

**22/00309/COU
NON MAJOR**

Mr T Park

**CHESLYN HAY
Cllr M Boyle,
Cllr S Hollis**

Elwell Nurseries Wolverhampton Road Cheslyn Hay Staffordshire WS6 7HX

Change of use from garden centre/nursery to B8 storage uses including open storage

1. SITE DESCRIPTION AND PLANNING HISTORY

1.1 Site description

1.1.1 Elwell Nurseries is the site of a garden nursery business located off Wolverhampton Road to the west of Cheslyn Hay and within the West Midlands Green Belt. The site extends to approximately 0.7ha and includes a bungalow near the front, and a range of other buildings, structures and polytunnels located to the side and to the rear, as well as an expanse of hardstanding. The site is bounded on four sides by a combination of mature hedgerows, walls and fences, and benefits from two vehicular access points directly off Wolverhampton Road.

1.1.2 The adjoining site to the north 'Chase View Farm' contains a field, a range of commercial buildings and polytunnels, and a bungalow. A small part of the north boundary also borders the grounds of Cheslyn Hay Sport and Community High School. There are residential properties to the south, including 'Standek Farm', which immediately flanks the application site, and beyond that, a range of commercial/industrial buildings at 'Ivy House Farm', which include B1 and B2 industrial and B8 storage uses. The rear boundary backs onto an open field (to the northwest). There is a large allotment garden on the opposite side of Wolverhampton Road (to the southeast).

1.2 Planning history

None.

2. APPLICATION DETAILS

2.1 Pre-application advice.

Not applicable.

2.2 Relevant background information

2.2.1 The applicant, Datom Utilities Ltd, are a family run company based in Great Wyrley that provides connections to utility services such as replacing existing electricity cable and lighting as well as providing new connections for development schemes.

2.2.2 Datom Utilities Ltd, along with other separate components of the Datom business (Datom Civil Engineering, Datom Electrical Services and D-Mix Concrete Ltd), were all previously based on a site at Landywood Farm House in Great Wyrley, which was recently refused planning permission for 'Retention of storage facility and change of use to B8' (20/00288/COU). The application was refused on the grounds of the resulting harm to the Green Belt, to an adjacent Listed Building, to residential amenity, and due to the proposal representing an unsustainable form of development.

2.3 The proposal

2.3.1 Permission is sought for the change of use of the Elwell Nurseries site from a garden centre/nursery to B8 storage uses including open storage. The proposal would enable Datum Utilities to base their administrative services and to store the company's own vehicles, building materials and equipment, partly through the re-use of existing buildings on site and partly by the provision of outside storage areas.

2.3.2 A number of existing buildings, structures and sheds located beside and behind the existing bungalow, would be used for the storage of equipment, materials, tools and machinery, including ten 'mini diggers'. The existing bungalow itself would be re-used for a reception and administration office.

2.3.3 The applicant has confirmed that other operations of the Datum business including 'D-Mix Concrete Ltd' has already been relocated and there will be no concrete mixing or batching at the Elwell Nurseries site nor any industrial processes undertaken.

2.3.4 Three existing polytunnels located towards the rear of the site would all be removed under the proposal (1,200 sq.m), and the remaining hardstanding (1,500 sq.m) would be used mainly for the storage of the company's own vehicles (700 sq.m), which the applicant has confirmed includes six HGV's and two pick-up trucks that would be stored on site when they are not in use and overnight. The remaining area would be used as a vehicle manoeuvring area (550 sq.m) and for outside storage of building materials and plant (230 sq.m).

2.3.5 This application originally proposed the erection of 4 no. concrete panel storage bays for the outside storage of aggregates. To address the LPA's concerns over the potential impact on residential amenity (i.e due to potential noise and disturbance and generation of dust from loading/unloading,), the proposed aggregates storage bays have been removed from the application and the applicant has confirmed that there would be no external bulk storage of aggregates on the site. The application also clarifies that the company's larger vehicles/HGVs including grab/hook loaders will not be loading or utilised from the site.

2.3.6 The proposed development would utilise the two existing access points off Wolverhampton Road. The northern access would be used for HGVs, and the southern access would be used for cars and vans. HGV movements would operate under a left turn in and right turn out arrangement, to avoid HGV movements through Cheslyn Hay village. Existing entrance gates to both access points would be set-back further from the highway carriageway to improve the existing access arrangements.

2.3.7 The proposal has also been amended to restrict the movements of all commercial vehicles along a resurfaced access road at the northern end of the site, away from the existing residential properties located on the south side.

2.3.8 An existing hardstanding area located further to the south, described as 'existing car park' (750 sq.m) would be used by staff and visitors only, which would include between 10 - 15 cars/vans, which will not be stored or remain on site overnight. An existing access road at the southern end of the site would serve the proposed staff/visitor car park.

2.3.9 The personnel employed by Datum Utilities include quantity surveyors, electricians, engineers and jointers as well as the office administration, with the majority carrying out tasks off site for the majority of working hours.

2.3.10 The proposed operating hours are 7am - 5.30pm - Monday to Friday.

2.4 Agent's submission

- Planning Statement
- Transport Note
- Transport Routing Proposal

3. POLICY CONTEXT

3.1 Within the West Midlands Green Belt.

3.2 Core Strategy

Core Policy 1: The Spatial Strategy

Policy GB1: Development in the Green Belt

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

Policy EQ10: Hazardous and Environmentally Sensitive Development

Core Policy 4: Promoting High Quality Design

Policy EQ11: Wider Design Considerations

Core Policy 7: Employment and Economic Development

Core Policy 9: Rural Diversification

Policy EV5: Rural Employment

Core Policy 11: Sustainable Transport

Policy EV12: Parking Provision

Appendix 5: Car parking standards

3.3 Adopted local guidance (Supplementary Planning Documents (SPDs))

Sustainable Development SPD [2018]

Green Belt and Open Countryside SPD [2014]

3.4 National Planning Policy Framework [2021]

To be read as a whole but particular regard to:

Chapter 6: Building a strong, competitive economy

Chapter 12: Achieving well-designed places

Chapter 13: Protecting Green Belt land

3.5 National Planning Policy Guidance

3.5.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

3.5.2 The law makes a clear distinction between the question of whether something is a material consideration and the weight which it is to be given. Whether a particular consideration is material will depend on the circumstances of the case and is ultimately a decision for the courts. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.

4. CONSULTATION RESPONSES

Ward Councillors

Councillor Mike Boyle. A Planning Committee call-in request was submitted on the following grounds (received 16/10/22):-

-Conflicts with Core Policy EQ9 Protecting Residential Amenity e. g. the impact this development may have on acoustic conditions, air quality, light pollution, privacy, security, noise and disturbance.

-Conflicts with Core Policy EQ10 Protecting the health, safety, and amenity of the public and the general environment.

Cheslyn Hay Parish Council

-(Latest comments received 19/10/22): Conflicts with Core Policy EQ9 (protecting residential amenity) and EQ10 (protecting the health, safety and amenity of the public and the general environment).

-(Additional comments received 12/10/22): The Parish Council has nothing further to add to the original comments sent for this application.

-(Additional comments received 24/06/22): Cheslyn Hay Parish Council wish to object to planning application 22/00309/COU (Amended Plans) - Change of use from garden centre/nursery to B8 storage uses including open storage, on the following grounds:-

Green Belt Site

This site is within the Green Belt and the commercial storage and boundary treatment would fail to preserve the openness of the Green Belt and conflict with one of the purposes of including land within it, contrary to Policy GB1 as adopted by South Staffordshire Council in their Core Strategy.

Environmental Impact

As well as local residents the Parish Council's Allotments Site, two schools and a Leisure Centre are in close proximity of the proposed site and the dust and particles from the materials used will have a negative environmental impact on all concerned and will restrict the types of outside activities that residents will be able to carry out. Any smell or fumes will also impact on residents closest to the proposed site, contrary to Policy EQ10 of the Council's Core Strategy.

Highway Safety

This is already a busy road which is narrow and not suitable for the delivery of aggregates and materials. The increased volume of HGV traffic in this area and access will be an issue as this road is often congested at school and work peak times. There is already an issue with HGV's ignoring the weight restrictions on Wolverhampton Road and this would be exacerbated by the new development. The Wolverhampton Road would be affected by road safety issues in terms of vehicular access, parking, turning and loading for all road users and residents alike.

Residential Amenity

The development will be out of character within the existing area and long-term noise and disturbance will affect local residents and businesses alike. Loss of outlook and overlooking will be an issue for those residents closest to the development.

Noise and disturbance will have a detrimental effect on the living conditions of occupants, contrary to Policy EQ9 of the Council's Core Strategy.

Access to Public Footpath No. 2

The applicant has not considered the effect on public footpath no. 2 which runs within the proposed site, the public must be able to access these paths and for them to be kept in good repair so they can be accessed safely at all times, this is contrary to Policy EV11 (footpaths) of the Council's Core Strategy.

There have been 21 letters of objections from residents in Cheslyn Hay and 23 comments from residents adjacent to the existing site in Great Wyrley and Cheslyn Hay Parish Council suggest a site visit to be carried out, during peak times, for Officers to assess the objections listed above.

-(Original comments received 01/06/22): Cheslyn Hay Parish Council object to planning application 22/00309/COU, change of use from garden centre/nursery to B8 storage uses including open storage, on the following grounds:-

Environmental Impact - As well as local residents the Parish Council's allotments site, two schools and the local Leisure Centre are within the proximity of the proposed site and the dust and particles from the materials used will have a negative environmental impact on all concerned and will restrict the type of outside activities that residents will be able to carry out. Any smell or fumes will also impact on residents closest to the proposed site.

Highway Safety - This is already a busy road which is narrow and not suitable for the delivery of aggregates and materials. Any increase to the HGV traffic in this area will lead to access issues and this road is often congested at school and work peak times. There is already an issue with HGV's ignoring the weight restrictions on Wolverhampton Road and this would be exacerbated by the new development. The Wolverhampton Road would be affected by road safety issues in terms of vehicular access, parking, turning and loading for all road users and residents alike.

Residential Amenity - The development will be out of character within the existing area and long-term noise and disturbance will affect local residents and businesses alike. Loss of outlook and overlooking will be an issue for those residents closest to the development.

Access to Public Footpaths - The applicant has not considered the effect on public footpath no. 2 which runs within the proposed site, the public must be able to access these paths and for them to be kept in good repair so they can be accessed safely at all times.

Cheslyn Hay Parish Council suggest a site visit to be carried out, during peak times, in order for officers to assess the objections listed above.

Environmental Health Officer

-(Latest comments received 12/10/22): The Environmental Health Officer had no further objections or comments on the application as amended.

-(Original comments received 02/08/22): I recommend refusal of this application due to the likely harm to amenity from noise and dust from the activities of the proposal due to the close proximity to residential amenity. This is supported by the fact that I have received numerous complaints from local residents nearby their alternate site carrying out the same activities.

Tree Officer (expired 26/05/22): No comments received.

County Highways

*-(Latest comments received 11/10/22):
Recommendation Summary: Acceptance*

Site Visit Conducted on: 23-Sep-2022

Personal Injury Collisions

Current records show that there were not any Personal Injury Collision (PIC) on Wolverhampton Road either side of the proposal for the previous five years.

Background

Wolverhampton Road is classified road (Road No. B4156) with a speed limit of 30mph past the site. The road has grass verge on development site and footway on opposites side of the carriageway. The road is lit.

Description of Proposal

AMENDED INFORMATION RECEIVED. Change of use from garden centre/nursery to B8 storage uses including open storage.

The development proposal seeks planning permission for the change of use of the application site from a Garden Centre/Nursery to B8 storage uses. This permission is sought in order to enable the relocation of Datom Utilities from existing premises at Landywood Farm.

Comment on Information submitted

The proposed development will utilise the existing access arrangements from Wolverhampton Road. Further information has been received and it shows amendments to the access arrangements in so far to move the existing gates further away from the highway carriageway and having one access to be used for HGV movements only with a left in and right out arrangement to avoid going through the village.

The proposed use will replace a previous one of similar vehicular movements. The acceptance of this proposed development is on the understanding that the site is used for storage use only and no other activities as per the additional information submitted in the Statement.

Recommendations

I have no objection (on Highway grounds) to the proposed development.

Note to Planning Office

The route for large vehicles will be along the southern section of Wolverhampton Road, avoiding the village of Cheslyn Hay and the nearby Primary School on Saredon Road. This will result in a Left Turn In and Right turn Out arrangement for large vehicles visiting the site. A sign advising HGVs to Turn Right only shall be provided within the site.

Coal Authority (received 23/05/22): *The submission to which this consultation relates falls on our exemptions list, you are therefore advised to consult the Coal Authority guidance (provided to all LPAs on 18/12/2020) on this issue and to include the necessary notes/advice on any consent granted.*

County Rights of Way Officer

-(Latest additional informal comments received 19/07/22): *If the applicants aren't using that area (the northwest corner) of the site, then no need for a plan. If they are using it (the northwest corner of the site) at all, I'd suggest a plan to ensure they are aware of the line of the path, and for it to be kept clear.*

-(Additional comments received 13/07/22): *The 'Additional Statement', 'Noise' section states that: 'This area is also screened from the PROW that runs along the northern site boundary by an established hedgerow that will be maintained by the Applicant'*

Public Footpath No. 2 Cheslyn Hay Parish does run along the northern boundary. However, Public Footpath No. 2(a) Cheslyn Hay also runs through the north west corner of the grassed area adjacent to the poly tunnels.

It is advised that the applicant submit a plan showing the legal lines of the footpath/s, as shown on the Definitive Map of Rights of Way in Staffordshire, along with the site proposals. For further information, please refer to our Definitive Map webpage.

-(Additional comments received 16/06/22): I have no further comments to add regarding this consultation. Previous comments still apply.

-(Original comments received 12/05/22, in summary): The application documents don't recognise the existence of Public Footpath No.2 Cheslyn Hay Parish which runs within the proposed development site (through the north western corner). Public Footpath No.2 (a) Cheslyn Hay Parish also runs just outside the north western boundary of the site.

Ramblers' Association

-(Latest comments received 25/07/22): Thank you for your letter of 13th July 2022 and amended plans. I write to inform you that Public Right of Way No. 2 of Cheslyn Hay Parish passes close to the north side of the development site. This footpath must not be obstructed by any change in the development plans. The Ramblers' Association has no objections to the change of use or amended plans.

Neighbours (received May - September): 60 objections received from 32 contributors.

The issues raised are summarised below:

- Noise and disturbance at unsociable hours*
- Air pollution (from dust and smoke)*
- Burning materials on site*
- Impact on wildlife*
- Concrete production/dust causing health problems, contamination of local allotment crops*
- Health and well-being of local residents/schools put at risk*
- Impact on residential amenity*
- Increased volume of traffic/congestion*
- Wolverhampton Road has a 7.5 tonne weight restriction that will be exceeded by HGVs (road not suitable)*
- Poor access for HGVs*
- Excess mud, dirt and dust transmitted onto the road*
- Highway safety hazard for children walking to and from school*
- Highway safety risk*
- HGVs causing damage to highways/footpaths*
- Dust bad for environment*
- Destruction of Green Belt land*
- Proposal not suitable for residential area*
- Proposal would be a terrible eyesore for local residents*
- Damage to crops and flowers*
- Adverse impact on physical and mental health well-being*
- HGVs and trailers with heavy plant and machinery will prove a danger to life*
- Business will attract thieves to the area*
- Property devaluation*
- HGVs will cause structural damage to neighbour's boundary wall*
- Cement entering local drainage, causing flooding issues, contaminating water*

-Lack of communication and notification to the surrounding properties of this application by the LPA

-To separate and discriminate the people of the village is in direct contravention of the European Convention on Human Rights.

A Site Notice expired on 02/06/22.

Following publication of the application an objection has also been received from the Rt Hon Sir Gavin Williamson MP.

5. APPRAISAL

5.1 This application has been called-in to Planning Committee by Councillor Mike Boyle for the following reasons:

-Conflicts with Core Policy EQ9 Protecting Residential Amenity e. g. the impact this development may have on acoustic conditions, air quality, light pollution, privacy, security, noise and disturbance.

-Conflicts with Core Policy EQ10 Protecting the health, safety, and amenity of the public and the general environment.

5.2 The key issues are:

- Principle of development
 - Re-use of existing buildings
 - External storage and car parking
- Very special circumstances
- Impact on the openness of the Green Belt
- Impact on visual amenity
- Impact on residential amenity
- Highways/access
- Consultee comments
- Neighbour comments

5.3 Principle of development

5.3.1 Paragraph 84 of the NPPF states that planning decisions should enable the sustainable growth and expansion of all types of businesses in rural areas, both through the conversion of existing buildings and well-designed new buildings.

5.3.2 Core Policy 7 of the Core Strategy advocates that outside the main/local/small service villages, proposals for small scale employment development and the sustainable diversification of the rural economy (including the conversion and re-use of suitable redundant buildings for employment use) will be supported where they are consistent with Policy EV5, which provides general support for rural diversification.

5.3.3 The application site is located within the Green Belt where there is a presumption against inappropriate development. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.

Re-use of existing buildings

5.3.4 Paragraphs 149 and 150 identify the types of developments which are not considered inappropriate within the Green Belt, one of which is the re-use of buildings, providing they are of permanent and substantial construction. There are a number of buildings of site that do meet this requirement of being permanent and substantial, namely buildings 1, 6, 7, 8, 9 and 10. They are of steel frame timber clad substantial construction and have been located on site for a number of years

5.3.5 However, this proposal also includes buildings and structures which are not of a substantial construction for instance buildings 2, 3 and 5, along with some plastic coated and steel framed polytunnels which would not be considered of “substantial construction” for the purposes of fully engaging part d) of paragraph 150 of the NPPF. This element of the proposal therefore constitutes inappropriate development in the Green Belt, and in-line with the NPPF, very special circumstances will need to be demonstrated.

External storage and car parking

5.3.5 A further exception to inappropriate development detailed in the NPPF is a material change of use of land, provided that the proposed development preserves the openness of the Green Belt and the purposes of including land within it. Policy GB1 of the Core Strategy also allows for the re-use of a building in the Green Belt and changes of use of land, again, providing that the proposed use would not harm its openness or the fulfilment of its purpose.

5.3.6 There is an existing hardstanding / car park that would at one time have been used by visitors and staff to the site that is proposed to be utilised for staff and visitor parking (15 cars/vans) again here. The parking would remain transitional in nature and there would be little if any change of use of this area of the site and it would therefore preserve the openness of the Green Belt in this instance.

5.3.7 Eight of the company's own larger vehicles (six HGVs and two pick-up trucks) would be stored overnight towards the rear of the site, and an area for outside storage of building materials would be located behind the existing building numbered "6" on the proposed site plan. The proposed external storage areas would largely be contained within the footprint of the three large polytunnels that are to be removed, and by covering roughly 75% of the existing polytunnel footprint (the remaining 25% used for vehicles manoeuvring), the external storage areas. The existing polytunnels were used for the growing of plants to be sold by the site owners and would be considered to serve a horticultural use. In accordance with the Town and Country Planning Act, horticulture is considered as agricultural and as such, cannot be traded off for an alternative use. The external storage element of the proposal is also considered to be inappropriate development.

5.4 Impact on the openness of the Green Belt

5.4.1 Paragraph 137 of the NPPF states that, 'The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'.

5.4.2 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 in account in considering 'openness'. It was held that 'openness' is characterised by the lack of buildings but not by buildings that are un-

obtrusive or screened in some way. It was also held that 'openness' and 'visual impact are different concepts', although they could 'relate to each other'.

5.4.3 The NPPG has been updated (July 2019) with guidance on factors taken into account when considering the potential impact of development on the openness of the Green Belt. These include, but are not limited to:

- openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume;
- the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- the degree of activity likely to be generated, such as traffic generation.

5.4.4 R (on the application of Samuel Smith Old Brewery (Tadcaster) and others) (Respondents) v North Yorkshire County Council (Appellant) (2020) states The concept of "openness" in para 90 of the NPPF seems to me a good example of such a broad policy concept. It is naturally read as referring back to the underlying aim of Green Belt policy, stated at the beginning of this section: "to prevent urban sprawl by keeping land permanently open ...". Openness is the counterpart of urban sprawl and is also linked to the purposes to be served by the Green Belt. As PPG2 made clear, it is not necessarily a statement about the visual qualities of the land, though in some cases this may be an aspect of the planning judgement involved in applying this broad policy concept. Nor does it imply freedom from any form of development. Paragraph 90 shows that some forms of development, including mineral extraction, may in principle be appropriate, and compatible with the concept of openness. A large quarry may not be visually attractive while it lasts, but the minerals can only be extracted where they are found, and the impact is temporary and subject to restoration. Further, as a barrier to urban sprawl a quarry may be regarded in Green Belt policy terms as no less effective than a stretch of agricultural land."

5.4.5 Although not the only consideration here, a good starting point when considering impact on openness is the existing built form on site. The site historically was used to grow plants, but the owners also lived and sold the produce here. It is not free from development and there are a number of existing buildings some of which are considered to be of permanent and of substantial construction along with a large expanse of car parking that would have been utilised by customers, staff and delivery vehicles. Visually, as the buildings are to be utilised for storage without the need for much external alterations or extensions and the car park will continue to be used in the same manner, the external storage element of the change of use is to be located on the site of redundant polytunnels and directly behind an expanse of built form. The applicants have specified the type of plant and machinery that will be stored here and are willing for this to be conditioned. The heights of the materials will also be conditioned. Any visual impact on the Green Belt from the proposed change of use is likely to be limited.

5.4.6 Whilst it is noted that the permission will be permanent, the change of use of the non substantial buildings along with the external storage area will easily be reversed due to the nature of the activities taking place and the works involved to make this happen.

5.4.7 Turning to the vehicle movements from the proposed change of use, this is to be restricted to staff along with a small number of visitors. Whilst it will give rise to an increase above that of the existing authorised use of the site, this increase would not be so great to cause any material harm to openness in my opinion.

5.4.8 For the above reasons, it is considered that the proposal would cause no material harm on the openness of the Green Belt. The use of suitably worded conditions to restrict the location of all external storage areas, as well as the height of the building materials behind building "6", can be attached to any permission granted to define the permission and to safeguard the future openness of the Green Belt.

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 Core Policy 7 of the South Staffordshire Core Strategy (CS) states that, amongst other things, outside the Main Service Villages, Local Service Villages, and Small Service Villages, proposals for small-scale employment development and the sustainable diversification of the rural economy, will be supported where they are consistent with Core Policy 9 and do not conflict with other local planning policies. Outside village development boundaries, Core Policy 9 states that the Council will adopt the approach set out in Core Policy 7 for the redevelopment, modernisation and expansion of businesses. It also confirms that proposals relating to the sustainable re-use of rural buildings for appropriate uses which support the rural economy will be supported.

5.5.3 National Policy seeks to build a strong, competitive economy, with planning decisions helping to create the conditions which businesses can invest, expand and adapt. Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account the business needs and wider opportunities for development. Paragraph 83 also seeks to support a prosperous rural economy by enabling the sustainable growth and expansion of all types of business in rural areas through, amongst other things, the conversion of existing buildings.

5.5.4 The relocation of the business to this site would allow for the company to remain local and to retain existing employees and secure future employment as well as other benefits to the local economy. Any harm to the Green Belt has been found to be limited and there is no conflict with the purposes of including land within it. The limited harm can be mitigated with suitably worded and enforceable planning conditions.

5.5.5 As such, it is considered that there are very special circumstances to clearly outweigh the potential harm to the Green Belt by reason of inappropriateness.

5.6 Impact on visual amenity

5.6.1 Policy EQ11 of the Core Strategy requires that new development "respect local character and distinctiveness, including that of the surrounding development and landscape [...]"

5.6.2 The proposed change of use involves no extensions or alterations to the existing buildings. The external storage areas would be located behind and in-line with a series of existing buildings to be retained. Given the location of the external storage areas, the proposed change of use would not be considered materially harmful to the character of this part of Wolverhampton Road or the visual amenity of the surrounding area.

5.6.3 The height of the outside storage area for building materials can be restricted to the height of existing building "6" in order to safeguard the visual amenity of the area (as well as

the openness of the Green Belt). The proposed use would adjoin an existing commercial site to the south (Ivy House Farm) and in this context, the proposed use would cause no harm to the immediate character of the area. There would be no resulting conflict with Policy EQ11.

5.7 Impact on residential amenity

5.7.1 Policy EQ9 of the Core Strategy states that all development proposals should take account the amenity of any nearby residents, particularly with regards to privacy, security, noise and disturbance, pollution, odours and daylight.

5.7.2 This application has received numerous objections from the local residents. One of the principal concerns of the proposed change of use relates to the production of concrete on site, which was associated with the applicant's former site in Great Wyrley. However, the applicant has confirmed that another component of the Datum business which produces concrete has been relocated elsewhere and that no concrete mixing or batching would occur on the current application site, nor would any other industrial processes be undertaken, which would otherwise fall outside of the B8 storage use proposed.

5.7.3 To address the LPA's concern over residential amenity, the provision of aggregate storage bays and bulk storage of aggregates have been omitted from the application, and it has also been clarified that the company's larger vehicles including grab/hook loaders will not be loading or utilised from the site. As such, the proposed use for B8 storage raises no health concerns either to local residents, to local schools, to allotment produce or wildlife, as concrete production or bulk storage of aggregates are not included. The exclusion of any concrete production, bulk aggregate storage or any on site burning can be controlled by attaching a suitably worded condition to any consent granted.

5.7.4 The neighbour's concerns regarding noise and disturbance have been carefully considered, particularly given that the south boundary of the site has one immediate adjoining neighbour (Standek Farm). However, the southern site access off Wolverhampton Road and access road which flanks the boundary to Standek Farm is existing and would be used to access to the staff parking area only (cars and vans). The proposals indicate that the company's larger commercial vehicles / HGVs would use the northern access off Wolverhampton Road and a resurfaced access road on the opposite side of the site from this neighbour's perspective. It is therefore considered that there would be no material harm by virtue of noise and disturbance arising from the use of the southern access/road for staff vehicles. The noise and disturbance arising from the activities associated with the proposed storage uses would also not be considered so harmful to the living conditions of the occupiers of Standek Farm or any other nearby dwelling to the extent that would warrant a refusal of the application. This is with particular regard given to the proposed operating hours being limited to between 7am - 5.30pm - Monday to Friday.

5.7.5 The neighbour's other comments regarding the shorter opening hours and limited HGV operation of the existing garden nursery are noted, however whilst it is recognised that the proposed change of use has the potential to be more intensive than the use of the former garden nursery, that intensification could in theory occur in association with the established use as a garden nursery. Opening hours will be limited to sociable hours between Monday - Friday and the company's own HGVs will not be loading or utilised from the site, which will limit any impact on residential amenity. The applicant has advised that typically, deliveries will be made via transit vans and the existing service access to the front of the site will be utilised to avoid disruption to neighbouring properties.

5.7.6 Although the Environmental Health Officer (EHO) originally recommended a refusal of this application due to likely harm to amenity from noise and dust from the activities of the

proposal and the close proximity to residential amenity, the amended proposal has overcome these concerns, and the EHO has no further objections or comments on the application.

5.8 Highways/Parking

5.8.1 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.8.2 The proposed development would utilise the two existing access points off Wolverhampton Road, which is subject of a 30mph speed limit past the site. The northern access would be used for HGVs, and the southern access would be used for staff cars and vans. HGV movements would operate under a left turn in and right turn out arrangement, to avoid HGV movements through the village. Existing entrance gates to both access points would be set-back further from the highway carriageway to improve the existing access arrangements.

5.8.3 County Highways have been consulted and have no objections on highway grounds to the proposal (as amended), noting that, the proposed use will replace a previous one of similar vehicle movements.

5.8.4 The neighbour's comments regarding volume of traffic and highway safety are noted, however in the absence of any objections from County Highways, a refusal of the application on these grounds would be unwarranted.

5.8.5 All HGVs will enter or leave the site from the southern section of Wolverhampton Road to avoid the village of Cheslyn Hay and local schools on Saredon Road. Although the southern section of Wolverhampton Road does have a 7.5 tonne weight restriction, the road signs specifying this restriction (just north of the access to the Champions Wood Quarry), do state "Except for access", which does not conflict with the proposed HGV movements to the application site. County Highways have advised that any infringement of the 7.5 tonne weight restriction would otherwise be enforced by the Police.

5.9 Consultee comments

5.9.1 The majority of the Parish Council's comments have been addressed in the main body of this report. The proposal would not be considered detrimental to the outlook conditions of any neighbouring properties and the proposal raises no overlooking concerns as the proposed use is commercial. No public right of way passes through the application site (as amended). Given this, the County Rights of Way Officer has advised that the route of the public footpath does not need to be identified on the plans.

5.10 Neighbour comments

5.10.1 The neighbour's comments regarding impacts on the Green Belt, residential amenity and visual amenity have all been addressed earlier in this report. In response to the neighbour's other comments:-

- There's no indication that the proposed use would attract thieves to the area.
- Property devaluation is not a material planning consideration.
- Any potential damage to a neighbour's boundary wall would be civil matter which falls outside of planning control.

-The implications of cement entering local drainage, causing flooding issue or contaminating water supplies, is not relevant to the application, since the storage or production of cement is not included.

-The LPA has met the minimum statutory requirements for consulting neighbours/public either by sending a direct letter to relevant neighbours or by posting a site notice.

-As the proposal involves the re-use of existing buildings and the removal of polytunnels, an ecology survey and assessment of the site is considered unwarranted. The applicant can be reminded by an Informative, that birds, bats and other animals are protected under separate legislation, and it is an offence to deliberately disturb any protected species or their habitats should any be found on site.

-The comments about Human Rights is not considered relevant to this application.

6. CONCLUSIONS

6.1 Although an element of this proposal would constitute inappropriate development in the Green Belt, there are very special circumstances which clearly outweigh the potential harm to the Green Belt.

6.2 The proposed change of use of the garden nursery to B8 storage including open storage would not be considered materially harmful to the openness of the Green Belt or its purposes, and there are no residential amenity concerns or parking or highway safety concerns to warrant a refusal of the application. As such, I recommend the approval of this application, subject to conditions.

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 following approved plans and documents:-

2784-01 Rev H 'Site Plan / Location Plan' (amended plan received 01/10/22)
'Transport Routeing Proposal' document (received 04/10/22)

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, or any other subsequent equivalent order, the existing buildings and external storage areas identified on the approved drawing No. 2784-01 Rev H (amended plan received 01/10/22) shall only be used for the storage of the vehicles, tools, building materials and equipment as described in the application documents and for no other purposes falling within Class B8 - 'Storage and distribution' of the schedule to the Town and Country Planning (Use Classes) Order 1987 or any other subsequent equivalent order, unless otherwise agreed in writing by the Local Planning Authority.
4. No work shall be carried out, and no materials shall be delivered to, or despatched from, the premises/site, other than between the hours of 07:00 to 17:30 on Mondays to Fridays. No such operations shall take place at any time on Saturdays, Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.
5. The open storage area for Heavy Goods Vehicles (HGVs) hereby approved is restricted to the 'vehicle/plant parking' area hatched in green on the approved drawing No. 2784-01 Rev H (amended plan received 01/10/22) only.

6. The external storage area for building materials hereby approved is restricted to the 'Storage building materials' area hatched red on the approved drawing No. 2784-01 Rev H (amended plan received 01/10/22) only and the height of the building materials shall not exceed the height of the building numbered "6" on the same plan.
7. The development shall be carried out strictly in accordance with the 'Transport Routing Proposal' document (received 04/10/22) in association with drawing No. 2784-01 Rev H (amended plan received 01/10/22), which shall include the following restrictions to vehicle movements to and from the site:-

-HGV access/egress from the northernmost site access only under a left turn in and right turn out arrangement to restrict the route of HGVs along the southern section of Wolverhampton Road.
-Car and van access/egress from the southernmost site access only.

The approved transport routing proposals shall be maintained as such for the lifetime of the development.
8. Before the development is first brought into use, a sign advertising all HGVs to Turn Right out of the site, shall be provided within the site in accordance with the approved Transport Routing Proposal document received on 04/10/22.
9. No Heavy Goods Vehicles (HGVs) shall use the southern access road within the site.
10. This permission relates to the change of use of the existing residential bungalow on site as a reception and administration office associated with the storage and distribution activities on the site only and for no other purpose.
11. There shall be no concrete mixing/preparation, no bulk storage of aggregates, and no open burning of materials within the application site.
12. No buildings, storage containers or racking system, polytunnels, caravans, shelters or other ancillary building or structures, temporary or otherwise, shall be sited on the land without the prior approval of the Local Planning Authority.
13. The permission hereby granted does not grant or imply consent for the installation of any means of lighting on the site or the existing buildings. Any lighting of the existing buildings, road/access ways or parking areas shall be submitted to the Local Planning Authority for approval in writing before installation.

Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. In order to define the permission and to avoid doubt.
3. In order to define the permission and to avoid doubt.
4. To ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.

5. In order to define the permission and to avoid doubt.
6. In order to define the permission and to avoid doubt, and because 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 amenity of the area in accordance with policy EQ11 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 ensure that the use of the premises does not detract from the reasonable enjoyment of surrounding residential properties in accordance with policy EQ9 of the adopted Core Strategy.
10. In order to define the permission and to avoid doubt.
11. To safeguard the amenity of the area in accordance with policy EQ11 of the adopted Core Strategy.
12. 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
13. To safeguard the amenity of the area in accordance with policy EQ11 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.

INFORMATIVE

Protected species

Birds, Bats and other animals are protected under the Wildlife & Countryside Act 1981 and subsequent legislation and it is an offence to deliberately or recklessly disturb protected species or damage their nests, roosts or habitats.

Buildings/structures, trees and hedges should therefore be inspected before any works commence and if the presence of any protected species is suspected advice must be sought from Natural England on 01743 282000 (or Bat Line 0845 1300228). Further advice on bats is also available from The Bat Conservation trust (020 7627 2629).



Elwell Nurseries Wolverhampton Road Cheslyn Hay Staffordshire WS6 7HX