

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

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

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

Date: Tuesday, 24 January 2023

Time: 18:30

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



D. Heywood  
Chief Executive

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

### **Part I – Public Session**

- |          |  |                |
|----------|--|----------------|
| <b>1</b> | Minutes<br>To approve the minutes of the Planning Committee meeting of 13th December 2022. | <b>1 - 2</b>   |
| <b>2</b> | Apologies<br><br>To receive any apologies for non-attendance.                              |                |
| <b>3</b> | Declarations of Interest<br><br>To receive any declarations of interest.                   |                |
| <b>4</b> | Determination of Planning Application<br>Report of Development Management Team Manager     | <b>3 - 62</b>  |
| <b>5</b> | Monthly Update Report<br>Report of Lead Planning Manager                                   | <b>63 - 84</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, 13 December 2022 at 18:30

**Present:-**

Councillor Penny Allen, Councillor Len Bates, Councillor Barry Bond, Councillor Jo Chapman, Councillor Brian Cox, Councillor Philip Davis, Councillor Mark Evans, Councillor Rita Heseltine, Councillor Diane Holmes, Councillor Michael Lawrence, Councillor Kath Perry, Councillor Ian Sadler, Councillor Christopher Steel, Councillor Wendy Sutton, Councillor Victoria Wilson

29      **MINUTES**

**RESOLVED:** that the minutes of the Planning Committee held on 15 November 2022 be approved and signed by the Chairman.

30      **APOLOGIES**

Apologies were received from Councillors R Cope, M Boyle and R Reade.

31      **DECLARATIONS OF INTEREST**

Councillor V Wilson declared an interest in application 22/00985/FUL and left the chamber for consideration of this item.

With regards to application 22/00794/FUL, the applicant Councillor Reade was known to all members of the Planning Committee, but members had no pecuniary interest in the outcome of the application.

32      **DETERMINATION OF PLANNING APPLICATION**

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

22/00100/FUL – ROBINS NEST FARM, DIRTY FOOT LANE, LOWER PENN, WV4 4UQ – APPLICANT – MR IVOR DRING – PARISH – LOWER PENN

Councillor Bond, local member, spoke in support of the application.

**RESOLVED** that the application be APPROVED unanimously, subject to the conditions as set out in the Planning Officer's report.

22/00794/FUL – HILLCROFT FARM, DRIVE FIELDS, LOWER PENN, WV4 4XY – APPLICANT – MR AND MRS R F READE – PARISH – LOWER PENN

Mr Richard Waltho (Agent) spoke in support of the application.

**RESOLVED** that the application be APPROVED unanimously, subject to the conditions set out in the Planning Officer's report.

22/00985/FUL – 75 SYTCH LANE, WOMBOURNE, WV5 0LB - APPLICANT – MR AND MRS C WILSON - PARISH – WOMBOURNE.

Councillor V Wilson left the chamber for consideration of this item.

Councillor M Evans, local member supported the application.

**RESOLVED** that the application be APPROVED unanimously, subject to the conditions set out in the Planning Officer's report.

**33**      **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: 19:00

**CHAIRMAN**

**SOUTH STAFFORDSHIRE COUNCIL****PLANNING COMMITTEE – 24 January 2023****DETERMINATION OF PLANNING APPLICATIONS****REPORT OF DEVELOPMENT MANAGEMENT TEAM MANAGER****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

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

**2. RECOMMENDATIONS**

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

**3. SUMMARY IMPACT ASSESSMENT**

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

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

## **PART B – ADDITIONAL INFORMATION**

### **4. INFORMATION**

All relevant information is contained within the Appendix.

#### **Advice to Applicants and the Public**

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

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

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

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

#### **Equality Act Duty**

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

#### **Human Rights Implications**

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

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

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

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

### **Consultations Undertaken**

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

### **CONSULTEES**

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

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

N/A

### **6. PREVIOUS MINUTES**

Details if issue has been previously considered

### **7. BACKGROUND PAPERS**

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

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

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

Report prepared by: Kelly Harris - Lead Planning Manager

<b>App no</b>	<b>Applicant/Address</b>	<b>Parish and Ward Councillors</b>	<b>Recommendation</b>	<b>Page</b>
22/00727/FUL NON MAJOR	Mr Robert Saunders  Saunders Brothers Salvage Prestwood Drive Stourton Staffordshire DY7 5QT	KINVER  Cllr G Sisley Cllr L Hingley Cllr H Williams	REFUSE	<b>9-18</b>
22/00781/FUL NON MAJOR	Mr Hodgkiss  Featherstone Hall Farm New Road Featherstone Staffordshire WV10 7NW	FEATHERSTONE & BRINSFORD  Cllr F Beardsmore Cllr R Cope	APPROVE Subject to S106 Agreement	<b>19-31</b>
22/00925/FUL NON MAJOR	Mr G Sarhajpal  36 Sneyd Lane Essington Staffordshire WV11 2DU	ESSINGTON  Cllr W Fisher Cllr C Steel	APPROVE Subject to conditions	<b>33-38</b>
22/01009/FUL NON MAJOR	Mr Robin Winwood  Pendeford Hall Farm Pendeford Hall Lane Coven Staffordshire WV9 5BD	BREWOD & COVEN  Cllr W Sutton Cllr J Bolton Cllr D Holmes	APPROVE Subject to S106 Agreement	<b>39-52</b>
22/01056/COU	SEP Properties Ltd  2 Pendeford Mill Lane Bilbrook Staffordshire WV8 1JB	BILBROOK  Cllr G Burnett Cllr I Sadler	APPROVE Subject to conditions	<b>53-61</b>



**22/00727/FUL  
NON MAJOR**

**Mr Robert Saunders**

**KINVER  
Cllr G Sisley  
Cllr L Hingley  
Cllr H Williams**

**Saunders Brothers Salvage Prestwood Drive Stourton Staffordshire DY7 5QT**

**Retrospective application for the siting of 31 containers for self-storage**

**1. SITE DESCRIPTION AND PLANNING HISTORY**

**1.1 Site description**

1.1.1 This application relates to Saunders Brothers Salvage, which is a 1.4 hectare property on the southern side of Prestwood Drive just to the west of the Stourbridge Canal. There are two fixed buildings on the property near to Prestwood Drive, as well as an electrical pylon at the northeast corner of the property. The rest of the land is occupied by salvaged vehicles, access paths and storage containers. The property is surrounded on all sides by mature trees.

1.1.2 The area within the property that is currently being utilised as a self-storage yard is on the eastern property boundary, adjacent to the Canal. There are 31 storage containers with an adjacent hardstanding area and kerb (5.3m by 5.3m which widens to 10m by 11.5m at the southern end), presumably to provide vehicle parking and loading/unloading area for the users of the storage containers.

1.1.3 The eastern portion of the property is to be within the Stourbridge Canal Conservation Area. To the south of the property is a Biodiversity Alert Site, identified locally as having nature conservation value and the potential to be of 'substantive nature conservation value' through appropriate management.

**1.2 Planning history**

2019 Certificate of lawfulness for an existing use of land for the storage of complete vehicles, Refused [19/00595/LUE] - pertains to strip of land just to the west of subject property

2002 Removal of existing buildings and erection of office, vehicle decontamination plant, open store and secure store/garage, Approved [02/00478/FUL]

1995 Perimeter Fence, Approved [95/00573]

1992 Use of Land for Open Storage of Vehicles, Approved [92/00488]

1991 Established Use Certificate for Motor Vehicle Salvage Dismantling Storage, Approved [91/00956]

1990 Temporary Use as Storage Yard for Overhead Line Construction Materials and Temporary Offices, Approved [90/00204]

## 2. APPLICATION DETAILS

### 2.1 Pre-application advice

None

### 2.2 The Proposal

2.2.1 This application follows enforcement proceedings and is therefore retrospective for the siting of 31 self-storage containers and the associated hardstanding/kerb. The application identifies the use of the storage containers as B8, storage and distribution.

2.2.2 The containers are blue in colour and each measure 2.44m wide x 6.06m long x 2.59m high.

2.2.3 According to the supporting statement (received 28/10/22), the storage use is open from 08:00 to 17:00 Monday to Friday and 08:00 to 16:00 Saturday. When a site visit was undertaken to the property in early August 2022, the signage for Stourton Storage stated "Open 7 Days" with no specified hours. The business website simply states "Open Monday-Saturday".

### 2.3 Amended plans

2.3.1 The full extent of the proposed development was indicated on the Proposed Block Plan (received 25/7/22).

### 2.4 Agent's submission

2.4.1 The agent did provide a Planning Statement (received 25/7/22).

2.4.2 Upon being informed that the application was due for refusal due to Green Belt Policy, as well as outstanding concerns from the Canal & River Trust as well as the County Flood Risk Management, the agent provided the following documents (all received 28/10/22):

- Flood Risk Assessment
- Highways & Transport Technical Note
- Landscape & Visual Impact Statement.

## 3. POLICY CONTEXT

3.1 Within the West Midlands Green Belt.

### 3.2 Adopted Core Strategy

National Policy 1: The Presumption in Favour of Sustainable Development

Core Policy 1: The Spatial Strategy for South Staffordshire

Policy GB1: Development in Green Belt

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

Policy EQ1: Protecting, Enhancing and Expanding Natural Assets

Policy EQ3: Conservation, Preservation and Protection of Heritage Assets

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

Core Policy 3: Sustainable Development and Climate Change

Core Policy 7: Employment and Economic Development

Core Policy 9: Rural Diversification

Policy EV5: Rural Employment

Policy EQ11: Wider Design Considerations  
Core Policy 11: Sustainable Transport  
Policy EV12: Parking Provision  
Appendix 5: Car parking standards

3.3 Adopted local guidance (Supplementary Planning Documents (SPDs))  
South Staffordshire Design Guide SPD [2018]  
Sustainable Development SPD [2018]  
Green Belt and Open Countryside SPD [2014]

3.4 National Planning Policy Framework [2021]  
12. Achieving well-designed places  
13. Protecting Green Belt land  
15. Conserving and enhancing the natural environment  
16. Conserving and enhancing the historic environment

#### 4. CONSULTATION RESPONSES

Comments Received:

Councillor Hingley (received 4/8/22) I visited the scrap yard yesterday afternoon and spoke to Mr Saunders and his son about the storage containers. After the explanation I have no objection to them being there. They pose no problem to the public, they are not unsightly and are giving a most necessary service to the people in Kinver and surrounding area.

Kinver Parish Council (Received 11/8/2022): We have the following concerns that should be addressed before the application is considered:-

- Concern over the content of the containers due to the closeness of the canal and the pylons that are over the containers
- Amount of increased vehicle access along an up-adopted gravel track
- Access times need to be confirmed for the site
- The containers need to have a maximum life of 5 years and be renewed after that time (say every 5 years) so they do not become a permanent structure.

County Highways (received 11/8/22) This development is already in operation and does not cause concerns with highway safety

County Council Flood Risk Management (reconsultation response received 15/11/22)  
We have reviewed the submitted information and there is insufficient detail to fully demonstrate that an acceptable drainage strategy is proposed. We would therefore recommend that planning permission is not granted until this has been resolved.  
The outstanding issues are as follows:

##### 1. Drainage Method

How will the areas where the storage containers be drained? Provide evidence of infiltration testing in accordance with BRE digest 365. Provide a detailed drainage plan of the proposed surface water system including cover levels, invert levels, gradients, pipe sizes, SuDS details etc. What is meant by semi-permeable granular material?

##### 2. Hydraulic Calculations

Please provide background calculations (MicroDrainage or similar) to demonstrate the performance of the surface water drainage system for a range of return periods and storm

durations. To include as a minimum the 1:1, 1:30, 1:100 and 1:100+CC return periods.

### 3. Water quality

Please provide supporting information to demonstrate that sufficient water quality measures have been incorporated into the design for all sources of runoff. This should be in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria. We would encourage any strategy that delivered wider benefits such as amenity and biodiversity.

### 4. Management & Maintenance

Please provide a management and maintenance plan for proposed surface water drainage to ensure that surface water drainage systems will be maintained and managed for the lifetime of the development. This should include a schedule of activities. Provide name, contact details and address of the party/-ies responsible for the maintenance.

### 5. Exceedance

Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system. Provide further detail of exceedance flow routes for example, how does the overland surface water where the proposed containers are situated flow, which direction does the overland surface water by the site access flow?

Environmental Health (received 12/8/22) I have no adverse comment to this application

Canal and River Trust (reconsultation response received 17/11/22) In our previous response we expressed concerns relating to vehicle loadings on Newton Bridge, if access to the site is from the south, off the A458, Bridgnorth Road. The Highways & Transport Technical Note now provided clarifies that this will not be the case, as access to Bridgnorth Road is not possible due to the presence of a gate impeding access close to the site access. Therefore, access is via the A449 Wolverhampton Road to the west. So long as site access routing continues to be via the A449, our concerns relating to impacts on the structural integrity of the bridge and canal will be addressed.

We also note that the surface water drainage layout now provided confirms that excess overland flows are directed away from the canal and collected by an existing channel drain, before passing through an oil separator and discharge to existing soakaway pit some distance from the canal. This addresses any concerns we may have relating to surface run-off discharging into the canal and any impacts of run-off on the canal cutting slope.

No comments from Inland Waterways Association (expired 19/8/22)

No comments from National Grid (expired 19/8/22)

No comments from neighbours (expired 19/8/2022)

Express & Star public notice expired 23/8/22, site notice expired 25/8/22.

## 5. APPRAISAL

5.1 The application has been called to Planning Committee by Councillor Hingley as “We support the Saunders Brothers in their endeavour to diversify their business to keep going. They have done everything that the officer has told them to do. They have planted a second hedge and put a fence up so that the containers cannot be seen from the Canal Tow Path.”

5.1.1 For clarification, contrary to the content of the call-in form, the Planning Officer did not request that the applicant plant a second hedge or put a fence up so that the containers would not be visible from the Canal Tow Path. As noted in an email from the case officer to the applicant dated 8/9/22: “You may proceed with the matters that John Jowitt (planning agent) is pursuing (the flood risk assessment and the information the Canal & River Trust has requested), but the application will still be recommended for refusal by the Local Planning Authority. Regarding the screening that you emailed me about, I cannot tell you to purchase that. As you said, it is costly and if the application is refused at Committee or the Planning Inspectorate, the storage containers will have to be removed.”

5.2 The key issues in the determination of this proposal are as follows:

- Principle of the development;
- Whether or not the proposal constitutes inappropriate development;
- Very special circumstances;
- Impact on the openness of the Green Belt;
- Impact on character of the Conservation Area;
- Impact on neighbouring amenity;
- Highways/parking

5.3 Principle of the Development

5.3.1 Section 13 of the NPPF along with the Council's Green Belt policies are key considerations in the determination of this application. National planning policy attaches great importance to the protection of Green Belts. The essential characteristics of the Green Belts are their openness and their permanence.

5.4 Whether or not the proposal constitutes inappropriate development

5.4.1 The site is located within the Green Belt. Paragraph 147 of the NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 of the NPPF states that planning authorities should ensure that substantial weight is given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.4.2 Paragraphs 149 and 150 of the NPPF set out forms of development that are not inappropriate in the Green Belt. Under paragraph 150, certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it, and under part (e), this includes material changes in the use of land. However, the provision of hardstanding and 31 storage containers has substantially reduced the openness of the Green Belt in this instance and furthermore the development undertaken directly conflicts with one of the Green Belt's main purposes as set out under paragraph 138 (a) of the NPPF, which is to assist in safeguarding the Green Belt from encroachment.

5.4.3 The proposed development would therefore constitute inappropriate development in the Green Belt, contrary to Section 13 of the NPPF and Policy GB1 of the adopted Core Strategy.

5.5 Very Special Circumstances

5.5.1 Paragraph 148 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.

5.5.2 The proposal would be inappropriate development in the Green Belt and would result in substantial harm to the openness of the Green Belt. The proposal would also be harmful to the visual amenities of the area. These factors weigh heavily against the proposal.

5.5.3 The applicant has not set out any very special circumstances for the proposed development however the following supporting statements have been submitted:

- (i) The site is clearly previously developed land in continuing use. The land in question was previously covered by scrap vehicles without control on where they could be stored, or to what height. The containers are positioned at the edge of the site adjacent an existing mature tree boundary and so will not have a greater impact on the openness of the Green Belt than the existing development. The proposal therefore constitutes appropriate development in the Green Belt.
- (ii) The storage container units are in keeping with the industrial character of the Conservation Area and help improve the setting of the Conservation Area compared to the scrap car business previously on the site. The new business helps form a buffer between the Canal Conservation Area and the scrap car business, thereby enhancing the setting of the Conservation Area. Accordingly, the appearance of the site is in keeping with the character of the Conservation Area, and improves its setting.
- (iii) The amount of traffic visiting the site as a result of the self storage business is very small, and results in no material impact upon the operating, safety or environment of the local highway network. Para 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. This will clearly not be the case with respect to this proposal.
- (iv) The proposal has no detrimental effect on trees or wildlife compared to the previous vehicle storage and dismantling use of this part of the site.

5.5.4 The first two arguments presented by the agent will now be considered in turn:

- (i) Paragraph 84a) of the NPPF (formally paragraph 83a) is noted however this requires the expansion of rural businesses through conversion of existing buildings and well-designed new buildings and this application proposes neither. Furthermore, whilst the Council is supportive of rural businesses comprising small-scale employment development in line with Core Policies 7 and 9; this site lies within the Green Belt where there are national and local policies that seek to protect the Green Belt from further encroachment.
- (ii) I am uncertain as to the agent's reference of "the industrial character of the Conservation Area" but I am left to believe that they are referencing the industrial history of canals throughout Great Britain. However, according to the Stourbridge Canal Conservation Area establishing document, "Designation of a Conservation Area draws public attention to its architectural and historic interest and emphasises the need for any new development either within or adjoining the area to be sympathetic to its character." The Canal adjacent to Saunders Brothers Salvage does not currently hold an industrial purpose, but rather provides recreational opportunities for narrow boaters, walkers and equine enthusiasts. Whilst it is the agent's contention that the storage container units improve the setting of the Conservation Area compared to the scrap car business previously on the site, it is my opinion that neither use is sympathetic to the character of the Canal. The existing scrap yard has remained on the property due to a Certificate of Lawfulness issued in the 1990s; it is the

LPA's opinion that a different use should not be authorised because it has "less of an impact" on the Canal Conservation Area than the existing use.

5.5.5 The following points have not been addressed by the agent or applicant, but remain as concerns by the LPA:

(i) Spatial Strategy: Core Policy 1 of the Core Strategy states that growth throughout the District will be located within the most accessible and sustainable locations in line with the Settlement Hierarchy contained within the Policy. Although it is recognised that some land will be released in some locations this is confined to Main and Local Service villages and not the countryside. In this case, whilst the application site is located within an existing rural business, the proposed storage containers use would fall to be considered against Green Belt policy and would represent harmful encroachment of a commercial use outside the recognised Main Centres and Service Villages into the Green Belt to the detriment of the Green Belt. As such, it does not represent appropriate sustainable development that accords with Core Policy 1 of the Spatial Strategy.

(ii) The provision of landscaping to soften the visual impact of the development, which has not specifically been offered by the agent or applicant, would not overcome the principal conflict with Green Belt policy. The applicant did once offer coloured netting between the storage containers and the Canal that would reportedly soften the appearance of the development. According to the Committee call-in form, the applicant has since put in a boundary fence and planted a hedgerow to obscure the view of the containers from the Canal Tow Path (which was not at the request of the LPA). However, the provision of boundary screening as mitigation in my view carries little weight in the planning balance.

(iii) The proposal does not comprise the conversion or reuse of an appropriately located and suitably constructed existing rural building, and no appropriate business case has been provided to demonstrate that the proposal will support the local economy. I did note to the agent that no business case has been provided in August 2022, which has still not been addressed. It was noted within the Highways & Transport Technical Note that vehicle trips to the property are in line with industry standards for storage facilities, but this does not address if there is a community need for self-storage. The proposal is not therefore considered compliant with Policy EV5 of the Core Strategy.

(iv) Paragraph 137 of the NPPF advises that openness and permanence are the essential characteristics of the Green Belt. Openness has both spatial and visual aspects. The agent has persistently noted throughout the application process that the shipping containers represent a less intense use and visual presence than the vehicle dismantling process that previously occupied the eastern portion of the property. Whilst I can agree that at times vehicle dismantling may require large equipment that is more imposing than the shipping containers, I do not find that this justifies allowing a different use on this portion of the property. After completing a site visit, the tops of the shipping containers were clearly visible from the walking path along the adjacent Canal. Since that time, the applicant has apparently installed a boundary fence and planted a hedge row to obscure the view of the containers from the Canal Tow Path (which was not at the request of the LPA). However, it remains my opinion that the characteristics of the surrounding countryside and Green Belt have been impacted by the physical presence of the shipping containers which has resulted in a loss of spatial and visual openness of the Green Belt.

(v) This application has not requested a temporary consent and therefore the storage containers and their resulting impact on the Green Belt and its openness would be permanent.

(vi) The absence of any parking or highway-related issues carries little weight in justifying inappropriate development in the Green Belt. Whilst the agent has provided a statement noting an absence of flood risk/drainage issues, the County Flood Risk Team has responded

with five outstanding concerns that are provided above in Section 4 which remain unaddressed?

5.5.6 It is therefore considered that the above reasons when added together would not amount to the very special circumstances required to clearly outweigh the harm that has been caused to the Green Belt by reason of inappropriateness, loss of openness, and other harm on the visual amenity of the surrounding area.

#### 5.6 Impact on Character of the Conservation Area

5.6.1 Policy EQ3 of the submitted Core Strategy recommends that for proposals within a Conservation Area will be considered against any management plan and appraisal adopted for that area and will adhere to the following principles:

- Minimising the loss and disturbance of historic materials
- Using appropriate materials, and
- Ensuring alterations are reversible.

5.6.2 The provision of 31 blue metal storage containers has introduced an incongruous form of development that is harmful to the visual amenity of the character of the surrounding rural area and Stourbridge Canal Conservation Area, contrary to the aims of Policies EQ3 of the adopted Core Strategy and Chapter 16 of the NPPF.

#### 5.7 Impact on neighbouring properties

5.7.1 Policy EQ9 states that new development "should take into account the amenity of any nearby residents, particularly with regard to privacy [...]and daylight".

5.7.2 The proposed storage containers are separated more than 175m from the nearest residential property to the west and therefore the proposal raises no residential amenity concerns or conflict with Policy EQ9. No neighbour comments have been received; however, a lack of neighbour concerns carries little weight in justifying inappropriate development within the Green Belt and Canal Conservation Area.

#### 5.8 Highways/Parking

5.8.1 County Highways have been consulted on this application and raised no objection, noting that the proposed storage containers will have no impact on the public highway.

### 6. CONCLUSIONS

6.1.1 The proposal is inappropriate development in the Green Belt and would result in substantial harm to the openness of the Green Belt, contrary to Section 13 of the NPPF and Policy GB1 of the adopted Core Strategy. The proposal would also be harmful to the visual amenity of the surrounding rural area and Stourbridge Canal Conservation Area, contrary to the aims of Policies EQ3 of the adopted Core Strategy and Chapter 16 of the NPPF.

6.1.2 No very special circumstances have been advanced in support of the proposal to clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm to visual amenity. There is no fall- back position argument advanced in relation to the site which could constitute very special circumstances. Therefore, the very special circumstances necessary to justify the proposal do not exist. I therefore recommend the application is refused on these grounds.

## 7. RECOMMENDATION - REFUSE

### Reasons

1. The site is within the Green Belt and the proposed development is considered to be inappropriate new development causing loss of openness and harm to the visual amenity of the area as set out in policy GB1 of the adopted Core Strategy. The development is therefore harmful to the Green Belt, contrary to policy GB1 of the adopted Core Strategy.
2. No very special circumstances have been advanced in support of the proposal to clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and other harm to the visual amenity of the surrounding area.
3. The proposed development would be prejudicial to the character of the rural area and setting of the Stourbridge Canal Conservation Area, contrary to the aims of Policies EQ3 of the adopted Core Strategy and Chapter 16 of the NPPF.

This refusal relates to the following list of plans:- 1145-WHB-SA-20-0002 Rev P00 Proposed Block Plan, 1145-WHB-SA-20-0001 Rev P00 Location and Block Plan and 1145-WHB-MA-20-0001 Rev P00 Shipping Container Plans and Elevations (received 25/7/22).

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



Saunders Brothers Salvage, Prestwood Drive, Stourton, Staffordshire DY7 5QT

**22/00781/FUL  
NON MAJOR**

**Mr Hodgkiss**

**FEATHERSTONE &  
BRINSFORD PC  
Cllr F Beardsmore  
Cllr R Cope**

**Featherstone Hall Farm New Road Featherstone Staffordshire WV10 7NW**

**Conversion of existing barn building to provide two dwellings. Demolition of two further former agricultural buildings and compensatory erection of single storey garage.**

**1. SITE DESCRIPTION AND PLANNING HISTORY**

**1.1 Application Site**

1.1.1 The application site pertains to an existing brick built former agricultural building to the west of the host dwelling Featherstone Hall Farm. The building is a brick built gable pitched roof structure with the front half of the building being formerly used for stables and the rear half being used more recently for general storage.

1.1.2 There is a grassed area to the rear of the building and a large area of hardstanding to the front. The site is accessed from the adjoining country lane along a gated access drive that also serves the main farmhouse.

1.1.3 The application also seeks demolition of an old Dutch Barn/portal framed barn in very poor state of repair to the north of the site and a block built garage again to the north west of the site.

**1.2 Planning History**

2021, Conversion of building to provide three dwellings; demolition of two further former agricultural buildings and compensatory erection of single storey garaging, approved (21/00312/FUL)

2011, Change of use of redundant farm building to provide three new residential dwellings, demolition of two further agricultural buildings and compensatory provision of single storey garaging, approved (11/00732/REN)

2008, Change of use of redundant farm barn to provide three dwellings, demolition of two agricultural buildings and provision of single storey garaging, approved (08/00747/COU)

2003 Change of use of stable and store for manufacture of garden furniture, approved (03/00972/COU)

1993 Renewal of permission for change of use to public house and restaurant and construction of car park, approved (93/00565)

1992 Residential development, supermarket, nursery and open space, refused (92/00809)

1988 Change of use from farm to public house and restaurant and construction of car park, approved (88/00691)

1983 Change of use to public/restaurant, approved (83/00763)

1980 Residential development, approved (80/00988)

## 2. APPLICATION DETAILS

### 2.1 The Proposal

2.1.1 Planning permission is sought for the conversion of building to provide two dwellings; demolition of two further former agricultural buildings and compensatory erection of single storey garaging.

2.1.2 The proposal is a re-submission of a similar scheme approved in 2019, which involved the conversion of the building into three dwellings, two with two bedrooms and one with three.

2.1.3 The proposal would provide for two 3-bed dwellings.

2.1.4 It is proposed to demolish 357 square metres of agricultural buildings to the north of the site to help improve the visual amenity of the site. A compensatory development of 78 square metres of traditional brick-built garaging for the private use of the barns is proposed within the application. The size and style of the garage remains unaltered from the previous applications and has been moved around 2m further east.

2.1.5 The existing vehicular access to the house and courtyard to the barns will be utilised.

### 2.2 Agents Submission

2.2.1 The following documents have been submitted:

- Supporting statement
- Structural report
- Bat survey report/swallow survey

## 3. POLICY CONTEXT

3.1 The site is located within the West Midlands Green Belt

3.2 South Staffordshire Core Strategy, adopted 2012

Core Policy 1: The Spatial Strategy for South Staffordshire

Policy GB1: Development in Green Belt

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

Policy EQ1: Protecting, Expanding and Enhancing Natural Assets

Policy EQ2: Cannock Chase Special Area of Conservation

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

Policy EQ12: Landscaping

Core Policy 6: Housing Delivery

Core Policy 9: Rural Diversification

Policy EV6: Re-Use of Redundant Rural Buildings  
Core Policy 11: Sustainable Transport  
Policy EV12: Parking Provision  
Appendix 5: Parking Standards  
Appendix 6: SAD Standards

### 3.3 Adopted local guidance

- Green Belt and Open Countryside SPD, 2014.
- South Staffordshire Design Guide Supplementary Planning Document, 2018.

### 3.4 National Planning Policy Framework 2021 (the 'NPPF').

## 4. CONSULTATION RESPONSES

### 4.1 Comments received

Councillor (expired 07/12/2022): No comments received.

Parish Council (expired 07/12/2022): No comments received.

County Council Ecologist (received 15/12/2022): The ecology surveys are as for the previous application for this site (21/00312/FUL.) The survey identifies a bat roost and recommends a bat loft be created in the roof space. The current plans do not show a bat loft, and it is difficult to see that it will be possible to install one because of the arrangement of living spaces and roof lights. It is possible that the garage loft could be used for this purpose instead, however any design would need to involve the bat specialist that will apply for the bat licence. It should also be noted that the bat loft space should not have breathable roof membrane installed because bats can become entangled in it. Bitumastic membranes are the only suitable ones for this purpose.

Buildings on site offer suitable habitat for nesting birds. All wild birds, their nests and young are protected during the nesting period under The Wildlife and Countryside Act 1981 (as amended) and I therefore recommend that a condition is included for timing of demolition works.

The swallow survey indicates that the loss of suitable buildings should be compensated. My previous advice was that a bespoke box could be installed on the garage wall at the apex of the east elevation.

### Avoid - Mitigate Hierarchy and Biodiversity net gain

The proposal will be within the footprint of existing buildings and hardstanding, and it is therefore considered that there will be no net loss to biodiversity. Modest landscape planting (trees, hedges) should be proposed that will achieve a suitable gain in line with NPPF 174.

It should be noted that under the Environment Act 2021, all planning permissions granted in England, with a few exemptions, will have to deliver 10% biodiversity net gain (BNG) from November 2023. BNG will be measured using Defra's biodiversity metric and habitats will need to be secured for at least 30 years.

Severn Trent (expired 07/12/2022): No comments received.

County Highways (received 05/12/2022): No objections subject to conditions.

Natural England (27/11/2022): Natural England agree with the summary above.

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of Cannock Chase Special Area of Conservation <https://designatedsites.naturalengland.org.uk/>.

In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

- delivering mitigation, for recreational impacts on Cannock Chase SAC, by means of the Strategic Access Management & Monitoring (SAMM) measures

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Neighbours (expired 07/12/2022): No comments received.

A site notice was posted on the 17/11/2022.

## 5. APPRAISAL

5.1 The application has been referred to planning committee as part of the proposal (erection of detached garage) is contrary to Policy GB1 of the Core Strategy and Paragraph 149 of the National Planning Policy Framework.

### 5.2 Key Issues

- Principle of development
  - Conversion of building
  - Erection of garage
- Very special circumstances
- Impact on the openness and visual amenity of the Green Belt
- Design and scale
- Impact on neighbouring amenity
- Space about dwelling standards
- Ecology
- Cannock Chase Special Area of Conservation
- Access/parking

### 5.3 Principle of Development - Conversion of building

5.3.1 CP1 directs housing growth to the most sustainable areas of the District. The application site sits directly opposite the development boundary of Featherstone which is a Local Service Village. CP1 provides that limited development will be supported where it meets local needs, whilst recognising the constraints that impact upon the District. This application proposes a small number of dwellings (2) and there is also an extant planning permission for residential development of this site for three dwellings. Taking all these matters into consideration there is no conflict with Policy CP1.

5.3.2 The site is located within the Green Belt. Policy GB1 of the adopted Core Strategy advises that development acceptable within the terms of national planning policy set out in the NPPF will normally be permitted.

5.3.3 Policy GB1 and Paragraph 149/150 of the NPPF sets out forms of development that are not inappropriate in the Green Belt, and this includes the re-use of buildings provided that the buildings are of permanent and substantial construction.

5.3.4 Core Strategy policy EV6 states that proposals must demonstrate that the building is in a condition capable of conversion without demolition and rebuilding or substantial reconstruction. The preference will be for re-use for economic development purposes, including tourism, unless it can be demonstrated, through marketing at a realistic price, or reasons of sustainability or historical significance that an alternative use would be preferable. The next best alternative use would be for residential accommodation.

5.3.5 This application relates to a resubmission of a similar granted scheme in 2019 which involved the conversion of the existing building into three dwellings and the erection of a detached triple garage. This application seeks to amend the design to convert the building into two dwellings instead. Since this time there has been no change in the development plan.

5.3.6 The previous application decided that an economic re-use would not be compatible with this setting, whilst the vehicular access to the site is not at all ideal for use by commercial vehicles. In addition to the policy the introduction of the permitted development for the conversion of agricultural buildings to residential properties would also enforce the argument by giving a PD Fallback. The conversion to residential is therefore acceptable.

5.3.7 In regards to criterion b) of the policy, the proposal retains the farm building arrangement in a courtyard and given the condition of the buildings the character would be retained. Amendments have been agreed to reduce the amount of rooflights on the front elevation and to reduce the size of the openings (patio doors) on the rear to preserve the buildings character.

5.3.8 The building in question is in substantial construction and condition and the Structural Survey accompanying the proposal suggests that the conversion can be undertaken with few key works. The visual inspection of the existing barn unit and review of the architectural planning drawings is satisfactory to conclude that overall the building is considered to be stable and particularly suitable for the proposed conversion into two dwellings

5.3.9 As such it is considered that the principle for the conversion of the building would be appropriate within the Green Belt thus according with Policy GB1 of the Core Strategy, 2012. In addition, the proposal would accord with Policy EV6 of the Core Strategy, 2012.

#### Erection of detached garage

5.3.10 The proposal does involve a new build element for a triple garage to serve the dwellings. New building for domestic outbuildings, especially at barn conversion sites is often resisted in the Green Belt. This proposal would constitute inappropriate development and would be harmful to the openness of the Green Belt. It therefore needs to be justified by very special circumstances.

#### 5.4 Very special circumstances

5.4.1 Paragraph 148 of the NPPF provides that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the

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

5.4.2 There is an extant planning permission at the site for the conversion of the building into three dwellings and the erection of a triple garage (21/00312/FUL). This application poses no change to the size or style of the detached garage and it will be positioned in a similar location on site. I therefore attach the existing extant permission for a triple detached garage substantial weight in the planning balance.

## 5.5 Impact on the openness and visual amenity of the Green Belt

5.5.1 One of the essential characteristics of the Green Belt is its openness. Openness is the absence of development notwithstanding the degree of visibility of the land in question from the public realm. Openness has both spatial and visual aspects. It is pertinent to establish the 'actual' harm to the Green Belt.

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

5.5.3 It is considered that the re-use of the buildings would have a limiting impact on the character of the green belt. The existing agricultural building (seeking conversion) are in sound condition and as such require limited works. The proposal would retain the form of the agricultural buildings and as such keeps the character of rural building which are notable within Green Belt settings.

5.5.4 The proposed triple garage block would measure approx. 10.8m in width and approx. 7.3m in breadth. The proposed floor area would measure approx. 78.8m<sup>2</sup>. The height of the proposal would be approx. 5.5m to maximum ridge height. Given the siting of the proposal in close proximity forward to the building to be converted, it is considered there would be a limited impact on the visual amenity of the openness of the Green Belt.

5.5.4 It is considered that any further development on the Site through the implementation of permitted development rights is likely to have a significant impact on the openness of the Green Belt in this location and its character and thus it is recommended that PD rights should be removed.

## 5.6 Design and Scale

5.6.1 Core Strategy policy EQ11 (Wider Design Considerations) states that development proposals must seek to achieve creative and sustainable designs that take into account local character and distinctiveness, and reflect the principles around use, movement, form and space. This is reinforced by the Councils Design Guide 2018.

5.6.2 It is proposed to break up existing areas of hardstanding to the frontage with some soft landscaping, which is considered to be acceptable. The rear gardens are limited by the natural boundaries of the overall site and so would not encroach into the countryside scene.

The current site is in a somewhat unkempt condition and this proposal would improve on the overall visual amenity of area.

5.6.3 There have been no details of materials for the proposed detached garage as such any recommendation of approval would seek details of such my condition to ensure that it is in-keeping in context.

#### 5.7 Impact on neighbouring amenity

5.7.1 Policy EQ9 states that new development 'should take into account the amenity of any nearby residents, particularly with regard to privacy [...] and daylight.'

5.7.2 The Councils space about dwelling standards recommends 21m between any facing habitable windows per private space and 13 from any habitable windows to flank walls.

5.7.3 The two new units would be in excess of 40m from the main farmhouse and so would have little impact amenity of the occupiers. The two units will also be able to function without significant impact on each other.

#### 5.8 Standards About Dwellings Standards

5.8.1 Paragraph 1.10 within Appendix 6 'Space about dwellings standards', seeks for the appropriate level of garden amenity space for outdoor recreation.

5.8.2 The lengths of the garden for each dwelling would measure a minimum of 10m which is slightly below the Standards (10.5sqm). The area for each of the gardens would be around 235sqm which greatly exceeds the recommended 65sqm.

5.8.3 It is considered that there would be adequate garden amenity to support the dwellings.

5.8.4 The internal floor area exceeds the national space standards for a three bed property and the bedroom sizes have been amended in accordance with the minimum standards, i.e 7.5sqm for single and 11.5sqm for double.

#### 5.9 Ecology

5.9.1 Policy EQ1 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.

5.9.2 The proposal is supported by a Phase I Ecology Survey and a further Bat Survey. The Phase I Survey concludes that the site holds potential for most common UK species of mammals and birds. The proposed development will not cause any loss of habitat and there is no significant risk to wildlife in the area. No evidence of bats were found, but a Bat Survey was advised due to the open roof barns, trees and dense ivy growth close to the development site.

5.9.3 There is a potential for common bird species to nest within the laurel hedge and trees surrounding the site. Suggestions for any clearance works to avoid nesting bird season and

for a replacement nesting opportunity to be supplied by swallow cups to mitigate and enhance biodiversity.

5.9.4 The Bat Survey indicated that the overall bat activity within the 2km radius of the property is low. Whilst the buildings are suitable for potential bat roosting, there was no evidence found during the survey that would indicate that bats have been or are using the building to roost in. Due to the nature of the development and potential for roosting in the future, it is advised for the need to compensate the potential loss of habitat by creating a bat loft with new access points and/or by installing bat boxes to the property to encourage and enhance the conservation interest of the site. In line with the County Councils Ecologist comments amended plans have been received which incorporates bat access in the roof space of the dwelling and a bespoke box on the side apex of the garage.

5.9.5 The proposal is compliant with Policy EQ1.

#### 5.10 Cannock Chase Special Area of Conservation

5.10.1 South Staffordshire Council has a duty to ensure that planning application decisions comply with the Habitats Regulations. Local Plan policy EQ2 safeguards the Cannock Chase Special Area of Conservation (SAC), which has been designated for its unique heathland habitat.

5.10.2 The latest Footprint Ecology Report has established that any new residential development within a 15KM buffer zone of the Cannock Chase SAC will have a significant impact on the SAC in terms of increased visitor pressure (i.e. the Zone of Influence).

5.10.3 The Local Planning Authority (LPA) has prepared an "Appropriate Assessment" of the proposals effect on the Cannock Chase SAC which has been agreed with Natural England. Applications for new housing which fall within a 15 kilometre radius Zone of Influence for the Cannock Chase SAC will need to provide mitigation. This mitigation will take the form of a monetary payment of £290.58 per dwelling. A draft unilateral agreement accompanies the planning application to pay the commuted sum and Natural England raise no concerns subject to completion of this agreement.

5.10.4 The LPA has therefore met its duties as a competent authority under separate Habitat Regulations.

#### 5.11 Access/parking

5.11.1 Core Strategy policy EV12, parking provision, requires that adequate parking be included with schemes for new housing. Appendix 5 Parking Standards provides guidance on the recommended number of vehicle parking spaces to be provided, in this instance the requirement is for two spaces per dwelling.

5.11.2 The County Highways Officer has no objection to the proposal and to the utilisation of the existing access which is onto a narrow but quiet lane. The highways officer has recommended that the garages are retained for parking purposes only, however given the room within the site for parking of vehicles, I do not consider this to be reasonable and this was not a request on the former applications.

5.11.3 As such the proposal would accord with policy EV12 of the Core Strategy, 2012.

## 6. CONCLUSIONS

6.1 The principle of converting the building is acceptable and the very special circumstances put forward justify the erection of the new garages. The proposal will improve the visual amenity of the area, has adequate access, parking and garden areas, would enhance and mitigate potential loss of habitats for protected species and will not adversely affect adjoining occupiers. Permission is therefore recommended subject to appropriate conditions.

## 7. RECOMMENDATION - APPROVE Subject to Section 106 Agreement for Cannock Chase SAC mitigation payments of £290.58 per dwelling

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. No works above damp-proof level of the detached garage hereby approved shall take place until details of the materials to be used in the construction of the external surfaces have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. Any alterations to the buildings shall be carried out in materials which match those of the existing buildings in colour and texture.
5. Any new or reclaimed roof tiles to be used on the roof of the buildings shall match the colour and size of the existing roof tiles.
6. The permission hereby granted relates to the conversion of the existing buildings and does not grant or imply consent for the demolition or rebuilding of any part of the buildings, other than as specified on the approved plans.
7. Any repair work necessary to preserve the structure of the buildings shall be agreed in writing with the Local Planning Authority. The repairs shall be carried out in accordance with the agreed details.
8. Not to occupy or permit occupation of the development hereby approved unless and until the two buildings identified for demolition on the approved plan P-003-REV C to the north of the building to be converted, shall be demolished and the materials arising therefrom shall be permanently removed from the site .
9. The development hereby approved shall not be brought into use until the access drive, parking and turning areas have been provided in accordance with the approved plans P-003-REV C.
10. The biodiversity enhancement measures as shown on plans P-002-REV B and P-003-REV B shall be fully constructed prior to occupation of the buildings and retained as such thereafter for the lifetime of the development.

11. Prior to occupation of the development hereby approved, a plan shall be submitted to and approved in writing by the Local Planning Authority indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatments shall be completed in accordance with the approved details prior to occupation of the dwellings hereby approved and maintained for the lifetime of the development.
12. Demolition of buildings shall be undertaken outside of bird nesting season (1st March to end August.) If this is not possible then a suitably qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present, then the vegetation or buildings shall not be removed until the fledglings have left the nest.
13. A bituminous roofing felt must be used above the bat loft that does not contain polypropylene filaments (for example bitumen felt type 1F), which is hessian reinforced.
14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the new dwellings hereby approved, without the prior approval of the Local Planning Authority:
  - a. Schedule 2, Part 1, Class A - enlargement, improvement or other alteration
  - b. Schedule 2 Class AA - enlargement of a dwellinghouse by construction of additional storeys
  - c. Class AC - new dwellinghouses on terrace buildings in use as dwellinghouses
  - d. Class AD - new dwellinghouses on detached buildings in use as dwellinghouses.
  - e. Schedule 2, Part 1, Class B - addition or alteration to the roof
  - f. Schedule 2, Part 1, Class C - any other alteration to the roof
  - g. Schedule 2, Part 1, Class D - porches
  - h. Schedule 2, Part 1, Class E - garden buildings, enclosures, pool, oil or gas storage container
  - i. Schedule 2, Part 1, Class F - hardsurfacing
  - j. Schedule 2, Part 2, Class A - gate, wall, fence or other means of enclosure
  - k. Schedule 2, Part 2, Class B - means of access
15. Within 1 month of any development commencing on the site a landscape scheme shall be submitted to the Local Planning Authority for approval. The approved scheme shall be implemented concurrently with the development and completed within 12 months of the occupation of the development. The Local Planning Authority shall be notified when the scheme has been completed. The planting shall be retained and maintained for a minimum period of 10 years by the property owner from the notified completion date of the scheme. Any shrub or tree failures that occur during the first 5 years of the notified completion date of the scheme shall be replaced with the same species within the next available planting season (after failure).

## Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. To safeguard the visual amenity of the area and the existing building in particular in accordance with policy EQ11 of the adopted Core Strategy.
4. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
5. To safeguard the visual amenity of the area and the existing building in particular in accordance with policy EQ11 of the adopted Core Strategy.
6. 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
7. To safeguard the visual amenity of the area and the existing building in particular in accordance with policy EQ11 of the adopted Core Strategy.
8. 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
9. In the interests of public and highway safety and convenience and to conform to the requirements of policy EQ11 of the adopted Core Strategy.
10. To provide biodiversity enhancement in accordance with EQ1 of the adopted Core Strategy, 2012.
11. To safeguard the visual amenity of the landscape and preserve the openness of the Green Belt in accordance with Policies GB1 and EQ11 of the adopted Core Strategy, 2012.
12. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
13. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
14. To safeguard the character of the building and visual amenity of the landscape in accordance with Policies GB1 and EQ11 of the adopted Core Strategy, 2012.
15. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.

Development Low Risk Area Standing Advice - The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any

coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

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.



Featherstone Hall Farm, New Road, Featherstone, Staffordshire WV10 7NW



**22/00925/FUL  
NON MAJOR**

**Mr G Sarhajpal**

**ESSINGTON  
Cllr W Fisher  
Cllr C Steel**

**36 Sneyd Lane Essington Staffordshire WV11 2DU**

**Single Storey Rear Extension with first floor side extension over garage**

**1. SITE DESCRIPTION AND PLANNING HISTORY**

**1.1. Site description**

1.1.1 The application relates to a two storey detached property on the northern side of Sneyd Lane, east of the local service village of Essington and on the boundary with Walsall Metropolitan Borough. It has amenity space to the front and rear with off road parking at the front of the property.

**1.2 Planning History**

1978 - Extension To Dwelling - Approved (78/01055)

**2. APPLICATION DETAILS**

**2.1. The Proposal**

2.1.1. The applicant seeks to add a ground floor extension to the rear of the property to provide a study (4.0 projection from the existing garage x 2.93 metres in width) and a first floor extension above the garage at the side of the property to provide an en-suite, dressing room, family bathroom and bedroom (2.6 x 9.4 metres). Following discussions with the agent, the original plans submitted were amended to set the roof down from the existing property and the front of the proposal back from the existing front elevation.

**3. POLICY CONTEXT**

Within the Essington and Upper Sneyd Road Development Boundary.

**Adopted Core Strategy**

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

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

Appendix 6: Space about Dwellings Standards

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Policy EQ12: Landscaping

Core Policy 11: Sustainable Transport

Policy EV12: Parking Provision

Appendix 5: Parking Standards

**Adopted local guidance**

South Staffordshire Design Guide [2018]

## Sustainable Development SPD [2018]

### National Planning Policy Framework

#### 12. Achieving well-designed places

#### 4. CONSULTATION RESPONSES

##### Comments received:

Councillor Steel (received 24/11/22) Would it be possible to suggest to the applicant that a potential compromise might be to change the western elevation from a gable end to a hipped roof in order to allow more natural light into the landing of 34 Sneyd Lane? I haven't discussed this suggestion with the Occupants of 34 Sneyd Lane.

No Essington Parish Council comments (expired 26/10/22)

No Walsall Council comments (expired 26/10/22)

1 Neighbour comment (received 21/10/22) - Raising the following objections:

Loss of Light - to the first floor landing window due to proposed brick wall less than 3 feet away and would have to be substituted with electric lighting adding significant cost on to their electricity bill.

Overlooking and loss of privacy - from frosted window facing their property as landing window is a normal double pane of glass.

Light pollution - artificial light coming from the proposed extension would shine in through their window causing light pollution onto their landing and in through their master bedroom potentially leading to disruptive sleep and annoyance.

Legality - a clause in their deeds which they believe to be the same in all of the title deeds for their neighbours referring to a restrictive covenant relating to right to light.

#### 5. APPRAISAL

5.1 This application has been referred to Planning Committee by Councillor Steel.

##### 5.2. Key Issues

- Principle of development
- Impact on neighbouring occupier amenity
- Impact on the character of the area
- Space about dwellings
- Highways/parking
- Other matters

##### 5.3 Principle of development

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

##### 5.4 Impact on neighbouring occupier amenity

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

5.4.2 I note the concerns from the neighbouring property to the side (No.34) and have visited the neighbours property to assess the application and have viewed the photos received as part of their objection. Whilst I sympathise and acknowledge that there will be some loss of light to their landing, in policy terms a landing is not considered a habitable room and therefore no weight can be afforded to this issue. Refusal on these grounds would be unsustainable. The agent and applicant were approached regarding the possibility of amending the roof to be hipped in order to reduce the impact on the neighbouring property but they wish the roof of the proposal to remain as a gable end. Further to this, the finish of a hipped roof upon a host property with side facing gables is unlikely to be acceptable in urban design terms.

5.4.3 Also noted are the comments from the neighbouring occupier with regards to loss of privacy. The proposed first floor extension would include a side facing window that would serve a bathroom. This window is noted on the plans as high level and to include frosted glass. This can be secured by way of a suitably worded planning condition to ensure that it is maintained for the lifetime of the development. Whilst this proposed bathroom window would look towards the landing window within the flank wall of number 34, it was evident from the site visit that this arrangement already exists as there are two existing side facing window currently serving a bathroom and separate en-suite within the application site. It is acknowledged that the proposed window would now be closer in proximity, however it does not change the arrangement of side facing non-habitable room windows, a situation that is commonplace in most residential street settings. As such, and subject to an appropriate condition there is not considered to be any loss of privacy to the occupiers of number 34 as a result of the proposed extension.

5.4.4 In terms light pollution to the occupiers of number 34, the relationship between the properties as existing and as extended is not uncommon in a residential setting and streetscene. It is unlikely that light into the landing and neighbouring bedrooms of number 34 from the obscurely glazed side facing window of the proposed bathroom would be to a level that would impact negatively on the neighbouring occupiers living conditions. This is certainly not to a degree that would warrant refusal of this application.

5.4.5 In terms of the proposed single storey element of the proposed scheme, it is noted that a similar situation exists between the applicants property and the extension to their neighbour at No.38 and that no element of the proposals would breach a 45 degree sight line from any habitable room windows of the neighbouring property.

5.4.6 Given all of the above and following full and careful consideration, I therefore consider that the proposal as amended would comply with the requirements of Policy EQ9 of the Core Strategy.

## 5.5 Impact on the character of the area

5.5.1 Policy EQ11 of the Core Strategy requires that new development "respect local character and distinctiveness, including that of the surrounding development and landscape [...] by enhancing the positive attributes whilst mitigating the negative aspects", and that "in terms of scale, volume, massing and materials, development should contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and

buildings in the local area." The Council's 2018 Design Guide has been adopted and amplifies the principles set out in Policy EQ11 of the Core Strategy.

5.5.2 Similar extensions have been added to the neighbouring properties either side and the original plans submitted were amended with a set back/down on the first floor extension to help achieve subservience and avoid any terracing effect. I consider that the proposals as amended would be sympathetic with the appearance and character of the surrounding area and would therefore comply with Policy EQ11 of the Core Strategy.

#### 5.6 Space about Dwellings

5.6.1 The proposals do not infringe the Council's normal Space about dwellings standards.

#### 5.7 Highways/parking

5.7.1 There are no parking or highways issues in respect of this application. Although the proposals would increase the number of bedrooms to four, the property would continue to meet the Car Parking Standards in Appendix 5 of the Core Strategy.

#### 5.8 Other Matters

5.8.1 An objection has been raised with regards to covenants/clauses within the deeds of the properties related to a right to light. This is not a material planning consideration and is covered by other, civil legislation. As such this cannot be afforded any weight in the planning balance.

### 6. CONCLUSIONS

6.1 The application as amended is considered acceptable as it will not cause any undue harm to the amenity of neighbouring residential properties and will be sympathetic to the character of the surrounding area. Therefore, the proposal is in accordance with Local Plan Policies EQ9 and EQ11 and I recommend the application for approval.

### 7. RECOMMENDATION - APPROVE Subject to Conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development shall be carried out in accordance with the amended plans received on 18/11/2022 as numbered 2022/09/36/03 A, 2022/09/36/04 A, 2022/09/36/05 A.
3. The materials to be used on the walls and roof of the extension shall match those of the existing building unless otherwise agreed in writing by the Local Planning Authority.
4. The proposed first floor window to be installed in the west elevation of the extension hereby approved shall be obscure-glazed, and top hinged if opening, unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed and thereafter maintained in that condition for the lifetime of development.

#### Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. To safeguard the visual amenity of the area and the existing building in particular in accordance with policy EQ11 of the adopted Core Strategy.
4. To safeguard the visual amenity of the area and the privacy of residents in nearby dwellings in accordance with policy EQ9 of the adopted Core Strategy.

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

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**22/01009/FUL  
NON MAJOR**

**Mr Robin Winwood**

**BREWOD & COVEN  
Cllr W Sutton  
Cllr J Bolton  
Cllr D Holmes**

**Pendeford Hall Farm Pendeford Hall Lane Coven Staffordshire WV9 5BD**

**Demolition of Existing Barn (approved for conversion to 3 dwellings under 20/00280/AGRRES) and construction of 4 Terraced Dwellings**

**1. SITE DESCRIPTION AND PLANNING HISTORY**

**1.1 Site description**

1.1.1. The application relates to a steel portal framed agricultural building (used for seed storage) situated south-west of Pendeford Hall Lane. The site is occupied by a current agricultural enterprise 'Hallmarket Turf Ltd.', a well-established business specialising in the growing of turf and in the design and assembly of the associated specialised machinery. The enterprise is split by the lane itself with a number of agricultural buildings to the northern side of the lane. The land immediately beyond the application site consists of several portal frame buildings and an old stable block.

1.1.2. The Shropshire Union Canal (and Conservation Area) is located immediately west of the site, separated by a boundary hedgerow. The site is also in close proximity to the Grade II Listed Hattons Bridge over the Shropshire Union Canal.

1.1.3. The site is located in a rural area characterised by open fields and agricultural uses. Coven Village is situated approximately 2 miles to the north-east and Codsall village is around 1.5 miles to the south-west.

**1.2 Planning History**

2022, Proposed demolition of existing barn (approved for conversion to 3 dwellings under 20/00280/AGRRES) and construction of 3 dwellings, approved (21/01008/FUL)

2020, Existing agricultural unit to be converted into 3 dwelling houses, approved (20/00280/AGRRES)

2020, New roller door, fire escape and internal work space to be added to existing warehouse, approved (20/00109/FUL)

2014, Retention of the pole barn, small container and stables for equestrian and agricultural purposes including the storage of horse drawn carriages, approved (14/00358/FUL)

2013, Planning application for replacement building, approved (13/00207/FUL)

2012, Change of use of former agricultural buildings and stables to manufacture and assembly of horticultural equipment within use class B2 plus associated office and administration, with the repositioning of existing vehicle access, approved (12/00759/FUL)

2005, Proposed dwelling and garage, approved (05/00596/FUL)

2005, Proposed garage (agricultural use), refused (05/00201/FUL)

2004, Agricultural dwelling, approved (04/00691/FUL)

2004, Agricultural dwelling, refused (03/01211/FUL)

2003, Agricultural building for cattle housing, approved (03/00714/AGR)

2003, Agricultural building, approved (03/00169/AGR)

2002, Erection of dwelling, approved (02/01140/OUT)

2002, Erection of dwelling, refused (01/00991/OUT)

2001, Agricultural building cattle housing/grain store, approved (01/00230/AGR)

2000, Covered cattle yard, approved (00/00076/AGR)

1999, Agricultural Building, approved (98/01140/AGR)

1999, Agricultural Building, refused (AGR/98/00014)

1996, Implement Storage Building, approved (96/00836)

1995, Driveway and Barn, approved (95/00583)

1994, Stables, approved (94/00804)

1994, Extension to agricultural building , approved (94/00005/AGR)

### 1.3 Agents submission

1.3.1. The application is accompanied by the following supporting documents:

- Planning Statement
- Heritage Statement
- Bat Survey Report

## 2. APPLICATION DETAILS

### 2.1 Proposal

2.1.1. The application proposes to demolish the existing agricultural building and replace it with 4 No. 4-bed dwellings on the same footprint of the existing building. Each of the dwellings would have 3 No. parking spaces and a rear garden, and the properties would be accessed via a new access road off the existing entrance into the site.

2.1.2. The dwellings are designed with tiled pitched roofs, brick exterior walls, casement style windows and headers.

2.1.3. This is a further submission of application reference 21/01008/FUL which was approved during October 2022 for a building of exactly the same dimensions albeit sub-divided into three dwellings rather than the four dwellings proposed here.

### 3. POLICY CONTEXT

3.1 Within the Green Belt and adjacent to the Shropshire Union Canal Conservation Area

3.2 Adopted Core Strategy

Core Policy 1 (CP1) - The Spatial Strategy for South Staffordshire

GB1 - Development in the Green Belt

EQ1 - Protecting, Enhancing and Expanding Natural Assets

EQ2 - Cannock Chase Special Area of Conservation

EQ3 - Conservation, Preservation and Protection of Heritage Assets

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

EQ9 - Protecting Residential Amenity

EQ11 - Wider Design Considerations

EQ12 - Landscaping

EV12 - Parking Provision

Appendix 5 - Parking Standards

Appendix 6 - Space About Dwellings

3.3 NPPF

Chapter 12: Achieving well-designed places

Chapter 13: Protecting Green Belt Land

Chapter 16: Conserving and enhancing the historic environment

3.4 Supplementary Planning Guidance

Green Belt and Open Countryside SPD

### 4. CONSULTATION RESPONSES

Councillors (expired 29/11/22) No comments received

Parish Council (expired 29/11/22) No comments received

Arboricultural Officer (expired 29/11/22) No comments received

Environmental Health (expired 29/11/22) No comments received

**Conservation Officer (comments received 29/11/22)** The application is for the demolition of an existing barn and the construction of a new structure to form residential accommodation. The existing barn already has planning permission for conversion to residential.

The site is adjacent to the Shropshire Union Canal Conservation Area, and there are already large agricultural buildings on the site. Based upon the plans it appears that the new structure is to be of the same form and in the same location as the existing building, which is screened from direct views by a line of trees.

There was permission for the conversion of the existing structure, but it is now proposed to demolish the existing and replace with a very similar building. In principle there are no conservation objections to this new scheme, which will not have a greater impact upon the

character of the area than the previously approved scheme, subject to the satisfactory agreement of materials.

**County Highways (comments received 19/12/22)** I would suggest they spin plot 4's car parking through 90 degrees so they are outside of plot 4. As submitted anyone using the end 2 spaces on plot 4 would have to reverse all the way down the drive. Other than that the application looks ok.

**County Ecologist (comments received 02/12/22)** The bat survey found no evidence of bats in the building. The Planning Statement (5.8) confirms that two integrated bat boxes will be provided within the west facing gable, which is welcomed. The application site is in a green Impact Risk Zone (IRZ) for Great Crested Newt (GCN), and as such no further action for GCN is required.

Biodiversity net gain - The proposal will be within the footprint of existing buildings and hardstanding, and it is therefore considered that there will be no net loss to biodiversity. Modest landscape planting (trees, hedges) should be required by condition to achieve a suitable gain in line with NPPF 174.

NatureSpace Officer (expired 29/11/22) No comments received

**Natural England (comments received 29/11/22)** No objection subject to mitigation. We consider that without appropriate mitigation the application would have an adverse effect on the integrity of Cannock Chase Special Area of Conservation. In order to mitigate these adverse effects and make the development acceptable, the following mitigation options should be secured:

- delivering mitigation, for recreational impacts on Cannock Chase SAC, by means of the Strategic Access Management & Monitoring (SAMM) measures.

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has undertaken an Appropriate Assessment of the proposal, in accordance with Regulation 63 of the Regulations. Natural England is a statutory consultee on the Appropriate Assessment stage of the Habitats Regulations Assessment process. Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions., providing that all mitigation measures are appropriately secured in any permission given.

**Canal and River Trust (comments received 28/11/22)** This application follows on from a previous planning application, that has since been approved, for the demolition of existing barn (approved for conversion to 3 dwellings under 20/00280/AGRRES) and construction of 3 dwellings<sup>1</sup>. The current proposal is more or less identical with the same built form proposed, but divided into four rather than three units, with an amended parking area to serve an additional unit.

In our previous response we requested conditions, that were subsequently attached to the planning permission, covering:

- drainage plans for the disposal of foul and surface water;

- a Construction Environmental Management Plan to cover both demolition and construction phases to include measures to prevent pollutants and disturbance to the canal;
- the implementation of the submitted Ecological Assessment recommendations, including lighting scheme, canalside buffer and landscaping scheme; as well as an informative relating to the use of Shropshire Union Canal Number 5 Upper Hattons Bridge by abnormal loads.

These matters are still relevant to the current proposal, and we request that the conditions and informative are repeated in any future planning permission.

**Severn Trent Water (comments received 24/11/22)** 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.

Neighbours (expired 29/11/22) No comments received

Site Notice (expired 14/12/22) No comments received

Advertisement (expired 13/12/22) No comments received

## 5. APPRAISAL

5.1 This application has been referred to Planning Committee as the proposal constitutes inappropriate development within the Green Belt, as such is contrary to Policy GB1 of the Core Strategy.

### 5.2 Key Issues

- Principle of development
- Case for Very Special Circumstances
- Impact on the openness, function and visual amenity of the Green Belt
- Impact on Heritage Assets
- Neighbour and occupier amenity
- Ecology/Trees
- Highways/Parking

### 5.3 Principle of development

5.3.1. Core Policy 1 (CP1) of the Core Strategy sets out the Council's approach to the location of new housing development. The site is located approximately 2.5 miles south-west of Coven (a Small Service Village) and approximately 1.2 miles north-west of Bilbrook (a Main Service Village). Whilst the site is within a rural location it is well placed to access a range of facilities and services and would not therefore result in an isolated new home within the Countryside. In any case, the principle of development was established under an agricultural to residential permitted development approval.

5.3.2. The site is located within the Green Belt where, in line with Policy GB1 of the Core Strategy, there is a presumption against inappropriate forms of development. In line with NPPF paragraph 149, LPA's are expected to regard the construction of new buildings as inappropriate in Green Belt, subject to a number of exceptions. One of the exceptions listed

within paragraph 149 and Policy GB1 is the replacement of existing buildings provided they are not materially larger than the original building and are in the same use.

5.3.3. The original building is an agricultural building and therefore the proposal for a replacement building in a different use does not meet this exception. As such, the proposal does not meet with the definition of a 'replacement building' as described within the Green Belt and Open Countryside SPD or Policy GB1 of the Core Strategy and would therefore constitute inappropriate development.

5.3.4. In line with Paragraph 147 of the NPPF, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 148 goes on to say that when considering any planning application, 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. The case for Very Special Circumstances is discussed as follows.

#### 5.4 Case for very special circumstances (VSC)

5.4.1. During 2020 prior approval was granted for the conversion of the existing agricultural building into 3 dwellings (planning application reference 20/00280/AGRRES) hereafter referred to as the 'fallback' scheme. The development was granted under Schedule 2, Part 3, Class Q of the General Permitted Development Order 2015 (as amended) and gave consent for conversion of the existing building to three No. 4-bed dwellings.

5.4.2 In October 2022, planning permission was granted (application reference 21/01008/FUL) for the demolition of the existing building and its replacement with a building of the same layout and size as the fallback scheme, again for three No. 4-bed dwellings. In that case, the applicant sought to re-build rather than convert as a new build would be more energy efficient and sustainable. The provision of a brick-built structure was also considered to give the development a more traditional appearance than the fallback scheme. Whilst the development was inappropriate in Green Belt terms, the fallback scheme had a realistic prospect of being implemented, which was considered to hold significant weight in the balance of considerations.

5.4.3. The current application is a further submission of application reference 21/01008/FUL for a building of exactly the same dimensions, albeit sub-divided into four 4-bed dwellings rather than the three 4-bed dwellings approved previously. The design and appearance of the proposed dwellings is very similar to that of the previous approval, albeit with an amended fenestration arrangement to reflect the addition of one extra dwelling and necessary changes to the parking and gardens.

5.4.4. The considerations for this application are the same as those for approved scheme reference 21/01008/FUL. The dimensions of the proposed building are the same as those of the building to be demolished, and the same as those approved under 20/00280/AGRRES and 21/01008/FUL. It is also worthy of note that due to changes to the permitted development rights for change of use from agricultural to residential, up to five new dwellings, albeit of a smaller footprint, could now potentially be applied for.

5.4.5. The Planning Statement explains that the applicant is seeking to re-build rather than convert as a new build would be more energy efficient and sustainable. The provision of a

brick-built structure would also give the development a more traditional appearance than the fallback scheme and the proposal for four dwellings rather than three would better contribute to housing need.

5.4.6. The Class Q approval is a key consideration in this application, and recent appeal decisions have held that whilst a fallback position should not automatically guarantee planning permission, it is an important material consideration that carries significant weight in the decision-making process, providing that there is a real prospect of the fallback scheme being implemented. In this case, the existing approvals for very similar developments on the site ought to hold significant weight in the balance of considerations. Other matters that weigh in the balance of consideration are discussed as follows.

#### 5.5 Impact on the openness, function and visual amenity of the Green Belt

5.5.1. Whilst the proposal does not strictly meet the definition of a 'replacement building' (as defined within Policy GB1 and the accompanying SPD) in order to avoid any harm to the Green Belt, the proposed development must not be materially larger than the fallback scheme (20/00280/AGRRES) or the previously approved scheme (21/01008/FUL). In order to judge whether a replacement building is materially larger, the Council's Green Belt and Open Countryside SPD advocates that a range of floor area increases between 10-20% should be used.

5.5.2. The fallback scheme (which related to the conversion of the existing building) had a combined floor area of around 882 sq.m set across two floors, with a roof height of 7.7m (to ridge, 5.7m to eaves). The current proposal is identical in terms of floor area and height to the existing building and has the same shallow pitch roof design. The rear gardens combined are of the exactly same overall dimensions as the fallback scheme, albeit each dwelling has a smaller garden than the previous application due to the addition of one extra dwelling. The parking has also increased slightly with the addition of three extra spaces albeit the parking area would still be accommodated within the same area of land at the front of the building.

5.5.3 Although the proposed development would have more of an impact on the Green Belt than the existing agricultural building (due to the addition of garden boundaries, parked vehicles and domestic paraphernalia) there would be no greater impact on the openness, function or visual amenity of the Green Belt than the fallback scheme approved under application reference 20/00280/AGRRES or the previous scheme approved under application reference 21/01008/FUL. Although the current proposal would involve three additional parked vehicles at the frontage of the site, which would reduce the opportunity for landscaping, the parking area would be confined to the same area of land as the previously approved application and would not, in itself, be harmful to the openness or visual amenity of the Green Belt.

#### 5.6 Impact on Heritage Assets

5.6.1. The site is adjacent to the Shropshire Union Canal Conservation Area and approximately 30 metres from Upper Hattons Bridge which is Grade II Listed.

5.6.2. Policy EQ3 of the Core Strategy requires that the significance of Heritage Assets (and their setting) is considered and accounted for within all development proposals. Policy EQ11 requires that new development respects local character and distinctiveness, including that of the surrounding development and landscape [...] by enhancing the positive attributes whilst mitigating the negative aspects [...] In terms of scale, [design] and materials, development

should contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area. Paragraph 197 of the NPPF also advocates that LPA's should take account of the desirability of new development making a positive contribution to local character and distinctiveness.

5.6.3. The surrounding area is of rural character with limited built form other than the agricultural buildings that are close to the site. The Listed bridge is of stone construction although is of limited visibility from the application site due to intervening trees and hedges

5.6.4. As previously mentioned, the application proposes the use of roof tiles, brick exterior walls, casement style windows and window headers. The fallback scheme comprised of the existing timber cladding, with render below and contemporary rectangular openings which was not considered to be particularly sensitive to the location although it was reflective of the buildings original agricultural use.

5.6.5. The Council's Conservation Officer has considered the information that has been provided and agrees with the findings of the Heritage Statement, which concludes that the site is well screened from the Heritage Assets and has a very limited effect on their setting. Given that the new structure is to be of the same form and in the same location as the existing building, no conservation objections to the proposed scheme are raised subject to the satisfactory agreement of materials.

5.6.6. On that basis it is considered that the proposal would result in no harm to the character and appearance of the Heritage Assets or the general area, and the proposal complies with Policies EQ3 and EQ11 of the Core Strategy.

## 5.7 Neighbour and occupier amenity

5.7.1. Policy EQ9 states that new development 'should take into account the amenity of any nearby residents, particularly with regard to privacy [...] and daylight.' The closest residential properties are around 300m away from the site, as such there would be no harm to residential amenity.

5.7.2. The proposed dwellings would sit within an existing agricultural setting, however as noted by the Council's Environmental Health Officer as part of the previous application, there is an extant permission to convert the existing barn into 3 residential units, whereas this application is for demolition and rebuild. On that basis no objections are raised as modern construction techniques will offer more sound insulation than the current barn, therefore helping mitigate any noise from neighbouring units.

5.7.3. In terms of amenity space for the dwellings, Appendix 6 of the Core Strategy sets out minimum standards, which for a 4 bed dwelling would be a garden length of 10.5m and area of 100 sq.m.

5.7.4. The application proposes a garden to each of the dwellings measuring 6.7m in length and between 51 sq.m. and 59 sq.m which is sub-standard to the Council's requirements. However, each of the dwellings would have a floor area of around 210 sq.m. which is well in excess of the upper threshold of the required floor area for a 4-bed dwelling (as defined within the Nationally Described Space Standards) and provides generously sized internal accommodation. The site is also in a rural location with easy access to the canal. On that basis it is considered that the potential occupiers would enjoy a good standard of amenity with a sufficient amount of private space. That being said, given that the gardens are on the

small side, it is considered justifiable to remove PD rights for rear extensions and garden buildings to ensure that the dwellings retain a reasonable area of private amenity space.

5.7.5 On the basis of the above there are no undue concerns arising in respect of neighbour or occupier amenity, as such there is no conflict with Policy EQ9.

## 5.8 Impact on Ecology and Trees

5.8.1. Policy EQ1 provides that developments should not cause significant harm to habitats of nature conservation, including trees 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. Policy EQ12 seeks to ensure appropriate landscaping for all developments.

5.8.2. The development falls within the green impact risk zone for great crested newts, and surrounding habitat between the GCN records and nearest ponds is very limited and heavily agricultural. As part of the previous application NatureSpace confirmed that a GCN survey is not required due to the scale and the likely impacts of the development, however an informative is recommended. There are no trees on site which would be affected by the proposed development and the County Ecologist has raised no objections subject to conditions.

5.8.3 The Canal and River Trust have requested that a Construction Management Plan is submitted to avoid pollutants / dust etc reaching the canal. They also recommend a 10m buffer to the canal which is similar to the wildflower planting strip / dark corridor recommended in the ecology report. It is also suggested that a lighting scheme and buffer strips are secured by conditions, together with the 5 No. integrated bat boxes that are indicated on the plans.

## 5.9 Impact on highways/Parking

5.9.1. Core Strategy Policies EV12 and Appendix 5 set out the Council's parking standards, which is 3 parking spaces for a 4-bed dwelling. The application proposes three spaces per dwelling, as such the proposal provides sufficient parking in accordance with the Council's standards. The County Highways officer has suggested that the parking for Plot 4 is rotated through 90 degrees so that the spaces are outside of Plot 4. As submitted anyone using the end two spaces on Plot 4 would have to reverse all the way down the drive. This amendment can be secured by way of condition, on that basis there are no concerns regarding highway safety subject to conditions.

## 6.0 Cannock Chase Special Area of Conservation (SAC)

6.0.1. The latest Footprint Ecology Report has established that any new residential development within a 15KM buffer zone of the Cannock Chase SAC will have a significant impact on the SAC in terms of increased visitor pressure (i.e. the Zone of Influence).

6.0.2. In order to satisfy separate Habitat Regulations, mitigation in a form of a financial agreement will need to be provided if any net dwellings are located within 0-15km of the SAC. In this instance the site does fall within this criteria. The payment towards the SAC is not paid for planning purposes but rather to secure compliance with the Habitat Regulations.

6.0.3. The applicant has agreed to enter into a Unilateral Undertaking with the Council to secure the required mitigation, as such there is no conflict with Core Strategy Policy EQ2.

6.0.4. The Local Planning Authority has also prepared an "Appropriate Assessment" of the application's effect on the Cannock Chase SAC, which has been agreed with Natural England. The LPA will have therefore met its duties as a competent authority under the Habitat Regulations.

## 6.1 CONCLUSIONS

6.1.0. The proposal for four new dwellings in the Green Belt is inappropriate in principle. Inappropriate development is harmful to the Green Belt by definition and should not be approved unless there are very special circumstances to justify the harm. In this case there is an approved fallback scheme involving the conversion of the existing building, with a realistic prospect of being implemented should this application be refused. There is also an extant approval for a replacement residential building of the same dimensions and design.

6.1.1. It is considered that the fallback scheme and the extant approval provide a compelling case for Very Special Circumstances which ought to be afforded significant weight. The current proposal to replace rather than convert the building, would be an improvement over the fallback scheme in terms of energy efficiency (and thereby residential amenity) and would benefit from higher quality materials and more a traditional appearance/design.

6.1.2. There would be no undue harm to the openness, function or amenity of the Green Belt as a result of the proposal and there are no concerns arising in respect of heritage assets, ecology, occupier amenity or highway safety. Overall, taking all these matters into account the balance is in favour of the scheme and on that basis approval is recommended subject to conditions.

7. RECOMMENDATION - APPROVE Subject to Section 106 Agreement for SAC Cannock Chase Mitigation measures.

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. Prior to any works taking place above Damp Course Level, an amended plan showing the parking for Plot 4 rotated and positioned outside the plot shall be submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall not be brought into use until the access drive parking and turning areas have been provided in accordance with the approved plan.
4. The 5 No. integrated bat boxes shown on the approved plans shall be fully constructed prior to first occupation of the development and shall be retained in-situ for the lifetime of the development.

5. Prior to any works taking place above damp proof course level, the following information shall be submitted to and approved in writing by the Local Planning Authority:
- Landscaping Plan to include an ecological buffer strip to canal measuring a minimum of 10 metres. This could be native wildflower seeding (meadow mix) or native species shrub / hedge.
  - Construction Environmental Management Plan to cover both demolition and construction phases to include measures to prevent pollutants and disturbance to the canal.

The approved Landscaping Scheme shall be implemented before first occupation of the development and the works shall be carried out in full accordance with the approved Construction Environmental Management Plan.

6. Prior to any works taking place above damp proof course level, a lighting design strategy for biodiversity for areas adjacent to the canal corridor shall be submitted to and approved in writing by the local planning authority. The strategy shall:

a) identify those areas/features on site that are particularly sensitive for bats and otters and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and;

b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

7. Immediately prior to works starting, any piles of wood, brash and rubble within the working area should be dismantled by hand and removed from the working area. If any reptile or amphibian are found they should be removed to other shelter such as long grass, shrubbery, purpose-built hibernacula, by hand.
8. No works shall be commenced above damp-proof course level until details of all external materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
9. Prior to the commencement of the development, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be carried out in accordance with the approved plans. The said plans should confirm that discharge to the canal, either directly or indirectly, which could affect water quality and canal

flooding, will be avoided. A standoff of at least 10m from the canal for any soakaway should be provided. Similar standoffs will be needed for any septic tanks/treatment plants, to ensure that canal water quality is protected. Standoffs would also mitigate risks on the structural integrity of the canal bank.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any other subsequent equivalent order, no development within the following classes of development shall be carried out to the dwelling(s) hereby approved without the prior approval of the Local Planning Authority:

Schedule 2, Part 1, Class A - enlargement, improvement or other alteration  
Schedule 2, Part 1, Class E - buildings etc incidental to the enjoyment of the dwellinghouse

Schedule 2, Part 20, Class AC - new dwellinghouses on terraced buildings in use as dwellinghouses.

#### Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. In the interests of public and highway safety and convenience and to ensure that adequate parking facilities are available to serve the development and to conform to the requirements of policy EV12 of the adopted Core Strategy.
4. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
5. To prevent pollutants and disturbance to the canal in accordance with Policy EQ1.
6. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
7. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
8. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
9. To avoid pollution of the water environment in accordance with policy EQ7 of the adopted Core Strategy.
10. To ensure that sufficient private amenity space remains to serve the development in accordance with Policy EQ9 and because the provision of further dwellings would be harmful to the openness and function of the Green Belt, contrary to Policy GB1.

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.

## **INFORMATIVES**

The applicant is advised that vehicles up to 40T mgw (and meeting no other abnormal load criteria) are permitted to cross Shropshire Union Canal Number 5 Upper Hattons Bridge. Any indivisible abnormal load movements must be notified to the Trust via the Electronic Service Delivery for Abnormal Loads (ESDAL) website: <https://esdal.dft.gov.uk/> or by email to [abnormal.loads@canalrivertrust.org.uk](mailto:abnormal.loads@canalrivertrust.org.uk).

For vehicles up to 80T mgw 2 clear working days' notice is required, for vehicles 80T - 150T mgw 5 clear working days' notice is required, and for vehicles in excess of 150T mgw the timescale is subject to discussion with the Trust's Abnormal Loads team (minimum of 5 clear working days).

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.



Pendeford Hall Farm, Pendeford Hall Lane, Coven, Staffordshire WV9 5BD

**22/01056/COU  
NON MAJOR**

**SEP Properties Ltd**

**BILBROOK  
Cllr G Burnett  
Cllr I Sadler**

## **2 Pendeford Mill Lane Bilbrook Staffordshire WV8 1JB**

**Planning application for change of use from retail store (use class E) to hot food takeaway (sui generis); associated extraction, plant equipment and external alterations.**

### **1. SITE DESCRIPTION AND PLANNING HISTORY**

#### **1.1 Site description**

1.1.1 The proposal relates to No 2 Pendeford Mill Lane, located on the southern side of the highway just past Lane Green Road. There is a short lay-by on the southern side of Pendeford Mill Lane that abuts the property as well as the adjacent business to the east. On the west side of the property, there is parking that is shared with the adjacent former bank. This forms the northern end of the "Bilbrook chicane", leading to further shops and services as Duck Lane extends towards Codsall.

#### **1.2 Planning history**

2005 First floor office extension and rearrangement of ground floor, Approved subject to conditions [05/00122/FUL]

1991 First floor showroom and offices, Refused [91/00821]

### **2. APPLICATION DETAILS**

#### **2.1 Pre-application advice**

None

#### **2.2 The proposal**

2.2.1 This is an application to change the use of No 2 Pendeford Mill Lane from a vacant retail store (Class E) to hot food takeaway (sui generis), as well as the associated external alterations.

2.2.2 The application notes that the external alterations are proposed as follows:

- New aluminium PCC entry door and associated frame for the principal entrance to the store; and
- Aluminium panelling to bolster the shopfront along the northern and eastern elevations (advertising is subject to separate consent) and
- Fresh air intake and extract duct extending above the flat roof, both in traffic grey colour.

2.2.3 The application notes the proposed use would have ten full-time employees and 15 part-time employees and be open from 11 AM - 11PM, every day.

2.2.4 It should be noted that the LPA has been informed by the agent that the intended tenant for the property would provide a pizza takeaway (which was provided upon the

request of a Ward Councillor), but the LPA has not been informed of the name/business name of said tenant. Public Access does include neighbour comments that postulate about the intended tenant, but the LPA has no definitive knowledge of the intended tenant. Further, the considerations below are related to a hot food takeaway, rather than any specific type of hot food. This is important to recognise because if a change of use is authorised for a sui generis hot food takeaway, the tenant could feasibly change from a pizza takeaway to any other hot food takeaway.

## 2.3 Amended plans

2.3.1 The full extent of the proposed development was indicated correctly on the plans provided 11/11/22. The agent did provide amended plans (received 2/12/22) that updated the property boundary to reflect the current ownership boundary. The amended plans also added a cycle provision for three bicycles.

## 2.4 Applicant's submission

2.4.1 The application is accompanied by a Planning Statement as well as specification sheets on the proposed air handling and ventilation equipment (all received 11/11/22).

## 3. POLICY CONTEXT

3.1 Within the Codsall, Billbrook & Oaken Development Boundary.

### 3.2 Adopted Core Strategy

NP1 - The Presumption in Favour of Sustainable Development

Core Policy 1: The Spatial Strategy

Core Policy 3: Sustainable Development and Climate Change

Policy EQ9: Protecting Residential Amenity

Appendix 6: Space about Dwellings Standards

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Core Policy 8: Hierarchy of Centres

Strategy Objective 11: To support the growth of a vibrant, prosperous and sustainable local economy; sustain, improve and enhance the vitality and viability of village centres and promote South Staffordshire as a tourist destination.

Core Policy 11: Sustainable Transport

Policy EV12: Parking Provision

Appendix 5: Parking Standards

### 3.3 Adopted local guidance

South Staffordshire Design Guide [2018]

Sustainable Development SPD [2018]

### 3.4 National Planning Policy Framework [2021]

12. Achieving well-designed places

## 4. CONSULTATION RESPONSES

### 4.1 Comments received

No comments from Ward Councillors (expired 12/12/22)

Bilbrook Parish Council (received 9/12/22) Bilbrook Parish Council objects to the application on the following grounds:

Serious problems as the road system is inadequate due to the bad junction at Lane Green Road and Pendeford Mill Lane and as such, it prejudices highway safety under NPPF

Paragraph 109. Insufficient parking spaces for staff and customers.

Adverse effect on the economy and businesses - Bilbrook has an overconcentration of hot food outlets. The Parish Council understands this is for a Pizza takeaway, however, Bilbrook already has one pizza takeaway, as does Birches Bridge. In addition to this Bilbrook has a chip shop, an Indian takeaway, an Indian restaurant, a Chinese takeaway, two cafés, a sandwich bar, a restaurant and a pub. These are already struggling in the current economic crisis.

The site will generate noise, disturbance, smells, pollution, littering and anti-social behaviour.

Unsociable hours of operation. 7 days a week, for 11 hours a day.

Poor relationship with the surrounding area.

Conflicts with the character of the village centre

The Parish Council believes there are better sites away from Bilbrook.

It was also noted that the plans propose the use of the County Highways Bus pull-in. This would need Staffs County Council approval.

Environmental Health (received 13/12/22, clarified via email 19/12/22) No objections. If the application is successful, then the business should contact Environmental Health for advice regarding all current food safety and health and safety legislation and associated guidance.

County Highways (received 8/12/22, clarified via email 16/12/22) Recommend acceptance. The proposed development is located in a residential area with an existing vehicular access to a parking area. The road is classified and subject to a speed limit of 30 mph. There are additional public parking facilities close by. Vehicular movements associated with the proposed use are similar to that of the previous use.

No comments from Severn Trent (expired 12/12/22)

#### Neighbours

For the sake of brevity, neighbour comments are summarised below. Comments are available in full on Public Access.

Five letters of support were received from neighbours citing the following reasons:

- Creation of jobs;
- Addition of a business to the village centre;
- Reuse of a derelict building

Eight letters of objection were received from neighbours citing the following reasons. It should be noted that five of the eight letters were from two individuals submitting supplemental comments.

- Concentration of food outlets within the village;
- Proposed hours of operation encouraging anti-social behaviour;
- Concerns over proposed waste disposal;
- Proposed design being an "eyesore";
- Concerns over traffic generation and lack of parking

Two letters, neither supporting or objecting to the proposed development, but querying how other commentators had knowledge of the potential tenant for the property.

Site Notice posted 24/11/22, expired 15/12/22

## 5. APPRAISAL

5.1 The application has been called to Planning Committee by Councillors Burdett and Sadler due to the following concerns:

- Unacceptable impact on highway safety.
- Lack of available parking.
- Proposed opening hours.

### 5.2 Key Issues

- Principle of development
- Impact on the character of the area
- Impact on neighbouring properties
- Highways/parking
- Representations

### 5.3 Principle of development

5.3.1 The proposal is located within an established mixed-use area that provides a range of services to the Bilbrook and extended Codsall area. Core Policy 8 of the Adopted Core Strategy encourages proposals that sustain, improve and enhance the vitality and viability of centres.

5.3.2 Further, Core Policy 7 of the Adopted Core Strategy notes the following:

- The focus for economic growth, development and investment will be on the Main Service Villages identified in the settlement hierarchy in Core Policy 1 (of which Bilbrook is identified);
- The Council will support measures to sustain and enhance the vitality and viability of village and neighbourhood centres;
- Employment development will be expected to contribute to the achievement of sustainable development. The priority will be for the re-use of previously developed land in sustainable locations, provided it is not of high environmental values; that is accessible by public transport, walking and cycling and development should be appropriate in scale and design to the location for which it is proposed.

5.3.3 Given that the application proposes to reutilise a closed business for a new enterprise that would employ ten full time employees and fifteen part time employees, within a Main Service Village centre that is accessible by public transport, it is my opinion that the application is in accordance with Core Policies 7 and 8 of the Core Strategy.

### 5.4 Impact on the character of the area

5.4.1 Policy EQ11 of the Core Strategy requires that new development "respect local character and distinctiveness, including that of the surrounding development and landscape [...] by enhancing the positive attributes whilst mitigating the negative aspects", and that "in terms of scale, volume, massing and materials, development should contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and

buildings in the local area." The Council's 2018 Design Guide has been adopted and amplifies the principles set out in Policy EQ11 of the Core Strategy.

5.4.2 Minor modifications are proposed to the external appearance of the building at No 2 Pendeford Mill Lane, but no drastic modifications are proposed such as additional storeys, extensions or freestanding signage. Whilst the existing building does not have architectural significance, the proposed would improve the external appearance from the current closed business that has become somewhat derelict. As Bilbrook does not have a Conservation Area and many of the businesses retain a similar commercial appearance (including similar extract ducts), I find that the proposed would contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area. As such, there is no conflict with Policy EQ11 of the Core Strategy.

## 5.5 Impact on neighbouring properties

5.5.1 Policy EQ9 states that new development "should take into account the amenity of any nearby residents, particularly with regard to privacy, security, noise and disturbance, pollution (including light pollution)[...]and daylight".

5.5.2 Whilst there are dwellings in the area surrounding Pendeford Mill Lane, No 2 is distinctly located within the established commercial area with businesses on either adjacent side as well as on the northern side of the highway. Travelling westward, the intensity of business use increases at the Village Centre; travelling eastward, business use does continue approximately 150m to the east with the Bilbrook Fish Bar, a beauty salon and a grocer. There are of course aspects of any business that can impact neighbouring amenity but given the location of the proposed hot food takeaway within an established commercial area, it is my opinion that neighbouring amenity in this case would potentially only be impacted by the fumes associated with the cooking of the food.

5.5.3 The Planning Statement details the following ventilation/extraction equipment proposed: a steel extract flue, fresh air intake, water heater flue, toilet extract fan and two new louvres, most of which shall be provided along the building's northern elevation. Environmental Health has been consulted on the proposal and returned a recommendation of no objections subject to the business complying with all current food safety and health and safety legislation and associated guidance. As Environmental Health have determined that the proposed ventilation/extraction equipment proposed is acceptable, I do not have further concerns pertaining to the potential fumes and find the proposal to be in accordance with Policy EQ9.

## 5.6 Highways/parking

5.6.1 County Highways has been consulted on the application and has returned the following comment: " Recommend acceptance. The proposed development is located in a residential area with an existing vehicular access to a parking area. The road is classified and subject to a speed limit of 30 mph. There are additional public parking facilities close by. Vehicular movements associated with the proposed use are similar to that of the previous use."

5.6.2 The Planning Statement provided with the application indicates that dedicated parking is shared with the adjacent former bank, and the lay-by along Pendeford Mill Lane is predominantly to be used by delivery drivers and other commercial activities to support the operations of the business. The nearest bus stop is outside of the Woodman Inn, which is within 60 metres of the site. The Bilbrook train station is 0.4 miles to the west of the site.

5.6.3 The Adopted Core Strategy notes that for food and drink establishments, the expected cycle provision is one space per 60sq m of gross floor area. As such, the hot food takeaway proposed would be expected to provide three cycle spaces; per the request of the LPA, this has been provided on the amended block plan (received 2/12/22).

5.6.4 Whilst No 2 Pendeford Mill Lane cannot provide the number of car parking spaces specified within the Adopted Core Strategy for a hot food takeaway of its size, the following should be emphasized. Appendix Five of the Core Strategy states: "Where such development proposals do not make provision to the relevant parking standard then negotiations can be entered into to see if these could be achieved or even a suitable compromise reached where public safety will not be prejudiced. It is recognised, however, that the parking requirements are but part of the overall assessment of the planning merits of the proposal and the outcome can be a balance between all these considerations."

5.6.5 Given the sustainable location of the proposed hot food takeaway (in a village centre), its location along a footpath, its proximity to both bus and rail service, its proximity to public car parks within Bilbrook, as well as the cycle storage provided, it is my opinion that the amount of parking provided on the property should not prejudice the outcome of the application.

5.6.6 Considering the above, the sustainable location of No 2 Pendeford Mill Lane, paired with the recommendation of approval from County Highways; there are no outstanding highways/parking concerns that would dictate a recommendation of refusal for the application.

## 5.7 Representations

5.7.1 The concerns expressed by the Parish Council and neighbours have been noted and several have been addressed throughout the body of this report (traffic/parking, the appearance of the building, impact on the local economy). Any remaining concerns are addressed as follows.

5.7.2 There have been concerns identified that the bin storage area proposed for the northern side of the building will not be adequate for the business, which would result in waste and litter accumulating along the exterior of the building and within the public realm. As aforementioned, the LPA has not been provided with the proposed tenant of the building, but the applicant has proposed the bin storage area so it can be assumed they feel this is adequate for their business. If the application is approved, it would be appropriate to condition that the waste bins always remain within the bin storage area, except for the day of collection. If the application is approved and waste begins to accumulate within the public realm, then a complaint can be lodged with Environmental Health and dealt with under separate legislation.

5.7.3 There were also concerns that the proposed use would result in anti-social behaviour in particular related to the proposed opening hours of 11 AM - 11 PM. After considering the other businesses listed within the Parish Council's objection comment, I must recognise that the other takeaways within Bilbrook are open similar hours. Three hot food takeaways are open until 11 PM (with one open until midnight on certain days), and The Woodman Inn is also open until 12 PM. As such, the LPA is unable to find reason that the proposed use of No 2 Pendeford Mill Lane as a hot food takeaway would result in any more anti-social behaviour than the other existing takeaways within Bilbrook.

5.7.4 Related, a number of comments have been received with concerns about the parking/impact on traffic due to the number of food delivery businesses that would likely be collecting from a hot food takeaway. Again, I am unable to distinguish how delivery drivers accessing No 2 Pendeford Mill Lane would have a greater impact on the parking/traffic of Bilbrook, as compared to delivery drivers that are currently accessing the existing hot food takeaways within the Village (particularly given those located within a shopping parade that has limited parking).

## 6. CONCLUSIONS

6.1 The proposal represents sustainable development within an easily accessible location to Bilbrook and Codsall. Minimal modifications are proposed to the external appearance of the building, which would align with the existing character of the area. Given efforts made to address potential fumes and waste collection, the proposed will not have a material impact on neighbouring amenity. Whilst the concerns identified by the Parish Council and neighbours have been recognised, on balance the proposed change of use at No 2 Pendeford Mill Lane is acceptable and I therefore recommend approval of the application.

## 7. RECOMMENDATION - APPROVE Subject to Conditions

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.
2. The development authorised by this permission shall be carried out in complete accordance with the approved plans and specification, as listed on this decision notice, except insofar as may be otherwise required by other conditions to which this permission is subject.
3. Hours of operation for the business are limited to only between the hours of 11 AM - 11 PM, every day.
4. Waste shall be collected and stored within the bin storage area identified on C5308-PB09 revision C and shall only be wheeled outside on the day of waste collection. Upon collection of said waste, the bins shall be returned to the bin storage area as quickly as possible.
5. Materials used on the exterior of the building shall match those shown on approved plan C5308-A5-06 Proposed Elevations (received 11/12/22).
6. The development hereby permitted shall not be brought into use until the fume extraction and odour control system hereby approved has been installed, in full, at the premises. The approved fume extraction and odour control system shall thereafter be retained and remain in operation for the lifetime of the development.

## Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.

3. In order to define the permission and to avoid doubt.
4. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
5. In order to define the permission and to avoid doubt.
6. To safeguard the amenity of the area in accordance with policy EQ9 of the adopted Core Strategy

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



2 Pendeford Mill Lane, Bilbrook, Staffordshire WV8 1JB



**SOUTH STAFFORDSHIRE COUNCIL****PLANNING COMMITTEE – 24 JANUARY 2023****MONTHLY UPDATE REPORT****REPORT OF THE LEAD PLANNING MANAGER****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

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

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

**2. RECOMMENDATION**

2.1 That Committee notes the content of the update report.

**3. SUMMARY IMPACT ASSESSMENT**

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

## **PART B – ADDITIONAL INFORMATION**

### **4. INFORMATION**

- 4.1 **Future Training** – Further training dates are being arranged to cover the ‘Planning Balance exercise’, and Planning Enforcement as requested in the Member questionnaire responses. Please let us know if there are other topics on which you would like training. In addition, regular training/refresher sessions on using Public Access will be organised.
- 4.2 **Changes in National Policy** – No change since previous report.
- 4.3 **Planning Appeal Decisions** – every Planning Appeal decision will now be brought to committee for the committee to consider. There have been 3 appeal decisions since my last report, copies of the decisions are attached as Appendix 1-3. These relate to:
- 1) An appeal against the refusal of a single and two storey side extensions at 14 Whilmot Close, Featherstone WV10 7BJ. The appeal was dismissed as the inspector concluded that the proposal would have a harmful effect upon the character and appearance of the area and would also conflict with the Council’s South Staffordshire Design Guide (2018), which, amongst other things, seeks to ensure extensions respect the scale and form of the main building and appear subservient to it. Therefore, the appeal was dismissed.
  - 2) An appeal against an Enforcement Notice which stated the alleged breach of planning control was that *‘without planning permission, the making of a material change of use of the Land and associated unauthorised development and engineering works to facilitate that change of use including, but not limited to the installation of a garden pond, the laying of a hardstanding base and siting of a shipping container, the erection of fencing and the raising of the land levels to level off the Land to facilitate that change of use for use as domestic residential garden land by the owners/occupiers’* of 8 Baggeridge Close, Gospel End, Staffordshire DY3 4AJ. The appeal was dismissed and the enforcement notice upheld with a correction and variations in the terms set out in the Formal Decision. The land must therefore be restored to its previous condition as per the Enforcement Notice within six months. The request to reinstate the removed trees through a proposed scheme of new tree planting was however not agreed as it was considered to constitute an ‘improvement’ and outside of the limits of the Notice. Two separate costs applications were also determined, submitted by both parties, which were dismissed.
  - 3) An appeal against a refusal for a detached carport and storage at 10 Castle Street, Kinver, Stourbridge DY7 6EL. The appeal was dismissed as the inspector concluded that the proposal would have an unacceptably harmful effect on the character and appearance of the area. In reaching this conclusion the inspector also noted that the cumulative benefits identified as arising from the proposal would be limited by its intended purpose as an addition to an existing property and do not outweigh the harm or associated conflict with the development plan. Therefore, the appeal was dismissed.

- 4.4 In May 2020 the Secretary of State for Transport made an order granting development consent West Midlands Interchange (WMI). Documents can be seen here : <https://infrastructure.planninginspectorate.gov.uk/projects/west-midlands/west-midlands-interchange/> Officers are now working with the site promoters to understand next steps.
- 4.5 In April 2022, PINS confirmed that the M54/M6 link road Development Consent Order (DCO) has been granted by the Secretary of State. Further information can be found here <http://infrastructure.planninginspectorate.gov.uk/document/TR010054-001195> . Latest communication suggests that site investigation works will soon start to take place on site.
- 4.6 **Relevant Planning Enforcement cases on a quarterly basis** – no update since last month. 79% of Planning Enforcement cases are currently being investigated within 12 weeks of the case being logged. This is slightly below the target of 80%. This is to be expected due to the level of old cases now being closed and the number of high priority open cases and appeals underway. The internal Service Review to look at areas for streamlining, efficiencies and service improvements is underway.
- 4.7 **The latest data produced by the Department of Levelling Up, Housing and Communities** – As members will recall, DLUHC sets designation targets that must be met regarding both quality and speed of planning decisions. The targets are broken into major and non-major development. If the targets are not met, then unless exceptional circumstances apply, DLUHC will “designate” the relevant authority and developers have the option to avoid applying to the relevant designated Local Planning Authority and apply direct, and pay the fees, to the Planning Inspectorate. Details can be seen at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/760040/Improving\\_planning\\_performance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760040/Improving_planning_performance.pdf)
- 4.8 We will ensure that the Committee is kept informed of performance against the relevant targets including through the DLUHCs own data.
- 4.9 For Speed – the 2020 target for major developments is that 60% of decisions must be made within the relevant time frame (or with an agreed extension of time) and for non-major it is 70%. For Quality – for 2020 the threshold is 10% for both major and non-major decisions. Current performance is well within these targets and the position as set out on DLUHCs website will be shown to the Committee at the meeting – the information can be seen on the following link tables:
- 151a – speed – major
  - 152a – quality – major
  - 153 – speed – non major
  - 154 – quality – non major

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

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

**Speed**

151a – majors – target 60% (or above) – result = 92.6% (data up to September 2022)

153 – others – target 70% (or above) – result = 87.2% (data up to September 2022)

**Quality**

152a – majors – target 10% (or below) – result = 1.9% (date up to June 2021)

154 – others – target 10% (or below) – result = 0.9% (date up to September 2021)

**5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

N/A

**6. PREVIOUS MINUTES**

N/A

**7. BACKGROUND PAPERS**

Appendix 1 – Appeal Decision – 14 Whilmot Close, Featherstone WV10 7BJ

Appendix 2 – Appeal and 2 Costs Decisions – 8 Baggeridge Close, Gospel End, Staffordshire DY3 4AJ

Appendix 3 – Appeal Decision – 10 Castle Street, Kinver, Stourbridge DY7 6EL

Report prepared by:

Kelly Harris  
Lead Planning Manager

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# Appeal Decision

Site visit made on 22 November 2022

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

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

**Decision date: 15 December 2022**

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**Appeal Ref: APP/C3430/D/22/3304587**

**14 Whilmot Close, Featherstone WV10 7BJ**

- 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 I Williams against the decision of South Staffordshire Council.
  - The application Ref 21/01169/FUL, dated 29 October 2021, was refused by notice dated 26 May 2022.
  - The development proposed is single and two storey side extensions.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

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

## Reasons

3. The appeal site comprises a two-storey semi-detached dwelling located on a corner plot on Whilmot Close. The corner plot is partially bound by fencing; however, the site is otherwise exposed. The openness of the corner plot makes a positive contribution to the character and appearance of the area.
4. Whilmote Close has a curved alignment, but there is a degree of uniformity in terms of the front building line of properties and their relationship to the road. The curving nature of the road means that the host dwelling is sited at an angle to the road, which makes the appeal site prominent within the street scene.
5. The proposal would entail building over the host dwelling's side garden and would be sited very close to the road. This would be significantly closer than the prevailing distance for the existing dwellings nearby. As such, the proposal would project beyond the established building line and would uncharacteristically protrude towards the road. The closeness to the road and the lack of space to the side boundary would combine to make the proposal appear cramped on its plot. This would be out of keeping with the existing building form and would result in a discordant feature in the street scene.
6. The two-storey element of the proposal would be slightly set-back from the front elevation of the host dwelling. However, the proposal would incorporate an expanse of brickwork to its side elevation facing the road, which would present a bland appearance. Therefore, the proposal would appear as a highly visible and incongruous feature within the street scene.

7. Furthermore, the presence and massing of the proposed extension would significantly erode the sense of openness of this prominent corner plot. The positive contribution the appeal site makes to the character and appearance of the street scene in its current form would be lost.
8. The proposal would include sympathetic detailing and matching materials that could be reasonably secured through the imposition of planning conditions. However, these acceptable aspects would not outweigh the harm identified above.
9. Whilst there are examples of side extensions nearby, I am not fully aware of all the circumstances relating to these developments. In any event, these are not directly comparable to the current proposal, which I have determined on its own merits and its site-specific characteristics.
10. Therefore, I conclude the proposal would have a harmful effect upon the character and appearance of the area. As such, the proposal would fail to accord with Policy EQ11 of the South Staffordshire Council Core Strategy (2012). Amongst other things, this policy seeks to ensure development respects local character and contributes positively to the street scene in terms of scale and massing. The proposal would also conflict with the Council's South Staffordshire Design Guide (2018), which, amongst other things, seeks to ensure extensions respect the scale and form of the main building and appear subservient to it.
11. In addition, the proposal would fail to accord to the design objectives of the National Planning Policy Framework.

### **Conclusion**

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

*Helen Smith*

INSPECTOR

# Appeal Decision

Site visit made on 28 November 2022

**by Debbie Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC**

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

**Decision date: 20 December 2022**

## **Appeal Ref: APP/C3430/C/22/3295538**

### **Land at the rear of 8 Baggeridge Close, Gospel End, Staffordshire DY3 4AJ**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (the 1990 Act) as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr D Bytheway against an enforcement notice issued by South Staffordshire District Council.
- The enforcement notice was issued on 18 February 2022.
- The breach of planning control as alleged in the notice is without planning permission, the making of a material change of use of the Land and associated unauthorised development and engineering works to facilitate that change of use including, but not limited to the installation of a garden pond, the laying of a hardstanding base and siting of a shipping container, the erection of fencing and the raising of the land levels to level off the Land to facilitate that change of use for use as domestic residential garden land by the owners/occupiers of 8 Baggeridge Close.
- The requirements of the notice are:
  - i. Permanently cease the use of the Land for domestic garden use;
  - ii. Remove the garden pond, (outlined in blue on Plan 2), removing from the Land any lining and materials used to form the pond, including all stone, stone blocks and materials surrounding it and infill with soil to the ground levels that existed before the unauthorised use commenced;
  - iii. Permanently remove from the Land the shipping container and hardstanding base located on the Land outlined in green on Plan 2;
  - iv. Permanently remove from the Land the metal fencing within the area outlined in yellow on Plan 2;
  - v. Remove from the Land all turf laid to facilitate the material change of use;
  - vi. Lower and restore the Land to the original levels that were existing before the unauthorised engineering operations commenced as set out in the topological survey reference DML12A at Appendix 1, annexed to this Notice so as to ensure the Land is returned to its original condition prior to the [un] authorised [sic] development;
  - vii. Remove all additional imported material used to raise the ground level from the Land. (The topological survey reference DML998A showing the land levels on 10 December 2021 is included at Appendix 2 for reference);
  - viii. To ensure a reduction in the overly domesticated and urban appearance of the Land and restore the character of its rural appearance, to replant replacement trees with a broad mix of species chosen from the list at Appendix 3, in the area outlined in yellow and shown on Plan 3 attached to this notice. The trees should be planted in accordance with the provisions detailed at Appendix 3.
- The period for compliance with the requirements is i) one month; ii), iii) and iv) three months; v), vi) and vii) six months; viii) within the first planting season following compliance with v), vi) and vii).
- The appeal is proceeding on the grounds set out in section 174(2)(b), (c), (d) and (f) of the 1990 Act as amended.

**Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with a correction and variations in the terms set out below in the Formal Decision.**

## **Preliminary Matters**

1. In this type of appeal, the onus of proof is firmly upon the appellant. The Courts have held that the relevant test of the evidence on matters such as 'legal' grounds of appeal is the balance of probabilities. There is no ground (a) appeal and associated deemed planning application. Therefore, I have not considered matters such as the effect of the development on the Green Belt, the character and appearance of the area and protected species in terms of whether or not planning permission should be granted. I must examine the submitted factual evidence, the history and planning status of the site in question and apply relevant law or judicial authority to the circumstances of this case.
2. The first requirement is to cease the use of the Land for domestic garden use whereas the breach describes domestic residential garden. The requirements should flow from the allegation and, consequently, I will use my powers of correction under Section 176(1) of the 1990 Act to include the word 'residential' in requirement 1. I am satisfied that I can make this minor correction without injustice since the terms and effect of the enforcement notice would be unaffected.
3. The appellant says the land is landlocked and it would not be possible to remove the alleged imported material or the storage container. I understand that the previous use of the land to the east for access would no longer be available. However, the practicalities of compliance are not grounds for quashing the notice. The Council may choose to extend the compliance period using the powers under Section 173A(1)(b) of the 1990 Act if the anticipated difficulties are encountered.

## **Applications for costs**

4. Applications for costs were made by (1) Mr D Bytheway against South Staffordshire District Council and (2) South Staffordshire District Council against Mr D Bytheway. These applications are the subject of separate Decisions.

## **The ground (b) appeal**

5. The ground (b) appeal is that the matters alleged in the enforcement notice, that is the material change of use of the land to use as domestic residential garden, have not occurred as a matter of fact.
6. The appeal site is a rectangular area of land to the rear of the properties along a cul-de-sac known as Baggeridge Close. The plan attached to the notice includes the whole of the land within the appellant's ownership. However, the alleged works are confined to the western part of the land, which lies to the rear of Nos 6 to 9 Baggeridge Close.
7. The appellant explains that the land was acquired in 2014, at which time it was very overgrown and contained abandoned items. In December 2020, planning permission was granted for a replacement dwelling on land at the head of the cul-de-sac (No 10 Baggeridge Close, Ref 20/00905/FUL). Due to logistical difficulties during the construction of the new dwelling, the appellant allowed the developer to use the appeal site for the storage of plant and materials. After the works finished, the appellant says the land was levelled off and replacement grass was laid by the developer in order to remedy the damage

caused by their machinery. Prior to this, trees had been removed and a fence which ran from north to south had been replaced.

8. The appellant maintains that the appeal site has not been used as a domestic residential garden and, as such, a change of use has not taken place. However, it is accepted that the land is used by the appellant in connection with his ownership. There is no dispute that the site has been levelled and replacement grass has been laid, nor that fencing has been erected, a pond has been enlarged and a shipping container has been sited on a gravel base. Play equipment has also been present. The level surface, the turf, the pond and the play equipment are evidence that the site has been used for residential purposes. There is no detail of how the shipping container is used, aside from a comment that it was sited temporarily. However, it remained at the time of my site visit. Given its location relatively close to the house, it is more likely to be used for domestic storage than for agricultural purposes as indicated.
9. An additional ground (b) appeal has been made, that the laying of the hardstanding base associated with the shipping container has not occurred, although it is accepted that the container is sited on a bed of gravel. I saw that the crushed stone has become compacted and, in addition, there is a concrete ramp in front of the doors. This can reasonably be described as hardstanding.
10. Therefore, on the basis of the appellant's own evidence, I find that the matters alleged have occurred as a matter of fact and the ground (b) appeal must fail. Whether or not the matters alleged amount to a material change of use, for which planning permission would be required, is considered below as part of the ground (c) appeal.

### **The ground (c) appeal**

11. The ground (c) appeal is that the matters alleged do not constitute a breach of planning control. The concept of a material change of use is not defined in statute, but the basic approach is that, for a material change of use to have occurred, there must be some significant difference in the character of activities from what has gone on previously, as a matter of fact and degree. The Courts have held that any off-site effects may be highly relevant to whether there has been a material change of use. Similarly, the planning consequences of the change may be relevant. A change which leads to an 'improvement' in respect of planning merits can amount to a material change of use just as much as one that causes harm.
12. The Council has provided a series of dated photographs showing the condition of the land in April, September and December 2021<sup>1</sup>. The part that had been subject to the works was flat and laid with turf that had been mown and maintained. It had been cleared of trees and any vegetation and contained a pond, with large stone blocks at one side and a fountain, plus a storage container, in the positions shown on Plan 2. The turf extended from the rear of the appellant's garden, that lies directly behind No 8, and there was no separating boundary treatment. At some point, there was a child's goal post(s) and play equipment on the land but these have since been removed. The land had the appearance of an extended garden with a lawn, an ornamental pond and a storage container. It is also apparent from the Council's photographs,

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<sup>1</sup> Appendix 7, 11, 15, 24 and 25 of Council's statement.

- aerial images and from what I saw on site that a significant amount of earth had been moved around the site, using machinery, to create the flat surface.
13. It is possible to ascertain the appearance of the site prior to the works by comparing it with the remainder of the land which has not been altered, and considering aerial photographs supplied by both parties. The land within the appellant's ownership to the east of the dividing fence is uneven and boggy, with a pronounced downward slope to the east. It remains heavily overgrown with trees and shrubbery. The appeal site had been grazed and appears to have been less overgrown and was divided into paddocks by a belt of trees. Nonetheless, it is apparent that there is a significant difference in the appearance of the land as a result of the works.
  14. I appreciate that the appearance has changed since the Council's photographs were taken. The lawn has been left unmown, a fence has been erected at the rear of the appellant's garden, the pond has bedded in a little and its fountain has been removed. Nonetheless, the land remains level, which in itself is a pronounced change given its former uneven nature and the prevailing slope of the land on the remainder of the site and Baggeridge Close itself. Moreover, the land has been cleared of shrubbery and trees and the pond has an over-engineered appearance. As a result, the land to the rear of Nos 6 to 9 is more similar in character and appearance to domestic residential garden. This has led to a significant difference in the character of activities to what took place previously, which would amount to a material change of use.
  15. I understand that the appellant may not be using the land actively on a day-to-day basis for residential purposes. Given its size, it is unlikely to be used as intensively as a modest-sized rear garden. However, its character is residential and there is evidence that it has been used as such. This change in character and appearance has planning consequences because the appeal site is within the Green Belt. The works represent encroachment into the countryside, which would be contrary to Green Belt purposes as set out in the National Planning Policy Framework and policies with the development plan<sup>2</sup>.
  16. I appreciate that several neighbours have written in support of the works, commenting that the visual appearance of the land has improved in their opinions. As explained above, the off-site effects and planning consequences that I have identified strongly reinforce the finding that a material change of use has taken place.
  17. I conclude on this issue that, as a matter of fact and degree, the works to the land have resulted in such a change to its character and consequent use, that it amounts to a material change of use to domestic residential garden. This constitutes development for which planning permission would be required. In the absence of any such permission, the matters alleged constitute a breach of planning control and the appeal on ground (c) must fail.
  18. The appellant had also made a series of points concerning the matters which the Council lists as facilitating the breach of planning control. This includes the pond, the storage container, the turf, tree removal and the erection of the green mesh fence. The appellant's arguments concerning these matters focus on whether or not the Council is justified in seeking the removal or

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<sup>2</sup> South Staffordshire Core Strategy (December 2012) Policy GB1 – Development in the Green Belt.

replacement of these items, which are more appropriately considered under the ground (f) appeal below.

### **The ground (d) appeal**

19. The ground (d) appeal concerns the storage container, however, the container is associated with the change of use. Hence, in order to succeed on ground (d), the appellant must show on the balance of probabilities, that the matters alleged in the enforcement notice have occurred for a continuous period of 10 years or more, prior to the issue of the notice, such that it is too late for the Council to take enforcement action.
20. The appellant maintains that the storage container has been present for a "sufficient" number of years but there is no supporting evidence. The onus of proof lies with the appellant and the appeal on ground (d) fails, therefore. I have considered the additional argument, implicit in the appellant's statement, that the removal of the container would be excessive to remedy the breach as part of the ground (f) appeal.

### **The ground (f) appeal**

21. The Section 173(4) of the 1990 Act sets out the two purposes of an enforcement notice – (a) to remedy the breach of planning control that has occurred and (b) to remedy any injury caused by the breach. The steps set out in the notice require the unauthorised use to cease and the removal of matters that facilitate that use. Its purpose is to remedy the breach of planning control. What must be considered under the ground (f) appeal is whether the steps required exceed what is necessary to achieve that purpose.
22. The Courts have established that an enforcement notice directed at a material change of use may require the removal of works integral to, and solely for, the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or they would be permitted development or immune from enforcement, so that the land is restored to its condition before the change of use took place<sup>3</sup>. The appellant refers to an appeal decision<sup>4</sup> in which the Inspector was considering an allegation of operational development that included "domestic paraphernalia". The Inspector corrected the notice to remove reference to any items that were not operational development within the meaning of Section 55(1) of the 1990 Act. It does not follow, as the appellant asserts, that only matters that constitute development can be the subjects of requirements in an enforcement notice directed at a change of use. Caselaw has established otherwise, as explained.
23. In this appeal, the allegation sets out the breach as a material change of use and lists the matters that were considered to facilitate the breach. This includes the pond, the shipping container, fencing and raising of land levels.
24. The appellant explains that the pond is an enlargement of a smaller pre-existing feature, and stone/low level planting has been added. However, the resulting pond has an over-engineered appearance due to its regular size, plastic liner, the domestic planting, the surrounding large stone blocks and the sloping lawn. It is an ornamental feature typical of large gardens, as opposed to a natural pond of the type that occurs within the countryside. Consequently,

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<sup>3</sup> *Murfitt v SSE* [1980] JPL 598, *Somak Travel v SSE* [1987] JPL 630.

<sup>4</sup> Ref APP/F1610/C/13/2199101 dated 27 December 2013.

the pond has served to facilitate the change of use to domestic residential garden. I accept that, in time, the pond may have wildlife value but this is not relevant to this ground of appeal. The appellant suggests that the pond could be altered through the removal of some of the planting. However, this would not address the problem that the pond facilitates the unauthorised change of use. Its removal as required by the notice is justified, therefore.

25. The appellant suggests that the shipping container is not used in connection with the unauthorised change of use. However, it is not explained what its purpose is. It can be accessed relatively easily from the appellant's house and it is likely to be used for domestic storage. In the absence of evidence to the contrary, I consider that it facilitates the unauthorised use and its removal, along with the hardstanding base, is appropriate. A change in cladding would not address the fundamental issue that it facilitates the unauthorised use.
26. The appellant argues that the green mesh fencing in the location shown on Plan 2, comprises permitted development by virtue of the Town and Country Planning (General Permitted Development)(England) Order 2015 (GPDO) Schedule 2, Part 2, Class A. This concerns the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. The fence was erected shortly before the other works took place. It separates and divides the appeal site from the unaltered part of the land. I note that it replaced a previous fence, but this may not have been necessary had the land remained in its former state. I am satisfied that the fence facilitates the unauthorised change of use.
27. The appellant claims that any changes in levels were minor and the Council has not provided any evidence of previous land levels, making the notice impossible to comply with. I saw from my site visit that there are significant differences in land levels between the levelled area and the immediately surrounding land. It is apparent from this, and the Council's photographs and aerial images, that significant earthworks have taken place to level the land. This has resulted in a change in character to the land, as explained above. It facilitates the unauthorised change of use and, in order to remedy the breach, the previous levels should be restored. It would not be sufficient to allow the land to 'rewild' as is suggested since it would remain uncharacteristically level.
28. The appellant also says that the Council has not provided a clear instruction of what needs to be done to lower and restore the levels. Again, this is not correct. The Council has commissioned a topographical survey, (Ref DML998A), which showed the land levels on 10 December 2021. In addition, a further survey has been attached to the notice, (Ref DML12A), which is an attempt to show the previous land levels. There is a supporting statement with additional survey drawings, including cross sections<sup>5</sup>. This has been produced by an appropriately qualified person and is based on reasonable assumptions.
29. However, the scope of the notice is limited by s173(4)(a) and (b) and so the recipient cannot be required to undertake works that would go beyond remedying the breach. No matter how the works are specified, the most that they can achieve is restoration of the land to its previous condition. There is no scope for a notice to require any improvements to the land. Requirement vi) is relatively specific and has been drafted as such to avoid any ambiguity. However, it would be sufficient to simply require the land to be restored to its

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<sup>5</sup> Datum Surveys 18 December 2021.

- condition before the development took place. The survey information may be used to assist the appellant in carrying out this remedial work. Similarly, it is not necessary to specify the removal of the turf, as per requirement v), since this would be achieved if the land were restored to previous condition.
30. There is also a requirement to remove all additional material used to raise the ground levels. Although the appellant maintains the levels were not altered, it is accepted that the ground was cut away at the western end and the excavated material was used elsewhere. It is also explained in sworn evidence<sup>6</sup> that earth was stored on the appeal site resulting from excavation at the nearby development site. The developer who carried out the works at No 10 has stated in sworn evidence that a significant amount of earth had to be excavated from the adjoining plot in order to accommodate the new dwelling. This material was stored on the appeal site prior to being removed. Further sworn evidence from the contractor who carried out renovation and garden works to the appellant's house states that any materials/aggregates or soil which were temporarily imported onto the appeal site in connection with the works at No 8 were removed. There is reference to further removal and disposal evidence but this is not provided.
  31. The Council maintains that a quantity of soil has been imported. It refers to contrary sworn evidence from neighbours<sup>7</sup>, who state that they saw large amounts of fresh soil being imported and deposited onto the land. Aerial images<sup>8</sup> also show quantities of soil spread evenly about the appeal site. The Council also provides photographs which they say shows bricks and rubble within the deposited material<sup>9</sup>. Furthermore, it is argued that the topographical surveys and accompanying report provide evidence that fill material has been imported due to the respective cut and fill depths.
  32. From all of the evidence before me, it is not possible to establish with any certainty how much material was deposited on the site during the development at Nos 8 and 10 and whether all of this was removed. However, I am satisfied that significant amounts of material were deposited and moved around the appeal site. There is a resulting difference in levels which cannot be described as minor. In any event, it is entirely appropriate for the Council to require the land to be restored to its previous condition to remedy the breach of planning control. It has provided a survey to guide the appellant to the end result it is seeking. It may well be the case, given the differences in levels that I observed, that material will have to be removed from the land to reinstate the previous levels.
  33. The final requirement is to plant replacement trees. It is accepted that trees were removed from the area identified in the notice but argued that their removal was unconnected with the unauthorised use. I appreciate the reasons why the Council wishes to have replacement trees planted, however, the number, species and condition of the original trees is unknown. The Council has made its best estimate of what those species would have been but this is not certain. I consider that this would be an improvement to the land and the requirement is thus excessive.

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<sup>6</sup> Appellant's final comments.

<sup>7</sup> Appendices 27-29 of the Council's statement.

<sup>8</sup> Appendix 25 of the Council's statement.

<sup>9</sup> Appendix 15 of the Council's statement.

34. I conclude that steps ii), iii) and iv) required by the notice do not exceed what is necessary to remedy the breach of planning control. The unauthorised use must cease and facilitating development must be removed. This is proportionate and necessary to prevent the use re-occurring. However, I also find that steps v), vi), vii) and viii) go further than is necessary. Nonetheless, it is important to ensure the land is restored to its condition prior to the development, and a requirement to that effect is appropriate. I shall vary the notice accordingly. There will be a consequential variation to the periods for compliance. The appeal on ground (f) succeeds to this limited extent.

### **Conclusion**

35. For the reasons given above, I conclude that the appeal should partially succeed on ground (f) only. I shall uphold the enforcement notice with a correction and variations.

### **Formal Decision**

36. It is directed that the enforcement notice is corrected by the insertion of the word 'residential' after domestic in requirement i) in paragraph 5 of the notice; and varied by:

(1) the deletion of requirements v), vi), vii) and viii) in paragraph 5 of the notice and their replacement with a new requirement v) Restore the land to the condition it was in prior to the unauthorised development; and

(2) the deletion of the related compliance periods in paragraphs 5c) and 5d) of the notice and their replacement with a compliance period 5c) of six months for step v) as varied.

37. Subject to the correction and variations, the appeal is dismissed and the enforcement notice is upheld.

*Debbie Moore*

Inspector

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## Costs Decision

Site visit made on 28 November 2022

**by Debbie Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC**

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

**Decision date: 20 December 2022**

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### **Costs application in relation to Appeal Ref: APP/C3430/C/22/3295538 Land at the rear of 8 Baggeridge Close, Gospel End, Staffordshire DY3 4AJ**

- The application is made under the Town and Country Planning Act 1990 (the 1990 Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr D Bytheway for a full award of costs against South Staffordshire District Council.
  - The appeal was against an enforcement notice alleging the making of a material change of use of the Land and associated unauthorised development and engineering works to facilitate that change of use including, but not limited to the installation of a garden pond, the laying of a hardstanding base and siting of a shipping container, the erection of fencing and the raising of the land levels to level off the Land to facilitate that change of use for use as domestic residential garden land.
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### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant has applied for an award of costs on the basis that the Council acted unreasonably through - (1) a failure to act upon evidence, which it is claimed confirmed that the alleged planning breach was not occurring; (2) a failure to assemble and share accurate evidence to justify its requirements and to make clear the precise steps which would need to be taken; and (3) withholding information until the appeal stage. Had the Council behaved appropriately, it is argued that the appeal and consequential expense could have been avoided.
4. There was a disagreement between the parties about whether or not a breach of planning control had occurred. The Council was alerted to a potential breach and its officers visited the site on several occasions to investigate. It concluded that a breach had taken place and communicated this to the appellant. The appellant sought to persuade the Council otherwise but the difference of opinion remained. It is clear that the Council did have regard to the appellant's evidence, emails were responded to in a timely manner and site meetings took place. However, the Council reached a different conclusion. This does not amount to unreasonable behaviour.

5. There is a dispute about whether or not material resulting from development on adjoining land remained on the appeal site, thus contributing to the change in levels that facilitated the breach. The appellant suggests that the Council should have supplied an accurate topographical survey that had been undertaken prior to the works. However, there was no reason why the Council should have this information since it would not have been aware of the impending works. The appellant, on the other hand, was aware of their plans for the land and could have commissioned a survey. In my Decision, I explained that the onus of proof lies with the appellant.
6. Moreover, Section 172(1) of the 1990 Act provides that a local planning authority may issue an enforcement notice where it appears that there has been a breach of planning control and it is expedient to issue the notice. The Council did not act outside of its powers in issuing the notice. It identified the alleged breach as a material change of use and described the breach, plus what it considered to be facilitating works in the notice. Its reasons for issuing the notice refer to the development plan and the National Planning Policy Framework in order to explain why it considered it expedient to issue the notice. In addition, it commissioned a topographical survey in an attempt to identify previous land levels and the amount of material that should be removed. I do not consider this amounts to unreasonable behaviour.
7. It is maintained that the Council withheld information. However, it is clear from the submissions of both parties that the Council shared relevant information when this became available. Critical evidence was not withheld. The topographical survey was not necessary as the notice could simply have required the land to be restored. The surveyor's report included in the Council's appeal statement explained the methodology and provided further details. It was presented at the appropriate time in the appeal process.
8. I am satisfied that the Council carried out adequate prior investigation and there is no evidence that the appeal could have been avoided.

### **Conclusion**

9. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Debbie Moore*

Inspector

## Costs Decision

Site visit made on 28 November 2022

**by Debbie Moore BSc (HONS), MCD, PGDip, MRTPI, IHBC**

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

**Decision date: 20 December 2022**

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### **Costs application in relation to Appeal Ref: APP/C3430/C/22/3295538 Land at the rear of 8 Baggeridge Close, Gospel End, Staffordshire DY3 4AJ**

- The application is made under the Town and Country Planning Act 1990 (the 1990 Act), sections 174, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by South Staffordshire District Council for a partial award of costs against Mr D Bytheway.
  - The appeal was against an enforcement notice alleging the making of a material change of use of the Land and associated unauthorised development and engineering works to facilitate that change of use including, but not limited to the installation of a garden pond, the laying of a hardstanding base and siting of a shipping container, the erection of fencing and the raising of the land levels to level off the Land to facilitate that change of use for use as domestic residential garden land.
- 

### **Decision**

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

### **Reasons**

2. The Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant has applied for a partial award of costs on the basis that the appellant acted unreasonably through the submission of late evidence. The Council says that the Appellant's 'Final Comments' included additional evidence consisting of photographs and five statutory declarations together with unsigned statements. It is argued that this should have been submitted as part of a statement of case rather than being raised in final comments.
4. It is correct that the Inspectorate's 'start letter' makes it clear that no new evidence should be submitted as part of final comments. It is within the Inspector's discretion to accept late evidence but the appellant ran the risk of the information being disregarded. The evidence was accepted as I considered it would be relevant to the matters at issue, and the Council was allowed time to respond. The submission of evidence outside of the timescales would normally be considered unreasonable, especially if it raised new issues.
5. In this case, the further evidence was contained within a relatively long document but much of it reiterated points already made. There were statutory declarations and third party letters included within the comments, however. These necessitated a response from the Council and, despite the personal circumstances of the appellant, there is no valid reason why these could not have been supplied at the appropriate time in the appeal process.

6. The PPG makes it clear that unreasonable behaviour must cause the party applying for costs to incur wasted expense. The Council says it has incurred wasted expense in having to respond to the further evidence at a late stage when it could have dealt with that evidence by way of final comments. However, the appellant did not provide an appeal statement but relied upon the initial grounds of appeal. Had the final comments been provided at the statement stage, the Council would have responded then. The officer time would still have been required albeit at the earlier stage. On this basis, unnecessary or wasted expense has not been incurred.

### **Conclusion**

7. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has not been demonstrated.

*Debbie Moore*

Inspector

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# Appeal Decision

Site visit made on 12 December 2022

**by Gareth Wildgoose BSc (Hons) MSc MRTPI**

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

**Decision date: 21 December 2022**

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**Appeal Ref: APP/C3430/D/22/3306586**

**10 Castle Street, Kinver, Stourbridge DY7 6EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Tromans against the decision of South Staffordshire District Council.
  - The application Ref 22/00457/FUL, dated 3 May 2022, was refused by notice dated 24 June 2022.
  - The development proposed is a detached carport and storage.
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## Decision

1. The appeal is dismissed.

## Main Issue

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

## Reasons

3. The appeal property is a detached two storey dwelling within the built-up area of Kinver which is located at the end of a cul-de-sac with associated land at the front adjoining the turning head. The group of properties of which No 10 Castle Street (No 10) forms part are predominantly detached and semi-detached houses and bungalows, including some with dormers. This group of properties forms part of a clear transition in character from the denser groupings of predominantly terraced properties that lie closer to the highway edge on each side of the road when approaching the junction with Foley Street. There is a resultant sense of increased spaciousness when approaching No 10 influenced by the progressive stepping back of front building lines of properties on the eastern side of Castle Street. This is further influenced by available views of school playing fields to the north and the visual contrast with the different form, proportions, scale and layout of school buildings to the west that sit behind railings and intermittent hedging.
4. The proposed detached two-bay carport would be sited beyond the front building line of No 10 and other properties on the eastern side of Castle Street. The carport of 6.2m by 6.2m with a front gable roof height of 5.1m to its ridge would have a perpendicular orientation when compared with the main house and would consist of two open bays at the front and timber cladding to the side and rear walls, and brown concrete roof tiles. It would be located on existing hardstanding adjoining the turning head of the cul-de-sac and would lie adjacent to railings along the boundary with the school where some existing tall hedging sits immediately behind.

5. Core Policy 4 of the South Staffordshire Council Core Strategy (CS), adopted December 2012, expects all development proposals to achieve a high-quality design of buildings which, amongst other things, includes to respect and enhance the local character and distinctiveness of the natural and built environment including opportunities to improve the character and quality of the area and the way it functions. Alongside those requirements, Core Policy 4 indicates that support for proposals will be given to those that are consistent with the detailed design policy set out in Policy EQ11 of the CS and associated guidance which includes the South Staffordshire Design Guide 2018 that is referred to in the Council's officer report as amplifying the policy principles.
6. Policy EQ11 seeks that the design of all developments must be of the highest quality and reflect the principles it sets out. The listed principles, amongst other things, include the form of development insofar as proposals should respect local character and distinctiveness including that of surrounding development. Furthermore, the policy indicates in terms of scale, volume, massing and materials that development should contribute positively to the street scene and surrounding buildings, whilst respecting the scale of spaces and buildings in the local area.
7. The aforementioned circumstances apply to this appeal proposal as there is a distinguishable front building line, albeit not uniform, along the surrounding group of residential properties. As such the proposed detached carport would be viewed as a conspicuous addition to the street scene when approaching along Castle Street. From those public vantage points, the addition of the built form of the carport and its associated scale and massing would appear incongruous in a prominent location well beyond the front building lines of properties on the eastern side of Castle Street and would be at odds with the pattern and form of development nearby. The resultant effect would be a harmful intrusion upon and thereby erosion of the sense of space and existing absence of built form in that location which otherwise assists the assimilation and visual transition from school buildings and playing fields to the residential character of properties to the east of the turning head of the cul-de-sac. Consequently, the siting and proportions of the proposed carport would appear incompatible with its surroundings with a detrimental impact upon the character and appearance of the street scene.
8. In reaching the above findings, I have taken into account that the importance of existing visual separation of built form prevails despite some variations in the character of individual properties along Castle Street. This includes No 10 which appears to have been recently rendered and extended with a front gable design and at the time of my visit also had an existing storage unit beyond the front building line, together with parking areas and domestic and other paraphernalia where the proposal would be located. In addition, whilst the external appearance of the carport of itself would be somewhat moderated by timber walls viewed against existing hedging within the school grounds, the landscaping lies outside of the appeal site and I cannot be certain that it would remain in perpetuity. In any case, to my mind, the mitigating effect of a landscaping backdrop would not be sufficient to overcome the harm otherwise identified upon the character and appearance of the area.
9. Examples of carport style developments have been drawn to my attention along Castle Street closer to the junction with Foley Street and at No 30 Church View Gardens in Kinver, together with others approved by the Council

elsewhere in South Staffordshire. However, I observed that the examples within Castle Street and Church View Gardens have different designs, locational circumstances and relationships to their surroundings and therefore, do not replicate the circumstances of the proposal or the harm identified.

Furthermore, the other examples outside of Kinver have little influence on the character of the locality or the immediate surroundings of the proposal.

Previous refusals of planning permission at this site in 2011 and 1983, including a dismissed appeal relating to the latter, have also been drawn to my attention. However, the full detail of those decisions and the developments proposed are not before me. In such circumstances, I necessarily determine this appeal based upon its own individual merits and as such find that the examples of developments drawn to my attention do not justify the harm that would arise from the proposal.

10. The benefits suggested by the appellant are that the carport would protect parked vehicles from adverse weather conditions, provide greater security in the absence of an existing garage or other car storage space and would be an efficient use of land. There is also potential for use of environmentally sourced materials, energy efficiency of a carport not reliant on lighting and short term local economic benefits arising from the purchase of the carport and during its construction. I also take into account that a number of letters of support for the proposal from residents of Castle Street and Kinver Parish Council are also before me and are afforded positive weight. However, the weight is limited by the fact that the carport would be a permanent feature to which I have found harm and that has the potential to remain beyond the occupation of surrounding properties by their existing occupiers. The possibility of energy generation through the potential future addition of solar panels can be afforded little weight as solar panels do not form part of the proposal before me. The absence of objection from ward councillors or harm arising from the proposal in terms of the living conditions of occupiers of neighbouring properties, given the separation distances involved, and highway safety are neutral factors.
11. Having regard to all of the above, I conclude that the proposed carport would have an unacceptably harmful effect on the character and appearance of the area. The proposal, thereby, conflicts with Core Policy 4 and Policy EQ11 of the CS and associated guidance in the South Staffordshire Design Guide, insofar as its siting, orientation, scale, and massing would fail to contribute positively to the street scene or respect the scale of spaces and pattern of buildings in the local area. The policies are consistent with the National Planning Policy Framework insofar as it seeks well-designed places and, amongst other things, requires developments to add to the overall quality of the area, be sympathetic to local character and maintain a strong sense of place including arrangement of streets and spaces. In reaching this conclusion I also find that the cumulative benefits identified as arising from the proposal would be limited by its intended purpose as an addition to an existing property and do not outweigh the harm or associated conflict with the development plan.

## Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

*Gareth Wildgoose*

INSPECTOR

