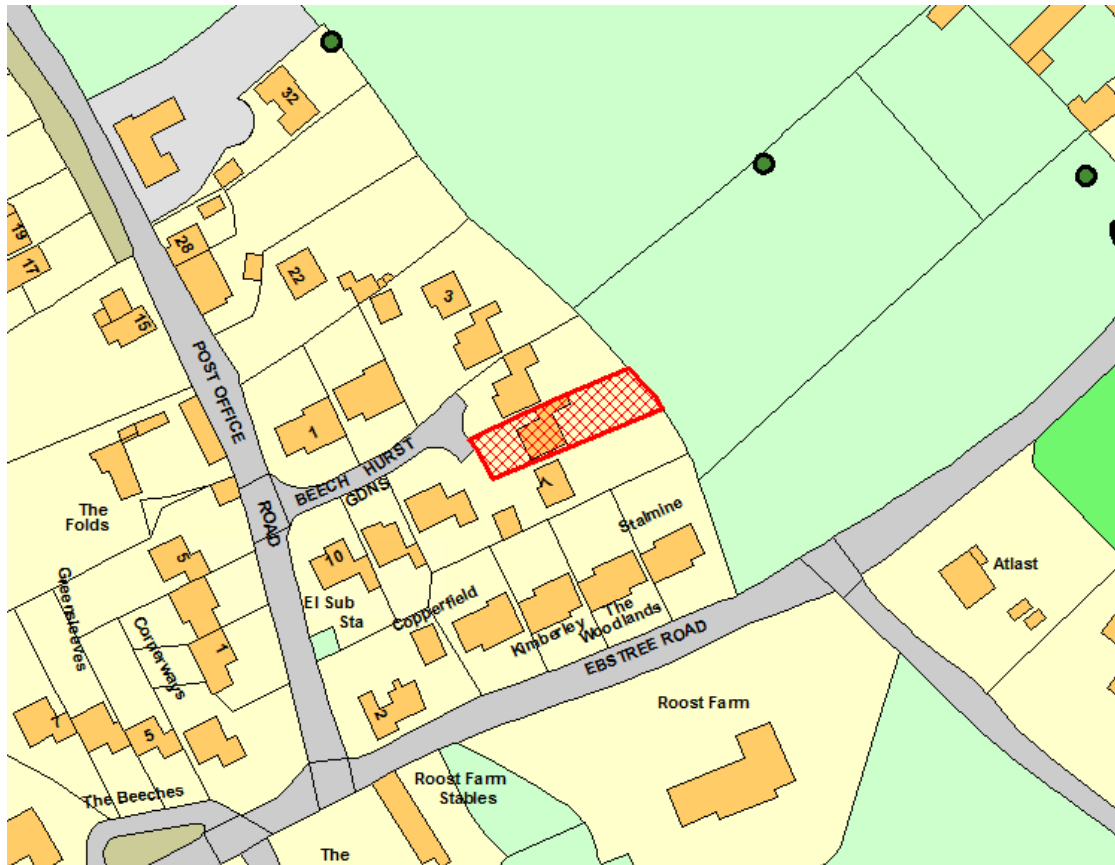
7. RECOMMENDATION - APPROVE Subject to Conditions

Subject to the following condition(s):

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 shall be carried out in accordance with the approved drawings: 2237/P100 REV B and Block Plan received 26/08/2020
3. The materials to be used on the walls and roof of the extension shall match those of the existing building unless otherwise agreed 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. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
4. Proactive Statement - In dealing with the planning application the Local Planning Authority has worked in a positive and proactive manner in accordance with paragraph 38 of the National Planning Policy Framework 2019.



6 Beech Hurst Gardens, Seisdon, WOLVERHAMPTON WV5 7HQ

**20/00571/FUL
MAJOR**

**Woodthorpe Hall Garden Centre
Limited**

**TRYSULL & SEISDON
Cllr Victoria Wilson**

**Wyevale Garden Centres Limited Wyevale Bridgnorth Road Shipley WOLVERHAMPTON
WV6 7EJ**

Erection of 2 no. curved canopies and infill section over existing external sales area at the rear of Bridgnorth Garden Centre.

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 The application site lies on the northern side of the Bridgnorth Road, approximately 1km east of Shipley. The site is located within the Green Belt and comprises a garden centre complex which extends to approximately 7.7 hectares. The site benefits from two vehicular access points onto the highway, and has a detached dwelling located to its west. The site crosses two administrative boundaries, with the main bulk of the application site in question here lying within Shropshire Council. There are a number of well-established buildings on site, and other various ancillary buildings. There is extensive parking and a separate access and exit. The site has evolved overtime and now sells a number of non-gardening related ranges such as The Edinburgh Woollen Mill as well as providing a café. There is a sporadic high hedge to the north.

1.2 Relevant Planning History

1983, New access and driveway, Approved (83/00149)
1983, New glasshouse, Approved (83/00651)
1984, Greenhouses, Approved (84/00714)
1987, Extension to glasshouse, Approved (87/00756)
1987, New vehicular access, Approved (87/00818)
1988, Toilet block, Approved (88/01463)
1989, 1 new glasshouse 5 glass roofs extension to garden centre, Approved (89/01106)
2015, Provision of an owl and falconry Centre (including other additional animals), approved (15/00537)
2019, To display a package of four new totem and banner signs at the Wyevale Garden Centre. The proposed signs include 2 x totem signs, 2 x banner signs, approved (19/00179)

1.3 Pre-application Discussions

1.3.1 None.

2. APPLICATION DETAILS

2.1.1 This application proposes the erection of 2 canopies over an existing sales area at the rear of the site covering an area of around 2,749 sq. metres with varying heights of 2.7m to 3.2m due to the topography of the site. The structure will be linked to the north elevation of the main building on site and a smaller warehouse building to the east with the existing car park to the west.

2.2 Agent Submission

Supporting letter

3. POLICY CONTEXT

The application site is within the West Midlands Green Belt

Core Strategy Development Plan Document, December 2012

GB1: Development in the Green Belt

EQ1: Protecting, Enhancing and Expanding Natural Assets

EQ4: Protecting and Enhancing the Character and Appearance of the Landscape

EQ5: Sustainable Resources and Energy Efficiency

EQ7: Water Quality

EQ8: Waste

EQ9: Protecting Residential Amenity

EQ11: Wider Design Considerations

EQ12: Landscaping

EV9: Provision and Retention of Local Community Facilities and Services

CP10: Sustainable Community Facilities and Services

National Planning Policy Framework

4. CONSULTATION RESPONSES

No **Councillor** comments (expired 20/08/2020)

Trysull and Seisdon Parish Council (received 13/08/2020) No objections

No comments from **Shropshire Council** (expired 20/08/2020)

Site notice and advert (expired 17/11/2020)

5. APPRAISAL

5.1 The application is to be heard at Planning Committee as it is contrary to policy GB1.

5.2 Key Issues

- Principle of development and Impact on the Green Belt
- Very Special Circumstances
- Design and Impact on landscape
- Impact on highways

5.3 Principle of development and Impact on the Green Belt

5.3.1 The site is within the Green Belt, where under local policy GB1, the construction of new buildings other than for agricultural or forestry purposes is generally considered to represent inappropriate development. It is evident that GB1 is silent on the issue of sites within the Green Belt that are previously developed (brownfield land); i.e. land which is or was occupied by a permanent structure, including the curtilage of the developed land (although

it should not be assumed that the whole curtilage should be developed). However, the supporting text to policy GB1 states that development within the Green Belt will normally be permitted where it is acceptable "within the terms of national planning policy". It therefore follows that for any development to be acceptable it must comply with the provisions of the NPPF. In addition to this where the local plan is silent, then the NPPF becomes a material consideration.

5.3.2 In this light, part g) of paragraph 145 of the NPPF specifies that *'limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development ...'* would be an exception.

5.3.3 Does section g) of paragraph 145 therefore apply to the garden centre?
In that the application site consists of large buildings and a large expanse of hard standing, I consider that it does comprise a site that has been previously developed. (The site, due to the nature of the business is not considered to be horticulture). As the proposal involves erection of significant sized canopies, I consider that section g) is engaged.

5.3.4 That is not the end of the matter, however. Before the exception principle is met, it has to be demonstrated that

"the redevelopment would not have a greater impact on the openness of the Green Belt than the existing development".

5.3.5 The canopies cover an existing sales area of around 2,749 sq. metres with varying heights of 2.7m to 3.2m due to the topography of the site. These are not small canopies and will exist where there currently is just a functional, more industrial looking structure, although it is significantly higher than that which is proposed. It is, however, located within the confines of the garden centre site. Due to sheer size of the development I would consider that there would be some harm (although recognised as limited due to the existing build form of the site) to the Green Belt. The development is therefore considered to be inappropriate. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and inappropriate development should not be approved except in very special circumstances.

5.4 Case for very special circumstances

5.4.1 As stated in paragraph 144 of the NPPF,

'very special circumstances will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'

5.4.2 The circumstances presented by the applicants are that the proposal would protect the existing plant stock from frost and direct sunlight, as well as providing a more pleasant shopping experience for the customer, thus ensuring the long term survival of the existing business and any subsequent jobs and revenue this provides. In addition, the majority of the application lies within Shropshire who are recommending that the proposal is approved.

5.4.5 Core Policy 7 of the Core Strategy states that the Council will work in partnership with businesses and local communities and will support measures to sustain and develop the

local economy and encourage inward investment and further economic development of the District. Measures to sustain the development of economic sectors such as tourism will be encouraged and supported. Overall, on balance, I consider that the recommendation of approval from Shropshire Council, along with the support and inward of investment of a tourism business which will ensure the long term survival of the business, clearly outweighs the potential harm to the Green Belt in this instance.

5.5 Design and Impact on landscape

5.5.1 Core Policy 2 and Development policies EQ4 and EQ12 of the Core Strategy all seek to protect, conserve and enhance the District's natural assets. CP2 goes on to state that

particular support will be given to initiatives to improve the natural environment where it is poor and increase the overall biodiversity of the District.

5.5.2 This is echoed in part 15 of the NPPF. Throughout the District, the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings and should not have a detrimental effect on the immediate environment and on any medium and long-distance views. This development is well screened from the Bridgnorth Road by the existing building and surrounded by existing mature landscaping to the north leaving some limited views towards the open countryside beyond, notwithstanding this the development would be read in the context of the existing site and will replace a higher more utilitarian looking building and will have no detrimental impact on the surrounding landscape is in accordance with EQ4 and EQ1.

5.5.3 EQ11 states:

the design of all developments must be of the highest quality and the submission of design statements supporting and explaining the design components of proposals will be required. Proposals should be consistent with the design guidance set out in the adopted Village Design Guide Supplementary Planning Document (or subsequent revisions) and be informed by any other local design statements.

Development proposals must seek to achieve creative and sustainable designs that take into account local character and distinctiveness, and reflect the principles set out below. The Council will encourage innovative design solutions.

5.5.4 The proposal is relatively low in height and is akin to similar development found at garden centre locations such as this. It is a functional structure and serves a purpose.

5.5.5 Overall I consider the proposal is in accordance with the aims of EQ11.

5.6 Impact on highways

5.6.1 The site is currently served by an existing well-established access and no changes are proposed.

5.7 Drainage

5.7.1 The site is already laid to tarmac which will need to have some drainage system in place. I consider it prudent to require the submission of a surface water drainage scheme.

6. CONCLUSION

6.1 The site is within the Green Belt, where there is a presumption against inappropriate development. Whilst I have found that the proposal would be inappropriate, there would in fact be limited harm to the openness of the Green Belt, given the replacement of a higher structure and the built-up nature of the site. The proposal would support and enhance the existing rural business and tourism destination and the majority of the site lies within Shropshire, who too are supporting the proposal. These factors amount to the very special circumstances needed to clearly outweigh any potential Green Belt harm caused by reason of inappropriateness. There are no landscape or highways concerns. As such I am recommending that Members approve the application.

7. RECOMMENDATION - APPROVE Subject to Conditions

Subject to the following condition(s):

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 shall be carried out in accordance with the approved drawings: A-PL-010 P01, A-PL-011 P01 received 10/07/2020
3. Before any development takes place a scheme for the provision and implementation of surface water drainage works shall be submitted for the approval of the Local Planning Authority. The development shall not be occupied/brought into use until the approved scheme has been completed.
4. Sale of goods limiting condition, wording to be agreed with Shropshire Council, further details of which can be found on the Update List.

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 prevent danger or damage from flooding by the adjacent watercourse in accordance with policy EQ7 of the adopted Core Strategy.
4. In order to define the permission and to avoid doubt.
5. 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, 2019.



Wyevale Garden Centres Limited, Wyevale, Bridgnorth Road, Shipley, WOLVERHAMPTON
WV6 7EJ

20/00601/COU
NON MAJOR

Mr Nino Lee

BREWOOD
Cllr Joyce M Bolton
Cllr Wendy J Sutton
Cllr Diane M Holmes

Land To The Rear Of Hordern Lodge Ball Lane Coven Heath. WV10 7HD.

Change of use of land to use as a residential gypsy caravan site accommodating two pitches, including laying of hardstanding and erection of two ancillary amenity buildings.

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site Description

1.1.1 The 0.18 ha. application site is located 0.2 km west of the A449 just north of its junction with the M54 motorway. It is approximately 1.8 km south of the village of Coven, and 1km north of community facilities and shops at Fordhouses, Wolverhampton.

1.1.2 The site is within the West Midlands Green Belt and is a former Caravan and Camping Club site, adjoining the Hordern Lodge Mobile Home Park. Whereas the Caravan and Camping Club site is accessed via Meadow Lane, the proposed development would be accessed directly off Ball Lane, via the existing access driveway through the Mobile Home Park. This matter has been agreed with the applicant and can be controlled by planning Condition.

1.13 Established screening hedges bound the site on all sides.

1.2 Planning History

2004, use of building as dwelling, Refused (04/01027/LUE).

2005, use of building as dwelling, Refused (05/00500/LUE).

2012, retention of access road, Refused (12/00173/FUL).

2018, One additional gypsy and traveller pitch, approved (18/00618/FUL).

2019, Application for a variation of condition to allow 6 additional caravans, withdrawn (19/00706/VAR).

1.3 Pre-Application Discussions

1.3.1 Written correspondence with agent.

2. APPLICATION DETAILS

2.1 Proposal

2.1.2 The application proposes a **total** of 2 permanent Gypsy and Traveller pitches, comprising a maximum number of 2 mobile homes under the definition of The Caravan Sites

Act 1968 (one being a twin unit max. size 20m x 6.8m x 3.05m internal height); 2 touring caravan spaces; 2 car parking spaces within each pitch; a detached brick and tile built amenity/day room for each pitch (One 8m x 4m x 4.2m (as approved under 18/00618/FUL) high at the ridge of a pitched roof, the other 3.6m x 4.4m x 4m high at the ridge of a pitched roof. These represent conventional Gypsy and Traveller pitches. A grassed outdoor amenity area is also proposed.

2.1.3 The previously approved pitch is included in this application because the proposed layout includes the relocation of the previously approved pitch, as well as a new pitch, though the amount of development remains the same and within the same screened site. The proposed development would result in a net increase of one pitch.

2.2 AGENTS SUBMISSION:

2.2.1 Permanent planning permission was granted in April 2019 under application 18/00618/FUL for one additional pitch comprising 2 caravans of which no more than one could be a mobile home, together with hard standing and the erection of a dayroom.

2.2.2 A further planning application was made in September 2019 under application 19/00706/VAR proposing to increase the number of caravans on the site by 6, creating three additional gypsy and traveller pitches. This application has been formally withdrawn and the current submission made for an increase of one pitch. The current application is for the material change of use of the application site for use as a residential caravan site for two gypsy and traveller families on two pitches, each with two caravans comprising one static and one touring caravan. Vehicle hard standing and two ancillary amenity buildings are also proposed.

2.2.3 One of the two pitches proposed already has full planning permission under application 18/00618/FUL. The current proposal would involve the stationing of two caravans including a twin unit mobile home on an area of existing hard standing and an additional small amenity building containing a toilet, shower and laundry facilities.

2.2.4 Access would be from Ball Lane via the main entrance to Hordern Park. No access would be permitted via Meadow Lane.

The proposed caravan would be almost completely enclosed by tall conifer hedging and the development would have no impact on the character or appearance of the surrounding area.

2.2.5 The Agents submission states that in their view there is an acknowledged unmet requirement 40 additional pitches in the period 2016 to 2026 under the adopted Site Allocations Document.

2.2.6 Unmet need, a shortage of alternative available sites, the personal need for accommodation on this site by members of the applicant's extended family and cited personal circumstances clearly outweigh any harm to the Green Belt in this case. Very special circumstances exist to justify the granting of planning permission.

3. POLICY CONTEXT

Within the Green Belt

Adopted Core Strategy

Strategic Objectives:

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

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

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

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

Core Policies:

Core Policy 1 - The Spatial Strategy for South Staffordshire

Core Policy 6 - Housing Delivery

Core Policy 11 - Sustainable Transport

Development Policies:

GB1 - Development in the Green Belt

EQ1- Protecting, Enhancing and Expanding Natural Assets

EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape

EQ11 -Wider Design Conditions

EQ12 -Landscaping

H6 - Gypsies, Travellers and Travelling Showpeople

EV11 - Sustainable Travel

EV12 - Parking Provision

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

Joint Strategic and Site Allocations Local Plan Review (including Gypsy & Traveller provision assessment and future allocations). Issues & Options consultation undertaken between 8th October 2018 and 30th November 2018.

The needs/issues of the Gypsy and Traveller community will be consulted on at Preferred Options stage, now scheduled for Summer 2021 as a result of unavoidable practicable consultation slippage resulting from Covid 19 restrictions. The Preferred Options stage will include the consideration of new sites for gypsy and traveller pitches. The revised Local Development Scheme programme (June 2022), anticipates Publication of the Preferred Plan for consultation in Summer 2022, Submission to the SoS in Winter 2022, Examination in Spring 2023, and Adoption in Winter 2023.

Other Policy Considerations:

Planning Policy for Traveller Sites

National Planning Policy Framework

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

4. CONSULTATION RESPONSES

Councillor comments: No Comments received (expired 10.09.2020).

Parish Council - (Comments received 11.08.2020):

Objection. No special reasons for development in the Green Belt. If approved, any condition of use should require removal of specific family not using the pitch.

On additional plans (Comments received 11.9.2020): Objection. Over-development of site and disagree with access route.

Local Plans (Comments received 30.10.2020).

Introduction

The proposal seeks permission for a change of use of land to allow for two pitches, laying of hardstanding and two ancillary buildings. This proposal includes an additional pitch in addition to that already permitted. The additional pitch incorporates 2 caravans (including one mobile home) and an additional small amenity building which will include a toilet, shower and laundry. This proposal seeks to accommodate two family members of the applicant.

The 18/00618/FUL application for this site granted change of use of land to residential for the stationing of one pitch including two caravans. Application 19/00706/VAR for this site, to increase the number of caravans from 2 to 8, creating 3 additional pitches, was subsequently formally withdrawn and replaced with this application (20/00601/COU).

National Policy

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

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

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

Paragraph 16 of the PPTS also comments that;

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

South Staffordshire Local Plan

The 2012 adopted Core Strategy contains Policy, H6: Gypsies, Travellers and Travelling Showpeople which sets out criteria for the determination of applications for gypsy and traveller sites and pitch requirements up to 2028. The Site Allocations Document (SAD) which was found sound in 2018, delivers the residual pitch requirements from Policy H6, with the

allocations to meet these requirements set out in Policy SAD4. This site was put forward and assessed for allocation and was subsequently allocated for one pitch in the Policy SAD 4.

The SAD allocated pitches to ensure that the pitch requirements identified in the Core Strategy were met. New provision for gypsies and travellers has therefore come through the plan led system, namely the SAD. Additional provision will come through the Local Plan Review to enable sites to be located in the most suitable locations where the need is the greatest. Fundamentally, it is Local Plans view that all new provision for Gypsy and Traveller pitches should come through this plan-making process.

A new GTAA was carried out in 2017 with neighbouring authorities – the Black Country and South Staffordshire Gypsy, Traveller and Travelling Showpeople Accommodation Assessment - to update the needs evidence. This GTTSA 2017, undertaken as part of the 2017 SHMA with the Black Country authorities, identifies a need for 87 additional pitches over the 2016-2036 period; and a need of 48 over the 2016-2021 period. This assessment was prepared on the basis of a completely different methodology compared to the 2014 and 2008 GTAA's; and represents an increase in needs compared to the adopted Core Strategy. The updated needs requirement will be considered in the review of the Local Plan and will be included in the Duty to Co-operate discussions with neighbouring authorities as to how the identified needs can be collectively met. The SAD assists in meeting needs in the short term and the new Local Plan/Duty to Cooperate agreements will focus on meeting needs in the medium to long term.

Principle of the development

The site is in the Green Belt. Planning Policy for Traveller Sites (2015), the NPPF and Core Strategy policy GB1 all note that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The Planning Policy for Traveller Sites clearly states that traveller sites in the Green Belt are inappropriate development.

Following consideration of the proposal against Planning Policy for Travellers Sites (2015), Core Strategy Policy GB1 and the NPPF it is considered that the proposal constitutes inappropriate development in the Green Belt, and therefore 'Very Special Circumstances' are required in order for the application to be acceptable.

Very Special Circumstances

The applicants have submitted a supporting statement setting out the grounds for a positive consideration of this proposal. This includes detail of personal need to have an additional pitch on this site to establish a settled base, the unmet need of the GTAA, shortage of alternative sites and other personal circumstances. There is unmet need for Gypsy and Travellers pitches within South Staffordshire, demonstrated by a lack of 5-year supply and availability of permanent alternative sites.

The agent has set out the families personal circumstances in their supporting statement, including relating to access to healthcare and education in their planning statement. Decision making should take into consideration the best interests of the child and the personal circumstances of the family. As noted in paragraph 16 of the Planning Policy for Traveller Sites (PPTS).

'Traveller sites (temporary or permanent) in the Green Belt are inappropriate development...subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances'.

Core Strategy Policy H6 considerations

The case officer will need to consider the proposal against each of the criteria in Policy H6 and be satisfied that each of these have been met, in order for the proposal to be considered in conformity with the policy. As set out above, the proposal will be harmful to the Green Belt and therefore very special circumstances will need to be demonstrated in order to confirm to both Core Strategy Policy GB1 and Policy H6 (criteria 8(a)).

Conclusion

The present application for 2 pitches exceeds the allocation identified in Policy SAD4 for one pitch, of which planning permission has been consented for (18/00618/FUL). The site is in the Green Belt, therefore the additional development is inappropriate, however an argument for very special circumstances which references the best interests of the child has been presented. It will be for the case officer to weigh these different factors in the planning balance in determining whether the very special circumstances to justify a permanent permission exist.

Severn Trent Water (Comments received 13.08.2020): **On additional plans** (Comments received 16.09.202): *No objections to the proposals subject to the inclusion of a condition and informative*

County Highways **On additional plans** (Comments received 07.09.202)

There are no objections on Highway grounds to conditions

Arboricultural Office **On additional plans** (Comments received on 10.09.2020):

No objections.

1 **resident** letter (received on 10.09.2020) has been written in support of the application.

5. APPRAISAL

5.1 The application is to be determined by Planning Committee as its contrary to policy GB1.

5.2 Key Issues

- The Principal of Development
- Access

5.3 The Principal of Development

5.3.1 The proposed site is allocated in the adopted SAD for one pitch. Planning permission for one of the proposed pitches here was granted in 2018 under application 18/00618/FUL. This site has comfortable screened capacity to accommodate 1 additional pitch that would assist in meeting the acknowledged shortfall in provision against identified needs for additional pitches, without causing additional harm or encroachment into the Green Belt.

5.3.2 The proposal satisfies the site selection criteria set out in adopted Core Strategy Policy H6. The applicant has gypsy and traveller status; satisfactory services and adequate access are available; the site is well screened by established landscape features and sustainably located; the proposed density and layout safeguards neighbour amenities; the established hedgerow boundaries and location of the site between existing development and having the

status as a Caravan and Camping Club site ensure that there is minimal Green Belt impact; there are no cohesion issues; and the site is not subject to flood risk.

5.3.3 The pitches would provide a settled base for the applicant's extended family with convenient access to schools, health services and a range of services and amenities. It would also provide convenient access to the strategic highways network for work travel convenience. Very special circumstances have been put forward that demonstrate health needs and are supported by NHS documentation.

5.3.4 The utility buildings include a shower room, w.c. and laundry. The proposed designs are a simple/rectangular plan forms with red facing brick to external walls and a grey tiled roofs. The design and scale is acceptable.

5.3.5 It is acknowledged that there is a current shortfall in the supply of pitches in the District and that a 5-year supply cannot currently be demonstrated. The proposed development will assist by reducing shortfall by the provision of 2 permanent pitches in a location with low Green Belt impact and good sustainability, accessibility and social cohesion credentials.

5.4 Access

5.4.1 The applicants have agreed in writing through their agent that the pitches would have vehicular access from an extension spur off the Hordern Lodge estate road, avoiding access off the unmade and unevenly surfaced Meadow Lane. This matter can be controlled by Planning Condition and can be readily assimilated in the site layout.

6. CONCLUSION

6.1 The proposal is in accordance with Core Strategy Policy H6 and is allocated for 1 pitch within the adopted Site Allocations Document (Site GT20). This development with one further additional pitch within the screened physical confines of the site will have minimal Green Belt impact and Very Special Circumstances exist to warrant approval, namely demonstrable family need for a settled base for education and health needs, combined with a lack of alternative site availability, and a lack of a demonstrable current 5-year supply.

6.2 The proposal will assist in meeting the delivery aims of the Development Plan and is in accordance with NPPF and PPTS policy and guidance for Gypsy and Traveller development.

7. RECOMMENDATION - APPROVE subject to the following conditions:

1. The development shall be carried out in accordance with the approved amended drawings: Proposed Site Layout and Utility/Amenity building Floor Plans and Elevations received on 29th June 2020.
2. Prior to the commencement of development details of external materials relating to the utility/amenity buildings and for the surfacing of driveways and parking spaces, shall be submitted to and approved in writing by the LPA.
3. The site shall not be occupied by any persons other than gypsies and travellers as defined in the National Planning Policy for Traveller Sites.
4. No more than one commercial vehicle shall be kept on the site for use by the occupiers of the caravans hereby permitted.

5. No vehicle over 3.5 tonnes shall be stationed, parked or stored on this site.
6. No commercial activities shall take place on the land, including the external storage of vehicles/materials.
7. No more than 4 caravans, of which no more than 2 may be a static caravan/mobile home, shall be stationed on the site at any time.
8. Prior to the commencement of development details of vehicular access via an extension to the existing estate driveway serving Hordern Lodge Mobile Home Park, shall be submitted to and approved in writing by the LPA. The approved scheme shall be implemented in full for use in connection with the approved development prior to the first occupation or use of the development hereby permitted. No vehicular access to the development shall be permitted via Meadow Lane.
9. The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reasons:

1. In order to define the permission and to avoid doubt.
2. To safeguard the visual amenity of the area and the existing building in particular in accordance with policy EQ11 of the adopted Core Strategy.
3. The proposal represents inappropriate development in the Green Belt and the development has been justified on the basis that its occupation by gypsies and travellers represents very special circumstances to outweigh the automatic harm to the Green Belt in accordance with Policy GB1 of the Core Strategy and the Planning Policy for Traveller Sites.
4. To restrict the impact of the development on the openness of the Green Belt in accordance with Policy GB1 of the Core Strategy.
5. In the interests of highway safety, in accordance with Policy EV11 of the Core Strategy
6. In the interests of highway safety, in accordance with Policy EV11 of the Core Strategy
7. To restrict the impact of the development on the openness of the Green Belt in accordance with Policy GB1 of the Core Strategy.
8. In interests of highways safety and convenience of use in accordance with Policy EV11 of the Core Strategy.
9. To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Proactive Statement

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner based on seeking solutions to problems in relation to dealing with the

planning application, in accordance with paragraph 38 of the National Planning Policy Framework, 2019.

Severn Trent Informative

Severn Trent Water advise that there is a public 375mm foul sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. Advise to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

When submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

There is no guarantee that it will be possible to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that it will be possible to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that contact is made at the earliest opportunity to discuss the implications of our assets crossing the site. Failure to do so could significantly affect the costs and timescales of the project if it transpires diversionary works need to be carried out by Severn Trent.



Land To The Rear Of Hordern Lodge, Ball Lane, Coven Heath WOLVERHAMPTON WV10 7HD

SOUTH STAFFORDSHIRE COUNCIL**PLANNING COMMITTEE – 17 NOVEMBER 2020****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 Ministry of Housing Communities and Local Government

2. RECOMMENDATION

2.1 That Committee note 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	17 November 2020	
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.
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PART B – ADDITIONAL INFORMATION

4. INFORMATION

- 4.1 **Future Training** – Changes to Planning Committee were approved at the 26 March 2019 meeting of the Council to reduce committee size from 49 potential members to 21 members. As part of these changes an update report will now be brought to each meeting of the Committee. The intention has been that with a reduced size of Committee additional training will be provided throughout the year, namely before Planning Committee (starting at 5:30pm). The sessions may well change depending on what issues are on the agenda. Due to COVID 19, these have been suspended, however we will look to bring train sessions back where possible. A Member training session has recently been held to guide Members through the new Public Access system to view planning files.
- 4.2 We are also looking to arrange a refresher of the Planning Committee training on the Planning Protocol, committee requirements and ‘making good planning decisions’. We hope this will be run by our Planning Barrister, Piers Riley-Smith, who is well placed to advise members independently on legal and planning requirements of making planning decisions. The training will be open to all Council members, not just planning committee members. It is hoped that this will be done before a planning committee, ideally December’s planning committee, however a date will be circulated as soon as one can be agreed.
- 4.3 **Changes in National Policy:**
- 4.4 There have been no changes in national policy since last committee.
- 4.5 **Planning Appeal Decisions** – every Planning Appeal decision will now be brought to the Committee for the Committee to consider. There have been 4 appeal decisions since the last Committee, a copy of the decisions are attached as Appendix 1, 2 3 and 4. These relate to:
- 1 An appeal against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order at 18 Tollhouse Way, Wombourne WV5 8AF. The appeal was dismissed because the Inspector found that felling the tree would leave a notable gap in the street scene which would be harmful to the character and appearance of the area.
 - 2 An appeal against a refusal to grant a certificate of lawful use/development (LDC) at the Former Munitions Depot, Lawn Lane, Coven. The lawful use was sought for the storage of materials and goods, also the parking of transport and wagons. The appeal was dismissed as the Inspector concluded that there is insufficient evidence to demonstrate on a balance of probabilities, that the sole primary use over a continuous 10 year period has been for the storage of

materials and goods, also the parking of transport and wagons. Consequently, the appeal is dismissed. The Council was also awarded part costs in one element of the appeal, due to what the Inspector deemed as unreasonable behaviour on the part of the appellant which caused the Council unnecessary expense.

- 3 An appeal against a refusal for a replacement dwelling at Fieldfare, Cock Lane, Bednall ST17 0SD. The appeal was a Committee overturn and allowed on appeal and costs awarded against the Council on the basis that the proposal would be an acceptable form of development and would not be harmful to the character and appearance of the surrounding area. Equally it would not have a harmful effect on the living conditions of the occupiers of nearby properties.
 - 4 An appeal against a refusal to grant temporary planning permission for replacement structure and erection of lighting columns at to the North East of Saredon Road, Cheslyn Hay, Walsall WS6 7JD. The appeal was allowed as the scheme would not prejudice the purpose of land safeguarded for longer term development needs, or harm the character or appearance of the area and would not result in unacceptable living conditions for the occupiers of the dwellings on the adjacent site.
- 4.6 We are still awaiting the outcome of the 2 Crematoria appeal decisions. The decisions were due by 12 September 2019. On 9 October 2020, the Corporate Director of Planning and Infrastructure wrote to the Secretary of State, Robert Jenrick MP, for an update. We have received no reply. PINS advise they will inform us when they get any information.
- 4.7 The Secretary of State for Transport has 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.
- 4.8 **Relevant Planning Enforcement cases on a quarterly basis** – Performance is currently at 90%, above the 80% target. There has clearly been an improvement in planning enforcement performance as a result of extra staff and a targeted triage approach to dealing with new cases. We are now fully staffed after successful recruitment, and as such the temporary staff have now left the Council.
- 4.9 **The latest data produced by the Ministry of Housing Communities and Local Government** – As members will recall, MHCLG 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, MHCLG 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

- 4.10 We will ensure that the Committee is kept informed of performance against the relevant targets including through the MHCLG's own data.
- 4.11 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 MHCLG's 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>

The latest position is on the MHCLG website and the key figures are below:

Speed

151a – majors – target 60% (or above) – result = 90.9% (data up to June 2020)

153 – others – target 70% (or above) – result = 88.9% (data up to June 2020)

Quality

152a – majors – target 10% (or below) – result = 6.1% (date up to March 2019)

154 – others – target 10% or below – result = 0.8% (date up to March 2019)

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

N/A

6. PREVIOUS MINUTES

N/A

7. BACKGROUND PAPERS

Appendix 1 – Appeal Decision – Tree Preservation Order at 18 Tollhouse Way, Wombourne WV5 8AF

Appendix 2 – Appeal Decision – Former Munitions Depot, Lawn Lane, Coven

Appendix 3a and 3b – Fieldfare, Cock Lane, Bednall ST17 0SD

Appendix 4a and 4b – Land North East of Saredon Road, Cheslyn Hay, Walsall WS6 7JD

Report prepared by:

Kelly Harris

Lead Planning Manager



Appeal Decision

Site visit made on 30 June 2020

by Rachel Walmsley BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 October 2020

Appeal Ref: APP/TPO/C3430/7425

18 Tollhouse Way, Wombourne WV5 8AF

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Mr Andrew Ferrier against the decision of South Staffordshire Council.
 - The application Ref: 19/00070/TREE_T dated 26 January 2019, was refused by notice dated 18 April 2019.
 - The work proposed is to fell 1no. Cypress tree.
 - The relevant Tree Preservation Order (TPO) is Tree Preservation Order No.206, 2002 relating to: Bratch Common Road, Wombourne which was confirmed on 17 June 2003.
-

Decision

1. The appeal is dismissed.

Main issues

2. These are:
 - (i) the effect of the proposed works on the character and appearance of the area, and;
 - (ii) whether sufficient justification exists for the proposed works.

Reasons

Character and appearance

3. Despite the tree being in the rear garden of the appeal property, its position on raised ground means that it is visible from the highway and neighbouring gardens. On the approach to the appeal property, along Tollhouse Way, properties are highly visible, creating an area that is notably built-up in appearance. The appeal tree is one of several that are visible above rooftops and soften the built-up nature of the area. As such, the tree is obvious within local views and contributes positively to the character of the area. Felling the tree would leave a notable gap in vegetation which would have an adverse effect on the character and appearance of the area.

Justification for the works

4. The condition of the tree is generally good albeit it has a multi-trunk. This form of trunk can be weaker than one single trunk. However, in this case the

trunks are closely clustered and appear sound. There is no evidence of any rot or disease where the trunks connect. It is often a misconception that a tree with shallow roots is likely to fall in inclement weather. A tree will spread its roots to compensate for any increase in load above, and, as in this case, to reflect the fact that it is located on sloping ground. There is no evidence before me of the tree being diseased, damaged or structurally unsound to consider it unsafe and a risk to people and property.

5. Whilst the tree stands tall within the garden, its height is experienced mostly because of the tree's position on raised ground relative to the property and much of the rest of the garden. When looking at the height of the tree from the base of its trunk and in relation to the size of the garden, it is not overly tall. Furthermore, as the tree is located towards a corner of the garden, it does not appear unreasonably sized for its grounds. I recognise that cypress trees can grow relatively fast. However, as the photographs before me show, the tree's rate of growth year on year is not discernible. I do not agree, therefore, that the tree is inappropriate for the garden.
6. The ground immediately around the base of the tree is devoid of grass. This is not uncommon for cypress trees; growing vegetation underneath these trees can be difficult because of the unfavourable conditions cypress trees create. However, there is sufficient space elsewhere within the garden for the appellant to grow plants for wildlife. Plus, I see from past photographic evidence that grass has grown beneath the tree, demonstrating that it is possible.
7. Given the height of the tree and its position at the end of the appellant's garden, it will cause some overshadowing of the appellant's garden and the gardens to neighbouring properties. However, as the shadow diagram demonstrates, the tree does not obscure the sun from the gardens entirely. And in the absence of any evidence from neighbouring occupiers to suggest that their enjoyment of their property is being affected by the tree, I do not find that it is having a harmful effect on occupiers' living conditions.
8. Cypress trees are important to the ecosystem, not least because of the insects and birds that they support and the wider environmental benefits of trees generally. It would take many years for a replacement tree to grow and be of equal maturity, stature and value to local biodiversity. A replacement tree, therefore, would not compensate for the tree works proposed. For the same reasons, whilst I recognise that the appellant plans to introduce planting to the front of the property which could enhance the local street scene, this would not compensate for the removal of a tree in the rear garden.
9. The tree was in situ before the appellant moved into the property and so, at that time, he had the opportunity to consider any implications for building insurance. In any case, the concern regarding insurance is assumed and is not supported with any evidence that could change my position on this matter.
10. It is not within the remit of this appeal for me to comment on the circumstances that led the Council to confirm the Tree Preservation Order. Therefore, the question of whether it was appropriate to protect the tree when the housing was built does not change my findings.
11. I appreciate that felling one tree may appear negligible compared with numerous trees that are being felled within the district. However, the cypress

tree has visual and ecological value which, of themselves, are of benefit to the wider area, irrespective of other trees being felled.

Conclusion

12. With any application to fell a protected tree a balancing exercise must be undertaken. The essential need for the works applied for must be balanced against the resultant loss to the amenity of the area. In this case I have found that felling the tree would leave a notable gap in the street scene which would be harmful to the character and appearance of the area. None of the factors submitted by the appellant, taken either singly or cumulatively, provide sufficient justification for the works proposed. Therefore, I dismiss the appeal.

R Walmsley

INSPECTOR



Appeal Decision

Inquiry Held on 15 September 2020

Site visit made on 22 July 2020

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 9th October 2020

Appeal Ref: APP/C3430/X/20/3248280

Former Munitions Depot, Lawn Lane, Coven

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the Act) as amended by the Planning and Compensation Act 1991 against a refusal to grant a certificate of lawful use or development (LDC).
 - The appeal is made by Telford 6 Ltd against the decision of South Staffordshire Council.
 - The application Ref 19/00897/LUE, dated 27 November 2019, was refused by notice dated 8 April 2020.
 - The application was made under section 191(1)(a) of the Town and Country Planning Act 1990 as amended.
 - The use for which a certificate of lawful use or development is sought is *The storage of materials and goods, also the parking of transport and wagons. Vehicles include (but not limited to) a range and scale of commercial vehicles. Wagons include (but not limited to) a range of box trailers, curtain side trailers and flatbed trailers. These uses related to the site as a whole as they utilise the vehicular access from Lawn Lane, the extensive hardstandings located throughout the site and also the adjacent land within the curtilage of the site.*
-

Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry two applications for costs were made. One by the appellant against the Council and the other by the Council against the appellant. These applications are the subject of separate Decisions.

Main Issue

3. Whether the uses of the site for storage of materials and goods, also the parking of transport and wagons, has occurred on a continuous basis in breach of planning control for such a period as to render the use immune from enforcement action under section 171B of the Town and Country Planning Act 1990.

Preliminary Matters

Validity

4. The date on which a valid application was made is in dispute and this resulted in an issue over whether the appeal relates to non-determination or refusal.

However, the parties agree that however this is resolved, for pragmatic reasons, the appeal should proceed to a conclusion. I agree.

5. The problem arose over the submission of the red-line boundary plan, required by the Town and Country Planning (Development Management Procedure)(England) Order 2015, and consequently when exactly the Council had sufficient information to validate the application. This, in turn, led to dispute over when the eight week determination period in article 39(10) of the Order ran from. Article 39(12) of the Order states that a valid application is one that complies with article 39(1) to (4) and is accompanied by the appropriate fee. In this case (1) and (2) are most pertinent as they together provide that the application must specify the land to which the application relates and be accompanied by a plan identifying the land.
6. The appellant submitted a red line boundary plan to the Council on 16 December 2019. However, this outlined a larger area than the appeal site. Another red line boundary plan was submitted on 27 January 2020 showing the same red line but this time with an internal blue line around the appeal site. A third red line boundary plan was submitted on 12 February 2020, correctly outlining the appeal site in red and an area to the north in blue.
7. The appellant submits that the 16 December plan was sufficient for the Council to validate the application and, as the Council did not determine the application within eight weeks from then, the appellant's appeal on 4 March 2020 was properly made. The Council on other hand says that validation could not take place until 12 February when the correct site boundary plan was submitted, and therefore it was within the eight week period when it issued its Refusal Notice on 8 April 2020.
8. Article 39 of the Order is clear that the plan must identify the land to which the application relates. It must be the actual land that the applicant is applying for a certificate on, and it should be shown by means of a red line boundary. This was not done until 12 February 2020 and consequently, the Council were within their rights not to validate the application until then. Therefore, the Council was within time for issuing its refusal notice on 8 April. Consequently, this is an appeal against the Council's refusal to grant a certificate.

Other matters

9. The appeal was started under the written representations procedure and was subsequently changed to an Inquiry on the appellant's request. The reason for the change was the Inspector's need to take evidence on oath in relation to conflicting factual evidence. The Inquiry took place virtually using the *Teams* application and evidence was taken on oath remotely.
10. Whilst an accompanied site visit took place before the Inquiry was opened, the details of the visit were publicised as part of the written representation procedure, therefore affording an opportunity to interested parties to attend. Consequently, nobody was disadvantaged by not having a site visit after the Inquiry was opened.
11. Although a draft Statement of Common Ground was submitted, it became apparent at the Inquiry that there was significant disagreement over its content. Consequently, it was withdrawn.

12. The appellant also withdrew an unsigned Statutory Declaration by a witness relating to use of the site between 1974 and 1986. This is because the witness had confirmed that he had mistakenly referred to the wrong site.
13. The parties made their closings and costs applications in writing and I closed the Inquiry in writing thereafter.

Reasons

Legal considerations

14. Section 191(2) of the Act states that uses and operations are lawful at any time if (a) no enforcement action may be taken in respect of them and (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force. A use will be lawful if the time for enforcement action has expired.
15. Accordingly, in this case, to satisfy the requirements of s191(2)(a) the appellant needs to demonstrate, on the balance of probability, that the time period of ten years set out in s171B(3) is met, beginning with the date of the breach, and that the use was continuous. Furthermore, if this immunity period is satisfactorily demonstrated, the appellant must also establish that there has been no intervening material change of use between the end of the relevant ten year period and the date on which lawfulness is determined. The date on which the lawfulness is determined is the date the application was determined to be valid, in accordance with the above mentioned Order and s191(4) of the Act.
16. At the outset, it is important to establish exactly what is being applied for. In this regard, clarification is needed on whether the "*storage of materials and goods*" and the "*parking of transport and wagons*" constitute one single primary use, or two separate primary uses, or two primary uses constituting a mixed use. The appellant's agent initially gave evidence that these were two primary uses, but thereafter seemed to indicate that they were one use. The appellant's proof and closing submissions do not read as though the application is for two primary uses and, as the thrust of the evidence points to one single use, that is how I shall treat the application.
17. This use appears to correspond to the B8 use of storage and distribution although, when asked whether this was what was being applied for, the appellant said it was the descriptive use it was seeking a certificate for. Therefore, I have considered this appeal on the basis that I am being asked to certify the use of the land for one single primary use for "*storage of materials and goods, also the parking of transport and wagons.*"

The current site

18. The red line boundary shows land that is part of a larger site, the latter of which encompasses the appeal site and an area to the north owned by the appellant. For ease of reference, I shall call this larger area "the wider site", and within it, the area to the north "the northern site" and the area under appeal "the appeal site".
19. Currently, the wider site is one large internally open area enclosed by trees/hedgerows, with one common access from Lawn Lane situated on the appeal site. The appeal site and the northern site have an open border and are

not separated from each other by any obvious landmarks or boundary structures. A concrete driveway runs into the appeal site from the Lawn Lane access and there are large areas of concrete hard standing and some planed areas on the appeal site.

20. At the time of my visit a number of dilapidated built structures, which were probably war bunkers, were apparent in the south west of the appeal site. There was also a derelict wooden structure, and towards the middle of the wider site, a large rubbish mound containing rusting vehicle scrap, amongst other things. There were in the order of 30 vehicles/storage units scattered mainly around the appeal site. These included trailers, containers, portacabins and caravans, many of which appeared old and unused. The northern site seemed mainly to be overgrown green field with few structures. There were also large areas of rough, overgrown greenery and shrubs on the appeal site.
21. The appeal site did not appear to be in active use, and I note that on the appeal form that the appellant has answered "nil" when asked to state the actual use at the time of application.
22. I noted from my observations that there is currently no significant physical or functional separation between the appeal site and the northern site, nor indeed did there appear to be any other obviously separate areas within the wider site. The appellant, when referring to the appeal site on the application form, stated that the uses applied for *"relate to the site as a whole as they utilise the vehicular access from Lawn Lane, the extensive hardstanding located throughout the site and also the adjacent land within the curtilage of the site."*
23. Consequently, it would appear that the appeal site is now part of a larger planning unit which constitutes the wider site. However, before making a determination on this, previous uses must be considered, and also any changes in the planning unit which may have occurred over time.

Previous uses

24. The appellant states on the application form that the use applied for began on 1 January 2003, although the appellant's evidence, including its proof and counsel's closing submissions, relates to a somewhat longer period. Therefore, I will consider the time period for which evidence has been submitted.
25. It is undisputed that the land was used as a Heavy Anti-Aircraft Battery during World War II and thereafter as a Territorial Army Centre. The bulk, if not all, of the man-made structures associated with these uses appear from historical plans to have been sited in the south on the appeal site. The wider site was bought by a Mrs Beryl Perry in 1971 and possibly her husband, and occupied by at least one or other of them up to November 2014 when Mrs Perry died. In 2018 the wider site was bought by the appellant and remains in the appellant's ownership.
26. The appellant has no first hand knowledge of the site's use prior to acquiring it in 2018 and consequently relies solely on documentary evidence of usage prior to then. Taken from the appellant's closing submissions, that evidence comprises (i) the planning history of the site; (ii) two appeal decisions in relation to the site (1984 and 1994); (iii) aerial imagery (2003 to the present); and (iv) streetview imagery (2003 to the present). There is also evidence from interested parties which is of relevance.

(i) Planning history

27. The Council has provided an unchallenged historical chronology as follows:

- 23.10.62 – caravan site – refused
- 10.9.63 – use of underground shelters for explosive storage – approved
- 8.10.63 – use of buildings for commercial storage and bays for coal storage – refused
- 17.5.66 – use of land for dismantling and disposal of scrap vehicles – refused
- 1972 – outline permission for clay pigeon shooting – approved
- 9.6.1976 – Clay Pigeon Shoot and ancillary buildings – refused
- 17.9.80 – two caravans for daytime use in connection with agricultural holding – refused
- 8.8.1983 – farmhouse – refused and appeal dismissed
- 30.9.83 – enforcement notice against the siting of two caravans (one residential, one office). An appeal decision of 5.9.84 dismissed the residential caravan but with a compliance period of one year and granted a two year temporary permission for the office caravan
- 20.5.1986 – retention of mobile home – refused
- 11.1.1994 – agricultural dwelling refused. Appeal subsequently dismissed and Inspector's challenged decision upheld on 23.3.1995
- 27.01.1998 – re-roofing of agricultural building

28. This planning history appears at least in part to relate to the wider site.

29. The 1984 appeal extended to the whole of the wider site.

30. There is some confusion over the exact area of the 1994 application, but it appears to have included the northern site and at least some of the appeal site. Mr Perry's 1994 appeal was accompanied by a location plan marked "Plan No.1", which encompassed the wider site except the gun area in the south west. However, in paragraph 2 of the appeal decision the Inspector said that it was the red edged area of "Plan No. 2" that encompassed the site, with Mrs Perry's remaining land being outlined in blue. This, he said, superseded "Plan No. 1". However, "Plan No. 2" has not been put in evidence, although the Council officer under oath said it included the wider site. Also, paragraph 16 of the appeal decision takes account of "*use of the remains of wartime structures*", which were in the south-west.

31. The 1997 application form, relating to the 1998 decision on the re-roofing of an agricultural building, states that the use of land/building at the time was for agriculture. Also, the site location plan comprises the whole of the wider site. There is a cross hatched area in the south west, which is on the current appeal site, but it is unclear whether this relates to the agricultural building.

32. My assessment of this evidence overall is that there is nothing in the planning history which demonstrates the single use of the appeal site to be for storage

of materials and goods/parking of transport and wagons. On the contrary, it suggests other primary uses.

(ii) Appeal decisions

33. The two appeal decisions of 1984 and 1994 contain factual observations which are helpful in drawing conclusions on past use around those times.

Inspector's 1984 decision

34. This provides the most cogent evidence of what was happening on the site over the period prior to the Inspector's decision and consequently it merits some detailed examination.
35. It relates to the enforcement notice of September 1983, which required the cessation of the siting of two caravans (one for office/storage purposes and one residential) on the wider site, which was referred to as "*The Old Gunsite*". The appellant was Mrs Beryl Perry, and the appeal was heard by way of inquiry and consequently the Inspector was able to make a detailed assessment of the site.

Contents of the decision

36. The Inspector's decision contains informative comments, especially within paragraph 5, which refers to the factual background. Of particular note are the following observations:
- Mr and Mrs Perry formerly owned a large transport and plant hire business with depots in Wednesfield and Bilston. They bought the site in 1971 when there appeared to have been four gun emplacements, an ancillary workshop, store buildings and a number of huts on site.
 - They intended to set up a clay pigeon shooting range and clubhouse, financed, amongst other things by running down the transport business. After obtaining planning permission for the project in 1972, they started to clear the site. However, detailed approval was refused in 1976. There was no appeal and no attempt to submit further details. The transport business had been closed down.
 - The Perries got into financial difficulties and a small touring caravan was brought on site for Mr Perry to live in. They used some of the buildings on site for calf rearing. They brought a mobile home onto the site and Mr and Mrs Perry moved into it in 1980 and were still living there at the time of the enforcement inquiry. The touring caravan became an office and store.
 - When the Council's Land Agent inspected the site in July 1983, stock seen on site comprised 20 beef cattle, 10 horses and some free range poultry. Mr Perry said there were also sheep in one of the buildings but the Land Agent did not see them. A second inspection in July 1984 noted livestock comprising 3 calves, one Shetland pony and 3 other horses, 5 goats and a number of poultry. When the Inspector visited the site after the inquiry there were 8 calves, 2 goats, about 21 geese, 3 riding horses, chickens, hens, ducks and about 20 cats.
 - The inspector noted that the grassed part of the site lacked top-soil over quite a large area but that there were three mounds of top-soil that

could be spread. The Perries had removed some of the site's top-soil earlier as payment in kind for the loan of a machine for laying drainage.

- The Inspector also noted on site a cattle truck, a jeep, 3 tractors, various pieces of agricultural machinery, about a dozen goods vehicles and goods vehicle tractor units, as well as a number of cars, some unserviceable, and a considerable quantity of scrap, mostly vehicle scrap.
37. The Inspector then related Mrs Perry's case. Paragraphs 6 and 7 are of note, in which she submitted, amongst other things, that the caravans were merged within a group of buildings and structures used for agricultural purposes, and that the primary use of the site was for agriculture. She said that she and her husband were farmers, who bred and kept livestock and used the land for grazing.
38. The Council did not challenge the agricultural use of the wider site but rather the use of the caravans on site (paragraphs 10 and 11).
39. The inspector found the caravans to be for office and storage use, and residential (paragraph 12). At paragraph 13, in the context of considering permitted development on agricultural land, he said that the land was an agricultural unit of more than one acre.
40. The Inspector comments on Mr Parry's evidence at paragraphs 16 to 18 where mention is made of buying and selling farm animals and poultry, rearing calves and keeping geese, ducks and hens. Paragraph 20 speaks of the Perries reclaiming the site, levelling and grading the field and laying drainage on it, building a barn and cattle pens and an internal road to the pens. At paragraph 25 the Inspector accepts that Mrs Perry is engaged commercially in stock rearing.
41. Paragraph 27 on the other hand, in the context of assessing viability, comments on land being unpromising for restoration to agricultural use, with much work still needed to be done. The Inspector also refers to the so-called complex of farm buildings being cluttered with old vehicles and vehicle scrap so that it did not give the impression of a farm.
42. My assessment of this evidence is that from the 1970s to 1984 (the date of the inquiry), the site had gradually been converted to agricultural use, albeit its viability was questionable, and the overall site was not in good order. Nonetheless, it is clear from the Inspector's decision that works had been carried out on the land to facilitate the keeping of livestock and that attempts had been made to reclaim some of the land for grazing. The presence of livestock and grazing horses was observed. Whilst considerable work still remained to be done to make it a viable agricultural holding, my reading of the decision is that agriculture was a primary use of the site. In fact the Inspector explicitly said that the site was an agricultural unit of over one acre.
43. Although the Inspector made reference to a previous transport business, he indicated that this had been wound down. Whilst the date of business closure is unclear, my reading of the decision is that it was by about the mid-1970s. In any event, the decision suggests that the business was operated off site.
44. Whilst some goods vehicles and lorry cabs were present on site at the time of the inquiry, there is no suggestion in the decision letter that this evidenced

goods storage/vehicle parking as the sole primary use of the site. Neither could this conclusion flow from the reference to the presence of a number of cars, some being unserviceable, and a considerable amount of scrap, mainly vehicle scrap. Indeed, goods storage/vehicle parking could not be the sole primary use because, for the reasons given above, agriculture was clearly a primary use at that time. Neither is there any evidence of a physical and functional separation of these vehicles from the primary agricultural use and so it cannot be inferred that they were on land constituting another planning unit with its own primary use.

45. Therefore, my conclusion is that, even if the storage of materials and goods/parking of transport and wagons were a primary use on the site, it was not the single primary use, due to a primary agricultural use occurring at the same time.

Inspector's 1994 decision

46. Although it is unclear exactly what land is covered by this appeal, it is nonetheless of evidential value as it relates to at least part of the appeal site and the northern site, with the uncertainty attaching only to the south west gun area.
47. The appeal relates to an agricultural dwelling and proceeded by way of a hearing. There was no dispute that the land was used for agriculture, and the Inspector assessed the proposal against the then extant PPG7 Annex E, which dealt with agricultural and forestry development.
48. Paragraph 8 refers to Mr and Mrs Perry having built up a successful pedigree pig breeding enterprise. The Inspector noted at paragraph 10 that on his site visit he saw that materials had been acquired for new pens and buildings to replace others lost in a fire on site. When considering the character of the area at paragraph 14, he also referred to the remains of former wartime buildings and present farm buildings "hereabouts", although it is not clear whether he meant on site.
49. At paragraph 16 the Inspector comments on the Perrys' good use of the remains of wartime structures, the removal of considerable amounts of concrete, the restoration of fields and installation of field drainage and other improvement measures derived from their long association with this land.
50. My assessment of the contents of this decision is that a primary use of the land at that time was agriculture. Nowhere does the Inspector refer to storage/parking of transport either on the site under consideration, or in the wider area when considering character. Consequently, it cannot be deduced that the sole primary use of the appeal site was for goods storage and vehicle parking.

Aerial imagery

51. Google Earth aerial photographs have been submitted from 2003 to 2019. Whilst it is sometimes difficult to interpret the details exactly, they nonetheless provide a good overall indication of use. The images are as follows:
52. *1/1/2003*. This shows the wider site as largely green fields. The World War II structures are clear in the south west corner, as are the access road/driveway and a relatively small area of hardstanding in the south east. In the centre of

the wider site some debris is apparent, the nature of which is difficult to decipher. On the appeal site, there seem to be about four or five objects which could be trailers/wagons and about four cars on the driveway, together with a few other buildings/structures. There is no indication that the buildings/structures are used for commercial goods storage. Despite these man-made structures, the appeal site appears predominantly green fields with some shrubs/trees.

53. *12/5/2006* and *14/4/2007*. These views are similar to that of 2003 but with less cars on the driveway.
54. *1/1/2010, 9/4/2011, 20/4/2016, 26/3/2017, 5/4/2018*. Again, the views are similar to previous images but there appear to be less vehicles and the appeal site is even greener.
55. *14/5/2019*. There is significantly less vegetation on the appeal site and about half a dozen trailers/wagons are apparent and at least one car.
56. My assessment of these images is that they provide some evidence of a few commercial vehicles in various places on the appeal site. However, the extensive greenery in all but the 2019 image suggests that a primary use of the land was agriculture from 2003 to at least 2018. Therefore, they do not demonstrate that the sole primary use of the site was for goods storage/vehicle parking.

Street view imagery

57. Google Street View imagery has been submitted from September 2011 to August 2016. This simply shows the access from a vantage point on Lawn Lane. The use of the appeal site cannot be deduced from any of these images.

Interested parties' evidence

58. No interested parties gave evidence on oath but their written submissions, precised in the Council's proof of evidence, nonetheless carry weight.
59. A Councillor's statement (received by the Council on 5/3/20) spoke of an increase in the amount of trailers/wagons stored on site in the last 12 months. The Parish Council's representation (received by the Council on 12/3/20) talks of local knowledge indicating that the land was agricultural prior to 2019. The Ramblers Association's statement (received by the Council on 3/3/2020) says the containers started arriving on site less than 18 months ago. Reference is made to a walk done on 14 January 2014 when no large trailers or containers were stored on the drive of the property, which was then known as "Greenacres Farm". Rather, peacocks were noted on the farm.
60. Other letters from neighbours referred to no containers being on site until 2019 or arriving 12 to 18 months ago. One talks of the land being used as a smallholding until Mrs Perry passed away about five years ago. It also makes reference to going on site as a volunteer from a local animal rescue to deal with animals left behind, namely horses, sheep, peacocks and cats. It goes on to say that no HGVs or containers were stored on site at that time.
61. My assessment of this evidence is that it contains nothing to support 10 years continuous use as goods storage/vehicle parking.

Overall Conclusion

62. First, I will consider the planning unit over time. There is little evidence before me to suggest that historically there has been a physical and functional subdivision of the wider site into smaller planning units, including into the appeal site and the northern site. Indeed, neither party's case is based on that premise. From the evidence, the wider site seems to have been used as one large area with a single access, which is spoken of variably as "*The Old Gunsite*", "*Greenacres Farm*" and "*The Former Munitions Depot*". The 1984 decision clearly relates to the wider site, as does the 1997 planning application.
63. Consequently, taking my site observations and all the evidence before me into account, I find that the planning unit is and has been throughout the relevant time, the wider site.
64. Turning to the use on site, the evidence of storage/parking is sparse and patchy in nature and there is little prior to the aerial images of 2003 onwards, to demonstrate such a use in any significance. The single mention of some goods vehicles and goods vehicle tractor units (lorry cabs) present on site at the time of the 1984 inquiry, only provides evidence of possible use at that stage, not of usage before or after. A primary use at that time was agriculture. Therefore, the sole primary use could not have been storage/parking. No supporting evidence of the use applied for has been submitted from then until 2003.
65. The aerial images from 2003, 2006 and 2007 show what looks like a small number of trailers/wagons. Those of 2010, 2011, 2016, 2017 and 2018 show even less trailers/wagons, although the 2019 image shows a few more. However, the presence of a handful of vehicles scattered over a small part of the appeal site does not demonstrate that the sole primary use was for goods storage/parking. On the contrary, the images generally show green fields and vegetation, which is indicative of a primary agricultural use. This is corroborated by interested party evidence, which states that the use of the site until recently has been agricultural. Although it would seem from the submitted documents and my site visit that the scale of storage/parking has been greater more recently, even then it is only on a small scale compared to the size of the planning unit. Whilst there may have been a mixed use at some stage, this is not what is applied for.
66. In conclusion, there is insufficient evidence to demonstrate on a balance of probabilities, that the sole primary use over a continuous 10 year period has been for the storage of materials and goods, also the parking of transport and wagons. Consequently, the appeal is dismissed.

Elizabeth C Ord

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr C Hawley of Counsel

He called

Mr J Nugent BA(Hons), Planning Executive with Brownshore
MSc, MRTPI, CSML Management

FOR THE LOCAL PLANNING AUTHORITY:

Mr P Riley-Smith of Counsel

He called

Mr K Denton BA(Hons), Planning Officer with South Staffordshire Council
PGCE, MA, MRTPI, FRGS

Costs Decisions

Inquiry Held on 15 September 2020

Site visit made on 22 July 2020

by Elizabeth C Ord LLB(Hons) LLM MA DipTUS

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

Decision date: 9th October 2020

Costs application 1 in relation to Appeal Ref: APP/C3430/X/20/3248280 Former Munitions Depot, Lawn Lane, Coven

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Telford 6 Ltd for a full award of costs against South Staffordshire Council.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for *The storage of materials and goods, also the parking of transport and wagons. Vehicles include (but not limited to) a range and scale of commercial vehicles. Wagons include (but not limited to) a range of box trailers, curtain side trailers and flatbed trailers. These uses related to the site as a whole as they utilise the vehicular access from Lawn Lane, the extensive hardstandings located throughout the site and also the adjacent land within the curtilage of the site.*
-

Costs application 2 in relation to Appeal Ref: APP/C3430/X/20/3248280 Former Munitions Depot, Lawn Lane, Coven

- The application is made under the Town and Country Planning Act 1990, sections 195, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by South Staffordshire Council for a full award of costs against Telford 6 Ltd.
 - The inquiry was in connection with an appeal against the refusal of a certificate of lawful use or development for *The storage of materials and goods, also the parking of transport and wagons. Vehicles include (but not limited to) a range and scale of commercial vehicles. Wagons include (but not limited to) a range of box trailers, curtain side trailers and flatbed trailers. These uses related to the site as a whole as they utilise the vehicular access from Lawn Lane, the extensive hardstandings located throughout the site and also the adjacent land within the curtilage of the site.*
-

Decision 1 on costs application 1

1. The application for an award of costs is refused.

Decision 2 on costs application 2

2. The application for an award of costs is allowed in part.

Reasons

3. An award of costs may be made where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Decision 1 Reasons

4. Whilst the appellant submits that the Council acted unreasonably in proceeding to determine the application after the appellant appealed, for the reasons given in paragraphs 4 to 8 of the substantive decision, the appellant did not make a valid application until 12 February 2020 and therefore the Council, in issuing its refusal notice on 8 April 2020, did so properly and in time.
5. There is nothing before me that demonstrates that the Council failed to engage with the appeal process or set out its case. The change of procedure to an inquiry was necessary because there was conflicting factual evidence that required testing on oath. The appellant requested this change. The change had nothing to do with the Council's behaviour.
6. Although the appellant complains that the Council took into account representations made by interested parties, which had not been disclosed to the appellant, the Council's officer when giving evidence on oath said that these consultation responses were uploaded to the Council's planning portal as soon as they were received. Whilst this was after the appellant appealed, it was before the time for determining the application had expired. I accept the Council's position.
7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has not been demonstrated.

Decision 2 Reasons

8. The Council submits that the appellant has been procedurally unreasonable on two counts.
9. The first, by making an appeal before the time for determining the application had expired. Whilst it is correct that the appellant appealed too soon, it has not been demonstrated how this has caused the Council additional expense, as the appellant would have appealed the Refusal Notice in any event.
10. The second relates to the appellant's withdrawal of Mr Hommers' witness statement and statutory declaration without warning on the morning of the inquiry. There was no justifiable reason given for delaying the withdrawal of this evidence to such a late stage, and clearly the Council had by then already prepared its case against that evidence. I find that this was unreasonable behaviour on the part of the appellant which caused the Council unnecessary expense.
11. The Council also argues substantive unreasonableness in that the appellant had no reasonable prospect of success. However, whilst the appellant's evidence was weak, it did make out an arguable case. Consequently, this ground fails.

Decision 2 Costs Order

12. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Telford 6 Ltd shall pay to South Staffordshire Council, the costs of the appeal proceedings described in the heading of this decision limited to those costs

incurred in dealing with the evidence of the appellant's witness Mr Hommers; such costs to be assessed in the Senior Courts Costs Office if not agreed.

13. The applicant is now invited to submit to Telford 6 Ltd, to whose agents a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Elizabeth C Ord

Inspector

Appeal Decision

Site visit made on 23 September 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/C3430/W/20/3251267

Fieldfare, Cock Lane, Bednall ST17 0SD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Shaw against the decision of South Staffordshire Council.
 - The application Ref 19/00741/FUL, dated 1 October 2019, was refused by notice dated 21 February 2020.
 - The development proposed is replacement dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for replacement dwelling at Fieldfare, Cock Lane, Bednall ST17 0SD in accordance with the terms of the application, Ref 19/00741/FUL, dated 1 October 2019, subject to the conditions detailed in the attached schedule.

Application for costs

2. An application for costs was made by Mr J Shaw against South Staffordshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the area and (ii) the living conditions of the occupiers of The Cottage with regards to light and privacy.

Reasons

Character and appearance

4. The surrounding area is characterised predominantly by residential properties in a village setting surrounded by rural countryside. The built development in the area is a mix of different sizes and architectural styles. It is this variation in the built form which contributes to the character of the area.
5. The proposed property would be bigger than the existing bungalow, being approximately 2.8 metres higher and having an increased floor area of around 260%. The proposal is described as having a grand appearance with features such as a columned porch. The size and architectural features of the proposed property would not be overly elaborate and would be in keeping with the varied scale and styles of buildings in the area.
6. The proposal would be located at the edge of the village and whilst adjacent to a highway, this road is not the primary route into the village. The proposed property would be set back from the highway and due to its location, it would

not compromise the green spinal route through the village core. The building is sensitive in its design and massing and would not compromise the appearance of the surrounding area, including views from the south and east.

7. The proposal would be an acceptable form of development and would not be harmful to the character and appearance of the surrounding area. The proposal accords with Policy EQ11 of the South Staffordshire Core Strategy Development Plan Document 2012 (CSDPD) and the South Staffordshire Design Guide 2018 which seeks all development to achieve good design and take into account local character and distinctiveness.

Living conditions

8. The front elevation of the proposed property would be orientated towards the neighbouring property known as The Cottage. The proposal would be set sufficient distance away from The Cottage achieving adequate separation and ensuring that the occupiers of The Cottage would not be adversely compromised in terms of privacy.
9. The proposal would be of two storey construction and set back from the boundary with The Cottage. Whilst it has been described that there is no natural screening between the properties. Due to the proposals size, height and positioning, there would be no overbearing or overshadowing effects created that would result in loss of light that would be to the detriment of the occupiers of The Cottage.
10. The proposed development would not have a harmful effect on the living conditions of the occupiers of The Cottage with regards to light and privacy. The proposal would be in accordance with Policy EQ9 of the CSDPD which seeks to protect residential amenity.

Other matters

11. I have had regard to correspondence from the Council and local residents including comments on the loss of trees, birdlife, highway safety and traffic congestion, noise pollution, submitted photos and reference to previous proposal¹. I have given careful consideration to all these matters when reaching my decision, but they do not lead me to a different overall conclusion on the main issues.

Conditions

12. Conditions relating to timeliness and the identification of plans are necessary in the interests of proper planning and to provide certainty. To ensure the development does not compromise the character and appearance of the area, conditions are necessary in relation to materials, boundary treatment and removal of some permitted development rights. Conditions are imposed with regards to landscaping, lighting, bat boxes and methods of working which are necessary in the interests of protected species.
13. In the interests of highway safety, conditions are necessary in relation to access drive, parking and turning areas, and gate details. The Council Highways Authority had requested a condition restricting the use of the garage to domestic. This condition is not necessary as the proposal, including the

¹ Local Planning Reference: 19/00458/FUL

garage, would be residential use. A condition was also requested for part of the access within the public highway to be reconstructed and completed prior to occupation however, given the existing access is to be utilised I do not consider this condition to be relevant.

Conclusion

14. For the reasons set out above, and taking into consideration all other matters raised, I conclude that the appeal should be allowed.

Chris Baxter

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Topographical Survey; Plans, Site Plan & Location Plan; Elevations, Sections & Site Plan; Site Block Massing Plan.
- 3) Before the development hereby approved is commenced, details of the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 4) Before the development hereby approved is commenced, a landscape and planting plan shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 5) Before the development hereby approved is commenced, details of all boundary treatment shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 6) Before the development hereby approved is commenced, details of the type and location of two built-in bat boxes as per recommendations in the revised Preliminary Bat Roost Assessment and Bird Survey (S Christopher Smith, dated 4th July 2019) shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 7) Demolition of the existing bungalow must follow the Method of Working detailed in the revised Preliminary Bat Roost Assessment and Bird Survey (S Christopher Smith, dated 4th July 2019).
- 8) Before the development hereby approved is occupied, details of the access drive, parking and turning areas shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 9) Any vehicular gates shall be located a minimum of 6.0m from the rear of the carriageway boundary and shall open away from the highway.
- 10) Before the development hereby approved is occupied, details of all external lighting shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the dwelling hereby approved without the prior approval of the Local Planning Authority:

- Schedule 2, Part 1, Class A – enlargement, improvement or other alteration
- Schedule 2, Part 1, Class B – addition or alteration to the roof
- Schedule 2, Part 1, Class C – any other alteration to the roof
- Schedule 2, Part 1, Class E – garden buildings, enclosures, pool oil or gas storage container.

Costs Decision

Site visit made on 23 September 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Costs application in relation to Appeal Ref: APP/C3430/W/20/3251267 Fieldfare, Cock Lane, Bednall ST17 0SD

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr J Shaw for a partial award of costs against South Staffordshire Council.
 - The appeal was against the refusal of planning permission for replacement dwelling.
-

Decision

1. The application for an award of costs is partially allowed, in the terms set out below.

Reasons

2. Paragraph 030 of the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. Paragraph 049 of the PPG makes it clear that a local planning authority is at risk of an award of costs if it fails to produce evidence to substantiate each reason for refusal on appeal and/or makes vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. Whilst the Council is not duty bound to follow advice of its professional officers, if a different decision is reached the Council has to clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning. In this case, the Planning Officer's Committee Report had not raised any objections to the proposal in terms of adverse effects on living conditions of the occupiers of The Cottage. The Committee Report specifically indicates that there is a separation distance of 24 metres between the proposal and The Cottage, and that the proposal would not give rise to any unreasonable loss of privacy or daylight. The alleged harm to living conditions has not been substantiated other than by means of a vague assertion that the positioning, height and footprint would overshadow and result in loss of light to The Cottages' south side facing windows.
5. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other material considerations, the proposal should reasonably have been permitted. The

refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

6. I therefore conclude that a partial award of costs, to cover the expense incurred by the appellant in contesting the Council's second reason for refusal, is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that South Staffordshire Council shall pay to Mr J Shaw the costs of the appeal proceedings described in the heading of this decision, limited to those costs incurred in contesting the Council's second reason for refusal, which concerned alleged harm to the living conditions of the occupiers of The Cottage.
8. The applicant is now invited to submit to the Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

Chris Baxter

INSPECTOR



Appeal Decision

Hearing Held on 6 October 2020

Site visit made on 7 October 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2020

Appeal Ref: APP/C3430/W/20/3252430

Land to the North East of Saredon Road, Cheslyn Hay, Walsall WS6 7JD

- 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 P Wilkes against the decision of South Staffordshire Council.
 - The application Ref 19/00604/FUL, dated 30 July 2019, was refused by notice dated 19 November 2019.
 - The development proposed is described as replacement structure and retention of lighting columns on the basis that the consent will last until 12 months after planning permission for the residential development of the land has been granted.
-

Decision

1. The appeal is allowed and planning permission is granted for replacement structure and erection of lighting columns at Land to the North East of Saredon Road, Cheslyn Hay, Walsall WS6 7JD in accordance with the terms of the application, Ref 19/00604/FUL, dated 30 July 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matter

2. The description in the header above is taken from the application form. In my decision I have used the word 'erection' as an act of development rather than 'retention' although the lighting columns are already on the site. Also, my decision omits reference to the basis of the consent to ensure consistency with imposed planning conditions. These changes do not affect the substance of the development and were agreed with the main parties at the hearing. As such, the revisions would cause no prejudice to any party.

Main Issues

3. The main issues are (i) whether the scheme would prejudice the purpose of land safeguarded for longer term development needs, (ii) the effect on the character and appearance of the area, and (iii) whether the development would result in unacceptable living conditions for occupiers of the permitted dwellings on the adjacent site.

Reasons

Safeguarded land

4. Development plan policies restrict the permanent development of land safeguarded for longer term needs until it is allocated in a new local plan.

However, the appellant seeks temporary rather than permanent planning permission. The initial proposal of a permission period based from when residential development on the appeal site is allowed would be indefinite and so the development could be permanent. Nonetheless, an approval based on a specified period from the date of this decision would be subject to a firm timescale and so ensure the development would be temporary.

5. The Council advise a new local plan is likely to be adopted by the end of 2022. I have been invited to consider a 2 year temporary planning permission. This would allow the potential allocation of the site in any local plan review and would not hinder development should it be allocated.
6. Notwithstanding its size, the proposed building would comprise of a simple steel frame bolted to the ground that could be erected and dismantled without significant effort. Also, it would be straightforward to remove the lighting columns, the shipping container office, portable toilet and chemical container shown on the appeal plans. Therefore, a suitably worded condition could provide for the removal of the development within a 2 year period.
7. At the hearing the Council raised a concern that the proposal would lead to ground contamination which would hamper the release of the site. However, there is no substantive evidence that shows the scheme would lead to ground conditions that would prevent future development.
8. For these reasons, I conclude that the appeal scheme would not prejudice the purpose of land safeguarded for longer term development needs. As such, and in this regard, it would accord with policy GB2 of the South Staffordshire Core Strategy Development Plan Document 2012 (CS) and policy SAD3 of the South Staffordshire Site Allocation Document 2018 (SAD). The refusal reason also refers to SAD policy SAD2 but this contains no provisions relevant to this issue.

Character and appearance

9. The proposed structure would be sizeable and seen from Saredon Road, but it would not be unduly prominent as it would be in a dip located away from the highway. Also, the building's open sides and simple form would reflect the design of an agricultural barn and so it would be in keeping with its semi-rural context. The lights on the site stand out as being unduly bright due to their orientation and lack of cowls. However, this could be addressed by a planning condition that requires the approval of lighting details.
10. Therefore, I conclude the scheme would not harm the character or appearance of the area. In this regard, it would accord with CS policies EQ4 and EQ11 which aim, amongst other things, to ensure development respects its context.

Living conditions

11. Construction works have not started but there is a reasonable prospect that at least part of the permitted residential development adjacent to the appeal site would be occupied before the end of the 2 year temporary period. Despite machinery and lorry noise generated from the existing sawmill on the appeal site, a noise impact assessment and a planning committee report both conclude the adjacent site is suitable for dwellings. The appeal development would not result in additional noise above the existing situation provided the use of machinery and deliveries are limited to similar times during the day.

12. If retained as they are, the lights on the columns would appear unduly bright and intrusive to residents of the closest houses. However, the aforementioned planning condition would also address this matter.
13. For these reasons, I conclude the development would not result in unacceptable living conditions for the occupiers of the dwellings on the adjacent site. Consequently, and in this regard, it would accord with CS policy EQ9 which seeks, amongst other things, to protect residential amenity.

Other Matters

14. There is limited evidence to substantiate concerns regarding the safety of lorry movements associated with the development and no objection has been raised by the highway authority. Also, there is nothing before me that demonstrates the sawmill would lead to unacceptable air pollution or would risk the safety of occupiers of nearby properties. The application site includes sufficient space for the storage of waste associated with the development. As such, these considerations and the question over the lawfulness of the existing sawmill use do not affect or override my conclusions on the main issues.

Conditions

15. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved drawings and for the avoidance of doubt. To comply with safeguarded land policies, a condition requiring the removal of the development within 2 years from this decision date is imposed.
16. To protect the character of the area, a condition is needed that requires the removal of existing buildings shown to be demolished. For the same reason and to ensure acceptable living conditions, a condition requiring the approval of lighting details is also imposed. To prevent unacceptable noise affecting adjacent houses, I impose conditions restricting the hours of machinery operation and deliveries.
17. To safeguard the living conditions of properties in the wider area, a condition is needed that restricts the burning of materials on the site. For the same reason, I impose a condition that prevents the use of the building for any purpose falling within class B2 of the Use Classes Order except as a sawmill. Such a condition is clearly justified as the proposed building would be open-sided and an alternative industrial use could result in unacceptable noise effects.
18. There is no planning policy basis for a condition that would require the decontamination of the site after the expiry of the 2 year period and the historic uses of the site mean it may already be contaminated. Therefore, such a condition would be unnecessary and unreasonable.

Conclusion

19. For the above reasons, I conclude the appeal succeeds.

Jonathan Edwards

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Mark Turner LLB	Solicitor
Mrs Sheila Porter BA DipTP DipGE MRTPI	Planning Consultant
Mr Peter Wilkes	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Jennifer Mincher MA	Senior Planning Officer
Miss Sarah Plant MRTPI	Assistant Team Manager
Mrs Laura White MRTPI	Enforcement Officer
Mr Patrick Walker MA MRTPI	Senior Planner (Urban Design and Landscape Planning)
Mr Philip Robson	Counsel
Mr Philip Edge Dip	Environmental Health Officer

INTERESTED PERSONS:

Councillor Steve Hollis	Chair to Cheslyn Hay Parish Council
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LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

Document 1	South Staffordshire District Council Planning Committee Report dated 17 March 2020 relating to planning application ref no 19/00407/FUL, SAD Site 119 Saredon Road, Cheslyn Hay
Document 2	BWB Noise Impact Assessment ref MCA2023
Document 3	List of consultees comments received in respect of planning application ref no 19/00407/FUL

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 18/1111/104 Proposed Site Layout Plan, Floor Plan and Elevations, 18/1111/105 Existing Site Layout Floor Plans and Elevations and 18/1111/106 Location Plan and Block Plan.
- 2) All buildings and structures hereby permitted and shown on the approved plans shall in their entirety be taken down and removed from the application site not later than the expiration of 2 years from the date of this decision.

- 3) Prior to the first occupation or use of the replacement structure hereby permitted, all existing buildings and shipping containers shown on drawing number 18/1111/105 and not shown to be retained on the approved drawings shall be taken down and removed from the application site.
- 4) Unless within 3 months of the date of this decision, details of the orientation, height, design and luminosity of lights to be installed on the lighting columns hereby approved have been submitted in writing to the local planning authority for approval, and unless lights are installed within 1 month of the local planning authority's approval in accordance with the approved details, no lights installed on the approved lighting columns shall be switched on or illuminated at any time.

Upon lights being provided as specified in this condition, no other lights shall be used on the lighting columns hereby approved.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) Machinery shall be operated from within the development hereby permitted only between the hours of 0800 to 1700 on Mondays to Fridays, 0900 to 1300 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 6) Deliveries shall be taken at or despatched from the site only between the hours of 0800 to 1700 on Mondays to Fridays, 0900 to 1300 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 7) There shall be no open burning of any materials on the site.
- 8) The building hereby approved shall not be used for any other purpose falling within Use Class B2 of the Town and Country Planning (Use Classes) Order 1987 (as amended) apart from as a sawmill with ancillary office.

