

**TO:- Planning Committee**

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

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

Date: Tuesday, 30 January 2024

Time: 18:30

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



D. Heywood  
Chief Executive

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**A G E N D A**

**Part I – Public Session**

- |          |  |                  |
|----------|--|------------------|
| <b>1</b> | Minutes<br>To approve the minutes of the Planning Committee meeting of 21 November 2023. | <b>1 - 4</b>     |
| <b>2</b> | Apologies<br>To receive any apologies for non-attendance.                                |                  |
| <b>3</b> | Declarations of Interest<br>To receive any declarations of interest.                     |                  |
| <b>4</b> | Determination of Planning Applications<br>Report of Development Management Team Manager  | <b>5 - 112</b>   |
| <b>5</b> | Monthly Update Report<br>Report of Lead Planning Manager                                 | <b>113 - 148</b> |

## **RECORDING**

Please note that this meeting will be recorded.

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

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

## **PUBLIC ACCESS TO AGENDA AND REPORTS**

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

Minutes of the meeting of the **Planning Committee** South Staffordshire Council held in the Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX on Tuesday, 21 November 2023 at 18:30

**Present:-**

Councillor Jeff Ashley, Councillor Gary Burnett, Councillor Val Chapman, Councillor Bob Cope, Councillor Philip Davis, Councillor Robert Duncan, Councillor Rita Heseltine, Councillor Diane Holmes, Councillor Victor Kelly, Councillor Kath Perry, Councillor Robert Reade, Councillor Gregory Spruce, Councillor Christopher Steel

**21 MINUTES**

**RESOLVED:** That the minutes of the Planning Committee held on 17 October 2023 be approved and signed by the Chairman.

**22 APOLOGIES**

Apologies were received from Councillors H Adams, M Evans, W Sutton, B Bond, S Harper-Wallis.

**23 DECLARATIONS OF INTEREST**

Councillor Reade declared an interest in application 23/00145/FUL and took no part in the debate or decision.

**24 DETERMINATION OF PLANNING APPLICATIONS**

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

**23/00093/OUT – LOADES LTD, LOADES BUSINESS PARK, GORSEY LANE, GREAT WYRLEY, WS6 6BD – APPLICANT – MR ROB LOADES - PARISH – GREAT WYRLEY**

Cllr Reade and Cllr Perry commended the development on a brown field site.

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

1. Subject to the owners first entering into a Section 106 Agreement/Unilateral Undertaking under the Town and Country Planning Act (as amended) to secure contributions/planning obligations towards:-
  1. Contribution towards Health Care Infrastructure of £19,500.
  2. Contribution towards Cannock Chase SAC mitigation measures (SAMMMs) of up to £9,894.90 plus a £100 legal administration fee; and
  3. Off-site Public Open Space payment in the sum of. £29,790 to be uses for the purposes of improving public open space within the locality.

2. If the S106 is not signed/completed by the 21 February 2024 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development without the required contributions as outlined in the report.

**23/00145/FUL – LAND ON SOUTH WEST SIDE OF LEVEDALE ROAD, LEVEDALE - APPLICANT – ANGLO RENEWABLES LTD - PARISH – PENKRIDGE NORTH AND ACTON TRUSSELL**

Duncan Howie, Anglo Renewables (applicant) spoke in favour of the application.

Martin Linyard spoke against the application.

The local residents group requested a named vote.

Cllr Meg Barrow, on behalf of Cllr A Adams, local member, spoke against the application.

Cllr Chapman, Cllr Ashley, Cllr Perry and Cllr Steel were concerned about the safety of local residents and the potential danger of lithium batteries.

Cllr Spruce and Cllr Kelly spoke about the importance of generating renewable energy.

Cllr Duncan was concerned about the amenity impact of the proposed battery storage facility on local residents and the loss of agricultural land.

Cllr Duncan proposed a motion to refuse the application as it would adversely affect the character of the landscape (EQ4).

Cllr Chapman seconded the motion.

The motion was carried.

**RESOLVED:** That the application be **REFUSED**.

For refusal: Councillors Duncan, Chapman, Ashley, Hestletine, Holmes, Perry and Steel.

For approval: Councillors Spruce, Kelly, Burnett and Davies.

**23/00833/FULHH – 68 WOLVERHAMPTON ROAD, CODSALL WV8 1PE – APPLICANT – SOUTH STAFFORDSHIRE COUNCIL – PARISH - CODSALL**

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

**23/00834/FULHH – 70 WOLVERHAMPTON ROAD, CODSALL, WV8 1PE -**

**APPLICANT – SOUTH STAFFORDSHIRE COUNCIL – PARISH – CODSALL**

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

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**MONTHLY UPDATE REPORT**

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

**RESOLVED:** That the Committee note the update report.

The Meeting ended at: 19:55

**CHAIRMAN**



**SOUTH STAFFORDSHIRE COUNCIL**

**PLANNING COMMITTEE – 30 JANUARY 2024**

**DETERMINATION OF PLANNING APPLICATIONS**

**REPORT OF DEVELOPMENT MANAGEMENT TEAM MANAGER**

**PART A – SUMMARY REPORT**

**1. SUMMARY OF PROPOSALS**

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

**2. RECOMMENDATIONS**

**2.1** That the planning applications be determined.

**3. SUMMARY IMPACT ASSESSMENT**

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

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

**PART B – ADDITIONAL INFORMATION**

4. INFORMATION

All relevant information is contained within the Appendix.

**Advice to Applicants and the Public**

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

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

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

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

**Equality Act Duty**

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

**Human Rights Implications**

If an objection has been received to the application then the proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application aims to secure the proper planning of the area in the public interest. The potential interference with rights under Article 8 and Article 1 of the First Protocol has been considered and the recommendation is considered to strike an appropriate balance between the interests of the applicant and those of the occupants of neighbouring property and is therefore proportionate. The issues arising have been considered in detail



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

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

### **Consultations Undertaken**

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

### **CONSULTEES**

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

### **5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

N/A

### **6. PREVIOUS MINUTES**

Details if issue has been previously considered

### **7. BACKGROUND PAPERS**

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

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

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

Report prepared by: Helen Benbow - Development Management Team Manager

<b>App no</b>	<b>Applicant/Address</b>	<b>Parish and Ward Councillors</b>	<b>Recommendation</b>	<b>Page</b>
23/00009/FUL MAJOR	Aura Power Developments Limited  Land Around Preston Hill Farm Preston Vale Penkridge Staffordshire ST19 5RA	PENKRIDGE  Councillor A Adams Councillor S Harper- Wallis	Approve – Subject to conditions	<b>11-60</b>
23/00978/FUL NON MAJOR	Mr Jason Milner  Little Round Hill Tinkers Castle Road Seisdon WOLVERHAMPTON WV5 7HF	TRYSULL & SEISDON  Councillor R Reade Councillor V Wilson	Approve – Subject to conditions	<b>61-70</b>
<b>Other Item</b>	<b>Ward</b>		<b>Recommendation</b>	<b>Page</b>
New Tree Preservation Order: 23/18001/TPO	Wombourne South		Support confirmation of Tree Preservation Order 23/18001/TPO with the modifications	<b>71-112</b>



**23/00009/FUL  
MAJOR**

**Aura Power Developments  
Limited**

**PENKRIDGE**  
Councillor Andrew J Adams  
Councillor Samuel G Harper-Wallis

**Land Around Preston Hill Farm Preston Vale Penkridge Staffordshire ST19 5RA**

**Installation of a solar farm comprising: ground mounted fixed tilt bifacial solar panels; access tracks; string inverters; transformers; electrical connection compound; storage containers; underground cables and conduits; perimeter fence; stock fences; temporary construction compound; and associated infrastructure and planting scheme.**

Pre-commencement conditions required:	Pre-commencement conditions Agreed	Agreed Extension of Time until
Yes	Yes	<b>22 December 2023</b>

**1.0 SITE DESCRIPTION AND APPLICATION DETAILS**

**1.1 Site Description**

1.1.1. The application site is an irregularly shaped piece of arable farmland belonging to Preston Hill Farm which extends to approximately 73.35 hectares and is situated around Longridge, a small farming hamlet found approximately 1 mile west of the main service village of Penkridge. The farmhouse is a Grade II listed property and is accessed via a single lane farm track leading from Levedale Road. There are a number of residential properties north of the application situated to the north and south of Levedale Road. The Staffordshire Way lies due west of the site and follows the boundary of the site for a small section of its route. There are a number of ponds on site as well as some established but sporadic hedges cutting across the undulating fields.

1.1.2 The proposed solar panels are located at a distance away from the farmhouse mainly to the north but also to the west extending towards Preston Vale Farm and south towards Old Preston Hill Cottages. The solar panel development would be constructed and managed via an improved access point to the North off Levedale Road.

Date of site visit – 30<sup>th</sup> March 2023

**1.2 SITE HISTORY**

Planning Applications

03/01181/COU Change of use of agricultural buildings to form 2 dwellings with carports and garages

**Approve Subject to Conditions** 31st March 2004

SS/93/00286 Land Reclamation By Waste Infilling For Agricultural Purposes **Refuse** 28th July 1993

AGR/93/00009 Agricultural Building 1st April 1993

22/00198/EIASCR Solar farm 17th March 2022

23/00009/FUL Installation of a solar farm comprising: ground mounted fixed tilt bifacial solar panels; access tracks; string inverters; transformers; electrical connection compound; storage containers; underground cables and conduits; perimeter fence; stock fences; temporary construction compound; and associated infrastructure and planting scheme.

23/00288/AGR 10 bay open fronted steel portal frame building with cantilever roof. Proposed use general agriculture in conjunction with existing farm business 2nd May 2023

### Pre-apps

20/00080/PREAPP The installation of a solar farm, with substation, small battery site, inverters and associated equipment. 4th December 2020

## **1.3 APPLICATION DETAILS**

### **The Proposal**

1.3.1. The application proposes the installation of a solar photovoltaic electricity generating station extending to approximately 62 hectares with a rated capacity up to 49.9MW generating enough power to potentially power approximately C14,000 homes . The main components of the facility are the solar panels and frames, inverters, transformers, cabling and a sub-station. The panels would be situated in a series of rows running east/west orientation in order for the panels to face the sun to the south with a maximum height of 3m with a minimum ground clearance of 0.8m. The rows are stationed within blocks of 26 panels with a minimum space of 2.15m between frames to ensure access for maintenance and prevent shading by adjacent panels.

1.3.2. The panels generate a direct current that needs to be converted into electricity which is then transferred to the local distribution network via distribution network cables to 19 transformer units located on site and then on to a larger substation. The applicants have secured a connection via an on-site overhead line which will be facilitated by a new substation to connect to the Local Electricity Distribution Network operated by Western Power Distribution. For clarification purposes, there is no link or connection proposed to the recently submitted application for a battery storage plant nearby reference application number 23/00145/FUL submitted by Anglo Renewables.

1.3.3 In total the application details the provision of the following:

- bi-facial ground mounted solar panels within an area of approximately 62ha;
- approximately 250 String inverter units;
- 19 No. Transformer Units;
- a substation compound containing protection equipment, isolation switches, metering equipment's, client and DNO buildings and palisade fence;
- a storage unit;
- access tracks made of crushed stone over a geotextile membrane;
- perimeter and stock fencing;
- a temporary construction compound; and,
- associated infrastructure

1.3.4 The applicants have an approved connection to the Grid and, if approved, the proposal is ready to be implemented.

### **Agent Submission**

The application is accompanied by the following:

- Agricultural Land Classification Report plus update
- Arboricultural Report

- Assessment of cumulative effects plus update
- Bat activity survey report
- Biodiversity management plan
- Biodiversity net gain metric
- Breeding bird survey report
- Dormouse survey report
- EDNA pond reference table and results
- Estimated HGV Goods movements
- Public consultation
- FRA and Surface water strategy
- Geophysical survey report
- Glint and glare assessment
- Heritage Impact Update
- Landscape and Visual Impact assessment
- Landscape character and designations/visual receptors
- Levedale Road traffic data
- Noise Impact Assessment
- Planning Statement
- Winter bird survey

### **3. POLICY**

#### **3.1 Constraints**

##### **Constraints**

Flood Zone 2 - 1 in 1000 yr Name: Flood Zone 2 - 1 In 1000 Yr:

Flood Zone 3 - 1 in 100 yr Name: Flood Zone 3 - 1 In 100 Yr:

Newt - Impact Risk Zone Red Name: RED ZONE:

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

Newt - Impact Risk Zone Amber Name: AMBER ZONE:

Newt - Impact Risk Zone Green Name: GREEN ZONE:

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

Open Countryside

Public Right of Way Name: Penkridge 41

PROW ID: 4844

Status: FOOTPATH

Parish: Penkridge

SAC Zone- 8km Buffer Buffer Zone: 8km

#### **3.2 Policies**

- Within the Open Countryside
- Core Strategy

Core Policy 1 The Spatial Strategy for South Staffordshire

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

Core Policy 2 Protecting and Enhancing the Natural and Historic Environment

EQ1 Protecting, Enhancing and Expanding Natural Assets

EQ3 Conservation, Preservation and Protection of Heritage Assets

EQ4 Protecting and Enhancing the Character and Appearance of the Landscape

Core Policy 3 Sustainable Development and Climate Change

EQ6 Renewable Energy

EQ7 Water Quality

EQ9 Protecting Residential Amenity

EQ11 Wider Design Considerations

EQ12 Landscaping

EV11 Sustainable Travel

- National Planning Policy Framework (NPPF)

Chapter 2 Achieving sustainable development

Chapter 4 Decision-making

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

Chapter 15 Conserving and enhancing the natural environment

Chapter 16 Conserving and enhancing the historic environment

Sustainable Development SPD 2018

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

Sustainable Construction & Renewable Energy Topic Paper November 2022

- National Policy and Guidance

National Planning Policy Framework (to be read as a whole)

National Planning Guidance

2015 Ministerial statement - *Solar energy: protecting the local and global environment*

Overarching National Policy Statement for Energy EN-1

National Policy Statement for Renewable Energy Infrastructure EN-3

#### 4. CONSULTATION RESPONSES

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

Site Notice Expires	Press Notice Expires
23/03/2023	21/03/2023

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

Ongoing discussions have been had throughout the course of the application.

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

No Response Received

#### **Penkridge Parish Council**

22<sup>nd</sup> November 2023

Councillors thought the proposed application was industrialisation on good agricultural land and asked when it would be connected to the Grid.

#### **Local Plans**

7th March 2023

The proposed solar farm lies within the Open Countryside. Policy OC1 indicates the Open Countryside will be protected for its own sake, particularly for its landscapes, areas of ecological, historic, archaeological, agricultural and recreational value. Policy OC1 also allows for the change of use of land within the Open



Countryside where this would "have no material effect on the appearance and character of the Open Countryside". Despite its temporary nature it is unlikely that the proposed scheme will have no material effect at all on the appearance and character of the area, creating a degree of conflict with the policy, albeit this conflict might be limited by appropriate mitigation. This conflict needs to be considered alongside other material considerations, including national policy and evidence which post date the adoption of Policy OC1 in 2012.

The National Planning Policy Framework 2021 is an important additional material consideration in considering this proposal. This indicates that decisions should recognise the intrinsic character and beauty of the countryside (para 174a) and that plans should maximise the potential for suitable renewable energy development while ensuring adverse impacts are addressed satisfactorily (para 155). Applications should also conform to local policy requirements regarding decentralised energy supply, unless it can be demonstrated by the applicant that this is not feasible or viable (para 157). On this point, Policy EQ6 of the 2012 Core Strategy indicates that provision should be made for renewable energy generation within South Staffordshire to maximise environmental and economic benefits whilst minimising any adverse local impacts. It will therefore be important for the scheme to maximise environmental and economic benefits and minimise any adverse local impacts, unless the applicant can show that this is not feasible or viable. In addition to the above, December 2020 Energy White Paper ("Powering our Net Zero Future") indicates that achieving net zero rests on a "decisive shift" away from fossil fuels to clean energy and describes onshore wind and solar as "key building blocks" of the future energy generation mix. Equally, the more recent British Energy Security Strategy 2022 anticipates the need for a five-fold increase of solar capacity in the UK from 14GW to 70GW by 2035.

At a local level, South Staffordshire District Council declared a climate emergency in 2019, with a similar declaration being made by Staffordshire County Council. Evidence prepared in 2020 suggest that the gap between electricity demand and renewable energy generation is even greater in Staffordshire than it is nationally. The Staffordshire Climate Change Adaptation & Mitigation Final Report indicated that at the time renewable energy generation in Staffordshire was only able to meet just under 10% of electricity demand, with solar and onshore wind being the two feasible technologies to provide this additional capacity. Whilst the study identified some authorities (Cannock and Tamworth) as being constrained in their ability to contribute to contribute towards solar or wind generation, it concluded that across the county as a whole there was land sufficient to bridge this gap with these technologies.

In summary, whilst Policy EQ6 lends support to the principle of the development there is also likely to be at least a limited degree of conflict with Policy OC1, as it is unlikely that any solar farm could be delivered in this Open Countryside location without at least some material effect on the area's character and appearance. However, the NPPF 2021 does not contain a similar test in countryside locations, instead simply requiring that the intrinsic character and beauty of the countryside is recognised in decisions. Equally, it requires plans to maximise the potential for suitable renewable energy development, whilst satisfactorily addressing adverse impacts. Given this and the strong support lent to the principle of significantly increasing solar energy in the government's Energy White Paper and Energy Security Strategy, there are significant material considerations in support of the principle of the scheme. This is subject to the maximisation of the scheme's benefits and minimisation of local impacts.

*Case officer comments – The NPPF was updated In December 2023, after the above comments were received. However, whilst the paragraph numbering noted is now out of date the wording of the relevant sections of the NPPF remain unchanged.*

Landscape comments

Policy EQ4 requires the intrinsic rural character and local distinctiveness of South Staffordshire to be maintained and enhanced where possible, including the protection of trees and hedgerows. Development is also required to not have a detrimental effect on the immediate environment and on any important medium and long distance views. It is noted in the LVIA that there were no applications for solar farms at the time that assessment was undertaken. However, there is now an application for a similar style of solar farm in the District's Open Countryside (application ref. 22/00936/FUL) around 2.5km to the north of the site. The two proposals' visual impact is largely localised and there is significant intervening vegetation and topography that may limit any significant intervisibility between the schemes for visual receptors associated, but this needs to be formally confirmed through an update to the LVIA to ensure cumulative impacts are fully addressed.

The site sits in the rural area to the west of the village of Penkridge, from which it is separated by the clear delineating feature of the A449. It is not within or near to or in close proximity to a protected landscape area or designation. The site itself is comprised of an assortment of arable agricultural fields, separated by boundary tree and hedge planting and interspersed with small wooded areas. The landform slopes gently uphill towards the site's centre from Preston Vale Lane to the south and Levedale Road to the north.

The proposal will introduce ground mounted solar panels surrounded by fencing throughout 62ha of the site, with these panels being enclosed by perimeter and stock fencing throughout. The site will also be interspersed with small transformer units and associated farm tracks, with a larger connection compound being located towards the site's western edge and new tree and hedgerow planting, alongside additional wildflower meadows, will be introduced in specific parts of the site.

The site sits within the Ancient Clay Farmlands landscape character type, an area which is often characterised by arable farming fields of varying scales enclosed by tree and hedgerow planting, set within an undulating landform. In this respect the site is considered to be broadly representative of this wider landscape character type. Within such areas, critical factors limiting landscape quality include the loss of hedgerows and hedgerow trees, the poor quality of remaining features of this type and the poor survival of characteristic semi-natural vegetation, such as ancient woodland.

The proposal will introduce primarily temporary structures into the landform for a time limited period (40 years), whilst retaining the existing tree and hedgerow planting that characterise the field pattern within the site and in some cases will extend/reinforce this pattern through additional planting. Existing pond and wooded areas throughout the site will also be retained. Whilst the temporary loss of arable land will alter the character of the site itself, the majority of structures on the site will read as temporary and will retain the key elements which define the field structure and semi-natural vegetation key to this landscape character area. Therefore, whilst there will be a temporary impact on the site's arable farming character, overall the proposal will maintain the features key to the rural character and local distinctiveness of this landscape, including retaining trees and hedgerows, taking account of the distinctive qualities of the local landscape. Therefore, it is considered overall to be acceptable under the landscape character provisions set out in Policy EQ4.

In terms of visual receptors, there is a promoted long distance walking route (the Staffordshire Way) which runs west to east in close proximity to the site, running adjacent to its southern boundary in part. The applicant's LVIA correctly identifies viewpoints along this route, alongside views from the wider PRow network and rural lanes surrounding the site and potential longer distance views from the Cannock Chase AONB as the most important visual receptors to assess for this scheme.

The LVIA identifies that the greatest residual visual effects after mitigation will largely arise from users of the Staffordshire Way adjacent to the site (viewpoint 1), and users of the Congreve bridleway to the south of the site (viewpoint 5). Users of the Congreve bridleway would have a clear view of large parts of the scheme due to the lower topography on intervening land. However, given the orientation and surrounding landform it is not considered that this will significantly alter users' perception of the wider rural setting or more important longer distance views along this route towards Cannock Chase AONB. Users of the Staffordshire Way would have occasional prominent views of the site alongside field entrances but the

height of the roadside hedges would, in most instances, be sufficient to screen the proposal from users of this long distance footpath. This assumes that any final landscaping scheme successfully removes existing gaps in the hedgerow, where more prominent viewpoints are currently available. Therefore, the LVIA rightly concludes that once landscaping mitigation is in place any impacts on users of these routes will be moderate, rather than major. This will cause some limited conflict with Policy EQ4 by having a limited and temporary detrimental impact on these viewpoints.

All other viewpoints within closer proximity of the site (2.5km) will have either minor or no adverse effects after the 10 year period has allowed mitigation planting to be fully established. Views from users of the footpath by Whiston Mill south-west of the site (viewpoint 3) would only be partial and would not significantly alter users' perception of the wider countryside setting along this route. Longer distance views to the site will mainly be negligible due to intervening screening. Whilst there may be some minor or moderate impacts on visual receptors at Huntington Mound and Shoal Hill Common (within the AONB), the site would still be partially screened by vegetation and would not read prominently in views from either of these locations, particularly when compared to more prominent and visible urbanising landscape elements which sit in close proximity to these views. Therefore, the proposed scheme will not have any meaningfully detrimental effect on these longer distance views.

In summary, the proposal will result in a temporary change to the landscape character of the site but will preserve and enhance key landscape elements important to this character area, preserving the existing field pattern, retaining areas of semi-natural planting and restoring tree and hedgerow planting within the site. The proposal will also enhance the site's biodiversity and through additional semi-natural planting. There will be some limited conflict with Policy EQ4 due to the impacts on users of the Staffordshire Way and Congreve bridleway. However, these visual effects are moderate and will be temporary in nature due to the time limited form of development. Given the positive landscape character elements that would be delivered by the proposal, these impacts are not considered to be sufficiently adverse to warrant refusal on landscape and visual grounds. However, the applicant will need to update the LVIA to consider cumulative landscape and visual effects with the planning application for a similar development south of Coppenhall (22/00936/FUL). Without this, cumulative landscape and visual impacts cannot be robustly assessed so this must be addressed prior to determination.

*Case officer comment – Following receipt of these comments an updated LVIA was undertaken and submitted by the planning agent. Assessment of this can be found in paragraph 5.5.9 of this report.*

**Senior Ecologist - South Staffordshire**

8<sup>th</sup> August

No further comments.

7th August 2023

Summary of Consultee Position: No objection subject to conditions.

Introduction

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

- Ecological Assessment (Wychwood Biodiversity Ltd - Feb 2023)
- DEFRA Biodiversity Net Gain Metric (Wychwood Biodiversity Ltd)
- Bat activity survey (Calyx Environmental Ltd, June 2022)
- Biodiversity management plan (Wychwood Biodiversity, Feb 2023)
- Winter bird survey report ((Wychwood Biodiversity Ltd - Feb 2023))
- Breeding bird survey report (Wychwood Biodiversity Ltd - March 2022)
- Dormouse survey report (Thomson Environmental Consultants, May 2022)

- Module Array Layout (ib vogt GmbH, June 2022)
- Noise assessment for planning (Ion Acoustics, Dec 2022)

I have not visited the site but have viewed aerial photographs, biological records from Staffordshire Ecological Record, and information on DEFRA's MAGIC map to inform my response.

#### Assessment of Submitted Documents and Plans

##### Impacts to Designated Wildlife Sites

Several designated European wildlife sites such as Motte Meadows SAC and Cannock Chase SAC are currently being negatively affected by increased nitrogen deposition, particularly nitrogen oxides and ammonia.

Increasing livestock numbers or introducing new livestock to an area may result in an increase in ammonia deposition to designated wildlife sites, either alone or in combination with other schemes.

After correspondence with the agent, it is understood that grazing animals are already present at the site, and that the proposed development will result in a decrease in stocking density. No new animals will be introduced for grazing purposes. It is also noted that fertiliser use on site will cease upon implementation of the low-density grazing regime. On this basis, it is unlikely that likely significant effects to designated wildlife sites will occur because of the proposed development, and that no further assessment in relation to Habitat Regulations Assessment (HRA) is necessary.

Furthermore, based on the results of ecological surveys undertaken at the site and taking the nature of potential impacts of the proposed development into consideration, I do not consider it likely that the proposed development will result in significant effects to other designated wildlife sites.

##### Protected Species

###### Bats

I note that both the ecological and arboricultural reports identify multiple trees on site with varying degrees of suitability to support bat roosts. Whilst no further detailed surveys of the trees have been progressed in this respect, I have taken the existing land use and habitats into consideration in relation to the low suitability of foraging habitat at the site which is broadly reflected in the results of the bat activity survey data. The proposed development includes substantial buffers from retained mature trees and will increase connectivity between trees in the long-term through the creation of hedgerows.

Based on the data presented, I am satisfied the impacts to foraging and commuting bats because of construction are likely to be short-term and minimal, and that the proposed landscaping and change of land use will result in a positive effect to foraging and commuting bats in the long-term.

###### Breeding and Wintering Birds

I am satisfied that the habitat created within the site and within Field 9 is likely to be sufficient to mitigate and compensate for adverse effects to breeding and wintering birds; subject to appropriate management being secured.

###### Hazel Dormouse

The site falls within proximity to a historical hazel dormouse record, and I welcome the increased ecological connectivity and provision of hazel dormouse boxes proposed by the applicant. I am satisfied with the assessment in relation to potential impacts to hazel dormouse and am satisfied that the likelihood of significant negative effects is negligible.

I acknowledge the avoidance, mitigation, compensation and enhancement measures detailed within the ecological reports, and providing these are fully implemented, I am satisfied that the proposed development will not result in significant adverse effects to protected species.

###### Great Crested Newt

I am satisfied that the risk to GCN because of the proposed development is negligible, based on the negative results of eDNA surveys of ponds within the appropriate distance from the site. I have included an informative note to be applied to the decision notice in relation to protected species in the unlikely event that GCN are subsequently found during construction.

Other Mammals (badger, brown hare, hedgehog, etc.)

I am satisfied with the approach to minimising risks to other mammal species as detailed within the biodiversity management plan, including to badger for which update surveys prior to commencement have been recommended.

I have proposed that a Construction and Ecological Management Plan (CEMP) with concise actions for the reference of site operatives be submitted and secured by condition. This will ensure that the approach to minimising impacts to ecological features as well as detail on who is responsible for ensuring appropriate actions are undertaken (i.e., toolbox talks, installation and location of protective fencing etc.) are clear prior to commencement of works on site.

Habitats and Biodiversity Net Gain (BNG)

The proposed red and white tape to denote biodiversity protection areas (i.e., ponds) as specified in the biodiversity management plan is not sufficient to preclude damage to these areas from construction traffic etc. The tape is fragile and will not withstand damage from machinery, it therefore cannot be relied upon to prevent damage as is intended. As such, the proposed CEMP must identify biodiversity protection zones and suitable fencing around

these areas to ensure that impacts will be avoided whilst maintaining connectivity for terrestrial species.

In relation to BNG, the Nature Recovery Network mapping identifies that the site falls within the following habitat connectivity opportunity areas:

- Woodland (partially at the northern extent of the site)
- Wetland (partially along the southern extent of the site)
- Arable and pastures (partially at the centre of the site)

Following liaison with Wychwood Biodiversity I proposed amendments to the submitted DEFRA metric which have been mutually agreed with Wychwood Biodiversity. I am therefore satisfied that the biodiversity net gain assessment is appropriate and acceptable.

I have reviewed the biodiversity management plan and am broadly satisfied with the management detail provided in the document. I have proposed a condition to implement the habitat monitoring as detailed within Table 2 on page 34 of the biodiversity management plan.

Whilst the management plan details the actions to be taken on site, I consider it necessary to provide a standalone management schedule (as recommended within BS42020) which can be kept on site for site management and operatives to refer to for ongoing habitat management measures. I have therefore also proposed a condition for submission of a concise management schedule which summarises the yearly management activities to be undertaken on site for the lifetime of the proposed development, ensuring management detail will deliver the stated conditions within the submitted DEFRA biodiversity metric as well as responsible bodies for undertaking those actions. This can subsequently be referred to by site management as a concise prescription of management actions as they arise on a yearly basis.

Recommendations

Should you be minded to approve the proposed development, I recommend that the following conditions and informative notes are added to any decision notice:

Condition - Compliance with submitted documents

1. All ecological measures and works, including monitoring works (as specified within Table 2 of the document), shall be carried out in accordance with the details contained in the Biodiversity Management Plan by Wychwood Biodiversity Ltd dated February 2023 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination, unless otherwise agreed in writing by the Local Planning Authority. Monitoring reports will be submitted to the Local Planning Authority within 3 months of their completion.

Reason: To prevent harm to, and to secure enhancements for habitats and species of conservation value in accordance with Policy EQ1 of the adopted Core Strategy, and to secure a net gain in biodiversity in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.

Condition - Construction and Ecological Management Plan (CEMP)

2. No development shall take place, including demolition, groundworks or any necessary vegetation clearance until a construction and ecological management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:

- a) A risk assessment of potentially damaging activities and the phases associated with them.
- b) Identification of biodiversity protection zones (i.e., ponds, trees and hedgerows) on appropriately scaled plans.
- c) Practical measures (both physical measures and sensitive working practices such as timing) to avoid or reduce impacts during site clearance and construction.
- d) The location and timing of sensitive works to avoid harm to ecological features.
- e) The times during construction when an ecological clerk of works (ECoW) needs to be present (if appropriate).
- f) Role and responsibilities of the ECoW if appropriate.
- g) Responsible persons and lines of communication.

The approved CEMP scheme shall thereafter be fully implemented throughout all construction work and any physical protective measures kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.

Reason: To prevent harm to habitats of conservation value and protected species in accordance with Policy EQ1 of the adopted Core Strategy.

Condition - Biodiversity Enhancements

3. All ecological enhancement measures as detailed in the 'Biodiversity Enhancements' section on Pages 32 and 33 of the Ecological Assessment report by Wychwood Biodiversity dated 2nd February 2023 will be implemented in full. A statement of conformity, confirming that all enhancement measures have been implemented, with photographs, must be submitted to the Local Planning Authority within 6 months of the site being operational to evidence the installation of all features at the site.

Reason: To provide enhancements for protected species and species of principal importance in accordance with Policies EQ1 and EQ11 of the adopted Core Strategy.

Condition - Mammal Access

4. All perimeter fencing will have mammal gates installed at 100m intervals, and fencing around ponds will have no less than five gates installed. These gates must be open to allow uninhibited passage of smaller mammals such as hedgehog and brown hare. The gates will be maintained and retained for the lifetime of the development.

Reason: To provide enhancements for protected species and species of principal importance in accordance with Policies EQ1 and EQ11 of the adopted Core Strategy.

Condition - Biodiversity Monitoring and Management Schedule

5. Prior to commencement a Biodiversity Monitoring and Management Schedule will be submitted to the Local Planning Authority for written approval. The Biodiversity Monitoring and Management Schedule must contain:

- Description and location plan of features/habitats to be managed.
- Aims and objectives of management, including (where appropriate) descriptions of target conditions as detailed within the approved DEFRA biodiversity metric.
- Detailed management prescriptions and a work schedule with annual plan of actions to be taken.
- Responsible bodies/organisations for the implementation of actions within the work schedule including delivery, future maintenance and monitoring.

Reason: To secure enhancements for habitats of conservation value in accordance with Policy EQ1 of the adopted Core Strategy, and to secure a net gain in biodiversity in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.

Informative Notes:

Any vegetation that is suitable for nesting birds (i.e. hedgerow) must either be removed outside of the nesting bird season (generally this is considered to be March-August inclusive) or it must be checked by an

ecologist no more than 24 hours prior to removal. Should nesting birds be found the nests must be left until chicks have fledged and the nest is no longer in-use.

Please note that planning permission does not override or preclude the requirement to comply with protected species legislation. Should protected species be found (or be suspected to be present) at any time during site clearance or construction, works must cease immediately and Natural England and/or a suitably qualified professional ecologist must be contacted for advice.

Policy and Legislative context in relation to this application

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

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

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

The Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981 (as amended); along with the Protection of Badgers Act 1992, provide the main legislative framework for protection of species. In addition to planning policy requirements, the LPA needs to be assured that this legislation will not be contravened due to planning consent. In addition to these provisions, section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. Section 41 refers to a list of habitats and species of principal importance to which this duty applies. Natural England Standing Advice which has the same status as a statutory planning response states that survey reports and mitigation plans are required for development projects that could affect protected species, as part of obtaining planning permission.

European Protected Species (to include in Committee/Delegated reports as an Annex, not on Decision Notices)

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation of Species & Habitats Regulations 2017 which identifies 4 main offences for development affecting European Protected Species (EPS).

- Deliberate capture or killing or injuring of an EPS
- Deliberate taking or destroying of EPS eggs
- Deliberate disturbance of a EPS including in particular any disturbance which is likely to:

I. impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or

II. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or

III. to affect significantly the local distribution or abundance of the species to which they belong.

- Actions resulting in damage to, destruction of, or obstruction of an EPS breeding site or resting place.

Ecological survey results indicate that European Protected Species are unlikely to be affected by the proposed development. Therefore, no further consideration of the Conservation of Species & Habitats Regulations is necessary.

**Arboricultural Officer**

27<sup>th</sup> November 2023

The revised Module Array Layout plan (ref. GBR.0009.DEV.M4.001.0.B.j) does not appear to be substantively different from previous versions in allowing extra space around retained trees on site. There

are still several locations where access routes and solar arrays are placed in very close proximity to nominal Root Protection Areas (RPAs).

Whilst I accept that there are no significant incursions into the RPAs, with those that do exist being compensated for with only minor offsets, it still creates potential issues around tree protection fencing being placed under pressure from construction activity.

I would have preferred to see greater efforts made to address the issue by reducing the footprint of the arrays etc. but, in the absence of greater space for trees, potential conflicts can be managed with a robust tree protection specification detailed in an appropriate method statement and tree protection plan.

Therefore, I am prepared to withdraw my holding objection to the development on the understanding that the following condition is attached to any consent issued:

#### Arboricultural Method Statement and Tree Protection

Prior to the commencement of any construction related activity on site an Arboricultural Method Statement, providing comprehensive details of all tree protection measures including a dedicated tree protection plan, protective fencing specification and construction methods within 5 metres of all Root Protection Areas, shall be submitted to the Local Planning Authority for approval. Subsequently, all measures within the approved method statement and associated tree protection plan shall be adhered to until all construction related activity has been completed.

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

#### **Environmental Health Protection**

8th March 2023

The application seeks the Installation of a solar farm around Land Around Preston Hill Farm . The applicant has submitted a noise impact assessment of the site in relation to residential noise sensitive receptors by ion Acoustics. The contributor to the background noise is low frequency noise which can travel a considerable distance and potentially have a detrimental impact on residential amenity. I note the applicant has assessed the level of noise against the standard given by BS4142: 2014 and concludes that siting the inverter away from any noise sensitive receptor will obviate any significant noise on residents within proximity to the farm. It would have been pragmatic to carry a frequency analysis of the noise from the inverters proposed. However, given the site location and the distance of the site from a residential properties, I will accepted the methodology used subject to the following condition:

#### Plant Noise condition

The combined rating levels of sound emitted from all fixed plants and/or machinery associated with the development at the use hereby approved shall be less than or equal to the background sound levels between the hours of 07.00 - 23.00 (Taken as a 1 Hour LA90 at the site boundary) and 23.00 - 07.00 (taken as a 15 minutes LA90 at the site boundary) All measurements should be made in accordance with the methodology of BS4141:2014 (Method for rating and assessing industrial and commercial sound) and / or its subsequent amendments.

Any deviation from the LA90 time interval stipulated shall be agreed in writing with the local planning Authority.

Condition - Construction Management Plan



Prior to the commencement of the development a Construction Management Plan shall be submitted to and agreed by the Local Planning Authority outlining measures that will be taken to control dust, noise, vibrations and other environmental impacts of the development.

Reason: To safeguard the amenity of the neighbours by minimising impacts of the development that would otherwise give rise to nuisance.

### **County Highways**

1st September 2023

Recommendation Summary: Conditional

Site Visit Conducted on: 31-Aug-2023

1. The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been reconstructed in a suitable stable material for a minimum distance of 20.0m.
2. The development hereby permitted shall not be commenced until the visibility splays identified on the submitted proposed site entrance plan have been provided and maintained.

Reasons.

1 & 2. In the interest of highway safety.

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

Notes to Planning Officer.

- i). The proposed development is located in a rural area with an existing field access off a road subject to a speed limit of 40 mph. There are no recorded vehicular accidents within the visibility splay of the existing access in the last 5 years.
- ii). The information submitted by KMR is noted but the standards contained within this document from the various design guides are more appropriate for the construction of new roads. The majority of the vehicular movements associated with this development are for the construction period only which is a relatively short period of 4 to 6 months.
- iii). The contents of the e-mail dated 27th March with regards to an incident with an HGV, horse and rider has been noted. Unfortunately this can not be included as a statistic as it has not come from an official source. Accident data can only be used from an official Police report.
- iv). The additional information provided does not alter previous highways response and the swept path analysis is acceptable on the presumption of the lorries used for deliveries.
- v). This Form X supercedes previous dated 28th April 2023.

### **Staffordshire County Council Flood Risk Management Team**

24<sup>th</sup> August 2023

Staffordshire County Council Flood Risk Management position

We are now satisfied with the submitted proposals and have no objection to the granting of full planning permission.

The LLFA would however like it to be noted that any works on or around any of the Ordinary Watercourses on or in proximity to the development site may require Ordinary Watercourse Consent from the LLFA. This is a separate matter to planning permission.

**Conservation Officer**

21<sup>st</sup> November 2023

Amended plans have been submitted following on from previous comments. There have been some amendments made to the scheme following on from discussions and panels have been removed from the field closest to Preston Hill Farm and Preston Hill Cottages. The proposed tree planting which would have potentially been damaging to the potential archaeology has been omitted.

There is more space in the immediate vicinity of the listed buildings. Whilst these changes have been made and the scheme has been improved, it is still felt that there is a level harm caused to the setting of the designated heritage assets. Having assessed this it is felt that this harm is less than substantial and will need to be considered in the planning balance.

**Historic England**

15<sup>th</sup> November 2023

We refer you to our advice and concerns as set out in the previous letter of 09/03/23.

9th March 2023

Thank you for your letter of 21 February 2023 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.

Historic England Advice

We note that the proposed development lies in particularly close proximity to three listed buildings:-

ListEntry 1188122  
Name PRESTON HILL FARMHOUSE  
Grade II <https://historicengland.org.uk/listing/the-list/list-entry/1188122>

ListEntry 1039194  
Name PRESTON VALE FARMHOUSE  
Grade II <https://historicengland.org.uk/listing/the-list/list-entry/1039194>

ListEntry 1188124  
Name BARN AND ATTACHED ENGINE HOUSE APPROXIMATELY 30 YARDS NORTH OF PRESTON VALE FARMHOUSE  
Grade II <https://historicengland.org.uk/listing/the-list/list-entry/1188124>

Surviving ridge and furrow earthworks comprising the remains of medieval and later arable cultivation (long ago it appears laid to grass) can be seen lying in Field 7.

In following the methodology for the robust assessment of setting impacts set out in our GPA3 Setting of Heritage Assets, <https://historicengland.org.uk/images-books/publications/gpa3-setting-of-heritage-assets/> these earthworks, which comprise historic landscape setting to the listed buildings form part of the context in which the assets are experienced moving around in that historic landscape (kinetic views). The setting impact of installing a solar array in field 7 and thereby transforming the experience of those ridge and furrow earthworks as historic landscape setting to the listed buildings appears under-addressed in the application. The significance of the listed buildings is rooted in their farmed landscape and agricultural community context and as such the obscuring of the earthworks in Field 7 and the transformation of that historically structured space between the listed buildings should be regarded as harm (at a considerable - less than substantial level) to their significance.

These are matters of the setting of grade ii listed buildings where we would generally refer you to the advice of your Conservation Officer, our concerns are therefore focused on the strategic need that matters are well assessed further to NPPF paragraphs 194 and 195 and for your authority to seek to resolve areas of conflict between conservation and development. Refinement of the scheme submission is needed so that your authority can address the requirements in NPPF paragraphs 199, 200 & 202 for all harm to designated heritage assets to be clearly and convincingly justified and afforded great weight in balancing against public benefits. NPPF para 158 addresses the overall need for renewable energy and that schemes whose impacts are (or can be made acceptable) should be consented. In this instance we note the scheme is drawn to 49.9MW capacity, the upper end of the range for an LPA application, we urge you to look at the justification for field 7's inclusion critically and seek to address the significance of the listed buildings in their shared setting through revision to the scheme in that area (and thereby potentially make the impacts of the scheme acceptable) in line with statute and local and national policy and guidance in which context our GPA2 <https://historicengland.org.uk/images-books/publications/gpa2-managing-significance-in-decision-taking/> will be of assistance.

#### Recommendation

Historic England has concerns regarding the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 158, 194, 195, 199, 200, 202 of the NPPF, in which contexts we refer you to the expertise of your conservation officer and your archaeological advisors (also in relation to paragraph 205).

In determining this application you should bear in mind the statutory duty of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

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

#### **Historic Environment Officer Archaeology**

13th March 2023

Thank you for your consultation request regarding the planning application for installation of a solar farm comprising: ground mounted fixed tilt bifacial solar panels; access tracks; string inverters; transformers; electrical connection compound; storage containers; underground cables and conduits; perimeter fence; stock fences; temporary construction compound; and associated infrastructure and planting scheme at the above site. This letter outlines the response of Staffordshire County Council's Historic Environment Team regarding the historic environment implications of the proposals.

We had detailed conversations with the applicant's archaeological consultant (AC) at the pre-application stage and had an opportunity to review and comment on the submitted Historic Environment Desk Based Assessment (HEDBA) and Geophysical Survey (GS) reports at that point. In terms of the archaeological potential of the application site, we are generally supportive of the conclusions of the HEDBA, and have advised the AC that further evaluation, in the form of archaeological trial trenching will be required as a condition of planning consent.

With regards to the potential impact of the proposals on the historic environment, I am happy to defer to your Conservation Officer colleague and Historic England in relation to the impact on listed buildings and other designated heritage assets.

#### Archaeological Recommendations

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

In addition, given the presence of earthworks relating to medieval ridge and furrow within the application site (as identified in the HEDBA and GS), it is recommended that a Level 2 earthwork survey (as outlined in Historic England's Understanding the Archaeology of Landscapes: A Guide to Good Recording Practice (Second Edition), 2007) should be carried out in order to record these and any less visible associated features such as plough headlands or trackways) in advance of the proposed development.

#### Policy and Standard and Guidance

The above approach, i.e. evaluation, is supported by NPPF (2021) para 194, while any works which stem from the evaluation and the earthwork survey are supported by NPPF (2021) para 205.

All archaeological works must be undertaken by an appropriately experienced archaeological organisation (with suitably experienced personnel) or historic environment professional/ archaeologist working to the requirements of a brief prepared by this office (or approved Written Scheme of Investigation (WSI), the Chartered Institute for Archaeologists (CIfA) Code of Conduct (or equivalent) and to a level commensurate with the relevant CIfA Standards and Guidance.

#### Suggested Condition

The above works\* could be most satisfactorily secured via a condition attached to any planning permission for the scheme. This condition should read:

"A) The archaeological site work shall be implemented in full in accordance with the approved written scheme of archaeological investigation submitted in support of the application

B) The development shall not be occupied until the site investigation and post-fieldwork assessment has been completed in accordance with the approved written scheme of archaeological investigation and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured."

#### **Ramblers Association**

31st August 2023

Thank you for your letter of 15th August 2023 and the accompanying plan.

I write to inform you that the amended plans for the above mentioned proposal will have no adverse effect on The Staffordshire Way Long Distance Path which goes along Preston Vale Lane.

Therefore The Ramblers Association has no objections to it.

#### **AONB Officer**

25<sup>th</sup> September 2023

Thank you for consulting the AONB on the above application. I wish to make the following comments on behalf of the Cannock Chase Area of Outstanding Natural Beauty (AONB) Joint Committee. The status of the AONB in relation to the national legislation and guidance and the local planning and decision-making context is set out in the annexe.

AONB Conclusion: No Objection

The following comments include:

- Planning Context;
- A review of the Existing Site;
- An Appraisal of Proposed Development; and
- AONB Review

Planning Context

- National Planning Policy Framework (NPPF) 2019

The need for well-designed places is covered in Section 12 'Achieving well-designed places' which states:

"The creation of high-quality buildings & places is fundamental to what the planning & development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live & work and helps make development acceptable to communities..." (para. 124).

Also: "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area & the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents..." (para. 130).

Section 15 covers 'Conserving and enhancing the natural environment' with paragraph 172 giving AONB's the highest status of protection:

"Great weight should be given to conserving & enhancing landscape & scenic beauty in National Parks, the Broads & Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation & enhancement of wildlife & cultural heritage are also important considerations in these areas, & should be given great weight in National Parks & the Broads.

The scale & extent of development within these designated areas should be limited. Planning permission should be refused for major development other than in exceptional circumstances, & where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) The need for the development, including in terms of any national considerations, & the impact of permitting it, or refusing it, upon the local economy;
- b) The cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) Any detrimental effect on the environment, the landscape and recreational opportunities, & the extent to which that could be moderated." (para. 172)

- The National Design Guide 2019

The National Design Guide forms part of the Government's planning practice guidance & sets out the characteristics of well-designed places through ten identified characteristics. These characteristics reflect the Government's priorities & provide a common overarching framework. The ten characteristics of well-designed places are:

- Context: enhances the surroundings
- Identity: attractive and distinctive
- Built form: a coherent pattern of development
- Movement: accessible and easy to move around

- Nature: enhanced and optimised
- Public spaces: safe, social and inclusive
- Uses: mixed and integrated
- Homes & buildings: functional, healthy and sustainable
- Resources: efficient and resilient
- Lifespan: made to last

- Local Policy: South Staffordshire District Council (SSDC)

The importance of Cannock Chase AONB is highlighted within the South Staffordshire Core Strategy (2012) which acknowledges its statutory obligation to protect and manage this landscape.

Core Policy 2: 'Protecting and Enhancing the Natural & Historic Environment' notes that the LPA will "support development & initiatives which protect, conserve & enhance the District's natural & heritage assets", including the AONB. The strategy underlines the importance of partnership work to implement this policy with regard to the AONB.

Policy EQ4: 'Protecting & Enhancing the Character & Appearance of the Landscape' notes that design of "new development will need to take full account of the nature & distinctive qualities of the local landscape" retaining & strengthening local distinctiveness, & that thorough scrutiny will be particularly vital for development within the AONB "in order to conserve and enhance the landscape, nature conservation & recreational interests of the area".

#### Existing Site

- At its nearest point the development site is 5.4km west of the Cannock Chase AONB boundary, at Buxtons, adjacent to the A34;
- The development site is sufficiently far away from the AONB that 'Cannock Chase AONB Design Guide' does not identify its Landscape Character Area;
- The development site is sufficiently far away from the AONB that the 'Cannock Chase AONB Views and Setting Guide' does not identify its Setting Zone;
- The site is not in the Green Belt;
- The site is not in a Conservation Area;
- The 62ha site (red line boundary) is accessed from Levedale Road, Penkridge.

The attached 'Landscape Designations & Visual Receptors' produced & submitted as part of the application by 'Viento Environment' clearly identifies the spatial relationship between the proposed 'Preston Hill Solar Farm' development site (red line boundary) & Cannock Chase AONB (yellow boundary). It also identifies the proposed 'Littywood Solar Farm' (blue line boundary):

#### Appraisal of Proposed Development

The application to SSDC (Ref: 23/00009/FUL) has been made by Aura Power Developments Limited.

The proposed development is for a solar farm that would be located on farmland 1km northwest of Penkridge between Levedale Road & Preston Vale Lane in Staffordshire. The proposed site is within a rural setting, with isolated dwellings to the southwest, Stafford Road & the Stafford to Wolverhampton railway to the east. Small settlements set within an agricultural context extend westwards along the Whiston Brook valley.

The development proposal consists of a solar farm to include the following:

- Bi-facial ground mounted solar panels within an area of approximately 62ha;

- Approximately 250 String Inverter Units;
- 19 No. Transformer Units;
- A substation compound containing protection equipment, isolation switches, metering equipment, client & DNO buildings, & palisade fence;
- A storage unit;
- An access tracks made of crushed stone over a geotextile membrane;
- Perimeter & stock fencing;
- A temporary compound;
- Associated infrastructure; and
- A planting scheme.

It is anticipated that the proposed development would be generating electricity for a period of thirty-five (35) years. The proposed solar farm would have a rated capacity of up to 49.9MW. The panels would be ground-mounted to a maximum height above ground of up to 3.0m angled at around 10-15 degrees facing south.

#### Cumulative Effect

In addition to the Preston Hill Solar Farm application (23/00009/FUL) there are additional planning applications that have been validated by SSDC but are yet to be determined, including:

- Levedale Road Battery Energy Storage System (BESS), planning reference 23/00145/FUL, validated by the Council in March 2023 & located c.0.4km at its closest point to the northwest of Preston Hill Solar Farm; and
- Littywood Solar Farm, planning reference 22/00936/FUL, validated by the Council in December 2022 & located c.2.2km to the northwest of Preston Hill Solar Farm.

There is the potential that the combined visual impact of two or three of the potential developments could be great than the sum of two or three of the proposed development when assessed individually.

As a result, the Council's Landscape and Planning Officers have requested that a cumulative reviews of these two proposals (Preston Hill Solar Farm and Levedale BESS) & have identified in the case of Preston Hill Solar Farm, three development scenarios:

- Development Scenario One (DS1) is set out within the main LVIA report for Preston Hill Solar Farm & assesses the effects of the proposed Preston Hill development on the existing baseline containing no solar farms & no battery storage developments;
- Development Scenario Two (DS2) assesses the combined effects of the two proposed solar farms on the existing baseline, & its findings are described in the March 2023 report 'Assessment of Cumulative Effects with Littywood Solar Farm'.
- Development Scenario Three (DS3) assesses the combined effects of the Preston Hill Solar Farm proposal & the Levedale Road BESS proposal on the existing baseline, & its findings are described in the July 2023 report 'Assessment of Cumulative Effects with Levedale Road BESS'.

The complex inter-relationship of the various aforementioned applications, assessments & development scenarios associated with assessing the impact & cumulative effect of potential developments near to Preston Hill Solar Farm are outlined in the image below:

AONB Review

The AONB considers the submitted design proposals provide adequate information & detail in order to make a comment regarding the application.

'Cannock Chase AONB Views and Setting Guide' identifies Viewpoint Locations 15, 16 & 18 as being significant & relevant viewpoints from within or near the AONB towards the proposed Preston Hill Solar Farm, Littywood Solar Farm & Levedale Road BESS sites:

- Viewpoint 15: 158m AOD, inside AONB, looking northwest from Bridleway Hatherton.
- Viewpoint 16: 180m AOD, adjacent to AONB, looking northwest from Huntington Mound, Huntington; and
- Viewpoint 18: 173m AOD, inside AONB, looking west from the Staffordshire Way, west of Camp Road.

#### DS1: Landscape & Visual Impact Assessment

'Landscape & Visual Impact Assessment (Nov 2022)' identifies 14 viewpoints for consideration, including the AONB's 'Viewpoint Locations 15, 16 & 18' as 'Viewpoints 13, 12 & 14' respectively, & describes the 'Effects on Landscape Character & Visual Amenity' within 'Appendix LV2 - Viewpoint Analysis' with further detail provided in 'Table B3' of the same document. The highlights of the relevant analysis includes the following:

L VIA Viewpoint 12: Huntington Mound (AONB Important View 16)  
Assessment of Effects on Landscape Character: Moderate / Minor Adverse  
Assessment of Effects on Views: Minor +

L VIA Viewpoint 13: Bridleway across Shoal Hill (AONB Important View 15)  
Assessment of Effects on Landscape Character: Moderate / Minor Adverse  
Assessment of Effects on Views: Minor +

L VIA Viewpoint 14: Staffordshire Way west of Camp Road (AONB Important View 18)  
Assessment of Effects on Landscape Character: No effects  
Assessment of Effects on Views: No effects

#### DS2: Assessment of Cumulative Effect of Preston Hill and Littywood Solar Farms

'Assessment of Cumulative Effects with Littywood Solar Farm (March 2023)' assesses 8 viewpoints, including the AONB's 'Viewpoint Locations 15, 16 & 18' as 'Viewpoints 13, 12 & 14' respectively, & describes the 'Effects on Landscape Character & Visual Amenity'. The highlights of the relevant analysis includes the following:

L VIA Viewpoint 12: Huntington Mound (AONB Important View 16)  
Assessment of Effects on Landscape Character: Minor + Adverse  
Assessment of Effects on Views: Moderate / Minor

L VIA Viewpoint 13: Bridleway across Shoal Hill (AONB Important View 15)  
Assessment of Effects on Landscape Character: Moderate / Minor Adverse  
Assessment of Effects on Views: Minor +

L VIA Viewpoint 14: Staffordshire Way west of Camp Road (AONB Important View 18)  
Assessment of Effects on Landscape Character: No effects  
Assessment of Effects on Views: No effects

Cumulative Effects on Landscape Fabric



Given the separation distance of 2.3km between the proposed Preston Hill & Littywood solar farms, there is no potential for individual landscape elements to be directly affected by both proposals, such as an individual woodland or length of hedgerow.

#### Cumulative Effects on Landscape Character

The existing mature field boundaries that characteristically surround both sites, & the further mitigation planting measures proposed at both sites means that any significant effects on landscape character as a result of each proposal would be extremely limited & contained.

#### Combined Effects on Visual Amenity

From the AONB views to the west are regularly limited & interrupted by vegetation, with the result that both proposals are generally not visible from the same locations.

#### Summary of Cumulative Effects

In summary, the addition of both the Preston Hill & Littywood Solar Farm proposals into the study area would result in no significant cumulative effects to landscape character or visual amenity. The distance between the two proposed sites & the good levels of existing vegetation both surrounding each site as well as in the local landscape means that any significant effects arising from each proposal would be contained within the locality of each site. As a result, the possibility for significant cumulative effects to arise from the combined experience of both proposals either sequentially or at the same time is avoided.

#### DS3: Assessment of Cumulative Effect of Preston Hill and Levedale Road BESS

The 'Assessment of Cumulative Effects with Levedale Road BESS (July 2023)' does not include an assessment of the AONB's 'Viewpoint Locations 15, 16 & 18'.

#### Cumulative Effects on Landscape Fabric

The separation distance of approximately 0.4km between the proposed Preston Hill & Levedale Road sites means that there is no potential for individual landscape elements to be directly affected by both proposals, such as an individual woodland or length of hedgerow.

#### Cumulative Effects on Landscape Character

Given the limited extent of potential significant adverse effects on landscape character identified within the LVIA as a result of the Preston Hill proposal, no significant adverse cumulative effects are expected on Landscape Character Types as a result of the two proposals.

#### Combined Effects on Visual Amenity

Within the AONB the landform does tend to become more elevated, but at greater distances from both of the proposed developments where the layering of vegetation across the intervening landscape serves as an effective tool to screening at least one, if not both of the proposals. Cumulative fieldwork has found that the Levedale Road BESS proposal would not be discernible from VPs 9 - 14 due to the screening effects of vegetation.

#### Summary of Cumulative Effects

In summary, the addition of both the Preston Hill and Levedale Road proposals into the study area would result in no significant cumulative effects to landscape character or visual amenity. Each proposal is expected to result in limited & contained effects on landscape character and visual amenity.

The separation between the two proposed sites & the good levels of existing vegetation both surrounding each site as well as in the local landscape means that any significant effects arising from each proposal would be contained within the locality of each site. As a result, the possibility for significant cumulative

effects to arise from the combined experience of both proposals either sequentially or at the same time is avoided.

#### External Lighting

There are no external lighting proposals indicated within the proposals. Dark skies are intrinsic to the relative wildness & tranquillity of the AONB & important for its wildlife, so the AONB encourages all development to minimise & reduce light spillage. The AONB would welcome clarity as to whether external lighting is proposed & that appropriate controls are used to minimise light spillage.

#### Summary

The AONB considers the proposals & the cumulative effect of the proposals assessed in DS1, DS2 & DS3 will not adversely affect the landscape & natural beauty of the AONB.

I trust you can take the above comments into consideration.

#### **Severn Trent Water Ltd**

16th March 2023

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

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

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

#### **County Planning**

22nd February 2023

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

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

#### **County Countryside And Rights Of Way Officer**

21st February 2023

The Definitive Map of Public Rights of Way for Staffordshire shows a public right of way running adjacent to the application site.

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

Public Footpath No. 41 Penkridge Parish runs adjacent to the south west corner of the proposed site.

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

NPPF 100. states that: Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Users of the footpath must be able to exercise their public rights safely and at all times and the path be reinstated if any damage to the surface occurs as a result of the proposed development.

If the footpath needs diverting as part of these proposals the developer must apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the public rights of way to allow the development to commence. For further information the applicant must read section 7 of DEFRA's Rights of Way Circular (1/09). It is also strongly suggested, in order to avoid unwanted complications, that guidance should be sought from Staffordshire County Council as Highways Authority, regarding the exact position of the Public Right of Way shown on the Definitive Map.

Should this planning application be approved and any right of way require a temporary diversion, please see the County Council website for guidance and an application form.

Where private rights exist that allow the use of vehicles along a footpath, drivers of vehicles must give way to pedestrians. In the absence of private rights, driving a vehicle on a public right of way is a criminal offence.

Any trees and shrubs planted within 3 metres of the public right of way are the responsibility of the landowner not the Highways Authority (including maintenance and liability).

Any works that affect the surface of the footpath will require consultation with the County Council Rights of Way Team.

Staffordshire County Council has not received any application to add to or modify the Definitive Map of Public Rights of Way in that vicinity. The possibility of the existence of a currently unrecognised public right of way, makes it advisable that the applicant pursue further enquiries and seek legal advice regarding any visible route affecting the land, or the apparent exercise of a right of way by members of the public.

It should be noted that a nationally promoted route, The Staffordshire Way, also runs immediately adjacent to the southern boundary of the proposed site.

### **Natural England**

28th February 2023

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION

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

Natural England's further advice on designated sites/landscapes and advice on other natural environment issues is set out below.

#### Soils and Agricultural Land Quality

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

From the description of the development this application is likely to affect 27 ha of BMV agricultural land. We consider that the proposed development, if temporary as described, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas of agricultural land.

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

'Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.'

Footnote 53: Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.

We would also draw to your attention to Planning Practice Guidance for Renewable and Low Carbon Energy (March 2015) (in particular paragraph 013), and advise you to fully consider best and most versatile land issues in accordance with that guidance.

Local planning authorities are responsible for ensuring that they have sufficient information to apply the requirements of the NPPF. The weighting attached to a particular consideration is a matter of judgement for the local authority as decision maker. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England.

Should you have any questions about ALC or the reliability of information submitted with regard to BMV land please refer to Natural England's 'Guide to assessing Development proposals on Agricultural Land'. This document describes the ALC system including the definition of BMV land, existing ALC data sources and their relevance for site level assessment of land quality and the appropriate methodology for when detailed surveys are required.

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

Consequently, Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources and agricultural land, including a required commitment for the preparation of reinstatement, restoration and aftercare plans; normally this will include the return to the former land quality (ALC grade). General guidance for protecting soils during development is also available in Defra's Construction Code of Practice for the Sustainable Use of Soils on

Construction Sites, and should the development proceed, we recommend that relevant parts of this guidance are followed, e.g. in relation to handling or trafficking on soils in wet weather.

The British Society of Soil Science has published the Guidance Note Benefitting from Soil Management in Development and Construction which sets out measures for the protection of soils within the planning system and the development of individual sites, which we also recommend is followed.

We would also advise your authority to apply conditions to secure appropriate agricultural land management and/or biodiversity enhancement during the lifetime of the development, and to require the site to be decommissioned and restored to its former condition when planning permission expires.

#### Protected Landscapes - Cannock Chase AONB

The proposed development is for a site within or close to a nationally designated landscape namely Cannock Chase AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 176 and 177 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 177 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

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

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

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

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

17th March 2023

This planning application is for the Installation of a solar farm comprising of ground mounted fixed tilt bifacial solar panels; access tracks; string inverters; transformers; electrical connection compound; storage containers; underground cables and conduits; perimeter fence; stock fences; temporary construction compound; and associated infrastructure and planting scheme at Land Around Preston Hill Farm Preston Vale Penkridge Staffordshire ST19 5RA.

Summary

- The development falls within the red impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the red impact zone, there is highly suitable habitat and a high likelihood of great crested newt presence.
- There are Forty Four ponds within 500m of the development proposal. Fourteen are within the proposed red line boundary.
- There is direct connectivity between the development and surrounding features in the landscape.

#### Ecological Information

The applicant has provided an ecological report, Ecological Assessment, Preston Hill; Wychwood Biodiversity Limited, February 2023. Within this report it states that:

- 'The biodiversity data search returned records of two protected or notable amphibian species within 2km of the site boundary, these include common toad *Bufo bufo*, and great crested newt (GCN) *Triturus cristatus*. GCN habitat suitability assessment, and GCN environmental DNA Results indicated that GCN were not present in any ponds on site or within a 500m radius. No amphibians were recorded on site during the walkover surveys, however a significantly large hatching of toadlets (common toad) were observed during GCN habitat suitability surveys leaving a large pond 390m from the west boundary. The terrestrial habitat, particularly hedgerows, scrub, and wetter portions of modified grassland were considered suitable commuting, foraging, or hibernating habitat for GCN and other amphibian species.'
- 'The construction and operation of the solar farm is not expected to negatively impact amphibians, for the reasons outlined for reptiles above and the implementation of 10m buffers around ponds. Instead, the cessation of agricultural inputs will improve the water quality of the ponds, increasing their potential as breeding ponds for amphibians such as great crested newts and toads. Furthermore, the assembling of compost heaps and log piles throughout the site will provide hibernation sites, and the planting of new hedgerows and the native wildflower and grassland enhancements throughout the site will significantly boost the foraging and commuting opportunities.'

The ecological information provided has confirmed through further survey effort that great crested newts are likely to be absent from the site. However, as there were suitable terrestrial features within the site that could be used during the terrestrial life phases, reasonable avoidance measures have been suggested.

#### Conclusion and recommendation for conditions:

We are satisfied with this ecological report and are in agreement with the use of reasonable avoidance measure. Therefore we recommend a compliance condition is used to secure the measures and ensure they are complied with should planning permission be granted:

"The development hereby approved shall be implemented strictly in accordance with the recommendations/measures stated in section 'Requirements and Recommendations 4a' and of the supporting document: Ecological Assessment, Preston Hill; Wychwood Biodiversity Limited, February 2023. Reason: To minimise the impacts of development on biodiversity, in accordance with Policy EQ1 of the South Staffordshire Council Core Strategy, Section 15 of the NPPF, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006."

As the application site lies within a red impact zone for district licencing, we also recommend the use of the following informative:

The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

Additional:

If the applicant wishes to completely avoid any risks relating to Great crested newts, they have the option to enquire for South Staffordshire's Council's District Licence, which provides full legal cover for any impacts to Great crested newts and therefore removes the risk of having to stop works if Great crested newts are found on site. More details on the District Licensing Scheme operated by the council can be found at [www.naturespaceuk.com](http://www.naturespaceuk.com). There is an option available for covering temporary works for solar farm developments under the license.

Contact details: [info@naturespaceuk.com](mailto:info@naturespaceuk.com)

Legislation, Policy and Guidance

Reasonable Likelihood of Protected Species

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

Section 99 of ODPM Circular 06/2005 states:

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

Great crested newts

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

### **Stafford Borough Council**

31st August 2023

Due to the distance between the application site and the boundary of Stafford Borough Council's administrative Area, Stafford Borough Council raises no objection provided that the proposed development is compliant with the local policy context (South Staffordshire development plan) and the National Planning Policy Framework.

### **Staffordshire Fire And Rescue Service**

18th August 2023

FIRE MAINS, HYDRANTS AND VEHICLE ACCESS

Appropriate supplies of water for fire fighting and vehicle access should be provided at the site, as indicated in Approved Document B Volume 2 requirement B5, section 15 and 16.

I would remind you that the roads and drives upon which appliances would have to travel in order to proceed to within 45 metres of any point within the property, should be capable of withstanding the weight of a Staffordshire firefighting appliance (G.V.W. of 17800 Kg).

**Environment Agency**

No Response Received

**Severn Trent Water Ltd**

No Response Received

**Staffordshire Wildlife Trust**

No Response Received

**National Grid Transco**

No Response Received

**Arboricultural Officer Consultation**

No Response Received

**Western Power Distribution - Formerly Central Networks**

No Response Received

**Open Spaces Society**

No Response Received

**Public Comments**

82 letters were received.

11 offered support.

70 offered objections detailing:

- Determinantal impact on highway network
- Danger to highway users
- Loss of agricultural land
- Loss of views
- Detrimental impact on wildlife
- Danger to public health
- Impact on amenity from glare, noise and increased highway movements
- Impact on heritage assets
- Access to land issues
- Ownership issues
- Loss of countryside
- Cumulative impact on landscape
- Brownfield sites should be considered
- Inaccuracies of applicants reports



- Devaluation of house prices
- Conflict with human rights

## 5. APPRAISAL

5.1 The application has been referred to Planning Committee for determination as it is contrary to local plan policy OC1.

### 5.2 Key Issues

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

### 5.3 Principle of development

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

5.3.2 The site is situated within the Open Countryside where Policy OC1 applies, which states that the Open Countryside will be protected for its own sake, particularly for its landscapes, areas of ecological, historic, archaeological, agricultural and recreational value. Paragraph 180 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); and
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.

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

5.3.4 A solar farm of this scale and associated infrastructure (to include a sub-station, several inverters, CCTV cameras and perimeter fencing) would clearly have a material effect on the appearance and character of the Open Countryside, given that this is currently a large open green piece of agricultural land with views available from several vantage points. The proposal would not, therefore, meet the exception listed under Policy OC1 f) and it would not meet with any of the other exceptions to the presumption

against development. On that basis there is conflict with Core Strategy Policy OC1, and consideration should therefore be given to the impact of the development as to whether it would harm the intrinsic character of the Open Countryside. Other material planning considerations that weigh in the planning balance, including the proposal's potential contribution to climate change, will be discussed as follows.

#### 5.4 Policy approach to climate change and renewable energy provision

5.4.1 In June 2019, the UK became the first major economy to legislate for a 2050 net zero Greenhouse Gases ('GHG') emissions target through the Climate Change Act 2008 (2050 Target Amendment) Order 2019.

5.4.2 The Department for Energy Security and Net Zero have revised the National Policy Statements (November 2023) which sets out national policy for the energy infrastructure including renewable electricity generation. These policy documents detail the Energy White Paper, published in December 2020, outlined a strategy to transform the energy system, tackling emissions while continuing to ensure secure and reliable supply, and affordable bills for households and businesses. This was built on by the Net Zero Strategy, published in October 2021, which set out a long-term plan for the economy-wide transition to net zero that will take place over the next three decades. The British Energy Security Strategy, published in April 2022, and the Growth Plan of September 2022 further reinforced ambitions and the importance of addressing the Country's underlying vulnerability to international oil and gas prices and reducing our dependence on imported oil and gas. Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar.

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

5.4.4 The policy documents are wholly supportive of renewables. For the first time they introduce the notion that nationally significant low carbon infrastructure, now including all onshore and offshore electricity generation that does not involve fossil fuels, and grid infrastructure, are identified as a "critical national priority" (CNP). CNP infrastructure benefits from a policy presumption that its urgent need should generally outweigh its residual adverse impacts. Noting again that the publication and contents of these documents is a material consideration in the determination of TCPA solar applications, such as this.

5.4.5 In this regard, there is now a new direction on how CNP infrastructure should be treated in the planning balance, with the need case for CNP outweighing the residual effects "**in all but the most exceptional cases**". Although the policy makes clear that this presumption will not apply where residual impacts present "an unacceptable risk" to human health and public safety, defence, irreplaceable habitats or the achievement of net zero. This is beyond the support previously given to NSIPs and should be seen as a tilted planning balance in favour of delivering solar development.

5.4.6 NPPF paragraph 157 states that local planning authorities (LPA) should, through planning decisions, support the transition to a low carbon future in a changing climate by supporting renewable and low carbon energy and associated infrastructure. Paragraph 163 goes on to say that when determining planning applications for renewable and low carbon development, LPA's should:

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

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

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

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

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

5.5.1 Draft NPS EN-3 states that while land type should not be a predominating factor in determining the suitability of the site location applicants should, where possible, utilise previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land (avoiding the use of "Best and Most Versatile" agricultural land where possible).

- **Site Selection**

5.5.1 In selecting sites the applicants are first required to undertake an assessment of whether there is spare capacity within the network to facilitate a solar connection. According to the applicants, any such sites that economically viable are becoming increasingly rare. Sites are then screened with the following criteria in mind;

- a. Predominately flat,
- b. Physical separation from settlements;
- c. Whether any potential visual impact from immediate dwellings can be mitigated;
- d. Preponderance of existing visual screening;
- e. Field size and shading;
- f. Agricultural land quality, and whether the land could continue to be used for food production;
- g. Access suitability;
- h. Avoidance of landscape designations;
- i. Absence of flood risk;
- j. Opportunities for biodiversity enhancements.
- k. Proximity of heritage assets;
- l. Environmental designations;
- m. Landscape designations;
- n. Proximity to sensitive receptors;
- o. Local Plan designations;
- p. Land availability.

5.5.2 Based on the above, it was considered that the site was suitable for solar development. In addition to the above and in response to concerns raised by the LPA, the scheme has been amended to remove the area of the land to the south of the solar site that was allocated for bird nesting mitigation. This area of land was Grade 2 land and with its removal has resulted a decrease of this land being used to facilitate the proposal.

5.5.3 The use of agricultural / greenfield land is necessary as there is an absence of previously developed land of an equivalent size with any fewer environmental and physical constraints than the application site; this is also true when considering commercial roof space. Furthermore, the majority of the district is 80% Green Belt and to find a site of this size that is previously developed land is challenging. It could be suggested that such sites should be used more productively for regeneration purposes such as housing or employment use rather than a solar panel farm which may reduce the need for the release of further Green Belt land in the future. Whilst not a determining factor to which any weight is to be applied, it is a fact that the site here is not within the Green Belt but is within the Open Countryside where the character of the land should be protected for it's own sake, but does not have such a high level of protection.

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

- **Loss of Agricultural Land**

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

5.5.6 Subsequently, in 2015 Government published a written ministerial statement on solar energy, which stated that where possible, solar energy should be focused on domestic and commercial roof space and previously developed land. Where a proposal involves agricultural land, it must be clear that this is necessary and poorer quality land is to be used in preference to higher quality land. In a recent appeal decision (Leeming Substation APP/G2713/G/23/3315877) the inspector noted the NPPF has been updated on several occasions since 2015, makes no such requirement and only indicates where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of higher quality and makes reference to the draft National Policy Statements NPS EN-1 and EN-3.

5.5.7 Paragraph 013 of the Planning Practice Guidance (PPG) acknowledges that the deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, it is also noted that the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. The guidance recommends that

proposals allow for continued agricultural use where possible and/or encourages biodiversity improvements around arrays. Planning conditions can also be used to ensure that installations are removed when no longer in use and the land is restored to its previous use. Impacts on glint and glare, the need for security measures, the conservation of heritage assets and the potential to mitigate landscape impacts must all be carefully considered.

5.5.8 Turning back to the wording of NPPF paragraph 180, it states that valued landscapes should be protected and that the economic and other benefits of the best and most versatile agricultural land should be recognised. The footnote further advises that where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. Best and Most Versatile (or BMV) land is defined within the NPPF as Land in grades 1, 2 and 3a of the Agricultural Land Classification.

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

Grade 2 land (very good quality): 10.98 ha or 16%

Grade 3a (good quality): 14ha or 20%

Grade 3b (moderate quality): 44 ha or 64%

5.5.10 Natural England are a statutory consultee on development that would result in the loss of over 20ha of 'best and most versatile' (BMV) agricultural land and have recognised that the proposed development, if temporary, is unlikely to lead to significant permanent loss of BMV agricultural land, as a resource for future generations. This is because the solar panels would be secured to the ground by steel piles with limited soil disturbance and could be removed in the future with no permanent loss of agricultural land quality likely to occur, provided the appropriate soil management is employed and the development is undertaken to high standards. Although some components of the development, such as construction of a sub-station, may permanently affect agricultural land this would be limited to small areas.

5.5.11 The consultee has also noted that the development would see the loss of land available for the provision of food production which should be considered by the LPA. In this instance, the land has been used for the grazing of sheep and if this scheme is not approved there is no mechanism for the Council to ensure that the farmers use the land for the production of food. It was acknowledged in DEFRA's Food Security Report (2021) that 'the biggest medium to long term risk to the UK's domestic production comes from climate change and other environmental pressures like soil degradation, water quality and biodiversity. Wheat yields dropped by 40% in 2020 due to heavy rainfall and droughts at bad times in the growing season. Although they bounced back in 2021, this is an indicator of the effect that increasingly unreliable weather patterns may have on future production'. Scientists have confirmed that stopping the use of the fossil fuels and the use of more sustainable forms of energy such as solar panels will reduce the production of harmful greenhouse gas emissions. Generating renewable energy creates far lower emissions than burning fossil fuels. Transitioning from fossil fuels, which currently account for the lion's share of emissions, to renewable energy is key to addressing the climate crisis.

5.5.12 The area on which the solar panels are to be sited would continue to be used by sheep for grazing and without the growing of crops along with the use of associated fertilizers and pest controls, the quality of the land can actually improve in time. It is noted that the use of the land for solar panels would be for a significant period of time (35-40 years) and the 'temporary' nature could be brought into question. A more pertinent way to describe the stationing of solar panels may be as reversible and without harm and is undoubtedly a consideration that weighs into the balance. The method of installation is straightforward and involves limited interference from construction methods and can be removed via a decommissioning programme agreed by the LPA. It is a matter of fact and a determining factor that the loss of the land is not on a permanent basis and will still be able for future generations.

5.5.13 The amount of land used within the District for solar panels, either those with panels in situ, those with extant permissions or those awaiting decision (including appeals) amounts to 0.35% of all land within the district of South Staffordshire and only 0.49% of all agricultural land.

5.5.14 Overall therefore, as the proposal only sees the loss of 24.98 hectares of BMV land, of which 7ha are to provide ecology mitigation combined with there being no policy restricting the use of BMV land outright for the installation of solar panels as well as the provision of a sustainable method of generating electricity, on balance, and in this instance, the loss of a small amount of BMV considered acceptable.

## **5.6 Impact on the character and appearance of the Landscape and Cannock Chase AONB**

5.6.1 As previously discussed, paragraph 180 of the NPPF sets out protection for valued landscapes and advocates the recognition of the intrinsic character and beauty of the countryside. The site is roughly 6 miles west of the Cannock Chase Area of Outstanding Natural Beauty (AONB). Policy EQ4 specifies that development within the AONB and its setting will be subject to special scrutiny in order to conserve and enhance the landscape, nature conservation and recreation interests in the area. Policy EQ11 states that proposals should respect local character and distinctiveness, including that of the surrounding landscape, by enhancing the positive aspects and mitigating the negative aspects.

5.6.2 A Landscape and Visual Impact Assessment (LVIA) has been submitted which identifies that the Solar development would be situated within an irregular shaped series of arable fields bordered by field boundaries and roadside hedgerows. There is an electricity pylon crossing site along with a number of ponds with deciduous tree copses associated with them. The land slopes south towards Preston vale Lane with the highest parts of the site to the north which is bounded by Levedale Road beyond. The surrounding land is undulating varying in height generally from 80m to 110m AOD. There are a number of watercourses located within a 5Km radius area with the Staffordshire and Worcestershire Canal is located east of the application site. There are a number of visual receptors (residential dwellings) located predominately to the north and east of the application site, with dwellings historically associated with the farm, being found to the south. A number of public rights of way are found within the area which may afford glimpses of the site to recreational users.

5.5.4 The study and comments from the Senior Landscape Officer both conclude that there would not be any significant effects on landscape fabric, national or local landscape designations, or any of the other LCTs located within 5.0km of the application site. There would be no significant effects on the visual amenity of the vast majority of residential dwellings, on any public rights of way users or on the visual amenity of visitors to any of the visitor attractions, long distance recreational routes, or rail passengers. Furthermore, over time the proposed mitigation measures within the site would establish and begin to provide increased filtering and screening of views of the proposal within the area local to the site, strengthening the local landscape fabric in the locality. It is worthy to note that the scheme does not include any security lighting for times of darkness and security fencing is post and mesh fencing (akin to deer fencing found on private estates).

5.5.5 Having viewed the application site from a number of the key advantage points provided in the LVA, no reasons to dispute the findings of the study were found. A number of mitigating measures are proposed as part of the application, and whilst it is acknowledged that these will take a number of years to establish, they will over time provide suitable screening for the panels therefore limiting any long-term harm to the character of the landscape in accordance with local and national landscape planning policy.

- **Impact on the Cannock Chase AONB**

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

5.5.7 The AONB officer notes the site lies 5.4km from the AONB boundary. The AONB concludes that the proposal would not give rise to detrimental impacts on the special qualities or the landscape and natural beauty of the AONB. This is based on the evidence in the LVIA and bearing in mind the height of the proposed structures, the distance of view, existing and proposed site vegetation, and the effect of layering of intervening vegetation. Additionally, orientation of the solar panels relative to the AONB is unlikely to result in potential for glare to affect the AONB.

- **Glint and Glare Study**

5.5.8 A Glint and Glare Study has been carried out which considers impact on observer viewpoints, road safety and aviation safety. The report study area was based on a 1Km study area which found eighty-six residential receptors, thirty-eight road receptors and six rail receptors, however, thirty-one residential receptors and seventeen road receptors were dismissed due to them being within the no reflection zones. Overall, the study concluded that there would be some medium impact from glare until the mitigation measures are introduced and established, this impact reduces to low and no impact, with no significant effects overall.

- **Cumulative Impact**

5.5.9 At the request of the Council, the LVIA has been updated to account for other proposed developments within the locale, an application for another solar farm at Littywood Farm (planning application reference: 22/00936/FUL) which is situated approximately 2.3km to the North/North-west of the application site as well as a proposed battery storage facility located off Levedale Road, 0.4Km from the application site (application reference 23/00145/FUL) to the north west at their closest point. It is worth noting that the Littywood Farm solar application and the battery storage facility applications were both refused by Members at Planning Committee on the 19<sup>th</sup> September and 21<sup>st</sup> November respectively. The submitted updated LVIA concluded that there was sufficient separation distance between Preston Hill Farm and Littywood Farm. In relation to the battery storage site, the separation between the Preston Hill and Levedale Road sites along with the belt of mature vegetation around the northwestern boundaries of Preston Hill Farm, and the presence of an existing waterbody and proposed tree belt planting, adverse effects on the character of the landscape are anticipated to be contained within the locality of each site.

## **5.6 Impact on Heritage Assets**

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

5.6.2 Paragraph 201 of the NPPF states that local planning authorities should take into account the significance of heritage assets and how they may be affected by proposals, together with the desirability of sustaining and enhancing their significance whilst making a positive contribution to local character and distinctiveness (paragraph 203). Paragraph 206 goes on to say that "any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification". Where a proposal will lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against

the public benefits of the proposal (paragraph 208). This requirement is followed through within Policy EQ3 of the Core Strategy.

5.6.3 Preston Hill Farmhouse is a three storey farmhouse owned by one of the landowners for this application. At its closest point this property is approximately 140m from the proposed solar panels, with the main views from the property in a northeast direction and rear views to the southwest. The property has windows on side facades and a two storey extension to the rear. Essentially the property has many views in many directions. The main visibility of the proposal will be from rear windows to the west and northwest, with some more distant visibility of the proposal also available to the north and northeast. The open visibility of the proposal to the northwest and west with more limited visibility of the proposal from some other parts of the house as well would result in a substantial magnitude of change and a major effect on the visual amenity of these residents, which would be a significant, long term but reversible effect. Mitigation measures proposed at the site will add some screening to some parts of the view, such as in some parts of the view to the northeast, but as this is a landowner property, the focus has not been on mitigating visibility from this property and overall the visibility of the proposal would remain relatively unchanged through the lifetime of the development.

5.6.4 Concerns have been submitted by Historic England have been very carefully considered and were put to the applicants for consideration. In response to these objections, the applicants removed half of the solar panels that were proposed in field number 10 and would be visible to the rear of the farmhouse, as well as views to the farmhouse from Preston Vale Road. Further mitigation has also been proposed to the rear boundary of the property. However, Historic England maintain their concerns particularly in relation to the inclusion of field 7 and how it's ridge and furrows form part of the setting of the listed properties. They specifically request that the LPA consider the proposal in accordance with the requirements of the NPPF whilst giving regard to any comments submitted by the Council's Conservation Officer and County Archaeologist.

5.6.5 The Conservation Officer notes that although the scheme has been amended in lights of comments and has been improved, it is still felt that there is less than substantial harm to the setting of the heritage assets. It is also noted that English Heritage recognises that the solar panels represent less than substantial harm, indeed that the less than substantial is at a considerably less than substantial level.

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

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

5.6.8 In this case the public benefit is clear; there are benefits from renewable energy generation and ecology and biodiversity benefits. The proposed development will have a generating capacity of 49.9 MW.



This is equivalent to providing enough energy to power c.14,000 homes, whilst compared to generating electricity from natural gas, the development will save approximately 12,400 tonnes of CO<sub>2</sub> annually. This is set against the legally binding requirement for the UK to reach net zero by 2050 and to de-carbonise the electricity grid by 2035. In addition to South Staffordshire Council's declaration of a climate emergency.

5.6.9 The proposed development will have a biodiversity net gain of:

Habitat gain: 97.30%

Hedgerow gain: 87.28%

Watercourse gain: 100.77%

Other benefits include but are not limited to job creation (both direct and indirect, during construction and operation), payments of business rates to the Council and supporting wider economic prosperity in respect of domestic energy security.

5.6.10 It is considered that in this case, there is clear public benefit from the erection of solar panels which clearly outweighs the less than substantial harm to the setting on the heritage assets.

## **5.7 Impact on Archaeology**

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

5.7.2 Whilst no objections are raised on archaeological grounds, a further stage of archaeological evaluation, in the form of a staged evaluation, initially comprising a geophysical survey, should be carried out across the site in advance of any groundworks to inform the need for any further works. In addition, given the presence of earthworks relating to medieval ridge and furrow within the application site (as identified in the HEDBA and GS), it is recommended that a Level 2 earthwork survey should be carried out in order to record these and any less visible associated features such as plough headlands or trackways) in advance of the proposed development. The applicants have confirmed the acceptance of a pre-commencement condition reflecting the comments.

## **5.8 Highways**

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

5.8.2 In line with paragraphs 114 and 115 of the NPPF, the impact of development proposals on the highway network should be considered. Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.8.3 Based on the revised information submitted as well as full consideration of the independent highways report submitted by the local objectors, the County Highways Officer has raised no objections on highway safety grounds subject to conditions to secure the measures set out in the application. Road condition surveys can be carried out prior to and post development to identify any new or significant defects on the local road network so that appropriate repairs could be undertaken. Whilst the comments of the Fire

Service have been noted, the County Highways Team are a statutory consultee whose comments hold weight, and they do not have any objections to the one access point.

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

### **5.9 Drainage/Flooding**

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

5.9.2 A Flood risk assessment and Surface water strategy have been submitted in support of the application which reports the southern boundary of the site is partially located at the edge of Flood Zone 2, however, the majority of the site is identified as being in Flood Zone 1, the lowest risk category. Whilst the scheme would introduce a large impermeable area to the site it will comprise of large numbers of smaller panels with separation between individual panels that allow for rainwater to fall between. Any vulnerable structures will be located outside of any flood risk areas. Ongoing discussions were had after initial concerns were raised from the Lead Local Flood team with further information requested and received. A condition has been suggested which can be added to the permission if Members approved the application.

5.9.3 The scheme is considered in accordance with local and national policy.

### **5.10 Neighbour Amenity**

5.10.1 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. A number of objections have been received against the siting of panels in this location. These have been carefully considered.

5.10.2 The submitted LVA found a number of residential properties and farmsteads local to the application site and who may be able to see the proposal. However, a number of these will be screened by the existing land formation and existing screening vegetation.

5.10.3 A number of properties located within 1Km of the site particularly: Old Preston Hill Cottages, Preston Hill Farmhouse, Preston Hill Cottages, Riverside View, Preston Vale Cottage, Rose Cottage and an adjoining property, Preston Vale Farm, Whiston Mill and a few local farmsteads, Preston Fields Farm and Windy Ridge Farm will be able to view the proposed solar farm. The view of the development would however predominantly be from first floor windows, and only from those who face in that direction. It is well established in case law that the planning system is not here to protect individual views, nor can it attach any weight to the devaluation of properties (not that any evidence has been presented to confirm there would be). Notwithstanding this, the applicants have made every effort to ensure that mitigating planting is put in place to reduce the visibility from these properties. Over a period of time, this planting will establish and provide effective screening to the development.

5.10.4 A noise survey was submitted in support of the application and has been reviewed by the Environmental Health Officer. Baseline surveys were carried out in January 2022. It concludes that although it may be audible at certain times to some residential properties it will be low in absolute terms and not expected to have a negative impact on amenity. After submitting comments, the EH officer entered into discussions with the applicants to establish this level of harm and is now satisfied with the findings of the report and has requested an amended condition limiting the noise output from scheme (see formal conditions not comments as detailed earlier in the report).

5.10.5 In conclusion it is therefore considered that the proposal would not cause an adverse impact upon the amenity of neighbouring residential dwellings, thereby complying with Policy EQ9.

### 5.11 Trees and Ecology

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

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

5.11.2 Concerns were raised by the Senior Arboricultural Officer (SAO) in relation to potential harm to existing trees at the site access from Levedale Road. Amendments were made and reviewed by the SAO who has suggested a mitigating condition.

5.12.2 Overall the scheme proposes the replacement of 54.09 ha of 'cropland' and 14.67 ha of 'modified grassland', with 54.65 ha of 'modified grassland' (traditional grazing grassland); 12.03 ha of 'other neutral grassland' (ground nesting bird mitigation land, wild flower meadows, tussock grassland and wild flower margins, and foraging bird wildflower margins); and 0.64 ha of 'other woodland broadleaved' (tree belts). In addition, 5m wide foraging bird wildflower margins along the field edges will provide an accessible food resource for seed eating birds during the winter period. Existing hedgerows are to be 'infilled' with native hedgerow shrub species with an overall net gain of 0.58Km or 87.28% with an additional 0.49Km/0.64 ha of new tree planting. In relation to the need to provide compensation habitat for nesting birds, the Ecologist has clarified that if the fields were to be used for crops, particularly those over 60cm, this would significantly limit the suitability of the land for ground-nesting birds (such as skylark) due to reducing visibility from the nest site and increasing predation risk. The Council would be unable to secure any suitable form of compensation if the land were intensively farmed, and this would result in a residual negative effect to declining farmland bird species.

5.11.13 The Senior Ecologist has reviewed the submission and had further correspondence with the applications. They acknowledge the avoidance, mitigation, compensation and enhancement measures

detailed within the ecological reports, and is satisfied that the proposed development will not result in significant adverse effects to protected species provided these are fully implemented. A number of conditions are proposed. In addition to the avoidance of any impact, the scheme is also providing biodiversity net gain as detailed earlier in this report. It is therefore considered that the proposal will not cause a material harm to sites of nature conservation or protected species and is providing bio diversity net gain therefore complying with Policy EQ1.

## **5.12 Representations**

5.12.1 A number of comments have been received both in support and against the scheme. The strength of objection from nearby neighbours is recognised and has been seriously considered during the determination of this application. The key issues raised by the objectors have generally been addressed in the report.

5.12.2 The issues raised around land ownership were highlighted and brought to the applicant's attention. Although this was disputed, the applicants modelled up the junction in greater detail and amended the access slightly to ensure that this does not necessitate the use of the third-party land.

## **6. Human Rights**

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

## **7. CONCLUSION**

7.1 The proposed solar farm would have a material impact on the character and appearance of the Open Countryside, a Landscape that is valued for its own sake. However the development would make a significant contribution to the production of renewable energy which is a key target from national and local government. The proposal would result in less than substantial harm to the setting of a small number of Listed Buildings which, in this instance, is considered to be outweighed by the considerable public/environmental benefits of the scheme.

7.2 Although the site comprises a small amount of good quality agricultural land, the quality of the land would not be compromised in the long term, meaning it could revert back to arable farming in future and there is ample good quality farming land remaining in the District. The proposal incorporates biodiversity zones and enhanced planting buffers, as such the development would not detrimentally impact upon the landscape of the area nor harm biodiversity, and there would be no undue material harm to neighbouring amenity.

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

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

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 permission hereby granted is for the development to be retained for a period of not more than 40 years from the date when electricity is first exported to the electricity grid (First Export Date). Written confirmation of the First Export Date shall be submitted to the Local Planning Authority within six months of the First Export Date. Following the completion of the development, the site shall be decommissioned and all buildings, structures and infrastructure works hereby approved shall be removed and the land restored, in accordance with details to be submitted to and approved by the Local Planning Authority in writing. The approved details shall then be implemented in full within 6 months of approval of those details.
3. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
4. The development hereby permitted shall not be brought into use until the access drive rear of the public highway has been reconstructed in a suitable stable material, to be submitted to and agreed in writing by the Local Planning Authority for a minimum distance of 20.0m.
5. Prior to the commencement of all on site construction works, the approved means of vehicular access and visibility splays on Levedale Road as detailed on Visibility Splay drawing (ref. 218808-CCL-XX-00-DR-C-5001 rev. P03) and Vehicle Swept Path Analysis drawing (ref. 218808-CCL-XX-00-DR-C-5000 rev. P03) shall be provided and maintained hereafter.
6. Prior to commencement of the development a road condition survey and inspections of roads bordering the site to the north (Levedale Road) of the site shall be carried and submitted to the local planning authority;
  - Prior to commencement of development; and
  - Prior to completion of the development.Should any new or significant defects be identified, repairs shall be undertaken within 1 month and the road shall be made good in liaison with the County Highways Authority.
7. Prior to the commencement of the development a Construction Management Plan shall be submitted to and agreed by the Local Planning Authority outlining measures that will be taken to control dust, noise, vibrations and other environmental impacts of the development during construction. Thereafter the construction of the development shall be carried out in accordance with the approved Construction Management Plan.
8. Prior to the commencement of the development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.
9. The programme of archaeological works shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition 8.
10. The development hereby approved shall not be brought into use until the programme of archaeological works and post-excavation assessment has been completed in accordance with the

written scheme of archaeological investigation approved under conditions 8 and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

11. All ecological measures and works, including monitoring works (as specified within Table 2 of the Biodiversity Management Plan), shall be carried out in accordance with the details contained in the Biodiversity Management Plan by Wychwood Biodiversity Ltd dated February 2023 as already submitted with the planning application and agreed in principle with the local planning authority prior to determination, unless otherwise agreed in writing by the Local Planning Authority. Monitoring reports will be submitted to the Local Planning Authority within 3 months of their completion.
12. No development shall commence, including demolition, groundworks or any necessary vegetation clearance until a construction and ecological management plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include the following:
  - a) A risk assessment of potentially damaging activities and the phases associated with them.
  - b) Identification of biodiversity protection zones (i.e., ponds, trees and hedgerows) on appropriately scaled plans.
  - c) Practical measures (both physical measures and sensitive working practices such as timing) to avoid or reduce impacts during site clearance and construction.
  - d) The location and timing of sensitive works to avoid harm to ecological features.
  - e) The times during construction when an ecological clerk of works (ECoW) needs to be present (if appropriate).
  - f) Role and responsibilities of the ECoW if appropriate.
  - g) Responsible persons and available lines of communication.

The approved CEMP scheme shall thereafter be fully implemented throughout all construction work and any physical protective measures kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.

13. All ecological enhancement measures as detailed in the 'Biodiversity Enhancements' section on Pages 32 and 33 of the Ecological Assessment report by Wychwood Biodiversity dated February 2023 will be implemented in full. A statement of conformity, confirming that all enhancement measures have been implemented, with photographs, must be submitted to the Local Planning Authority within 6 months of the date when electricity is first exported to the electricity grid, evidencing the installation of all detailed features at the site. The enhancements shall be maintained throughout the lifetime of the development.
14. All perimeter fencing will have mammal gates installed at 100m intervals, and fencing around ponds will have no less than five gates installed. These gates must be open to allow uninhibited passage of smaller mammals such as hedgehog and brown hare. The gates will be maintained and retained for the lifetime of the development.
15. The development hereby approved shall be implemented strictly in accordance with the recommendations/measures stated in section 'Requirements and Recommendations 4a' and of the supporting document: Ecological Assessment, Preston Hill; Wychwood Biodiversity Limited, February 2023.

16. Prior to commencement of development a Biodiversity Monitoring and Management Schedule will be submitted to the Local Planning Authority for written approval. The Biodiversity Monitoring and Management Schedule must contain:
- Description and location plan of features/habitats to be managed.
  - Aims and objectives of management, including (where appropriate) descriptions of target conditions as detailed within the approved DEFRA biodiversity metric.
  - Detailed management prescriptions and a work schedule with annual plan of actions to be taken.
  - Responsible bodies/organisations for the implementation of actions within the work schedule including delivery, future maintenance and monitoring. Thereafter the development shall be carried out in accordance with the approved Biodiversity Monitoring and Management Schedule.

17. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment and Drainage Strategy documents (listed below), and the following mitigation measures detailed within:

- Surface water drainage system(s) design in full accordance with the Non-Statutory Technical Standards for sustainable drainage systems (SuDS), DEFRA, March 2015.
- Sustainable Drainage Systems designed in full accordance with the Staffordshire County Council SuDs Handbook.
- Limiting the surface water run-off generated by all event scenarios up to and including the 1 in 100 year plus 40% Climate Change return period critical duration storms so that it will not exceed the preexisting (baseline), greenfield rate from the site and not increase risk of flooding off-site.
- Provision for adequate and satisfactory surface water quality management and pollution mitigation. Methods such as CIRIA C753 The Simple Index Approach to surface water management, may be appropriately implemented to demonstrate and evidence this.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Approved Document Preston Hill Solar Farm Flood Risk Assessment & Drainage Strategy Dated 21st December 2022 Version 2.0 - RAB: 2715FRD

18. Prior to the commencement of any construction related activity on site an Arboricultural Method Statement, providing comprehensive details of all tree protection measures including a dedicated tree protection plan, protective fencing specification and construction methods within 5 metres of all Root Protection Areas, shall be submitted to the Local Planning Authority for approval. Subsequently, all measures within the approved method statement and associated tree protection plan shall be adhered to fully in accordance with the Arboricultural Method Statement until all construction related activity has been completed.

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

19. Within three months of the development commencing, full details of tree / hedge / screen planting provision shall be submitted and approved in writing by the local planning authority. All measures within the approved landscaping / tree planting scheme shall be implemented within the first

planting season (Oct - Mar) following completion of construction. Any trees that die or become unsuitable for retention within 5 years of the initial planting date will be replaced on a like for like basis.

20. No development shall commence, (including demolition, groundworks or necessary vegetation clearance), until a Construction Vehicle Management Plan (CVMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CVMP shall be adhered to throughout the construction period. The statement shall include:
  - Arrangements for the parking of site operatives and visitors.
  - Loading and unloading of plant and materials.
  - Storage of plant and materials used in constructing the development
  - Construction hours
  - Delivery routeing and hours
  - Recorded daily inspections of the highway adjacent to the site access
  - Measures to remove mud or debris carried onto the highway
21. The combined rating levels of sound emitted from all fixed plants and/or machinery associated with the development at the use hereby approved shall be less than or equal to 5 dB above the typical background sound levels at any receptor between the hours of 05.00 - 23.00 (Taken as a 1 Hour LA90 07:00-23:00, and as 15 minutes LA90 05:00 - 07:00) and equal to or less than the background sound levels between 23.00 and 05.00 at any sensitive receiver (taken as a 15 minutes LA90). All measurements should be made in accordance with the methodology of BS 4141:2014 (Method for rating and assessing industrial and commercial sound) and / or its subsequent amendments).
22. The permission hereby granted does not grant or imply consent for the installation of any means of lighting on the site. No lighting shall be installed on site unless agreed in writing with the Local Planning Authority prior to installation.

#### 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. To allow the land to revert back to part agricultural use.
3. In order to define the permission and to avoid doubt.
4. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
5. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
6. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy, to ensure that the local road users are not unnecessarily adversely affected by construction activities.
7. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.



8. To inform the need for further staged works and to inform the scale and extent of these further archaeological works in accordance with Policy EQ3 and paragraph 194 of the NPPF.
9. To secure an appropriate record of any archaeological remains that may be uncovered in accordance with Core Strategy Policy EQ3.
10. To secure an appropriate record of any archaeological remains that may be uncovered in accordance with Core Strategy Policy EQ3.
11. To prevent harm to, and to secure enhancements for habitats and species of conservation value in accordance with Policy EQ1 of the adopted Core Strategy, and to secure a net gain in biodiversity in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.
12. To prevent harm to habitats of conservation value and protected species in accordance with Policy EQ1 of the adopted Core Strategy.
13. To provide enhancements for protected species and species of principal importance in accordance with Policies EQ1 and EQ11 of the adopted Core Strategy.
14. To provide enhancements for protected species and species of principal importance in accordance with Policies EQ1 and EQ11 of the adopted Core Strategy.
15. To secure enhancements for habitats of conservation value in accordance with Policy EQ1 of the adopted Core Strategy, and to secure a net gain in biodiversity in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.
16. To secure enhancements for habitats of conservation value in accordance with Policy EQ1 of the adopted Core Strategy, and to secure a net gain in biodiversity in accordance with the requirements of Core Policy 2 and Policies EQ1 and EQ11 of the Core Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.
17. To ensure that the development is provided with a satisfactory means of drainage in accordance with policy EQ7 of the adopted Core Strategy.
18. To protect the existing trees on the site during construction work in accordance with policy EQ12 of the adopted Core Strategy.
19. To ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.
20. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy and to ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.
21. To ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.

22. To protect the character of area and the Cannock Chase AONB in accordance with Policies EQ1 and EQ11.

## INFORMATIVES

### ECOLOGY

Any vegetation that is suitable for nesting birds (i.e. hedgerow) must either be removed outside of the nesting bird season (generally this is considered to be March-August inclusive) or it must be checked by an ecologist no more than 24 hours prior to removal. Should nesting birds be found the nests must be left until chicks have fledged and the nest is no longer in-use.

Please note that planning permission does not override or preclude the requirement to comply with protected species legislation. Should protected species be found (or be suspected to be present) at any time during site clearance or construction, works must cease immediately and Natural England and/or a suitably qualified professional ecologist must be contacted for advice. Policy and Legislative context in relation to this application

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

NPPF s.180 states that "When determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused..." South Staffordshire Council adopted Local Plan Core Strategy policy EQ1: Protecting, Enhancing and Expanding Natural Assets states that permission will be granted for development that would not cause significant harm to species that are protected or under threat and that wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme.

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

Natural England Standing Advice which has the same status as a statutory planning response states that survey reports and mitigation plans are required for development projects that could affect protected species, as part of obtaining planning permission. European Protected Species (to include in Committee/Delegated reports as an Annex, not on Decision Notices)

The Local Planning Authority in exercising any of their functions, have a legal duty to have regard to the requirements of the Conservation of Species & Habitats Regulations 2017 which identifies 4 main offences for development affecting European Protected Species (EPS).

- Deliberate capture or killing or injuring of an EPS
- Deliberate taking or destroying of EPS eggs
- Deliberate disturbance of a EPS including in particular any disturbance which is likely to:
  - I. impair their ability to survive, to breed or reproduce, or to rear or nurture their young, or
  - II. in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
  - III. to affect significantly the local distribution or abundance of the species to which they belong.
- Actions resulting in damage to, destruction of, or obstruction of an EPS breeding site or resting place.

Ecological survey results indicate that European Protected Species are unlikely to be affected by the proposed development. Therefore, no further consideration of the Conservation of Species & Habitats Regulations is necessary.

### GREAT CRESTED NEWTS

The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts. Should great crested newts be found at any stages of the development works, then all works should cease, and Natural England should be contacted for advice.

Additional:

If the applicant wishes to completely avoid any risks relating to Great crested newts, they have the option to enquire for South Staffordshire's Council's District Licence, which provides full legal cover for any impacts to Great crested newts and therefore removes the risk of having to stop works if Great crested newts are found on site. More details on the District Licensing Scheme operated by the council can be found at [www.naturespaceuk.com](http://www.naturespaceuk.com). There is an option available for covering temporary works for solar farm developments under the license.

Contact details: [info@naturespaceuk.com](mailto:info@naturespaceuk.com)

Legislation, Policy and Guidance

Reasonable Likelihood of Protected Species

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

Section 99 of ODPM Circular 06/2005 states:

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

measures to protect the species should be in place, through conditions and / or planning obligations before permission is granted."

#### Great crested newts

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

#### PUBLIC RIGHTS OF WAY

Public Footpath No. 41 Penkridge Parish runs adjacent to the south west corner of the proposed site.

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

NPPF 100. states that: Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

Users of the footpath must be able to exercise their public rights safely and at all times and the path be reinstated if any damage to the surface occurs as a result of the proposed development. If the footpath needs diverting as part of these proposals the developer must apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the public rights of way to allow the development to commence. For further information the applicant must read section 7 of DEFRA's Rights of Way Circular (1/09). It is also strongly suggested, in order to avoid unwanted complications, that guidance should be sought from Staffordshire County Council as Highways Authority, regarding the exact position of the Public Right of Way shown on the Definitive Map.

Should this planning application be approved and any right of way require a temporary diversion, please see the County Council website for guidance and an application form.

Where private rights exist that allow the use of vehicles along a footpath, drivers of vehicles must give way to pedestrians. In the absence of private rights, driving a vehicle on a public right of way is a criminal offence.

Any trees and shrubs planted within 3 metres of the public right of way are the responsibility of the landowner not the Highways Authority (including maintenance and liability).

Any works that affect the surface of the footpath will require consultation with the County Council Rights of Way Team.

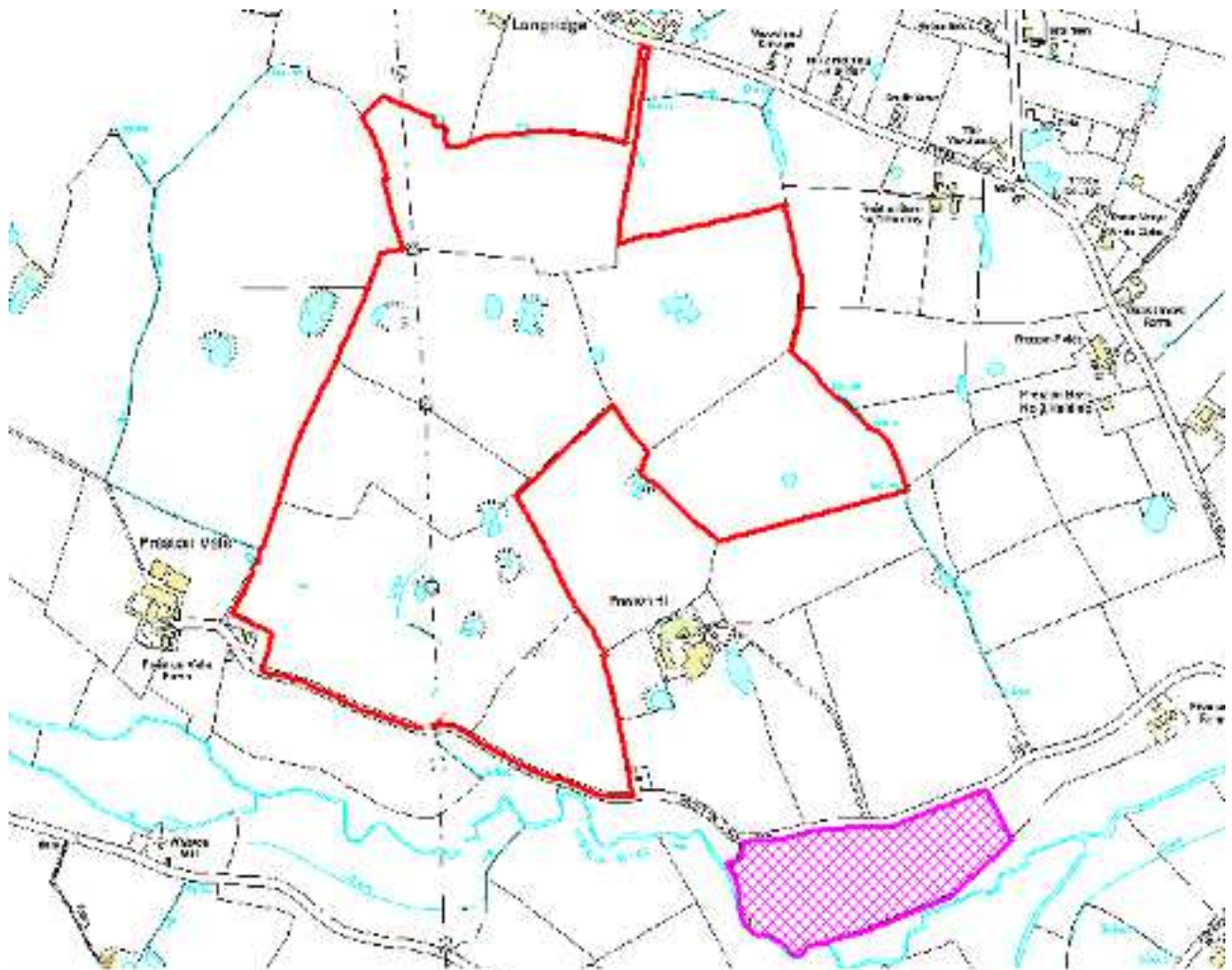
Staffordshire County Council has not received any application to add to or modify the Definitive Map of Public Rights of Way in that vicinity. The possibility of the existence of a currently

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

It should be noted that a nationally promoted route, The Staffordshire Way, also runs immediately adjacent to the southern boundary of the proposed site.

**Plans on which this Assessment is based**

Plan Type	Reference	Version	Received
Other Plans	FIGURE 3		9 January 2023
Other Plans	FIGURE 4		9 January 2023
Other Plans	FIGURE 5		9 January 2023
Other Plans	FIGURE 6		9 January 2023
Other Plans	FIGURE 7		9 January 2023
Other Plans	FIGURE 8		9 January 2023
Other Plans	FIGURE 9		9 January 2023
Other Plans	FIGURE 10		9 January 2023
Other Plans	FIGURE 11		9 January 2023
Other Plans	FIGURE 12		9 January 2023
Other Plans	FIGURE 14		9 January 2023
Other Plans	FIGURE 15		9 January 2023
Other Plans	FIGURE 16		9 January 2023
Other Plans	FIGURE 17		9 January 2023
Other Plans	218808-CCL-XX-00-DR-C-5000 P03		14 August 2023
Visibility Splays Plan	218808-CCL-XX-00-DR-C-5001 P03		14 August 2023
Planning Layout	GBR.0009.M4.001.0.	B.j (RPA)	10 November 2023
Planning Layout	GBR.0009.M4.001.0.	B.j (No RPA)	10 November 2023
Flood Risk Assessment			9 February 2023
Ecology Survey			9 February 2023



**Land Around Preston Hill Farm Preston Vale Penkridge Staffordshire ST19 5RA  
(Red and Pink area)**

**23/00978/FUL**  
**NON MAJOR**

**Mr Jason Milner**

**TRYSULL & SEISDON**  
Councillor Robert F Reade  
Councillor Victoria H Wilson

**Little Round Hill Tinkers Castle Road Seisdon WOLVERHAMPTON WV5 7HF**

**Erection of a ground-mounted solar photovoltaic array**

<b>Pre-commencement conditions required: n/a</b>	<b>Pre-commencement conditions Agreed n/a</b>	<b>Agreed Extension of Time until 2<sup>nd</sup> February 2024</b>
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## **SITE DESCRIPTION AND APPLICATION DETAILS**

### **1.1 Site Description**

1.1.1 The application relates to a rural 5 bed detached property situated along Tinkers Castle Road in Swindon. Entrance to the site is via a gated entrance, enclosed by brick walls. At the front of the site is a large parking area, landscaped garden and detached dwelling. To the rear is a large garden which has a number of trees planted. The site is surrounded by agricultural fields. Access to the field behind the house is accessed via a small gate. The field boundaries are enclosed by hedgerows and trees.

### **1.2 The Proposal**

1.2.1 The application proposes the erection of a ground-mounted solar photovoltaic array in the agricultural field to the rear of their garden. It would be positioned close to the existing hedge line and measure 16m long by 2.3m wide and would occupy a floor area of 37sqm. The solar array will be positioned using a ballasted -mounting system, onto a hardstanding pad. The panels would be angled 22degrees, facing South to achieve the maximum solar gain.

1.2.2 To avoid any confusion the proposed site plan has been updated, removing any reference to enclosure. No enclosure or additional boundary treatments are proposed for the solar array.

### **1.3 Agents Submission**

1.3.1 The application is accompanied by a design and access statement which details the reasons for the siting of the solar array in the field behind the house.

Date of site visit - 15 December 2023

## **2. SITE HISTORY**

### Planning Applications

02/00660/FUL Demolition of existing garage and construction of new garage **Approve Subject to Conditions** 30th May 2003

96/00227 Extension **Approve Subject to Conditions** 2nd July 1996

96/00226 Dwelling 20th June 1996

96/00580 Demolition of existing dwelling \_ erection of replacement 22nd April 1997

96/00883 Siting of Caravan **Approve Subject to Conditions** 7th January 1997  
97/00057 CLOPUD - Carrying out of development approved under permission 0227/96 by the retention of the front (south-west) wall only of the existing dwelling 11th March 1997  
96/00226 Proposed Dwelling 1st July 1996  
96/00227 Extensions 2nd July 1996  
96/00580 Replacement Dwelling 22nd October 1996  
96/00883 Siting Of Caravan For Domestic Use During Construction Work 7th January 1997  
97/00057 Carrying Out Of Development Approved Under Permission 0227/96 By The Retention Of The Front South West Wall Only Of The Existing Dwelling 11th March 1997  
23/00611/FULHH Erection of a ground-mounted solar photovoltaic (PV) array at land adjacent to Little Round Hill. **Application Returned** 6th September 2023

### 3. POLICY

#### 3.1 Constraints

Green Belt  
Newt - Impact Risk Zone White  
C Class Road C0059

#### 3.2 Policies

National Planning Policy Framework  
National Planning Practice Guidance

Core Strategy 2012  
Core Policy 1: The Spatial Strategy  
Policy GB1: Development in the Green Belt  
Policy EQ4: Protecting and Enhancing the Character and Appearance of the Landscape  
Core Policy 3: Sustainable Development and Climate Change  
Policy EQ9: Protecting Residential Amenity  
Core Policy 4: Promoting High Quality Design  
Policy EQ11: Wider Design Considerations  
Core Policy 11: Sustainable Transport  
Policy EV12: Parking Provision

#### Supplementary Planning Documents

Green Belt and Open Countryside SPD 2014  
Sustainable Development 2018

### 4. CONSULTATION RESPONSES

All consultation periods have expired unless noted otherwise.

Site Notice Expires	Press Notice Expires
5 January 2024	N/A

#### Trysull And Seisdon PC

No Response Received

#### Councillor Robert Reade - Pattingham, Trysull, Bobbington & Lower Penn

No Response Received



**Councillor Victoria Wilson - Pattingham, Trysull, Bobbington & Lower Penn**

No Response Received

**Senior Ecologist - South Staffordshire**

13th December 2023

I have reviewed the following planning application documentation for the above application:

- Location plan
- Ground-mounted solar photovoltaic array plan
- Design and access statement

I have not visited the site but have viewed aerial photographs, biological records from Staffordshire Ecological Record, and information on DEFRA's MAGIC map to inform my response.

Assessment of Submitted Documents and Plans

Designated Wildlife Sites

I do not consider it likely that the proposed development will result in significant effects to designated wildlife sites.

Habitats

The proposed development will occupy an area of c.37m<sup>2</sup>, it has been located away from hedgerows and mature trees and is proposed to be located in a small area of grassland.

I do not consider it likely that significant effects to grassland would arise as a result of the proposed development and its small footprint. Whilst I note and welcome that the applicant states that they are open to discussions on a reasonable and proportionate suite of biodiversity enhancements, given the very small-scale nature of the grassland loss as well as the habitat to be affected and the nature of the application, I do not consider it necessary in this instance to impose planning conditions to secure ecological enhancements.

Protected Species

I have no significant concerns regarding the proposed development and impacts to protected species. I have recommended an informative note be added to the decision notice.

Recommendations

Should you be minded to approve the application, I recommend the following informative notes are added to any decision notice:

The applicant is reminded that under the Wildlife and Countryside Act 1981, as amended (Section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act. The nesting bird season is considered to be between 1 March and 31 August inclusive, however some species can nest outside of this period. Suitable habitat for nesting birds are present on the application site and should be assumed to contain nesting birds between the above dates unless a recent survey has been undertaken by a competent ecologist to assess the nesting bird activity on site during this period and has shown it is certain that nesting birds are not present.

Please note that planning permission does not override or preclude the requirement to comply with protected species legislation. Should protected species be found (or be suspected to be present) at any time during site clearance or construction, works must cease immediately and Natural England and/or a suitably qualified professional ecologist must be contacted for advice.

**Environmental Health Protection**

No Response Received

**County Highways**

18th December 2023

Recommendation Summary: Acceptance

Site Visit Conducted on: 15-Dec-2023

Note to Planning Office.

The proposed development is located in a semi rural area with an existing vehicular access off a classified road, subject to the National Speed limit of 60 mph. There are no recorded vehicular accidents at this access in the last 5 years.

### **Contributors**

No Response Received

## **5. APPRAISAL**

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

### 1. Policy & principle of development

1.1 The property is within the West Midlands Green Belt, where paragraph 155 of the NPPF states that certain forms of development in the Green Belt are not inappropriate provided they preserve its openness and do not conflict with the purposes of including land within it, and include the material change of use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds).

1.2 Policy GB1 of the Core Strategy is worded differently and accepts a change of use would be permitted where the carrying out of engineering or other operations, or the making a material change of use of land, where the works or use proposed would have no material effect on the openness of the Green Belt, or the fulfilment of its purposes. Whilst worded differently, I consider the aims of the two are the same, but notwithstanding this the NPPF takes precedence.

1.3 Paragraph 156 of the NPPF confirms that when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

1.4 The panels will introduce development into an area of land that is currently relatively free from any built form and as such would have some effect on openness albeit it minor (given their scale and position), therefore the proposed panels constitute inappropriate development in the Green Belt, and in-line with the NPPF, Very Special Circumstances will need to be demonstrated.

### *Very Special Circumstances*

1.5 Paragraph 153 of the NPPF states that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

1.6 The NPPF provides (paragraph 163) that when determining planning applications for renewable and low carbon development, local planning authorities should:

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

Furthermore paragraph 164 states that in determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights).

1.7 The applicant's design and access statement provides:

*"The property consumes some 15.000kwh of electricity per year. In order to make a meaningful impact upon reducing their carbon footprint, we consider that an array of 18 x 425w Photovoltaic modules is required, totalling 7.85kWp".*

In terms of the rationale for its siting:

*"Given the high aesthetic value of the property, coupled with the building orientation and the complex roofline geometry, the notion of mounting (any number of PV modules onto the roof has been rightfully discounted, as this would result in harm to the visual amenity of the property, and possibly the surrounding area.*

*In addition, the presence of mature trees located in the garden of the property would also cause potential overshadowing issues (if sited in the garden), resulting in a poorly performing PV system.*

*Instead, our client Mr Milner, wishes to install a ground-mounted PV array in the neighbouring paddock which is in the same ownership (please see enclosed title deeds and plan, Title Number SF41 5170). From a solar generation perspective, this location is considered excellent".*

1.8 The proposed ground mounted solar panels would be limited in height and footprint and whilst outside of the domestic curtilage, they are close to its boundary (reducing encroachment); and would not have any meaningful impact on the use of the land for grazing. The field boundaries are heavily screened by mature trees and hedges, limiting the proposals visual impact. The applicant has also provided information about why the panels could not be accommodated on the dwelling or within the domestic garden.

1.9 The proposed solar panels would not therefore be considered prejudicial to the Green Belt or the purposes of including land within it, and therefore there are Very Special Circumstances to clearly outweigh the potential harm on the Green Belt, by reason of inappropriateness.

#### *Impact on Openness*

1.10 Paragraph 142 of the NPPF advises that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects. For the reasons given above, the proposal would not be considered materially harmful to the spatial or visual openness of the Green Belt.

## 2. Layout, Design and Appearance

2.1 Policy EQ4 of the Core Strategy advises that “the design and location of new development should take account of the characteristics and sensitivity of the landscape and its surroundings, and not have a detrimental effect on the immediate environment and on any important medium and long distance views”. Core Policy 4 similarity seeks to promote high quality design and respect and enhance local character and distinctiveness of the natural and built environment. Policy EQ11 advises that new development should seek to achieve creative and sustainable designs that consider local character and distinctiveness, whilst having regard to matters of use, movement, form and space. Finally, the Council's Design Guide SPD amplifies the principles set out in Policy EQ11 of the Core Strategy.

2.2 As aforementioned, the applicant has explained that the purpose of locating the panels in the paddock area is that alternative options for siting the panels elsewhere on the site (or on other buildings such as the main house) would not generate the same solar energy or could not be supported by the existing roof. As such, it is considered that sufficient justification for the proposed siting has been provided. Given the mature hedge/ trees that exist around the field boundaries and the low height of the solar panels, there will be no view of the panels from the public realm. Consequently, the proposals are considered compliant with Policy EQ11.

### 3. Access, Parking & Highway Safety

#### *Off Street Car Parking*

3.1 Appendix 5 of the Core Strategy provides guidance on the Council’s off street car parking requirements for new development.

3.2 The proposed location of the solar panels would not impact the existing parking on the property or require additional parking space. The County Council Highways Department have raised no concerns with the use of the existing field access, which is positioned next to the property.

3.3 As such, there are no car parking or highway related concerns.

### 4. Residential Amenity

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

4.2 There are no residential properties in close vicinity of the solar array and as such there would be no conflict of the proposed solar panels on neighbouring amenity. The proposal is compliant with Policy EQ9.

### 5. Ecology & Biodiversity

#### *Protected Species*

5.1 The Wildlife and Countryside Act (as amended) 1981 covers the protection of a wide range of protected species and habitats and provides the legislative framework for the designation of Sites of Special Scientific Interest (SSSIs). The Conservation (Natural Habitats, &c.) Regulations 1994 implement two pieces of European law and provide for the designation and protection of ‘Special Protection Areas’ (SPAs) and ‘Special Areas of Conservation’ (SACs), together with the designation of ‘European Protected Species’, which include bats and great crested newts. The Countryside and Rights of Way (CRoW) Act

2000 compels all government departments to have regard for biodiversity when carrying out their functions. Finally, The Protection of Badgers Act 1992 consolidated existing legislation on the protection of badgers. This legislation is intended to prevent the persecution of badgers. The act protects both individual badgers and their setts.

5.2 The proposal will have no affect on protected species.

#### *Biodiversity*

5.3 To comply with the guidance contained within Paragraphs 9, 112 and 122 of the NPPF and the Council's biodiversity duty as defined under section 40 of the NERC Act 2006, new development must demonstrate that it will not result in the loss of any biodiversity value of the site.

5.4 The proposed development will occupy an area of c.37m<sup>2</sup>, it has been located away from hedgerows and mature trees and is proposed to be located in a small area of grassland. The Councils Senior Ecologist has raised no concerns over the proposal and given its small footprint no ecological enhancements are recommended or considered necessary.

5.5 The proposal is compliant with Policy EQ9.

#### 6. Arboriculture

6.1 Paragraph 186 of the NPPF advises that permission should be refused for development resulting in the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Strategic Objective 3 and 4 seek to protect, conserve and enhance the District's natural environment, whilst Policy EQ4 states that "The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained, unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved".

6.2 The proposal raises no arboricultural concerns.

#### 7. Human Rights

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

#### **6. CONCLUSIONS**

6.1 Although this proposal does constitute inappropriate development in the Green Belt, there are Very Special Circumstances which clearly outweigh the potential harm to the Green Belt by reason of inappropriateness. There is a strong steer from national policy to approve small scale renewable sites, and given the minor impact this proposal would have on openness, given its small footprint, it is not considered that the proposal would cause any material harm on openness or to the visual amenity of the Green Belt to warrant a refusal. The applicant has also provided clear justification for its location.

6.2 There would be no adverse harm would be caused on neighbouring amenity and there are no highway or ecological concerns. As such, approval of this application is recommended.

**RECOMMENDATION - APPROVE Subject to Conditions**

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. The planning permission hereby granted is for temporary planning consent and shall expire on the 1st of February 2054. After this date the site shall be decommissioned and restored back to agricultural land.

**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. The site is within the Green Belt within which, in accordance with the planning policies in the adopted Core Strategy, there is a presumption against inappropriate development

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

**Plans on which this Assessment is based**

Plan Type	Reference	Version	Received
Proposed Site Plan	CEC LRH 001	0	3 January 2024



**Little Round Hill Tinkers Castle Road Seisdon WOLVERHAMPTON WV5 7HF**







## RECOMMENDATION TO PLANNING COMMITTEE FOR THE CONFIRMATION OF A TREE PRESERVATION ORDER

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**DATE:** 15<sup>th</sup> January 2024

**REPORT SUBMITTED BY:** Senior Arboricultural Officer, Gavin Pearce

**TREE PRESERVATION ORDER:** 23 / 18001 / TPO

**WARD(S):** Wombourne South

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### Executive Summary

The purpose of this report is to allow the committee to consider written representations made to the authority following the service of a new Tree Preservation Order (TPO), and to subsequently support the confirmation of that order with the modifications specified in the Conclusion section of this report.

The committee is recommended to support confirmation of Tree Preservation Order 23/18001/TPO, as presented to them and with the modifications listed. This order has been served on land at south-east Wombourne for the preservation of trees deemed to have significant merit and which make a valuable contribution to local amenity.

A copy of the order along with all supporting documents has been served on all owners of land where the trees are growing and all those deemed to have an 'interest in the land', such as neighbouring property owners and those with a right to carry out works to the trees.

The order has been made as part of South Staffordshire District Councils ongoing review of its existing TPOs where it is considered that there is a potential and/or ongoing risk of harm to the trees.

There are no significant risks associated with the recommendation. The Senior Arboricultural Officer has considered the representations made and no issues that would require further modifications of the order, or that would warrant allowing the order to lapse, have been raised.

### Report

#### 1 Legislation and Policy Context

##### 1.1 Legislation

Section 197 of the Town and Country Planning Act 1990, provides Local Planning Authorities with the power to make a Tree Preservation Order where it 'appears expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

This is supplemented by the Town and Country Planning (Tree Preservation)(England) Regulations 2012 which further specifies the form, function and application of such orders.



## 1.2 Policy

### 1.2.1 National Planning Policy Framework (NPPF)

Section 15 - Conserving and enhancing the natural environment

Paragraph 180 - Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

### 1.2.2 South Staffordshire Core Strategy

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

Strategic Objective 4 - To protect, conserve and enhance the countryside, character and quality of the landscape and the diversity of wildlife and habitats.

Core Policy 2 - Protecting and enhancing the Natural and Historic Environment

EQ1 - Protecting, Expanding and Enhancing Natural Assets

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

The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved.

## 2 Description of Site and Trees

### 2.1 Site

The locations of the trees covered by the order are distributed across an area covering south-east Wombourne which is wholly within the Wombourne South ward.

The sites include a mix of local authority and privately owned land as follows:

2.1.1 Staffordshire County Council – limited to highways verge areas at Sytch Lane / Whites Wood and Common Road / Green Hill; in addition to their 'interest in the land' as the highways authority wherever trees overhang the carriageway.

2.1.2 South Staffordshire District Council – limited to The Railway Walk between Bridgnorth Road and Wom Brook as well as sections of Wom Brook from Gravel Hill to The Railway Walk. These locations have been included primarily to ensure that the use of Common Law right to cut back overhanging branches by third parties is carried out in an appropriate manner and without unduly damaging trees.



2.1.3 Blakeley Heath Primary School – limited to two individual trees within the school grounds and their ‘interest in the land’ as a neighbouring property to The Railway Walk with Common Law rights to abate nuisance.

2.1.4 Commercially owned property belonging to Bloor Homes, Vistry Homes and Homes Plus in addition to two areas of privately owned commercial and agricultural land, and numerous privately owned residential properties.

## 2.2 Trees

The trees included within the order are a mix of broadleaf and coniferous species of both deciduous and evergreen types. All were visually inspected, subject to limitations of access, during the surveying carried out in preparation for the making of TPO No. 23/18001/TPO. All appeared to be structurally sound and in good health at the time of inspection.

### 2.2.1 Amenity Assessment

All of the trees within the order will have been selected based on their amenity value and contribution to the local landscape. This includes not only individual specimens of significant aesthetic value, but also tree groups and woodland areas with collective visual merit, habitat value and amenity within the wider landscape.

The trees were visually surveyed using criteria set out in South Staffordshire District Councils Tree Assessment for Preservation Orders evaluation process. This has been based on nationally recognised methods for evaluating amenity value and every tree, within its designation on the order, would score sufficiently to make a TPO defensible.

### 2.2.2 Expediency Assessment

Unlike a TPO that results from a ‘Section 211 Notice’ (Notification Of Proposed Works To Trees In A Conservation Area), or from a change of land use with the potential for development, this order has been made as part of an ongoing district wide review of older Tree Preservation Orders.

Most of the trees included in 23/18001/TPO are also included under several older TPOs. It is good practice and incumbent on Local Planning Authorities to keep their orders under regular review to ensure they remain relevant and enforceable. The making of 23/18001/TPO, if confirmed by Planning Committee, will allow for the replacement and revocation of the following extant TPOs:

5/1975	10/1975
11/1976	21/1965
35/1979	40/1971
43/1971	93/1987

There are a number of trees that were included within the orders listed above which are not included within 23/18001/TPO. This is because they either no longer exist or have declined in condition to the point where they no longer merit statutory protection. All of the trees that were included in the above orders, which still exist and merit protection have been listed in 23/18001/TPO.

In addition to these, there are a number of new trees included which have grown in the area since the original TPOs were made. They either did not exist at the time or would not have been considered of a high enough amenity to warrant statutory protection. They have been included in the new order for the sake of completeness and to safeguard them from risks posed from potential development or inappropriate pruning such as might be carried out under Common Law right to abate nuisance etc.



## 3 Representations

3.1 As part of the process for serving a Tree Preservation Order on the owners of the land and all those deemed to have an 'interest' in the land on which the trees are growing, a 'Regulation 5 Notice' (example of which is included at Appendix 2) is included. This provides the person being served with some basic information about the order and informs them how they can make a written representation to the Local Planning Authority in response.

Copies of the written representations made are included at Appendix 3 with a brief summary of each listed below along with a response from the relevant Officer. Only those points which are relevant and duly made by the terms of the regulation 5 notice have been considered and responded to.

### 3.2 47 Copper Beech Drive

Submitted an objection to the description of tree group 'G4' on the order which includes reference to '3 Pine in rear garden of 47 Copper Beech Drive'. The owners/occupiers assertion is that the property boundary is not clearly identified on the property records and that ownership of the land on which the trees are growing is disputed. The owner/occupier claims that the land remains part of the wider Gittins Park development and therefore remains under the ownership of the property developer.

3.2.1 Officer response: The description assigned to the location of trees on a TPO is for the purpose of allowing those trees to be accurately identified. It does not convey ownership of land and, consequently, liability for trees on any particular party. The land ownership dispute alluded to remains a matter for the owner/occupier to resolve with the developer in question and is wholly separate from the Tree Preservation Order. Visually, the trees appear to be on land contiguous with the garden of 47 Copper Beech Drive, if not actually a part of it. The description used is the simplest available and therefore the most useful for identifying the trees. As already stated, it confers no liability on the owner/occupier and they would have been served with a copy of the order in any regard as they would be deemed to have an 'interest in the land' as an adjacent property owner. A copy of the order has also been served on Vistry Homes who are the developer for the Gittins Park estate.

### 3.3 45 Copper Beech Drive

Submitted that the description of '2 Pine' in the rear garden of 45 Copper Beech Drive is inaccurate as there are three Pines on the property. The owner/occupier also states that the ownership of that section of the garden is disputed in the same manner as 47 Copper Beech Drive (as described in section 3.1) and consequently, denies any responsibility for it and the trees growing there.

3.3.1 Officer response: As alluded to in the written submission from the owner/occupier, planning application 22/00977/TTREE gives consent for the removal of the third Pine tree and therefore it was intentionally excluded from the new TPO. As with the case of disputed ownership at 47 Copper Beech Drive, the location description confers no liability on the owner/occupier and they would have been served with a copy of the order in any regard as she would be deemed to have an 'interest in the land' as an adjacent property owner.

### 3.4 The Mews, Greenhill Gardens

Submitted that the tree identified as T27 on the order has been incorrectly described as being in the garden of The Mews, when it is in the garden of The Coach House which is a neighbouring property.

3.4.1 Officer response: The location description has been amended to list T27 as being in the garden of The Coach House.



## 3.5 8 Richmond Gardens

Submitted that the tree group identified as G6 on the order has been incorrectly described as having four Pine trees in the garden of 8 Richmond Gardens, when there are two Pines in the garden of 8 Richmond Gardens and another two Pines in the garden of 9 Richmond Gardens which is a neighbouring property.

3.5.1 Officer response: The description of G6 has been amended to list two Pines each in the gardens of both 8 and 9 Richmond Gardens.

## 3.6 9 Richmond Gardens

Submitted that the tree group identified as G6 on the order has been incorrectly described as having four Pine trees in the garden of 8 Richmond Gardens, when there are two Pines in the garden of 8 Richmond Gardens and another two Pines in the garden of 9 Richmond Gardens which is a neighbouring property.

3.6.1 Officer response: The description of G6 has been amended to list two Pines each in the gardens of both 8 and 9 Richmond Gardens.

## 3.7 38 Wombourne Park

Submitted an objection to the inclusion of trees within the order that are located on private property boundaries as these require 'regular maintenance due to overhanging limbs'. Also objected to the inclusion of trees that are under the ownership of South Staffordshire District and Staffordshire County Council, as this will create an overly onerous requirement on those authorities with regard to maintenance and lead to a lack of inspection.

3.7.1 Officer response: The inclusion of trees on private property boundaries has been done for the very reason alluded by the owner/occupier Uncontrolled use of common law right to cut back overhanging trees can lead to significant damage being caused to high amenity trees. A standard condition attached to any consent issued for works to a TPO tree (following a successful application process) contains a requirement that suitably qualified and experienced contractors are used and that standards of work conform with BS3998. The existence of a TPO does not prevent the use of common law rights but it does require property owners, via the planning application process, to conform with minimum standards of arboricultural good practice.

The inclusion of trees owned by South Staffordshire Council has primarily been done where those trees are on private property boundaries and for the reasons specified above. The TPO has no impact on the regularity of the district councils inspection regime and has been made in consultation with colleagues in the Street Scene team.

The inclusion of trees owned by Staffordshire County Council is to ensure any works undertaken are done so in a suitable arboricultural manner. The County Council has been issued with a Regulation 5 Notice as part of the making of 23/18001/TPO and have chosen not to make a written representation. The presence of a TPO covering highways trees is not unique to the South Staffordshire District and does not cause any impediment to the inspection and maintenance of them.

## 3.8 2 Greenhill Gardens

Submitted objections due to the three month timescale taken to serve the order, claiming that this failed a 'test' when complying with the requirement for orders to be served 'as soon as practicable after making an Order', as specified in the legislation.

The second objection is due to the fact that of the three parties who have an interest in the land covered by 'A2' on the order, one of them had not been served the order at the time of the owner/occupier's representation. Objection three asserts that many of the trees included within A2 cannot be seen from the public realm and so fail the visibility consideration for inclusion within a TPO. Further clarification was requested of their amenity value.



Objection four is due to the fact that no site visit to the land covered by A2 was carried out before making the order.

Objection five is due to the use of the 'Area' classification for 'A2' when guidance states this should normally be restricted to 'emergency' use and only as a temporary measure.

Objection six similarly raises issue with the use of the 'Area' classification for A2, listing additional points to those raised in objection five. They specifically address the poor quality of some trees in the area and question why the classification has been used.

3.8.1 Officer response: The legislation covering Tree Preservation Orders does not specify a timescale within which new orders have to be served. In order for the process to have integrity and be legally compliant, orders should be served so that sufficient time is allowed for those who have an 'interest' in the order to make written representations, in line with the Regulation 5 Notice, before confirmation of the order. Whilst it would have been preferable for 23/18001/TPO to be served in a shorter span of time, it is a large TPO that covers many trees and properties. Consequently, the time and staff resources available meant it was not possible to serve the order any quicker. However, all parties served with the order have been allowed sufficient time to make written representations and so the integrity of the process is sound.

With regard to the second objection, all parties with an interest in the land covered by 'A2' have now been served with the order and in sufficient time to allow written representations to be made.

The points raised in objection three, four, five and six all relate to the use of the 'Area' designation for the land covered by 'A2' on the order.

It is accepted that the use of the 'Area' designation should be limited only to those occasions when urgent tree protection is required and that the designation should be reviewed at the earliest opportunity so that a more appropriate one can be used in its place. This is due to the inherent limitations in being able to identify trees to which the designation applied at the time the order was made. Such designations are fully enforceable in the relative short term, but become unreliable over time. The reason for the use of the 'Area' designation in the case of 'A2' was not due to any urgency in covering trees on that land. However, during the surveying process for 23/18001/TPO circumstances arose with other trees covered by the order that did require an urgent response. Unfortunately, a more detailed survey, including a site visit, for 'A2' had not been possible at that point. Use of online satellite mapping, viewing the land from nearby locations in the public realm, and with reference to the extant TPO already covering the area, it was clear that there are trees within 'A2' which are potentially worthy of protection. Therefore, the decision was made, in the interest of expediency, to use the 'Area' designation for 'A2' with the intention to vary the order, after confirmation, once a more detailed site survey has been carried out. A comprehensive appraisal of the visibility and quality of the trees within 'A2' will be carried out at that time, thereby fully addressing objections three, four and six. It was not possible to exclude the land in question from 23/18001/TPO as this would have consequences for the review and revocation of extant order no. 10/1975 which covers trees within 'A2', in addition to those at other properties.

## 4 Conclusion

4.1 Tree Preservation Order 23/18001/TPO is considerable in terms of the number of trees covered and the extant orders which can now be replaced. It has been a significant undertaking but one that, along with the wider TPO review of which it is a part, is incumbent upon South Staffordshire Council so as to ensure its TPOs are relevant and defensible.

Inevitably, due to the limitations of the surveying process and access to property ownership records, there are going to be discrepancies in an order of this size. However, there is now full confidence that, with the aid of written representations received and carrying out all necessary due diligence, those discrepancies have been corrected. This has resulted in several modifications to the original version of 23/18001/TPO as listed below.



## 4.2 Modifications

- Amendment to the TPO schedule to correct the location details of T27
- Amendment to the TPO schedule and map 6 to correct the location details of G6
- Amendment to TPO map 5 to correct the location details of T16, T17 and T21

All modifications to the schedule are presented in italicised, bold type.

## 5 Recommendation

Support confirmation of Tree Preservation Order 23/18001/TPO with the modifications listed in section 4.2.

Signed:

Gavin Pearce  
Senior Arboricultural Officer  
South Staffordshire District Council

**Appendix 1 – Copy of Tree Preservation Order 23/18001/TPO**





## Town and Country Planning Act 1990

### Town and Country Planning (Tree Preservation)(England)Regulations 2012

#### Tree Preservation Order No. 23 / 18001 / TPO

SOUTH STAFFORDSHIRE DISTRICT COUNCIL in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order:

#### Citation

1. This Order may be cited as SOUTH STAFFORDSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 23/18001/TPO

#### Interpretation

2. (1) In this Order “the authority” means South Staffordshire District Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

#### Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall —
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.



# South Staffordshire Council

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Dated this 3rd day of August 2023

~~The Common Seal of South Staffordshire District Council  
was affixed to this Order in the presence of —~~

.....  
Authorised by the Council to sign in that behalf

Signed on behalf of South Staffordshire District Council

Annette Roberts

Authorised by the Council to sign in that behalf



## CONFIRMATION OF ORDER

This Order was confirmed by South Staffordshire District Council without modification on the XX day of [insert month and year]

OR

This Order was confirmed by South Staffordshire District Council subject to the modifications indicated by [state how indicated], on the XX day of [insert month and year]

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf

## DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by South Staffordshire District Council on the XX day of [insert month and year]

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf



## VARIATION OF ORDER

This Order was varied by South Staffordshire District Council on the XX day of [insert month and year] by a variation order under reference number [insert reference number to the variation order] a copy of which is attached

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf

## REVOCATION OF ORDER

This Order was revoked by South Staffordshire District Council on the XX day of [insert month and year]

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf



## SCHEDULE

### SPECIFICATION OF TREES

Trees specified individually (shown on the map as an unbroken black circle)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
T1	Lime	Rear boundary of 23 Common Road
T2	Oak	Junction of Common Road and Gravel Hill
T3	Norway Maple	Greenhill, adjacent 2 Common Road
T4	Horse Chestnut	Front garden of 'Sliema', Greenhill
T5	Horse Chestnut	Front garden of 'Sliema', Greenhill
T6	Horse Chestnut	Rear garden of 'Sliema', Greenhill
T7	Horse Chestnut	Front garden of 'The Cottage Spring', Greenhill
T8	Pine	Rear garden of 'Chanor', Greenhill
T9	Pine	Rear garden of 2 High Meadows
T10	Beech	Front garden of 'Apple Tree Wick', Greenhill
T11	Cedar	Rear garden of Dike House, Greenhill
T12	Sycamore	Rear garden of 51 Copper Beech Drive
T13	Beech	Rear garden of 'Stonegarth', Greenhill
T14	Oak	Open space opposite 14 Gittins Park
T15	Pine	Rear garden of 11 Greenhill Gardens
T16	Lime	Rear garden of 21 Greenhill Gardens
T17	Oak	Rear garden of 23 Greenhill Gardens
T18	Lime	Front garden of 3 / 5 Greenhill Gardens
T19	Tulip Tree	Rear garden of 5 Greenhill Gardens



T20	Norway Maple	Highway verge opposite 71 Sytch Lane
T21	Hornbeam	Front garden of 20 / 23 Greenhill Gardens
T22	Ash	Front garden of 2 Greenhill Gardens
T23	Beech	Front garden of 2 Greenhill Gardens
T24	Lime	Front garden of 7 Greenhill Court
T25	Lime	Front garden of 'The Coach House', Greenhill Gardens
T26	Lime	Front garden of 'The Coach House', Greenhill Gardens
<b>T27</b>	<b>Lime</b>	<b>Front garden of 'The Coach House', Greenhill Gardens</b>
T28	Lime	Garden of 82 Sytch Lane
T29	Lime	Garden of 82 Sytch Lane
T30	Lime	Highway verge outside 1 Greenhill Court
T31	Lime	Garden of 1 Greenhill Court
T32	Lime	Highway verge outside 1 Greenhill Court
T33	Beech	Highway verge opposite 'The Coach House', Greenhill Gardens
T34	Norway Maple	Open space opposite 4 Greenhill Court
T35	Beech	Rear garden of 71 Sytch Lane
T36	Cedar	Rear garden of 5 Richmond Gardens
T37	Red Oak	Front garden of 2 Oaks Drive
T38	Cappodocian Maple	Front garden of 'The Lodge', Whites Wood
T39	Sycamore	Open space opposite 26 Whites Wood
T40	Beech	Side of 47 Sytch Lane, Whites Wood



T41	Holly	Side of 47 Sytch Lane, Whites Wood
T42	Pine	Front garden of 76 Sytch Lane
T43	Cedar	Front garden of 76 Sytch Lane
T44	Pine	Rear garden of 3 Chestnut Drive
T45	Pine	Front garden of 1 Chestnut Drive
T46	Pine	Front garden of 4 Chestnut Drive
T47	Larch	Open space to side of 4 Chestnut Drive
T48	Birch	Open space to side of 6 Cedars Avenue
T49	Cedar	Rear garden of 10 Chestnut Drive
T50	Yew	Front garden of 62 Sytch Lane
T51	Birch	Front garden of 52 Sytch Lane
T52	Oak	South West area of Blakeley Heath School grounds
T53	Lime	South West area of Blakeley Heath School grounds
T54	Poplar	Rear garden of 14 Neachless Avenue
T55	Oak	Cemetery boundary to rear of 3 Bossgate Close
T56	Oak	Cemetery boundary to rear of 3 Bossgate Close
T57	Oak	Adjacent service road to rear of 37 Dickinson Road

Trees specified by reference to an area (shown on the map as a polygon with a dotted black outline)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
A1	Pine trees within area marked	Garden of 9 Greenhill Gardens
A2	All trees within area marked	South of Greenhill Gardens and Beggars Bush Lane



Groups of trees (shown on the map as a polygon with a dashed black outline)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
G1	2 x Birch, 2 x Alder, 1 x Willow and several Holly	Adjacent to and north of 39 / 48 Redhill Avenue
G2	3 x Pine	Rear garden of 'Apple Tree Wick', Greenhill
G3	11 x Pine, 2 x Beech	Side garden of 23 Copper Beech Drive
G4	18 x Pine, 1 x Sycamore, 1 x Horse Chestnut	3 Pine in rear garden of 33 Copper Beech Drive 2 Pine, Horse Chestnut and Sycamore in rear garden of 35 Copper Beech Drive 2 Pine in rear garden of 37 Copper Beech Drive 2 Pine in rear garden of 39 Copper Beech Drive 2 Pine in rear garden of 41 Copper Beech Drive 2 Pine in rear garden of 43 Copper Beech Drive 2 Pine in rear garden of 45 Copper Beech Drive 3 Pine in rear garden of 47 Copper Beech Drive
G5	18 x Pine	8 Pine in rear garden of 3 Greenhill Court 10 Pine in rear garden of 4 Greenhill Court
<b>G6</b>	<b>4 x Pine</b>	<b>2 Pine in rear garden of 8 Richmond Gardens</b> <b>2 Pine in rear garden of 9 Richmond Gardens</b>
G7	3 x Spruce	Rear garden of 62 Sytch Lane
G8	4 x Oak	Rear gardens of 41 – 51 Dickinson Road

Woodlands (shown on the map as a polygon with an unbroken black outline)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
W1	Mixed coniferous and deciduous species (predominantly Oak, Ash, Alder, Willow, Birch, Hawthorn, Scots Pine and Holly)	Located along either side of Railway Walk from Wom Brook to Bridgnorth Road
W2	Mixed coniferous and deciduous species (predominantly Oak, Ash, Alder, Willow, Birch, Hawthorn, Scots Pine and Holly)	Located along south side of Wom Brook from Glendale Drive to Greenhill

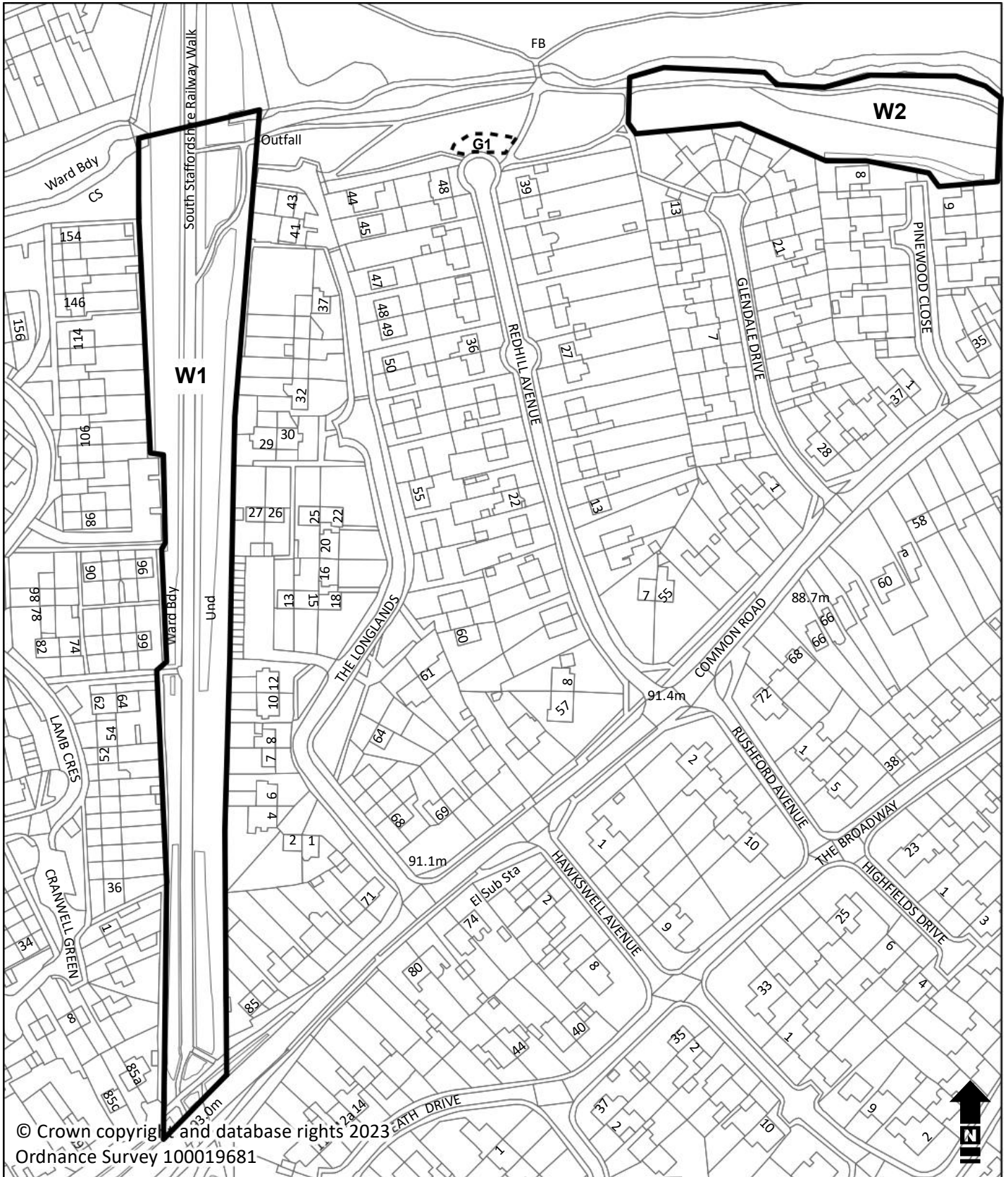




- |    |   |                                    |
|----|---|------------------------------------|
| W3 | Mixed coniferous and deciduous species (predominantly Birch, Cherry, Lime, Pine, Sycamore, Beech) | Open space opposite 2 Gittin Parks |
| W4 | Mixed deciduous species (predominantly Oak, Ash, Cherry, Birch, Hawthorn, and Holly)              | Opposite 1 – 9 Pippins Walk        |

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 1 of 9



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 Ordnance Survey 100019681

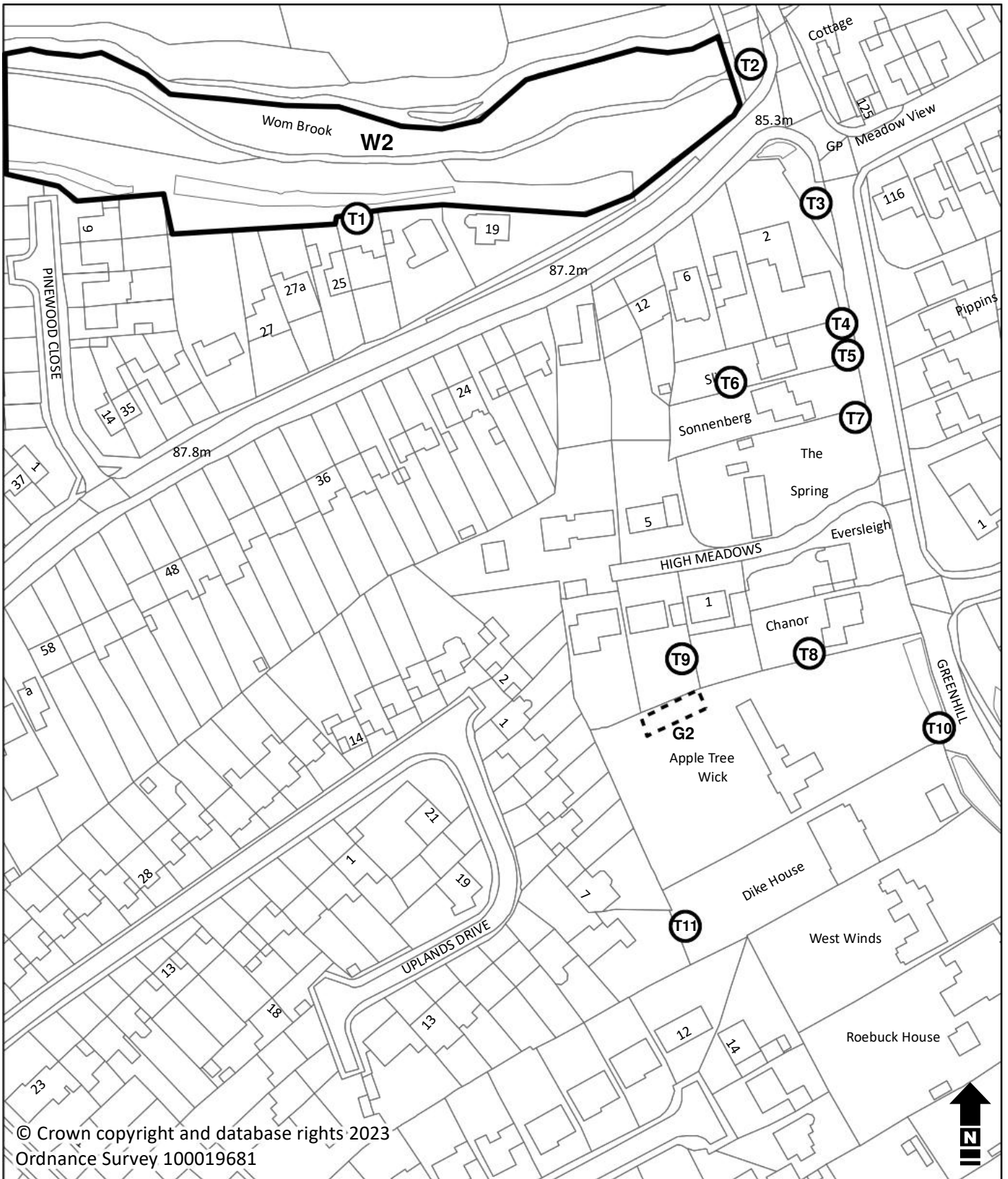
Council Offices  
 Wolverhampton Road  
 Codsall  
 WV8 1PX



Scale: 1:2,000

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 2 of 9



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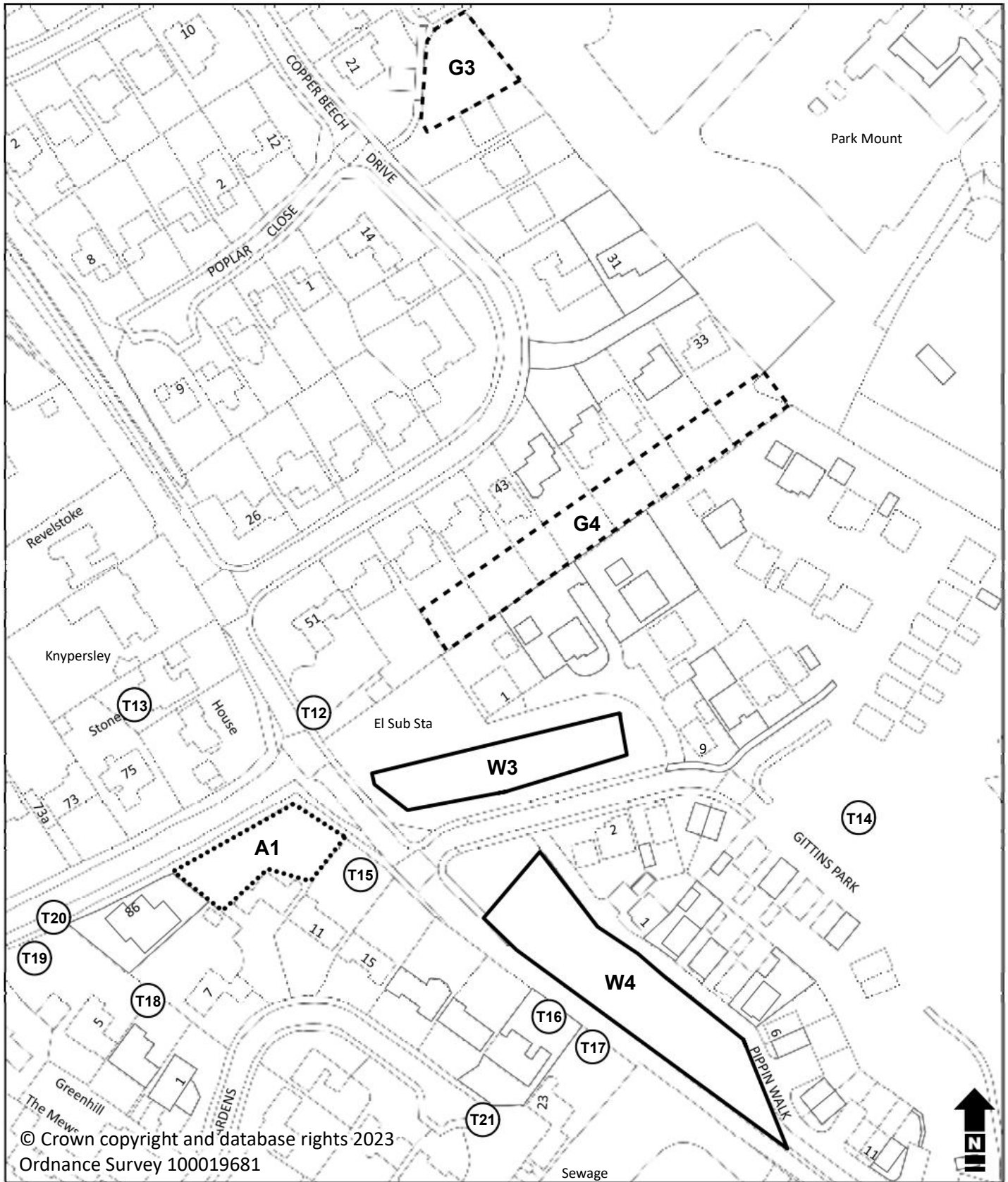
Council Offices  
Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:1,500

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 3 of 9



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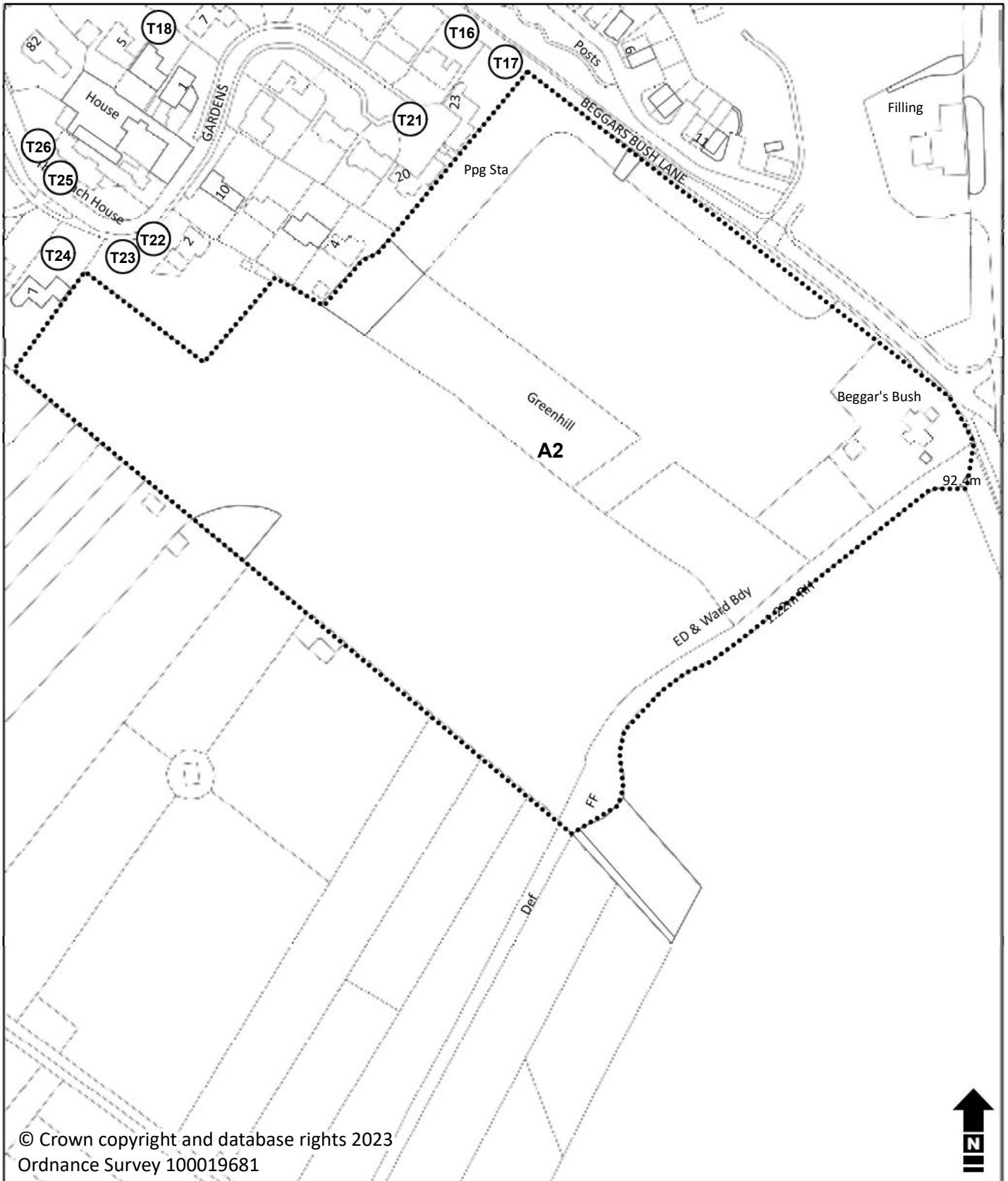
Council Offices  
Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:1,500

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 4 of 9



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Council Offices  
Wolverhampton Road  
Codsall  
WV8 1PX

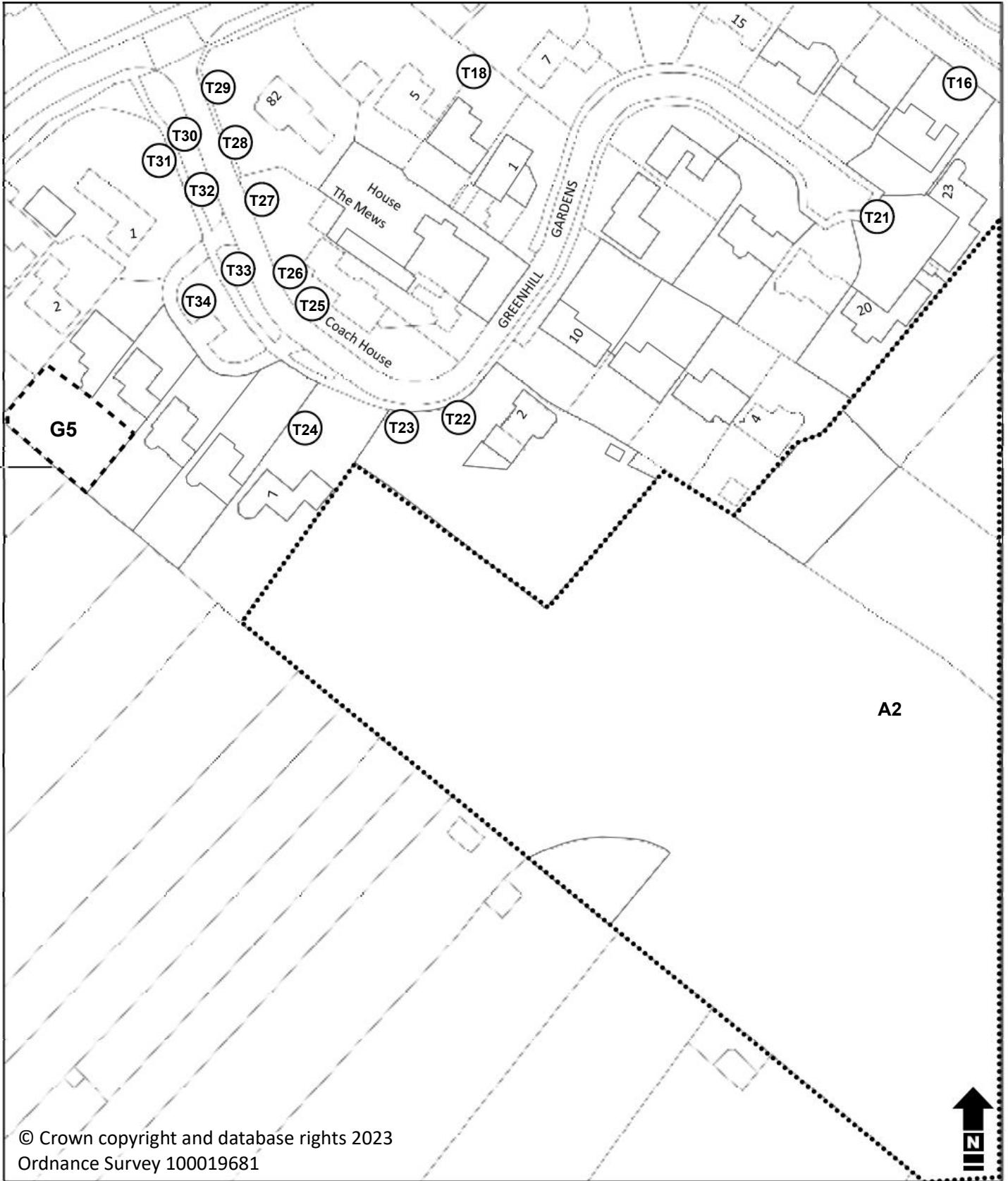


Scale: 1:2,000



**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 5 of 9



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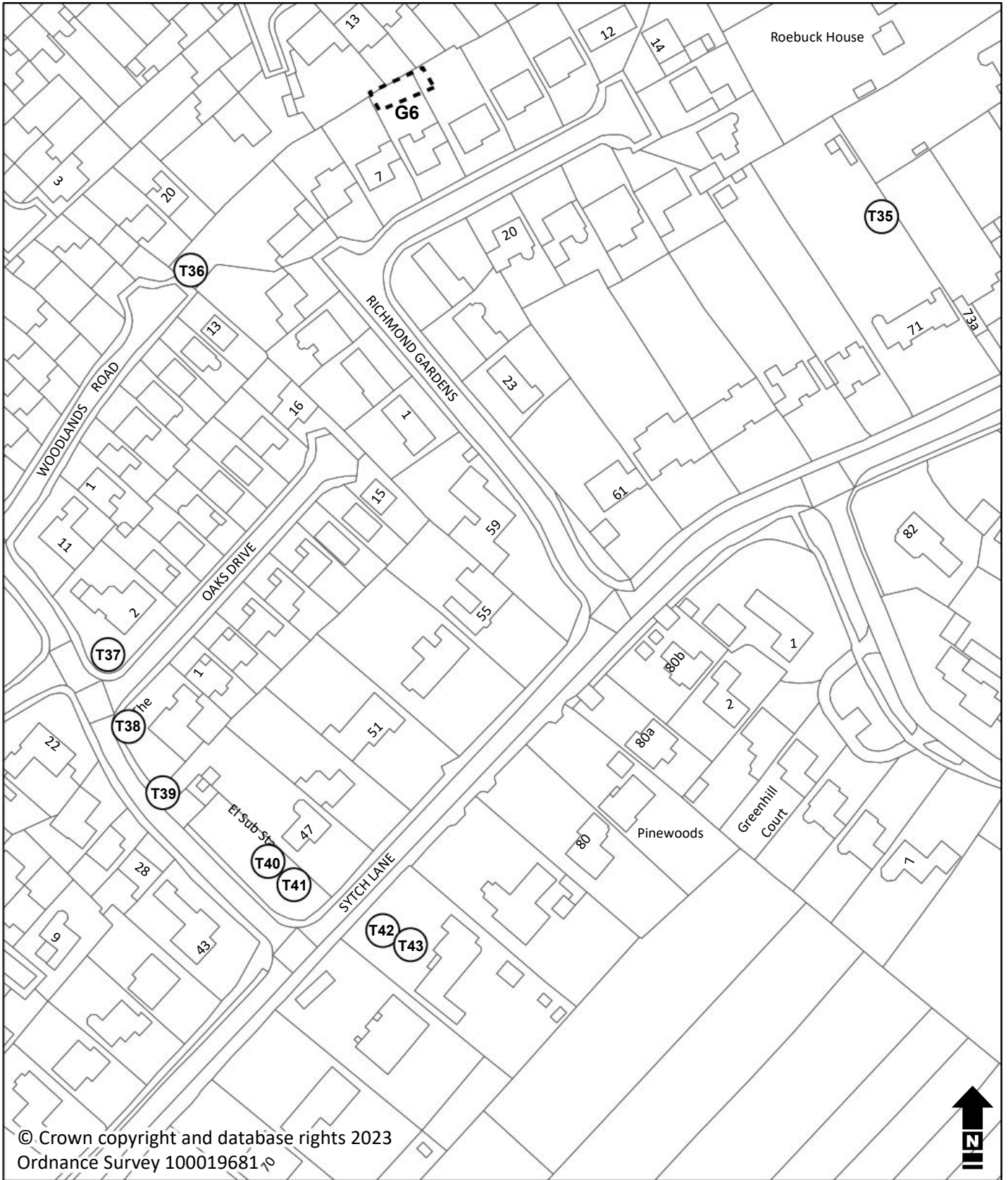
Council Offices  
Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:1,250

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 6 of 9



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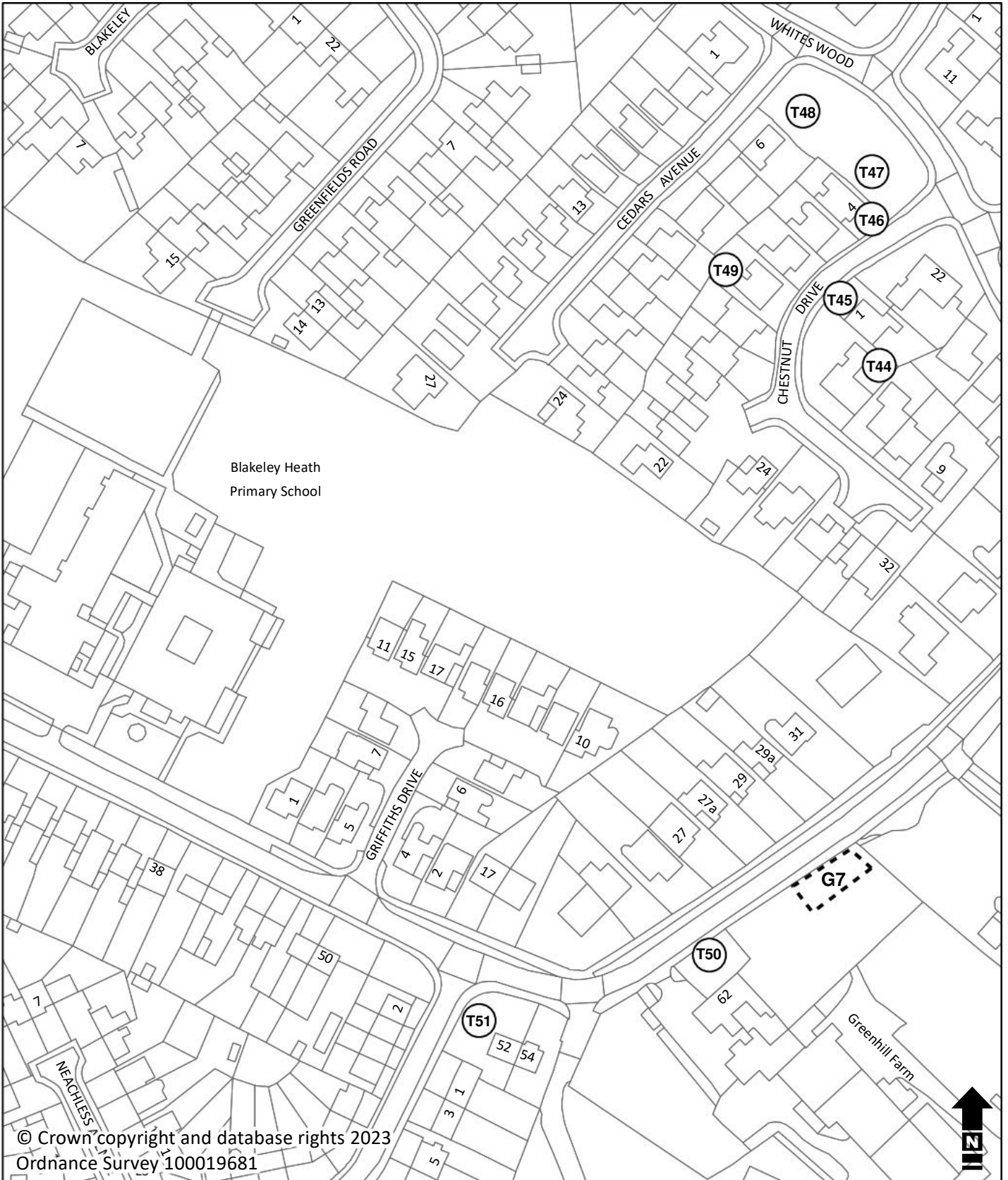
Council Offices  
Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:1,500

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 7 of 9



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Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:1,500



**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 8 of 9



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Ordnance Survey 100019681 1

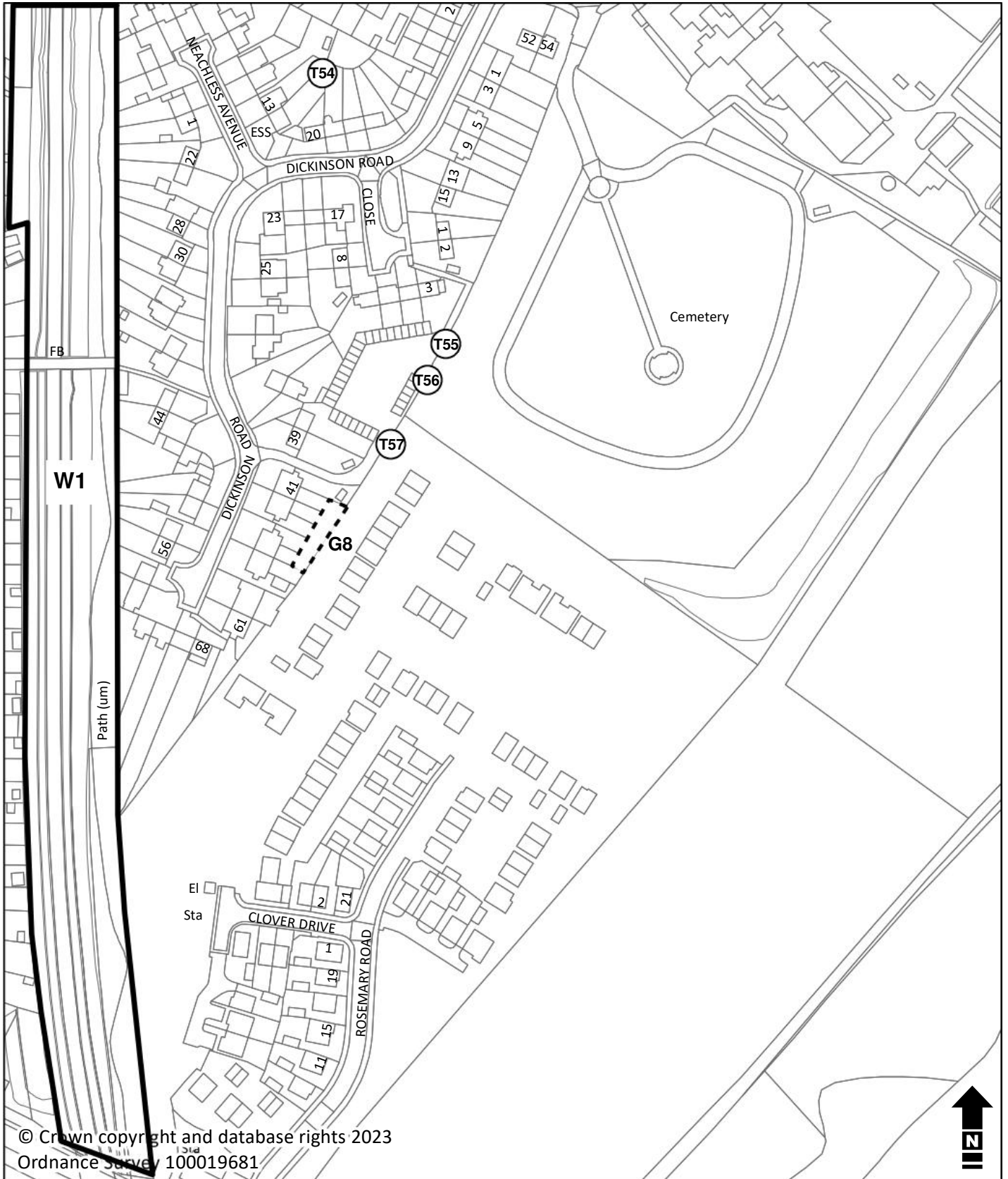
Council Offices  
Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:1,250

**SOUTH STAFFORDSHIRE DISTRICT COUNCIL**  
**TREE PRESERVATION ORDER No. 23 / 18001 / TPO**  
**Wombourne South East**  
**Wombourne**

Map 9 of 9



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Wolverhampton Road  
Codsall  
WV8 1PX



Scale: 1:2,000

**Appendix 2 – Copy of Regulation 5 Notice**

**The Owner / Occupier**

**Land affected by TPO No. 23/18001/TPO**

**Wombourne**

**Staffordshire**

**Important – This Notice Affects Your Property**

**Town and Country Planning Act 1990**

**Town and Country Planning (Tree Preservation)(England)Regulations 2012**

**Tree Preservation Order No. 23/18001/TPO**

South Staffordshire District Council, in exercising its powers as the local planning authority under Section 198 of the Town and Country Planning Act 1990, has made a new Tree Preservation Order which came into effect on 3<sup>rd</sup> August 2023.

A copy of the Order and the associated map(s) is enclosed with this notice and will contain all information required to allow you to identify the tree(s) effected by it that are located on, or adjacent to, your property; or that you are deemed to have an interest in.

The reasons for making the order are:

The trees have been deemed to be high quality specimens which make a significant contribution to local amenity. Their protection is warranted as a precautionary measure against removal, potentially damaging pruning works, site development or change in ownership.

The loss of the trees would result in an unduly negative impact on the local area and therefore, it is considered expedient to make them subject of a Tree Preservation Order.

A certified copy of the Order and the associated map(s) may be inspected without charge at the Council Offices, Wolverhampton Road, Codsall, WV8 1PX between the hours of 9.00 until 5.00pm normal office hours.

Advisory

Please note that the making of a Tree Preservation Order does not render South Staffordshire District Council responsible for the routine inspection or maintenance of any trees included within it.

Property owners have a duty of care to ensure that any tree(s) on their land do not pose an undue risk. For more information regarding Tree Preservation Orders and trees within conservation areas please visit [www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas](http://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas)

Any objections or representations in respect of the Order should be made to South Staffordshire District Council no later than 12<sup>th</sup> January 2024 and comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations as follows:

Objections and representations

6(1) Subject to paragraph (2), objections and representations –

(a) shall be made in writing and –

- (i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or
- (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

6(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

Dated: 14<sup>th</sup> December 2023



Gavin Pearce  
Senior Arboricultural Officer  
South Staffordshire District Council

## **Appendix 3 – Written Representations**

Mr Gavin Pearce,  
Senior Arboricultural Officer,  
South Staffordshire District Council,  
Council Offices,  
Codsall,  
South Staffordshire,  
WV8 1PX.

47, Copper Beech Drive,  
Wombourne,  
Staffordshire,  
WV5 0LH.

SOUTH STAFFORDSHIRE DISTRICT COUNCIL  
COUNCIL OFFICE

25 SEP 2023

RECEIVED

21 September 2023.

Dear Mr Pearce,

Thank you for your letter, dated 30th August 2023, enclosing a copy of the new Tree Preservation Order, No 23/18001/T.P.O.

In regard to my property, I am writing to object to the statement that there are "3 pine in rear garden of 47, Copper Beech Drive". Unless you have gifted me the small strip of land to the rear of my garden, without my consent, this statement is completely inaccurate.

I am surprised your official document states this, given my prior conversation with you. Recalling that conversation during your visit on 31st May; you agreed that the 3 pine trees are on an isolated strip of land, with no access, adjacent to my rear garden. My husband and I never purchased this land from Mr H. Gittins, therefore your notice needs to be served on the beneficiaries of Mr H. Gittins' Estate or on Bovis Homes to whom he sold the Nursery.



The current Land Registry Plans fail to clearly identify the exact rear boundary of my garden. Furthermore, the width of the strip of land on Map 3 of 9, G4 of the T.P.O. is much exaggerated in size and is therefore very misleading.

I trust you will look into this matter with some urgency and rectify the errors made. I await your written confirmation that this has been completed.

Yours sincerely,





127 SEP 2023

RECEIVED

re:

tree preservation 23/18001/TPO

Map 3 - 94 - No 45

Copper Beech Drive, WV5 0LH.

Dear Sir,

You state "2 pines in rear garden of 45 Copper Beech Drive" - there are in fact 3 pines, one has apparently been given permission to be removed. These trees are situated on a piece of isolated land with no access" as stated by Mr. Pearce when he surveyed the site.

I therefore have no responsibility to ensure that these trees are maintained.

Yours sincerely



**Gavin Pearce**

---

**To:** External Email for Information  
**Subject:** TPO no 23/18001/TPO

---

**From:** [REDACTED]  
**Sent:** Wednesday, November 15, 2023 7:05 PM  
**To:** External Email for Information <[Info@sstaffs.gov.uk](mailto:Info@sstaffs.gov.uk)>  
**Cc:** [REDACTED]  
**Subject:** TPO no 23/18001/TPO

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION-THIS EMAIL WAS SENT FROM OUTSIDE THE COUNCIL. DONT OPEN LINKS OR ATTACHMENTS UNLESS YOU'RE SURE YOU CAN TRUST THIS SENDER!

Dear Sir/Madam

I have today received notification that tree T27 ( a Lime) is in my front garden. In fact, I have no Lime trees in my garden. The tree is in the garden of The Coach House. Please correct you plans. You can visit me by prior arrangement by calling me on [REDACTED] I have my house plan available which shows that I don't own the patch of land where the tree is sited. The Mews garden is separated by a low wall from the Coach House garden.

Regards  
[REDACTED]

**From:** [REDACTED]  
**To:** [External Email for Trees](#)  
**Subject:** Tree Preservation order 23/18001/TPO  
**Date:** 20 November 2023 14:51:00

---

You don't often get email from [REDACTED] [Learn why this is important](#)

**CAUTION-THIS EMAIL WAS SENT FROM OUTSIDE THE COUNCIL. DONT OPEN LINKS OR ATTACHMENTS UNLESS YOURE SURE YOU CAN TRUST THIS SENDER!**

We are in receipt of your recent letter, Tree preservation order as above and would advise you that the schedule is incorrect in specifying that there are 4 x pines at 8 Richmond Gardens, there are 2 x Pines in the garden of 8 Richmond Gardens and 2 very close to our property but actually situated in the garden of our neighbour at 9 Richmond Gardens. If you would like to visit or contact us regarding the incorrect information then please feel free to call on [REDACTED]

Regards

[REDACTED]  
8 Richmond Gardens, Wombourne WV5 0LQ

**From:** [External Email for Trees](#)  
**To:** [Gavin Pearce](#)  
**Subject:** FW: TPO 23/18001/TPO and Application 22/00073/TTREE  
**Date:** 08 December 2023 10:27:50

---

-----Original Message-----

From: [REDACTED]  
Sent: Thursday, December 7, 2023 8:13 PM  
To: External Email for Trees <Trees@sstaffs.gov.uk>  
Subject: TPO 23/18001/TPO and Application 22/00073/TTREE

[You don't often get email from [REDACTED] Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

CAUTION-THIS EMAIL WAS SENT FROM OUTSIDE THE COUNCIL. DONT OPEN LINKS OR ATTACHMENTS UNLESS YOURE SURE YOU CAN TRUST THIS SENDER!

With reference to TPO No. 23/18001/TPO

My name is [REDACTED] and I live at 9 Richmond Gardens Wombourne WV5 0LQ

Please note that the information regarding G6 is incorrect.

You state that area G6 refers to 4 pine in the rear garden of no. 8 Richmond Gardens.

In fact 2 of those pines are in the rear garden of no. 9 Richmond Gardens.

In January 2022 after having had 2 pines fall down we applied for permission to fell 3 pines and a silver birch.

Please see planning application 22/00073/TTREE.

In April 2022 we received permission to fell the 3 pines and the silver birch.

In November 2022 after consultation with our tree surgeon we decided to fell t1 (silver birch) and t2 (pine) and perform a weight reduction on t3.

I notified you by email that this work had been carried out and we have planted a Norwegian Maple.

However during 2023 we have branches fall from t3 requiring the services of our tree surgeon to make the tree safe and we are now considering felling t3 and t4.

Are we still able to fell t3 and t4 before April 2024 using permission from 22/00073/TTREE or does TPO 23/18001/TPO mean we need to reapply for permission to fell t3 and t4 (the 2 pines included in area G6 on the new TPO)?

Regards

[REDACTED]

38, WOMBOURNE PARK,  
WOMBOURNE,  
WOLVERHAMPTON  
WS1 0NA

11 DEC 2023



08.12.23

Dear Mr. Pearce,

SOUTH STAFFORDSHIRE D.C. TREE PRESERVATION ORDER No 23/18001 TPO

I broadly welcome the proposed TPO and for the most part have no objections.

OBSERVATION AND OBJECTIONS

(1) Why are trees on publicly owned land included?

There is a presumption that trees/land are in this case protected from development or felling/pruning. Should there be any such proposals planning controls would be applied in these cases.

(2) Protecting trees on highway verges and curtilages is fraught with problems due to potential/actual impairment of side lines, overhead branches and damage to footways.

OBJECTIONS

Subject to the observations above I consider the proposed inclusion of W1/W2 as inappropriate on the grounds that boundary trees to private gardens require regular maintenance due to overhanging limbs - preventing beneficial use of the adjoining gardens.

The following trees are on highway land - T3, T14, T20, T30, T32, T33, T34, T39, T47, T48, T52, T53, T55, T56, T57

## CONTINUATION

If it is your intention to put trees, woodland and groups on publicly owned land why have you not included:-

- (1) Significant boundary and internal tree plantings at Sydenham Cemetery. (Current horticultural arboricultural maintenance of these trees leaves much to be desired)
- (2) Trees adjacent to Bridgworth Road between Common Road - Wombourne Park.  
Trees Common Road - adjacent to service road Wombourne Park / Bridgworth Road.
- (3) Placing a T.P.O on the publicly owned trees will create an overly onerous requirement on the District / County Council in terms of maintenance and periodic pruning. This could / will lead to a lack of inspection and processes as a result.

I look forward to receiving a response and in due course any revisions to the proposed Tree Preservation Order.

Yours Sincerely





11 DEC 2023

RECEIVED

2 Greenhill Gardens  
Wombourne  
Staffs  
WV5 0JB

6 December 2023

**F.a.o. Mr Gavin Pearce - Senior Arboricultural Officer**

South Staffordshire District Council  
South Staffordshire Council  
Council Offices  
Codsall  
South Staffordshire  
WV8 1PX

Dear Mr Pearce,

Ref:- Tree Preservation Order No. 23/18001/TPO

Further to your letter, which was delivered by hand on 15 November 2023, (see Appendix A) I wish to object to the proposed "Tree Preservation Order ('TPO') for a number of reasons. Your letter makes reference to a government website that provides further information, with respect to Tree Preservation Orders, and that additional information can be found at "[www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas](http://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas)" and as such hereon this website will be referred to as the "TPO website". It is from information on this website that most of my objections are based upon and, where possible, I will refer to the appropriate paragraph number. I will now provide details of my objections.

**Objection 1: Timescale involved in notifying interested parties**

Paragraph 031 on the "TPO website" states "*The local authority must, as soon as practicable after making an Order and before it is confirmed, serve 'persons interested in the land affected by the Order'*" however the "TPO" was made on 3 August 2023 but interested parties weren't notified about the TPO until 15 November 2023 which is over three months later! This does not seem a reasonable timescale and would seem to fail the test of "*as soon as practicable after making an Order*". **Please explain and justify the nigh on fifteen week delay in notifying interested parties about the TPO.**

The following objections all relate specifically to the trees, that it is proposed will be covered by the TPO, that are in "Area A2" which has a "Map reference" of "A2", has a "Description" of "All trees within area marked" and a "Situation" described as "South of Greenhill Gardens and Beggars Bush Lane". The vast majority of this land is covered by the Land Registry entries SF386668 and SF386673 (the only part of "Area A2" **not** covered by these two titles is the cottage at the bottom of Beggars Bush Lane near to the A449). For your ease of reference I attach copies of the Land Registry records for SF386668 and SF386673 and these can be found in Appendix B. These two Land Registry records (SF386668 and SF386673) cover approximately 10 acres of **privately owned** land. My father [REDACTED] originally purchased this land in the late 1990s and in 2014 the land was transferred into a "family trust" with the family members being the trustees. Thus, from these land registry documents, it can be clearly seen who the "interested parties" are; with me being one of them along with other members of my family. This now brings me on to my other objections.



### **Objection 2: Council's failure to serve all 'persons interested in the land affected by the Order'**

Paragraph 031 on the "TPO website" states "*The local authority must, as soon as practicable after making an Order and before it is confirmed, serve 'persons interested in the land affected by the Order'*" however at no point has the Council notified my father ( [REDACTED] [REDACTED] of Knypersley, Greenhill, Wombourne) about the "TPO"; this is a breach of the Council's obligations to notify "*persons interested in the land affected by the order*". I have checked with my father again and as of today, 6 December 2023, he has still not received any notice from the Council regarding the "TPO". Paragraph 031 also states that "*The authority must also be able to prove that it has done this in one of a number of different ways*". **As such the Council is formally requested to acknowledge and confirm in writing that it failed to notify ALL "persons interested in the land affected by the order" OR the Council is officially requested to provide the relevant documentary evidence to prove that the Council did notify my father [REDACTED] [REDACTED] of Knypersley, Greenhill, Wombourne) about this "TPO"**. By pure chance I did happen to find out about the "TPO" made by the Council (and how it affects the field referenced as "A2") because trees "T22" and "T23" happen to be located in my front garden so I did receive a copy of the "TPO". Similarly my sister [REDACTED] of 9 Richmond Gardens, Wombourne) happened to receive a copy of the "TPO" because she has two trees in her back garden that were covered by a previous "TPO" and her neighbour (at 8 Richmond Gardens, Wombourne) has trees covered by this "TPO"; the ones referred to as group "G6".

### **Objection 3: Justification of the "amenity value" of the trees in "Area A2"**

To justify the "TPO" the Council is obliged to assess the amenity value of the trees and paragraph 008 on the "TPO website" states "*The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public*". The trees located in "Area A2" are on privately owned land with no public right of access. Only a small selection of trees can be clearly seen from a public place, i.e. a road or footpath, with those being the ones immediately adjacent to and bordering Beggars Bush Lane. The height of the hedge and trees (bordering Beggars Bush Lane) means that the rest of the trees in "Area A2" are not visible from a public place. Even from the A449, unless in a very high vehicle (such as the driver of an HGV or a passenger on the top deck of a double-decker bus), the trees in "Area A2" cannot be clearly seen as the hedge bordering the A449 is around six feet high (and this is when it has recently been cut). **Thus, before confirming the "TPO", the Council are requested to provide further evidence to justify the "amenity value" of the "TPO" including "all trees within the area marked" as "Area A2"**.

### **Objection 4: Failure by the Council to carry out a "site visit"**

Paragraph 031 on the "TPO website" states "*Before making an Order a local planning authority officer should visit the site of the tree or trees in question and consider whether or not an Order is justified*" yet, to the best of my knowledge, there has been no such site visit. As noted in "Objection 3" there is very poor visibility of the trees in "Area A2" from a public space and at no point have we been contacted by the council and asked to facilitate a site visit so when was the requisite site visit performed? **As such the Council is formally requested to acknowledge and confirm in writing that it failed to perform a "site visit" OR alternatively if one was performed please provide documentary evidence of who carried out the site visit, on what date and how they gained access to the field.**



### **Objection 5: Use of the "Area Category" for the protection of trees in "Area A2"**

Paragraph 029 on the "TPO website" states "*The area category is intended for short-term protection in an emergency...*" and then goes on to say "... authorities are encouraged to resurvey existing Orders which include the area category". Also the government document "Tree Preservation Orders: A Guide to the Law and Good Practice" (which can be found at "<https://assets.publishing.service.gov.uk/media/5a790b1d40f0b679c0a08161/tposguide.pdf>") states at paragraph 3.18 "*In the Secretary of State's view the area classification should only be used in emergencies, and then only as a temporary measure until the trees in the area can be assessed properly and reclassified.*" **As such the Council is formally requested to explain what the "emergency situation" is that justifies the use of the "Area Category" OR alternatively why the Council has ignored the Secretary of State's guidance to avoid the use of the area classification.**

### **Objection 6: "Area A2" is the largest piece of privately owned land covered by the TPO**

The only really sizeable pieces of land covered by the "TPO" are "A2", "W1", "W2", "W3" and "W4". Of these "W1" and "W2" are owned by the Council (or at least the Council's responsibility) and "W3" and "W4" are public spaces that were a requirement as part of the development of the land that was "Gittins Nurseries". Thus "Area A2" is the largest piece of privately owned land affected by the "TPO". The use of the "area" classification is only intended to be used in emergency situations (see objection 5) yet the Council are attempting to apply the "TPO" to approximately 10 acres of privately owned land with no attempt to justify which trees they are trying to protect. Ignoring for a moment all of the previous objections, had the Council properly notified ALL the owners of the field that they wished to protect particular "specimen" trees located on our land (or even groups of specific trees) then this would have been far more understandable and acceptable. Within the field are a number of oak trees, some sycamore trees and at least one horse chestnut tree (which seem to be the types of tree generally covered by the "TPO") so if these had been specifically referenced in the "TPO" it would have been far more reasonable. Within the field are number of holly trees and a lot of damson trees (most of these have self seeded) and all of these would be covered by the "Area A2" classification despite neither of these types of tree being a tree covered within the "individual tree" category at any location covered by the "TPO"; there is not a single holly tree or damson tree listed in the "individual" tree category of the "TPO" so why is it deemed necessary to apply a "TPO" to all of ours? It would seem that the Council have looked at our field on "Google earth" or "Google maps" (or some other satellite imagery software), rather than carrying out the prescribed site visit, and then taken the view that "there seem to be some trees in that area worth protecting so we'll apply protection to the whole area" rather than doing things properly and identify the particular trees that the Council genuinely wish to protect. **Why has the council used the "area" classification to protect "all trees within the area marked" when the area in question is over 10 acres of privately owned land with a significant number of very "low value trees" and when the general public has no right of access? Why has the Council not used the "Individual" tree category or the "group" category to specify the trees that they genuinely believe are worthy of protection?**

### **General comments that may be of assistance**

Since the land was purchased in the late 1990s it has predominantly been left as a natural habitat. Until around ten years ago a local farmer use to cut and bale the grass for hay (or silage) to feed his livestock but this no longer happens. Since the housing development was built on the land the other side of Beggars Bush Lane (the land that use to be "Gittins Nurseries") we have tended to leave the field as more of a natural meadow. With virtually all the land owned by "62 Sytch Lane" / "Greenhill Farm" / "Biddle's Farm" (however you wish to refer to it) used for horses and with Gittins Nurseries now gone we have allowed our field to become a "safe haven" for local wildlife.



Apart from cutting a path around the field (to allow easier access around the field) and a small rectangle of grass in the field that has been cut short for our own uses the field and plants (including the trees) have predominantly remained untouched. When a tree has come down due to natural causes (e.g. after a storm) we have typically left it where it has fallen for the benefit of the local wildlife and have only cut them up and moved them if they are a nuisance/hindrance to us or others. As such, we are sympathetic to protecting the natural environment of the field but equally are very unimpressed that the Council have sought to apply a "blanket" Tree Preservation Order to all of our land without, or so it would seem, carrying out "due process" or giving it proper consideration.

Over the years there are a number of small seedling/sapling trees (particularly damson trees) that have self seeded, within the main part of the field, and we have just "let them be" on the basis that, if at a later date, they proved to be in the way then they could be removed. However, so we can now remain compliant with paragraph 131 on the "TPO website", we will end up being "encouraged" to cut down, lop or uproot any small tree with a trunk diameter less than 75mm (when measured 1.5m above ground level) as soon as it appears so as to prevent the tree subsequently becoming protected by the "TPO"; this seems to be a ridiculous situation. On the basis of what the Council currently proposes we will be left with no alternative but to adopt this approach to protect our own interests as owners of the land. Should, at some point in the future, the family decides to sell the field then its value will be adversely affected if there are "new" trees growing on parts of the land that are currently "open field". Agricultural land populated with trees is going to be far less attractive than "large open spaces". The Council seems to have given no consideration to these issues with their current proposal and what is "private land". Whilst there may be genuine reasons to protect some of the trees, perhaps because they are particularly good specimens or maybe because some in particular locations do add "amenity value" (perhaps some of the ones immediately adjacent to Beggars Bush Lane) but the Council has adopted the "area classification" approach which even the Secretary of State advises against except in "emergencies".

There is an understanding and acceptance of what the Council are trying to achieve and this is evidenced by the fact that we have no objections to the "TPO", if confirmed, covering the two trees in our own front garden (tree "T22" an ash tree and "T23" a beech tree). These are both lovely trees and certainly add to the local environment by their presence and can be seen by any member of the public travelling around Greenhill Gardens. In the twenty six years that we have lived at our address we have only ever trimmed the low branches of these two trees when they have become a nuisance. In the past, some of the lower branches have caused a nuisance or an obstruction to the pavement, the road or even our own drive. **In your response to this letter it would be appreciated if you could please clarify if this is still permitted or would we need to submit a "section 211 notice" every time we needed to do this (assuming the "TPO" on these trees is subsequently confirmed).**

To ensure that this letter reaches you by the 12 December 2023 deadline it has been sent by Royal Mail first class "Special" delivery post. In due course, when you reply to this letter, please ensure that you respond to all of the points that are in **bold and blue type**. **Despite all of the objections raised in this letter, should the Council decide to confirm the "TPO" as currently made, then please provide details of how the issue can be escalated especially as paragraph 037 on the "TPO website" states "Authorities should bear in mind that, since they are responsible for making and confirming Orders, they are in effect both proposer and judge"** and it is felt that true, valid and genuine objections have been raised.

Yours sincerely,



**SOUTH STAFFORDSHIRE COUNCIL**

**PLANNING COMMITTEE – 30<sup>th</sup> January 2024**

**Planning Performance report**

**REPORT OF THE DEVELOPMENT MANAGEMENT TEAM MANAGER**

**PART A – SUMMARY REPORT**

**1. SUMMARY OF PROPOSALS**

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

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

1.3 Monthly Updates on:

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

1.4 Quarterly Updates on:

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

**2. RECOMMENDATION**

2.1 That Committee notes the content of the update report.

**3. SUMMARY IMPACT ASSESSMENT**

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

TARGET COMPLETION/ DELIVERY DATE	18 <sup>th</sup> January 2024	
FINANCIAL IMPACT	No	There are no direct financial implications arising from this report.
LEGAL ISSUES	No	Any legal issues are covered in the report.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	No other significant impacts, risks or opportunities have been identified.
IMPACT ON SPECIFIC WARDS	No	District-wide application.

## **PART B ADDITIONAL INFORMATION**

### **Monthly Updates**

#### 4. Procedure updates/changes

4.1 The Service as appointed a new Assistant Team Manager in Development Management, Tom Nut. He is a replacement for former colleague Lucy Duffy who has move to Solihull Council as Planning Enforcement Manager.

4.2 Ongoing recruitment continues to ensure a full staff contingency.

#### 5. Training Update

5.1 The schedule of both mandatory and optional training has now been completed. It is the intention to undertake training for members on bespoke topics going forward before alternate planning committees (5-6pm) in the Council chamber.

5.2 The following training sessions have now been scheduled:

- March 19<sup>th</sup> 2024 Trees and Arboriculture – Delivered by Gavin Pearce
- May 21<sup>st</sup> 2024 Conservation and Heritage – Delivered by Ed Higgins (Senior Conservation Officer)

5.3 Training with regards to the updated NPPF and what it means for South Staffordshire is scheduled for the 8<sup>th</sup> February 2024 via Microsoft Teams, all members are encouraged to attend.

5.4 Training with regards to the draft local plan is scheduled for the 22<sup>nd</sup> February 2024 again via Microsoft Teams, all members are encouraged to attend.

5.5 Any area of planning and/or topics members would like guidance on then do let the author of this report know.

6. Monthly Planning Statistics

October 2023	
Applications received	97
Application determined	76
Pre-application enquiries received	8
Pre-application enquiries determined	13

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

- 7.1 NPPF update was published in December 2023.
- 7.2 An application for “Planning Skills and Delivery Funding” submitted to DLUHC was unsuccessful.
- 7.3 A further application for “Digital Planning Improvement” funding was submitted in December. Outcome expected mid-February.

8. Appeals

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

- 8.2 **Planning Reference:** 22/01066/ROOF  
**Site Address:** 119 Springhill Lane, Lower Penn, Staffordshire WV4 4TW  
**Date of Inspectors Decision:** 10 November 2023  
**Decision:** Allowed (Appendix 1)

The development proposed is described as “proposed additional storey built directly above footprint of original 2 storey dwelling to create 3 storey dwelling”

The main issue were:

- The Council refused to grant prior approval in relation to paragraph AA.2, and in particular, the effect of the proposal on the external appearance of the dwelling house. The Council has not argued that the proposal fails to comply with any other conditions, limitations or restrictions under Class AA, and I have no compelling reasons to find otherwise.
- As such, in the present case, the main issue is whether prior approval should be granted under class AA of Part 1 of Schedule 2 of the GPDO, having particular regard to the external appearance of the dwellinghouse.

The inspector allowed the appeal for an additional storey to be added to this property noting that “the addition of an extra storey would not alter the proportions of the building to such an extent that it would detract from the appearance of the dwelling” and “the altered appeal dwelling would have a recessed and discreet position in the street and would be screened from the surrounding area by boundary vegetation.

Accordingly, it would not visually dominate or appear unacceptably stark amongst other buildings nearby”.

**8.3 Planning Reference:** 22/00662/FUL

**Site Address:** 7 Blakeley Heath Drive, Wombourne, Staffordshire WV5 0HW

**Date of Inspectors Decision:** 15th November 2023

**Decision:** Dismissed (Appendix 2)

The development relates to the erection of 1 no. 2 bed detached bungalow

The main issue were:

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

The inspector dismissed the appeal noting the location and siting of the dwelling to be inappropriate as “it would be a detached building and follow a different building line to the existing semi-detached bungalows at the head of the cul-de-sac. It would therefore not be in keeping with the existing pattern of development within the established street scene” as well as its cramped appearance. The inspector went on to note that as the proposed bungalow was below the internal space required by the Nationally Described Space Standards the standard of living accommodation for future occupiers would be unsatisfactory.

**8.4 Planning Reference:** 22/00486/LUP

**Site Address:** 10 Rushford Avenue, Staffordshire, Wombourne WV5 0HZ

**Date of Inspectors Decision:** 17TH NOVEMBER 2023

**Decision:** Dismissed (Appendix 3)

The development for which a certificate of lawful use or development is sought is a proposed single storey outbuilding containing garage and gym.

The main issue were:

- An LDC (Lawful Development Certificate) is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed use are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
- The main issue is whether the Council’s decision to refuse to grant an LDC was well founded with particular regard as to whether or not it has been demonstrated that the proposed outbuilding would be permitted development taking into account the conditions and limitations of Class E (buildings etc incidental to the enjoyment of a dwellinghouse) of Part 2 of

Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPD0).

The inspector focused on the matter of the proposed building being “required” for the purposes incidental to the enjoyment of the dwellinghouse and concluded that he was not persuaded that the gym needed to be of this scale.

#### 8.5 **Planning Enforcement Appeal**

**Site Address:** Land adjacent to Brinsford Bridge, Stafford Road, Coven Heath, South

**Date of Inspectors Decision:** : 27TH NOVEMBER 2023

**Decision:** Notice quashed (Appendix 4)

The appeal was against a Planning Enforcement Notice served due to a breach of condition Number 1 of planning approval 21/00624/VAR. This condition related to plan numbers for the approved scheme. The buildings were higher than that approved as well of a varying design.

The inspector noted that whilst there was a deviation from the approved plans and that, as a result, there was harm to the Green Belt, the fallback position of the approved scheme outweighed the harm.

#### 8.6 **Planning Reference:** 22/01087/FUL

**Site Address:** Bridleway Barn, Mere Lane, Penkridge, STAFFORD ST19 5PJ

**Date of Inspectors Decision:** 13th December 2023

**Decision:** Allowed (Appendix 5)

The development proposed was an extension to form new main entrance and enlarged kitchen with opposing extension to form larger main bedroom (for disabled owner) with first floor house bathroom and storage over.

The main issues were:

- The effect of the proposed extensions on the character and appearance of the host dwelling,
- and whether there are other material considerations sufficient to outweigh any harm identified in respect of the above issue and any conflict with the development plan in relation to the proposed extensions.

Whilst the inspector found there to be modest harm to the character and appearance of the barn but in having due regard to the Public Sector Equality Duty put significant weight on the occupier of the dwelling being a wheelchair user.



- 8.7 **Planning Reference:** 23/00281/FUL,  
**Site Address:** Anvil Caravan Park, Bursnips Road, Essington, Wolverhampton WV11 2RE  
**Date of Inspectors Decision:** 27 December 2023  
**Decision:** Allowed (Appendix 6)

The development proposed was a shed/store.

The main issues were:

- whether the shed/store is inappropriate development in the Green Belt including its effect on the openness and purposes of the Green Belt, and
- whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whilst the inspector considered the building to be inappropriate development in the Green Belt significant weight was afforded to the need for this building on the site and that this amounts to the very special circumstances necessary to justify the development.

## 9. Quarterly Updates

### 9.1 Planning Statistics from DLUHC

Description	Target	Q1	Q2	Q3	Q4	Cumulative
23 Major	60%	100%	100%	100%		100%
22 Major		75%	100%	100%	89%	91%
21 Major		100%	100%	100%	85%	93%
23 Minor	70%	92%	89%	94%		91%
22 Minor		89%	90%	86%	100%	91%
21 Minor		82%	84%	81%	89%	84%
23 Other	70%	93%	93%	93%		93%
22 Other		93%	96%	96%	96%	95%
21 Other		88%	87%	83%	87%	86%

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

Total (overall) - 92%  
Major - 91%  
Minor - 91%  
Other - 93%

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



Position in National Performance Tables (24 months to June 2023)

Majors 134<sup>th</sup> from 329 authorities

Non-Major 85<sup>th</sup> from 329 authorities

Report prepared by:

Helen Benbow

Development Management Team Manager



# Appeal Decision

Site visit made on 07 November 2023

**by N Robinson BA (Hons) MA MRTPI**

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

**Decision date: 10 November 2023**

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## **Appeal Ref: APP/C3430/D/23/3319229**

### **119 Springhill Lane, Lower Penn, Staffordshire WV4 4TW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr Ranjit Dudrah against the decision of South Staffordshire District Council.
  - The application Ref 22/01066/ROOF, dated 08 November 2022, was refused by notice dated 10 January 2023.
  - The development proposed is described as “proposed additional storey built directly above footprint of original 2 storey dwelling to create 3 storey dwelling”.
- 

## **Decision**

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 1, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for proposed additional storey built directly above footprint of original 2 storey dwelling to create 3 storey dwelling at 119 Springhill Lane, Lower Penn, Staffordshire WV4 4TW, in accordance with the application Ref 22/01066/ROOF, made on 08 November 2022, and the details submitted with it including plan numbers 22 13301, 22 133 02 and 22 133 03, and in accordance with the standard conditions set out under paragraphs AA.2.(2) and (3) of Class AA of the GPDO.

## **Preliminary Matters**

2. Under Article 3(1) and Class AA of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), a development consisting of the enlargement of a dwellinghouse by the construction of additional storeys is permitted development, subject to various specified exceptions and conditions. One of these requires the developer to apply for prior approval of certain matters.
3. The National Planning Policy Framework (the Framework) and Development Plan policies can be considered relevant in prior approval cases but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

## **Main Issue**

4. The Council refused to grant prior approval in relation to paragraph AA.2, and in particular, the effect of the proposal on the external appearance of the dwelling house. The Council has not argued that the proposal fails to comply

with any other conditions, limitations or restrictions under Class AA, and I have no compelling reasons to find otherwise.

5. As such, in the present case, the main issue is whether prior approval should be granted under class AA of Part 1 of Schedule 2 of the GPDO, having particular regard to the external appearance of the dwellinghouse.

### **Reasons**

6. The appeal site consists of a large 2-storey detached dwelling which is set back from Springhill Lane. The appeal dwelling occupies a discreet position at the end of a shared drive whilst being predominantly screened from the lane by a thick screen of vegetation.
7. The site lies in a residential area that is characterised primarily by substantial individually designed single and 2-storey detached dwellings which are set back from the highway within spacious plots. Given the set back from the highway and the presence of boundary vegetation, the dwellings along the south side of Springhill Lane are not easily visible in conjunction with one another when viewed from the lane.
8. Paragraph AA.2.(3)(a)(ii) of Class AA requires prior approval to be sought for 'the external appearance of the dwellinghouse, including the design and architectural features of (aa) the principle elevation of the dwellinghouse, and (bb) any side elevation of the dwellinghouse that fronts a highway.' The use of the word 'including' means that the lists that follow are not exhaustive and that other factors could affect the external appearance of the dwellinghouse. Furthermore, the wording of (aa) and (bb) suggests that some assessment should be made of how the dwellinghouse would appear in the street scene, as otherwise alterations could be made to the design and architectural features that could be considerably at odds with the surrounding area.
9. The proposal would add an additional storey to the appeal property. The proposed extension has been designed with matching features and materials to the existing building. The profile and pitch of the roof would remain unchanged, and the addition of an extra storey would not alter the proportions of the building to such an extent that it would detract from the appearance of the dwelling.
10. In terms of its effect on the area the proposal would result in a large dwelling that would contrast with the scale of the single and 2 storey properties within the lane. However, the altered appeal dwelling would have a recessed and discreet position in the street and would be screened from the surrounding area by boundary vegetation. Accordingly, it would not visually dominate or appear unacceptably stark amongst other buildings nearby.
11. My attention has been drawn to the Wombourne Railway Walk, however I have not been provided with full details of this. Nonetheless, given the considerable distance from the nearest public rights of way and public vantage points to the rear of the site and the presence of intervening vegetation, the altered dwelling house would not appear as an unduly dominant or discordant feature in views from lower ground to the rear of the site.
12. Consequently, I find that the appearance of the dwelling would be acceptable and the proposal would accord with the requirements of paragraphs AA.2.(2) and AA.2.(3)(a) of Class AA. I am satisfied that the proposal would not conflict

with the Framework requirement to achieve high quality design or the similar aims of Core Policy 4 and Policy EQ11 of the Core Strategy (2012) and the South Staffordshire Design Guide (2018).

### **Other Matters**

13. I note the other matters raised by interested parties. However, issues relating to the site's location in the Green Belt are outside the terms of the Class AA procedure. I am therefore unable to give weight to these matters.

### **Conditions**

14. Prior approval under class AA is subject to conditions specified in paragraphs AA.2.(2) and AA.2.(3). The Council has suggested a condition specifying the timescale for the completion of the development. As this condition is automatically applied it is not necessary to attach it as a separate condition.

### **Conclusion**

15. For the above reasons, I conclude that the appeal should be allowed, and prior approval granted.

*N Robinson*

INSPECTOR



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# Appeal Decision

Site visit made on 29 August 2023

**by N Bromley BA Hons DipTP MRTPI**

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

**Decision date: 15<sup>th</sup> November 2023**

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**Appeal Ref: APP/C3430/W/23/3317022**

**7 Blakeley Heath Drive, Wombourne, Staffordshire WV5 0HW**

- 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 Stuart McIntyre against the decision of South Staffordshire Council.
  - The application Ref 22/00662/FUL, dated 1 July 2022, was refused by notice dated 26 August 2022.
  - The development proposed is 1 no. 2 bed detached bungalow.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In September 2023, the Government published a revised National Planning Policy Framework (the Framework). Those parts of the Framework most relevant to this appeal have not been amended. As a result, there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

## Main Issues

3. The main issues are:
  - i. the effect of the proposed development on the character and appearance of the area; and
  - ii. whether the living conditions of future occupiers would be acceptable, with particular regard to the provision of internal living space.

## Reasons

### *Character and Appearance*

4. The appeal site comprises an existing semi-detached bungalow set within a spacious plot, at the end of Blakeley Heath Drive, a residential cul-de-sac. The surrounding area includes a mix of housing types, but Blakeley Heath Drive has a uniform street scene comprised of prevalent semi-detached bungalows, with a similar scale, appearance, and plot size. The two pairs of bungalows at the head of the cul-de-sac have a consistent front building line and the two end bungalows have a generous and comparable plot size, which also adds conformity and symmetry to the uniform pattern of development within the street scene.

5. The proposed development would consist of a modest detached bungalow, located to the side of the existing property, within its private garden area. It would have its own enclosed rear garden and an off-street parking area to the side, which would be accessed off a shared driveway that would pass the front elevation of No 7. No 7 would have a newly created off-street parking area to the side and a rear garden area. A shared turning zone is also proposed to the front of the proposed bungalow.
6. The proposed bungalow has been designed to replicate the appearance of the existing bungalow and those within the street scene. It would have a similar ridge height and would have comparable facing materials and fenestration. However, it would be a detached building and follow a different building line to the existing semi-detached bungalows at the head of the cul-de-sac. It would therefore not be in keeping with the existing pattern of development within the established street scene.
7. Furthermore, the position and relationship of the proposed bungalow, immediately adjacent to the existing bungalow, and its juxtaposition with No 6 Blakeley Heath Drive, which has been extended to the side closest to the shared boundary with the appeal site, would result in a large amount of built form in close proximity to one another, in this part of the street scene. Therefore, notwithstanding that the plot ratios of neighbouring properties in the street scene may be comparable to the appeal proposal, the appeal site currently benefits from a large spacious plot by virtue of its corner plot position and rear garden size, whereas the proposed development would create a cramped appearance.
8. I acknowledge that the location of the proposed development, at the end of the cul-de-sac and to the side of the existing dwelling and No 6, results in views of the site being obscured from other vantage points within the wider streetscene. However, the proposed development would be seen from the head of the cul-de-sac from where the above effects would be evident.
9. The appellant has identified two previous schemes that have recently been approved nearby, which they believe to be comparable examples to the appeal proposal. The context of that relating to 8 Hawkswell Avenue is however different in terms of the location, the detached nature of the host dwelling and the juxtaposition between it and the new dwelling. Also, the scheme at 65 Sytch Lane is for an extension to a dwelling, as opposed to a new building. Therefore, the two schemes are not clearly comparable to the appeal proposal. Accordingly, as I am required to do, I have determined the case before me on its own merits.
10. I acknowledge that there is an extant planning permission, 21/01311/FUL, for a residential annexe, proposed in a similar position and with a similar design and scale to the bungalow now proposed. However, I have determined the appeal on its own merits based on all of the evidence before me. Nevertheless, this claimed fall-back position will be considered further in my planning balance.
11. For the collective reasons outlined above, the proposed development would be harmful to the character and appearance of the area. Therefore, the proposed development would not accord with the design aims of Policy EQ11 of the South Staffordshire Council's Core Strategy (adopted 2012), which amongst



other things, require development to respect local character and distinctiveness, and contribute positively to the street scene.

### *Living conditions*

12. The proposed development is for a modest 2-bed detached bungalow. The proposed internal floor area would provide two bedrooms, a hallway, bathroom, and an open plan kitchen/ living area.
13. The Council have referred to the Technical Housing Standards - Nationally Described Space Standards (NDSS) and Appendix 6 of the CS. In particular, appendix 6 of the CS details that the overall minimum floor space for a two-bedroom, three persons dwelling should be 66m<sup>2</sup>, with the NDSS stating that such a dwelling should have a minimum area of 61m<sup>2</sup>. The Council also raise concerns with the size of bedroom 1 being below the standard of 11.5m<sup>2</sup>, as set out in the NDSS.
14. The Framework advises that planning decisions should create places with a high standard of amenity for existing and future users. The internal space provided by the proposal is an important factor in whether it would achieve this.
15. There is dispute between the main parties about the size of the internal floor area of the proposed dwelling. The Council advises that the internal floor area is approximately 50m<sup>2</sup> and the appellant sets out that the floor area would be 59m<sup>2</sup>. Based on the submitted plans, the latter appears to be the external footprint of the building, rather than the internal floor space. Nonetheless, the proposed internal floor area would still fall below 61m<sup>2</sup> and a bedroom with a floor area of 11.5m<sup>2</sup> would not be provided.
16. I note that the appellant sets out that the scheme could be 'tweaked' to improve the amount of internal living space. However, any such alternative scheme is not the subject of this appeal. The appellant also indicates that the appeal proposal is identical to and the same size as the development at 8 Hawkswell Avenue. However, I note that bay window floorspace to bedroom 1 is included for that scheme, unlike the appeal scheme and I do not have details of the circumstances whereby the Council considered that scheme's whole floorspace to be acceptable against the standards for what was a two bedroom unit. Furthermore, I have determined the case before me on its own merits.
17. On this basis, the proposed dwelling would provide an unsatisfactory standard of living conditions for its intended occupiers as a single dwelling, by reason of inadequate living space. It would therefore not accord with the Framework in respect of this issue.

### **Planning Balance**

18. The appellant has set out that the scheme has evolved following the previous planning permission for a residential annexe, which they consider represents a fallback position.
19. The appellant has also set out that funding for the fallback position would be very difficult to secure against such a project and an independent dwelling would overcome the funding obstacle. On this basis there is some reasonable doubt that the fallback position would be implemented. Furthermore, due to the similarities between the two schemes in design terms, even if there were to

remain the potential for that previous scheme to be implemented, there would not be any benefit pertaining to the character and appearance of the area, were the appeal scheme to be built in preference to that extant proposal. I therefore afford only limited weight to the claimed fallback position.

20. The appellant has also set out that the proposed development would provide a much needed 2-bedroom unit within the village, which they consider to have a current shortfall of such accommodation. However, I have no substantive evidence before me of the need or the level of shortfall for this type of accommodation in the village. Notwithstanding this, I acknowledge that the creation of an additional dwelling would contribute to boosting the supply of new housing, as referenced in the Framework and provide the associated social, economic, and environmental benefits that a dwelling would contribute to. Nonetheless, the benefit of one dwelling in boosting housing supply in the area would be limited.
21. I have also taken into account the desire of the existing occupants and their relative to live in close proximity to one another for caring and companionship purposes. However, this would be a private benefit that would not be secured in perpetuity for the public interest.
22. Overall, when taking the above factors into account, the harm caused to the character and appearance of the area, and the living conditions of future occupiers, with particular regard to the provision of internal living space, would not be outweighed by any benefits or other material considerations relating to the proposal.

### **Conclusion**

23. For the reasons given and having regard to all matters raised, I conclude that the appeal is dismissed.

*N Bromley*

INSPECTOR



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# Appeal Decision

Site visit made on 7 November 2023

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

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

**Decision date: 17<sup>TH</sup> NOVEMBER 2023**

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**Appeal Ref: APP/C3430/X/22/3305195**

**10 Rushford Avenue, Staffordshire, Wombourne WV5 0HZ**

- The appeal is made under section 195 of the Town and Country Planning Act 1990 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 Mrs Wakelam against the decision of South Staffordshire Council.
  - The application Ref 22/00486/LUP, dated 11 May 2022, was refused by notice dated 20 July 2022.
  - The application was made under section 192(1)(b) of the Town and Country Planning Act 1990 as amended.
  - The development for which a certificate of lawful use or development is sought is a proposed single storey outbuilding containing garage and gym.
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## Decision

1. The appeal is dismissed.

## Main Issue

2. An LDC is not a planning permission. Its purpose is to enable owners and others to ascertain whether specific operations or activities would be lawful. Therefore, for the avoidance of doubt, I make clear that the planning merits of the proposed use are not relevant in this appeal. My decision rests on the facts of the case and on relevant planning law and judicial authority.
3. The main issue is whether the Council's decision to refuse to grant an LDC was well founded with particular regard as to whether or not it has been demonstrated that the proposed outbuilding would be permitted development taking into account the conditions and limitations of Class E (buildings etc incidental to the enjoyment of a dwellinghouse) of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

## Reasons

*Whether required for an incidental purpose*

4. Under Class E of the GPDO *'the provision within the curtilage of the dwellinghouse of—(a) any building or enclosure, swimming or other pool required for a purpose incidental to the enjoyment of the dwellinghouse as such, or the maintenance, improvement or other alteration of such a building or enclosure; or (b) a container used for domestic heating purposes for the storage of oil or liquid petroleum gas'* is permitted development unless the proposal falls foul of the limitations in paragraphs E.1 to E.4.

5. I have applied the judgment of *Emin v Secretary of State for the Environment* (1989) JPL 909 which, in summary, stated that for an outbuilding to be required for some incidental purpose it was necessary to identify the purpose and incidental quality in relation to the enjoyment of the dwellinghouse, and whether the building would genuinely and reasonably be required to accommodate the use and thus achieve that purpose.
6. The LDC building would measure about 54.7 square metres. It would include a garage measuring 5.7 metres by 5.1 metres and a home gym measuring 3.0 metres x 5.7 metres. The appellant states that the gym is required in connection with existing medical needs (as evidenced as part of the appeal) and that the garage would be required to store garden tools, equipment, bicycles, a car and a possible future classic car.
7. The local planning authority (LPA) claims that in overall size terms the proposed outbuilding is not reasonably required to accommodate the proposed uses. It states that there is already a single garage at the property that can accommodate the parking of a vehicle and that there is currently no classic car at the site. The LPA states that the full extent of the proposed garage space is not justified even accounting for the parking of the appellant's second owned vehicle and the storage of garden equipment, tools and bicycles. Furthermore, the LPA contends that the proposed space for the gym is large, and its full extent has not been sufficiently justified in terms of being required for existing medical or other needs.
8. As part of my site visit, I was able to see inside the existing attached garage on the appeal site. The rear of this building is in use as a living room. The front part of the building is a garage and includes stored domestic items within shelving units and other domestic items including a fridge and tumble dryer. While it would currently be difficult to use the garage for the parking of a vehicle, this would be possible if some of the domestic items were located elsewhere on the appeal site and/or stored at a higher level. Alternatively, the existing garage space would currently be capable of accommodating more garden equipment and bicycles should that be necessary. Given the currently available garage space, I agree with the appellant that the provision of further secure car parking for the other owned vehicles is reasonably required.
9. Notwithstanding the above, there is no certainty that the appellant would purchase a classic car in the future, and, in that regard, I do not find that at this time the full extent of the proposed garage space is genuinely and reasonably required. In other words, it is excessive in size. In reaching this view, I am also mindful that some gardening equipment/tools and/or bicycles could be stored in the existing garage. Indeed, the appellant has not fully and reasonably justified why and how much additional space is specifically needed for overspill storage purposes. Furthermore, it was evident from my site visit that there was a relatively large, detached outbuilding in the garden although the evidence before me is uncertain in terms of its use or indeed whether there is spare capacity within it to store domestic items and equipment.
10. I do not doubt the medical needs of the appellant. However, very little information has been provided by the appellant in terms of the type, number and size of gym equipment that is needed. Furthermore, there is an absence of information about use of the existing dwellinghouse and whether acceptable space is or is not available within the property to meet the appellant's

requirements. The appellant states that '*we do not feel that the space provided is excessive for such a need*' and '*the gym equipment shown is indicative only and not representative of our client's bespoke needs*'. However, the appellant has not provided specific details of bespoke needs, particular in terms of the type and amount of gym equipment needed and the space needed to reasonably accommodate such equipment. In the context of the above, I am not persuaded that the proposed gym is reasonably required in terms of its overall size.

11. For the above reasons, and, as a matter of fact and degree, I conclude that the evidence does not support the appellant's view that the proposed outbuilding is 'required' for a purpose incidental to the enjoyment of the dwellinghouse and hence it is not permitted development by virtue of Class E of Part 1 of Schedule 2 of the GPDO.

#### *Paragraphs E.1 to E.4 of Class E GPDO Limitations*

12. There is no dispute between the parties that the proposal does not fall foul of any of the limitations (including interpretation) contained within paragraphs E.1 to E.4 of Class E of the GPDO, apart from the proposed eaves height of the outbuilding.
13. Paragraph E.1 (f) states that development is not permitted if the '*height of the eaves of the building would exceed 2.5 metres*'. The submitted drawing includes a dimensioned annotation referring to a proposed eaves height of 2.3 metres. As part of the appeal, the appellant further clarified that the eaves height proposed would be 2.3 metres. On the evidence before me, it is not entirely clear why the LPA consider that the eaves height would be 2.6 metres. It is of course possible that the proposed eaves height would be 2.6 metres when the proposed outbuilding is scaled off.
14. Given my conclusion above, it has not been necessary for me to pursue this matter any further. Had this been the only concern, it would have been open to me to have sought further clarity about this issue including, as a possibility, and, if necessary, the provision of an amended drawing that when printed/scaled off was entirely consistent with the unambiguous proposed 2.3 metres eaves height dimension as shown on the submitted 'proposed floor plans and elevations' drawing.

#### **Conclusion**

15. For the reasons given above, I conclude that the Council's refusal to grant a certificate of lawful use or development in respect of a proposed single storey outbuilding containing garage and gym was well-founded and that the appeal should fail. I will exercise accordingly the powers transferred to me in section 195(3) of the 1990 Act as amended.

*D Hartley*

INSPECTOR





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## Appeal Decision

Site visit made on 7 November 2023

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

an Inspector appointed by the Secretary of State

Decision date: 27<sup>TH</sup> NOVEMBER 2023

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### **APP/C3430/C/22/3312914**

### **Land adjacent to Brinsford Bridge, Stafford Road, Coven Heath, South Staffordshire WV10 7HE**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Patrick Dunne against an enforcement notice issued by South Staffordshire Council.
- The enforcement notice was issued on 10 November 2022.
- The breach of planning control alleged in the notice is failure to comply with condition No 1 of a planning permission Ref 21/00624/VAR granted on 24 August 2021.
- The development to which the permission relates is the erection of two amenity buildings. The condition in question is No. 1 which states '*The development shall be carried out in accordance with the approved drawings: Amended Amenity Building Floor Plans & Elevations, received on 23/07/2021, Location Plan received 01/06/2021*'.
- The notice alleges that the condition has not been complied with as follows: 'i) *increased total ridge height on both buildings of a minimum of 30cms; ii) Increased ridge height of dormer windows on both buildings; iii) Increased height to the eaves on both buildings of over 0.60 metres; iv) Redesigned central front entrance/porch with an increased height to the eaves on both buildings of a minimum of 1.90 metres; v) Redesigned central front entrance/porch with an increased depth on both buildings of a minimum of 1.00 metre; vi) Redesigned entrance on both buildings to central front entrance/porch with double door entrance; vii) Redesigned fenestration with an increase in the number of panes from two paned windows to three paned windows, and viii) Insertion of additional windows and Velux roof lights or reduction in number of windows or doors throughout both buildings*'.
- The requirements of the notice are: 'i) *Reduce the total ridge height on both buildings to the approved drawing height, (Appendix 1 of this notice); ii) Reduce the height of the dormer windows on both buildings to the approved drawing height, (Appendix 1 of this notice); iii) Reduce the height of the eaves on both buildings to the approved drawing height, (Appendix 1 of this notice); iv) In respect of the redesigned central front entrance/porch on both buildings, reduce the height of the eaves to the approved drawings height and reduce the depth to the approved drawing depth shown on the approved drawing at 1.00m, (Appendix 1 of this notice); v) In respect of the redesigned entrance to the central front entrance/porch on both buildings, remove the double door and replace with a single door and two double paned windows to reflect the design shown on the approved drawing, (Appendix 1 of this notice). In respect of Building 1 Shaded Blue on the Plan at Appendix 2 attached to this notice vi) In the front elevation, replace the three paned windows with two paned windows on the ground floor and remove the side windows to the central front entrance/porch; vii) In the left elevation, (from the front), insert the door shown on the approved drawing and replace the three paned window with a two paned window on the first floor; viii) In the rear elevation, replace the three paned windows with two paned windows as shown on the approved plan and remove the three paned window on the lefthand side and Velux roof lights in the rear roof elevation; ix) In the right elevation, (from the front) replace the three paned window with a two paned window on the first floor. In respect of Building 2 –*



*Shaded Green on the Plan at Appendix 2 attached to this notice x) In the front elevation, replace the three paned windows with two paned windows on the ground floor and remove the side windows to the central front entrance/porch; xi) In the left elevation, (from the front), remove the two windows to the ground floor, and large window to the first floor and replace with a single door and window show on the approved drawing and in the positions shown on the approved drawing; xii) In the rear elevation, Velux roof lights in the rear roof elevation xiii) In the right elevation, (from the front), replace the three paned windows to the left-hand side and first floor with two paned windows'.*

- The period for compliance with the requirements is six months.
  - The appeal is proceeding on the grounds set out in section 174(2) (a), (f) and (g) of the Town and Country Planning Act 1990 as amended (the Act). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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## **Decision**

1. It is directed that the enforcement notice be corrected by deleting the words '*in the rear elevation, velux roof lights in the rear roof elevation*' in paragraph 5 xii) and replacing them with '*remove the velux rooflights from the rear roof elevation*'. Subject to this correction, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended for the erection of two amenity buildings without complying with condition 1 of planning permission 21/00624/VAR, but subject to the other conditions attached to that planning permission.

## **Procedural Matter**

2. In the interests of clarity and certainty, and as information to accompany the ground (a) appeal, the appellant submitted two drawings, one labelled as 'Amended Amenity Building and Elevations No.1' dated June 2023 and the other as 'Amended Amenity Building and Elevations No. 2' dated June 2023. There is no dispute between the main parties that these drawings reflect the amenity buildings that had been constructed on the appeal site when the notice was issued. I have proceeded to determine the appeal on this basis. However, it was not possible for me to view inside amenity building No. 1 as part of my site visit and all curtains were closed. I do not therefore know if the internal use or configuration of amenity building No. 1 has changed since the notice was issued.

## **The Notice**

3. There is an error in paragraph 5 xii) of the enforcement notice in that it states, '*in the rear elevation, velux roof lights in the rear roof elevation*'. This should have said '*remove the velux rooflights in the rear roof elevation*'. I am satisfied that correcting the notice to reflect the above wording would not lead to any injustice. It is clear from the reasons for issuing the notice that it was directed at the velux rooflights. The notice is accordingly corrected.



## Reasons

### Ground (a) appeal and the deemed planning application

#### *Background and main issue*

4. The appeal site falls within land washed over by Green Belt. It is allocated as a Gypsy/Traveller site (site GT08) in the adopted South Staffordshire Site Allocations Document 2018. The evidence is that planning permission was approved several years ago for two permanent pitches and a further transit pitch. Planning permission was subsequently approved on 18 September 2020 for the erection of two amenity buildings<sup>1</sup>. An application under section 73 of the Act was submitted to vary this planning permission in respect of amended floor plans and elevations to allow the provision of storage in the roof spaces<sup>2</sup>. This was approved on 24 August 2021. The enforcement notice is directed at a breach of condition No. 1 of this planning permission.
5. I have considered the reasons for issuing the enforcement notice and the main issues for consideration are whether the breach of planning control is inappropriate development in the Green Belt including its effect on openness; the effect of the development on the character and appearance of the area; and, if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify development.

#### *Whether inappropriate development in the Green Belt*

6. While Policy E of the Government's Planning Policy for Traveller Sites 2015 indicates that Traveller sites in the Green Belt are inappropriate development, the primary use of the land as a Gypsy/Traveller site was considered and approved on appeal in 2007.<sup>3</sup>
7. There is no evidence that the previously approved amenity buildings were substantially completed and thereafter extended. The breach of planning control relates to buildings that are not in accordance with the approved plans and it is necessary that I consider the appeal development based on the construction of new buildings in the Green Belt. In this context, I do not find that the exception in Paragraph 149 of the National Planning Policy Framework 2023 (the Framework) which relates to '*the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building*' is relevant in terms of this appeal.
8. I find that the evidence is that the amenity buildings that have been erected on the site constitute buildings which do not meet any of the exceptions in paragraph 149 of the Framework. In this regard, the breach of planning control constitutes inappropriate development in the Green Belt. In this regard, there is conflict with the Framework and with policy GB1 of the South Staffordshire Council Core Strategy 2012 (Core Strategy).

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<sup>1</sup> Planning permission reference number 19/00863/FUL

<sup>2</sup> Planning permission reference number 21/00624/VAR

<sup>3</sup> Appeal Ref APP/C3430/A/06/203210/NWF

### *Openness*

9. The amenity buildings are located alongside Gypsy/Traveller pitches and are seen against caravans, vehicles and other domestic paraphernalia associated with the approved residential caravan site. The site is screened from public view by boundary landscaping, but it is acknowledged that some glimpses of the amenity buildings can be seen from the main road. The buildings are two-storey in height and have relatively large footprints.
10. Openness has both a spatial and visual dimension. Overall, I find that moderate harm has been caused to the openness of the Green Belt. This adverse harm weighs against allowing the appeal.

### *Character and appearance*

11. The appeal site is an allocated Gypsy and Traveller site. It falls within a mainly rural area and is partly visible from the main road. Much of the site is, however, screened from public view owing to boundary landscaping. Amenity building No. 2 is most conspicuous from those passing the site given its location, height and land levels.
12. I accept that the amenity buildings include additional fenestration details in terms of window openings (including velux windows), some of which are new or are larger than what was previously approved by the local planning authority (LPA). However, in the context of what has already been approved by the LPA, I do not find that the relative alterations, modifications and additions have resulted in buildings that appear significantly more dominant, bulky or residential in this rural location, even factoring in the increased eaves and ridge heights. In other words, in considering this main issue, it is reasonable that I consider planning permission No. 21/00624/VAR which is a realistic fall-back position available to the appellant.
13. I accept that the porches are larger than approved by the LPA and there is more glazing than consented. Nonetheless, the LPA has already approved amenity buildings which are noticeable from the A449 dual carriageway, and, in this context, the appeal buildings do not appear bulky or akin to dwellinghouses in relative terms.
14. The appeal site is not appreciated by passers-by as having a close relationship with other surrounding buildings and, in this regard, I do not find that in terms of their design or use of materials the amenity buildings have caused harm to the scenic beauty and character of the countryside. While I do not disagree with the LPA that the relative ridge and eaves height increases have directly resulted in an increase in floorspace, the effect of such development on the character and appearance of the area is not in itself determined by what has changed internally. It is the external changes relative to the amenity buildings, which are determinative in terms of considering this main issue. As detailed above, the LPA do not specifically dispute the need for the internal floorspace.
15. I recognise that the amenity buildings have the appearance of two storey dwellinghouses. However, that was the case in respect of the development approved under planning permission 21/00624/VAR. Indeed, the LPA comment in their officer report, *'whilst I accept that the buildings have a rather domestic appearance, a condition can be imposed ensuring that the structures are only used as amenity buildings in connection with the use of the gypsy site'*. Given

the fall-back planning permission, I do not find that the amenity buildings appear materially different in visual terms. Furthermore, the already imposed condition relating to incidental use of the amenity buildings would remain if the deemed planning application were to be approved.

16. For the above reasons, I conclude that the breach of planning control has not resulted in any material harm being caused to the character and appearance of the area when the fall-back planning permission is considered. In this regard, and, in the context of what the LPA has already approved on the site, I conclude that the development does not conflict with the design, character and appearance requirements of policies EQ4 and EQ11 of the Core Strategy, chapter 12 of the Framework, the National Design Guide 2021 and the South Staffordshire Design Guide 2018.

#### *Other Considerations*

17. In its officer report, the LPA make it clear that the need for the unauthorised buildings is not in dispute. Indeed, the LPA raise no concern about the need for the space that has been created arising from the unauthorised alterations and modifications to the amenity buildings approved as part of planning application No 21/00624/VAR.
18. The LPA agrees with the appellant that the principle of the need to accommodate the amenity requirements of Gypsies and Travellers has already been established. In addition, there is no dispute between the parties that the amenity buildings which are the subject of this appeal provide health, hygiene and living conditions benefits for occupiers of the Gypsy/Traveller site.
19. Planning application No. 21/00624/VAR constitutes a realistic fall-back position to which I afford very significant weight as part of the consideration of this ground (a) appeal. In this context, the amenity buildings that are the subject of this appeal are not materially different in design or volume terms to those amenity buildings that have already been approved by the LPA. In this context, I have found that harm has not been caused to the character and appearance of the area. Furthermore, and while I have found that the breach of planning control constitutes inappropriate development in the Green Belt and that moderate harm has been caused to the openness of the Green Belt, the relative impact on the openness of the Green Belt is not very significant when the fall-back position is considered.
20. The appeal site is close to the edge of the Staffordshire and Worcestershire Canal Conservation Area (CA). However, given the existence of boundary landscaping and the location of the amenity buildings, coupled with the fact that the LPA has approved similar amenity buildings already and does not require the removal of most of the development in terms of the requirements of the notice, I do not find that the breach of planning control has caused harm to the setting of the CA. In other words, and, for these reasons, the breach of planning control has preserved the setting of the CA and hence its significance.

#### *Ground (a) appeal conclusion*

21. For the reasons outlined above, I conclude that the breach of planning control amounts to inappropriate development in the Green Belt. Furthermore, moderate harm has been caused to the openness of the Green Belt. These are matters to which I afford substantial adverse weight in the planning balance. In

the context of the fall-back planning permission position, I have found that the appeal development has not caused harm to the character and appearance of the area. This is therefore a neutral matter in the planning balance.

22. I conclude that the harm caused by the development to the Green Belt owing to inappropriateness, and the moderate harm caused to the openness of the Green Belt, is clearly outweighed by the identified other considerations above sufficient to demonstrate the very special circumstances needed to justify the development. Therefore, the ground (a) appeal succeeds.

#### *Conditions*

23. Where an appeal on ground (a) is allowed in respect of a breach of condition, such that the condition(s) being enforced against will be removed and no new conditions are to be imposed, planning permission should be granted on the deemed planning application under section 177(5) of the Act for the development originally permitted, subject to all of the other conditions previously imposed. Therefore, the condition that is subject to the notice does not have to be discharged on permission ref No. 21/00624/VAR.
24. It is not open to me review any of the other conditions imposed on the original planning permission; doing so would widen the scope of the notice. It has not been necessary for me to impose a new drawings condition as the development has already commenced. The existing condition relating to occupation of the amenity buildings for incidental purposes remains and it is neither necessary nor possible for me to impose such a condition again.

#### **Conclusion**

25. For the reasons given above, I conclude that the appeal should succeed on ground (a). Planning permission will be granted and the enforcement notice will be quashed. The appeals on grounds (f) and (g) do not therefore fall to be considered.

*D Hartley*

INSPECTOR

# Appeal Decision

Site visit made on 4 December 2023

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

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

**Decision date: 13<sup>th</sup> December 2023**

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## **Appeal Ref: APP/C3430/D/23/3325585**

### **Bridleway Barn, Mere Lane, Penkrige, STAFFORD ST19 5PJ**

- 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 Bickley against the decision of South Staffordshire District Council.
  - The application Ref 22/01087/FUL, dated 17 November 2022, was refused by notice dated 10 May 2023.
  - The development proposed is extension to form new main entrance and enlarged kitchen with opposing extension to form larger main bedroom (for disabled owner) with first floor house bathroom and storage over.
- 

## **Decision**

1. The appeal is allowed and planning permission is granted for extension to form new main entrance and enlarged kitchen with opposing extension to form larger main bedroom (for disabled owner) with first floor house bathroom and storage over at Bridleway Barn Mere Lane, STAFFORD ST19 5PJ in accordance with the terms of the application, Ref 22/01087/FUL, dated 17 November 2022, and the plans submitted with it, subject to the following 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: Drawing number: 2202/282-04 Rev B Location and block plans and Drawing number: 2202/282-05 Rev G Proposed plans and elevations.
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

## **Preliminary Matters**

2. The appeal dwelling is within the West Midlands Green Belt. The proposed extensions would increase the floor area by around 37% which the Council has found to be proportionate to the size of the original building. Policy GB1 of the Core Strategy [2012] (CS) states that development shall be protected from inappropriate development in accordance with the National Planning Policy Framework (the Framework). It is undisputed between parties that the proposal would not represent a disproportionate addition over and above the size of the original building, and I see no reason to disagree with this view. As such, the proposed extensions would accord with paragraph 149(c) of the Framework, being not inappropriate development in the Green Belt.

3. The proposal was revised during the application consideration process in an effort to address the Council's concerns. The Appellant has requested that both the amended and superseded set of plans be considered at the appeal stage. I note that the main difference between these relate to the removal of a covered opening, on the southern elevation, which applied a covered storm porch. As it would be inappropriate to consider multiple variations of the scheme, I shall only consider the version that was refused by the Council.

### **Main Issues**

4. The main issues are:
  - The effect of the proposed extensions on the character and appearance of the host dwelling, and
  - whether there are other material considerations sufficient to outweigh any harm identified in respect of the above issue and any conflict with the development plan in relation to the proposed extensions.

### **Reasons**

5. Mere Lane is a single tracked roadway providing access to several dwellings alongside a railway line. The appeal site comprises the host dwelling and two large barns. Other than Mere Lane Farm, to the east, the site is set away from other development. Relatively low boundary hedging to the west of the site enables a high degree of intervisibility between the dwelling and the open countryside to the west. The dwelling is a converted barn. The barn is essentially single-storey in character, with brick walls, a clay tiled roof and wooden window frames. Accordingly, the dwelling is a traditional rural building set within a countryside setting, making a positive contribution to the character and appearance of the area.
6. The proposed additions would increase the footprint of the building to both the south and north. The southern addition would extend an existing gable end and the width of an adjacent wing by small amounts, that would retain the overall form of the building. The northern addition would include the raising of the ridge a northern wing of the building. This would increase the overall scale of the wing and exceed the height of the main ridgeline of the dwelling. This element would also significantly increase the width of the northern wing, creating a wider and taller gable feature on the east and west elevations.
7. The Council's Design Guide [2018] states that barn conversions should retain as many original features as possible. The Council has identified the building as a heritage asset as it makes a positive contribution to the surrounding area's historic landscape character. The converted barn retains many original agrarian features, enabling an observer to understand the original purpose of the building.
8. The proposed northern alterations would add a significant and prominent element of new mass to the building. This would alter the existing balance of features and create a dominant rear wing to the dwelling. This would breach the existing ridgeline and would draw attention to this feature to the overall detriment of the balance and form of the existing building. Nonetheless, the proposed changes overall would be relatively diminutive and would retain most of the form and rural features of the building. Consequently, whilst the



additions to the north wing would cause harm to the appearance of the building, the harm would be modest.

9. Having found harm to the character and appearance of the barn, albeit modest, the proposal would conflict with CS policies EQ3, EV6 and EQ11 and the Framework. These seek development that, among other matters, achieves design of the highest quality and that the reuse of redundant buildings are converted without detrimental alterations that would affect its character or appearance.

### **Other considerations**

#### *Public Sector Equality Duty*

10. The dwelling is occupied by a wheelchair bound occupier. The Appellant has asserted that the proposed changes are necessary to accommodate the needs of the occupiers for future years in adapting it for a wheelchair user and in accommodating overnight accommodation for a carer. The proposed adaptations would include wider doorways, a large 'user friendly' kitchen, space for a carer and a bedroom providing access to a wet room. In my assessment of the effect of the proposed development on the wellbeing of users of the facility, I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
11. Given the nature of the wheelchair bound occupier of the dwelling, the user would have a protected characteristic for the purposes of the PSED. I have therefore afforded greater weight to the needs of the individual as required by the PSED. The proposed alterations would allow an improved layout of the ground floor space, forming improved manoeuvrability and adapted spaces to accommodate the needs of a wheelchair user. The scheme also includes improved first floor accommodation with a new bathroom and enlarged bedrooms which could be occupied by a 'live-in' carer in future years.
12. The proposal would provide mental and physical health benefits to the occupier. With the proposed adaptations, the occupier would be able to remain in their current home for a prolonged period. This would afford stability and certainty for their future and enable them to retain a lifestyle within a countryside setting, providing a tranquil and pleasant environment. The proposed extensions would advance the equality of opportunity for a user within a protected characteristic. Accordingly, these benefits in assisting the needs of a person in a protected group, weigh in favour of the proposal.

### **Planning balance**

13. The proposal has been found to conflict with policies of the development plan that relate to matters of character and appearance, albeit the harm found was modest. This conflict must count against the proposal. However, against that I must balance that the proposal would adapt the dwelling in a manner that would meet the needs of an occupier who is wheelchair bound. The Framework, at paragraph 62, identifies that the housing needs for different groups in a community should be reflected in planning policies, including people with disabilities.

14. The PSED places a requirement on me to have due regard to the need to minimise disadvantages suffered by disabled persons and the need to take steps to meet the needs of such individuals. Such a duty does not necessarily override other considerations, but it is a factor to be weighed in the planning balance. The evidence in this case is compelling and persuades me that there are grounds to attach significant weight to the occupier's disability and their need to adapt the property.
15. Having taken all factors into account, I find that there are other material considerations to outweigh the development plan conflict in relation to design and alterations to redundant buildings. A grant of planning permission is therefore justified.

### **Conditions**

16. It is necessary to apply conditions in connection with a commencement period and to list the approved plans to define the permission and accord with the advice within the Planning Practice Guidance. A condition is also necessary to ensure that the materials used in the construction of the proposal match the existing building in the interests of the character and appearance of the building.

### **Conclusion**

17. For the above reasons, the appeal is allowed and planning permission is granted subject to conditions.

*Ben Plenty*

INSPECTOR



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## Appeal Decision

Site visit made on 18 December 2023

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

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

**Decision date: 27 December 2023**

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**Appeal Ref: APP/C3430/W/23/3326052**

**Anvil Caravan Park, Bursnips Road, Essington, Wolverhampton WV11 2RE**

- 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 Clee against the decision of South Staffordshire Council.
  - The application Ref 23/00281/FUL, dated 3 April 2023, was refused by notice dated 26 May 2023.
  - The development proposed is a shed/store.
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### Decision

1. The appeal is allowed and planning permission is granted for a shed/store at Anvil Caravan Park, Bursnips Road, Essington, Wolverhampton, WV11 2RE, in accordance with the terms of the application Ref 23/00281/FUL, dated 3 April 2023, and plan No. 0331/01, and subject to the following condition: -
  - i) The approved shed/store shall be used only for domestic storage purposes in association with the use of residential pitches on Anvil Caravan Park.

### Procedural Matters

2. The shed/store has already been erected on the land. It replaces a smaller shed/store. I am therefore considering the appeal development on a retrospective basis.
3. The National Planning Policy Framework was amended on 19 December 2023 (the Framework). However, it has not been necessary for me to seek comments from the main parties about the implications of the updated Framework. This is because national Green Belt policy remains unchanged, and this is the focus of the main issues below.

### Main Issues

4. The appeal site falls within the West Midlands Green Belt. The main issues are: -
  - whether the shed/store is inappropriate development in the Green Belt including its effect on the openness and purposes of the Green Belt, and
  - whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### *Background*

5. The appeal building falls within an approved Traveller site which includes eight pitches and four pairs of utility/amenity buildings. The shed/store measures about 7.8 metres by 6.2 metres (48.36 square metres) and has a maximum ridge height of approximately 2.7 metres. It is a building of timber frame construction with brick effect and timber cladding. According to the appellant, it was *'built by members of the community which occupies the site – who were unaware that planning permission was required – to directly replace an existing shed which has until that time been located upon the same spot'*. The appellant states that the appeal building is required for the storage of various personal items belonging to residents on the Traveller site such as general domestic items, children's quad bikes and a trailer. I was able to see some of the stored items on my site visit.
6. There is no dispute between the parties that a storage building existed on the site previously. According to the Council, it had a footprint of about 20 square metres. The appellant concurs with this measurement. However, neither the appellant, nor the Council, can confirm the precise height of the former building that was erected on the site.

### *Whether inappropriate development in the Green Belt*

7. The main parties consider that as the proposal relates to a replacement building in the Green Belt, the relevant exception in respect of the erection of buildings in the Green Belt is paragraph 154(d) of the Framework.
8. The Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt and the exception in paragraph 154(d) is *'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'*. There is no suggestion from any of the main parties that the replacement building is being used for a different use when compared to the former shed that existed on the site, i.e., a domestic storage use.
9. The Framework does not provide guidance in terms of what is *'materially larger'*. However, the Council's Green Belt and Countryside Supplementary Planning Document 2014, which supplements policy GB1 of the South Staffordshire Council Core Strategy Development Plan Document 2012 (CS), states, *'in order to judge this a range of floor area increases will be used as guidance, this range is between 10-20%. This will be the basis for making a judgment on planning applications put before the Council, however all applications will be judged on their merits on a case-by-case basis'*.
10. In this case, the evidence is that the replacement building is almost twice the size of the footprint of the former building that existed on this part of the Traveller site. While I do not have any information about the precise height of the former building on the site, I find that the evidence is that the replacement shed/store is materially larger when at least the relative floor area increase is considered. It is also noteworthy that the appellant comments that *'it is a matter of fact that the new shed has a larger volume than the one it replaced'*. On the facts of this case, I consider that the appeal building is materially larger than the building that it replaced.

11. I therefore conclude that the appeal building constitutes inappropriate development in the Green Belt and, in this regard, it does not meet the exception in paragraph 154(d) of the Framework, or any of the exceptions in policy GB1 of the CS.

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

12. While I have found that the appeal building is inappropriate development in the Green Belt, it is nevertheless noteworthy that it is well screened from passers-by owing to the existence of mature boundary landscaping and its set back position in the corner of the Traveller site. Fleeting glimpses of the building can be seen from the entrance to the site, but this is in the context of also experiencing residential accommodation and amenity buildings associated with the wider Traveller site. Having regard to the visual and spatial aspects of openness, I find that the appeal building has a limited adverse impact on the openness of the Green Belt.
13. To the extent that the building is larger (at least in footprint terms) than the one that existed on the site previously, it has to a very limited extent introduced more built form into the otherwise more open and rural Green Belt landscape. The building is positioned within the boundaries of the Traveller site and is appreciated in the context of chalets, caravans and other structures. It is set well back from the entrance to the site and is positioned alongside tall evergreen trees. While the replacement building is larger than the one it has replaced, I do not find that it could reasonably be said that it conflicts with any of the purposes of the Green Belt, including safeguarding the countryside from encroachment.

*Other considerations*

14. As part of my site visit, I was able to look inside all the existing storage facilities on the site, including the amenity/utility buildings. Some were either already being used for the storage of domestic items and others were being used as washing/cleaning facilities. The appellant has also provided photographs of two of the existing amenity buildings in his statement of case. Collectively, the evidence shows that there is limited spare capacity to store further domestic items in these buildings.
15. In my judgement, the evidence indicates that the shed/store provides an additional and necessary secure and covered domestic storage building for items belonging to occupiers of the Traveller site. In other words, the evidence indicates that the consented storage facilities are no longer adequate to meet all the requirements of those that live on the site.
16. Even if there was some limited space to store a small amount of additional domestic items within existing buildings on the site, the evidence is that the additional storage requirement is for bulky items including outside motorised play vehicles for children and a trailer. Given their size, they would either not fit into existing buildings given the narrow width of the doors or available floorspace, or would represent an incompatible storage use given that some of the buildings are used for washing or cleaning purposes. I was also able to observe on my site visit that the space within the appeal shed/store was fully utilised.

17. In this case, I find that the evidence is that the building is reasonably needed to accommodate the storage of domestic items that need a secure and covered facility. This is in the context that the adverse harm to the openness of the Green Belt is limited. Furthermore, I agree with the Council that the appeal building does not cause harm to the character and appearance of the area.
18. It is necessary that I consider the implications of refusing planning permission and the potential for the Council to take enforcement action requiring the removal of the building. In this regard, I have considered Article 8 of the European Convention on Human Rights, as incorporated into the Human Rights Act 1998, which states that everyone has a right to respect for private and family life, their home and correspondence. This is a qualified right, whereby interference may be justified in the public interest, but the concept of proportionality is crucial.
19. In the absence of the appeal building on the site, I find that there is a likelihood of several items having to be stored outside. I do not find that storing some of these items outside would be reasonable, particularly when the weather is inclement, or that it would represent an acceptable solution from a security point of view. Furthermore, the consequential effect of for example storing a trailer and/or quad bikes outside would also have some adverse impact on the openness of the Green Belt. Such an arrangement would have the potential to detract from an otherwise more orderly visual arrangement on the Traveller site. In addition, enclosed storage would be more compatible with ensuring a safe environment for children living on the site.
20. It is therefore reasonable that I afford very considerable weight to the evidenced need for the shared storage building. The evidence is that the communal storage building is needed as a day-to-day facility in connection with use of homes on the site. In this context, I find that a refusal of planning permission which may then lead to enforcement action being taken by the local planning authority would interfere with the Article 8 rights of occupiers of the site.
21. The Council has referred me to a dismissed appeal relating to a residential caravan site and associated operational development at Doveleys Farm, Sandy Lane, Cannock<sup>1</sup>. The evidence indicates that such a proposal is not directly analogous with the proposal that is the subject of this appeal. I have determined this appeal on its individual planning merits and in reaching my conclusion below have exercised my own professional planning judgement.

### **Planning Balance and Conclusion**

22. I conclude that the shed/store is inappropriate development in the Green Belt. This is a matter to which I afford substantial adverse weight in the planning balance. I find that limited adverse harm has been caused to the openness of the Green Belt. There has been no conflict with any of the purposes of the Green Belt.
23. I conclude that the harm by reason of inappropriateness in the Green Belt, and the limited harm to the openness of the Green Belt, is clearly outweighed by the other identified considerations above, so as to amount to the very special

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<sup>1</sup> Appeal Ref APP/C340/C/21/3274332

circumstances necessary to justify the development. Therefore, the appeal should be allowed.

**Conditions**

24. The Council has suggested that I impose a plans condition relating to drawing No. 0331/01. I have referred to such a plan in the effective part of the decision.
25. Neither the planning application form, nor plan No. 0331/01, refer to the proposed use of the store/shed. In the interests of certainty and given my conclusion that there are other considerations that amount to the very special circumstances necessary to justify the development, it is necessary to impose a planning condition which controls how the shed/store can be used. This condition has been agreed by the main parties.

*D Hartley*

INSPECTOR

