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Lichfield, Staffordshire WS136YU

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7 December 2018

Dear Sir/Madam

## PLANNING COMMITTEE

A meeting of the Planning Committee has been arranged to take place **MONDAY, 17TH DECEMBER, 2018 at 6.00 PM IN THE COUNCIL CHAMBER** District Council House, Lichfield to consider the following business.

Access to the Council Chamber is via the Members' Entrance.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Neil Turner', written in a cursive style.

Neil Turner BSc (Hons) MSc  
**Director of Transformation & Resources**

### To: **Members of Planning Committee**

Councillors Marshall (Chairman), Powell (Vice-Chair), Mrs Bacon, Mrs Baker, Bamborough, Mrs Barnett, Cox, Drinkwater, Mrs Evans, Matthews, Pritchard, Mrs Stanhope MBE, Strachan and A Yeates



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## AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes of Previous Meeting 3 - 6
4. Planning Applications 7 - 114
5. Enforcement Plan Update 115 - 152



**PLANNING COMMITTEE**

**29 OCTOBER 2018**

**PRESENT:**

Councillors Marshall (Chairman), Powell (Vice-Chair), Mrs Baker, Bamborough, Mrs Barnett, Cox, Mrs Evans, Matthews, Pritchard, Mrs Stanhope MBE and A Yeates

**21 APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Mrs Bacon, Drinkwater and Strachan.

**22 DECLARATIONS OF INTEREST**

Councillor Mrs Stanhope MBE declared a personal interest in relation to applications 18/00486/FULM and 18/01142/OUT as she is a Member of the relevant Parish Council.

Councillor Yeates declared a disclosable pecuniary interest in relation to application 18/01206/FUL as he was the applicant and removed himself from the committee during consideration.

**23 MINUTES OF PREVIOUS MEETING**

The Minutes of the Meeting held on the 3 September 2018 previously circulated were taken as read, approved as a correct record and signed by the Chairman.

**24 PLANNING APPLICATIONS**

Applications for permission for development were considered with the recommendations of the Director of Place and Community and any letters of representation and petitions together with a supplementary report of observations/representations received since the publication of the agenda in association with Planning Applications 18/00486/FULM, 18/01142/OUT, 18/00625/FUL, 18/00913/FUL & 18/00914/LBC, 18/01148/COU, 18/01372/FUL and 18/01206/FUL

18/00486/FULM - Erection of 63 dwelling houses and a 90 bed residential care home with associated parking, highways, landscaping and public open space  
Bridge Farm, Bridge Farm Lane, Fradley  
For: Accord Housing Association

**RESOLVED:** That planning permission be approved subject to conditions contained in the report of the Director of Place and Community and

(1) Subject to the owners/applicants first entering into a Section 106 agreement under the Town and Country Planning Act (as amended), to secure contributions/planning obligations towards:-

1. The formation of a maintenance management company to maintain the Open Space, Community Areas and any unadopted roads;
2. Contribution towards Primary Education School Infrastructure;
3. Contribution towards enhancement of public transport services; and
4. Framework Travel Plan Monitoring Fee.

- (2) If the S106 is not signed/completed by the 1 February 2019 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development without the required contributions and undertakings as outlined in the report.

18/01142/OUT - Erection of a detached dwelling (outline application relating to access and layout)

Elford Cottage, 26 Church Lane, Fradley

Applicant: Mr A Hadfield and Mrs L Sewell

**RESOLVED:** That planning permission be approved subject to conditions contained in the report of the Director of Place and Community.

18/00625/FUL - Erection of 3no. four bedroom dwellings and associated works including demolition of existing dwelling

15 Fox Lane, Alrewas, Burton upon Trent, Staffordshire

For: Mr G Hale

**RESOLVED:** That planning permission be approved subject to conditions contained in the report of the Director of Place and Community.

18/00913/FUL & 18/00914/LBC - Replacement of tiled roof with thatched roof, removal of rear bay porches; single storey glass extension to rear, infilling of first floor gable window; replacement of timber window with double glazed timber painted windows; replacement of 2no dormers to front elevation and the addition of 1no new dormer (3 in total); creation of new access and demolition of existing concrete outbuilding and erection of replacement outbuilding to form office and store

70 Main Street, Alrewas

For: Mr and Mrs Ryder

**RESOLVED:** That planning permission be approved subject to conditions contained in the report of the Director of Place and Community.

(PRIOR TO CONSIDERATION OF THE APPLICATION REPRESENTATIONS WERE MADE BY MR PHILLIP MAYLING (OBJECTOR), MS DEBBIE GLANCY (AGENT) AND MR TOBY RYDER (APPLICANT))

18/1148/COU - Change of use of land to become additional garden space

10 Metcalf Close, Burntwood

For: Mr and Mrs Cockerill

**RESOLVED:** That planning permission be refused for the following reason:-

The proposed development would lead to an unacceptable erosion of Public Open Space, which would result in the loss of amenity of this area, contrary to Core Policy 10 (Healthy and Safe Lifestyles) of the Lichfield District Local Plan Strategy 2015 and government guidance contained in the National Planning Policy Framework (2018).

18/01372/FUL - Single storey extension to rear to form gym, dining area and family area with internal alterations and remodelling  
53 The Pines, Lichfield  
For: Mr A White

**RESOLVED:** That planning permission be approved subject to conditions contained in the report of the Director of Place and Community.

18/01206/FUL - Single storey extension to rear to form living room  
91 London Road, Canwell  
For: Mr A Yeates

**RESOLVED:** That planning permission be approved subject to conditions contained in the report of the Director of Place and Community.

(COUNCILLOR YEATES DECLARED A DISCLOSABLE PECUNIARY INTEREST AS THE APPLICANT AND REMOVED HIMSELF FROM THE MEETING DURING CONSIDERATION OF THIS APPLICATION)

- 25** Issues Paper - Planning Application Ref. 18/01217/OUTFLM - Hybrid Planning Application comprising outline planning application (with all matters reserved except access points to Cricket Lane) for the construction of up to 520 dwellings, and up to 10.73 hectares for employment uses (use Classes B1/B2/B8), with comprehensive green infrastructure including footpaths, cycle ways, multifunctional open space, children's play areas, open space for sport and sustainable drainage infrastructure including balancing ponds, and other associated ancillary infrastructure and ground remodelling; and full planning application for the construction of a 3,8865 sqm (GEA) class B1C/B2/B8 unit with ancillary office space, access off London Road, including car parking, servicing, drainage works, earthworks and other ancillary works  
Location: Land at Cricket Lane, Lichfield

Consideration was given to an Issues Paper relating to the proposed development.

**RESOLVED:** That the following issues also be addressed in the assessment of the above application:-

- Highways impact including visibility of access at nearby roundabouts, HGV movement at industrial element of the site and routing away from the city centre; and standard of access due to scale of proposals;
- Facilities and infrastructure impact especially on primary education;
- Height of industrial units;
- Impact on the canal;
- GP provision;
- Retaining of hedges;
- Mitigation of noise from A38 for residents; and
- Light pollution from industrial element.

- 26** Issues Paper - Planning Application Ref. 18/01303/FULM - Proposed gas fired electricity generating facility (generating up to 49.99 MW of electricity) including formation of new access road and associated structures/facilities.  
Issues Paper - Planning Application Ref. 18/01423/FULM - Formation of new access road to serve proposed gas fired electricity generating facility (generating up to 49.99 MW of electricity)  
Location: Land North of Bellamour Lane, Colton, Rugeley

Consideration was given to an Issues Paper relating to the proposed development.

**RESOLVED:** That no additional issues to those set out in the Issues Paper were raised by the Committee

**27 EXCLUSION OF PUBLIC AND PRESS**

**RESOLVED:** That, as publicity would be prejudicial to public interest by reason of the confidential nature of the business to be transacted the public and press be excluded from the meeting for the following item of business which would involve the likely disclosure of exempt information as defined in **Paragraph 3 of Part 1 of Schedule 12A** of the Local Government Act 1972 as amended.

**IN PRIVATE**

**28 ENFORCEMENT MATTERS - UPDATE REPORT**

The Committee received a summary of progress and reports on current enforcement matters where a formal Notice has been served.

**RESOLVED:** That the information received be noted.

(The Meeting closed at 8.05 pm)

CHAIRMAN

17 December 2018

**Agenda Item 4**

Contact Officer: Claire Billings

Telephone: 01543 308171

**Report of the Director of Place and Community**

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT, 1985

All documents and correspondence referred to within the report as History, Consultations and Letters of Representation, those items listed as 'OTHER BACKGROUND DOCUMENTS' together with the application itself comprise background papers for the purposes of the Local Government (Access to Information) Act, 1985.

Other consultations and representations related to items on the Agenda which are received after its compilation (and received up to 5 p.m. on the Friday preceding the meeting) will be included in a Supplementary Report to be available at the Committee meeting. Any items received on the day of the meeting will be brought to the Committee's attention. These will also be background papers for the purposes of the Act.

FORMAT OF REPORT

Please note that in the reports which follow

- 1 'Planning Policy' referred to are the most directly relevant Development Plan Policies in each case. The Development Plan comprises the Lichfield District Local Plan Strategy (2015), saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015) and an adopted Neighbourhood Plan for the relevant area.
- 2 The responses of Parish/Town/City Councils consultees, neighbours etc. are summarised to highlight the key issues raised. Full responses are available on the relevant file and can be inspected on request.
- 3 Planning histories of the sites in question quote only items of relevance to the application in hand.

**ITEM 'A'** Applications for determination by Committee - **FULL REPORT** (Gold Sheets)

**ITEM 'B'** Lichfield District Council applications, applications on Council owned land (if any) and any items submitted by Members or Officers of the Council. (Gold Sheets)

**ITEM 'C'** Applications for determination by the County Council on which observations are required (if any); consultations received from neighbouring Local Authorities on which observations are required (if any); and/or consultations submitted in relation to Crown applications in accordance with the Planning Practice Guidance on which observations are required (if any). (Gold Sheets)

## **AGENDA ITEM NO. 4**

### **ITEM A**

#### **APPLICATIONS FOR DETERMINATION BY COMMITTEE: FULL REPORT**

17 December 2018

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
17/01191/OUFMEI	Deanslade Park Project Land South Of Falkland Road Lichfield	Lichfield
17/01709/COU	Lions Den Hammerwich	Hammerwich
18/00643/FULM & 18/00644/LBC	Rotten Row Lichfield	Lichfield

### **ITEM B**

#### **LICHFIELD DISTRICT COUNCIL APPLICATIONS, APPLICATIONS ON COUNCIL OWNED LAND AND ANY ITEMS SUBMITTED BY MEMBERS OR OFFICERS OF THE COUNCIL**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
18/01514/FUL	74 Chorley Road Burntwood	Burntwood



# LOCATION PLAN

17/01191/OUFMEI  
Deanslade Park Project  
Land South Of Falkland Road  
Lichfield

Scale: 1:8,000

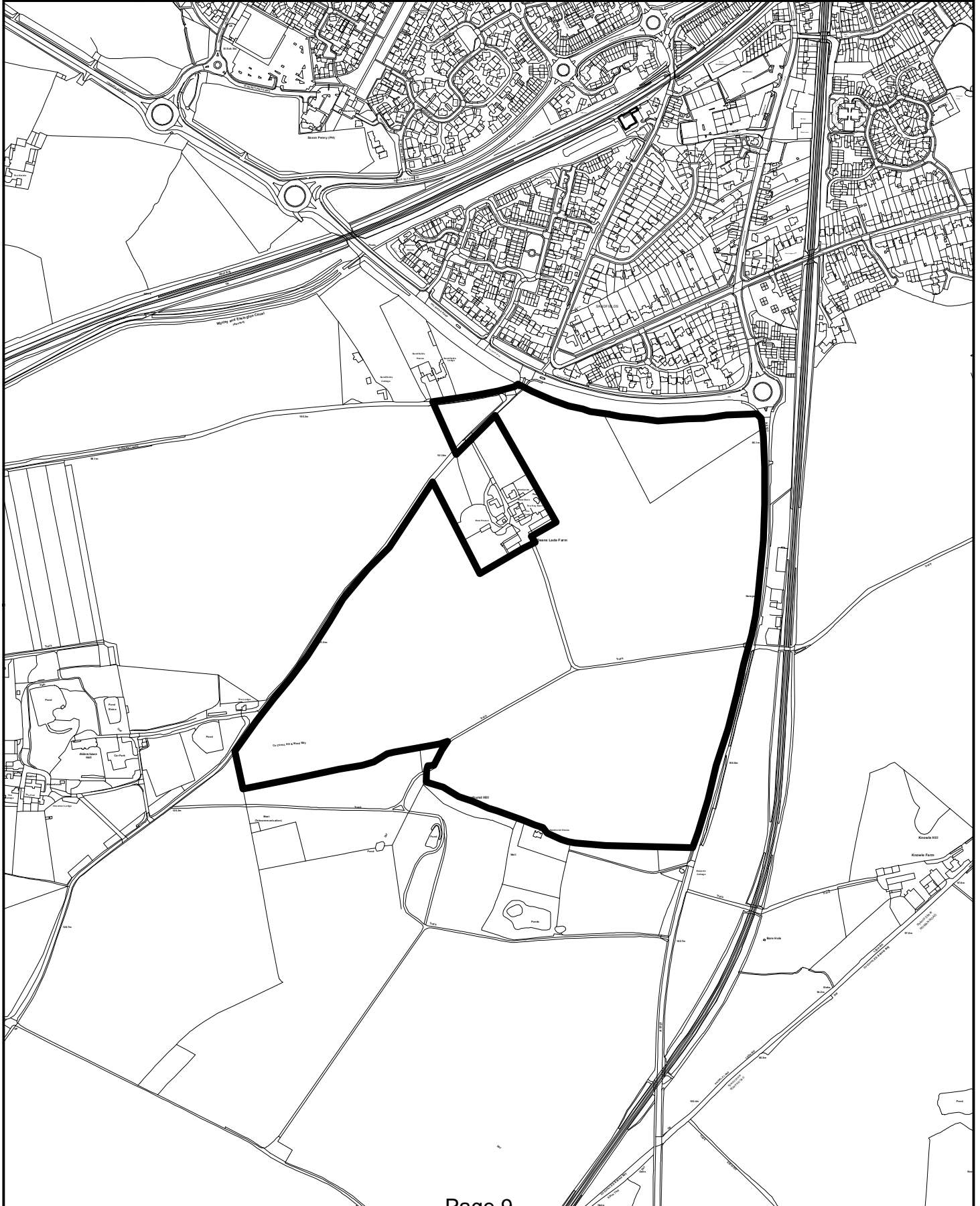
Dated: June 2018

Drawn By:

Drawing No:



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# BLOCK PLAN

17/01191/OUFMEI  
Deanslade Park Project  
Land South Of Falkland Road  
Lichfield

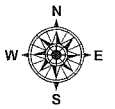
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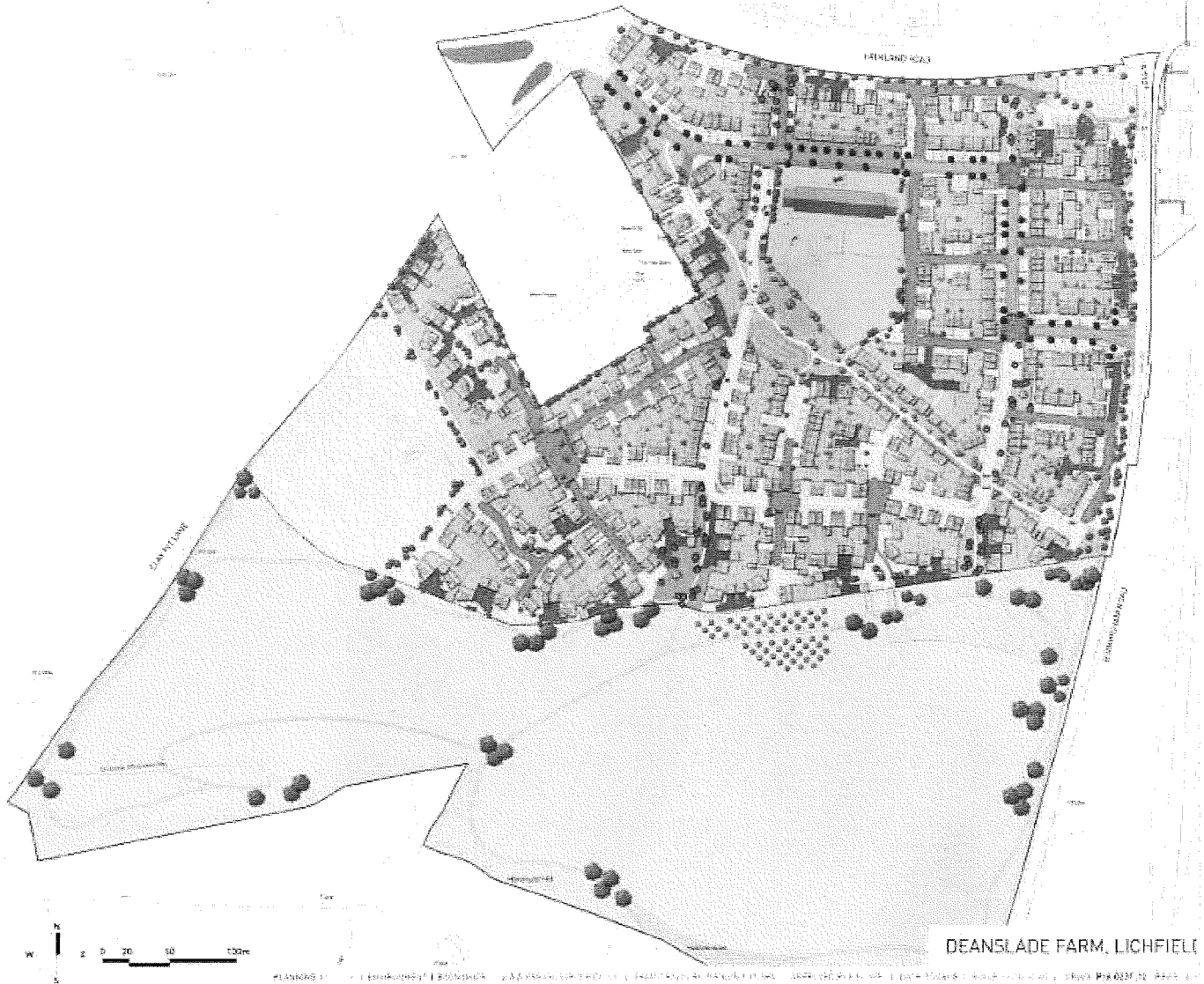
June 2018

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## 17/01191/OUFMEI

HYBRID PLANNING APPLICATION COMPRISING FULL PLANNING APPLICATION FOR THE CONSTRUCTION OF A SUSTAINABLE MIXED USE URBAN EXTENSION COMPRISING OF 475 DWELLINGS, NEW VEHICULAR ACCESS POINTS ONTO CLAYPIT LANE AND BIRMINGHAM ROAD, THE REMODELLING AND FORMATION OF A ROUNDABOUT AT THE JUNCTION OF FOSSEWAY LANE AND CLAYPIT LANE, COMPREHENSIVE GREEN INFRASTRUCTURE INCLUDING UP TO 16.55 HA OF COUNTRY PARK, FOOTPATHS, CYCLEWAYS, MULTIFUNCTIONAL OPEN SPACE INCLUDING CHILDREN'S PLAY AREAS, COMMUNITY ORCHARD, OPEN SPACE FOR INFORMAL SPORT AND SUSTAINABLE URBAN DRAINAGE SYSTEMS, FOUL AND SURFACE WATER DRAINAGE INFRASTRUCTURE INCLUDING BALANCING PONDS, AND OTHER ANCILLARY INFRASTRUCTURE AND GROUND REMODELLING. WITH OUTLINE APPLICATIONS FOR THE SERVICED PROVISION OF 1.09 HA OF LAND FOR A PRIMARY SCHOOL AND 1.9 HA FOR STRATEGIC SPORTS PROVISION WITH ALL MATTERS RESERVED EXCEPT ACCESS

DEANSLADE PARK, LAND SOUTH OF FALKLAND ROAD, LICHFIELD, STAFFORDSHIRE

DEANSLADE PARK CONSORTIUM

Registered on 23/08/17

**Parish: Lichfield**

**Note 1:** This application is being reported back to the Planning Committee following the resolution to approve the scheme at the Committee on 2<sup>nd</sup> July 2018. The resolution was on the basis that the S106 agreement for the development was to be completed by the 2<sup>nd</sup> November 2018 and that the applicant provide a suitable design solution to resolve objections raised by the Highways Authority, specific to visibility splays, for the vehicular access from Claypit Lane. The S106 agreement is not yet signed so an extension for the completion of the agreement is sought, whilst details of alterations proposed to the internal vehicular and pedestrian routes to address the concerns of the Highway Authority have now been submitted.

This report also addresses concerns raised by the Lichfield & Hatherton Canal Restoration Trust and Inland Waterways Association regarding the processing of the planning application and seeks to clarify matters specific to the inter-relationship between the development and the likely route of the to be restored Lichfield Canal.

Previous Reasons for referral to Planning Committee:

**Note 2:** This application is being reported to the Planning Committee as it is a Strategic Development proposal which was subject to an Issues Paper. Also the proposal is subject to a S106 agreement, which includes more than 2 obligations.

Furthermore there are also significant planning objections raised by Lichfield City Council on the grounds that:

- there should be a greater number of bungalows within the site,
- the 50mph speed limit on Birmingham Road should be lowered beyond the Travis Perkins site,
- assurances should be given that the Country Park will be open prior to first occupation of any of the dwellings; and
- consideration to be given to grouping the school and sports facility in one location.

**RECOMMENDATION:**

**(1) Subject to the owners/applicants first entering into a Section 106 Legal Agreement under the Town and Country Planning Act (as amended) to secure contributions/planning obligations towards:-**

1. **On-site affordable housing provision.**
2. **On-site Public Open Space Provision (including Delivery of Country Park)**
3. **On-site Sports Provision (including changing facilities).**
4. **Bus Service and Travel Pack Contribution**
5. **Primary School Education Contribution**
6. **Travel Plan**
7. **Off-site highway works**
8. **Maintenance Management Company**

**(2) If the S106 legal agreement is not signed/completed by the 21<sup>st</sup> January 2019 or the expiration of any further agreed extension of time, then powers be delegated to officers to refuse planning permission based on the unacceptability of the development without the required contributions and undertakings as outlined in the report.**

**Approve, subject to the following conditions:**

**CONDITIONS:**

1. The residential (full) part of the development hereby approved shall be begun before the expiration of three years from the date of this permission.
2. The Primary School and Strategic Sports provision authorised by this permission shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of the approval of the last of the reserved matters to be approved, whichever is the later. Application(s) for the approval of the reserved matters shall be made to the Local Planning Authority before the expiration of five years from the date of this permission.
3. The Primary School and Strategic Sports provision shall not be commenced until details of the layout of these sites including the disposition of buildings; existing and proposed ground levels and finished floor levels; the design of all buildings and structures; the external appearance of all buildings and structures including materials to be used on all external surfaces; the means of pedestrian and vehicular access and parking layout; and the landscape and planting of the site shall be submitted to and approved by the Local Planning Authority by way of reserved matters application(s).
4. 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.

**CONDITIONS to be complied with PRIOR to the commencement of development hereby approved:**

5. Before any part of the development hereby approved is commenced, a scheme for the phasing of the development of the site shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall include details of the phasing of the construction of the dwellings, delivery of Green Infrastructure, Primary School and Sports Provision (including changing facilities). The development shall thereafter be undertaken in accordance with the approved phasing plan, unless otherwise agreed in writing by the Local Planning Authority.
6. Before the development of the Primary School or Sports Facility building hereby approved is commenced, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:

- (i) External brickwork;
- (ii) Roof and wall materials;
- (iii) Soffit fascia boards and rainwater goods colour; and,
- (iv) Surfacing materials for any areas of hardstanding.

The development shall thereafter be undertaken in accordance with the approved details and thereafter be retained for the life of the development.

7. Before the development hereby approved is commenced within each phase of the development (as approved by condition 5), a Traffic Management/Construction Vehicle Management Plan and a Construction Phase Management Plan, for that phase of development, comprising the routing of construction vehicles to and from the site, and including the following details, shall be submitted to and approved in writing by the Local Planning Authority:

- i) Access points to be used for the temporary construction of each phase of the development;
- ii) Details of the phasing for closure of temporary access points and strategy for making good the temporary access points.
- iii) Arrangements for the parking of site operatives and visitors;
- iv) Loading and unloading of plant and materials;
- v) Storage of plant and materials used in constructing the development;
- vi) Construction hours;
- vii) Delivery HGV routing and hours;
- viii) Recorded daily inspections of the highway adjacent to the site access;
- ix) Wheel washing and measures to remove mud or debris carried onto the highway; and,
- x) Arrangements to protect any dwellings from noise and dust from the construction of the development.

The approved Traffic Management / Construction Vehicle Management Plan and Construction Phase Management Plan shall be adhered to throughout the entire construction period.

8. Before the development hereby approved is commenced, a revised plan indicating limits of adoption to include the extent of all vehicular visibility splays shall be submitted to and approved in writing by the Local Planning Authority. All vehicular visibility splays shall be provided prior to their first use, kept free of all obstructions to visibility over a height of 600mm above the adjacent carriageway level and thereafter maintained for the life of the development.
9. Before the development hereby approved is commenced, a Stage 1 Road Safety Audit for the two new vehicular access points and the internal road layout, including any raised table junctions, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with any details required as part of the approved Road Safety Audit.
10. Notwithstanding the submitted details, before the residential development hereby approved is commenced within each phase of the development (as approved by condition 5) before the residential development hereby approved is commenced, a detailed landscape and planting scheme (to include a watering schedule) specific to that phase, shall be submitted to and approved in writing by the Local Planning Authority. The approved landscape and planting scheme specific to that phase shall thereafter be implemented within twelve months of that phase of development being first brought into use.

11. Notwithstanding the submitted details, before the development hereby approved is commenced, within each phase of the development (as approved by condition 5), details of all proposed boundary treatments, for that phase of development, shall be submitted to and approved in writing by the Local Planning Authority. The approved boundary treatments shall be implemented for each dwelling or building, prior to their first occupation or use and thereafter shall be retained for the life of the development.
12. Before the development hereby approved is commenced, a scheme for protecting the proposed dwellings from noise arising from road, rail and commercial activities within the area, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of noise protection shall thereafter be implemented before the development is first brought into use and shall be the subject of a validation report, which shall first be submitted to and approved in writing by the Local Planning Authority. The validation report shall ensure that all noise issues on the site have been adequately addressed prior to the development being first brought into use. The approved measures shall thereafter be maintained for the life of the development, unless otherwise agreed in writing by the Local Planning Authority.
13. Before any part of the development hereby approved is commenced, within each phase of the development (as approved by condition 5), the application site shall be subjected to a detailed scheme for the investigation and recording of any contamination of the site and a report shall be submitted to and approved in writing by the Local Planning Authority. The report shall identify any contamination on the site, the subsequent remediation works considered necessary to render the contamination harmless and the methodology used. The approved remediation scheme shall thereafter be carried out in full prior to first occupation of the development.
14. Before the development hereby approved is commenced, within each phase of the development (as approved by condition 5), a Site Waste Management Plan, to detail the duration of temporary site waste operations and provide a framework to enable the monitoring of fill operations and waste materials, generated and processed on site, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.
15. Notwithstanding the submitted details before the development hereby approved is commenced, within each phase of the development (as approved by condition 5), drainage plans for the disposal and treatment of foul sewage and surface water drainage for that phase shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use and thereafter be maintained for the life of the development.
16. Before the development hereby approved, including any site clearance works is commenced, or any equipment, machinery or materials is brought onto site, full details of protective fencing and/or other protective measures to safeguard existing trees and/or hedgerows on the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed tree/hedge protection measures shall thereafter be provided in accordance with the British Standard 5837:2012 and retained for the duration of construction (including any demolition and / or site clearance works), unless otherwise agreed in writing by the Local Planning Authority. No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas. The approved scheme shall be kept in place until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed from the site.

**All other CONDITIONS to be complied with:**

17. The external materials for the dwellings hereby approved and indicated on the Materials Layout Drawing Number P16-0237\_22 Revision G shall be implemented in full accordance with the approved plans. Any proposed change in the external materials to be used shall not be undertaken without the prior written approval of the Local Planning Authority.
18. Pursuant to condition 13, before the first occupation/use of any part of the development, and within 1 month of the approved contamination and remediation scheme being completed, a contaminated land validation report to ensure that all contaminated land issues on the site have been adequately addressed, shall be submitted to and approved in writing by the Local Planning Authority.
19. Before the first occupation of any of the dwellings or buildings hereby approved, within each phase of the development (as approved by condition 5), a scheme of external lighting for that phase, which shall include provision for the Public Open Space, shall be submitted to and approved in writing by the Local Planning Authority. The approved lighting scheme shall thereafter be implemented in full prior to the occupation of the final dwelling or building within that phase and thereafter be retained for the life of the development.
20. The development hereby approved shall only be carried out in accordance with the approved revised Flood Risk Assessment (FRA) dated December 2017 reference number 20965/07-17/3976 Rev C compiled by MEC and the following mitigation measures detailed within the FRA:
  - a) Discharging all site surface water to infiltration and not increase the risk of flooding off-site.
  - b) Provision of appropriate volumes of attenuation flood storage on the site to a 100 year +Climate Change standard.
  - c) Finished floor levels are set no lower than 150mm above local ground level.
  - d) Confirm which responsible body will maintain the surface water systems over the lifetime of the development according to an acceptable maintenance schedule and that is achievable

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme.

21. Before the first use of the Primary School or Sports Facility, full details of secure weatherproof cycle parking facilities and shower/locker facilities for residents and staff, shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking facilities shall thereafter be provided for the buildings to which they relate, prior to the development being first brought into use and shall thereafter be retained for the life of the development.
22. Before the first occupation of any dwellings hereby approved, the parking and turning areas associated with each respective property shall be provided and thereafter retained for their designated purposes for the life of the development.
23. Any tree, hedge or shrub planted as part of the approved landscape and planting scheme (or replacement tree/hedge) on the site and which dies or is lost through any cause during a period of 5 years from the date of first planting shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

24. The development hereby approved shall be carried out in strict accordance with the methods of working, which are detailed in the approved Construction Environment Management Plan / Habitat Management Plan produced by Taylor Wimpey, reference 20135-CEMP dated 19.03.18 and the Landscape and Ecology Management Plan, produced by LDA Design, reference 5721, dated 28<sup>th</sup> March 2018.
25. The development hereby approved shall be carried out in strict accordance with all recommendations and methods of working detailed within the Ecological Baseline Report, Section 5: Ecology and Biodiversity of the Environmental Statement produced by EDP, dated September 2017 Report Reference EDP2201\_06b.
26. Prior to undertaking any vibro-impact works on site, a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved measures.
27. Before the first occupation of the dwelling to which it relates, a shed shall be erected in the locations indicated on approved plan P16-0237\_ 12 Rev X, and thereafter shall be retained for the life of the development.
28. The site compounds hereby approved as shown on approved plan P160237\_29 Revision 1 shall be removed from the site and the land altered to the use and appearance as agreed under the requirements of condition 10, within 6 months of completion of the residential properties.
29. Notwithstanding the submitted details, before the first occupation of any of the dwellings hereby approved, full details of a scheme of Green Infrastructure connections, including details of materials, for the area adjacent to the northern boundary of the site, to provide at least 1 pedestrian link up to the boundary of the site which is to be developed through the delivery of the Lichfield Canal, shall be submitted to and approved in writing by the Local Planning Authority. The footpath(s) so approved shall be installed prior to the first occupation of the 100<sup>th</sup> dwelling to be completed within the site.
30. Notwithstanding the provisions of Schedule 2 Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015; or any Order revoking or re-enacting that Order, no gates, walls, fences or other means of enclosure (except for those approved by this permission) shall be erected within the curtilage of the dwellings, unless planning permission has first been granted by the Local Planning Authority.
31. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, unless specifically agreed pursuant to other conditions of this permission, no external lighting shall be provided within the application site, without the prior permission of the Local Planning Authority.
32. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any Order revoking and re-enacting the Order with or without modification), the garage accommodation hereby approved, shall only be used for the garaging of private cars and for ancillary storage purposes, and shall not be used as additional living accommodation without the prior written permission, on application to the Local Planning Authority.

#### **REASONS FOR CONDITIONS**

1. In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.



2. In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.
3. For the avoidance of doubt in that the application has been made for outline permission only; to ensure a satisfactory form of development; safeguard the character of the area and safeguard the amenity of future residents in accordance with the requirements of Core Policy 3 and Policies BE1 of the Local Plan Strategy and guidance contained in the National Planning Policy Framework.
4. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and guidance contained in the National Planning Practice Guidance.
5. To ensure the appropriate timing of delivery of the Primary School and Sports Provision, in accordance with the requirements of Policy Lichfield 6 of the Local Plan Strategy and guidance contained in the National Planning Policy Framework.
6. To ensure the satisfactory appearance of the development in accordance with the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
7. In the interests of highway safety and to protect the amenity of existing and future residents, in accordance with the requirements of Policies BE1 and ST2 of the Local Plan Strategy and the National Planning Policy Framework.
8. In the interests of highway safety, in accordance with the requirements of Policy BE1 of the Local Plan Strategy and guidance contained in the National Planning Policy Framework.
9. In the interests of highway safety, in accordance with the requirements of Policy BE1 of the Local Plan Strategy and guidance contained in the National Planning Policy Framework.
10. To ensure that a landscaping scheme to enhance the development is agreed and to mitigate the impact of the development on the setting of Grade II Listed Buildings, in accordance with the provisions of Core Policy 14 and Policies BE1 and NR4 of the Local Plan Strategy, the Historic Environment and Trees, Landscaping and Development Supplementary Planning Documents and the National Planning Policy Framework.
11. To ensure the satisfactory appearance of the development in accordance with the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
12. To protect the amenity of existing and future residents and secure the on-going operation of the nearby rail line, in accordance with the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
13. In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration in accordance with the requirements of the National Planning Policy Framework.
14. In order to minimise waste generation and encourage on-site waste management, in accordance with Core Policy 3 of the Local Plan Strategy, the Staffordshire and Stoke on Trent Joint Waste Local Plan and the National Planning Policy Framework.
15. To ensure that the development is provided with a satisfactory means of drainage, to minimise the risk of pollution and to ensure that a suitable surface water drainage solution

for the future adjacent restored Lichfield Canal is produced, in accordance with Core Policies 3 and 4 and Policies BE1 and Policy Lichfield 6 of the Local Plan Strategy and the National Planning Policy Framework.

16. To ensure that no existing trees or hedgerows on the site, which contribute towards the character of the area are damaged during the construction process, in accordance with the provisions of Policies BE1 and NR4 of the Local Plan Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.
17. To ensure the satisfactory appearance of the development and to safeguard the future character and appearance of the site, in accordance with the requirements of Policy BE1 of the Lichfield District Local Plan Strategy and the National Planning Policy Framework.
18. In order to safeguard human health and the water environment and identify potential contamination on-site and the potential for off-site migration in accordance with the requirements of the National Planning Policy Framework.
19. To ensure the satisfactory appearance of the development, to minimise impact upon the rural landscape and to safeguard the amenity of existing and future residents in accordance with the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.
20. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, in accordance with Core Policy 3 and Policy NR9 of the Local Plan Strategy and the National Planning Policy Framework.
21. To promote the use of sustainable modes of transportation in accordance with Policy BE1 of the Local Plan Strategy, the Sustainable Design Supplementary Planning Document and guidance contained in the National Planning Policy Framework.
22. In the interests of highway safety and to protect the amenity of existing and future residents, in accordance with the requirements of Policies BE1 and ST2 of the Local Plan Strategy, the Sustainable Development Supplementary Planning Document and the National Planning Policy Framework.
23. To ensure the satisfactory appearance of the development in accordance with the requirements of Policies BE1 and NR4 of the Local Plan Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.
24. In order to secure an uplift in the site's habitat value in accordance with Policy NR3 of the Local Plan Strategy, the Biodiversity and Development Supplementary Planning Document and the National Planning Policy Framework.
25. In order to protect protected species and their habitat in accordance with Policy NR3 of the Local Plan Strategy, the Biodiversity and Development Supplementary Planning Document and the National Planning Policy Framework.
26. In the interests of the safe operation of the railway network, in accordance with guidance contained within the National Planning Policy Framework.

27. In order to encourage the use of sustainable modes of transport, in accordance with the requirements of Local Plan Strategy Policy ST1, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.
28. To ensure that the approved Open Space, Landscaping and Country Park schemes, which are to enhance the development, are fully implemented and in order to protect the openness of the Green Belt, in accordance with the provisions of Policies BE1, HSC1, NR2 and NR4 of the Local Plan Strategy, the Trees, Landscaping and Development Supplementary Planning Document and the National Planning Policy Framework.
29. To ensure the satisfactory integration of the development with the future route of the to be restored Lichfield Canal, in accordance with the requirements of Core Policies 9, 10, 13 and Policies HSC1, NR6, Lichfield 1, 2 and 6 of the Lichfield Local Plan Strategy and the National Planning Policy Framework.
30. To ensure the satisfactory appearance of the development and to safeguard the future character and appearance of the site, in accordance with the requirements of Policy BE1 of the Lichfield District Local Plan Strategy and the National Planning Policy Framework.
31. To ensure the satisfactory appearance of the development and to minimise impact upon the protected species and their habitat, in accordance with the requirements of Policies BE1 and NR2 of the Local Plan Strategy, the Biodiversity and Development Supplementary Planning Document and the National Planning Policy Framework.
32. To ensure that there is adequate parking provision to serve the development in the interests of the safety and convenience of users of the highway, in accordance with the requirements of Policies BE1 and ST2 of the Local Plan Strategy, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework.

#### **NOTES TO APPLICANT**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015), saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015), the Lichfield City Neighbourhood Plan (2018) and Emerging Local Plan Allocations 2008-2029 Proposed Submission Document.
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters. Although the Council will endeavor to deal with such applications in a timely manner, it should be noted that legislation allows a period of up to 8 weeks for the Local Planning Authority to discharge conditions and therefore this timescale should be borne in mind when programming development.
3. The applicant's attention is drawn to the comments of the Staffordshire County Council Rights of Way Officer as detailed within their e-mail dated 28<sup>th</sup> February 2017.
4. The applicant's attention is drawn to the comments of the Council's Operational Services Customer Relations and Performance Manager in their e-mail dated 26<sup>th</sup> February 2018.
5. The applicant's attention is drawn to the comments of the Staffordshire Fire and Rescue Service as detailed within their e-mail dated 8<sup>th</sup> September 2017.

6. The applicant is advised to note and act upon as necessary the comments of Network Rail dated 8<sup>th</sup> March 2018. Where there is any conflict between these comments and the terms of the planning permission, the latter takes precedence.
7. The applicant is advised to note and act upon as necessary the comments of the Staffordshire Police Architectural Liaison Officer dated 1<sup>st</sup> March 2018 and 16<sup>th</sup> November 2018. Where there is any conflict between these comments and the terms of the planning permission, the latter takes precedence.
8. The applicant is advised that during the course of development and operation of the approved use no obstruction, prevention of use or diversion of the public footpaths No. 21 Lichfield or No. 7 Wall Parish must occur.
9. The applicant is advised to consider the installation of electric charging points within the driveways of dwellings within the site.
10. The accesses and off-site highway works will require a Major Works Agreement with Staffordshire County Council and the applicants are therefore requested to contact Staffordshire County Council in respect of securing the Agreement. The link below provides a further link to a Major Works Information Pack and an application form for the Major Works Agreement. Please complete and send to the address indicated on the application form which is Staffordshire County Council at Network Management Unit, Staffordshire Place 1, Wedgwood Building, Tipping Street, Stafford, Staffordshire ST16 2DH (or email to [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk))  
<http://www.staffordshire.gov.uk/transport/staffshighways/licences/>.
11. This consent will require approval under Section 7 of the Staffordshire Act 1983 and also require a Section 38 approval of the Highways Act 1980. The applicant is advised therefore to contact Staffordshire County Council to ensure that approval and agreements are secured before the commencement of development.
12. Any soakaway should be located a minimum of 4.5m to the rear of the highway boundary.
13. Please be advised that Lichfield District Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on the 19th April 2016. A CIL charge will apply to all relevant applications determined on or after the 13th June 2016. This will involve a monetary sum payable prior to commencement of development. In order to clarify the position of your proposal, please complete the Planning Application Additional Information Requirement Form, which is available for download from the Planning Portal or from the Council's website at [www.lichfielddc.gov.uk/cilprocess](http://www.lichfielddc.gov.uk/cilprocess).
14. During the course of the application, the Council has sought amendments to the proposals to ensure a sustainable form of development which complies with the provisions of paragraph 38 of the NPPF.

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**SUMMARY OF REASONS FOR GRANTING Outline and Full Planning Permission including DEVELOPMENT PLAN POLICIES that were relevant in the determination of this application:**

The decision to approve outline and full planning permission has been taken because the Council is satisfied that the development is wholly compliant with the Development Plan, will integrate successfully into the character of the area, successfully mitigates or improves its highway, arboricultural or ecological impact and would not adversely affect the special character and setting of nearby Listed Buildings.

The decision to approve outline and full planning permission has also been taken having regard to all the relevant material planning considerations and to the following relevant policies and proposals of the Development Plan: Core Policy 1 (The Spatial Strategy), Core Policy 2 (Presumption in Favour of Sustainable Development), Core Policy 3 (Delivering Sustainable Development), Core Policy 4 (Delivering our Infrastructure), Core Policy 5 (Sustainable Transport), Core Policy 6 (Housing Delivery), Core Policy 7 (Employment and Economic Development), Core Policy 8 (Our Centres), Core Policy 10 (Healthy and Safe Lifestyles), Core Policy 11 (Participation in Sport and Physical Activity), Core Policy 12 (Provision for Arts and Culture), Core Policy 13 (Our Natural Resources), Core Policy 14 (Our Built and Historic Environment), Policy SC1 (Sustainability Standards for Development), Policy SC2 (Renewable Energy), Policy IP1 (Supporting & Providing our Infrastructure), Policy ST1 (Sustainable Travel), Policy ST2 (Parking Provision), Policy H1 (A Balanced Housing Market), Policy H2 (Provision of Affordable Homes), Policy HSC1 (Open Space Standards), Policy NR3 (Biodiversity, Protected Species and their Habitats), Policy NR4 (Trees, Woodlands and Hedgerows), Policy NR5 (Natural and Historic Landscapes), Policy NR6 (Linked Habitat Corridors & Multi-functional Greenspaces), Policy NR7 (Cannock Chase Special Area of Conservation), Policy BE1 (High Quality Development), Policy Lichfield 1 (Lichfield Environment), Policy Lichfield 3 (Lichfield Economy), Policy Lichfield 4 (Lichfield Housing), Policy Lichfield 6 (South of Lichfield), Saved Local Plan Policy C2 (Character of Conservation Areas) and the Sustainable Design, Trees, Landscaping and Development, Developer Contributions, Biodiversity and Development, Historic Environment, Rural Development Supplementary Planning Documents.

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## **PLANNING POLICY**

### **National Guidance**

National Planning Policy Framework  
National Planning Practice Guidance  
National Policy for Waste  
Manual for Streets

### **Lichfield District Local Plan Strategy (2015)**

Core Policy 1 – The Spatial Strategy  
Core Policy 2 – Presumption in Favour of Sustainable Development  
Core Policy 3 – Delivering Sustainable Development  
Core Policy 4 – Delivering our Infrastructure  
Core Policy 5 – Sustainable Transport  
Core Policy 6 – Housing Delivery  
Core Policy 7 – Employment and Economic Development  
Core Policy 8 – Our Centres  
Core Policy 10 – Healthy and Safe Lifestyles  
Core Policy 11 – Participation in Sport and Physical Activity  
Core Policy 12 – Provision for Arts and Culture  
Core Policy 13 – Our Natural Resources  
Core Policy 14 – Our Built and Historic Environment  
Policy SC1 – Sustainability Standards for Development  
Policy SC2 – Renewable Energy  
Policy IP1 – Supporting & Providing our Infrastructure  
Policy ST1 – Sustainable Travel  
Policy ST2 – Parking Provision  
Policy H1 – A Balanced Housing Market  
Policy H2 – Provision of Affordable Homes  
Policy HSC1 – Open Space Standards  
Policy NR3 – Biodiversity, Protected Species and their Habitats

Policy NR4 – Trees, Woodlands and Hedgerows  
Policy NR5 – Natural and Historic Landscapes  
Policy NR6 – Linked Habitat Corridors & Multi-functional Greenspaces  
Policy NR7 – Cannock Chase Special Area of Conservation  
Policy BE1 – High Quality Development  
Policy Lichfield 1 – Lichfield Environment  
Policy Lichfield 3 – Lichfield Economy  
Policy Lichfield 4 – Lichfield Housing  
Policy Lichfield 6 – South of Lichfield  
Infrastructure Delivery Plan (2018)

### **Saved Local Plan Policies (1998)**

Policy C2 – Character of Conservation Areas

### **Local Plan Allocations (Focused Changes) (Emerging)**

Policy IP2: Lichfield Canal  
Policy ST3: Road Line Safeguarding  
Policy BE2: Heritage Assets

### **Supplementary Planning Documents**

Sustainable Design  
Trees, Landscaping and Development  
Developer Contributions  
Biodiversity and Development  
Historic Environment  
Rural Development

### **Other**

Staffordshire and Stoke on Trent Joint Waste Local Plan  
Lichfield City Neighbourhood Plan  
Lichfield Centres Report 2017 (WYG / White Land Strategies)  
Historic England's General Practice Advice  
CIL Regulation 123 List

### **RELEVANT PLANNING HISTORY**

17/00977/OUFMEI – Outline application with all matters reserved except access for a flexible commercial development of up to 2000 sq. m area (classes A1, A2, A3, B1, D1 and D2), associated parking areas, new access on to the Birmingham Road, provision of strategic landscaping, cycle and pedestrian access routes, infrastructure and other operations including the safeguarding of land for the Lichfield southern bypass and safeguarded route for the Lichfield canal – Approved – 30.10.18.

AB950012\_1 – Agricultural determination – Hay and agricultural; machinery store – No objection – 01.11.95.

L3051 – Golf Course and Sporting Complex – Refused – 14.03.77.

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**Note: The previous consultations, representations and observations, which were considered by the Planning Committee on the 2<sup>nd</sup> July 2018 read as follows:**

## **CONSULTATIONS**

**Lichfield City Council** – Recommend refusal as the issues previously raised have yet to be addressed, namely the provision of a greater number of bungalows within the site, reviewing the 50mph speed limit on Birmingham Road, to consider a lower limit extending beyond the Travis Perkins site; assurances that the Country Park will be open prior to first occupation of any of the dwellings and consideration to be given to grouping the school and sports facility in one location (12.03.18).

*Previous Comments: No objection subject to consideration of including a greater number of bungalows; reviewing the 50mph speed limit on Birmingham Road, to consider a lower limit extending beyond the Travis Perkins site; assurances that the Country Park will be open prior to first occupation of any of the dwellings and consideration to be given to grouping the school and sports facility in one location (12.01.18).*

*No objection subject to consideration of including a greater number of bungalows; reviewing the 50mph speed limit on Birmingham Road, to consider a lower limit extending beyond the Travis Perkins site; assurances that the County Park will be open prior to first occupation of any of the dwellings and consideration to be given to grouping the school and sports facility in one location (19.09.17).*

**Wall Parish Council** – The revised details raise further concerns. The traffic projections identified within the submitted documentation, to Wall Island are considered to significantly underestimate the schemes impact. The Council does not accept that the addition of part-time peak am-pm traffic signals on the A5127 onto Wall Island will mitigate congestion caused by these movements, rather it will cause additional delay.

*No measures are proposed to mitigate the additional flows northbound onto the A5127 from Wall Island, which is not acceptable, given this junction is already operating at capacity. Considerable remodelling of the Wall Island junction is required to accommodate increased traffic flows.*

*The traffic surveys fail to consider the likely use of Claypit Lane and Ashcroft Lane as a rat run to access the site from Claypit Lane and gain access away from the site to past the Wall Island junction. Require conditions to be attached to any approval specific to the submission of comprehensive traffic modelling for the extra traffic flows on Claypit Lane / Ashcroft Lane, a roundabout junction access being formed on the A5127 instead of a T junction, the deletion of the roundabout junction onto Claypit Lane and instead providing a roundabout junction from Falkland Road and the provision of substantial traffic calming, speed restrictions, or the closure of Claypit Lane (05.01.18).*

*Previous Comments: The traffic surveys fail to consider the likely use of Claypit Lane and Ashcroft Lane as a rat run to access the site from Claypit Lane. To address this issue substantial traffic calming, speed restrictions or possibly the closure of Claypit Lane should be a condition of any approval for the development. When Claypit Lane was closed during the construction works for Falkland Road no adverse impact upon highway users was experienced.*

*The T junction onto Birmingham Road is inadequate for the number of houses proposed and will lead to congestion to the A5127, thereby increasing the use of Claypit Lane. A roundabout junction is instead required in this location and should be a condition of any approval (04.10.17).*

**Shenstone Parish Council** – Object as the development will increase the volume of traffic moving along Claypit Lane and Ashcroft Lane. The applicant's Transport Assessment makes no assessment of the current or projected volumes of traffic moving along these roads. This is a significant omission given that the roundabout access into the site from Claypit Lane, in combination with congestion issues along the A5127, will exacerbate the use of these rural lanes as a 'rat run'. To address this issue a four arm roundabout should be located directly off Falkland Road rather than Claypit Lane and the speed limit along Claypit Lane should, from the junction with Falkland Road to Aldershaw, be

reduced to 40mph. Thereafter through Aldershaw the limit could be 30mph, increasing once more to 40mph between Aldershaw and Wall, then reducing once more passing through this village. Suitable signage will be required to advise motorists of these limit changes (18.10.17).

**Lichfield Civic Society** – Aspects of the design fail to fully meet the aims of the site's allocation and design concepts. For instance, the District Park, which is to provide a large new area of open space for new and existing residents, has been designed to be only accessible by cars travelling through the site, whereupon inadequate dedicated car parking is provided. Seeking to restrict or limit access by car users is inconsistent with the intended purpose of the allocation. Furthermore, the strategic sports site is also only accessible through the site. Both of these areas should have their own dedicated vehicular access. No attempt is made to retain the hedgerow, which is an important characteristic of the A5127. The unduly cramped and unattractive configuration of the affordable housing should be improved, whilst car parking provision within the site should be altered to be integrated throughout the site more successfully.

No reference is made within the draft S106 agreement to the timing of delivery of the open space, play areas, street lighting, highway and sewer adoption and delivery of bus stops and shelters. Given the developer's record of accomplishment on Darwin Park, these matters should be addressed by legally binding commitments to ensure their delivery at appropriate times within the building project.

The site owner should be a member of the Maintenance Management Company established to maintain the public open space, including the country park within the site, to ensure that public access remains available indefinitely.

Further consideration needs to be given regarding the impact of the development on wider networks, with works undertaken as necessary via funding secured for improvements to secure safe routes into the City Centre for pedestrians and cyclists. For instance, crossing points will be required on Birmingham Road and Falkland Road, whilst the agricultural crossing over the Cross-City Line should be enhanced to allow for pedestrian and cycle links to the neighbouring St Johns development. Furthermore, a contribution should be gathered to aid in the delivery of the Lichfield Southern bypass and the provision of a canal bridge over Claypit Lane.

The developer will need to fund bus services into the site as current provision within this area is insufficient or too remote to offer a viable alternative to private transport.

The extensive use of private drives and shared spaces, appears excessive and would seem to be being utilised in order to reduce costs, so that such do not need to be built to an adoptable standard.

It is not clear whether the development will provide for sufficient off street and on street car parking to meet the needs of businesses for deliveries, maintenance services for households or unobstructed access for buses or emergency vehicles. Therefore recommends that more generous provision for visitor parking be introduced. Finally recommend that electric charging points for vehicles be included within the development.

Further clarification regarding the boundary treatment for the urban edge transition is required, whilst the car parking provision across the site should be reconsidered so as to not result in streets with significant frontage parking, which in combination with stored bins will have a detrimental visual impact.

Adequate car parking provision should be provided to enable drop off and collection of students from the primary school, whilst the design of this area should be fully considered to ensure the usability of the space.

Consideration of securing appropriate community facilities across this site, St Johns and Cricket Lane should be given (06.10.17).



**South Derbyshire District Council** – No comments (03.01.18).

**North Warwickshire Borough Council** – No comments (14.02.18, 13.12.17, 07.09.17).

**Tamworth Borough Council** – No objections (21.09.17).

**Cannock Chase District Council** – No comment (21.12.17, 18.09.17).

**East Staffordshire Borough Council** – No objections (30.04.18, 11.04.18, 28.02.18, 03.01.18, 22.09.17).

**North West Leicestershire District Council** – No objections (19.03.18).

**Planning Casework Unit** – No comments (04.10.17).

**Spatial Policy and Delivery Manager** – In response to the letter submitted by Eversheds Sutherland it is noted that in accordance with the requirements of Local Plan Strategy Policy H2, the level of affordable housing provision required within this development is 37% (30.11.17).

*Previous Comments: Further to the submission of the Canal Clarification Note reiterates the requirement established by the Local Plan Strategy that the Lichfield & Hatherton Canal route be safeguarded within this development (30.11.17).*

*Given that the site lies within the 8-15km zone of influence of the Cannock Chase SAC, no financial contribution would be sought (03.10.17).*

*The application falls within an area allocated for housing growth within the District by the Local Plan Strategy. As such there is strong support for the proposal. However the current affordable housing provision (31%) does not comply with the requirements of Local Plan Strategy Policy H2 and as such the scheme should be amended accordingly (37%). Furthermore, given that Policy HSC1 requires that the site deliver allotments and no such provision is offered, rather a community orchard is proposed, further clarification is required regarding both the operation and management of this infrastructure before a decision regarding its acceptability can be made (28.09.17).*

**Arboricultural Officer** – Provides comments on the suitability of the on-plot landscaping providing a number of recommendations in order to improve the scheme as submitted (11.05.18).

*Previous Comments: Substantial issues remain unaddressed with regard to the latest submitted plans. The on plot landscaping details are very poor and therefore a revised approach is required to this element of the scheme. This matter could however be addressed via the use of a notwithstanding the submitted details condition if required.*

*A number of further issues regarding the stock type of the trees, the over reliance on small scale tree planting and the lack of details within the maintenance schedule detailed. Further advice provided in order to enhance landscaping provision throughout the site (25.04.18).*

*The confirmation afforded by the submitted plasticity index that there is no shrinkable soil within the site will allow for larger trees to be planted within the forthcoming amended planting scheme.*

*The planting scheme proposed adjacent to the new roundabout at Claypit Lane requires amendment to include Common Lime trees, which are considered appropriate to the character of the area. The present scheme is considered unsuitable and would result in an objection in principle.*

*Further consideration is required for the watering schedule for trees to be planted throughout the site, along with soil details for the Country Park. The Community Orchard should be maintained by an experienced person in fruit tree pruning (22.03.18).*

*Requests further information pertaining to soil type data and the delivery of the strategic planting areas. The submitted maintenance schedule would be improved by specifying the number of visits per year, whilst a condition will likely be recommended to secure the site's appropriate management.*

*Appropriately large trees along with suitable pit design to be considered and planned as part of the current application to ensure no future conflict with the routing of services. The schedule of trees continues to require revision along with the introduction of further scattered tree planting within the Country Park. Consideration to be given to the use of stock fencing. Lastly the on-plot planting requires significant improvement and addition to ensure successful integration with the strategic landscaping and meeting the Local Plan Strategy requirement of 20% canopy cover (24.01.18).*

*The tree species list is insufficiently broad, whilst no detailed maintenance schedule has been provided. There is little tree provision within the housing plots, whilst further planting is possible within certain public open space areas, which prevents the development from attaining the 20% canopy cover required by the Trees, Landscaping and Development SPD. The hedge planting mix does not reflect the site's context.*

*The Community Orchard is supported, however ownership of the project is critical and a firm commitment to funding of the scheme along with a detailed management plan will be required. The green areas to be formed within the site should be protected during construction works to preserve soil quality. The number of trees within the Country Park should be significantly increased (25.09.17).*

**Ecology Officer** – *Satisfied with the information contained within the submitted CEMP / HMP and recommends that the development be carried out in accordance with these documents, which should be secured via condition. Recommends a further condition to ensure the development is undertaken in accordance with the recommendations contained within the Ecological Baseline Report. Finally advises of the need to secure a sensitive lighting scheme to minimise impact upon bats (18.05.18).*

*Previous Comments: No objection. Advises that the development would be unlikely to impact upon European Protect Species or their habitat, subject to appropriate measures of avoidance, mitigation and compensation being implemented, as detailed within the submitted Ecological Baseline Report and Ecology Management Plan.*

*Notes that the site will deliver an 18.35 Biodiversity Unit net gain, equalling an improvement of some 23.6%. The development therefore complies with the requirements of Policy NR3 and the Biodiversity and Development SPD.*

*Requires that the applicant submit a Construction Environment Management Plan (CEMP) and a Habitat Management Plan (HMP) to demonstrate that the habitat creation works will be successful in achieving the required habitat type and condition (01.03.18).*

*Considered the quantitative data submitted via the Biodiversity Impact Calculator (value of 79.84 units) is an accurate depiction of the site value. The Calculator is also accurate in detailing the likely achievable positive biodiversity value post development of 18.35 units. However notes inaccuracies in the grassland habitat proposed to be formed within the Country Park and therefore requires that the description and management of this area be changed in the Landscape and Ecology Management Plan prior to determination. Requests clarification regarding the ability to secure a lowland meadow within the Country Park (02.01.18).*

*Notes that further information will be submitted in due course in respect of ecology and protected species. As such formal comments will be provided on submission (21.09.17).*

**Natural England** – No objection subject to a suitable developer contribution being secured to mitigate the impact of the development upon the Cannock Chase Special Area of Conservation.

Advice given specific to Landscape Impact, Agricultural Land and Soil, Protected Species and Habitats, Ancient Woodland, Environmental Enhancement, Access and Recreation, Rights of Way and Biodiversity Duty (26.02.18, 03.01.18, 02.10.17).

**Conservation and Urban Design Manager** – The materials shown on the latest Material Plan are acceptable (19.06.18).

*Previous Comments: The use of Ibstock Himley Worcester Mixture and Ibstock Alderley Orange bricks are acceptable. The Ibstock Alderley Mixture bricks is a potential alternative to the Alderley Orange but the uniform colour of the Orange makes it a better choice. The Ibstock Dorket Head Balmoral brick is unacceptable (06.06.18).*

*The use of Mercia Orange multi bricks is acceptable. Ibstock Mercia Antique and Hardwick Red Mixture are not characteristic of the area and as such are unacceptable. The two proposed detail bricks are acceptable (21.05.18).*

*No further comments to make on the amended landscaping details (24.04.18).*

*Improved articulation of the rear elevation of the apartment building is required. The close boarded fence to the rear of plots 41, 43-47 should be altered to a brick wall. Weinerberger Sandwell Road and Weinerberger Caldera Red bricks are unacceptable for use within the development.*

*The details of mitigation for the landscaping area adjacent to the Claypit Lane roundabout is sufficient for Conservation purposes, although suitability of the planting scheme will be determined by the Council's Arboriculturalist (05.04.18).*

*Notes a number of concerns regarding the design of scheme, specifically the siting of 2 ½ storey dwellings adjacent to bungalows and the utilisation of timber fencing to publically visible edges where brick walls should be used. Improvements undertaken to design of apartment block and eave detailing throughout the house type pack.*

*Concurs with the conclusion of the EIA Addendum position paper that the development will cause less than substantial harm to the setting of the and significance of surrounding listed buildings. The mitigation proposed via the landscaping scheme identified for adjacent to the roundabout junction is acceptable in principle but further details are necessary to fully assess the effectiveness of the level of screening to be provided (06.03.18).*

*Notes a number of concerns regarding the design of the scheme, specifically the siting of 2 ½ storey dwellings adjacent to bungalows, the density of development along the Birmingham Road frontage, the lack of information pertaining to the open space area to the front of Sandfields Lodge and Sandfields House and the design of the dwellings, which lack local reference, with improved eave, window and roof detailing required. In addition, the apartment block requires greater elevation articulation and the proposed materials require amendment with the Sandwell Red Multi bricks inappropriate for this area. Brick walls should solely be used to public boundaries.*

*The Technical Appendix fails to appropriately consider the impact of this development upon the setting of the Grade II Listed Sandfields Lodge and Sandfields House (02.01.18).*

*The application has undertaken inadequate assessment of the development's impact upon setting of the Grade II Listed Sandfields Lodge. The Technical Assessment also incorrectly sites Sandfields Pumping Station as being Grade II Listed when it is Grade II\*. The Heritage Assessment therefore*

*should be amended and consideration and appropriate weight attributed to the harm caused to the setting of these Listed Buildings (14.12.17).*

*The amended house type plans lack discernible architectural style, including an under provision of chimneys. The use of multiple small paned windows is inappropriate, whilst the improved alignment of ground and first floor windows should be considered. Assessment of proposed materials provided advising of need for further consideration (13.11.17).*

*Notes that there are a number of inaccuracies within the submitted plans that need to be resolved prior to determination. The layout of the site should be amended to increase the number of taller buildings along Falkland Road, facing onto the future canal route. The scheme currently lacks strong entrance features, with the walls proposed to form such from Birmingham Road not suitable for this type of development and rather more suited to a commercial or office development. The buildings located at key corner plots need to offer active frontages to both adjoining roads.*

*There are 12 drop off spaces currently shown to the front of the school. Further consideration of this area to ensure that sufficient provision is provided ensuring drives will not be blocked off at drop off and pick times necessary.*

*Site permeability is good but there are concerns regarding surveillance of LAPs and NEAPs and the pedestrian / cycle route. Notes concerns regarding the road layout to the fore of the school. Further comments made regarding the design matters specific to general layout, landscaping, parking provision, boundary treatments and house type architectural details, with a need to introduce further relief and articulation, with chimneys to improve the roofscape and greater articulation of front elevations, possibly by incorporating features such as porches, bay windows and steeping of the building line (21.09.17).*

**Environmental Health Manager** – Chapter 9 of the Environmental Statement relating to noise is generally accepted. Noise which may affect current and proposed nearby dwellings have been considered both during the construction phase and post construction. Recommendations are made around acoustic fencing and glazing, but specific details are yet to be determined. Therefore recommends two conditions requiring the submission and approval, prior to the commencement of development, of a noise mitigation strategy for the proposed dwellings and a construction phase management plan.

*The proposal has the potential to cause loss of amenity to dwellings due to the lighting scheme for the development, particularly around the sporting facilities, once determined. Recommends the use of a standard lighting condition.*

*A survey of potential contamination has been undertaken across this site. This has identified issues relating to a low residual effect from landfill gas. The report recommends additional assessment is carried out in the affected areas and in areas that were inaccessible at the time of the original investigation. Therefore, recommends the inclusion of the standard Contaminated Land condition.*

*The impact on air quality associated with the development has been considered. Dust associated with construction is suggested to be controlled by way of a condition (along with noise). Much of the impact following completion of the developments relates to the use of vehicles associated with the occupiers of the development and this will impact upon the Air Quality Management Areas (AQMAs) of Muckley Corner and A38 Fradley, though the impact will be in the range of 0 to 0.4% and therefore the overall significance of the proposal is judged to be insignificant. Staffordshire Authorities including Lichfield are currently working on an Air Quality guide for developers, though this has yet to be introduced. In the interim, whilst a number of proposals will have a positive impact on air quality, it is recommended that the applicant considers the future use of electric vehicles by residents on the development and installs appropriate infrastructure, which supports this in dwellings, especially in*

view of the fact that many will not use their garage to charge an electric vehicle (i.e. consider external driveway charging points) (10.05.18).

**Operational Services Manager** – Provides detail of the requirements for the storage and disposal of residential waste. Notes that there are a number of private drives within the development and unless indemnity is given the Council will not take vehicles onto unadopted roads (26.02.18, 13.12.17, 04.09.17).

**Housing and Wellbeing Manager** – The provision of 176 (37%) dwellings within the development is Policy compliant.

The development as a whole proposes 3% (15) 1 bed, 40% (192) 2 bed, 40% (192) 3 bed and 16% (76) 4 and 5 bed homes, which is broadly reflective of the mix required by Local Plan Strategy Policy H2. There is significant demand for housing for older people within the District and the provision of bungalows within the development is welcomed, although ideally further provision should be included.

The affordable housing split of 55% social rented units and 45% shared ownership is acceptable, whilst the design of these dwellings should be indistinguishable and mixed within the market sale properties. On the submitted layout the dwellings are well dispersed. From a public health viewpoint the development and site is considered to be sustainable (21.03.18).

Requires that 37% of the dwellings be affordable. Notes that the site's overall housing mix is broadly compliant with the requirements of Local Plan Strategy Policy H2. The affordable housing mix however is not compliant, with an overprovision of 2 bedroom dwellings. Requires that the affordable housing tenure split must be 65% social rented and 35% intermediate including shared ownership. The affordable housing has been appropriately distributed across the site (03.10.17).

Previous Comments: Given the date when pre-application guidance was provided requires that 31% of the units be affordable (147 units). Notes that the site's overall housing mix is broadly compliant with the requirements of Local Plan Strategy Policy H2. The affordable housing mix however is not compliant, with an overprovision of 2 bedroom dwellings. Requires that the affordable housing tenure split must be 65% social rented and 35% intermediate including shared ownership. The affordable housing has been appropriately distributed across the site (20.09.17).

**Staffordshire County Council (Minerals and Waste)** – No comments (14.02.18).

Previous Comments: No objection, subject to conditions to define the duration of the infill operations and ongoing monitoring of waste materials generated and reused on site (20.09.17).

**Network Rail** – Notes that to the west of the development is a mothballed railway line, which will not be directly impacted upon by this development. However HGV movements associated with the construction of the site have the potential to impact upon railway structures and as such consultation between the developer and the Asset Protection Engineers should be undertaken. Recommend that consideration be given to appropriate noise and vibration mitigation measures, given the site's proximity to the active Cross City railway line. If vibro compaction / piling machinery or ground treatment works are undertaken, details should be submitted to the Network Rail Asset Protection Engineer for approval. The applicant must ensure that any drainage scheme should not increase Network Rail's liability, cause flooding or soil slippage, vegetation or boundary issues on railway land. Finally recommends that before granting planning permission, the Local Planning Authority and Highways Authority should ensure that the development is acceptable and can be wholly built in the event that the southern bypass is delayed or not delivered (06.03.18).

**Highways England** – No objection. Following the issuing of previous responses further advice has been received from the Department for Transport regarding the interpretation of traffic arising from

committed developments. The advice details that mitigation should only be sought for traffic from committed developments at the time of opening, rather than when they are fully built out. Utilising this approach, based on the figures identified within the submitted reports, it is concluded that it would not be reasonable to require this application to deliver any mitigation scheme (17.05.18).

*Previous Comments: Confirm following the receipt of further information that their previous recommendations remain applicable. It is for the developer to identify an appropriate lesser mitigation scheme, but currently the S106 request is unchanged as is the trigger point for the collection of S106 monies of prior to the occupation of the 50<sup>th</sup> dwelling. Should the applicant wish to alter this to the 250<sup>th</sup> dwelling further traffic modelling analysis will need to be submitted (18.04.18).*

No objection subject to conditions. The applicant has proposed a number of mitigation measures to the Wall Island roundabout junction consisting of:

- Signalisation of Birmingham Road N (southbound) onto the gyratory;
- Flare increase at the A5 West (eastbound),
- Closure of the westbound circulatory section of the roundabout;
- Re-alignment of the northbound circulatory and inclusion of an additional lane; and
- Removal of the southern signals (those northbound over the bridge and on the westbound circulatory section of the roundabout); and
- Adjustments and optimisation of signal timings.

At the A5 Wall Island southern roundabout, the applicant's proposed mitigation consists of:

- Signalisation of the A5 westbound approach and associated section of the circulatory; and
- Adjustments and optimisation of signal timings.

The works will need to be implemented prior to the occupation of the 50<sup>th</sup> dwelling. Prior to the implementation of any works, a Road Safety Audit, Walking, Cycling and Horse-Riding Assessment and Review and approval for any departures from Standard processes must be completed and agreed in writing by the Local Planning Authority.

In addition require a Section 106 agreement to secure a financial contribution to be paid, prior to the commencement of development, for an equivalent value of the mitigation strategy, should the works not be implemented by the applicant in accordance within the identified timeframe (07.03.18).

The revised submitted information relates to house types, internal layout and certain EIA matters and therefore the holding recommendation remains (15.02.18).

Recommend that the application not be determined for a period of 3 months to allow for time for further information, regarding the development's impact upon the strategic highway network, to be submitted. Specifically concern raised regarding the impact of the development on the A5 Wall Island Junction. The submitted information details a slight traffic increase at AM Peak and an increase of approximately 28% at peak PM. Given the increase in queueing, mitigation is required to manage demand. The mitigation proposed by the applicant, a variable traffic signal system will need to be fully assessed, by the applicant, prior to agreement (19.12.17).

Recommend that the application not be determined for a period of 3 months to allow for time for further information, regarding the development's impact upon the strategic highway network, to be submitted (20.09.17).

**Staffordshire County Council (Highways)** – Following receipt from the applicant of the Speed Survey results for Claypit Lane, it is clear that the necessary vehicular visibility splays (in the region of 2.4 X 90m) cannot be accommodated within the red line boundary or land within the highway. Therefore, three options are available to resolve this matter:

1. Amend the housing layout so that plots 47-51 have vehicular access from within the development;
2. The applicant obtains ownership of third party land to accommodate the required visibility splays; or
3. Introduce physical measures and a Traffic Regulation Order to reduce speeds. It should be noted that the outcome of a Traffic Regulation Order cannot be guaranteed and therefore this approach cannot be conditioned. (29/6/18).

*Previous Comments: No objection, subject to conditions requiring, prior to the commencement of development, the submission and approval by the Local Planning Authority of a Construction Vehicle Management Plan, a Stage 1 Road Safety Audit, a Highways Work Agreement for the 3 new access points and off-site highway works and agreement of appropriate cycle parking facilities. The Temporary Construction Access points shall be closed concurrent with the opening of the two new site access points, the garages shall remain for domestic use and finally prior to the first occupation of any dwelling, the associated parking and turning area shall be provided and thereafter retained for their designated purposes (15.06.18).*

*Previous Comments: Many of the original issues have now been addressed. There remains a need to agree a Travel Plan along with a monitoring sum of £6,430, which should be included in the S106 agreement. Further consideration required of internal road junctions and their visibility splays, whilst no swept paths have been submitted for the residential access from Claypit Lane to serve plots 47-51. A Road Safety Audit is required for the internal road layout. An amended TRO is required to extend the 40mph limit on Birmingham Road to the west, whilst the same will apply for Claypit Lane. Further comments made regarding the siting of some parking bays, footpath provision and block paving use. Further details of the highway design for the Primary School site required along with details of cycle storage for the wider development. Measures to improve pedestrian and cycle connectivity offered. The construction access is considered acceptable subject to a condition limiting the timescale of use (08.03.18).*

*A review of the submitted Transport Assessment raises a number of issues, specific to bus provision that require further clarification (09.11.18).*

*Raise a number of highway issues with the development. The red line location plan includes the employment site, which is the subject of a separate application and as such should be placed within a blue line. In addition the vehicular visibility splays, forward visibility and swept path analysis, are not acceptable at a number of junctions. Notes that the 40mph limit to Birmingham Road is proposed to be extended to the south. This will require a Traffic Regulation Order, the funding for which should be secured via the S106 agreement. A number of design issues with the road layout are advised, which would prevent the scheme from being adopted. Further consideration of the access, parking provision and drop off and pick up facilities for the school should be given, along with details to limit speeds through the site to 20mph. Funding for the monitoring of the Travel Plan will be £6430 (20.10.17).*

**Staffordshire County Council (Archaeology)** – No comments. *The Archaeological Assessment found no archaeological features or deposits, whilst concluding that there was low potential for any further archaeological remains to survive (28.02.18).*

**Staffordshire County Council (Flood Team)** – *The house type amendments do not affect previous comments (05.03.18).*

*Previous Comments: No objection subject to a condition requiring that the development be carried out in accordance with the submitted revised Flood Risk Assessment / Drainage Strategy and the mitigation measures identified therein (02.01.18).*

*Object to the development as the application has been submitted without any analysis of the pluvial flood risks associated with developing the site (30.05.17).*

**Staffordshire County Council (Education)** – *The site falls within the catchments of Christ Church CE (VC) Primary School, Lichfield and The Friary School, both of which are projected to be full for the foreseeable future.*

*Given that the development is for 475 dwellings, it is likely to add 145 Primary School aged pupils, giving an education contribution requirement of £2,938,839. Education contributions for secondary school infrastructure will be sought through CIL contributions (01.03.18).*

*Previous Comment: No further comments to make (18.12.17).*

*The site falls within the catchments of Christ Church CE (VC) Primary School, Lichfield and The Friary School, both of which are projected to be full for the foreseeable future.*

*Given that the development is for 475 dwellings, it is likely to add 150 Primary School aged pupils, giving an education contribution requirement of £3,040,179. The scheme is likely to generate 85 additional secondary school and 17 sixth form students. Education contributions for secondary school infrastructure will be sought through CIL contributions (18.09.17).*

**Staffordshire County Council (Rights of Way)** – *No rights of way cross the site. Public Footpath No 7 Wall and No 21 Lichfield City run to the south of the site although these routes are not directly affected by the development (14.06.18).*

*Previous Comments: Refers to original response. Notes that any new linkages from the site to the existing public footpath would be unlikely to be included on a Definitive Map of Public Rights of Way (28.02.18).*

*The amended plans do not alter original response (14.12.17).*

**Ramblers** – *No comment (03.03.18).*

*Previous Comments: Refers to previous comments made on 18.09.17 (31.12.17).*

*No objection. Notes that public footpaths No.21 Lichfield and No.7 Wall Parish are routed to the southern boundary of the site. Safe public access to these rights of way should be maintained (18.09.17).*

**Environment Agency** – *No objection (21.02.18).*

*Previous Comments: No objection (18.12.17).*

*No objection (20.09.17).*

**Staffordshire Fire and Rescue Service** – *Provides guidance relating to ensuring that the site can be appropriately served by firefighting appliances and the use of domestic sprinklers (22.12.17).*

*Previous Comments: Provides guidance relating to ensuring that the site can be appropriately served by firefighting appliances and the use of domestic sprinklers (08.09.17).*

**Severn Trent Water** – *No objection, subject to a condition securing details of a suitable surface water and foul sewage to be submitted to and approved by the Local Planning Authority (08.09.17).*

**Staffordshire Police Architectural Liaison Officer** – *No objection but raises concerns regarding the number of pedestrian routes that do not run alongside vehicle routes. Networks of separate*



footpaths to unsupervised areas facilitate crime and anti-social behaviour. In addition some parking spaces are not directly overlooked by the dwellings they are to serve. Further advice provided regarding measures to design out crime (01.03.18, 02.01.18, 20.09.17).

**Health & Wellbeing Development Manager** – The changing room facility will cost between £400k-£450k (18.04.18).

*Previous Comments:* The 2 football pitches to be provided within the site can if one is utilised for youth football be served by 2 changing rooms. A social area / kitchen will also be needed within the building to offer community facilities and a potential source of valuable income for the future occupant (28.03.18).

**Sport England** – No objection. The mechanisms identified within the draft S106 agreement, whereby on-site sports provision will be delivered in accordance with the requirements of Core Policy 11, Policy HSC2 of the Local Plan Strategy and the concept statement for the site, or if no on-site provision can be made, to provide an off-site contribution of £575,000 is considered acceptable (07.06.18).

*Previous Comments:* The additional information submitted by the applicant relates to the cost and design of a two team pavilion and clubhouse facility. It is noted that the local planning authority, following consultation with the Football Association (FA), advised the applicant that a Football Foundation (FF) compliant two team pavilion and clubhouse facility would cost between £400,000 and £450,000. However, the applicant has stated that the figure has not been broken down or substantiated therefore the applicant has undertaken their own research, resulting in a lower costing of £300,000 being proposed.

It is understood that the applicants costing are based on a scheme which was undertaken in the past five years. The FF (responding on behalf of the FA) have advised that the applicant's scheme would not be compliant with their current guidelines. Further to this the FF have provided a layout together with elemental breakdowns and fully priced facility for a project completed in late 2017, which substantiates the cost of £400,000 provided to the applicant.

Should the applicant wish to deviate from the FF's costing then this should be based on a number of quotes (figures broken down) for a FF compliant scheme (layout can be provided to assist with this).

Given the above it is considered that the applicants two team pavilion and clubhouse facility design and its financial contribution figure of £300,000 is not satisfactory (04.05.18).

*Object.* Refer to previous comments submitted on 18.09.17, 30.11.17 and 19.12.17. Notes that there are ongoing S106 discussions seeking to address stated issues (16.02.18).

*Object.* Refer to previous comments submitted on 18.09.17 and 30.11.17 (19.12.17).

*Object.* Notes that the applicant has submitted a Strategic Sports Position Statement, which sets out their approach to the delivery of pitches, changing rooms and car parking spaces. The detailed approach is that an end user is required to sign a contract with the landowner for the sale of the sport pitches within an undetermined time period. Should no contract be signed for the site then no on site provision would be supplied and rather an off-site financial contribution would be made. This approach is considered contrary to Policy HSC2 and rather the pitches should be included within the Maintenance Management Company to ensure their future provision or given to a local club (the FA have confirmed that there is an existing team requiring a site within the area). Furthermore, there are no projects within the vicinity not already identified within the CIL 123 list that require funding (30.11.17).

*Objects.* Encourages the Council to distribute CIL monies to sporting needs arising directly from the development as well as those identified within the Infrastructure Delivery Plan.

*Comments on the outdoor sports provision within the site. Notes that the 1.9ha site identified within the scheme accords in terms of scale with the Local Plan Strategy. The Consortium propose currently to landscape the site, provide connection to the internal site road network and ensure the site is managed during the construction period, pending interest from a committed end user.*

*It is not adequate for the developer to simply provide the land for sport provision, rather it should be established what is the local pitch need, along with appropriate clubhouse, access and construction arrangements and then such should either be provided by the developer or secured via a S106 contribution. As such insufficient information has currently been submitted with the application (18.09.17).*

**Canals & River Trust** – No comment (01.03.18 & 18.12.17).

*Notes that the proposed development may impact upon the restoration line of the Lichfield 7 Hatherton Canal and therefore recommends that the Trust be consulted (06.09.17).*

**Inland Waterways Association** – *Have a preference that the application not be approved until amended plans are submitted showing the canal channel and towpath within a cutting as it crosses the site. If the Council is minded to approve the application a condition is recommended requiring the removal of the car park across the safeguarded line of the canal and that no other built form that prejudices the delivery of the route be erected (21.04.18).*

*Previous Comments: Objects to the application as the development continues to fail to deliver, in accordance with the requirements of the Local Plan Strategy, provision for safeguarding the restoration route of the Lichfield Canal and its appropriate integration into the open space and green infrastructure network. The applicant should work with the Lichfield & Hatherton Canal Trust and the County Council to secure an open cutting through the site, offering appropriate public access. The car park should be removed and the site plan adjusted accordingly (27.02.17).*

*Objects to the application as the development fails, in accordance with the requirements of the Local Plan Strategy, to make appropriate provision for safeguarding the restoration route of the Lichfield Canal and its appropriate integration into the open space and green infrastructure network (09.10.17).*

**Lichfield & Hatherton Canals Restoration Trust Limited** – *Following the meeting between all parties on the 11<sup>th</sup> April 2018 and the commitment to ongoing dialogue established at that meeting, offer no objection to the development subject to a condition requiring that safeguarding of the canal route from any prejudicial development, with details to be agreed at reserved matters (25.04.18).*

*Previous Comments: The applicant continues to fail to liaise with the Trust to seek to secure an appropriate solution for the canal to cross this site. In order to ensure that the works necessary for the canal to pass under the railway are undertaken at the same time as the southern bypass engagement is required without delay.*

*The delivery of the canal via a tunnel under the site is incompatible with the Council's Planning Policy. The tunnel would, in combination with the existing culvert under Birmingham Road lead to a tunnel of some 100 metres, creating public realm safety concerns. It should be noted that the tunnel would also raise technical issues to secure its delivery will also likely being cost prohibitive. The introduction of an open section of canal would remove these issues and also potentially facilitate the disposal of surface water from the site into the canal. Requests that a meeting be organised between the interested parties in order to seek a way forward to address the issues with the current submission (05.03.18).*

*Object. The application proposes that the canal and towpath cross the site via a proposed tunnel, which would link to an existing tunnel, which runs under Birmingham Road. For the canal to be an attractive and useable facility within the site, a suitable access ramp should be provided and the feature open to the air. Future users of the canal would not feel safe or confident utilizing such a long enclosed area. The applicant has also made no meaningful attempt to work with the Trust to deliver the Lichfield Canal through the site (13.10.17).*

### **LETTERS OF REPRESENTATION**

*Nine letters of objection have been received. The comments made can be summarised as follows:*

#### *Principle*

- *The roundabout will require further land being taken out of the Green Belt to deliver the scheme.*
- *The site is located within the Green Belt and should therefore be protected, notwithstanding the need for additional housing.*

#### *Visual Impact*

- *The site offers an important rolling landscape on a key entrance into the City. Considers that other more appropriate flatter sites around the Lichfield area would be more suited to residential development.*
- *Falkland Road is supposed to be a by-pass. To introduce further development along the southern side of the road would make it more akin to a residential street detracting from the character of the area.*
- *The Claypit Lane roundabout will have an adverse impact upon the rural setting of two Grade II Listed Building, Sandfields Lodge and Sandfields House. The current isolated location of these buildings is an important character of the building and its former use as an Asylum.*

#### *Highway Impact*

- *The development would increase traffic along already busy routes.*
- *No vehicular access into the site should occur from Claypit Lane, given this is a rural road incapable of accommodating additional traffic.*
- *Any construction traffic using Claypit Lane is likely to damage private driveways and telephone lines.*
- *The roundabout proposed at the junction of Claypit Lane and Fossey Lane will be located too close to the T junction off Falklands Road, causing heavy congestion issues at peak times.*
- *Residents of the site will utilise the surrounding rural lanes to access the wider highway network. These lanes are unsuitable for additional traffic and this will therefore result in an increase in accidents.*
- *There are already vehicular congestion issues accessing the A38 from Lichfield, which will be exacerbated by this development.*
- *The addition of approximately 1,000 new vehicles from residents within the site will, in combination with the additional traffic generated from the proposal at Shortbutts Lane, have a significant impact upon the local highway network.*
- *Birmingham Road is unable to accommodate any further traffic due to existing congestion issues. There is already danger in seeking to access or exit any properties located along this route.*
- *No safe pedestrian crossing point has been identified across Falkland Road for those seeking to gain access from the surrounding area to the, public open space, school or Country Park.*

### *Impact on Residential Amenity*

- *A bedroom window will be overlooked by users of the country park. Requests the planting of additional trees to screen this view.*
- *Residents within the scheme will overlook surrounding properties.*
- *The increase in traffic resulting from the development will lead to a significant increase in traffic and noise pollution.*
- *The development will greatly increase light pollution in the area.*
- *The amount of discarded litter will greatly increase as a result of the proposal along Claypit Lane.*
- *During construction works significant noise, air quality degradation and dust disturbance will occur. A restriction should be place on noise levels and working hours.*

### *Other*

- *Lichfield Scouts require additional accommodation within the area and as such would like to be involved in designing the community facility and could help to manage such a building should they become a future occupant.*
- *Lichfield is already served by a good amount of sports facilities that are underutilised and therefore the creation of further facilities is inappropriate.*
- *Will the development ensure that neighbouring properties are now able to access main gas and broadband cable.*
- *The proposal would reduce the value of existing dwellings within the area.*
- *There are 3 existing schools within a mile or so of the application site.*
- *A house in Claypit Lane has recently been refused planning permission for a conservatory. Why is such a large scale development within the same area considered to be acceptable?*

*A letter has also been received from the Leomansley Area Residents Association (LARA), which provides details of correspondence previously forwarded to Taylor Wimpey, prior to the submission of this application. The matters raised relate to concerns regarding design issues experienced within the Darwin Park estate, which are not wanted to be repeated within this development. Principally concerns are raised regarding garage dimensions not being sufficiently large in order to allow for vehicles to park, courtyard parking not being used, leading to on street parking on narrow roads resulting in the blocking of pavements thereby restricting pedestrian movement and the narrowing of useable roadway restricting vehicular movements, particularly for buses and emergency vehicles. Some roads are not served by tarmacked footpaths, whilst existing trees and hedgerows were removed to enable the development. There were serious delays in the delivery of public open space and play areas, resulting in these areas being yet to be adopted by the Local Council, with resultant maintenance issues.*

*Sufficient off street car parking needs to be offered to the Primary School to prevent congestion at drop off and pick up time, whilst mitigation measures are required to reduce vehicular speeds throughout the site. Improvements are required to the footpath along Birmingham Road, along with a reduction in speed limit and appropriate visibility splays to be provided for the highway junction on this road. Appropriate timescales for the delivery of the Southern Bypass need to be established.*

*During the construction period an appropriate Construction Management Plan to divert traffic away from Darwin Park will be necessary along with measures to control dust and dirt emissions. Wheel washing facilities will therefore be needed for construction vehicles.*

*Environmental considerations specific to electric vehicle charging points, hedgehog friendly fencing, solar panel provision, sustainable construction methods, permeable block paving use and gas boiler provision are required (16.03.18).*

## **OTHER BACKGROUND DOCUMENTS**

*The developer has submitted the following documents in support of their application:*

*Agricultural Land Assessment  
Air Quality Assessment  
Arboricultural Assessment  
Canal Clarification Letter  
Country Park and Open Spaces Management Strategy  
Design and Access Statement  
Design Context Appraisal  
Drainage Strategy  
Ecology Assessment and Species Specific Report  
Ecological Clarification Note  
Environmental Statement, Figures and Appendices including:*

- *Air Quality*
- *Cultural Heritage*
- *Cumulative Impacts*
- *Ecology and Biodiversity*
- *Ground Conditions*
- *Hydrology*
- *Infrastructure, Utility and Services*
- *Lighting Assessment*
- *Noise Assessment*
- *Socio-Economic*
- *Non-technical Summary*
- *Transportation*

*Flood Risk Assessment  
Ground Investigation Report  
S106 Heads of Terms  
Heritage and Archaeology Statement  
Heritage Technical Note  
Landscape and Visual Impact Assessment  
Lighting Assessment  
Noise Assessment  
Transport Assessment  
Travel Plan  
Land and Ecology Management Plan  
Statement of Community Involvement  
Utilities Assessment  
Wall Island Modelling Assessments – TN Update*

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## **OBSERVATIONS**

### ***Site and Location***

*The site is located to the south of Falkland Road, on the southern edge of the city of Lichfield and totals approximately 40 hectares in size. The site is bounded by the A5127 to the west, Claypit Lane to the east, Falklands Road to the north and open countryside to the south, which rises towards Harehurst prospect. The site encloses, but does not include, the existing Deans Slade Farm complex of former agricultural buildings and farmhouse, which are now in residential use.*

*The application site currently contains arable farmland, which is enclosed by mature hedgerows.*

## **Background**

Members will recall that an Issues Paper for this application was brought to the Planning Committee meeting on the 16<sup>th</sup> October 2017 seeking issues for further investigation, prior to the full consideration by the Planning Committee.

## **Proposals**

This application consists of two elements, with part of the proposal submitted in full and part submitted in outline only.

The full planning application comprises:

- The erection of 475 dwellings;
- The formation of three new vehicular access points to serve the development. One is proposed from Birmingham Road, with the two remaining accesses from Claypit Lane;
- The creation of a new roundabout on the junction of Fossey Lane and Claypit Lane;
- The formation of Sustainable Urban Drainage Features including balancing ponds located to the centre and north east corner of the site;
- The formation of areas of Green Infrastructure, containing Public Open Space, Children's Play Equipment, footpaths and cycleways; and
- The creation of a 16.55 hectare country park to contain a community orchard and car park.

The outline element of the application comprises:

- The erection of a 1 Form Entry Primary School across a 1.09 hectare site; and
- The formation of a 1.9 hectare Strategic Sports site.

## **Determining Issues**

- 1) Policy and Principle of Development including Green Belt Impact
- 2) Housing Mix and Affordable Housing
- 3) Highway Impact and Parking
- 4) Design and Impact on the Setting of Surrounding Listed Buildings
- 5) Flood Risk and Drainage
- 6) Public Open Space, Green Infrastructure and Landscaping
- 7) Residential Amenity – Future and Existing Residents
- 8) Loss of Agricultural Land
- 9) Biodiversity
- 10) Waste Management
- 11) Archaeology
- 12) Planning Obligations Including Education Provision
- 13) Other Issues
- 14) Financial Considerations (including Community Infrastructure Levy)
- 15) Human Rights

### **1. Planning Policy and Principle of Development including Green Belt Impact**

- 1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan for Lichfield District comprises the Lichfield District Local Plan (1998) (saved policies), the Local Plan Strategy 2008-2029 and the made Lichfield City Neighbourhood Plan.

- 1.2 *Paragraph 14 of the NPPF sets out a presumption in favour of sustainable development and within the Ministerial Foreword, it states “development that is sustainable should go ahead, without delay”. Therefore consideration has to be given to whether this scheme constitutes a sustainable form of development and whether any adverse impacts would significantly and demonstrably outweigh the benefits it would deliver.*
- 1.3 *Paragraphs 49 and 50 of the NPPF advise that housing applications should be considered in the context of the presumption in favour of sustainable development and that housing policies within the Local Plan should only be considered up to date if the Local Planning Authority is able to demonstrate a five year supply of housing.*
- 1.4 *Paragraph 7 of the NPPF provides a definition of sustainable development, identifying that there are three separate dimensions to development, namely its economic, social and environmental roles. These dimensions give rise to the need for the planning system to perform a number of roles:*
- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right place and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
  - a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and*
  - an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

*This report will consider how the proposed development fares in terms of these three strands of sustainable development.*

- 1.5 *The supply of housing land is regarded as having a social and economic role. The NPPF requires that Councils identify and update annually a supply of specific deliverable sites sufficient to provide five years delivery of housing provision. In addition, a buffer of 5% (moved forward from later in the plan period) should also be supplied, to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.*
- 1.6 *The latest five year housing land supply position for Lichfield District is contained within the Five Year Housing Land Supply Paper from August 2017, which states that a supply of 5.77 years can be demonstrated within the District.*
- 1.7 *Given that the Council can demonstrate a 5 year housing supply, it falls for this scheme to be considered, in the first instance, against the Policies contained within the Council’s Development Plan.*

#### *Local Plan Policies*

- 1.8 *The Local Plan Strategy sets a strategic requirement to deliver a minimum of 10,030 dwellings during the plan period. Core Policy 1 of the Local Plan Strategy seeks to locate new*

*growth in sustainable settlements and identifies Lichfield as being a key settlement to accommodate growth. Core Policy 6 and Policy Lichfield 4: Housing, identifies that Lichfield will play a significant role in meeting housing need by providing growth of around 3,900 new dwellings within the community, with appropriate associated facilities, including transport and social / green / physical infrastructure, over the plan period. Specific details of the sites allocated to deliver part of this housing provision, approximately 1,350 dwellings across the South of Lichfield are identified under Policy Lichfield 6: South of Lichfield. This specific site, which forms part of this wider allocation, is discussed further within Appendix H of the Strategy, which identifies that approximately 450 dwellings could be developed within the site.*

- 1.9 *To the east of this site is the Land South of Shortbutts Lane residential development site, which has a resolution to grant permission subject to the signing of a S106 agreement (reference 12/00182/OUTMEI).*
- 1.10 *The development proposed within this site would therefore, should any approved outline consent for Shortbutts Lane be developed to its maximum, result in a total of 925 dwellings being erected within the south of Lichfield area. The remaining site within this designated area, Cricket Lane, is yet to be the subject of a formal planning application, but Appendix I of the Local Plan Strategy surmises that approximately 450 dwellings could be delivered within the site. Should this occur then the total housing provision across the three sites would equal 1,375 dwellings.*
- 1.11 *The proposal could potentially therefore result in a minor over delivery of housing for the South of Lichfield area. However the figure of 1,350 identified within the Development Plan is a minimum figure establishing an appropriate parameter of housing delivery. A potential over delivery of approximately 25 dwellings is not therefore considered to be contrary to the provisions of the Plan.*

#### *Green Belt Impact*

- 1.12 *It is noted, notwithstanding the above discussion, that elements of the scheme, namely part of the area where the roundabout on Claypit Lane is proposed to be formed, the land immediately to the south west of this feature, the District Park and one of the temporary compound areas, proposed off Birmingham Road, are located within the West Midlands Green Belt. Within the Green Belt there is a stricter degree of control over development, in order to ensure that it preserves the special characteristics and openness of the area.*
- 1.13 *The decision making process when considering proposals for development in the Green Belt is in three stages and is as follows:*
- a) It must be determined whether the development is appropriate or inappropriate development in the Green Belt.*
  - b) If the development is appropriate, the application should be determined on its own merits.*
  - c) If the development is inappropriate, the presumption against inappropriate development in the Green Belt applies and the development should not be approved unless there are very special circumstances which outweigh the presumption against it.*
- 1.14 *Policy NR2 of the Local Plan Strategy seeks to retain the character and openness of the Green Belt. The construction of new buildings is regarded as inappropriate, unless it is for one of the exceptions listed in the NPPF. Policy NR2 therefore accords fully with Paragraph 89 of the NPPF. The NPPF advises that the most important attribute of the Green Belt is its openness.*
- 1.15 *Paragraph 89 of the NPPF lists appropriate development within the Green Belt, which does not include the provision of highway infrastructure and rather relates to the formation or*



expansion of existing agricultural operations or sporting or leisure pursuits. Paragraph 90 of the NPPF does however advise that “certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt.

These are:

- mineral extraction;
- engineering operations;
- local transport infrastructure which can demonstrate a requirement for a Green Belt location;...

- 1.16 Evidently the roundabout comprises local transport infrastructure. The need for this feature within this location has been established by the Highways Authority, who advise that a traffic island was selected to reduce conflict at the four arm junction, reduce queuing from any one arm and to allow movement of large service vehicles e.g. buses and refuse trucks, in and out of the proposed development. The country park is considered to be a recreation facility, which will not impact upon the area’s openness. It is noted that a car park is proposed to be formed within the Country Park. The scale of this facility has been kept to a minimum and formed utilising grasscrete to ensure that when not in use, there is little impact on the openness of the Green Belt. Thus, these aspects of the proposal can be considered to comply with the exception allowances for development within the Green Belt.
- 1.17 It should be noted that the parcel of land adjacent to the roundabout, will, as discussed below, accommodate an area of landscaping. Given the planting of such would not be considered to be development, the impact of these works do not need to be considered under their effect on the Green Belt’s openness.
- 1.18 The formation of the construction compound does not comply with any of the exception criteria and as such, in accordance with Paragraph 88 of the NPPF, in order to be considered acceptable, must be able to demonstrate ‘Very Special Circumstances’. The Very Special Circumstances in this case are that the applicant has demonstrated that the Compound cannot be located elsewhere within the application site, without serious disruption to the build out process of the scheme. Any impact will evidently be temporary in nature and the land altered to form part of the Country Park when the development is complete. Thus, any impact upon openness will be short term in nature. Furthermore, the compound will help facilitate the delivery of much needed housing on an allocated site, which in accordance with the requirements of the NPPF should be afforded significant material planning weight. Given these arguments, it is considered that in this case, Very Special Circumstances can be established and this aspect of the proposal is considered to be acceptable.
- 1.19 Given the above assessment, it is evident that this proposal accords with the requirements of the Development Plan and NPPF and therefore the principle of residential development within this site is considered acceptable. However, it is necessary to consider, in detail, a range of other issues detailed within the concept rationale of Appendix I of the Local Plan Strategy, along with compliance with the Key Design Principles established therein.

## 2. Housing Mix and Affordable Housing

- 2.1 Policy H1 of the Local Plan Strategy seeks the delivery of a balanced housing market through an integrated mix of dwelling types, sizes and tenures based on the latest assessment of local housing need. This reflects the approach in the NPPF, which sets out that local planning authorities should deliver a wide choice of high quality homes with a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Evidence in the Southern Staffordshire Housing Needs Study and Strategic

*Housing Market Assessment (SHMA) Update (2012) identified an imbalance of housing types across the District with high concentrations of larger detached homes. Consequently, it has identified the need for smaller affordable homes, particularly those of an appropriate type and size for first-time buyers or renters.*

2.2 *The dwelling mix identified under the requirements of Local Plan Strategy Policy H1, as necessary to address the imbalance in the District’s housing stock is 5% one bedroom, 42% two bedroom, 41% three bedroom and 12% four bedroom and above.*

2.3 *The housing mix proposed for site is detailed within the below table:*

<i>Number of Bedrooms</i>	<i>Number of Dwellings</i>	<i>Percentage</i>
<i>1</i>	<i>15</i>	<i>3%</i>
<i>2</i>	<i>192</i>	<i>41%</i>
<i>3</i>	<i>192</i>	<i>41%</i>
<i>4/5</i>	<i>76</i>	<i>16%</i>
<i>Total</i>	<i>475</i>	<i>100%</i>

2.4 *Whilst the mix is therefore not wholly compliant with the requirements of Policy H1 it is sufficiently close to meet the broad requirements of the Policy and will deliver a larger number of smaller scaled dwellings. Furthermore, it should be noted that the Council’s Spatial Policy and Delivery Team have raised no concerns regarding this matter.*

*Affordable Housing*

2.5 *The site is over the threshold for the provision of affordable housing as required by Local Plan Strategy Policy H2. The on-site affordable housing provision required by Policy H2, following the issuing of the latest Annual Monitoring Report issued in 2017 is for 37% of the units proposed.*

2.6 *Policy H2 also recommends that of the affordable housing provided within a site, 65% should be social rented and managed by a registered provider, although it is acknowledged that the precise proportions will be agreed with the District Council having regard to housing needs within the locality.*

2.7 *In this case, the applicant has indicated that 176 of the dwellings within the site, will be affordable, which equates to 37%. The affordable housing split is proposed to be 55% social rented units and 45% shared ownership. The Council’s Housing Manager has considered the suitability of this arrangement and advised that in this location this tenure arrangement is acceptable.*

2.8 *The NPPF requires that new developments should create mixed and sustainable communities and so all affordable housing should be indistinguishable from and integrated amongst homes for sale on the open market. Policy H2 of the Local Plan Strategy reflects this and seeks to create a mixed and sustainable community.*

2.9 *The affordable units are to comprise a mix of 15 no. 1 bed, 111 no. 2 bed, 48 no. 3 bed and 2 no. 4 bed units, which has been determined to be acceptable by the Housing Manager. No open market 1 bed units are to be provided elsewhere within the site and as such there is the potential for these to be properties to be distinguishable from the market housing. The design employed however is such to appear as a two storey dwelling, which replicates architectural detail evident elsewhere throughout the site. The affordable units have been dispersed throughout the development, with some units evident within each character area. The maximum provision in any one area is 15 units and therefore the scheme will successfully integrate these dwellings into the surrounding built form.*

- 2.10 *Given the above detailed housing mix and affordable housing provision, the development complies with the requirements of the Development Plan and NPPF in this regard.*
3. *Highways Impact and Parking*
- 3.1 *Paragraph 34 of the NPPF and Strategic Policy 5 of the Local Plan Strategy both seek to ensure that development which generates significant movement, is located where the need to travel can be minimised and the use of sustainable travel maximised. Paragraph 40 of the NPPF states “Local Authorities should seek to improve the quality of parking in town centres so that it is convenient, safe and secure, including appropriate provision for motorcycles”.*
- 3.2 *The proposed development will undoubtedly create an increase in the level of traffic on surrounding roads by virtue of the increased intensity of use of the site. The volume and movement of traffic along Birmingham Road, Claypit Lane and Falkland Road will be particularly affected, with an increase in vehicles accessing and exiting the site from the new vehicular access points proposed to be formed within this area.*
- 3.3 *Vehicular access into the site will be via 3 new points of entry, one from Birmingham Road, near opposite to the Travis Perkins building, the second from a new roundabout junction formed off Claypit Lane, to the north western edge of the site and lastly via a small scale access from Claypit Lane, to the south western edge of the site, which is proposed to serve 4 dwellings.*
- 3.4 *The suitability of these points of access, from a highway safety viewpoint, have been considered by the Highways Authority, who consider that the Birmingham Road and roundabout accesses are appropriate to ensure safe access and egress to the site. Further precise details of the junctions are however necessary and as such, conditions requiring exact details and the provision of requisite visibility splays are recommended.*
- 3.5 *The Claypit Lane access proposed to serve 4 new dwellings has raised an issue that currently remains outstanding awaiting the submission of further information from the applicant. Claypit Lane is presently a 60mph road and as such, the visibility splays required for the access, given this speed limit, are such that they could potentially need to cross land not within the ownership of the applicant, namely the field to the fore of New House. The applicant is undertaking a speed survey to determine what visibility splays will be required based upon actual speeds undertaken by traffic travelling along this highway. The results of the survey will thereafter determine what splays will be needed and whether the access can be sited in the location currently indicated. It should be noted that if the speed survey demonstrates that the splay will cross land outside of the applicant’s ownership and therefore the 4 properties will have to be accessed from a road internal to the site, then an appropriate consultation period with neighbours and consultees will be required. To ensure that this matter can be fully addressed, prior to the issuing of a decision, it is requested that delegated authority be provided to the Planning Development Manager, solely on this matter, to allow for this issue to be fully addressed, without delaying the determination of this application.*
- 3.6 *The design and layout of the internal road network of the site has now been agreed with the Highways Authority, following the submission of suitable tracking information to demonstrate the vehicles will be able to manoeuvre safely around the site. In addition, appropriate surface finish materials are evidenced, suitable road widths and footpaths, along with measures to be installed to ensure that vehicle movements through the site will be limited to 20mph. The delivery of these features will be secured via the use of appropriate conditions.*

- 3.7 *The request by Lichfield City Council that the Country Park and Sports Facility have their own separate vehicular access is noted, however such is not a requirement of the Highways Authority and as such, the applicant cannot be required to supply this provision. In addition it should be noted that the creation of these new accesses would evidently require the removal of further areas of hedgerow.*

#### *Traffic Management*

- 3.8 *A Transport Assessment has been submitted with the application, which demonstrates a robust approach has been applied in calculating committed and future development flows and their impact upon the surrounding highway network. It is demonstrated that the junctions in the study area will largely operate within capacity following the completion of this development. However, there will be increased queuing occurring on Birmingham Road at peak AM and PM times. In particular it is advised that upon completion of this development with no mitigation in place the PM peak total delay is shown to increase by 28%.*
- 3.9 *Highways England initially recommended that a condition regarding the securing of a financial contribution towards mitigation works at the A5 Wall Island be attached to any planning permission that may be granted. Since the time of issuing their initial responses, they have received advice from the Department for Transport regarding the interpretation of traffic arising from residential developments allocated within adopted Local Plans and their effects on the Strategic Highway Network (SHN). The effect of this advice is that only traffic from committed developments that will be on the network at the time of first occupation is to be included in assessments, rather than treating them as fully built out as had previously been the case. Following the issuing of this advice, Highways England reviewed the assessments carried out in support of this application, and consider that the extent of queuing on the SHN is likely to be less than that shown in the modelling work submitted by the applicant. It was also noted that the development's trip impact will be dispersed across the SHN and local road approaches to the A5 Wall Island Junction. Therefore, it has been concluded that it would not be reasonable to require this application to deliver the mitigation scheme previously identified and in fact, no mitigation is considered necessary to address the impact of this development upon the SHN. Given this conclusion, whilst the concerns of Wall and Shenstone Parish Councils on this matter are noted, the impact of this development upon the SHN is considered to be acceptable and compliant with the requirements of the Development Plan and NPPF in this regard.*
- 3.10 *The comments of Lichfield City Council regarding the resiting of the 40mph limit further to the south along Birmingham Road are noted. The applicant has indicated a willingness to seek, in liaison with the Highways Authority, to undertake these revisions, which will require approval of an amended Traffic Regulation Order (TRO). It should be noted that TROs are determined by the Highways Authority rather than the Local Planning Authority. Funding for this change to the TRO shall be secured via a Highway Works Agreement to be agreed between the applicant and Highways Authority. It is noted that the Highways Authority have requested that funding for this undertaking be secured by condition but given these works are covered by separate legislation specific to highway operations this is not considered to be appropriate.*
- 3.11 *Whilst the request of Shenstone Parish Council for alterations to the speed limits along Claypit Lane and around Aldershaw are noted, such mitigation measures have not been identified as reasonable or necessary by the Highways Authority and as such, will not form part of the recommended off-site highway works.*

### *Car Parking*

- 3.12 *Appendix D of the Sustainable Design Supplementary Planning Document provides guidance on the Council's off street car parking requirements for new development. It states that for residential development there should be a maximum for 1 and 2 bedroom dwellings of 1 space (plus 1 further space for every 3 dwellings for visitors), for 3 and 4 bed dwellings, 2 spaces and 5 bed dwellings, 3 spaces.*
- 3.13 *The scheme either delivers the maximum provision required by the SPD or in some cases exceeds this provision. Thus a number of the 3 and 4 bedrooms dwellings within the site are served by three off street car parking spaces. The parking levels identified within this site are therefore considered to be acceptable, whilst they shall be retained for their specified use via the use of a condition, as recommended by the Highways Authority.*
- 3.14 *The parking bays within the site all comply in terms of scale, being 2.4m wide, with a depth of 4.8 metres, with the specifications identified within the abovementioned SPD and Manual for Streets Guidance. In addition, the garages spaces are of sufficient size, 3m by 6m, to also be considered as sufficiently large so as to accommodate a vehicle.*
- 3.15 *The off street car parking provision for the school and sports facility will be agreed via the respective reserved matters applications, although it is noted that unallocated parking is shown in the area to the front of the school. It is noted however that concerns have been raised by Lichfield City Council regarding the number of spaces to be created to serve the Country Park. There are no parking level targets identified within the abovementioned SPD for this type of facility and therefore the level of provision will have to be addressed based solely on likely usage. Whilst it is acknowledged that the area could become a well-used facility for both future and existing residents, it would not be appropriate, given the car park's location within the Green Belt, for this area to be larger than proposed, whilst given its sustainable location, users should be encouraged to walk or cycle to the site.*
- 3.16 *Local Plan Strategy Policies ST1 and ST2 state that the Council, when considering the appropriate level of off street car parking to serve a development, will have regard to the "provision for alternative fuels including electric charging points". To address this point, a note to applicant to advise that they consider the implementation of Vehicle Recharging Points is recommended for the decision notice.*
- 3.17 *Given the sustainable location of the site, adjacent to established residential areas, the level of provision shown on the indicative site plan demonstrates that sufficient car parking can be provided to meet the likely future demands of the site. In addition, it should be noted that the Highways Authority have requested a Framework Residential Travel Plan, in order to encourage future occupiers to use sustainable modes of transport, along with an appropriate monitoring sum, which shall be secured via a Section 106 agreement.*

### *Cycle Parking*

- 3.18 *The Sustainable Design SPD identifies the minimum number of cycle parking spaces to be provided across the development to serve the various land uses. For residential development this is identified as being 1 space for 1 and 2 bedroom dwellings and 2 spaces for 3 or more bedrooms. The parking strategy submitted with the application demonstrates that much of the residential provision will be supplied within proposed garages, whilst non-garaged dwellings are to be provided with a shed. No details are yet available regarding cycle facilities for the Primary School or Sports facility. Therefore a condition is recommended to secure the submission and approval of such parking details to ensure the promotion of sustainable transport methods and the scheme's compliance with the requirements of the Development Plan and NPPF in this regard.*

### *Pedestrian Connectivity*

- 3.19 *The application proposes to create a section of shared footway / cycleway on Birmingham Road, along the site's eastern boundary running south. Additionally, a new pedestrian refuge will be provided on Birmingham Road, to the south of the access to serve the development, for the benefit of pedestrians crossing to the existing southbound bus stop on the eastern side of the carriageway. The refuge will be secured via a Section 7 agreement between the applicant and the County Council specific to the commercial application, approved at the Committee Meeting on 4<sup>th</sup> June 2018 (our reference 17/00977/OUTMEI), whilst the footpath enhancement would be secured under the requirements of the off-site highway works agreement.*
- 3.20 *The applicant has provided robust evidence to demonstrate that this development will not have an adverse impact upon the surrounding local or strategic highway network, and given the sustainable location of the site it is advised that, the level of off street car parking that could be provided will be sufficient to meet the site's needs. Two of the new access points are considered appropriate, from a highway safety viewpoint, with the third more minor access to be given further consideration to ensure that it is acceptable. Overall, the site offers good pedestrian connectivity.*

### *Lichfield Southern Bypass*

- 3.21 *Policy Lichfield 6 paragraph 10 identifies that development within the Lichfield South area will deliver improved "access to the sites through the completion of the Lichfield Southern Bypass". Paragraph 13.27 of the explanatory text, which accompanies this Policy, advises that development within this area "can contribute to the need for improved east-west connections through the southern part of Lichfield City. The completion of the Lichfield Southern Bypass will be required to achieve this and support the overall scale of development planned within south Lichfield".*
- 3.22 *The area designated to be safeguarded for the delivery of the canal falls outside of but immediately to the north of the site's boundaries. As such the development will have no impact upon the delivery of the canal or its protected route, although as noted above, consideration has been had within the character of the built form to ensure that the appearance of dwellings proposed along the site's northern boundary would appear suitable for a canal side location.*
- 3.23 *Given the above considerations it is concluded that from a highway safety, car parking and sustainable transport viewpoint, this application in this regard, is consistent with the requirements of the Development Plan and the thrust of the guidance in the NPPF.*

### *4. Design and Impact on the Setting of Surrounding Listed Buildings*

- 4.1 *There are two Listed Buildings within the immediate area, near to the application site, namely the Grade II Listed Sandfields Lodge and Sandfields House, which are sited adjacent to the north west of the site, off Fosseway Lane.*
- 4.2 *These dwellings, which historically formed Lichfield Asylum will be located approximately 130 metres from the nearest proposed dwelling within the application site. However the new roundabout junction will be 80m from Sandfields Lodge.*
- 4.3 *Whilst considering proposals which affect the setting of a listed building regard is to be made of S16 (2) and S66 (1) of the Planning (Listed Building and Conservation Area Act) 1990, which requires the Local Planning Authority to "have special regard to the desirability of*

*preserving the building or its setting or any features of a special architectural or historic interest which it possesses”.*

4.4 *Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of:*

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- the desirability of new development making a positive contribution to local character and distinctiveness.*

4.5 *Paragraph 132 of the NPPF then goes on to say that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered.*

4.6 *The Council’s Conservation Officer concurs with the conclusion of the EIA Addendum position paper that the development will cause less than substantial harm to the setting and significance of these listed buildings, due to the development impacting upon the building’s setting.*

4.7 *Historic England’s General Practice Advice recommends that where harm to a heritage asset arises, consideration should be given to screening options, in order to seek to reduce harm. The mitigation proposed by this scheme via the introduction of a landscaping scheme within the area adjacent to the roundabout junction, is acceptable in principle, to mitigate this harm towards the lower level of the ‘less than substantial spectrum. The suitability of the planting proposed within this location will be discussed further within the green infrastructure and landscaping section of this report.*

4.8 *Paragraph 134 of the NPPF states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use”.*

4.9 *In terms of paragraph 134, the NPPG advises that public benefits can be “anything that delivers economic, social or environmental progress as described in the NPPF (Paragraph 7)... benefits do not always have to be visible or accessible to the public in order to be genuine public benefits”. Evidently this development will secure a large number of dwellings on an allocated site within the Local Plan Strategy and as such offers significant wider economic and social benefits, which will have to be weighed against the Listed Building harm impact arising from this development within the planning balance discussed within the conclusion of this report.*

#### *Design*

4.10 *Local Plan Strategy Core Policy 14 states that “the District Council will seek to maintain local distinctiveness through the built environment in terms of buildings... and enhance the relationships and linkages between the built and natural environment”. This Policy continues*

to state that the Council will protect and enhance the built environment and protect the skyline of Lichfield, which is characterised by the five spires and tree canopies. This requirement should thereafter inform the height, scale and layout of new development.

- 4.11 The NPPF (Section 7) advises that “good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”. The document continues to state that “permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.
- 4.12 The NPPF also attaches great importance to the design of the built environment, which should contribute positively to making places better for people. As well as understanding and evaluating an area’s defining characteristics, it states that developments should:
- function well and add to the overall quality of the area;
  - establish a strong sense of place;
  - create and sustain an appropriate mix;
  - respond to local character and history, and reflect local surroundings and materials;
  - create safe and accessible environments; and
  - be visually attractive as a result of good architecture and appropriate landscaping.
- 4.13 Local Plan Strategy Policy BE1 advises that “new development... should carefully respect the character of the surrounding area and development in terms of layout, size, scale, architectural design and public views”. The Policy continues to expand on this point advising that good design should be informed by “appreciation of context, as well as plan, scale, proportion and detail”.
- 4.14 Policy 10 of the Lichfield Neighbourhood Plan, requires that “views of Lichfield Cathedral from Lichfield City Centre should be incorporated into any development which could otherwise impact on these views”.
- 4.15 The layout plan submitted with this application for the 1 FE Primary School and Sports facility areas is wholly indicative. The former will be produced in liaison with the Staffordshire County Council Education Authority, in due course, with details submitted via a reserved matters application. Exact details of the sports facility will also be progressed via a separate reserved matters application. As such no further consideration to the visual impact of these elements of the proposal will be undertaken currently.
- 4.16 The dwellings proposed across the site are according to information contained within the Design & Access Statement submitted with this application, to be arranged within 7 character areas. The areas have been given the following designations:
- Main Boulevard – Structural, linear built form, containing buildings up to 2 ½ storey in height. Tree lined boulevards. Predominantly terraced built form. Generally formal in appearance.
  - Green Route – Consistent building lines to create enclosure to public open space. Consistent roofscape with some dormers to punctuate. Maximum 2 storeys with low level hedge or timber rail to define public / private interface.
  - Secondary Route - Structural, linear built form, containing buildings up to 2 ½ storey in height. Tree lined boulevards. Predominantly semi-detached built form. Generally formal in appearance.
  - Birmingham Road – Consistent frontages, formal development enclosure with building up to 2 ½ storeys in height. Consistent roofscape utilising gables to book end terraces. Low hedgerow planting to frontages.



- *Rural Edge – Lower density with larger setbacks and gaps between dwellings. Buildings up to 2 storeys in height, larger garden areas. Informal appearance, with varying roofscapes and built form. Generally longer rear gardens to respect adjacent Deanslade Farm occupants.*
- *Woodland Ridge – Lower density with larger setbacks and gaps between dwellings. Buildings up to 2 storeys in height, larger garden areas. Generally informal in appearance, offering a softer development.*
- *Canal Side Edge – Mix of formally set out detached and semi-detached dwellings and a short run of terraces, with a height of up to 2 ½ storeys. Buildings set back behind soft landscaping as interface to potential future canal reinstatement. Projections and recessions in frontages to add visual interest.*

#### *Layout*

- 4.17 *The scheme has been arranged with denser residential development located to the northern and eastern boundaries, with a looser pattern of residential development evident when moving south and west across the site. The Primary School site is located centrally within the development, whilst the sports provision is located to the south western edge. The country park will extend throughout the southern area of the site. The principle areas of Public Open Space are shown to run diagonally through the centre of the site, which will contain a total of 7 Local Areas of Play and 1 Neighbourhood Area of Play.*
- 4.18 *The layout of the proposed development demonstrates an understanding of landscape context, evidenced through the retention of the upper slopes of the site, adjacent to Harehurst Hill, free from development, thereby preserving the landscape setting and limiting the visual impact of the development within the surrounding area, as demonstrated within the submitted Landscape and Visual Impact Assessment (LVIA). An appropriate contextual analysis is further evidenced through the creation of a central park route, which runs diagonally across the site, from its south eastern to north western corner, allowing views to and from Knowle Hill and into the wider countryside. In addition, the scheme includes a recognisable core surrounding the Primary School site, which aids in place making, whilst the internal streets have been aligned to facilitate views through the site towards the Country Park. In addition, the layout has been designed with areas of open space running down from the Country Park into the residential development, forming 'Green Fingers' which ensures integration of this area into the proposed built form.*
- 4.19 *As noted above, the density of development across the site, which overall equates to 37dph, has been varied to suit the surrounding built form context and future characteristics proposed for the site. Thus, densities are low to medium in the area around the existing Deanslade Farm complex to reflect the character of this location. Similarly the density adjacent to the proposed Country Park is of a low level, realising a visual transition from urban character to rural edge in this area.*
- 4.20 *The eastern site boundary of the site, which is defined by Birmingham Road has been designed to form a linear pattern of development to the highway. Dwellings within this area are sited to form a high density, which responds to the existing commercial edge created by the existing Travis Perkins and City Plumbing sites, along with the buildings to be erected following the grant of planning permission for the Land East of Birmingham Road site, reference 17/00977/OUTMEI.*
- 4.21 *The northern boundary, adjacent to Falkland Road and the land safeguarded for the future restored Lichfield and Hatherton Canal route, is also shown in a linear pattern, but has been offset somewhat to allow for landscaping and public access.*

4.22 *Dwellings sited along the site's western boundary with Claypit Lane have been sited so as to be set back away from the road, to aid to preserve the rural character of this area, which is considered to be an appropriate urban solution for this area of the site.*

#### *Scale*

4.23 *The development contains a mixture of 1, 2 and 2 ½ storey dwellings, along with the 3 storey apartment building, located to the north eastern edge of the site, which vary in height from between 5.4 metres and 11.3 metres.*

4.24 *The Landscape & Visual Impact Assessment submitted with this application has assessed the impact of a development within this site of up to 10.5 metres in height, via a visual and character assessment. The report advises that this development will have medium scale effects to character within approximately 500m of the site, given the topography of the area and the existing settlement of Lichfield. Beyond 500m the effects to character are likely to be small to negligible given the lack of intervisibility, existing context of built form and the minor alteration to the pattern and character of the wider landscape as a result of the developments.*

4.25 *Whilst the apartment building will be marginally larger than that considered within the LVIA, the conclusions of the report are such so as to ensure that any visual impact remains of only local significance and negligible in terms of wider landscape affect.*

4.26 *Given the above, the height of development proposed within the site is considered acceptable, whilst the variation in roof height evidenced throughout the site is reflective of the surrounding existing built form, also introducing visual interest to the roofscape. In addition, it is noted that the variation in roof height, along with the use of roof furniture, such as chimneys and dormer windows, will create visual interest and texture to the internal street scene views.*

#### *Appearance*

4.27 *The design of the dwellings exhibit features typical of the wider area, namely the Sandfields housing estate, which is located to the north west of the site and modern housing estates in general. As such, architectural detailing is evidenced through the use of small overhanging porches, which are the primary tool used to break up the elevation of the majority of dwellings, although brick headers and footers, string courses, bay and bow windows aid and a variation in material utilised to provide elevational interest. A number of iterations of the house type pack proposed for this development have been submitted through the course of the determination of this application, following comments received from the Council's Urban Design Manager. It should be noted that these amendments have resulted in this consultee now offering no objection to the proposal on design grounds. Thus, the seven character zones proposed throughout the site and the varying detail of dwelling contained therein are considered to be visually acceptable.*

4.28 *Details of the materials palette to be used within the development have been submitted with this application. The latest bricks proposed to be used within the site are Ibstock Himley Worcester Mixture and the Ibstock Alderley Orange are acceptable for use within this development. In addition Weber Silver Pearl render is proposed for use, along with Weinerberger Cranbrook Red and the Ibstock Staffordshire Blue Slate Smooth bricks for detailing work (string courses etc.). The proposed roof tiles are Anthracite and Terracotta Russell Plain roof tiles. The suitability of these materials have been considered by the Council's Urban Design Manager who has determined that they are appropriate to their context and therefore acceptable for use within this development.*

4.29 *The applicant has also submitted details of the proposed fencing and walling scheme with the application. The siting of the fences have been appropriately positioned to ensure that they are visually subservient features within the street scene, whilst the majority of prominent boundary's, for instance those facing onto main routes through the site, are proposed to be constructed from brick to ensure that they remain of a high visual quality throughout the life of the development. The sole boundaries that should be constructed from brick due to their visual prominence, but are presently shown to be formed by a close boarded timber fence are located to the rear of plots 41 and 43-47 where they will be publically visible from the sports pitches. A condition to require the amendment of these boundary treatments is therefore recommended. Lastly to the southern perimeter of the site, 1.5m high metal estate railings are proposed, which will ensure an appropriately soft edge to the surrounding country park and rural edge.*

4.30 *Consequently, it is considered that the proposed housing and associated development would be satisfactorily assimilated into its surroundings and would not have a harmful impact in the wider landscape. Accordingly, it is considered that the application in this regard is consistent with the Development Plan and the thrust of the guidance in the NPPF.*

## 5 Flood Risk and Drainage

5.1 *The application site is located within Flood Zone 1, which is defined as having little or no risk of flooding from rivers or streams. Such zones generally comprise land assessed as having a less than 1 in 100 annual probability of river or sea flooding in any year.*

5.2 *Staffordshire County Council Flood Team have, following the submission of revised information during the application process, offered no objection to the development, subject to a condition requiring that surface water drainage be undertaken in accordance with the measures identified within the submitted Flood Risk Assessment, which includes the formation of two drainage ponds within the site.*

5.3 *Severn Trent Water have recommended a condition to secure details of foul drainage. Such a condition is considered to be reasonable and necessary and accordingly is recommended. Thus, subject to the abovementioned conditions, the development is considered to comply with the requirements of the Development Plan and NPPF in this regard.*

## Canal Restoration Route

5.4 *Policy Lichfield 6 of the Local Plan Strategy advises that when developing the sites that comprise the Lichfield South area the developments should ensure the "integration of the route for a restored Lichfield Canal into an integrated open space and green infrastructure network". No details of how this route should be delivered are provided within this document, rather, simply there is a requirement to safeguard the route.*

5.5 *The application site does not include any of the area safeguarded for the canal route, rather this runs immediately to the north of the site. As such no further consideration of this matter is required as part of this particular application.*

## 6. Public Open Space, Green Infrastructure and Landscaping

6.1 *The submitted block plan shows the main area of green infrastructure within the development itself running diagonally through the centre of the site from the south east to north western corner; along with small pocket parks dispersed through the development; which includes elements of both formal and informal public open space. There are a total of 7 LAPs and 1 NEAP proposed across the site, with details of the equipment to be installed within the parks supplied within the supporting documentation submitted for this*

*application. No details of facilities within the Open Space such as benches or bins have yet been provided and will be secured under the provisions of the S106 agreement. The country park extends to 16.55ha and includes areas of tree planting, biodiversity enhancement areas, a Community Orchard and an off street car park for 18 vehicles. Lastly the remaining open space area to be considered is the sports facility shown to the western part of the site.*

- 6.2 *The open space areas proposed within the application site are in excess of 20 ha. The requirement as set out in Policy HSC1 of the Local Plan Strategy for amenity green space is 1.42ha/1000 population. The proposal for 475 dwellings would deliver an estimated population utilising data of average household estimates, which is 2.3 people per property of 1092 residents. This equates to a requirement of 1.55 ha and therefore the application site includes a significant green space over-provision.*
- 6.3 *The delivery of the Country Park facility within the site will be secured via the S106 agreement, as will its future maintenance by a maintenance management company. It is noted that Lichfield City Council has requested that the Park be completed prior to the first occupation of any of the dwellings. Such a requirement would be overly onerous for the applicant, given the financial implications of securing such, along with difficulties in accessing this area by vehicles. A suitable timeframe for delivery of the Park will therefore be secured as part of the phasing requirement proposed by condition 5.*
- 6.4 *Paragraph 118 of the NPPF advises that permission should be refused for development resulting in the loss of aged or veteran trees, unless the benefits of the development outweigh the harm. Core Policy 13 of the Local Plan Strategy also seeks to protect veteran trees, whilst Core Policy 14 seeks to ensure that there is no net loss to trees in conservation areas. Policy NR4 and the Trees, Landscaping and Development Supplementary Planning Document seek to ensure that trees are retained, unless their removal is necessary and appropriate mitigation is proposed. The SPD also seeks to ensure that a minimum 20% canopy cover is achieved on development sites.*
- 6.5 *A community orchard, which is shown to be located within the Country Park, immediately to the south of the built form, is proposed in lieu of allotments. The latter is a requirement for the site identified by Policy HSC1 of the Local Plan Strategy, which requires the following in terms of allotment provision for the SDA's in South Lichfield, "New allotment space will be provided...at a minimum of 1 plot (150sqm) per 32 households. Allotments will be well maintained and well managed and will be designed so as not to have a detrimental visual impact upon the wider landscape. Depending upon location, in some circumstances this may require restrictions upon the number and type of buildings which can be erected to serve the site such as individual sheds".*
- 6.6 *The orchard provision has been considered by the Council's Spatial Policy and Delivery Team and Arboriculturalist who advise that following consideration of the Additional Landscape Information Note submitted by the applicant, it could be considered that the proposed alternative broadly offers a similar type of provision, which subject to appropriate future maintenance (to be secured via the S106 agreement) will offer wider community benefits. In addition, given the prominence of the orchard from Birmingham Road, this being a key entrance point into Lichfield, should this area have been used for allotments, there would have been the potential for such to detract from the character of the site.*
- 6.7 *The Council's Arboriculturalist has discussed a number of iterations of the landscaping scheme with the applicant during the determination period. Whilst the landscaping scheme for both on and off plot is nearing approval, there remains elements of the latest considered submission that are inappropriate. As such, presently a condition will be required to ensure that a suitable landscaping scheme for the site along with the protection of trees and hedgerows are agreed and thereafter implemented in an appropriate timeframe.*

- 6.8 *The requirement for playing field facilities to be delivered within this site, required by Appendix I of the Local Plan Strategy, is proposed by the applicant to be met on-site, should the Council secure a user for the land.*
- 6.9 *Presently, following discussions between the Council's Health & Well Being Manager and Sport England, it is envisioned that the facility will be utilised for football, with two adult pitches formed, along with a changing facility to contain two locker rooms and a social space. The cumulative cost of supplying these facilities will fall to the applicant, who, following the Council securing a club for the site, will either build the facility themselves or provide a sum to the Council to enable such to be built utilising a third party. Lastly, should no end user be identified to use the facility, then the S106 agreement should have a clause whereby a significant off-site contribution can be utilised by the Council to form facilities nearby. The acceptability of this agreement and the financial sums involved, have now been agreed, following extensive discussion between the applicant, Sport England and the Council's consultees on this matter, including the Health & Wellbeing Manager.*
- 6.10 *Given that the sports facility will be utilised by a club its separation from the school is considered to be appropriate and therefore the request from the Lichfield City Council for these areas to be located together is considered unnecessary.*
- 6.11 *Given the above considerations, with reference to green infrastructure, this development is considered to comply with the requirements of the Development Plan and NPPF, in this regard.*

## 7 Residential Amenity – Future and Existing Residents

- 7.1 *The NPPF core planning principles include the requirement that planning should seek a good standard of amenity for all existing and future occupants of land and buildings. The Council's Sustainable Design Supplementary Planning Document contains guidance detailing appropriate space around dwelling standards. These standards establish a minimum distance of 21 metres to separate principle habitable windows and that there should be at least 6 metres between a principal window and private neighbouring residential amenity space.*
- 7.2 *The SPD also requires that in order to prevent any overbearing impact upon residents, that there should be a minimum of 13 metres between the rear elevation and the blank wall of any proposed dwelling.*
- 7.3 *Finally the SPD identifies that for 1 or 2 bedroom dwellings a minimum garden size of 45m<sup>2</sup> should be provided, for 3 or 4 bed 65m<sup>2</sup> and for 5 bedroom dwellings 100m<sup>2</sup>. All gardens should have a minimum length of 10m.*
- 7.4 *The layout, broadly complies with the requirements of the SPD, although there are some minor deficiencies noted across the development, with examples such as Plot 453, which contains a 3 Bedroom dwelling, but having a private garden area of 55 sqm. It should be noted in this case however the dwelling is also served by a driveway containing a garage and two car parking spaces. Plot 428 has a garden length of 9.6m, the separation distance between principle windows to the rear elevations of plots 419/420 to 412/413 is 20.2m, whilst plots 362/363 to 364/365 are also 20.2m.*
- 7.5 *Whilst it is not ideal for a new development to fall short of the space about dwelling guidelines, the deficiencies evidenced throughout the site, are all minimal. Furthermore future residents will be aware of the circumstances prior to moving into the site. Lastly it*

should be noted that the vast majority of the site is fully compliant with the abovementioned standards.

- 7.6 *The layout of the scheme, given the above described circumstances will ensure an appropriate standard of living accommodation for future residents and therefore the development will comply with the requirements of the Development Plan and NPPF in this regard.*

#### *Contaminated Land*

- 7.7 *Paragraph 109 of the NPPF advises that “the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability”.*
- 7.8 *A Contaminated Land Survey has been submitted with the application which indicates low residual effect within the site from landfill gas. The report recommends that additional; assessment is undertaken in the affected areas and in the areas that were inaccessible at the time of the original investigation. Therefore it is recommended that a condition requiring the submission of further ground contamination investigatory work be included within the decision, along with the installation of any mitigation measures as necessary.*

#### *Lighting*

- 7.9 *A Lighting Assessment document has been submitted with this application in order to quantify baseline lighting within the vicinity of the proposed development and identify existing sensitive receptors and allow constraints of any proposals to be assessed at an early stage.*
- 7.10 *The Assessment and Environmental Health Manager both conclude that the lighting within the development has the potential to cause loss of amenity to future residents, due to lighting within the scheme, particularly around the sporting facilities. To address this matter, a condition requiring the submission and approval by the Local Planning Authority of a lighting scheme, for each phase of development, is recommended.*
- 7.11 *Thus, subject to compliance with the abovementioned condition, the development will accord with the requirements of the Development Plan and NPPF in this regard.*

#### *Noise*

- 7.12 *The applicant has submitted a Noise Assessment within the Environmental Statement, which considers noise impact upon both the amenity of existing and future residents and existing business uses. The report concludes that the dwellings proposed within the site will require some noise mitigation, primarily due to noise generated by traffic, details of which are recommended by the Council’s Environmental Health Manager to be secured via condition. In addition, in order to ensure that the impact of construction activity upon existing and future residents is minimised, a Construction Environment Management Plan is also recommended by the aforementioned consultee.*

#### *Air Quality*

- 7.13 *The applicant has submitted information to demonstrate the impact of this development on air quality. The report advises that dust associated with construction should be controlled by way of a Construction Management Scheme details of which are recommended to be secured by condition. Much of the impact following completion of the development relates to the use*

of vehicles associated with the occupiers of the development and this will impact upon the Air Quality Management Areas (AQMAs) of Muckley Corner and A38 Fradley, though the impact will be in the range of 0 to 0.4%. Therefore the overall impact of the proposal on air quality is judged to be insignificant.

7.14 It is noted that Staffordshire Authorities including Lichfield are currently working on an Air Quality guide for developers. Whilst this document has yet to be introduced, in the interim, it is recommended that applicants consider the future use of electric vehicles by residents on the development and install appropriate infrastructure, which supports this in dwellings, especially in view of the fact that many will not use their garage to charge an electric vehicle. For instance consideration can be given to external driveway charging points. A note to applicant to this effect is therefore recommended.

7.15 Given the above assessment, it is considered that subject to the recommended conditions, the amenity of existing and future residents will be adequately protected and therefore the proposal will be compliant with the requirements of the Development Plan and NPPF in this regard.

8. Loss of Agricultural Land

8.1 The application site is currently in arable agricultural use.

8.2 The Agricultural Land Classification (ALC) system classifies land into five grades, with Grade 3 subdivided into Subgrades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a by policy guidance (Annex 2 of NPPF). Grade 3b is moderate, Grade 4 is poor and Grade 5 is very poor.

8.3 Paragraph 112 of the NPPF states that “Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.

8.4 The Agricultural Land Classification document submitted with this application, details the below results analysis for soil samples taken from the site:

<b>Grade</b>	<b>Description</b>	<b>Area (ha)</b>
2	Very good quality	1.2
3a	Good quality	27.3
3b	Moderate quality	9.2

8.5 As such, whilst the site does contain a small area of very good quality soil, the majority is defined as being of good quality. Therefore the loss of this land from food production would not be of significant concern, but will have to be considered within the planning balance exercise.

9 Biodiversity

9.1 To comply with the guidance contained within Paragraphs 9, 108 and 118 of the NPPF and the Council’s biodiversity duty as defined under section 40 of the NERC Act 2006, new development must demonstrate that it will not result in the loss of any biodiversity value of the site.

9.2 Due to the Local Planning Authorities obligation to “reflect and where appropriate promote relevant EU obligations and statutory requirements” (Paragraph 2 of NPPF) the applicant

must display a net gain to biodiversity value, through development, as per the requirements of the EU Biodiversity Strategy 2020. Furthermore, producing a measurable net-gain to biodiversity value is also made a requirement of all developments within Lichfield District under Policy NR3 of the Lichfield District Local Plan Strategy.

- 9.3 The applicant has submitted a Construction Environment Management Plan, Habitat Management Plan and an Ecological Baseline Report and Ecology Management Plan with the application, which have assessed the site's biodiversity value and its usage by protected species.
- 9.4 The Council's Ecologist advises that the development be undertaken in accordance with the recommendations of the Ecological Baseline Report and Ecology Management Plan, to ensure that there will be no impact upon protected species or their habitat to ensure compliance the abovementioned legislation and policies.
- 9.5 A positive ecological impact, specifically a habitat value uplift of 20% is required by Local Plan Strategy Policy NR3 and the Biodiversity and Development Supplementary Planning Document. A 23.6% habitat uplift will be achieved within this site, primarily through measures contained within the Country Park, along with the planting of the landscaping scheme. Such provision is recommended to be secured via the use of a condition to ensure that the development is undertaken in accordance within the requirements of the Construction Environment Management Plan and Habitat Management Plan. The net gain in biodiversity should be attributed appropriate material weight as per the guidance of Paragraph 188 of the NPPF. Subject to compliance with this condition the development accords with the requirements of the NPPF and Development Plan with regard to ecological considerations.
- 9.6 The agreed strategy for the Cannock Chase SAC is set out in Policy NR7 of the Council's Local Plan Strategy, which requires that before development is permitted, it must be demonstrated that in itself or in combination with other development it will not have an adverse effect whether direct or indirect upon the integrity of the Cannock Chase SAC having regard to avoidance or mitigation measures. In particular, dwellings within a 15km radius of any boundary of Cannock Chase SAC will be deemed to have an adverse impact on the SAC unless or until satisfactory avoidance and/or mitigation measures have been secured.
- 9.7 Subsequent to the adoption of the Local Plan Strategy, the Council adopted further guidance on 10 March 2015, acknowledging a 15km Zone of Influence and seeking financial contributions for the required mitigation from development within the 0-8km zone. This site lies within the 8 - 15 km zone and as such is not directly liable to financial mitigation.

## 10. Waste Management

- 10.1 Policy 1.2 of the Staffordshire and Stoke-on-Trent Joint Waste Local Plan, as supported by paragraph 8 of the National Planning Policy for Waste requires the better use of waste associated with non-waste related development, where all 'major development' proposals should:
- i. Use / Address waste as a resource;
  - ii. Minimise waste as far as possible;
  - iii. Demonstrate the use of sustainable design and construction techniques, i.e.: resource efficiency in terms of sourcing of materials, construction methods, and demolition;
  - iv. Enable the building to be easily decommissioned or reused for a new purpose; and enable the future recycling of the building fabric to be used for its constituent material;



- v. *Maximise on-site management of construction, demolition and excavation waste arising during construction;*
  - vi. *Make provision for waste collection to facilitate, where practicable, separated waste collection systems; and,*
  - vii. *Be supported by a site waste management / waste audit if the development is likely to generate significant volumes of waste.*
- 10.2 *The application is accompanied by a Waste Audit and Waste Management Strategy ('the Strategy'). In respect of ground modelling and earthworks/excavation calculations, it is stated that a net fill of approximately 33,000m<sup>3</sup> (approximately 45,000 tonnes) will be required to level the site. Approximately 8,000m<sup>3</sup> (approximately 12,000 tonnes) of construction waste is also estimated from the development. The Strategy sets out that waste minimisation would be part of the overall sustainable design of the project and up to 80% of construction waste could be designed out. Also a construction material recycling facility could be developed at the start of the project and used as a hub for storing used construction material and a centre for recycling for further use on the project.*
- 10.3 *The Staffordshire and Stoke-on-Trent Joint Waste Local Plan contains the relevant waste planning policy considerations for the infill process identified for this development. Policy 1.4 (Use of Waste for landscaping, screening, engineering purposes or for the improvement of agricultural or forestry land) emphasises the importance of ensuring that the amount of material is reasonable and necessary and that the proposals are comprehensive, detailed, practicable and achievable within the proposed timescales. Policy 4.2 (Protection of environmental quality) identifies the matters that may be relevant to protect environmental quality, including the effects on people, local communities, and the highway network. Paragraph 6.4 provides a list of the type of matters that may be controlled by condition, which include a condition to define the duration of the development. Assuming an average HGV payload of 20-tonnes the fill required equates to a total of approximately 2,250 HGV loads or 4,500 two-way HGV movements. It is also important to limit the duration of temporary operations in order to minimise the effects on local amenity, the environment and the highway network.*
- 10.4 *Finally given the proposed Waste Management Strategy to design out up to 80% of construction waste, it would be appropriate to monitor progress of the fill operations, in addition to ongoing monitoring of waste materials generated and processed on site.*
- 10.5 *Having regard to the policies, guidance and observations referred to above, the application will be policy compliant, subject to the inclusion of a condition to define the duration of the infill operations and ongoing monitoring of waste materials generated and reused on site.*
11. Archaeology
- 11.1 *Paragraph 128 of the NPPF places a duty on Local Planning Authorities to "require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance".*
- 11.2 *The applicant has submitted an Archaeological Assessment with the application which has found no archaeological features or deposits within the site, whilst also concluding that there was low potential for any further archaeological remains to survive. This assessment has been supported by the Council's Archaeologist and as such no condition to require the submission of any further information is required. Therefore the application complies with the requirements of the Development Plan and NPPF in this regard.*

## 12. Planning Obligations including Education Provision

- 12.1 Under the provisions of Policy IP1 of the Local Plan Strategy major new developments are required to make provisions for social/community facilities as the need for which arises from the development and that are commensurate to the scale and nature of the proposals. Such provision can be by way of direct on-site provision and/or by a contribution made for the provision of facilities elsewhere.

### *Education Provision*

- 12.2 The site falls within the catchments of Christ Church CE (VC) Primary School, Lichfield and The Friary School, both of which are projected to be full for the foreseeable future. Given that the development is for 475 dwellings, it is likely to add 145 Primary School aged pupils, giving an education contribution requirement of £2,938,839, plus the land to be provided to form the on-site 1 FE Primary School. Education contributions for secondary school infrastructure will be sought through CIL contributions.
- 12.3 Other elements required to be included within the S106 are covered previously in this report.

## 13. Other Issues

- 13.1 The matters raised by Lichfield City Council have largely been discussed within the above report. The remaining concern regarding the request for additional bungalows to be supplied within the site, beyond the 7 proposed is noted. However, there is no policy requirement in the Local Plan to require further provision.
- 13.2 The concerns raised by residents have also been largely addressed within the above report. Of those that remain it is evident that any damage to existing property caused by construction activity would be a private matter between the applicant and landowner, whilst the need for a further pedestrian access crossing over Falkland Road (an existing crossing exists adjacent to the north western corner of the site), will have been considered by the Highway Authority and secured if considered to have been reasonable and necessary. Concerns regarding overlooking of existing property from the Country Park are noted, but a separation distance of approximately 450m from the edge of this new facility to existing property ensures any impact would be wholly minimal in nature. The potential for residents to discard litter within the area, loss in value to property and the ability to gain access to mains gas and broadband are given very little planning weight in the determination of this application, given they are not material planning matters. Finally the request from the local Scouts Group to utilise the sports pavilion is noted and the request has been forwarded to the Council's Health & Wellbeing Manager to progress.
- 13.3 With reference to the comments raised by LARA, once more the majority of points have been considered within the above report, however it is noted that the requested provision of hedgehog friendly fencing, solar panel provision and gas boiler provision for each dwellings has not been secured as no there is no Planning Policy provision to secure the delivery of such.

## 14 Financial Considerations (including Community Infrastructure Levy)

- 14.1 This development is a CIL (Community Infrastructure Levy) liable scheme set within an SDA zone, where the applicable rate of £14 per square metre. This will be payable in accordance with the Council's adopted CIL Instalments Policy, unless otherwise agreed.
- 14.2 The development would give rise to a number of economic benefits. For example, it would generate employment opportunities including for local companies, in the construction

industry during construction. The development would also generate New Homes Bonus and Council Tax.

## 15. Human Rights

- 15.1 *The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with neighbour's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report and on balance is justified and proportionate in relation to the provisions of the policies of the Development Plan and National Policy in the NPPF.*

## **Conclusion**

*The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental and that these should be considered collectively and weighed in the balance when assessing the suitability of development proposals. With reference to this scheme, economically the proposal will provide employment opportunities, through creating a development opportunity, whose future residents would support existing and proposed facilities within the area. Socially, the proposal would have little impact upon existing residents, whilst suitable conditions can secure the amenity of future residents within the site. In addition the scale of development is compliant with the requirements of the Council's Local Plan Strategy.*

*Environmentally the site is a key Strategic Development Allocation and occupies a location where any landscape harm will be localised. It is considered that adequate, high quality public open space will be provided on site to meet the needs of future and existing residents, whilst sports provision will be met on site to ensure the health and well-being of residents. The number of dwellings and mix proposed, will provide a suitable density of development to integrate into the character of the area, whilst also helping to meet the accommodation needs of the District. The development will cause less than substantial harm to the setting of two Grade II Listed Buildings, although the degree of harm has been partially mitigated through the introduction of appropriate landscaping to reduce the intervisibility between the development and this site. In addition the scheme will remove a small area of very good soil from food production.*

*With regard to transport and highways, adequate information and detail has been included within the supporting information to demonstrate that sustainable travel choices are available in close proximity of the site. Acceptable details have been provided with regard to two of the three vehicular access points to ensure that the development can be safely and appropriately accessed, without undue harm to either the character and appearance of the area, existing or future residents or highway and pedestrian safety. The suitability of the third vehicular access will be addressed prior to the issuing of any decision notice to ensure that it is served by the requisite visibility splays. Furthermore, it has been demonstrated that the development will have an acceptable impact upon the Strategic Highway Network.*

*Subject to suitable conditions there will be no adverse impact on protected or priority species, whilst a positive biodiversity impact will be created within the site. With regard to drainage, residential amenity and the development's impact on the surrounding landscape, it is considered that adequate mitigation would be provided and that, subject to appropriate conditions, no material harm will be caused.*

*It is therefore considered that the principle of residential development is acceptable and that no other material planning considerations exist to warrant the refusal of the planning application. Thus,*

*subject to conditions and the applicant entering into a Section 106 Agreement, it is considered that, the development is acceptable, and accordingly, the recommendation is one of approval.*

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### **ADDITIONAL OBSERVATIONS**

- A.1 It was resolved by the Planning Committee at its meeting on the 2<sup>nd</sup> July 2018 to approve this application, subject to the conditions recommended by officers and the addition of one further condition related to the removal of the site compounds (now recommended condition no. 28); the signing of a S106 agreement by the 2<sup>nd</sup> November 2018; and, the submission of a suitable design solution to resolve objections raised by the Highways Authority, specific to visibility splays for the vehicular access from Claypit Lane.
- A.2 The S106 agreement is yet to be signed so an extension for agreement is sought for a revised suitable time frame, which is recommended to be until the 21<sup>st</sup> January 2019, although it is noted that the document is now nearing completion.
- A.3 The applicant is seeking to address the concerns of the Highway Authority, specific to the visibility splays previously proposed to the vehicular access from Claypit Lane. A revised layout for this area of the site is proposed with these dwellings, specifically plots 47–54, now being accessed, via a road network internal to the site. As a consequence of this amendment, alterations to the wider housing mix have occurred, due to two further dwellings being introduced into this row of housing. This has resulted in amendments to plots 1, 23/24 and 95/96. The overall impact of these alterations is the replacement of 1 three bedroom dwelling with a 4 bedroom dwelling. The overall number of houses proposed within the development however remains at 475. The specific implications of the amendments proposed to the scheme are considered in detail below.
- A.4 Also, following consideration of the application by the Planning Committee, through correspondence and discussion with the Lichfield and Hatherton Canal Restoration Trust, it is noted that the officer's report failed to accurately summarise objections raised by the Lichfield and Hatherton Canal Restoration Trust and Inland Waterways Association, specific to this development. The issues raised by them, along with further comments subsequently received, are now fully considered below.

### **ADDITIONAL CONSULTATIONS**

On receipt of further amended plans, an additional consultation exercise has been carried out, with letters sent to neighbours and a site and press notice displayed, in addition to consulting relevant statutory and non-statutory consultees. The following details any responses received since the 2<sup>nd</sup> July 2018, with those received to this latest consultation exercise, and also includes a full summary of the Lichfield and Hatherton Canal Trust and Inland Waterways Association's comments received.

**Lichfield City Council** – Recommend refusal as the issues previously raised have yet to be addressed, namely the provision of a greater number of bungalows within the site, reviewing the 50mph speed limit on Birmingham Road, to consider a lower limit extending beyond the Travis Perkins site; assurances that the Country Park will be open prior to first occupation of any of the dwellings and consideration to be given to grouping the school and sports facility in one location. Keen to see hedgerows retained and request an amendment to the planning conditions to address the ongoing issues regarding the construction of the bridge (23.11.18).

**Spatial Policy and Delivery Manager** – Notes that the application illustrates an amendment to the dwelling mix from previous submitted plans, through the increase of four bed dwellings by one and a decrease in three bed dwellings by one.

With regard to the letter received on the 6th November 2018 from Eversheds Sutherland which provides a response on behalf of the applicant to correspondence submitted to the Council from Lichfield and Hatherton Canal Restoration Trust Limited dated the 2nd October 2018. It is the view of Spatial Policy and Delivery Team that the policy summary offered is accurate and that the position articulated in regard to funding and delivery is also correct. In particular agreement is reached in regard to the position articulated within paragraphs 7 and 9 of the letter which concludes that CIL is the appropriate route in regard to off-site developer obligations (14.11.18).

**Arboriculture Officer** – No objections to the revised plans, however, the landscape specification fails to include details of watering and maintenance works for the trees/shrubs. Additionally, the General Notes accompanying the landscaping scheme states that, ‘No substitutions will be acceptable without the prior written approval of the landscape architect’. In order to maintain the integrity of the scheme, the note will need to be amended to read: ‘No substitution will be acceptable without the prior written approval of the Local Authority and the Landscape Architect (03.12.18).

**Ecology Officer** – No further comments to those previously raised (28.11.18).

**Natural England** – No objection (21.11.18 / 07.11.18).

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the Cannock Chase SAC has been designated and therefore offer no objection (12.10.18).

**Conservation and Urban Design Manager** – No objections. The revised layout continues to show dwelling facing directly onto Claypit Lane thereby introducing an active frontage to the site and also now through the revisions being proposed allowing for the retention of the existing hedgerow (21.11.18).

**Operations Services Manager** – Advises that the comments made on the 13.12.17 and 26.02.18 remain relevant (05.11.18).

**Staffordshire County Council (Highways)** – The proposed site access and external works to Claypit Lane do not preclude the construction of a bridge for the proposed route of the Lichfield and Hatherton Canal. Visibility splays onto Falkland Road, calculated from vehicle speeds at the time of a future application, would be required for any structure adjacent to the highway. However, in principle these could be accommodated by the location and/or design of the bridge parapet at detailed design stage (28.11.18).

Previous Comments: Requests amendments to the wording of the Travel Plan (28.11.18).

The pedestrian access to the front of plots 47-53, is proposed via the footpath alongside the sports area, which is considered to be a convoluted and long route. This would likely encourage direct access on foot from Claypit Lane, which is considered dangerous. This layout could also cause confusion and delays to emergency services. No swept path drawing demonstrating that an 11.9m refuse vehicle could service plots 47-53 has currently been provided (08.11.18).

**Staffordshire County Council (Flood Team)** – Following the receipt of additional comments from the Lichfield and Hatherton Canal Trust requests that the drainage consultant provide:

- Infiltration tests (BRE365 compliant) undertaken at the location, depth and with a head of water that replicates the proposed design;
- Microdrainage results for the network based on the rates above;
- Trial pit logs and groundwater level to >1m below the base of the infiltration device; and
- Plan showing buffer distance to buildings / roads / canal cutting (30.11.18).

Previous Comments: Cannot comment on the geotechnical design of the cutting to retaining structures. Notes that building regulations state that infiltration devices should not be built within 5m of a building or road (22.11.18).

**Staffordshire Police Architectural Liaison Officer** – No objection but raises concerns regarding the number of pedestrian routes that do not run alongside vehicle routes. Networks of separate footpaths to unsupervised areas facilitate crime and anti-social behaviour. In addition some parking spaces are not directly overlooked by the dwellings they are to serve. Further advice provided regarding measures to design out crime (16.11.18).

**Sport England** – No further comments (07.11.18).

**Inland Waterways Association** – Welcomes acknowledgement that previous comments raised by the Lichfield and Hatherton Canal Trust and the Inland Waterways Association were not accurately reported and welcomes agreement that the application will be referred back to the Planning Committee for further consideration. This must ensure that any comments raised are accurately reported, and enable a fuller consideration of planning policy matters, specific to the formation of the Lichfield Canal.

They note that the whole of the canal route (although not the location of the bridge) lies within the Deans Slade SDA allocation as shown on Map H1: South of Lichfield, of the Local Plan Strategy. They feel the situation of land ownership is not relevant to this application and therefore, the canal development should be considered to be on-site and as defined within the CIL 123 List, subject to a S106 agreement.

No suitable justification has been provided for why the canal route has not been included within the red line of the application, given it does include other areas of land, which the applicant does not own, specifically, Claypit Lane and Fossey Lane. If necessary infrastructure works are not being provided within the application site, then they should be provided and funded as off-site works, within the S106 agreement.

The IDP requires the delivery of the canal bridge works as part of this development or through S106 contributions. The IDP has most recently been updated in March 2018 postdating the adoption of the CIL 123 and therefore is the most up to date policy document detailing how the Canal will be delivered. The total available through CIL funding (currently £300,000) is insufficient to deliver the bridge.

Whilst acknowledging that it is the Council's view that the IDP is not policy, they consider that it clearly details how policy is to be implemented and therefore should be given significant weight. This is in accordance with Core Policy 4 of the Local Plan Strategy, which states "*specific infrastructure requirements are set out in the Infrastructure Delivery Plan (IDP) and the Concept Statements relating to the Strategic Development Allocations (SDAs) identified in the Local Plan*". Also they consider that this is reinforced by the SDA Concept Statement at Infrastructure H7, which states "*details of then infrastructure requirements are set out in detail in the Infrastructure Delivery Plan and developers will be expected to enter into a legal agreement to ensure the provision of necessary infrastructure and facilities detailed in order to make the development acceptable*". Disagree with the view that the canal bridge works would not meet three s106 tests and rather feel that the works are related to the development and are also fair and reasonable, given that its delivery is sought throughout the Local Plan Strategy. In conclusion, they feel the response from the Council's Spatial Policy and Delivery Team is erroneous.

Advises that this potential misinterpretation of the development plan arose, as explained to the Local Plan Allocations Examination Inspector (see Examination Document EX9, our ref. CPLIC157), due to Lichfield District Council agreeing in 2014 to modifications, which for Deans Slade Farm

(LPM30) was to add to the Infrastructure section the words; *“including the provision of a new road bridge over the lowered canal channel and any further necessary canal channel works”*. However, due to administrative error, these changes were not included in the final version of the plan when adopted in 2015.

Note, in retrospect that perhaps the IWA should have made a formal complaint or taken legal action at that stage, but assurances were accepted from the Spatial Policy and Delivery Manager that the equivalent wording would be included in the IDP which she said, was *“the detailed document setting out how the infrastructure needs arising from the Local Plan will be delivered”*. Whilst this was done, it was always a concern that unless the Council made clear to developers from the outset that they were expected to comply with the IDP, they may seek to minimise or avoid providing this infrastructure.

Consequently, IWA asked that Policy IP2: Lichfield Canal in the Local Plan Allocations be amended to include a clear specific policy reference to the provision of infrastructure necessary to maintain the integrity of the canal route. It is most regrettable that the present Spatial Policy and Delivery Team has refused this opportunity to effectively correct the earlier error without discussion or explanation. Indeed, they feel that they went so far as to seek to discredit the whole canal restoration project at the Examination by bringing up matters that had already been resolved or were irrelevant.

Regretfully, they considered that officers have acted unprofessionally in misrepresenting and undermining their own development plan, thereby encouraging developers to ignore infrastructure requirements that are essential to avoid prejudice to the restoration of the Lichfield Canal (23.11.18).

Previous Comments: Notes that Core Policy 4 of the Council’s Local Plan Strategy (LPS) advises that *“specific infrastructure requirements are set out in the Infrastructure Delivery Plan (IDP) and the Concepts Statement relating to the Strategic Development Allocations identified in the Local Plan”*. The IDP states for the Dean Slade SDA that *“a continuous open space network must be provided along the course of the Lichfield Canal route giving access to future waterside recreation uses. The linear form of this corridor will be opened up in places to provide public amenity space. Works to include the provision of a new road bridge over the lowered canal channel and any further necessary canal channel works, to facilitate its integration with a wider open space and green infrastructure network”*. The IDP continues to advise that funding for these works will be secured via the developer through S106 contributions, with phasing agreed alongside the development of the site and collaborative working encouraged with the Lichfield Canal Restoration Trust. In addition, notes that further policies within the LPS seek to ensure that the canal route is integrated into the scheme’s public open space and measures for sustainable drainage and ecological enhancements are considered.

Notes that Policy IP2 of the emerging Local Plan Allocations Document advises that new development should recognise the advantages of supporting the delivery of the canal, through a sensitively designed scheme, which integrates such within its open space. The canal should also be used as part of a sustainable drainage scheme for the disposal of surface water, where appropriate.

Given the above assessment, the Evershed Sutherland’s letter submitted in support of the current application, which focusses only on open space and green infrastructure requirement, fails to fully consider local plan policy, specifically the IDP, to which it attaches no weight. It is clear however that the Council’s Development Plan requires that the developer of this site fund the provision of a new road bridge over the canal route at Claypit Lane and also the lowered canal channel at this point. The LPS also requires, in order for the canal to integrate into the scheme’s public open space that the developer undertake basic earthworks for the canal cutting east of Claypit Lane. Such works should be undertaken at an early stage within the development process to ensure there is minimal later disruption to residents. To address this issue the applicant should extend their red line to

include the canal route, appropriate plans for the erection of a bridge should be submitted along with details of the canal banks and full details of how the canal route will be integrated into the scheme's POS. Either all of these matters should be addressed prior to the issuing of a decision or suitable conditions should be utilised (20.11.18).

The Development Plan requires the developer to provide both a new road bridge over the canal route at Claypit Lane and also the lowered canal channel at that point. It also requires provision of any further necessary canal channel works, which includes the basic earthworks for the canal cutting east of Claypit Lane, in order to facilitate the integration of this area within the wider green infrastructure network. This needs to be undertaken in conjunction with the preliminary stages of the housing development so as to minimise disruption to the main site access, the later stages of the site construction work, or to the marketing of the properties, or to their future occupants.

The applicant cannot avoid these requirements to provide the essential canal related infrastructure by excluding the canal land from their application red line. The developer is required to take the lead and work with the Canal Trust to meet these obligations.

The claim that the plan of the new roundabout on Claypit Lane demonstrates that the proposal will not prejudice the delivery of the canal is entirely misleading, as the proposed junction remodelling fails to include the necessary canal bridge and services routing.

The claim that pedestrian/cycle connectivity, drainage and green infrastructure cannot be provided because the canal is outside their application and its timescale not guaranteed is spurious. It is the refusal of the applicant to include the necessary land and provide the canal channel earthworks that would prevent the integration of the canal route into the open space and green infrastructure network.

It behoves the applicant to work with the Canal Trust and the County Council to incorporate the land and the necessary canal works on it into their overall development scheme, as required by the Development Plan.

In summary, the site red line should be extended to include the canal land and, in conjunction with the Canal Trust and County Council, the developer should be made to construct the Claypit Lane canal bridge and the canal channel earthworks, ensure that the canal is integrated into the open space and green infrastructure network, and offer appropriate funding. The application should not be approved until this is done (27.02.18).

**Lichfield & Hatherton Canal Restoration Trust Limited** – Object to the application. Surface Water run-off from roads within the development is proposed to be drained via an underground piped network to one of two infiltration ponds. In the case of the pond adjacent to the proposed route of the to be restored Lichfield Canal, 1,600m<sup>3</sup> of water is to be held for up to a day or more, whilst it infiltrates into the ground through the bed and sides of the pond. In the event of severe rainfall water will overtop the pond.

The Trust does not object to the use of soakaways within the development or the infiltration pond remote from the canal route but does object to the infiltration pond adjacent to the canal. This is because of the pond's design does not take into account the future presence of the canal. Specifically, it is argued that the ground beneath the pond comprises solid sandstone at a depth of 1.1 metres. Water will not pass through the sandstone and rather will dissipate across the rock horizontally, which given land levels within the area, will predominantly be towards the north. The tow path proposed to the north of the pond will be at a lower level than the sandstone strata, resulting in water running off into this area, causing future flooding issues, thereby impacting upon users of this route. This problem could be resolved through the infiltration pond being altered to an attenuation pond. It is noted that whilst the canal immediately adjacent to the site is not currently available and therefore unable to accept surface water, the pond could, until such time that the



canal is operational, be connected to the existing culvert located beneath Birmingham Road and Falkland Road.

The pond would at its closest be located within 2 metres of the boundary to the canal route. The pond is to be constructed in 2019 and therefore will be in place prior to the Trust commencing work in this area. Whilst the FRA Addendum advises that the pond will be designed to ensure stability within its current environment, it does not take into account the proximity of the canal route, which will lead to the need for significant temporary retaining structures to be installed to protect the integrity of the pond. The need for such retaining structures would not be in accordance with the Council's greenway criteria referred to in planning policy, nor is the canal safeguarded as required by planning policy. The design of the pond should therefore be amended to address this issue.

Presently, should a severe rainwater event occur, water will overflow into the highway verge. Upon completion of the canal however, this water would overflow down the canal bank, onto the towpath and into the canal. This could lead to concentrated flooding and erosion or damage to the canal sides, creating a potential risk of failure or breach to the infiltration pond. To address this issue an overflow should be introduced into the pond to allow for water to be released in a controlled manner into the canal.

The applicant's FRA includes reference to only 1 trial pit. Given the variable soil strata within the area there should have been at least two pits dug. In addition, it is noted that the pit was excavated to a depth of 2.2m. In order to assess ground conditions to a depth below the pond bottom of 1m, the pit should have been dug to 3.5m, thereby allowing for full analysis of the groundwater table level. The FRA Addendum also contains inconsistencies relative to data contained within the FRA, regarding at what level the pond water and top of the bund will be set.

The pond has also been designed to include a raised bund adjacent to the canal. The use of such a feature is not considered to be best practice, as should the bund fail, it would release a large volume of impounded water causing risk of downstream flooding. This matter could be addressed through a redesign of the pond (27.11.18).

Previous Comments: Requests that the determination of the planning application be deferred in order to allow for reasonable time for the Trust to obtain and submit legal opinion upon the arguments of the applicant specific to the appropriate funding mechanism to seek the delivery of the canal bridge on Claypit Lane (13.11.18).

The applicant continues to fail to liaise with the Trust to seek to secure an appropriate solution for the canal to cross to the north of the application site. The documents submitted by the applicant fail to recognise that the delivery of the canal is a planning policy requirement rather than aspirational.

Whilst the application claims to embrace the canal within its masterplanning, by deliberately setting the route outside of the red line boundary, it has prevented full consideration of this feature and its suitable integration within the application. Furthermore the plans submitted with the application fail to identify the route of the canal, thereby ensuring that a lack of connectivity is evidenced between a potential future towpath and the site. It is arguable that the applicant should fund the delivery of such pedestrian links through a s106 contribution, but as a minimum links up to the boundary of the canal route should be detailed at this juncture to ensure the delivery of such.

The delivery of the completed development within the Deanslade Farm site will impact upon the later canal construction, as new roads would have to be removed and major disruption through road closures to the highway along Claypit Lane, due to the need to construct a bridge above the canal along with the need for services to be relocated, where they are to be instead within the existing highway verge. Therefore, in accordance with the Council's planning policy basic canal infrastructure should be constructed by the developer as part of any approved development.

The applicant's Flood Risk Assessment omits reference to the canal, failing to have regard to the adopted Lichfield City Surface Management Plan, which requires "*investigation of the potential to reinstate and utilise the Lichfield canal to accommodate surface water runoff*". Within the FRA, Severn Trent's response to pre-application submissions, identifies that there is limited scope within the existing sewer system to accommodate additional surface water runoff. Therefore they also recommend the applicant consider utilising the canal to take surface water runoff. The applicant has failed to undertake any such investigations.

The attenuation pond located adjacent to the site's northern boundary, will be at a higher level than the canal itself, which could lead to saturated ground conditions, which may create problems for construction works.

The development will lead to a significant increase in traffic using Claypit Lane to access Falkland Road. Whilst there will be no requirement to change the layout at the point of canal crossing, the requirement to temporarily close the road to form the canal bridge will be costly and disruptive.

Foul drainage for the site is proposed to be directed to a pumping station, which is proposed to be located adjacent to the canal route. The rising main from the pumping station to the Severn Trent public sewer on the north side of Falkland Road, requires crossing the line of the canal and could therefore add further areas of conflict.

In order to address these issues it is requested that the Council organise a meeting between the applicant and Trust. Should such a meeting not occur then the application should be refused or a condition utilised to require full details to address the above concerns (05.03.18).

#### **LETTERS OF REPRESENTATION**

No additional letters have been received from neighbouring residents following the recent re-consultation exercise.

#### **OTHER BACKGROUND DOCUMENTS**

The developer has submitted the following documents in support of this application since July 2018:

Existing Junction Visibility and Indicative Bridge Structure  
Flood Risk Assessment Addendum  
Statement of Development Phasing and Commerciality  
Response to Lichfield & Hatherton Canal – letter from Eversheds Sutherland (International) LLP

#### **Further Determining Issues**

- i) Housing Mix
- ii) Highway Impact and Parking
- iii) Design and Impact on the Setting of Surrounding Listed Buildings
- iv) Lichfield Canal Issues, including Flood Risk and Drainage Matters
- v) Landscaping
- vi) Residential Amenity – Future and Existing Residents
- vii) Cannock Chase Special Area of Conservation (SAC)
- viii) Planning Obligations
- ix) Human Rights

#### **i Housing Mix**

- i.1 Policy H1 of the Local Plan Strategy seeks the delivery of a balanced housing market through an integrated mix of dwelling types, sizes and tenures based on the latest assessment of

local housing need. This reflects the approach in the NPPF, which sets out that local planning authorities should deliver a wide choice of high quality homes with a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. Evidence in the Southern Staffordshire Housing Needs Study and Strategic Housing Market Assessment (SHMA) Update (2012) identified an imbalance of housing types across the District with high concentrations of larger detached homes. Consequently, it has identified the need for smaller affordable homes, particularly those of an appropriate type and size for first-time buyers or renters.

i.2 The dwelling mix identified under the requirements of Local Plan Strategy Policy H1, as necessary to address the imbalance in the District’s housing stock is 5% one bedroom, 42% two bedroom, 41% three bedroom and 12% four bedroom and above.

i.3 The housing mix proposed for site following amendments to the scheme are detailed within the below table:

Number of Bedrooms	Number of Dwellings	Percentage
1	15	3%
2	192	41%
3	191	40%
4/5	77	16%
Total	475	100%

i.4 Whilst the mix therefore remains non-compliant with the requirements of Policy H1, it is sufficiently close to meet the broad requirements of the Policy, through delivering a large number of smaller scaled dwellings. Furthermore, it should be noted that the Council’s Spatial Policy and Delivery Team have raised no concerns regarding this matter and therefore, it is considered that the development continues to comply with the requirements of the Development Plan and NPPF in this regard.

ii. Highways Impact and Parking

ii.1 Following the consideration of the application by the Planning Committee in July, the applicant undertook a speed survey along Claypit Lane, which demonstrated that suitable visibility splays to serve the access, would cross land outside of the applicant’s ownership. Evidently, this is unacceptable, as the applicant would not be able to ensure that fencing or planting is removed or maintained within the splay. As a consequence, the houses within the area identified, are now proposed to be served via a revised internal road layout.

ii.2 The design and layout of the internal road network of the site has now been agreed with the Highways Authority, following the submission of suitable tracking information to demonstrate that vehicles, including refuse lorries, will be able to manoeuvre safely around the site. In addition, appropriate surface finish materials are evidenced, suitable road widths and footpaths, along with measures to be installed to ensure that vehicle movements through the site will be limited to 20mph. The delivery of these features will be secured via the use of appropriate conditions, as recommended.

Car Parking

ii.3 Appendix D of the Sustainable Design Supplementary Planning Document provides guidance on the Council’s off street car parking requirements for new development. It states that for residential development there should be a maximum for 1 and 2 bedroom dwellings of 1 space (plus 1 further space for every 3 dwellings for visitors), for 3 and 4 bed dwellings, 2 spaces and 5 bed dwellings, 3 spaces.

- ii.4 The revised scheme either delivers the maximum provision required by the SPD or in some cases exceeds this provision. Thus a number of the 3 and 4 bedrooms dwellings within the site are served by three off street car parking spaces, whilst plots 56 and 57, which contain 4 and 5 bedrooms are to be served by 6 spaces per unit. The parking levels identified within this site are therefore considered to be acceptable, whilst they shall continue to be retained for their specified use, via the use of a condition, as recommended by the Highways Authority.
- ii.5 The parking bays within the site all comply in terms of scale, being 2.4m wide, with a depth of 4.8 metres, with the specifications identified within the abovementioned SPD and Manual for Streets Guidance. In addition, the garages space are of sufficient size, 3m by 6m, to also be considered as sufficiently large so as to accommodate a vehicle.

#### Pedestrian Connectivity

- ii.6 Initial concerns regarding the layout of the site specific to the location of the footpath to offer pedestrian access to the front of plots 47 to 54 have been addressed, through the introduction of a central overlooked footpath, which is to run between plots 49 and 50. To prevent the possibility however of future residents utilising or creating gaps in the retained hedgerow to the front of these properties to gain access onto the non-footpathed Claypit Lane, a low level fence will be required.
- ii.7 The serving of the site via 2 external points of access and the resultant alterations to the internal highway network, along with the revised off street car parking provision, complies in this regard with the requirements of the Development Plan and NPPF.

#### iii. Design and Impact on the Setting of Surrounding Listed Buildings

- iii.1 There are two listed buildings within the immediate area, near to the application site, namely the Grade II Listed Sandfields Lodge and Sandfields House, which are sited adjacent to the north west of the site, off Fossey Lane.
- iii.2 These dwellings, which historically formed Lichfield Asylum will be located approximately 130 metres from the nearest proposed dwelling within the application site. In terms of the alterations being sought via this update, the nearest dwelling to these properties will be located some 170 metres away.
- iii.3 Whilst considering proposals which affect the setting of a listed building regard is to be made of S16 (2) and S66 (1) of the Planning (Listed Building and Conservation Area Act) 1990, which requires the Local Planning Authority to *“have special regard to the desirability of preserving the building or its setting or any features of a special architectural or historic interest which it possesses”*.
- iii.4 Paragraph 185 of the NPPF states that in determining planning applications, local planning authorities should take account of:
  - the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness.
- iii.5 Paragraph 193 of the NPPF then goes on to say that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight

should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered.

- iii.6 The harm arising from the wider development upon the setting of the listed building was previously determined and balanced within the initial officer's report (set out above). It is considered that the revisions now being proposed would not have a material impact upon these conclusions.

#### Design

- iii.7 The revised layout within this area of the site, continues to be in broad accordance with the character areas identified within the Design and Access Statement. In addition, despite the loss of the vehicular access point from Claypit Lane, the dwellings adjacent to the highway will continue to have their facades presented to this route to facilitate overlooking and present a well-designed street scheme to the wider public realm. The house types, building materials proposed throughout the revised area along with the substituted dwellings throughout the site, remain those previously considered to be acceptable for this development. Details of fencing within the redesigned area have been provided, but concerns remain regarding the use of timber panels, to the garden boundaries with the sports pitches and rather these should be altered to brick walls. To address this visual concern and also the concerns of the Highway Authority regarding the need for a fence to prevent pedestrian access onto Claypit Lane, a condition requiring the submission and approval of a revised fencing scheme is recommended. Subject to adherence to appropriate conditions therefore, it is considered that the development in this regard remains compliant with the requirements of the Development Plan and NPPF in this regard.

#### iv Lichfield Canal Issues, including Flood Risk and Drainage Matters

- iv.1 Following the committee's consideration of this application in July, the Lichfield and Hatherton Canal Restoration Trust and IWA raised a number of concerns regarding the handling of the planning application by the Local Planning Authority, namely that the officer's report presented to the planning committee contained incorrect information, wrongly advised that the proposals would have no impact on the canal restoration and wrongly claimed that the Trust had no objections to the application, when in fact significant objections were raised by them.
- iv.2 Specific concerns are raised regarding the fact that the canal sits outside of the application red line and the lack of detail provided within the submission regarding future canal infrastructure. This will have led, in their view, to the Highways Authority failing to consider the acceptability of visibility splays affected by the erection of the canal bridge, the Lead Local Flood Authority not considering the impact of surface water pond adjacent to the northern boundary on the canal and finally, a lack of integration between the scheme's green infrastructure and the canal towpath.
- iv.3 A spreadsheet also accompanied the Trust's letter, setting out their concerns regarding the future interface between the development and the canal, which includes a limitation on working space to allow for construction of the canal and the impact of the pumping station, due its siting, upon the future stability of the canal. As a result of the concerns raised by the Trust, meetings have been undertaken between members of the Trust and the Local

Planning Authority. In addition, the Trust, the applicant and the LPA have had a meeting to discuss and seek to address the concerns raised above.

#### Canal Restoration Route

- iv.4 The policy position with regard to the Lichfield Canal is as follows. The restored Lichfield Canal and its associated green infrastructure is identified as one of the District's significant assets through Core Policy 1. The benefits that would be delivered to tourism, recreation, sustainable transport, biodiversity and well-being are further supported by Core Policies 4, 9, 10, 13 and Policies HSC1, NR6, Lichfield 1, 2 and 6 of the Local Plan Strategy.
- iv.5 Policy Lichfield 6 allocates the three Strategic Development Allocations (SDA) south of Lichfield (Deans Slade Farm, Cricket Lane and South of Lichfield – St Johns). The policy requires: *"Integration of the route for a restored Lichfield Canal into an integrated open space and green infrastructure network"*. Appendix H of the Deans Slade South of Lichfield Concept Statement (H.8) and Concept Rationale (H.3) reflect this wording again, requiring the integration for a restored Lichfield Canal into an open space network and green infrastructure, which will take into account sustainable drainage and enhanced biodiversity.
- iv.6 The Local Plan Allocations (Focussed Changes) document has now been submitted to the Secretary of State for consideration, following public consultation and subsequently, an examination in public. As such, this document now carries some, although minimal, material planning weight. Policy IP2 provides guidance specific to the delivery of the Lichfield Canal and states *"To assist in the delivery of the Lichfield Canal the route of the Lichfield Canal as shown on the Policies Maps and including the Heritage Towpath Trail will be safeguarded from any development which could prejudice its long term restoration.*
- New development shall recognise the advantages of supporting the delivery of the canal through a sensitively designed scheme and by including the route as part of the open space network, considering opportunities for sustainable transport, enhanced biodiversity, enhancement to the historic environment and where demonstrated that infiltration drainage is not viable, use of the canal as part of sustainable drainage for disposal of surface water, where appropriate"*.
- iv.7 The application as submitted fails to demonstrate integration of the scheme's open space with the canal, through a lack of pedestrian linkages between the site and the proposed canal route. Given that no planning permission exists for the canal within the area to the north of the site, it is understandable why this has not occurred. However, as detailed above, there is a local plan policy requirement to secure green infrastructure integration. To address this issue therefore, it is recommended that a condition be added to the decision notice to require the submission of details of additional footpath link(s) leading up to the northern boundary, to allow for the Trust to tie such into their towpath in due course, should planning permission and subsequent construction works be undertaken for the canal.
- iv.8 Analysis of the concept diagrams for the three SDA, highlights that Dean Slade, unlike with the other two sites, has the majority of the land allocated to deliver the canal, located outside of the application site, with the exception of the employment site, east of Birmingham Road; which was separately considered under outline planning permission reference 17/00977/OUFMEI. Furthermore, the location of the canal bridge over Claypit Lane also lies outside of the allocation and application site (map H.1 of the Concept Statement).
- iv.9 The applicant has submitted with the application an indicative plan to demonstrate that the delivery of the roundabout on Claypit Lane, will not affect visibility splays or the safety of use of any canal bridge that will have to be erected adjacent to the junction of Falkland Road

and Claypit Lane. The comments of the Trust appear to acknowledge this point, which has been confirmed by the Highways Authority, in fact, concern is raised more specifically regarding the funding for erecting the bridge, through a S106 agreement and disruption to existing and future residents, through the need to close Claypit Lane at some undesignated time in the future.

- iv.10 The matter of funding for the canal works will be discussed further below. The need to close Claypit Lane to erect a bridge will be required with or without this development occurring. It is acknowledged that dependent upon when this work occurs (assuming planning permission for such can be secured), the nearby roundabout access could, at that point, serve as a primary point of vehicular access for a large number of dwellings. In addition, a bus service may be routed through the site, which could also require diversion. Whilst this impact would be unfortunate, it would not be sufficiently harmful to warrant the delay in issuing this permission or conversely the commencement of development, for an unspecified period whilst the Trust seeks planning permission for and subsequently time to erect the bridge. In addition, it should be noted that given a secondary access for the site will be available from Birmingham Road, future residents would still be able to access their properties, even with the potential closure of Claypit Lane in the area of the proposed bridge.
- iv.11 The sewage treatment station proposed near to the northern boundary of the site, will provide a wet well located approximately 9 metres from the site boundary. The 'tank' will be designed to be structurally and geotechnically stable and as such, there will be no risk to the structural integrity of either any future canal cutting or the pumping station.
- iv.12 With regard to the concern of the proximity of the attenuation pond to the canal route raised by the Trust, the applicant has submitted a Flood Risk Addendum, which advises that the pond has been located within the north eastern corner of the site, due to this being the low point within the landscape. The document details why relocating the pond to elsewhere within the site would be unviable and increase design risks. In addition, it is noted that the potential for the pond to overtop, due to a flooding event is very low (1:200 year event plus 40% climate change) and therefore there is little risk of flooding of the towpath or canal. However, the document advises that in order to address this issue fully, it is recommended that an emergency spillway controlling exceedance flow towards the canal be incorporated. The Addendum continues to note that whilst it would be possible to alter the feature to an attenuation pond, with discharge to the canal, given that the construction date for the canal is unknown and the pond will have to be one of the first infrastructure features constructed when work commences on site, this amendment is not currently feasible and there is no policy requirement within the Development Plan to require such.
- iv.13 The Lichfield Surface Water Management Plan requires consideration to be given to the use of the canal for surface water attention. In addition, as noted above, Policy Lichfield 6 requires that this development take account of the potential to use the canal for sustainable drainage.
- iv.14 The Local Planning Authority is currently awaiting a further response from the County Council Flood Team regarding the conflicting arguments forwarded by the applicant and the Canal Trust regarding the acceptability of design of the northern drainage pond. It is evident that the applicant considers that infiltration drainage in this location is acceptable and therefore in accordance with Policy IP2, there is no need to drain surface water run-off from the site's road network into the canal. Evidently, the Trust are of the opinion that ground conditions in the area of the pond are such that infiltration drainage will likely lead to future flooding of any future towpath, and the canal itself and rather the design of the pond should be altered from infiltration to attenuation. Further input on this matter is to be provided by the applicant and will also be required from the County as Lead Local Flood Authority, to ensure that an appropriate solution is reached. It should be noted however that if the

applicant can demonstrate that an infiltration pond can be formed within this area, which would not 'prejudice the long term restoration' of the canal, then the need for the pond to be an attenuation feature cannot be established. Whilst awaiting further comment, it is recommended that conditions 15 and 20 be amended accordingly (as recommended), to require the submission and approval of further surface water drainage details, prior to the commencement of development.

- iv.15 Paragraph H.7 of the Policy Lichfield 6 of the Local Plan Strategy confirms that infrastructure requirements associated with Deans Slade will be set out within the IDP. The IDP lists a S106 agreement as source of developer funding for the canal infrastructure, including the road bridge. This document however must be read within the context of the Community Infrastructure Levy (CIL) 123 List given that the IDP is not planning policy. The CIL 123 list states *"Infrastructure works relating to the restoration of the Lichfield Canal will potentially benefit from CIL funds, apart from works required in relation to any on-site provision by developers connected to the three SDAs in the vicinity of the canal: South of Lichfield, Deans Slade Farm and Cricket Lane"*. Thus, it is evident that the Council's adopted policy is that on-site canal works will benefit from s106 contributions, whilst off-site works are to be aided via CIL funds. The notes section (which has no material planning weight) identifies that section 106 agreements will be required where appropriate to secure infrastructure works relating to the restoration of the Lichfield Canal for the three SDAs in the vicinity of the canal. It is evident given the above, that the Council's adopted documents provide somewhat conflicting advice regarding where funding for the canal will be sought. However, the CIL 123 List is the most recent document and carries significant material planning weight. Whilst the associated note is misleading it is the list itself which is policy. This clearly states that off-site canal works will be funded via CIL. This is a position that has been clarified by the Spatial Policy and Delivery Manager and explained to both the Lichfield and Hatherton Canal Restoration Trust and Inland Waterways Association.
- iv.16 None of the works required to facilitate the delivery of the canal to the north of the application site are within the application site or Concept Statement (Appendix H) of the Local Plan Strategy. Therefore, these 'off-site' works clearly fall to be considered under the CIL Regulation 123 List and by law, could not also be considered for S106 funding. Should a contrary view be taken, any S106 obligations must satisfy all the Regulation 122 tests listed below:
- necessary to make the development acceptable in planning terms;
  - directly related to the development; and
  - fairly and reasonably related in scale and kind to the development.
- iv.17 Presently there is no detailed planning permission for the canal infrastructure (no certainty of the final design or alignment) or formal commitment to commence the works. Given that the land for the canal lies outside of the application site and therefore outside of the applicant's control and that, there is no planning policy requirement for the canal works to be 'delivered' as part of this application, the three tests would not be met. That is not to say that the bridge or canal infrastructure cannot receive funding; merely that it would need to be secured via CIL rather than a S106 contribution.
- iv.18 The above assessment demonstrates that subject to a condition requiring further details of how the green infrastructure of the development will integrate with the canal route and further surface water drainage details, as recommended, it is considered that the development as submitted and previously agreed by the planning committee, is wholly compliant with the requirements of the Development Plan and NPPF in this regard.



v. Landscaping

v.1 The revised layout does not impact upon the number or position of the Public Open Space provision within the site. It will however impact somewhat upon the landscaping scheme previously proposed for this area. The revised landscaping details have been considered by the Council's Arboriculture officer, who advises that generally the scheme is acceptable but further details relating to watering schedules are required along with an amendment to the maintenance schedule, specific to replacement planting. These issues can be resolved through the use of a condition, thereby ensuring the development's compliance, in this regard, with the requirements of the Development Plan and NPPF.

vi. Residential Amenity- Future and Existing Residents

vi.1 The NPPF core planning principles include the requirement that planning should seek a good standard of amenity for all existing and future occupants of land and buildings. The Council's Sustainable Design Supplementary Planning Document contains guidance detailing appropriate space around dwelling standards. These standards establish a minimum distance of 21 metres to separate principle habitable windows and that there should be at least 6 metres between a principal window and private neighbouring residential amenity space.

vi.2 The SPD also requires that in order to prevent any overbearing impact upon residents, that there should be a minimum of 13 metres between the rear elevation and the blank wall of any proposed dwelling.

vi.3 Finally the SPD identifies that for 1 or 2 bedroom dwellings a minimum garden size of 45m<sup>2</sup> should be provided, for 3 or 4 bed 65m<sup>2</sup> and for 5 bedroom dwellings 100m<sup>2</sup>. All gardens should have a minimum length of 10m.

vi.4 The alterations proposed to enable plots 47 to 54 to be served by an internal access road and also those across the wider site, specific to the plots mentioned above, continue to comply with the abovementioned space around dwelling requirements, with each dwelling being afforded the requisite amount of private garden space and the separation distances between both proposed dwellings within the site and those dwellings and their gardens within the Deanslade Farm complex itself being sufficient to ensure that the amenity of both existing and future residents is protected.

vi.5 The layout of the scheme, given the above described circumstances will ensure an appropriate standard of living accommodation for future residents and therefore the development will comply with the requirements of the Development Plan and NPPF in this regard.

vii. Cannock Chase SAC

vii.1 Under the provisions of the Conservation of Habitats and Species Regulations 2017, the Local Planning Authority as the competent authority, must have further consideration, beyond the planning policy matters identified within the original officer's report, to the impact of this development, in this case, due to the relative proximity, on the Cannock Chase SAC. Therefore, in accordance with Regulation 63 of the aforementioned Regulations, the Local Planning Authority has undertaken an Appropriate Assessment. Natural England are a statutory consultee on the Appropriate Assessment (AA) stage of the Habitats Regulations process and have therefore been duly consulted. Natural England have concurred with the LPA's AA, which concludes that the mitigation measures identified within the Council's Development Plan for allocated housing sites, will address any harm arising from this development to the SAC and therefore they have offered no objections to proposal. On this

basis, it is concluded that the LPA have met its requirements as the competent authority, as required by the Regulations and therefore the proposal will comply with the requirements of the Development Plan and the NPPF in this regard.

viii. Planning Obligations

viii.1 The amendments and additional observations considered within this report and the implications arising from the further discussion about the restoration of the Lichfield Canal have no impact upon the previously agreed contributions and amenities to be secured via a S106 agreement. The document is now near completion and therefore it is proposed that an extension until the 21<sup>st</sup> January 2019 be provided to facilitate the completion of the document.

ix. Human Rights

ix.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with neighbour's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report and on balance is justified and proportionate in relation to the provisions of the policies of the Development Plan and National Policy in the NPPF.

## **Conclusion**

The NPPF states that there are three dimensions to sustainable development, namely economic, social and environmental. The NPPF continues to advise that at the heart of the Framework is a presumption in favour of sustainable development. With reference specifically to the amendments and considerations, discussed within this additional report, the development will continue to deliver significant economic, social and environmental benefits, with the amendments being sought ensuring safe vehicular access. The concerns and comments raised by the Lichfield & Hatherton Canal Restoration Trust, Inland Waterways Association and other parties have been fully considered and the implications of such addressed within the above report. Thus, given the material weight attributable to the need to support sustainable development offering new housing within a key Strategic Development Allocation and employment opportunities and, the lack of evidenced harm resulting from the development, subject to the abovementioned conditions and the completion of the S106 agreement, it is recommended that this application be approved.

# LOCATION PLAN

17/01709/COU  
Industrial Unit Lions Den  
Hammerwich  
BurntwoodX

Scale: 1:1,000

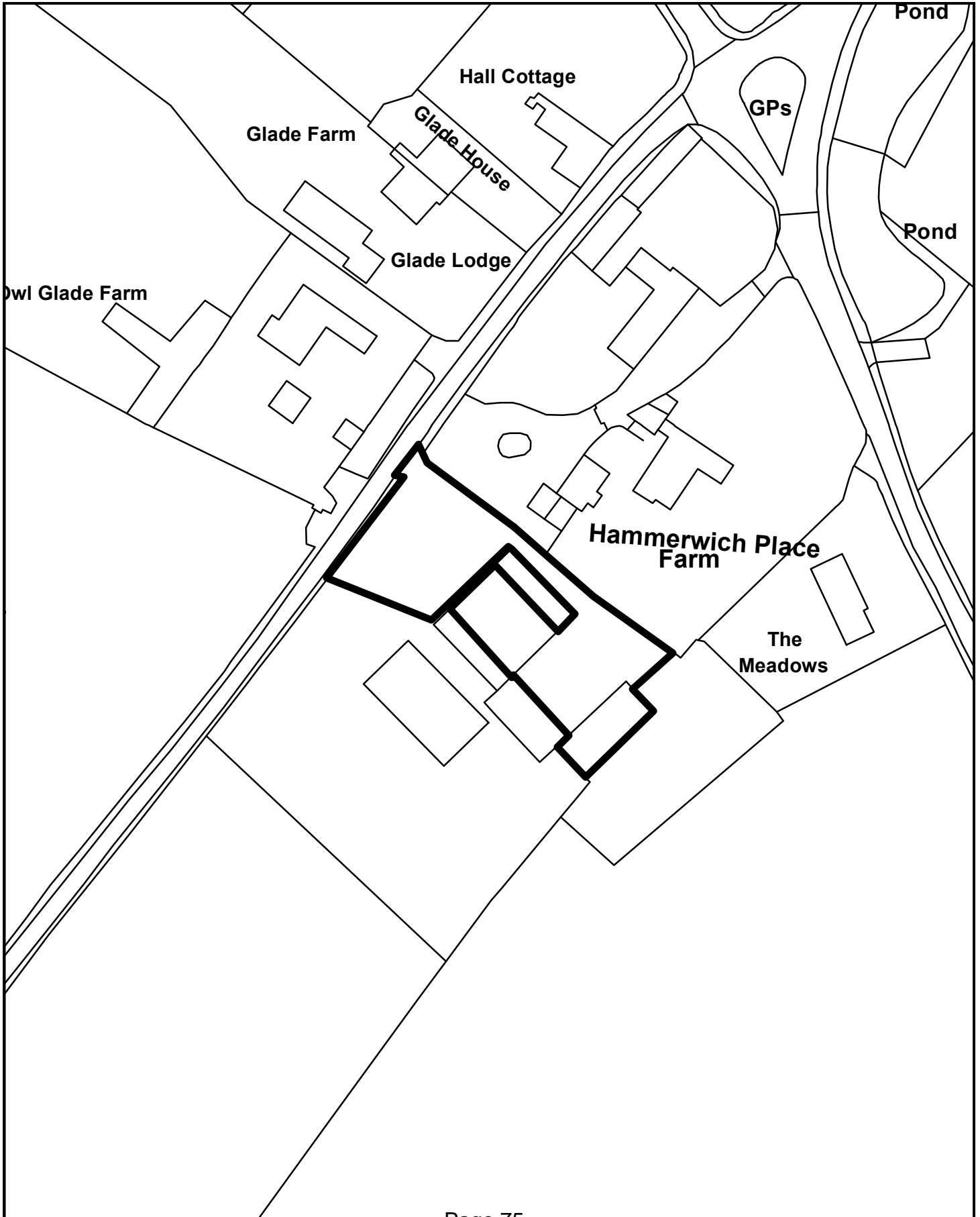
Dated: December 2018

Drawn By:

Drawing No:



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Lichfield District Council  
Licence No: 100017765



# BLOCK PLAN

17/01709/COU  
Industrial Unit Lions Den  
Hammerwich  
BurntwoodX

Scale:

Dated:

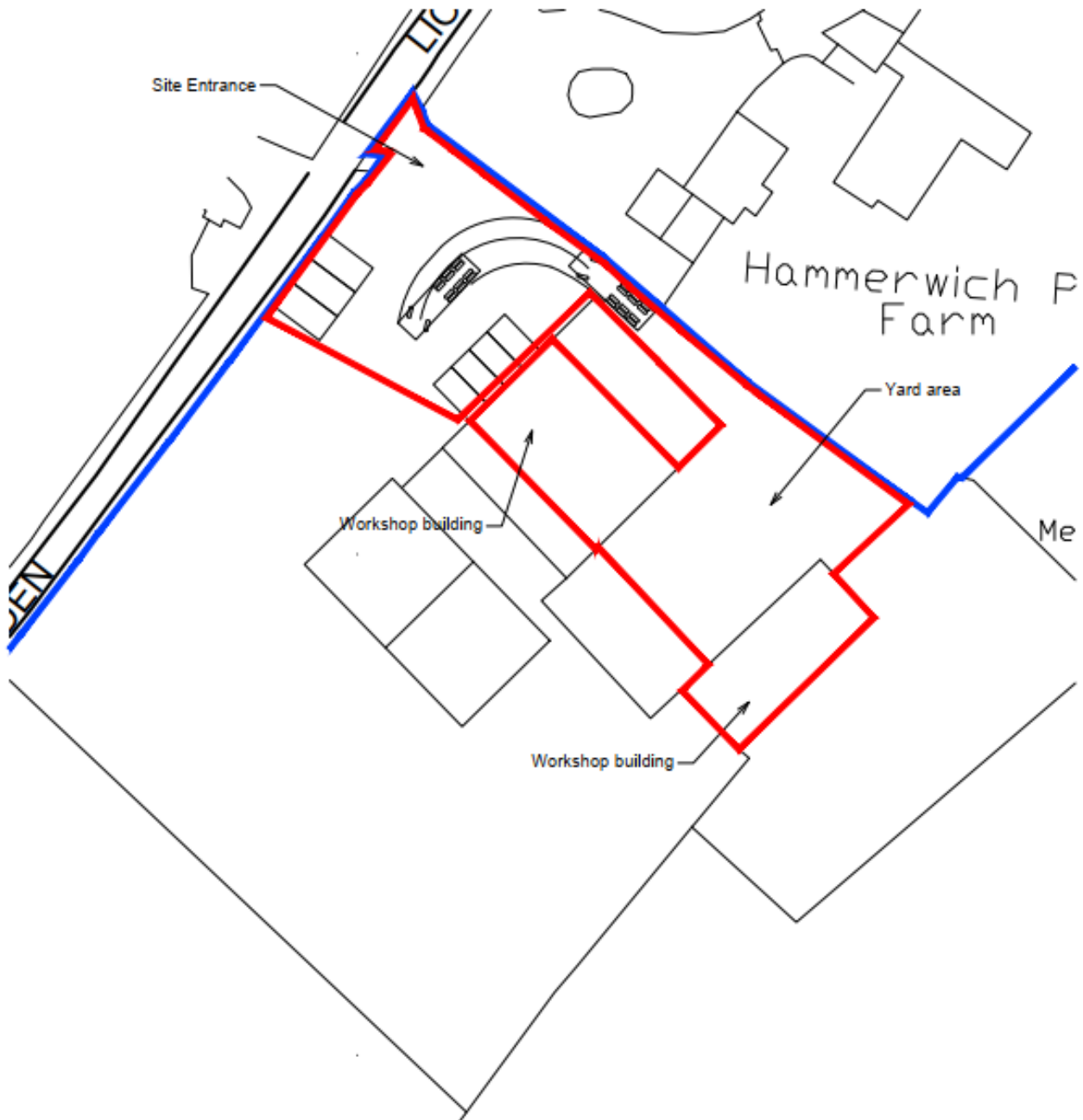
December 2018

Drawn By:

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# 17/01709/COU

## CHANGE OF USE OF BUILDINGS AND ADJACENT YARD AREA FROM CLASS B1 AND CLASS B8 TO CLASS B2 (GENERAL INDUSTRIAL) INDUSTRIAL UNIT, LIONS DEN, HAMMERWICH, BURNTWOOD FOR MR C MEARS

Registered on 13/12/2017

**Parish: Hammerwich**

**Note:** This application is being reported to the Planning Committee due to significant planning objections from Hammerwich Parish Council in relation to the unsuitability of local roads for use by heavy goods vehicles. Furthermore, objections have been received from Staffordshire County Council's Highway Department on the grounds that the submitted swept path analysis drawing is incorrect, there are no passing places for HGV's in the vicinity, and conditions which were previously imposed have not been adhered to and further similar conditions may be difficult to enforce.

**RECOMMENDATION: Approve, subject to the following conditions:**

### CONDITIONS

- 1 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.
- 2 The use hereby approved shall cease within 3 months of the date of failure to meet any of the requirements set out in (i) to (iv) below;
  - i) Within 3 months of the date of this approval, a detailed scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of noise attenuation measures to be installed within the building hatched green on the approved plan and a timetable for the implementation and retention of the scheme.
  - ii) Within 6 months of the date of this decision, the scheme referred to above shall have been approved by the Local Planning Authority or, if the Local Planning Authority refuses to approve the scheme or fails to give a decision within the prescribed period, an appeal shall have been made to, and accepted by, the Secretary of State.
  - iii) If an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme shall have been finally approved by the Secretary of State.
  - iv) The approved scheme shall have been carried out and completed in accordance with the approved timetable and the approved scheme shall thereafter apply.
- 3 The hours of operation of the use hereby approved shall be limited to: Monday to Fridays – 08:00 hours to 18:00 hours and Saturdays - 08:00 hours to 13:00 hours. There shall be no such work on Sunday or Bank Holidays.
- 4 The manufacturing activities associated with the B2 use shall only take place within the building hatched green on the approved plan and only storage and office works shall take place within any other building. No materials, plant or machinery shall be stored in the open within the curtilage of the application premises.

- 5 The access gates shall remain entirely open during the hours of operation of the site and buildings.

### **REASONS FOR CONDITIONS**

- 1 In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.
- 2 In order to safeguard the amenity of nearby residential properties in accordance with Local Plan Policy BE1 and the National Planning Policy Framework.
- 3 In order to safeguard the amenity of nearby residential properties in accordance with Local Plan Policy BE1 and the National Planning Policy Framework.
- 4 In order to safeguard the amenity of nearby residential properties in accordance with Local Plan Policy BE1 and the National Planning Policy Framework.
- 5 In the interests of highway safety and to comply with the National Planning Policy Framework.

### **NOTES TO APPLICANT:**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015).
2. The applicant's attention is drawn to The Town and County Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters. Although the Council will endeavour to deal with such applications in a timely manner, it should be noted that legislation allows a period of up to 8 weeks for the Local Planning Authority to discharge conditions and therefore this timescale should be borne in mind when programming development.
3. Please be advised that Lichfield District Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on the 19 April 2016. A CIL charge will apply to all relevant applications determined on or after the 13 June 2016. This will involve a monetary sum payable prior to commencement of development. In order to clarify the position of your proposal, please complete the Planning Application Additional Information Requirement Form, which is available for download from the Planning Portal or from the Council's website at [www.lichfielddc.gov.uk/cilprocess](http://www.lichfielddc.gov.uk/cilprocess).
4. The Council has sought a sustainable form of development which complies with the provisions of paragraph 38 of the NPPF.

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### **PLANNING POLICY**

#### **National Planning Policy**

National Planning Policy Framework

National Planning Practice Guidance

#### **Local Plan Strategy**

Core Policy 1 - The Spatial Strategy

Core Policy 2 - Presumption in Favour of Sustainable Development

Core Policy 3 - Delivering Sustainable Development

Core Policy 5 - Sustainable Transport  
Core Policy 6 - Housing Delivery  
Core Policy 14 – Our Built and Historic Environment  
Policy ST1 - Sustainable Travel  
Policy ST2 - Parking Provision  
Policy H1 - A Balanced Housing Market  
Policy BE1 - High Quality Development  
Policy NR2 – Development in the Green Belt  
Policy NR4 - Trees, Woodlands & Hedgerows

#### **Saved Policies**

EMP2 – Existing Industrial Areas

#### **Emerging Policy**

Local Plan Allocations Document – EMP1 Employment Areas and Allocations

#### **Supplementary Planning Document**

Sustainable Design  
Historic Environment  
Rural Development

#### **RELEVANT PLANNING HISTORY**

08/00215/COU Change of use from agricultural to business/storage or distribution (B1/ B8)  
(retrospective) – Approved 23/4/2008

#### **CONSULTATIONS**

**Hammerwich Parish Council** – Hammerwich Parish Council feel that Hall Lane/Lion’s Den are totally unsuitable for Heavy Good Vehicles and oppose this application – (2/7/2018)

**Staffordshire County Council (Highways)**- The application should be refused on the following basis -  
1) The swept path analysis drawing used the wrong vehicle and not the 18 tonne flatbed lorry that is 8.5m long and 2.4m wide; 2) There are no passing places for HGV’s along Hall Lane and Lions Den and the access roads are not suitable for large HGV vehicles with inappropriate speed limits; and 3) Conditions that were required upon planning permission 08/00215/COU were never adhered to and any conditions to address the above concerns may now be hard to police and enforce (21/11/2018).

Previous comments: There are no objections on Highways ground subject to the imposition conditions relating to the establishment of parking and turning areas, the surfacing of the access; and the drainage of the access (29/3/2018).

**Environmental Health Team** — It is accepted that the use is already in place, controls are required to ensure there is no change from the current use within the same class and this then causes problems in terms of noise to neighbouring properties. Conditions are suggested to require that within 1 month the Local Planning authority shall agree a scheme which specifies the provision to be made for the control of the noise emanating from the site. The applicant should consider hours of use as part of the scheme (8/11/2018).

#### **LETTERS OF REPRESENTATION**

13 letters of representation have been received in respect of this application. The comments made are summarised as follows:

- Non-compliance with conditions of original consent,
- Noise disturbance from the use,
- Affecting the health and wellbeing of neighbours,

- Impact upon highway safety,
- Lack of Highway Agency consultation,
- Accuracy of the submitted documents and details (swept path and routing drawing),
- Lack of passing places within the highway,
- Damage to village green caused by HGV's,
- No parking for lorries,
- Size of the vehicle delivering to the site,
- Damage to bollards within the highway,
- Unsafe access,
- Traffic levels having increased,
- Hours of use,
- Lack of enforcement by Lichfield District Council,
- Damage to Hall Lane,
- Negative impact upon the Hamlet,
- Inappropriate use in this location,
- Incorrect address of application site,
- Noise from guard dogs,
- Health and safety of the workers and lack of personal protective equipment,
- Method and content of the Noise Impact Assessment,
- Effect on Human Rights.

### **OTHER BACKGROUND DOCUMENTS**

Noise Assessment (Clover Acoustics)

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### **OBSERVATIONS**

#### **Site and Location**

The application site relates to an existing industrial unit located off Lions Den in Hammerwich. The industrial unit, together with the attached units, previously formed part of the agricultural complex of Hammerwich Place Farm but was severed from the farm house and agricultural buildings when the farmhouse was converted into private residences. The site is on the south side of Hammerwich and contains a number of small B1 and B8 units which benefit from an area of hardstanding parking. The buildings are agricultural in appearance as few alterations have taken place as part of their current uses. The vehicular access is gained off Lion's Den and the access is currently gated.

Residential properties surround the site with the dwellings of Owl Glade Farm, Glade Lodge, Glade Farm, Hammerwich Place Farm, Hall Cottage and The Meadows all within 100m of the application site. The property of Hammerwich Place Farm (the original farm house) is a grade II listed building and the entire site falls within the West Midlands Green Belt.

#### **Background**

The application site used to form part of the agricultural unit known as Hammerwich Place farm until parts were sold separately in the early 2000's and the main farming operations ceased. The application site is the former agricultural buildings and benefits from its own access off Lion's Den. The site obtained retrospective planning permission in 2008 for the change of use from agricultural to business/storage or distribution (B1/ B8) (Ref: 08/00215/COU).

This permission was granted subject to conditions relating to the hours of operation (8am -6pm Mon-Friday and 9am to 1pm Saturdays within no works on Sundays or bank holidays); no works to be carried out outside of the buildings; no deliveries from heavy goods vehicles, car transporters or low loading vehicles; and that the access gates shall remain open during the hours of operation of the site and buildings amongst others.



## Proposals

This application seeks retrospective planning permission for the change of use of two buildings (which are used as one unit) from B1 (light industrial) and B8 (storage and distribution) to B2 (general industrial). The access is intended to remain the same, as is the parking and manoeuvring area for vehicles. The current B2 use operations from the site involve the manufacturing and fabrication of gates and containers. No external alterations are proposed to be carried out to the existing buildings. Internal noise insulation is proposed to be installed in one of the two units.

## Determining Issues

1. Principle of Development and the Green Belt
2. Design and Impact upon the Character of the area including Residential Amenity
3. Impact upon Heritage Assets
4. Highway Issues
5. Other material considerations
6. Other matters
7. Human Rights

### 1. Policy & Principle of Development and the Green Belt

- 1.1 Section 38 (6) of the Planning and Compulsory Purchase Act (2004) sets out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan for Lichfield District comprises the Lichfield District Local Plan (1998) (saved policies) and the Local Plan Strategy 2008-2019.
- 1.2 This application proposes the change of use of existing industrial buildings from B1 and B8 to B2. The primary use of the site will still be for employment and the amount of employees will not alter significantly through the change of use, the application suggests.
- 1.3 Local Plan Core Policy 7: Employment & Economic Development states that the redevelopment and modernisation of employment sites will be encouraged in order to meet current and future business needs and the minimise the need for additional new land. The policy also states that proposals for economic development and diversification of the rural economy will be supported where they do not conflict with other Local Plan Policies. Emerging Policy EMP1 is concerned with the industrial areas identified within the emerging Allocations document while saved policy EMP2 states that the Council will permit new industrial development and the expansion, conversion or redevelopment of industrial premises provided that the proposals are consistent with parking and servicing requirements and meet the amenity and design principles of Policy DC1A and that the Council will restrict the development within these areas to B1, B2 and B8 unless it is demonstrated that any proposed use falling outside these Use Classes will not detrimentally affect residential areas or the industrial area.
- 1.4 Local Plan Policy NR2 – Development in the Green Belt states that all developments within the Green Belt must retain its character and openness and that inappropriate development is by definition harmful to the Green Belt and will not be approved except in very special circumstances. The National Planning Policy Framework explains that the re-use of existing buildings is not inappropriate development provided that the buildings are of permanent and substantial construction.
- 1.5 The principle of the wider site to be used for industrial purposes was established through the retrospective granting of planning permission in 2008. This proposal seeks consent to change the use from B1 and B8 to B2 (general industrial). Local Plan Strategy Core Policy 7 supports investment into existing industrial areas and Saved Policy EMP2 seeks to restrict

uses outside of the industrial uses of B1, B2 and B8. The reuse of the building, as it is of permanent and substantial construction is supported within the Green Belt by the National Planning Policy Framework. As such, the development in principle complies with the relevant policies of the Development Plan and the NPPF and is therefore acceptable in principle.

## 2 Design and Impact upon the Character of the area including Residential Amenity

- 2.1 Policy BE1 of the adopted Local Plan Strategy requires development proposals to ensure that a high quality sustainable built environment can be achieved. Development will be permitted where it can be demonstrated that it will have a positive impact on the significant of the historic environment and reducing carbon emissions. New development, including extensions and alterations to existing buildings, should carefully respect the character of the surrounding area and developments in terms of layout, size, scale, architectural design and public views must have a positive impact upon amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance.
- 2.2 This application proposes the material change in use of the existing unit. No external alterations are proposed by this application and as such the appearance of the buildings will therefore remain unaltered and it is considered that no detrimental visual impact will be caused in this regard.
- 2.3 Ordinarily, a change of use to B2 has the potential to generate slightly more traffic activity than the existing B1 use. However, given the minor nature of the operations and the limited footprint of the buildings intended to benefit from the use, an uplift in such vehicles would not be anticipated to a degree which would severely impact the character of the area. This matter is discussed further below in respect of the impact upon the amenity of nearby residential properties. As such, the development is considered to accord with Policy BE1 of the Local Plan Strategy, Rural Development SPD and the National Planning Policy Framework in this regard.
- 2.4 In terms of noise disturbance, a B2 use is ordinarily more harmful than a B1 or B8 as it involves manufacturing which, by its very nature could give rise to louder operations, more frequent comings and goings, and the use of more pollutant processes.
- 2.5 The current occupier of the site manufactures and fabricates metal gates and storage containers and it is understood that this business has grown organically from its original B1 form which was low key and less intensive in its nature. However, the site now operates with 7 members of staff and frequently receives deliveries of raw materials and operates a number of large machines as part of its manufacturing process.
- 2.6 A Noise Impact Assessment has been submitted to accompany the application. As part of the assessment a survey was carried out which monitored the noise caused by the operations at certain points during the day. The survey found that the cutting shed operations gives a noise level of 15db above the typical background and according to British Standard BS4142, a difference of around +10db or more is likely to be an indication of a significant adverse impact depending on the context. Accordingly, the assessment recommends certain attenuation measures to mitigate the harm caused to nearby residential properties.
- 2.7 The mitigation identified within the Noise Assessment is for an acoustic enclosure to be created offering at least 16db attenuation which would then fall below the current background levels. It is recommended that the saw manufactures be approached to ascertain if a bespoke acoustic enclosure is available or alternatively to create a "room within a room" arrangement in the existing cutting shed to offer the required additional attenuation. Alternatively the sourcing of a new, quieter unit may also form part of an appropriate mitigation strategy.

- 2.8 Following the findings of the Noise Impact Assessment, the applicant provided a scheme to address the noise issue and provide noise attenuation in the form of internal cladding to one of the two buildings used as part of the manufacturing operations. The building, shown hatched green on drw. 200.01 C and labelled “building dedicated to cutting equipment and to be insulated regarding noise”, will be internally insulated in order to reduce the noise impact upon the nearby residential properties. The Local Planning Authority is satisfied that any noise impact could be mitigated via the use of suitable products to insulate the existing building as per the applicant’s proposals. As such, the LPA raises no objection to this approach subject to a final detailed scheme being submitted to and approved in writing by the Local Planning Authority within three months of permission being granted. Once installed and together with other recommended conditions relating to the suitable hours of operation and prevention of outside operations at the unit, the Local Planning Authority is satisfied that the development would not cause significant harm to the nearby residential properties through noise disturbance arising from this B2 use.
- 2.9 Neighbour responses have raised a number of noise related concerns. These include instances of noise from two dogs barking on site. It is anticipated that the animals belong to the owner of the site who resides adjacent to the units. Noise arising from security animals or privately looked after animals is not a planning matter and would be for the Environmental Health Department to enforce against under noise abatement powers.
- 2.10 Notwithstanding the above neighbourhood concerns, it is considered that the change of use is not considered to have a significant detrimental impact upon the character of the area or local residential amenity. The proposal therefore complies with Local Plan Strategy Policy BE1 and the Rural Development Supplementary Planning Document as well as the National Planning Policy Framework, in this regard.

### 3. Highway Issues

- 3.1 Paragraph 108 of the National Planning Policy Framework states that, in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be, or have been taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users; and
  - c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 3.2 Paragraph 109 goes on to state that developments should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 3.3 Staffordshire County Council’s Highways Department have objected to the proposal on three grounds:
- a) the submitted swept path analysis drawing used the wrong vehicle and not an 18 tonne flatbed lorry that is 8.5m long and 2.4m wide;
  - b) there are no passing places for HGV’s along Hall Lane and Lions Den and the access roads are not suitable for large HGV vehicles with inappropriate speed limits; and
  - c) conditions that were required upon planning permission 08/00215/COU were never adhered to and any conditions to address the above concerns may be hard to police and enforce.

- 3.3 In terms of addressing the comments of highways authority, firstly the use of the site for B2 ordinarily requires the delivery of raw materials to be used within the manufacturing process. In his instance, metals are used to create the gates and the containers which are fabricated on this site as well as other deliveries of associated goods and ancillary materials. To deliver the raw materials to site, delivery vehicles would have to use either Hall Lane or Lion's Den in order to access the A5 and the wider highway network to the south. From the north, vehicles would need to utilise Hammerwich Lane and a further section of Hall Lane leading up to the main settlement of Hammerwich. The applicant has identified that their current supplier uses a 7.13m x 2.3m rigid goods vehicle and a swept path analysis drawing has been provided to demonstrate that the vehicle can enter and exit the site in a suitably safe fashion. A routing plan has also been provided which shows the route in which the current suppliers apparently access the site.
- 3.4 The residents of the neighbouring properties have disputed the size of vehicle which currently serves the development and claim that the delivery vehicle is larger than 7.13m and that it causes damage to the existing public highway, struggles to access the site adequately and causes damage to the "village green" when accessing the site.
- 3.5 It is considered that, although the site may be served by a specific sized vehicle currently used by a particular supplier, they may in future choose to deliver with a larger vehicle or the applicant may choose to engage with a different supplier with a different sized vehicle. The Local Planning authority cannot control which supplier the applicant uses in the course of the business and nor can the Local Planning Authority reasonably control the size of the delivery vehicle, or the route in which it takes to access the site. It would not be enforceable or proportionate to do so. As such, the Local Planning Authority must expect the worst case scenario which is ordinarily used to supply B2 uses having regards to the size and type of operations being carried out at the site.
- 3.6 In respect of this site, raw material in the form of metal tubes to make the gates or sheets to make the containers may be delivered in significant lengths and cut down on site in order to economise on the price of the materials. These sized products would require a substantially sized vehicle to provide delivery to the site. As such in terms of the access point onto Lion's Den, the current access arrangement does not support vehicles much larger than the 7.13m vehicle which it has been demonstrated can adequately access the site. The wider road network of Hall Lane and Lion's Den are not suitable for larger delivery vehicles as the width of the roads would not allow for oncoming traffic to pass by in a safe manner.
- 3.7 In respect of possible mitigation measures, the applicant could be required to provide a scheme for the enhancement of the existing access point and, as the applicant owns some of the field adjacent to Hall Lane and Lion's Den, a scheme could be devised to install a number of passing places to accommodate larger vehicles to pass oncoming traffic at certain points. However, the improvement required to the access to accommodate the larger HGV vehicles would be substantial and would result in the loss of existing hedgerow to the south. Likewise, the installation of passing places, which would be undertaken by the applicant, would be required by the Highway Authority to be constructed to adoptable standards resulting in the introduction of heavily engineered black top "pull ins". The introduction of such measures would cause significant harm to the character and setting of this rural hamlet and therefore would not be supported in principle.
- 3.8 Notwithstanding any potential mitigation, the original permission (08/00125/COU) for the establishment of the B1 and B8 use was granted in 2008 and was subject to seven conditions. Condition No.6 of the permission stated that "there shall be no heavy good vehicles, car transporters or low loading vehicles delivering to or collecting goods or vehicles from the site at any time".
- 3.9 However, as discussed above, a condition restricting 3<sup>rd</sup> party activity in the form of the size and type of vehicles they use to carryout deliveries is not considered to be enforceable or

proportionate as it falls outside of the power and scope of the applicant and is not within the control of public land or public activity. As this is the case, this original condition (no 6) fails the tests of paragraph 55 of the National Planning Policy Framework as it is not considered to be enforceable or reasonable.

- 3.10 In the absence of condition No.6, planning permission 08/00215/COU would provide a lawful use of the site for B1 (light industrial) and B8 (storage and distribution) use without any restriction of the type or size of vehicles serving the uses. This is the existing lawful fall-back position available to the applicant. The Local Planning Authority considers that vehicles which would serve a B8 storage and distribution use, given the size and floor space of the subject unit, would not differ significantly in terms of their size compared to that which would serve a B2 general industrial use. It is likely that a B8 use would visit the site more frequently as part of its storage and distribution activity than a material delivery vehicle serving a B2 use.
- 3.11 Therefore having regards to the above unreasonable and unenforceable conditions fall-back position, and taking into consideration all the highways factors discussed above, it is not considered reasonable to require the applicant to provide further information / mitigation to support the proposal. Consequently, it is not considered that the proposed B2 use would cause any further harm to highway safety than the existing permission. Therefore, the development would not cause any greater impact on the local highway network or lead to severe harm to highway safety and as such would comply with paragraphs 108 and 109 of the National Planning Policy Framework in this regard.

#### 4. Impact upon Heritage Assets

- 4.1 Core Policy 14 of the adopted Local Plan Strategy states that the significance of designated heritage assets including national protected listed buildings and their settings, Ancient monuments, Archaeological sites and conservation areas and their settings, will be conserved and enhanced and given the highest level of protection. The emerging Local Plan Allocations Policy BE2: Heritage Assets states that *“Development proposals which conserve and enhance our historic environment will be supported where the development will not result in harm to the significance of the heritage asset or its setting.”* And that *“The loss of, or harm to, a heritage asset will only be permitted where it can be demonstrated that the ensuing harm and loss of significance of the heritage asset is necessary to achieve public benefits that outweigh that harm or loss in accordance with the NPPF.”*
- 4.2 The application site is considered to be within the setting of the Grade II listed Hammerwich Place Farm. The B2 use which currently operates in an unauthorised capacity has not altered the character of the area significantly. As no physical alteration are proposed, it is considered that the setting of the adjacent Grade II listed farm house is adequately preserved and not harmed through this development and as such the proposal would accord with the Development Plan and NPPF in this regard.

#### 5. Other matters

- 5.1 The comments of local residents are noted. Although a number of these comments have already been addressed, the following further comments have also been made. A number of neighbour comments allege a breach of the conditions attached to planning permission 08/00215/COU and adduce that, as conditions have been breached previously, the Local Planning Authority may not wish to consider using conditions in the future if they are not likely to be adhered to. However, in response to this, the Local Planning Authority cannot use previous breaches of planning control in the consideration of whether to impose conditions on future permissions.
- 5.2 With regards to a whether Highways England should be consulted, there is not a requirement for the Local Planning Authority to consult with the Highways Agency unless

there is a greater impact upon the strategic highway network. Given the size of the subject unit and the level of business taking place, the Local Planning Authority does not consider such an impact arises and therefore is not required to consult with the Highways England.

5.3 It has been identified by local residents that some of the delivery vehicles may be causing damage to privately erected security bollards and the village green. Damage to private property is a civil matter and damage to the public highway is dealt with by the Staffordshire County Council and would not form part of the consideration of this application.

5.4 Lastly concerns have been raised, through the consultation process regarding the health and safety of workers and site operatives operating within the site. Such matters are for the Health and Safety Executive and the business operator and would not have a bearing on the consideration of this change of use application.

## 6. Human Rights

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

## **Conclusion**

The change of use of B2 is acceptable in principle and in respect of the three dimensions of sustainable development, namely economic, social and environmental, economically the development will allow the continued employment of a small number of employees within a rural location and would allow the business to continue to pay appropriate business rates to the Local Authority. There would be no detriment socially and having due regards to the fall-back position available to the applicant in relation to an open B8 use, the use of the site for B2 is not considered to have any greater detrimental impact on the safety of the highway network.

Accordingly, subject to conditions controlling noise mitigation measures, hours of operation and that the gates must be kept open during the use of the site, the development is considered to have an acceptable environmental impact and no greater impact than the existing use. Consequently, it is recommended that this application be approved, subject to the conditions, as set out above.

# BLOCK PLAN

18/00643/FULM & 18/00644/LBC  
Land Corner Of Rotten Row &  
Aiden Court Road/Deans Croft  
Lichfield

Scale: 1:1,000

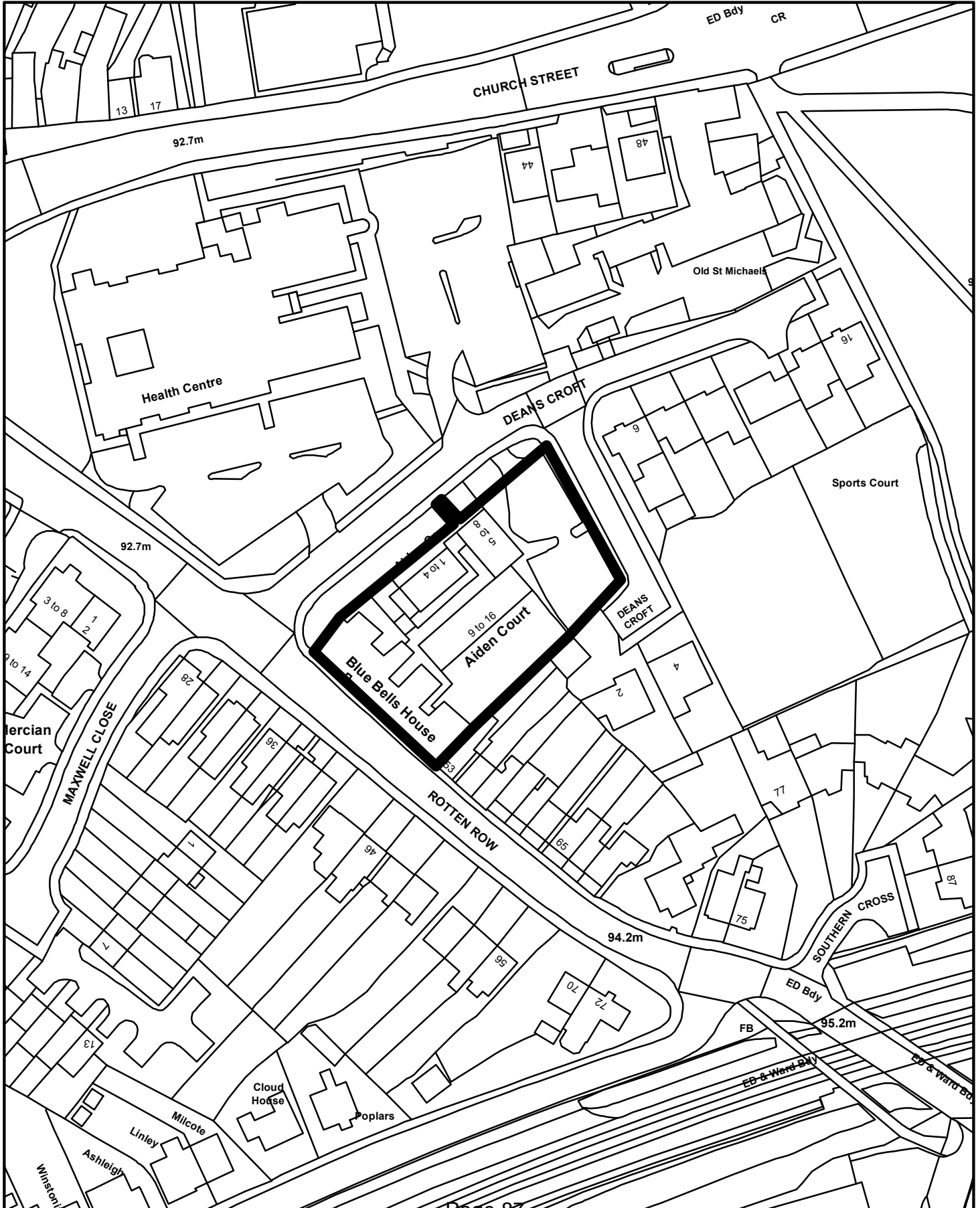
Dated: December 2018

Drawn By:

Drawing No:



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# BLOCK PLAN

18/00643/FULM & 18/00644/LBC  
Land Corner Of Rotten Row &  
Aiden Court Road/Deans Croft  
Lichfield

Scale:

Dated:

December 2018

Drawn By:

Drawing No:



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## **18/00643/FULM & 18/00644/LBC**

**DEMOLITION OF THE EXISTING BUILDINGS AND THE ERECTION OF 29 AFFORDABLE APARTMENTS FOR THE OVER 55s INCLUDING ASSOCIATED COMMUNAL FACILITIES AS WELL AS NEW VEHICULAR ACCESS, LANDSCAPING AND OTHER ASSOCIATED WORKS AND LISTED BUILDING CONSENT TO FACILITATE DEMOLITION OF THE EXISTING STRUCTURE AND THE ATTACHMENT OF THE NEW STRUCTURE TO A LISTED BUILDING.**

**LAND ON THE CORNER OF ROTTEN ROW AND AIDEN COURT ROAD/DEANS CROFT, LICHFIELD FOR MIDLAND HEART DEVELOPMENTS LTD**

Registered on 4/5/18

**Parish: Lichfield**

**Note:** These applications are being reported to the Planning Committee due to significant planning objections from Lichfield City Council regarding the overdevelopment of the site and the lack of parking provided.

## **18/00643/FULM**

**RECOMMENDATION: Approve subject to the following conditions:**

### **CONDITIONS**

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
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.

**CONDITIONS to be complied with PRIOR to the commencement of development hereby approved:**

3. Notwithstanding the submitted details, before the development hereby approved is commenced (excluding demolition of existing buildings), a detailed landscape and planting scheme (incorporating the retention of existing trees) shall be submitted to and approved in writing by the Local Planning Authority. The approved landscape and planting scheme shall thereafter be implemented within eight months of the development being brought into use.
4. Before the development hereby approved including any demolition and / or site clearance works is commenced or any equipment, machinery or materials is brought onto site, the approved tree protection measures, as shown on approved drawings 1146/ Dem Rev B, 1146 Con Rev D shall be erected on site. The protection measures shall be retained for the duration of construction (including any demolition and / or site clearance works). No fires, excavation, change in levels, storage of materials, vehicles or plant, cement or cement mixing, discharge of liquids, site facilities or passage of vehicles, plant or pedestrians, shall occur within the protected areas. The approved scheme shall be kept in place, in accordance with these plans until all parts of the development have been completed, and all equipment; machinery and surplus materials have been removed.
5. A) Before the development hereby approved is commenced, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of

archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.

B) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under condition 5A.

C) The development shall not be occupied until the site investigation and post-excavation assessment has been completed in accordance with the written scheme of archaeological investigation approved under condition 5A and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.”

6. Before the development hereby approved is commenced, a Construction Vehicle Management Plan (CVMP) including details of the site compound, types of vehicles, provision for parking of vehicles for site operatives and visitors, loading and unloading of plant and materials, and storage of plant and materials used in the demolition and construction of the development shall be submitted to and approved in writing by the local planning authority. The approved scheme shall thereafter be implemented prior to any works commencing on site and thereafter adhered to through the entire construction period.
7. Before the development hereby approved is commenced, excluding demolition, a scheme for the provision of affordable housing as part of the development shall be submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance that replaces it. The scheme shall:-
  - a) Be affordable housing comprising a minimum of 10 units;
  - b) Provide occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
8. Before the development hereby approved (excluding demolition) is commenced, full details of the following shall be submitted to and approved in writing by the Local Planning Authority.
  - a) full details including samples of all external facing materials;
  - b) full details consisting of sections at a minimum scale of 1:5 and elevations at 1:20 of all external windows and doors and proposed exterior finish;
  - c) full details of the eaves and verge detailing;
  - d) full details of the brick bond to be used;
  - e) full details including a sample panel of the mortar colour and pointing; and
  - f) full details of rainwater goods, their materials and designs.

Development shall thereafter be undertaken in accordance with the approved details, and retained for the life of the development.

**Other Conditions to be complied with:**

9. Before the development hereby approved is first occupied, details of all external illumination shall be submitted to and approved in writing by the Local Planning Authority. The approved illumination shall thereafter be implemented in accordance with the approved details.
10. Any tree, hedge or shrub planted as part of the approved landscape and planting scheme (or replacement tree/hedge) on the site and which dies or is lost through any cause during a

period of 5 years from the date of first planting shall be replaced in the next planting season with others of a similar size and species.

11. The methods of working and recommendations contained within pages 3-5 of the Bat Survey Report by Focus Ecology dated August 2018 shall be adhered throughout the entire construction of the development and the mitigation for bats contained within this document shall be carried out in full as part of the development hereby approved.
12. The extent of the works to the trees within the site shall not exceed the works described within Table 3 of the Arboricultural Impact Assessment by Focus Ecology dated October 2018.
13. The visibility splay shown on the approved drawings shall be provided prior to the first occupation of the dwellings hereby approved. The area within the visibility splay shall be kept free from any object or vegetation above the height of 600mm for the life of the development.
14. Before first occupation of the development hereby approved, the proposed access arrangements and parking and cycle provision shall be provided on site in accordance with the approved details. The access and parking provision shall then be retained as such for the life of the development.
15. Before first occupation of the development hereby approved, the existing access onto Aiden Court Road shall be closed off and reinstated in accordance with details submitted to and approved in writing by the Local Planning Authority. The works shall then be completed prior to the first occupation of the development.

#### **Reasons for conditions**

1. In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.
2. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and Government Guidance contained in the National Planning Practice Guidance.
3. To ensure the long term health and vitality of visually important trees in accordance with the requirements of Policy BE1, NR4, Core Policy 14 of the Local Plan Strategy and the Trees, Landscaping & Development Supplementary Planning Document, Historic Environment Supplementary Planning Document and the National Planning Policy Framework.
4. To ensure the long term health and vitality of visually important trees in accordance with the requirements of Policy BE1, NR4, Core Policy 14 of the Local Plan Strategy and the Trees, Landscaping & Development Supplementary Planning Document, Historic Environment Supplementary Planning Document and the National Planning Policy Framework.
5. To safeguard archaeological interests in accordance with the requirements of Policy BE1 and NR3 of the Local Plan Strategy and the National Planning Policy Framework.
6. In the interests of highway safety and neighbouring amenity in accordance with the requirements of Policy BE1 of the Local Plan Strategy National Planning Policy Framework.

7. To ensure that the development is provided with an appropriate level of affordable housing in order to improve housing affordability, in accordance with the requirements of Policies NR2 and H2 of the Local Plan Strategy and the National Planning Policy Framework.
8. To ensure the satisfactory appearance of the development and to safeguard the character and appearance of the adjacent grade 2 listed buildings in accordance with the requirements of Policy BE1 and Core Policy 14 of the Local Plan Strategy and the adopted Rural Development Supplementary Planning Document and the Historic Environment Supplementary Planning Document and the National Planning Policy Framework.
9. To safeguard ecological interests and to have a satisfactory impact upon the appearance of the area and amenity of nearby neighbours in accordance with the requirements of Policy NR3 and BE1 and of the Local Plan Strategy.
10. To ensure the long term health and vitality of visually important trees in accordance with the requirements of Policy BE1, NR4, Core Policy 14 of the Local Plan Strategy and the Trees, Landscaping & Development Supplementary Planning Document, Historic Environment Supplementary Planning Document and the National Planning Policy Framework.
11. To safeguard ecological interests and to have an uplift in biodiversity value of the site in accordance with the requirements of Policy NR3 of the Local Plan Strategy.
12. In order to safeguard the health and appearance of the protected trees within the site in accordance with Policy NR4 of the adopted Local Plan and the National Planning Policy Framework.
13. In order to ensure the development is served by a safe access onto the public highway and served by adequate visibility in accordance with Local Plan Policy ST1, BE1 and the National Planning Policy Framework.
14. In the interests of highway safety and neighbouring amenity in accordance with the requirements of Policy BE1 of the Local Plan Strategy National Planning Policy Framework.
15. In the interests of highway safety and neighbouring amenity in accordance with the requirements of Policy BE1 of the Local Plan Strategy National Planning Policy Framework.

#### **NOTES TO APPLICANT**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015) and Lichfield City Neighbourhood Plan (2018).
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters.
3. The applicant's attention is drawn to the Council's adopted Biodiversity and Development Supplementary Planning Document.
4. The applicant is advised that the destruction of a birds nest is a criminal offence and therefore is advised to remove the trees outside of the bird nesting season or that a visual inspection is carried out beforehand by a suitably qualified individual.

5. The applicant's attention is drawn to the design comments received from the Police Architectural Liaison Officer in respect of techniques for designing out crime dated 5/10/18
  6. The proposed development complies with the provisions of the adopted Local Plan as well as the NPPF. The Local Planning Authority has worked positively and proactively with the applicant to approve the application without delay thus complying with the requirements of paragraph 35 of the NPPF.
- 

## **18/00644/LBC**

### **RECOMMENDATION: Approve subject to the following conditions:**

#### **CONDITIONS**

1. The works hereby approved shall be begun before the expiration of three years from the date of this permission.
2. This consent relates to the demolition of that part of the building or buildings as shown on the approved plans; all other parts of the building(s) shall be retained and made good, in accordance with details submitted to and approved in writing by the Local Planning Authority before the erection of the building approved under planning permission 18/00643/FULM

#### **CONDITIONS to be complied with PRIOR to the commencement of works hereby approved:**

3. Before any works to the listed building hereby approved are commenced (excluding demolition hereby approved), full details of the following shall be submitted to and approved in writing by the Local Planning Authority.
  - a) a full repairs schedule;
  - b) full details consisting of sections at a minimum scale of 1:5 and elevations at 1:20, of all external joinery including fenestration and doors and proposed exterior finish; the exterior roof materials;
  - c) full details of any railings and ironworks;
  - d) full details of the eaves detailing;
  - e) full details of the internal doors;
  - f) full details of the staircases;
  - g) full details of the fireplaces and surrounds;
  - h) details of any alterations or additions to the exterior of the building;
  - i) full details of the extent of rebuilding;
  - j) full details of the finished floor-scape surrounding the building;
  - k) full details of the extent of the re- use of materials;
  - l) full details of the internal fittings of the hall; and
  - m) full details of rainwater goods, their materials and designs.

The works shall thereafter be undertaken in accordance with the approved details, and retained for the life of the development.

#### **Other Conditions to be complied with:**

4. Before the commencement of the erection of the building approved under planning permission 18/00643/FULM a scheme for the repair of the side elevation of No.53 Rotten Row Lichfield shall be submitted to and approved in writing by the Local Planning Authority.

The works shall thereafter be undertaken in accordance with the approved details, and retained for the life of the development.

5. The demolition of the existing building shall be carried out in accordance with the submitted Outline Method Statement dated 14/8/2018.
6. Any disturbed work resulting from the approved alterations and/or extensions shall be made good to match the existing building in accordance with details submitted to and approved in writing by the Local Planning Authority before any remediation work occurs. If hitherto unknown evidence of historic character that would be affected by the works hereby approved is discovered, an appropriate record together with recommendations for dealing with it in the context of the scheme shall be submitted to and approved in writing by Local Planning Authority before any remediation work occurs.

### **Reasons for Conditions**

1. In accordance with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.
2. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and Government Guidance contained in the National Planning Practice Guidance.
3. To ensure the satisfactory appearance of the works and to safeguard the character of the listed building, in accordance with the requirements of Policies BE1 and Core Policy 14 of the Local Plan Strategy and NPPF.
4. To ensure the exposed gable end No.53 Rotten Row is repaired in a suitable manner in order to safeguard the integrity of the heritage asset in accordance with Policies BE1, Core Policy 14 of the Local Plan Strategy and NPPF.
5. To ensure the stability of the building and to safeguard the character of the listed building, in accordance with the requirements of Policies BE1 and Core Policy 14 of the Local Plan Strategy and NPPF.
6. To ensure the satisfactory appearance of the works and to safeguard the character of the listed building, in accordance with the requirements of Policies BE1 and Core Policy 14 of the Local Plan Strategy and NPPF.

### **SUMMARY OF REASONS FOR GRANTING Listed Building Consent including DEVELOPMENT PLAN POLICIES that were relevant in the determination of this application:**

The decision to grant Listed Building Consent has been taken because the Council is satisfied that the works would not adversely affect the special character of this grade II listed building.

The decision to grant Listed Building Consent has also been taken having regard to all relevant material planning considerations, government guidance contained in the National Planning Policy Framework and, to the following relevant policies and proposals of the Development Plan: Core Policy 14 (Our Built & Historic Environment) and Policy BE1 (High Quality Development) of the Lichfield District Local Plan Strategy (2015) and Historic Environment Supplementary Planning Document.

This proposal is considered to be a sustainable form of development and so complies with the provisions of the NPPF.

## **NOTES TO APPLICANT**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015) and Lichfield City Neighbourhood Plan (2018).
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2017, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters.
3. The proposed development complies with the provisions of the adopted Local Plan as well as the Framework. The Local Planning Authority has worked positively and proactively with the applicant to approve the application without delay thus complying with the requirements of paragraph 35 of the NPPF.

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## **PLANNING POLICY**

### **Government Guidance**

National Planning Policy Framework  
National Planning Practice Guidance  
Conservation and Habitats Regulations 2010

### **Local Plan Strategy**

Core Policy 1 – The Spatial Strategy  
Core Policy 2 – Presumption in Favour of Sustainable Development  
Core Policy 3 – Delivering Sustainable Development  
Core Policy 5 – Sustainable Transport  
Core Policy 6 – Housing Delivery  
Core Policy 13 – Our Natural Resources  
Core Policy 14 - Our Built and Historic Environment  
Policy SC1 – Sustainability Standards for Development  
Policy ST1 – Sustainable Travel  
Policy ST2 – Parking Standards  
Policy H1: A Balanced Housing Market  
Policy H2: Provision of Affordable Homes  
Policy HSC1 – Open Space Standards  
Policy NR3 – Biodiversity, Protected Species & their Habitats  
Policy NR4 – Trees, Woodland & Hedgerows  
Policy NR7 – Cannock Chase Special Area of Conservation  
Policy BE1 – High Quality Development  
Policy Lichfield 4: Lichfield Housing

### **Lichfield City Neighbourhood Plan**

No relevant policies.

### **Emerging Local Plan Allocations Document**

Policy BE2: Heritage Assets

## Supplementary Planning Documents

Sustainable Design

Historic Environment

Trees Landscaping and Development

Biodiversity and Development

Developer Contributions

## RELEVANT PLANNING HISTORY

00/00461/FUL	Conservatory to rear of building	Approve	24/8/2000
01/00879/ADV	3 No. Signs	Part Approve/Part refuse	24/12/2001

## CONSULTATIONS

**Lichfield City Council** - Recommend refusal; over development of the site and lack of parking. (28/9/2018)

Previous comments - Recommend refusal; demolition of a listed building inadequate parking and concerns for residents living in the property. (1/6/2018)

**Arboricultural Officer** –Frontage trees - the amended layout provides an improved distance between the root areas and the proposed building in comparison to the existing building therefore there are no objections in relation to the root protection areas. Issues of light and shade remain for consideration. Trees to rear; the relationship between the category B Lime tree and the proposed layout is not ideal but much improved from the previous layout, the relationship is now acceptable. Landscaping; the altered layout is and species substitution is welcomed. Facilitation pruning, tree protection and demolition; the tree protection plan needs amending following the revision of amending drawings. Conditions recommended for tree protection measures, ground protection, site supervision all take place before commencement of development including demolition. Pre-construction pruning is agreed but post construction pruning is not and this should be agreed once all construction work has been completed in agreement with the LPA. All services to be located outside of the route protection area. (20/9/2018)

Previous comments - Comments passed in relation to frontage trees, trees to the rear further space for tree planting and recommends amendments to the root protection layout. It is recommended that prior to determination the design is amended to provide sufficient space for the long-term growth and retention of the lime tree. The arboricultural assessment is welcomed however at present it is felt it may need amending to accommodate suggested layout amendments. (8/6/18)

**Waste Management Officer** – The inclusion of the bin store is noted but comments that the space to accommodate bulky collections would also need to be provided. Comments passed regarding the waste bin provision required for developments. Comments that the Council's refuse service does not normally take vehicles into private roads and courtyards unless indemnified to do so (23/5/2018).

**Ecology Officer** – The Ecology Team is satisfied with the methodology and the information provided within the submitted Bat Survey Report. The Ecology Team concurs with the conclusions of the report in that (given the data provided) it can now be considered unlikely that the proposed works would negatively impacting upon a European Protected Species and the LPA has sufficient understanding to discharge its "Biodiversity Duty" (as defined under section 40 of the Natural Environment and Rural Communities (NERC) Act 2006).

However, adherence by the applicant to all recommendations and methods of working detailed within the Bat Survey Report must be made a condition of any future planning approval (i.e. including



gaining and submission to the authority evidence of a Natural England EPS License, provision of suitable roosting mitigation and a suitable bat lighting scheme). (24/10/2018)

Previous comments - The bat survey provided as part of this planning application has identified that the application site has a moderate potential to support roosting bats. Further emergence survey work is required to be completed between may-August. The LPA is therefore not currently in a position to discharge its various responsibilities it must consider when determining upon a developments impact upon bats. (15/6/2018)

**Conservation Officer** – Bluebell House is physically attached to a grade II listed building namely 53 Rotten Row. Bluebell House has local historical and architectural interest and is considered by the Council to be non-designated heritage asset. The whole application site is within the setting of the listed buildings of Rotten Row as well as the setting of the Grade II\* listed St Michaels Church and Lichfield City Conservation Area which are all designated heritage assets. It is considered that the proposals have been amended so that the impact on the setting of the designated heritage assets has been reduced. It is considered that the proposals will not result in harm to the setting of any of the DHA's listed above. The proposals will still result in the total loss of a non-designated heritage asset (NDHA). The NPPF requires LPA's to make a balanced judgement in relation to loss of, or harm to a NDHA. The demolition of the NDHA would result in its total loss which is the highest level of harm ... the total loss of the significant of the NDHA should be weighed against the public benefits of the scheme. Amendments have been sought to reduce the scale and massing of the proposed development and reduce its impact upon nearby designated heritage assets. Whilst it's not possible to include actual active frontages to rotten Row the design has been amended to give the appearance of doorways and so provides a more traditional rhythm which is more in keeping with the surrounding area and the historic buildings. (9/10/2018)

Previous comments - At the pre-application stage it was advised that 3 storey would be unlikely to be acceptable in this location. There is concern for the use of three storeys over such a large part of the site and that this would be visually dominant on the corner of Rotten Row and Deans Croft and would detract from the street scene due to its scale and massing being greater than that of its surrounding and further to this it would not preserve the setting of the listed building on Rotten Row. In terms of design the design is a mixture of traditional and contemporary elements which not all of which work as well as other (5/6/2018).

**Environmental Health Officer** – No comments to make – (11/10/2018)

Previous comments: No objection and recommends conditions relating to hours of construction and the submission and approval of dust mitigation strategy. (8/6/2018)

**Spatial Policy and Delivery Officer** – In this instance the presumption in favour of sustainable development does not apply owing to the sites location within the affecting zone of the Cannock Chase Special Area of Conservation and thus it is necessary for the development to demonstrate it has satisfied the Habitats and Species Regulations and the integrity of the SAC will not be adversely affected having regard to avoidance or mitigation. The proposal represents a windfall site in accordance with the principle of planned housing provision within the Local Plan Strategy and as such no further assessment would be required under the Habitat Regulations. There is a £0 CIL charge per m2 for apartments. To conclude, the proposed development is located within the sustainable settlement of Lichfield City and is accordance with the NPPF and the adopted Local Plan Strategy and therefore there are no policy Objections (24/5/2018).

**Housing and Wellbeing Manager** – The proposed development will contribute to meeting the housing shortfall of the district with the addition of 13 residential units, and provide accommodation specifically for people aged over 55 which will meet the needs of rapidly increasing ageing population within Lichfield. We would like to work with midland heart to ensure that the existing residents are

adequately rehoused in a sensitive and carefully managed way to allow the redevelopment to go ahead, but more importantly ensuring the needs of the residents at Aiden Court are met in a way that does not place undue pressure on existing resources that are already in high demand. (28/9/2018)

Previous comments; Raises no objection to the proposal and welcomes the proposed housing mix for the site. Comments that the disabled parking bays should be located as close to the building as possible. (27/9/2018)

**Staffordshire County Council Highways Department** – There are no objections on highway grounds to the proposed development subject to the imposition of 5 conditions relating to- the submission of visibility splay details; the submission of a construction vehicle management plan; the construction of the proposed access prior to the occupation of the building; closure of the existing site access; and creation of parking spaces prior to occupation of the building. (16/11/2018)

**Staffordshire County Council Lead Local Flood Authority** – No comments to make. (21/9/2018)

**Staffordshire Police Architectural Liaison Officer** – No objection to the proposal and passes comments in relation to access control/security and surveillance as well as lighting of public and private areas. (5/10/2018)

**Lichfield Civic Society** – The application should be refused permission as this listed building does have its place in the historic context of Lichfield's Development. (7/6/2018)

**National Grid** – No response received.

**Central Networks** – No response received.

**Cadent Gas Limited** – No response received

**Severn Trent Water** – No response received.

#### **LETTERS OF REPRESENTATION**

Eight letters of objection received raising the following concerns;

- Scale and massing of the development is inappropriate,
- Development outside the existing footprint,
- Appearance of a wharf development,
- Inadequate parking provision,
- Increase parking issues elsewhere,
- Lack of information regarding revealed gable to adjacent property,
- Concerns over structural impact of on neighbouring property and how the revealed gable will be repaired/finished,
- Antisocial behaviour arising from the development,
- Erosion of ability to park for existing residents,
- Access to the Westgate practice being hindered by the development,
- Invasion of privacy to nearby residential properties,
- Impact upon the setting of listed buildings,
- Increase in noise and air pollution,
- Disturbance during construction period,
- Concern over facing materials,
- The manner in which surface water drainage is treated,

- Proposal does not respect the grain of existing development due to the density of the buildings,
- Loss of sunlight for nearby residences,
- Lack of sunlight to proposed occupiers,
- Highway safety issues,
- Inadequate access point.

## **OTHER BACKGROUND DOCUMENTS**

Design and Access Statement (Rev B)  
 Arboricultural Impact Assessment  
 Built Heritage Statement  
 Drainage Strategy Report  
 Planning Statement  
 Preliminary Bat and Nesting Bird Check  
 Bat Survey Report  
 Parking Access Statement  
 Demolition Method Statement

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## **OBSERVATIONS**

### **Site and Location**

The application site is located on the junction of Rotten Row and Aiden Court Road near to Lichfield City centre. The site comprises a set of existing two storey residential buildings whilst the wider area is predominantly residential with the Cloisters Greenhill Health Care Centre adjacent. The main frontage building was historically used as the Blue Bell Public house and later the Lichfield Foyer and more recently as a refuge. The building has sat vacant since 2016 with its windows secured. There are 16 apartments to the rear which currently benefit from a communal garden and off road parking.

The trees within and surrounding the site are protected by Tree Preservation Orders and the dwellings further along Rotten Row (53-67) are grade II listed with St Michaels Church to the north east is Grade II\* listed.

### **Proposals**

This full application (18/00643/FULM) seeks full planning permission for the demolition of the existing frontage building together with all the existing residential buildings to the rear and for the erection of 29 apartments including altered vehicular access arrangements, communal areas and associated landscaping. The accompanying Listed Building Consent application (18/00644/LBC) seeks consent for the works to the listed building of No.53 Rotten Row to allow the removal of the existing building and the physical connection of the replacement building.

Following receipt of amended drawings, the proposed apartment complex would be two and three storeys in height and wrap around the corner of the junction creating an internal parking courtyard. The frontage landscaping belt and protected trees will remain and be improved. The building itself would be a mix of two and three storey in height, with four strong gable features on the corner of Rotten Row and Aiden Court Road. The proposed material palette consists of brick, render and cladding and aluminium fenestration detailing.

It is proposed for all 29 apartments to be affordable dwellings marketed towards the over 55 age group.

## Determining Issues

1. Principle of Development
2. Design, Impact upon the Streetscene and Heritage Assets
3. Residential Amenity
4. Highways Issues
5. Trees and Biodiversity
6. Housing Mix and Affordable Housing
7. Other Matters
8. Human Rights

### 1 Principle of Development

- 1.1 The application site falls within the settlement boundary of the City of Lichfield. Core Policy 6: Housing Delivery, explains the hierarchy of where the Council's housing growth will be directed over the plan period. The policy explains that growth will be accommodated within the Council's Strategic Development Allocations sites and through the growth of key urban and rural settlements. Lichfield is a key urban settlement as defined by the Local Plan and therefore, the principle of residential development in this location is considered to be acceptable.

### 2 Design, Impact upon the Streetscene and Heritage Assets

- 2.1 Policy BE1 of the adopted Local Plan Strategy requires development proposals to ensure that a high quality sustainable built environment can be achieved. Development will be permitted where it can be demonstrated that it will have a positive impact on the significance of the historic environment and reducing carbon emissions. New development, including extensions and alterations to existing buildings, should carefully respect the character of the surrounding area and developments in terms of layout, size, scale, architectural design and public views must have a positive impact upon amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance. The Council's adopted Sustainable Design Supplementary Planning Document (SPD) considers how the layout and density can assist in creating sustainable development, through green infrastructure, standards for parking and spaces around dwellings, utilising sustainable drainage systems, creating walkable communities and energy efficient layouts
- 2.2 Core Policy 14 of the adopted Local Plan Strategy states that the significance of designated heritage assets including nationally protected listed buildings and their settings, Ancient monuments, Archaeological sites and conservation areas and their settings, will be conserved and enhanced and given the highest level of protection.
- 2.3 The emerging Local Plan Allocations Policy BE2: Heritage Assets states that "*Development proposals which conserve and enhance our historic environment will be supported where the development will not result in harm to the significance of the heritage asset or its setting.*" And that "*The loss of, or harm to, a heritage asset will only be permitted where it can be demonstrated that the ensuing harm and loss of significance of the heritage asset is necessary to achieve public benefits that outweigh that harm or loss in accordance with the NPPF.*"
- 2.4 Whilst considering proposals which affect a listed building or character of a Conservation Area regard shall be had to the Planning (Listed Building and Conservation Area Act) 1990, which requires the Local Planning Authority to have special regard to the desirability of

preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 2.5 Paragraph 192 of the NPPF states that in determining planning applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 2.6 Paragraphs 193 to 196 of the NPPF then go on to say that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 2.7 The design approach for this scheme is for the proposals to be sympathetic to the form and scale of the context whilst using differing heights and materials palette to distinguish between the old and the new in order to be compatible yet distinctive. The Local Planning Authority considers that the scheme is successful in achieving this, as although three storey in height in part, the scheme creates a strong façade facing the city centre which is softened by the preservation of protected trees and landscaping. This frontage elevation interacts well with the street scene and offers natural surveillance "active" edges to create a welcoming safe feel along Aiden Court Road. Turning towards the vistas along Rotten Row, the scale of the gable ends is 15 metres from the listed row, fronting Rotten Row, which, in itself has a variety of building heights. The block connecting the three storey to the listed row, which is to be rendered, serves a valid purpose to break up the old and new and provides further visual interest within the street scene. In addition to this, compared to the existing structures on site, the proposed development would result in a betterment in the streetscape and represent a valued investment and rejuvenation to the character and appearance of the street scene.
- 2.8 Important protected trees will remain and form an important part of bedding the development in to the plot and the landscaped area providing a valued buffer between the development and the public areas. The communal areas to the rear of the site will appear as a courtyard being surrounded by built form and whilst landscaping is minimal in this location, a protected tree is being retained to provide visual interest and break up the mass of hard surfacing on the ground in addition to feature landscaping on the entrance to the site.
- 2.9 In respect of the affected heritage assets, this application site adjoins the Grade II listed building of No. 53 Rotten Row. The site is within close proximity of St Michael's Church (Grade II\* listed) which is approximately 100 metres to the east and the Lichfield City Centre Conservation Area which is 120 metres to the north-west. The Grade II listed group of dwellings 53-67 are to the east and the site's frontage building "blue bell house" is a non-designated heritage asset.
- 2.10 The impact upon the Grade II listed building – 53 Rotten Row is twofold as the proposal includes physical alterations to the building whilst the development has a whole effects the setting of the building. The demolition statement explains that the existing structure will be detached from the listed building by hand before any machinery is brought on to site to

remove the remainder of the structure and this is considered to be satisfactory. Details of how the new building will be attached to 53 Rotten Row are currently absent due to the unknown state of the party wall. A condition is recommended requiring such detail to be approved to ensure no harm is caused to the listed structure. As such, the development would accord with the Development Plan in this regard.

- 2.11 In terms of the impact upon the non-designated heritage asset of Bluebell House the demolition of the asset would result in its total loss which is the highest level of harm. The first preference is to retain such assets, if possible, and to see conversion to a new use and whilst some historic interest remains, some of the architectural interest has been eroded with the loss of historic features and insensitive additions. As such, the loss of the structure would be weighed against the benefits of the scheme.
- 2.12 In terms of the impact upon the setting of the group of dwellings (53 – 57) and (61-67), the Grade II\* St Michaels Church and the Lichfield City Conservation area, the harm differs depending on the proximity to the site and the intervening buildings and features. The building is attached to the row of listed dwellings on the north side of Rotten Row so has the potential to cause most harm to their setting. In respect of this, the revised design has lowered the part of the structure connecting to no.53, lowered its height and introduced a rendered finish and this helps to clearly differentiate between the period listed properties and the new structure. The listed properties remain prominent and visible to the street and although the built form of the proposal is of a similar scale at the corner of the street, it is not considered that this significantly harms the setting of this existing row of listed buildings.
- 2.13 St Michael's Church spire can currently be viewed in the sky line beyond the existing structures at this junction when viewed from Rotten Row at a distance. Through the development, albeit slightly taller than the existing, the views are marginally obscured however the spire is still visible from this area. From the area around the church there is a public footpath which extends within the church grounds. However, neither the existing buildings nor the proposed buildings are visibly prominent from this area due to the intervening structures. Lichfield City Conservation Area is some 120m north west of the site and although the site can be seen from within the conservation area, views are small and limited to the highway crossing at Church Street/ Birmingham Road and Greenhill due to the presence of other screening and larger buildings (Guardian House and Greenhill Health Centre). Overall it is considered that the proposals would have a minimal impact on the Conservation Area, and as such would accord with the Development Plan in this regard.
- 2.13 Paragraph 199 of the NPPF requires Local Planning Authorities to require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact and to make this evidence publicly accessible. As such, a condition to require the submission of a written scheme of archaeological investigation.
- 2.14 Paragraph 198 of the NPPF states that Local Planning Authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. As part of the consideration of this application, the Local Planning Authority has been proactive in encouraging the applicant to provide a great amount of detail as part of the consideration process in order to prevent onerous pre-commencement conditions being recommended. The development would not require the use of especially scarce materials or uncommon construction techniques which could reduce the likelihood of the development coming forward following the loss of the non-designated heritage asset.

2.15 In summary, the impact upon the setting of the St Michaels Church, although an important Grade II\* asset, are negligible as views towards it will not be significantly impacted. The setting of the Conservation Area will only be marginally impacted given its separation distance and intervening screening. The most harm will be upon the setting of the row of listed buildings (53-67) and through the demolition of the non-designated heritage asset. However, this harm is not considered to be significant and this scheme represents an increase in dwellings by 13 and involves the rejuvenation of 16 existing dwellings. The scheme will provide at least 35% affordable units which will make an important contribution towards the Council's delivery of affordable, suitably sized dwellings within one of the most affluent parts of the District.

2.16 For these reasons, in respect of paragraphs 136 – 196 of the National Planning Policy Framework and Local Plan Core Policy 14, BE1 and the Historic Environment SPD, the benefits of this proposal are considered to outweigh the less than substantial harm that would be caused to the heritage assets. In terms of the total loss of the non-designated heritage and with reference to paragraph 197 of the NPPF, having balanced the significance of the none designated heritage asset against the benefits of the scheme referenced above, the Local Planning Authority is of the view that the benefits outweigh its loss in this instance. Overall the design and appearance of the development as well as the impact upon the heritage assets will accord with the Development Plan and the National Planning Policy Framework in this regard.

### 3 Residential Amenity

3.1 Policy BE1 of the adopted Local Plan Strategy requires developments to have a positive impact upon public realm and ensure high quality inclusive design is delivered whilst having a positive impact upon amenity by avoiding development which causes disturbance through unreasonable traffic generation, noise, light, fumes and other disturbances. The Sustainable Design Supplementary Planning Document sets out the Council's aspirations in relation to separation distances, amenity standards, parking provision and acceptable loss of light standards.

3.2 The proposed occupiers will not have access to any private garden space and therefore overlooking into each other's communal areas is not a concern. In terms of primary window separation distance to safeguard privacy, the apartments with windows facing directly on to Rotten Row will have a separation distance from the properties of 36-42 Rotten Row of approximately 15 metres which falls below that of the Council's adopted standard (21 metres). However, there is an intervening public highway and the existing building has 1<sup>st</sup> floor windows which are equally as offending as the proposal. The inclusion of second storey windows which are no closer than the 1<sup>st</sup> floor windows are not considered to offer any more of a significant view and therefore, this situation is considered to be acceptable. None of the other surrounding properties have vantage points close to the proposed accommodation.

3.3 The site location is predominantly residential in nature and character save for the Greenhill Centre north west of the site. The surrounding residential properties generally face away from the development and are located at sufficient distances from the primary windows. The closest instance is the rear gardens of No's 53, 55 and 57 Rotten Row where they are in close proximity to a three storey wing of the proposal. However, the windows in this part of the building do not face directly into the rear elevation of these properties and would offer views into the rear part of the gardens only at a separation distance of approximately 11 metres. As such, it is not considered that this overlooking opportunity would result in a significant incursion into the privacy of these nearby occupiers. The minor increase in road usage to serve the additional plots is not considered to cause harm to neighbour amenity through noise or pollution.

3.4 Overall the proposed development is not considered to cause significant detriment to the amenity of adjacent and nearby occupiers and accordingly complies with the Development Plan and the National Planning Policy Framework in this regard.

#### 4 Highways Issues

4.1 The existing site is served by a vehicular highway access off Aiden Court Road just opposite the junction to the Greenhill Healthcare Centre. Vehicle parking is an informal arrangement which takes place on an area of hardstanding at the north end of the site. Spaces are not allocated and it is unclear as to exactly how many vehicles can be accommodated.

4.2 The proposed development intends to move the access to a point off Deans Croft which is small cul-de-sac which extends off Aiden Court Road at the rear of the site. The scheme proposes the creation of 19 allocated parking spaces, two of which would serve less abled individuals for the proposed properties.

4.3 The adopted parking standards contained with the Sustainable Development SPD would require a development of this scale and mix to provide 38 spaces. However the SPD explains that these standards are a maximum not a minimum standard. The Local Planning Authority will have regards to the scope for encouraging alternative means of travel to the development that would reduce the need for on-site parking (this will be particularly relevant in areas well-served by public transport). The Guidance continues in stating that the NPPF and Core Policy 5 of the Local Plan Strategy encourages the reduction in car usage by promoting sustainable transport choices with such consideration taken into account in the determination of application for new developments.

4.4 In respect of this application, the application site is approximately 327 metres from the City Bus Station and 440 metres from Lichfield City Train Station. The site is also only 126 metres away from the defined City Centre where opportunities for retail, employment and social interaction are abundant. Commercial employment opportunities exist only 1km to the east at Eastern Avenue and Cappers Lane. As this is the case, the Local Planning Authority considers this location to be highly sustainable and is an ideal opportunity to reduce car dependency for residential properties in line with the adopted SPD and the Local Plan Core Policy 5. There is no objection from Staffordshire County Council's Highways Authority to the proposal on either the parking provision or the access arrangements.

4.5 Considered in the round and having regards to the sustainable location of the site, the parking provision of 19 spaces is considered acceptable as to not cause a severe harm to highways safety through significant parking displacement or by causing obstructions to the public highway. The development therefore complies with Core Policy 5 of the adopted Local Plan, the Sustainable Design Supplementary Planning Document and the National Planning Policy Framework in this regard.

#### 5 Trees and Biodiversity

5.1 The existing site contains a number of protected trees along the sites frontage and within the sites parking and communal areas. The majority of these trees are to be retained and protected as part of the development and construction phase with the loss of only two specimens to allow for the creation of parking provision. These trees are category B trees which would ordinarily be sought to be retained however, if retained in this instance, these specimens would not be visible to the public as they would be screened by the main building. As such, given the benefits of the scheme providing additional housing in a sustainable



location the loss of these two trees, and the retention of the sites frontage trees is considered to be acceptable in this instance.

- 5.2 As part of the construction of the development the trees to be retained will be protected and a small amount of pruning works will be required to facilitate the development. Section 3.2.4 of the submitted Arboricultural Impact Assessment explains the degree of pruning works proposed to facilitate the development. The works are considered acceptable and necessary as are the proposed protection measures during the construction and demolition phases of the development. The proposed landscaping scheme that has been provided is generally acceptable in relation to the quantum, location and species selected but is yet to be updated following revisions to the layout. As such, a condition is recommended to require a landscaping scheme to be submitted. Overall the proposed development in terms of its impact upon protected trees and proposed landscaping provision is considered to be acceptable and to comply with Policies NR4 and BE1 of the adopted Local Plan and the Trees, Hedgerows and Landscaping SPD and the National Planning Policy Framework in this regard.
- 5.3 To comply with Policy NR3 (Biodiversity, Protected Species & Their Habitats) of the adopted Local Plan Strategy, the development must have a net gain of biodiversity habitats. This application has been accompanied by an initial bat survey which identified that some of the buildings on site have moderate potential to support roosting bats. Accordingly a Bat Survey Report was carried out and provided for review by the Council's Ecology Officer. Emergence surveys carried out observed the presence of non-breeding day roost of common pipistrelle within 5-8 Aiden Court and a low-moderate bat foraging and commuting activity. A mitigation strategy is proposed which includes the erection of bat boxes within the site on the replacement building and the acquisition of a bat mitigation licence from Natural England.
- 5.4 The Council's Ecologist is of the opinion that (given the data provided) it can be considered unlikely that the proposed works would negatively impact upon a European Protected Species. The LPA is therefore in a position to demonstrate compliance with regulations 9 (5) of the Habitat Regs. No further ecological survey effort is required from the applicant at this time. However, adherence by the applicant to all recommendations and the mitigation strategy contained within the Bat Survey Report dated August 2018 must be made a condition of any future planning approval. As such the proposals would accord with the Development Plan and NPPF in this regard.
- 5.5 The site falls within the Cannock Chase Special Area of Conservation (SAC) and Policy NR7 of the adopted Local Plan Strategy requires developments to demonstrate that alone, or in combination with other developments, proposals will not have an adverse effect whether direct or indirect upon the integrity of the Cannock Chase SAC having regards to avoidance and mitigation measures.
- 5.6 Under the provisions of the Conservation of Habitats and Species Regulations 2017, the Local Planning Authority as the competent authority, must have further consideration, beyond the above planning policy matters, to the impact of this development, in this case, due to the relative proximity, on the Cannock Chase SAC. Therefore, in accordance with Regulation 63 of the aforementioned Regulations, the Local Planning Authority has undertaken an Appropriate Assessment. Natural England are a statutory consultee on the Appropriate Assessment (AA) stage of the Habitats Regulations process and have therefore been duly consulted. Natural England have concurred with the LPA's AA, which concludes that the mitigation measures identified within the Council's Development Plan for windfall housing sites, will address any harm arising from this development to the SAC and therefore they have offered no objections to proposal. On this basis, it is concluded that the LPA have met its requirements as the competent authority, as required by the Regulations.

5.7 Providing the methods of working detailed within the Bat and Bird Survey are secured via condition it is considered that the development will accord with the Development Plan and NPPF in this regard.

## 6 Housing Mix and Affordable Housing

6.1 This application proposes the erection of 29 dwellings consisting of 10 two bedroom apartments and 19 one bedroom apartments. The apartments are intended to be 100% affordable properties and intended to cater for the over 55's age group of society.

6.2 Policy H1: *A Balanced Housing Market* of the Local Plan Strategy explains that, to deliver a balanced housing market, new residential developments will include an integrated mix of dwelling types, sizes and tenures based on the latest assessment of local housing need. It is explained that there is currently an imbalance of dwelling types within the District. To redress this, the District Council will actively promote the delivery of smaller properties including two bed apartment and two and three bed houses to increase housing choice and contribute to the development of mixed and sustainable communities. Supporting text within the plan sets out an aspirational mix of; one bed -5%, two bed - 43%, three bed – 41%, four bed+ - 12%.

6.3 Policy H2: *Provision of Affordable Homes* explains that the District Council is committed to improving the housing affordability in Lichfield. On qualifying sites, the District Council will be seeking a target of up to 40% of new dwellings, including conversions to be provided as affordable housing. The threshold for qualifying sites is currently set at 10 for this location. In terms of tenure split, the Policy explains that of affordable units provided, 65% will be for social rent and 35% for shared ownership. Affordable housing should be provided on site and only in very special circumstances will contributions in lieu be acceptable.

6.4 The application is proposed to provide 29 affordable dwellings which exceeds the Council's current requirement of 35% (based on the dynamic model). All 29 are proposed to be socially rented and none are proposed for shared ownership. In terms of housing mix, the scheme provides a welcome provision of smaller units consisting mainly of one and two bedroom apartment. This partly addresses the accommodation lost through the removal of the existing apartments and adds smaller units to serve the well needed affordable sector of the housing market within the City of Lichfield. The scheme being 100% socially rented is not objected to by the Council's Housing and Well Being Manager who recognises that there is a need for such provision locally.

6.5 With regards to controlling the provision of affordable housing proposed by a Registered Social Landlord (RSL) it is necessary to recommend a condition upon any permission to ensure the development is delivered for affordable homes and that none of the units will be disposed of as private market dwellings. Ordinarily this would be controlled via a Section 106 agreement however, as this scheme will be taken up by a registered social landlord, funding would not be available if this was the case and therefore, this falls to be controlled via the recommended condition. Overall it is considered that the proposal complies with the affordable housing policies of the Development Plan and the NPPF.

## 7 Other Matters

7.1 The application site does not fall within flood zone 2 or 3 and is therefore not at risk of fluvial flooding. No response has been received from Severn Trent Water however, given the existing provision and that foul and storm water drainage is considered under the building

regulations, the Local Planning Authority is content that the proposals will be adequately catered for in respect of drainage matters.

- 7.2 The application site will be served by a bin collection point located at the sites frontage adjacent the public highway. The refuse vehicle will not be required to enter into the site and the provision meets that required for the quantum of development proposed. The lack of allocated space for bulky goods collection/delivery is not ideal however this type of situation is common amongst apartment buildings and is unlikely to lead to any significant difficulties.
- 7.3 In respect of education provision, Staffordshire County Council do not seek financial contributions for affordable housing schemes or for apartment properties and therefore this development does not qualify for such contributions.
- 7.4 Furthermore, Community Infrastructure Levy is not imposed upon apartments in accordance with the Council's CIL Charging Schedule.

## 8 Human Rights

- 8.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998. The proposals may interfere with objector's rights under Article 8 of Schedule 1 to the Human Rights Act, which provides that everyone has the right to respect for their private and family life, home and correspondence. Interference with this right can only be justified if it is in accordance with the law and is necessary in a democratic society. The potential interference here has been fully considered within the report and on balance is justified and proportionate in relation to the provisions of the policies of the Development Plan and National Planning Policy.

## **Conclusion**

The proposed development is considered to be acceptable in principle and will adequately preserve the character and appearance of the listed structure and represents a significant investment in an area which currently suffers poor repair. In respect of the three pillars of sustainable development, environmentally the development represents significant visual and amenity improvements and will contribute towards a reduction in car dependency aiding the reduction in Co2 emissions and local air quality as well as having a satisfactory impact upon the heritage assets.

Economically, a development of this scale would provide a number of local employment opportunities as well as investment into the City of Lichfield. Socially, the scheme provides a valued contribution towards the Council's affordable housing needs within the City of Lichfield and given its sustainable location, would allow future occupiers to access key social interaction points within the city. The proposal will not cause significant harm to highway safety or neighbouring amenity.

Overall when considered on balance, subject to the recommendation of the conditions outlined above, the proposal is considered to comply with the Development Plan and the policies of the National Planning Policy Framework. In the absence of any other material considerations, the application is recommended for approval.

## **ITEM B**

### **LICHFIELD DISTRICT COUNCIL APPLICATIONS, APPLICATIONS ON COUNCIL OWNED LAND AND ANY ITEMS SUBMITTED BY MEMBERS OR OFFICERS OF THE COUNCIL**

**17 December 2018**

#### **CONTENTS**

Case No.	Site Address	Parish/Town Council
18/01514/FUL	74 Chorley Road Burntwood	Burntwood

# LOCATION PLAN

18/01514/FUL  
74 Chorley Road  
Burntwood WS7 2NX

Scale: 1:1,100

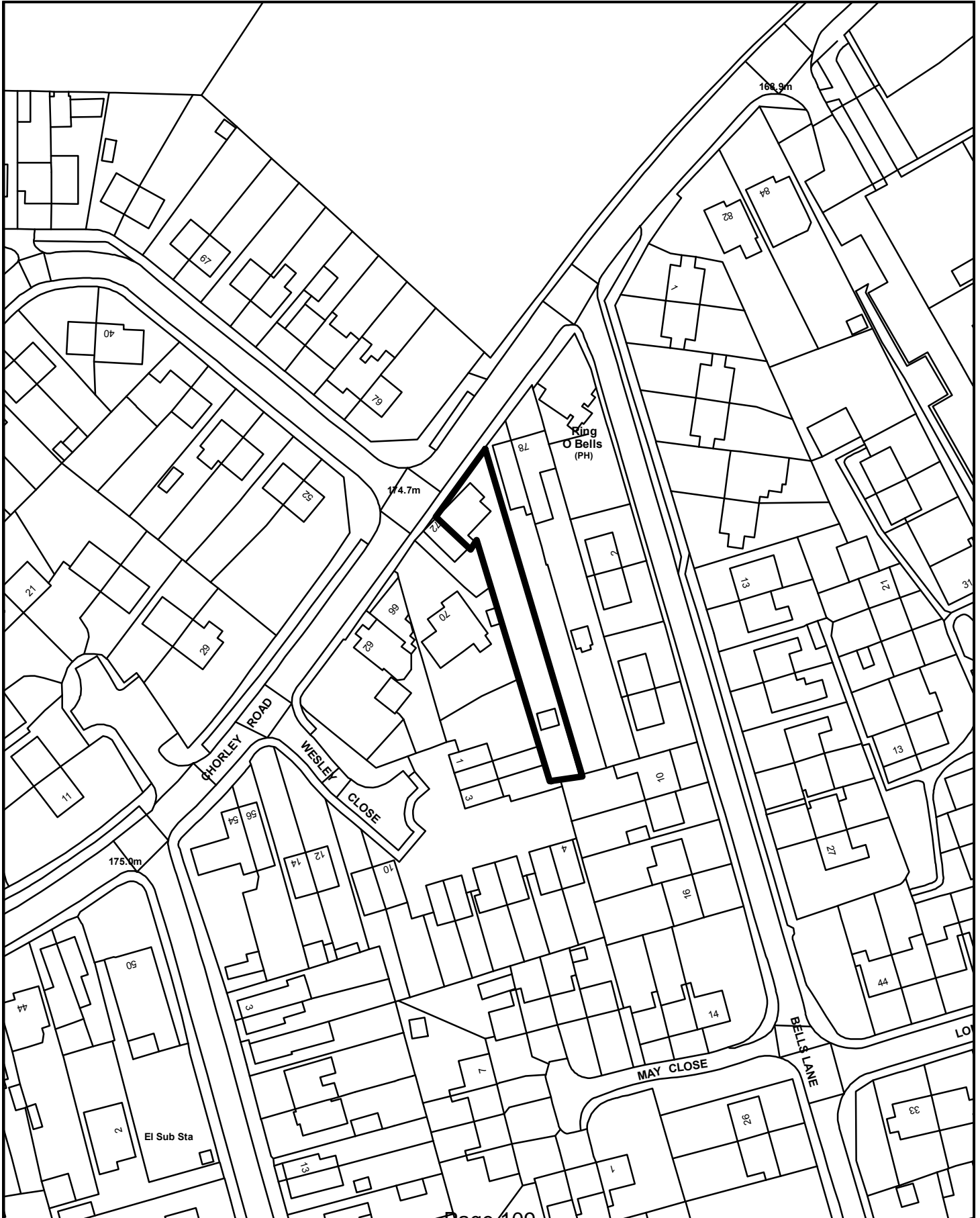
Dated: December 2018

Drawn By:

Drawing No:



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# BLOCK PLAN

18/01514/FUL  
74 Chorley Road  
Burntwood WS7 2NX

Scale:

Dated:

December 2018

Drawn By:

Drawing No:



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## **18/01514/FUL**

**FIRST FLOOR REAR EXTENSION TO FORM BEDROOM AND BATHROOM.  
74 CHORLEY ROAD, BURNTWOOD.  
FOR MRS D EVANS.**

Registered on 10/10/18

**Parish: Burntwood**

**Note:** This application is being reported to the Planning Committee as the applicant is a Councillor of Lichfield District Council.

**RECOMMENDATION: Approve, subject to the following conditions,**

### **CONDITIONS:**

1. The development hereby approved shall be begun before the expiration of three years from the date of this permission.
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. Notwithstanding any description/details of external materials in the application documents, any external brickwork, render and roof tiles shall match in colour and texture to those of the existing dwelling.

### **REASONS FOR CONDITIONS:**

1. In order to comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended.
2. For the avoidance of doubt and in accordance with the applicant's stated intentions, in order to meet the requirements of Policy BE1 of the Local Plan Strategy and Government Guidance contained in the National Planning Policy Framework.
3. To ensure the satisfactory appearance of the development in accordance with the requirements of Policy BE1 of the Local Plan Strategy and the National Planning Policy Framework.

### **NOTES TO APPLICANT**

1. The Development Plan comprises the Lichfield District Local Plan Strategy (2015) and saved policies of the Lichfield District Local Plan (1998) as contained in Appendix J of the Lichfield District Local Plan Strategy (2015).
2. The applicant's attention is drawn to The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which requires that any written request for compliance of a planning condition(s) shall be accompanied by a fee of £34 for a householder application or £116 for any other application including reserved matters. Although the Local Planning Authority will endeavour to discharge all conditions

within 28 days of receipt of your written request, legislation allows a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.

3. Please be advised that Lichfield District Council adopted its Community Infrastructure Levy (CIL) Charging Schedule on the 19th April 2016 and commenced charging from the 13th June 2016. A CIL charge applies to all relevant applications. This will involve a monetary sum payable prior to commencement of development. In order to clarify the position of your proposal, please complete the Planning Application Additional Information Requirement Form, which is available for download from the Planning Portal or from the Council's website at [www.lichfielddc.gov.uk/cilprocess](http://www.lichfielddc.gov.uk/cilprocess).
4. Severn Trent Water advise that there may be a public sewer located within the application site. Although their statutory sewer records do not show any public sewers within the area specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.
5. During the course of the application, the Council has sought amendments to the proposals to ensure a sustainable form of development, which complies with the provisions of paragraph 38 of National Planning Policy Framework (2018).

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## **PLANNING POLICY**

### **Government Guidance**

National Planning Policy Framework  
National Planning Policy Guidance

### **Local Plan Strategy**

Core Policy 3 – Delivering Sustainable Development  
Policy BE1 – High Quality Development

### **Supplementary Planning Documents**

Sustainable Design

## **RELEVANT PLANNING HISTORY**

L930203 – Bedroom, bathroom and kitchen extension – Approve 17.05.1993

## **CONSULTATIONS**

**Burntwood Town Council** - No comments (09.11.18)

## **LETTERS OF REPRESENTATION**

No comments received

## **BACKGROUND DOCUMENTS**

None



## **OBSERVATIONS**

### **Site and Location**

This application relates to a semi-detached two storey dwelling located on the southern side of Chorley Road, Burntwood. The dwelling has a narrow access to the east which leads to a private garden measuring approximately 63 metres in length. The driveway to the east is ungated and leads to a gravelled area of paved hardstanding which can accommodate 2 cars.

### **Proposal**

This application seeks permission for a first floor rear extension above an existing single storey rear extension. The extension will measure 3.25m in depth, 7m in width, and a cumulative height of 7.2m from ground level with an eaves height of 5.4m. All materials will match the existing property.

Planning permission was given in 1993 (ref: L930203) for a two storey rear extension to provide a bedroom, bathroom and kitchen, however only the ground floor element was implemented, on to which this proposal will be constructed.

### **Determining Issues**

1. Principle of Development
2. Design and Appearance
3. Residential Amenity
4. Other Matters
5. Human Rights

#### **1. Principle of Development**

- 1.1 The proposal relates to the extension of an existing residential property within a residential area of Burntwood. Therefore the principle of such development is acceptable in this sustainable area.

#### **2. Design and Appearance**

- 2.1 The NPPF attaches great importance to design of the built environment and sets out that high quality and inclusive design should be applied to all development, including individual buildings, private spaces and wider area development schemes. It also states that development should respond to local character and history, and reflect the identity of local surroundings. This sentiment is echoed in Policy BE1 of the Local Plan Strategy which requires that extensions and alterations to existing buildings, to carefully respect the character of the surrounding area and development in terms of layout, size, scale, design and public views.
- 2.2 The extension will be seen in glimpse views from Chorley Road, and as such would not be considered to be an incongruous addition that will detract from the character and appearance of the street scene. The extension will be subservient to the main dwelling and constructed of materials to match the remainder of the dwelling. As such, the proposal is considered to be in keeping with the design and character of the host dwelling and street scene. Overall, it is considered the proposals accord with the Development Plan with regard to design and appearance.
- 2.3 The proposed first floor extension is similar in design to the previously approved incomplete two storey rear extension. The roof design uses a gable but continues to the ridge of the existing roof, whereas the previously approved extension had a pitched gable roof which

resulted in a double gable seen from the side elevation. As such the proposal is considered to accord with the Development Plan in this regard.

### 3. Residential Amenity

3.1 When assessing the potential for loss of light to neighbouring properties, the BRE 25 and 45 degree guidelines are used, as set out in the Sustainable Design SPD. The neighbouring property, Number 72 Chorley Road has a two storey rear extension. The proposed first floor rear extension will project no further than the existing extension at number 72, therefore there will be no impact on light to this property.

3.2 In addition, there are no principal habitable windows facing the rear of the dwelling, therefore minimum distance separation requirements for principal windows as set out in the Sustainable Design SPD do not apply. With regard to immediately adjacent properties, there are side facing windows on a single storey rear extension at Number 76. However, the distance between and orientation of both properties is such that it is considered that there would not be conflict with the 45 degree and 25 degree guidelines as set out within the Sustainable Development SPD. Furthermore there is also a large substantial hedge forming the boundary treatment between Number 74 and Number 76 blocking out light to these windows, therefore it is considered the proposal will not result in any further detrimental impact on the amenity of neighbours. As such the proposal is considered to accord with the Development Plan in this regard.

### 4. Other Matters

4.1 The proposal increases the number of bedrooms within the dwelling from two to three. This increase requires 2no off road parking spaces to meet the guidelines within Appendix D (Parking Standards) within the Sustainable Design SPD. There are 2 spaces available at present, therefore the level of parking currently provided is acceptable, in accordance with the Development Plan.

### 5. Human Rights

5.1 The proposals set out in the report are considered to be compatible with the Human Rights Act 1998, as no interests giving rise to rights protected under the Act have been identified in this application.

## **Conclusion**

Overall, it is considered that the proposed first floor extension will integrate successfully with the dwelling, whilst not detracting from the surrounding streetscene. Also, the proposal will not have a detrimental impact on neighbouring amenity.

As such, the development would accord with the requirements of the Development Plan and the NPPF. Accordingly, approval is recommended, subject to conditions.

## Enforcement Plan Update

Cabinet Member: Councillor I Pritchard

Date: 17 December 2018

Agenda Item: 5

Contact Officer: Peter Gittins

Tel Number: 01543 308205

Email: peter.gittins@lichfielddc.gov.uk

Key Decision? No

Local Ward Members All



**PLANNING COMMITTEE**

### 1. Executive Summary

- 1.1 This report relates to an update proposed to the Planning Enforcement Plan dated April 2013.
- 1.2 Whilst largely a technical update, ensuring that government policy references and changes to Council's departmental and personnel structure are up-to-date, there has been opportunity to also make some changes to our processes, in line with current best practice and advice on the contents of enforcement plans as set out in a document entitled "Towards a pro-active enforcement service: making the most of the tools in the box" prepared by PAS (Planning Advisory Service) in conjunction with NAPE (the Network for Planning Enforcement).
- 1.3 This plan was reported to the Economic Growth, Environment and Development (Overview and Scrutiny) Committee on the 12 November 2018. The Committee resolved:
  - i) That, subject to the addition of reference to also working closely with 'Environmental Heath' at paragraph 2.4 of the plan and that a note about the seriousness of flouting the planning regulations and that action would be taken where necessary be included, that the updated Local Enforcement Plan be endorsed and recommended that the Planning Committee approve the updated Plan.

### 2. Recommendations

- 2.1 That Planning Committee,
  - i) Approve the proposed updated Local Enforcement Plan, as attached at Appendix 1 and, that this updated Local Enforcement Plan replaces the April 2013 version with immediate effect.

### 3. Background

- 3.1 The Council had an Enforcement Policy which was adopted in January 2005, updated in 2007 and again in 2010. In April 2013 the current planning Local Enforcement Plan was adopted, which replaced the Enforcement Policy, in order to accord with the provisions of the National Planning Policy Framework (2012). This Enforcement Plan is some five years old and so is now due for review and update, in order to reflect the updated NPPF (July 2018), changes within the team personnel and also, in order to reflect more recent best practice.
- 3.2 The proposed draft, revised Local Enforcement Plan essentially is a proposed technical update to the current document, ensuring that government policy references and changes to Council's departmental and personnel structure are up-to-date. However, whilst the current update shares the original evidence base of the 2013 Local Enforcement Plan and there is considered to have been little change to the Council's planning enforcement related priorities since such time, the opportunity to include some changes to our processes, in line with more recent best practice and latest advice from the Planning Advisory Service (PAS) in conjunction with NAPE, are also included. The more significant, proposed changes are summarised below.

- 3.3 It is proposed that the Local Enforcement Plan explicitly states how it will deliver the objectives of the Lichfield District Local Plan, by ensuring that where unauthorised development does not accord with the specific policies of the Local Plan it is effectively remedied.
- 3.4 Reference is also included to the possibility of undertaking proactive enforcement projects, subject to the availability of resources.
- 3.5 The performance standards within the draft updated Enforcement Plan have been altered, in order to reflect the model enforcement plan standards promoted by PAS. In particular, it is considered that to 'seek to close 80% of all cases within 12 weeks from the date of receipt' will be an effective and reportable measure of the team's performance and therefore has been included.
- 3.6 The potential for chargeable services has been further considered. Whilst charging directly for planning investigation services is not considered appropriate because the Local Planning Authority has a duty to investigate and deal effectively with breaches of planning control, there are a number of income streams that are attributable to effective and well-resourced planning investigation service which may be considered.
- 3.7 Currently, fee income may be derived from retrospective planning applications; lawful development certificates fees; appeal fees and costs; prosecution and caution costs; and recovered cost from direct action. In some cases where there has been an unauthorised change of use of land there may have been an underpayment of council tax and this is then brought to the attention of the council tax team. In addition, the proposed revised draft plan also aims to raise the profile of the potential for large sums linked to successful prosecutions and the award of a Confiscation Order, where the investigation and prosecuting authority would keep 37.5% of any award by the Court.
- 3.8 Members will note that Paragraph 2.4 of the Local Enforcement Plan has been amended to include reference to working closely also with Environmental Health officers and also paragraphs 1.5 and 1.6 of the Plan have been amended to highlight the importance of not flouting the planning regulations and the approach that will be taken by the Council, in accordance with the recommendations of the Economic Growth, Environment and Development (Overview and Scrutiny) Committee, 12 November 2018
- 3.9 The proposed revised (draft) Local Enforcement Plan is included at Appendix 1.

Alternative Options	<ol style="list-style-type: none"> <li>1. Not update the current Enforcement Plan; although it is noted this is already 5-years old and contains incorrect information regarding personnel within the Council and requires updates to reflect change in guidance and best practice.</li> <li>2. Not have an Enforcement Plan- although this would not be in line with best practice or the government endorsed approach.</li> <li>3. Undertake further consultation with the Parish and Town Councils prior to the adoption of the updated local Enforcement Plan to re-establish priorities, although it is envisaged that this will not have changed significantly in the last 5/6 years' time and would delay the adoption of an up to date Enforcement Plan.</li> </ol>
Consultation	<ol style="list-style-type: none"> <li>1. There has been no consultation related to this revised document for the reasons stated.</li> </ol>
Financial Implications	<ol style="list-style-type: none"> <li>1. As set out at paragraphs 3.6 – 3.7 of this report there are opportunities to generate income from planning enforcement investigations and any subsequent action taken.</li> <li>2. An up to date adopted Enforcement Plan ensures a consistent and transparent approach to planning enforcement that would minimise any upheld Corporate Council and Ombudsman complaints.</li> </ol>

Contribution to the Delivery of the Strategic Plan	<ol style="list-style-type: none"> <li>1. The review of the Local Enforcement Plan will assist in delivering the objectives of the Local Plan which is all part of the objective to ensure that the district is clean, green and welcoming place to live.</li> </ol>
Equality, Diversity and Human Rights Implications	<ol style="list-style-type: none"> <li>1. The policies and procedures in the draft Local Enforcement Plan are such that they do not discriminate, or disadvantage any group protected under the legislation.</li> <li>2. The proposals as set out in this report are considered to be compatible with the Human Rights Act 1998.</li> </ol>
Crime & Safety Issues	<ol style="list-style-type: none"> <li>1. The recommendation will impact positively on our duty to prevent crime. The draft Local Enforcement Plan identifies the tools and procedures that will be used to prevent crime and to effectively deal with planning crimes should they occur.</li> </ol>
GDPR/Privacy Impact Assessment	<ol style="list-style-type: none"> <li>1. The draft Local Enforcement Plan states that we will keep customers personal details confidential at all times, unless required to disclose them as part of court proceedings, or to the Local Government Ombudsman (LGO), and that only necessary information will be kept indefinitely, unless the Council receives an erasure request. It is considered necessary to keep customers' personal information on file, as the Council may be required to provide information to the LGO should there be a complaint about the lack of enforcement action, or the process we follow. It will not be possible to predict what information will be needed. The immunity period from planning enforcement action is ten years for unauthorised uses and it is possible that a case could be referred to the LGO sometime after this period. Therefore, it is considered that the retention of information indefinitely is justified for the Council to fulfil its statutory duty in the case of planning enforcement.</li> </ol>

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Not updating the Local Enforcement Plan is likely to affect the efficiency of the service to some degree.	Refer to national policy and guidance and provide other information on planning and enforcement on the Councils website.	Risk is considered to be tolerable (Green).

<p><b>Background documents</b>  The adopted Planning Enforcement Plan (April 2013)  Economic Growth, Environment and Development (Overview &amp; Scrutiny) Committee (12 November 2018) agenda item 7.</p>
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<p><b>Relevant web links</b>  <a href="https://www.lichfielddc.gov.uk/Council/Planning/Planning-enforcement/Downloads/Planning-Enforcement-Plan-2013.pdf">https://www.lichfielddc.gov.uk/Council/Planning/Planning-enforcement/Downloads/Planning-Enforcement-Plan-2013.pdf</a></p>
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**LICHFIELD DISTRICT COUNCIL**

**LOCAL ENFORCEMENT PLAN**

**DRAFT REVISED VERSION**

**DECEMBER 2018**

## 1.0 Introduction

- 1.1 All planning decisions - from deciding whether to build a new shopping centre; to whether to approve a new housing development or even an extension to an existing house- are assessed against a framework.
- 1.2 This type of framework is called a local plan. It helps to make sure the district is developed in the right way, including building the right number and types of houses, developing the right kind of shopping and recreation facilities, getting the right office and industrial spaces, creating opportunities for local jobs to be nurtured and protecting our wildlife, landscapes and heritage. The Enforcement Plan sets out how the planning enforcement service will be delivered, and how it will contribute to the delivery of these objectives, by ensuring that where unauthorised development does not accord with the specific policies of the Lichfield District Local Plan it is effectively remedied.
- 1.3 Complaints and enquiries are received about alleged breaches of planning control, from a variety of sources. The integrity of the development management process depends on our readiness to take proportionate enforcement action when it is considered expedient to do so. We recognise the importance of establishing effective controls over unauthorised development, where it assists in the preservation and enhancement of the qualities of both the built and natural environment and to protect public amenity.
- 1.4 Paragraph 58 of the National Planning Policy Framework (July 2018) states that: “Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate.”
- 1.5 This Enforcement Plan sets out the Council's approach to planning enforcement. Importantly, the Council considers that the disregard of planning regulations is a serious matter, and action will be taken in accordance with this Plan, where necessary. The main legislative powers are explained and how enquiries will be prioritised and pursued is also set out in this document.



- 1.6 The Council adopts a firm but fair approach which endeavours to strike a sensible balance between the need for effective control, and the need to be reasonable and pragmatic. The Council is committed to the Government's Enforcement Concordat and the Regulators' Compliance Code (see Appendix A). The principles set out in these codes are intended to ensure:
- Openness about how we carry out our work
  - Helpfulness in terms of providing advice and assistance
  - Proportionality i.e. any action we take will be proportional to the harm caused, and,
  - Consistency i.e. our duties will be carried out in a fair and consistent manner.
- 1.7 This Enforcement Plan helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improves regulatory outcomes without imposing unnecessary burdens on individuals or businesses. This is in accordance with the Regulators' Compliance Code (see Appendix A).
- 1.8 This document covers all enforcement activities carried by Development Services staff. Its purpose is to provide an enforcement standard that respects the principles of the Enforcement Concordat and the Regulators' Compliance Code and meets with the requirements of all other relevant legislation (see Appendix B) and guidance published by central government. The Enforcement Plan can be viewed on the Council's website at [www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk). Individuals and businesses will be notified of this policy through officer verbal advice, the distribution of summary leaflets (Appendix C) or in conjunction with formal letters and notices.
- 1.9 With regard to the preparation of the original Enforcement Plan (April 2013) Parish and Town Councils were consulted and asked to identify their top five enforcement priorities. The results of the consultation are shown in graph form at Appendix H.
- 1.10 Four Councils identified Green Belt as a top priority, eleven identified development in Conservation Areas as one of their priorities and nine identified highway issues as one of their priorities. This is reflected in the priorities given to cases in Section 6.
- 1.11 Ten Councils identified development not in accordance with approved plans as one of their priorities. Section 8 of the Plan sets out how the implementation of development and compliance with conditions will be monitored.

## 2.0 Enforcement Activities

2.1 The enforcement activities referred to in this document relate to the following principal Acts of Parliament:

- Town and Country Planning Act 1990 (as amended)
- Localism Act 2011
- Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended)
- Part 8 of the Anti-Social Behaviour Act 2003
- The Proceeds of Crime Act 2002
- Together with Regulations, Orders and guidance produced under these Acts, and European Directives; as set out in Appendix D.

2.2 The overarching responsibility for planning enforcement lies with the Director of Place and Community. The majority of planning enforcement related functions are delegated to Officers as detailed in the Council's Constitution under the approved Scheme of Delegation; copy available on the Councils' website.

2.3 The day-to-day general planning enforcement activities are mainly undertaken by a small team that reports to the Planning Development Manager.

2.4 The enforcement team work closely with colleagues in Development Management; Conservation and Urban Design; Arboriculture Officers; Spatial Policy & Delivery and Environmental Health, in relation to the submission and determination of planning applications for unauthorised development; the monitoring and discharge of conditions; formal high hedge complaints, unauthorised works to listed buildings and protected trees. The Enforcement Officers also work closely with the Councils' Solicitor who provides support and advice. This ensures that decisions taken about whether or not to pursue enforcement action are consistent with current planning case law.

2.5 This Enforcement Plan will be reviewed when there are significant changes in national planning policy, the law, and following any operational experience and feedback from individuals and businesses.

2.6 The Council may from time to time identify priority areas where proactive enforcement could really benefit. For example, area based action on untidy land and buildings; targeting illegal advertisements; or a Conservation Area project to coincide with the making of an Article 4 direction. However, Senior Officer and Member 'buy

in' will be crucial in the identification and proper resourcing of such projects if they are to be effective.

### **3.0 Definitions of Enforcement Action**

3.1 In this document enforcement action means:

- Serving Statutory Notices
- Serving of Injunctions
- The issue of a Simple Caution
- Legal proceedings in a Court of Law, including the consideration of a Confiscation Orders under the Proceeds of Crime Act 2002
- Taking Direct Action

### **4.0 Performance Standards**

4.1 We will:-

4.2 Investigate all alleged breaches of planning control reported to the Council either in writing, by e-mail, by telephone or in person;

4.3 Keep personal details confidential at all times, unless required to disclose as part of court proceedings, or to the Local Government Ombudsman. Necessary information will be kept indefinitely, unless the Council receives an erasure request. It is considered that the retention of information is justified so that the Council can fulfil its statutory duty in dealing with breaches of planning control.

4.4 Register a complaint and provide an acknowledgement within 5 working days, which will include a reference number and named officer as the point of contact;

4.5 Seek to carry out a site visit within 10 working days of receipt of a complaint;

4.6 Keep any complainant informed of the progress of the case and of any decisions made with regard to whether to take action or of what action will be taken and likely timescales involved;

4.7 Actively pursue a complaint to a satisfactory conclusion;

- 4.8 Investigations into alleged breaches of planning control may take some time however we will seek to close 80% of all cases within 12 weeks from the date of receipt;
- 4.9 In cases where there may be a technical breach of planning control but the harm caused is insufficient to warrant formal action, we will notify the complainant of the reason for not taking formal action and close the case;
- 4.10 Negotiate with those responsible for any breach of planning control, allowing them the opportunity to resolve the matters of concern before serving a formal notice, unless the breach is so serious it warrants immediate action or where negotiations become protracted with no real likelihood of success.

## 5.0 **Targeting**

- 5.1 Taking formal enforcement action can be complex, time consuming and expensive. Where unauthorised development occurs resources will be targeted primarily towards development which gives rise to serious harm to public interests.
- 5.2 In deciding whether to take enforcement action the Council will have regard to national planning policy, the development plan and any other material considerations. Enforcement action will only be taken where it is expedient to do so and, the action taken will be proportionate to the nature of the breach. Where a trivial or small technical breach of planning control has occurred consideration will be given to the impact of the unauthorised development on public amenity and/or interests. In taking a decision on whether or not to pursue enforcement action, each case will be assessed in accordance with its individual merits.
- 5.3 Perceived harm caused to private interests, for example, the loss of value of a neighbouring property; competition to or from another business; loss of an individual's view or trespass onto someone else's land are not matters which can be taken into account by the planning system, although in certain circumstances there may be redress through civil laws.

## 6.0 **Enforcement Priorities**

- 6.1 When complaints and enquiries are received in respect of alleged unauthorised development they will be prioritised according to the criteria set out below. A case

may be given a higher or lower priority once a site visit has been undertaken depending on the nature of the breach

- 6.2 **Priority 1 This applies where the breach relates to unauthorised development which poses a serious threat to the environment or public amenity, for example, by causing a serious traffic hazard, or poses permanent damage to the environment, for example, unauthorised work affecting a Listed Building or the loss of a protected tree.**

We will visit the site as soon as practicable (within 24 hours) after the receipt of the enquiry to identify the appropriate course of action; which could be commencing injunctive or legal proceedings or issuing statutory Notices.

- 6.3 **Priority 2 If the breach relates to development where planning permission is unlikely to be granted without substantial modification or removal, for example development in Sites of Special Scientific Interest, Green Belt and Conservation Areas.**

We will contact the relevant owners and occupiers as soon as possible (within 5 working days) to arrange to meet to discuss the matter and negotiate a solution. Enforcement action will be pursued if negotiations fail to address the harm arising from the development.

- 6.4 **Priority 3 Development which gives rise to problems that may be resolved by limited modification, for example, by the imposition of conditions on a planning approval, where the complaint relates to untidy land or buildings and breaches of conditions on existing planning permissions.**

We will contact the owners and occupiers and give advice on what measures are required to address the issues, and give a reasonable timescale (usually 28 days) for them to carry out any necessary work or submit a planning application.

- 6.5 **Priority 4 Breaches of a minor nature which do not raise any planning issues.**

We will contact owners and occupiers, where appropriate or necessary. Advice may be given about the difficulties of selling the property in the future if the breach is not resolved.

## 7.0 **How Investigations Will Be Managed**

- 7.1 Officers will visit the site and establish if a breach is occurring. Advice will be given regarding the need for planning permission and/or compliance with conditions, where appropriate. This will be followed up in writing and timescales will be set for any

relevant actions, for example, ceasing any activity; removing the development; or submitting a planning application.

7.2 In the correspondence, informal advice will be given about:

- the case officer dealing with the matter and their contact details
- the nature of the breach and ways in which it can be resolved
- follow up actions and timescales
- relevant planning policies
- the likelihood of planning permission being granted
- the type of enforcement action which could be pursued and the penalties for non-compliance.

7.3 Where a breach of planning control cannot be resolved and the unauthorised development is causing material harm, formal enforcement action may be taken, in line with the Councils' procedures and delegated powers. The action will be proportionate to the breach occurring. The details of the types of Notices and the rights of appeal, and other powers which may be used, are set out in Appendix E.

7.4 Where it is appropriate we will try to resolve the matter through negotiation or by the submission of a planning application, which can control the impact of the development through the imposition of conditions. If further information is required about the ownership of the land or the nature of the breach, a Planning Contravention Notice or Requisition for Information may be served.

7.5 Where a breach of planning control is occurring, but there is no resulting harm to public amenity or interests, a decision may be taken that, it is not expedient to take enforcement action, in line with the Councils' procedures and delegated powers. Ward Members will be notified of these decisions. The approach set out above is consistent with Government guidance as contained in Planning Practice Guidance- Ensuring Effective Enforcement. . All investigations will be carried out in accordance with other relevant legislation, which cover privacy, surveillance and evidence, as set out in Appendix B. A flow chart to show the Enforcement Process is attached at Appendix F.

## 8.0 **Potential for Chargeable Services**

8.1 Whilst charging for enforcement investigation services has been considered, this is not appropriate as the Local Planning Authority has a duty to investigate and deal effectively with breaches of planning control.

8.2 However, income can be generated through investigations that result in retrospective planning applications and Lawful Development Certificates; appeal fees and costs; prosecution and caution costs and recovered cost from direct action.

8.3 In some cases where there has been an unauthorised a change of use of land there may have been an underpayment of Council Tax and this is then brought to the attention of the Revenues & Benefits team. There may well be instances where the unauthorised activity has occurred for a considerable period of time and there could be circumstances where this charge can be applied retrospectively.

8.4 The Proceeds of Crime Act is potentially where large sums of money can be obtained. This would apply when it is proven that development has persisted unlawfully contrary to the requirements of a planning enforcement notice and the owner, or developer has then profited from the illegal activity. In appropriate cases, and as part of a prosecution proceedings, the Local Authority can request that a Confiscation Order is made. If successful, the investigating and prosecuting authority are entitled to keep 37.5% of any confiscation order made through the Court.

## 9.0 **Monitoring the Implementation of Planning Permissions.**

9.1 Many planning permissions are granted subject to conditions which are required to be complied with before development commences on site. Compliance with these conditions is important as they can have a major impact on the form of the completed development. These conditions may include, for example:

- the erection of protective fencing around important trees, shrubs and hedges which are to be retained as part of the development
- the approval of external materials
- the approval of joinery details, mortar, external finishes and materials (particularly for Listed Buildings and in Conservation Areas)
- the removal of contaminated material on brownfield sites
- protected species mitigation measures.

- 9.2 Officers will identify sites with important pre-commencement conditions and write to the developer to advise about the importance of complying with the conditions before work commences on site. Officers will also carry out checks when they are in the area to see if works have commenced and use information from the Council's Building Control Service to monitor the commencement of development.
- 9.3 Where works commence without pre-commencement conditions being complied with, the developer will be contacted and may be advised that works should cease, depending on the nature of the breach of condition for example, if tree protection in the form of protective fencing is required for trees covered by a Tree Preservation Order and the continuation of the works threatens the long term life of the trees or if the works affect a Listed Building or a Conservation Area. If the works do not cease voluntarily then the issue of a Temporary Stop Notice may be considered. The action taken will be proportionate to the breach and an explanation will be given why action is being considered or pursued.

## 10. **Prosecutions**

- 10.1 Failure to comply with any requirement of a statutory Notice is a criminal offence. There are a number of options available to the Council depending on the harm caused and the circumstances of the case, which include prosecution, an injunction, or direct action. Prosecution will be the most common form of initial further action, but there may be circumstances where direct action, or an injunction, may be preferred and it does not necessary follow that the Council will always chose to prosecute first, before considering the other options available.
- 10.2 The Council will always consider what form of further action should be taken in these circumstances. Key questions in considering whether or not to take further action and what form that action should take are: would the action be proportionate to the breach of planning control?; is the action in the public interest?; would the action be likely to resolve the issue?; and whether or not there is sufficient evidence to progress the case.
- 10.3 Powers are delegated to Officers to instigate legal proceedings. This will involve discussions with the Council's Solicitor. However, the use of direct action will require authorisation from the Council's Planning Committee (see paragraph 12 below).
- 10.4 Further action will normally be taken against persons or companies who blatantly disregard the law, where their actions severely affect public amenity or put the



environment at risk. The circumstances that warrant such action will normally be characterised by one of the following:

1. Where the alleged offence involves a flagrant breach of the law which has destroyed the fabric of a historic building or involved the removal of a protected tree.
  2. Where the alleged offence involves a flagrant breach of planning law, which is continuing to affect public amenity or the environment, for example, where advertisements are displayed without Advertisement Consent, particularly in relation to where these are attached to Listed Buildings or in Conservation Areas.
  3. Where the alleged offence involves failure to comply with Enforcement Notices and the offender has been given a reasonable opportunity to comply with its requirements.
  4. Where there is a history of similar offences related to the risk to the protection of the environment.
- 10.5 The District Council must make the decision on whether or not to take further action having regard to public interest.
- 10.6 In addition, when prosecuting for a planning offence, the Council will also consider the provisions of the Proceeds of Crime Act 2002 in relation to securing a Confiscation Order where there is evidence that an offender has benefited financially from a breach of planning control. Where it is considered that a Confiscation Order may be appropriate, financial investigations by a qualified financial investigator will be commissioned at the outset of the process.

#### 11.0 **Simple Cautions**

- 11.1 The “Simple Caution” (see Appendix G), may be used, in certain circumstances, as an alternative to prosecution (Home Office guidance, Circular 016/2008 visit: <http://www.homeoffice.gov.uk>)
- 11.2 Simple Cautions are used to:
- deal quickly and simply with less serious offences,
  - divert less serious offences away from the Courts,
  - reduce the chances of repeat offences.

- 11.3 In order to safeguard the offenders' interests, the following criteria must be satisfied:
- Sufficient evidence must be available to prove the case;
  - The offender must admit the offence;
  - It must be in the public interest to use a Simple Caution
  - The offender must be 18 years old or over
- 11.4 We will also take into account the following when making our decision:
- The offender should not have received a Simple Caution for a similar offence within the last 2 years.
- 11.5 A record of the Formal Caution will be sent to the Office of Fair Trading and the Local Authorities Coordinators of Regulatory Services (LACORS) as appropriate, and will be kept on file for 2 years. If the offender commits a further offence, the Formal Caution may influence our decision to take a prosecution. If during the time the Caution is in force the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in Court, and this may influence the severity of the sentence that the court imposes (see Appendix G).
- 12.0 **Direct Action**
- 12.1 Provision is made in the Town and Country Planning Act 1990 (as amended), under Section 178 in relation to unauthorised development, and Section 219 in relation to Notices served to require the maintenance of land, for the District Council to take 'Direct Action' to enter the land and remedy the problem.
- 12.2 Direct Action will only be taken after consultation with and authorisation from the Council's Planning Committee. Reports to Planning Committee on such matters will be held in private session to ensure that staff safety is not compromised. However, all avenues will be explored with the contravener to avoid having to take such action. No prior notice of the date and time of such action needs to be given to the offender.
- 12.3 If Direct Action is taken the cost to the Council can be considerable. A charge in favour of the Council for the cost of the action will be registered on the land to ensure that money raised by any future sale will be used to recoup the Councils' costs. The monetary charge on the land would also be subject to favorable annual interest increases.

## 13.0 Review of the Enforcement Plan

13.1 In common with most formal documents, regular reviews of this enforcement plan will be necessary to ensure its status remains current, within the framework of the most up-to-date legislation and guidance issued by the Government.

13.2 Reviews will take place when:

- Current legislation and/or guidance changes or;
- When comments received from residents, customers, businesses and visitors to the District can improve how the policy is being developed and used.

## 14.0 Help Us To Help You!

14.1 We are constantly looking at ways to improve our services and welcome comments on this Enforcement Plan or any other matter relating to our services. Contact details are below:-

Head of Development Services  
Lichfield District Council  
District Council House  
Frog Lane  
Lichfield  
Staffordshire  
WS13 6YZ  
Tel: 01543 308174  
E-mail: [devcontrol@lichfielddc.co.uk](mailto:devcontrol@lichfielddc.co.uk)

Specific enquiries relating to a particular case should be referred to the case officer or his/her immediate line-manager.

**Further information on Planning Enforcement can be found by visiting the Councils' website [www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk) and on the Planning Portal at [www.planningportal.gov.uk](http://www.planningportal.gov.uk).**

## APPENDIX A

### Our Commitment to the Regulators Compliance Code & the Enforcement Concordat

Lichfield District Council is committed to good enforcement practice.

Our work is primarily to protect the public interests and the environment. Carrying out this work in a fair, practical and helpful manner helps to achieve this while promoting a thriving local economy. We will encourage economic progress and only intervene in the operation of a business when there is a clear case for protection.

#### 1. Information & Advice

- We provide information setting out our approach to enforcement both in general and in particular areas.
- Clear, concise and accessible information, advice and guidance, will be provided to help individuals and businesses meet their legal obligations.
- Clear distinctions will be made between legal requirements and guidance

If you need advice or assistance on a planning enforcement issue, either ring or ask for general help or take the question up with the case officer. Full contact details will be given on any correspondence.

#### 2. Resources

Resources will be targeted towards development which gives rise to serious harm to public interests.

#### 3. Visits

- No inspection will take place without reason.
- Some visits will be advisory and we will give you help to meet your obligations by suggesting and advising.
- Where appropriate, this will include giving you a chance to discuss and remedy problems before action is taken.
- When action is required, then you will be given proper details of the action and fully advised of any right of appeal or review of the matter. Sometimes such action is required immediately for public protection and if it is, we will need to take it straight away.

- If a prosecution is required the Council will normally consider whether it is in the public interest to proceed. Where it is appropriate you will be given the opportunity to contribute information to help us reach an informed decision.

6. Our Complaints Procedure

Details of the District Councils' Corporate Complaints Procedure is available by speaking to a member of Staff or on the Council's website.

7. Proportionality

We will only require or take action that is proportionate to the risks involved and where we have taken account of all the circumstances of the case to minimise the costs of compliance. However, we must comply with the law where necessary.

8. Consistency

All of our planning enforcement work will aim to be consistent and transparent, although we will have due regard to the circumstances of each individual case. This will be achieved through the use of our enforcement plan and procedures.

Regulators' Compliance Code, Statutory Code for of Practice for Regulators 17 December 2007, Department for business Enterprise and Regulatory Reform.

Website: <http://bre.berr.gov.uk/regulation>

## **APPENDIX B**

### **Other Relevant Legislation and Codes of Practice**

Police and Criminal Evidence Act 1984

Regulation of Investigatory Powers Act 2016

Criminal Procedure and Investigations Act 1996

Human Rights Act 1998

General Data Protection Regulation 2018

Data Protection Act 2018

Freedom of Information Act 2000

Code of Practice of Crown Prosecutors

## Planning Enforcement

### A guide to our approach to Planning Enforcement

The purpose of this leaflet is to provide a guide to residents, businesses, property owners and planning agents about our enforcement standards in Development Services.

### Principal Acts that relate to the policy are:

- Town and Country Planning Act 1990 (as amended)
- Listed Buildings and Conservation Area Act 1990 and subordinate Regulations.

### The fundamental Principles of Good Enforcement

- We recognise the importance of establishing effective controls over unauthorised development to assist in the preservation and enhancement of the qualities of both the built and natural environment and to protect public amenity.
- Each case is unique and will be considered on its own facts and merits. In arriving at a decision to recommend formal enforcement action officers will be **fair, independent and objective**.

We will act in a way which is:

- Open about how we carry out our work.
- Helpful in providing advice.
- Proportional in relation to the scale and impact of the breach.
- Consistent in carrying out our duties in a fair and consistent manner, in line with policies set out in the Development Plan.

### Unauthorised Development

The types of enquiries which can be dealt with by Development Services include building works or changes of use, advertisements, non-compliance with conditions imposed on planning approvals, the felling of protected trees and the removal of hedgerows, works to Listed Buildings and demolition in Conservation Areas. Where enquiries are received which cannot be dealt with by Development Services advice will be given on which Service area or other agencies may be able to provide assistance.

### If you make an enquiry about unauthorised development

If you enquire about development which may not have planning permission your details will be kept confidential. Your enquiry will be acknowledged and you will be given advice about the enforcement process and what action can be taken. You will be advised of progress on the matter.

### If you carry out development without planning permission

Our staff will ensure that you understand what you are required to do and why and explain the enforcement process.

Officers will try to negotiate to resolve the problem. The majority of the enforcement investigations are resolved without the need for formal enforcement action.

You will be encouraged to discuss the matter with Officers and given advice on whether planning permission is likely to be granted for the development.

### If formal enforcement action is taken

Depending upon the circumstances formal action may sometimes be necessary. Where it is necessary to take enforcement action, the owner, occupier or developer will be advised in writing on the course of action to be pursued, setting out the type of action to be taken. The advice will include what rights of appeal are applicable and the penalties for non-compliance.

Where it is necessary to serve formal enforcement notices, the content of the notice will clearly state what is required and why action is being taken. Information will also be given on how to make an appeal against the issuing of the notice.

- Where there is a history of similar offences related to the risk to the protection of the environment.

## Prosecution

Failure to comply with any requirement of a statutory notice is a criminal offence. The Council will always consider whether legal proceedings should be instigated in these circumstances. The circumstances that warrant prosecution will normally be characterised by one of the following:

## Where the alleged offence involves

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- A flagrant breach of the law which has destroyed the fabric of a historic building or involved the removal of a protected tree.
- A flagrant breach of law which is continuing to affect public amenity or the environment, for example where advertisements are displayed without Advertisement Consent, particularly in relation to where these are attached to Listed Buildings or in Conservation Areas.
- Failure to comply with Enforcement Notices and the offender has been given a reasonable opportunity to comply with its requirements.

All general enquiries about the Enforcement Plan should be referred to:

**The Director  
of Place and Community  
Lichfield District Council  
District Council House  
Frog Lane  
Lichfield  
WS13 6YZ**

If you wish to contact the **Enforcement Team** on **01543 308205, 01543 308274** or **01543 308197** or email [devcontrol@lichfielddc.gov.uk](mailto:devcontrol@lichfielddc.gov.uk)

**A full copy of this Enforcement Plan is available on the Council's website at [www.lichfielddc.gov.uk](http://www.lichfielddc.gov.uk)**

## Planning Enforcement

A Guide to our approach to  
Planning Enforcement

Development  
Services



## **APPENDIX D Schedule of Legislation**

The enforcement activities referred to in this document relate to the following principal Acts of Parliament:

Town and Country Planning Act 1990 (as amended)

Planning and Compensation Act 1991

Planning (Listed Buildings and Conservation Areas Act) 1990 (as amended)

Planning and Compensation Act 2004

Localism Act 2011

The Proceeds of Crime Act 2002

Together with Regulations, Orders and guidance produced under these Acts, and European Directives, as set out below:

Town and Country Planning (Control of Advertisements) Regulations 2007

Town and Country Planning (General Permitted Development) Order 2015, as amended.

Town and Country Planning (Use Classes) Order 1987, as amended

Local Government (Miscellaneous Provisions) Act 1982

Caravan Sites and Control of Development Act 1960

Town and Country (Tree Preservation) Regulations Order 2012

Hedgerow Regulations 1997

Cleaner Neighbourhood and Environment Act 2005

## **APPENDIX E – Statutory Notices, Powers and Penalties**

Statutory Notices are legal documents, normally requiring the recipient to carry out works to ensure compliance with an Act of Parliament.

### **Main Definitions**

The main definitions and Notices referred to below, relate to the principal legislation used by Development Services.

### **Planning Contravention Notice (PCN)**

Served under Section 171C of the Town and Country Planning Act 1990. Used where the District Council considers there may be a breach of planning control and further information is required about the development or the ownership of land. It requires responses to specific questions about the development. A PCN can be used to establish the facts of a case and let the owner/occupier/operator know that the Council is seriously concerned about an alleged breach. It is intended to act as both an information-gathering tool and a statement of intent. It is a criminal offence not to respond to the Notice and a fine of up Level 3 can be imposed on summary conviction, for not responding to the Notice and up to Level 5 for giving false or misleading information.

### **Requisition for Information Notice (RFI)**

Used to obtain information about the ownership of land. Served under Section 330 of the Town and Country Planning Act 1990, in relation to Listed Buildings and the Display of Advertisements (for which a Planning Contravention Notice cannot be used). It is a criminal offence not to respond to the Notice and a fine of up Level 3 can be imposed on summary conviction, and liable on summary conviction to a fine not exceeding the statutory maximum or on conviction on indictment to imprisonment for a term not exceeding two years or to a fine, or both.

### **Breach of Condition Notice**

Served under Section 171A of the Town and Country Planning Act 1990. Used where conditions imposed on the grant of planning permission have not been complied with or a limitation set out in Regulations has been exceeded. It sets out requirements to be complied

with and a timetable for the required works to be carried out. There is no right of appeal to a Breach of Condition Notice, other than to the High Court on a point of law. The Notice must be served on the person responsible for the breach. Where there is any doubt about who is responsible or where human rights issues may arise due to the inability to appeal it may be more appropriate to serve an Enforcement Notice. It is a criminal offence not to comply with the requirements of the Notice and a fine of up to Level 4 can be imposed on summary conviction.

### **Enforcement Notice (EN)**

Served under Section 187A of the Town and Country Planning Act 1990 where development is carried out without planning permission and gives a list of requirements and a schedule of reasons for issuing the notice. There is a right of appeal to the Secretary of State on 7 grounds:

- a) that planning permission should be granted for what is alleged in the Notice
- b) that the breach has not occurred as a matter of fact
- c) that there is not a breach of planning control
- d) that the development is immune from enforcement action
- e) that the copies of the Notices have not been correctly served
- f) that the requirements of the notice are excessive to remedy the breach
- g) that the compliance period is too short.

If an appeal is submitted action against the notice is suspended until the appeal has been heard. It is a criminal offence not to comply with the requirements of the Notice and a fine of up to £20,000 can be imposed on summary conviction or an unlimited amount on summary indictment.

### **Stop Notice (SN)**

Served under Section 183 of the Town and Country Planning Act 1990 where there is a breach of planning control that is causing serious harm, or has the potential to cause serious or irrevocable harm to amenity. It may be served with an Enforcement Notice as set out above or before an Enforcement Notice has taken effect, but requires the relevant activity to cease immediately and it cannot continue whilst an appeal against an enforcement notice is in progress. In certain circumstances the District Council may be liable to pay compensation to the recipient of a Stop Notice. It is a criminal offence not to comply with the requirements

of the Notice and a fine of up to £20,000 can be imposed on summary conviction or an unlimited amount on summary indictment.

### **Temporary Stop Notice (TSN)**

Served under Section 171E of the Town and Country Planning Act 1990. This may be served where it appears that there is a breach of planning control occurring and it prevents that development or activity taking place, for a period of up to 28 days. It gives the Council and the contravener the opportunity to consider further how to deal with the matter. It is a criminal offence not to comply with the requirements of the Notice and a fine of up to £20,000 can be imposed on summary conviction or an unlimited amount on summary indictment.

### **Listed Building Enforcement Notice (LBEN)**

Served under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Notice may require the building to be brought back to its former state, or other works specified in the Notice to alleviate the effects of the unauthorised works, or the building to be brought back to a state it would have been in if the terms of any Listed building Consent had been observed, within a timescale specified in the Notice. There is a right of appeal against a LBEN. It is a criminal offence not to comply with the requirements of the Notice and a fine of up to £20,000 can be imposed on summary conviction

Unauthorised works to a listed building is an offence under Section 9 of the Planning (Listed Building and Conservation Areas) Act 1990. A person who is guilty of such an offence will be:

- liable on summary conviction to imprisonment for a term not exceeding 3 months or a fine not exceeding the statutory maximum or both
- liable on conviction on indictment to imprisonment for a term not exceeding 12 months or a fine or both

### **Listed Building Urgent Works and Repairs Notices**

Served under Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990 gives Local Authorities the power to carry out works to unoccupied or partly occupied Listed Buildings. At least 7 days notice must be given to the owner. Section 55 of the Act allows for reasonable costs to be recovered. Section 48 of the Act gives the power to serve

a Repairs Notice specifying works which are considered necessary for the proper conservation of the Listed Building. Section 47 of the Act allows for a Local Authority to compulsorily purchase any Listed Building where a Repairs Notice is not complied with. These powers do not relate to ecclesiastical buildings or ancient monuments.

### **Conservation Area Enforcement Notice**

As above, but relates specifically to demolition in a Conservation Area. Served under Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Notice under Section 215**

Served Under Section 215 of the Town and Country Planning Act 1990. Used to require the maintenance of untidy land. There is a right of appeal to the Magistrates Court. It is a criminal offence not to comply with the requirements of the Notice and a fine of up Level 3 can be imposed on summary conviction.

### **Injunctions**

The District Council can apply to the High Court or County Court for an Injunction requiring works to cease where they consider it expedient to do so. Failure to comply with an Injunction can lead to proceedings in the County Court where an unlimited fine or prison sentence can be imposed.

### **Discontinuance Notice**

Requires the discontinuance of the display of any advertisement, or the use of a site for the display of an advertisement, which has the benefit of deemed consent under the Control of Advertisements Regulations where the Council is satisfied it is necessary to do so to remedy a substantial injury to the amenity of the locality or a danger to members of the public. Served under Regulation 8 of the Town and Country Planning (Control of Advertisements) Regulation 1995. It is a criminal offence not to comply with the requirements of the Notice and a fine of up Level 5 can be imposed on summary conviction.

## **Unauthorised Display of Advertisements**

It is a criminal offence to display an advertisement, which requires Advertisement Consent, without consent being obtained. A fine of up to Level 3 can be imposed on summary conviction.

## **Contravention of a Tree Preservation Order**

Under section 210(1) or (4) it is a criminal offence to cut down, lop, top or wilfully destroy any tree which is the subject of a Preservation Order. A fine of up to the statutory maximum can be imposed on summary conviction or an unlimited fine on summary indictment.

## **Completion Notice**

Served under Section 94 of the Town and Country Planning Act where development has commenced and where the Local Planning Authority is of the opinion that that a development will not be completed in a reasonable period. It must be served on any owner and occupier, stating that a planning permission will cease to have effect at the end of a further period, of at least 12 months. It only takes effect after confirmation by the Secretary of State and there is an opportunity for those served with the Notice to be heard at a Public Local Inquiry. It does not require any development already carried out under the planning permission to be removed, nor does it guarantee that a development will be completed, but merely takes away planning permission for any further development once the period stated on the Notice has expired.

## **High Hedge Remedial Notices**

Served under Section 69 of the Anti-Social Behaviour Act 2003 to require the reduction of an evergreen hedge. There is a right of appeal against a Notice and also by the complaint if no Notice is served. It is a criminal offence not to comply with any requirement of High Hedge Remedial Notice and a fine of up to Level 3 can be imposed on summary conviction.

## **Powers of Entry**

Enabled by Sections 196A 196B and 196C of the Town and Country Planning Act 1990, to enter land specifically to investigate alleged breaches of planning control.

Section 74 of the Anti-Social Behaviour Act 2003 to enter land specifically to in relation formal High Hedges complaints

Section 88 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to enter land specifically to in relation to alleged breaches of Listed Building Consent.

Officer have rights of entry under the Council's Scheme of Delegation, as set out in the Constitution.

### **New Enforcement Provisions brought in under Localism Act 2011:**

#### Power to decline to determine retrospective planning applications

Insertion of Section 70C to the Town and Country Planning Act 1990, the power to decline to determine a retrospective planning application in relation to land where an enforcement notice has been served prior to the receipt of the application and would involve granting planning permission for the matters specified as the alleged breach of planning control.

#### Time limits for enforcing concealed breaches of planning control

Insertion of Section 171BA to the Town and Country Planning Act 1990, the power to apply to the magistrates court for a planning enforcement order, to extend the period for immunity in relation to an apparent breach where the court is satisfied, on the balance of probabilities, that the apparent breach has deliberately been concealed.

#### Power to remove structures for the unauthorised display of advertisements

Insertion of Section 225A of Town and Country Planning Act 1990, the power to serve a removal notice and dispose of any display structure used for the unauthorised display of advertisements. There is a right of appeal to the magistrates court against the issue of a removal notice.

Insertion of section 225C of the Town and Country Planning Act 1990, the power to serve an action notice in relation to the persistent display of unauthorised advertisements on any surface. There is a right of appeal to the magistrates court against the issue of an action notice.

NOTE:

**Level of fines at February 2013:**

Level 3 - not exceeding £1,000

Level 4 – not exceeding £2,500

Level 5 – not exceeding £5,000

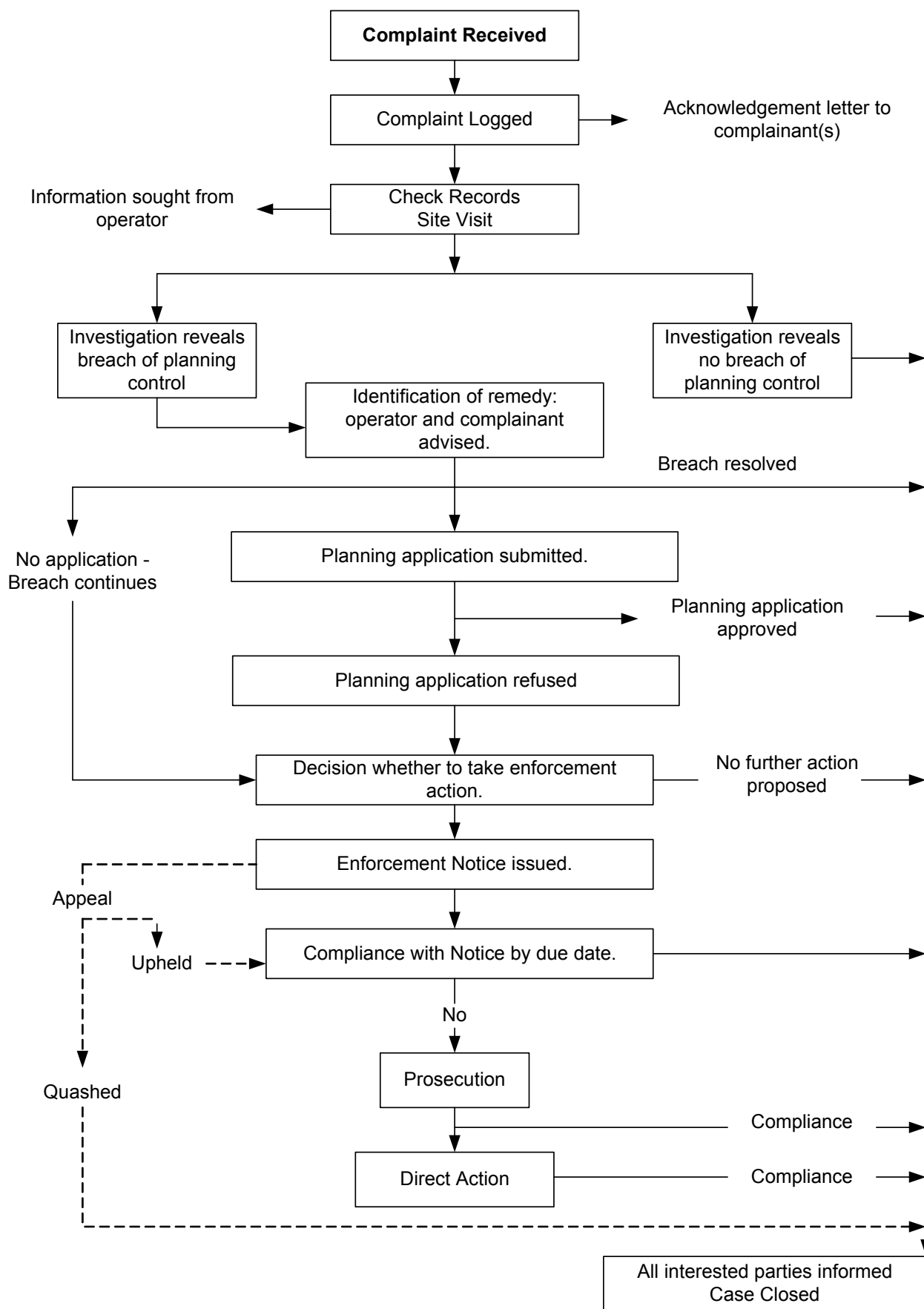
Statutory maximum fine - £20,000

Summary Conviction – in the Magistrates Court

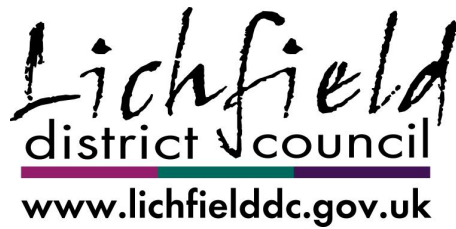
Conviction on Indictment – in the Crown Court



### ENFORCEMENT FLOWCHART



**APPENDIX G: The Simple Caution**



**SIMPLE CAUTION (COMPANY)**  
**HOME OFFICE CIRCULAR 16/2008**

CASE REFERENCE:	
COMPANY NAME:	
COMPANY REGISTERED ADDRESS:	
COMPANY REGISTERED NO:	

DATE of OFFENCE(S):	
PLACE of OFFENCE(S):	
BRIEF CIRCUMSTANCES of OFFENCE(S):	

**Please read the declaration below and make sure you understand it before you sign.**

1. The company admits to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
2. If new evidence comes to light suggesting that the offence(s) the company has committed are more serious, you might still take legal action against the company.
3. If there are any victims as a result of these offences, they might still take civil action against the company and you might give the name and address of the company's registered office to the victims so they can do this.
4. If the company is charged with another offence and we go to court, you will tell the court that the company has received this simple caution.

5. If the company applies for certain licences connected with the business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue any licence.
6. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

**DECLARATION**

**I have read and understand all this information.  
I hereby declare that I**

---

I am authorised by the company to admit the offence(s) described above and agree to accept a Caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should the Company be found to be infringing the law in the future. I further understand that this Caution may be cited should the Company subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances the company may be under a duty to disclose the existence of this Caution.

**NAME (*Block capitals*)** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

**POSITION WITH THE COMPANY** \_\_\_\_\_

**DATED THIS** \_\_\_\_\_ **DAY of** \_\_\_\_\_ **20**

## SIMPLE CAUTION (INDIVIDUAL)

### HOME OFFICE CIRCULAR 16/2008

CASE REFERENCE:  OFFENDER'S SURNAME: FORENAME(S):  NATIONAL INSURANCE No.:  ADDRESS:  DATE of BIRTH:	
DATE of OFFENCE(S):  PLACE of OFFENCE(S):  BRIEF CIRCUMSTANCES of OFFENCE(S):	

**Please read the declaration below and make sure you understand it before you sign.**

- 1 I have admitted to committing the offence(s) shown above. A simple caution is not a criminal conviction, but I understand that details of the caution may be kept on any national convictions databases.
- 2 If new evidence comes to light suggesting that the offence(s) I have committed are more serious, you might still take legal action against me.
- 3 If there are any victims as a result of these offences, they might still take civil action against me and you might give my name and address to the victims so they can do this.
- 4 If I am charged with another offence and I go to court, you will tell the court that I have received this simple caution.
- 5 If I apply for certain licences connected with my business, e.g. under the Consumer Credit Act 1974 or Licensing Act 2003, this caution may be taken into account in any decision whether to issue me with a licence.

- 6 If I already work in a job which is included in the list of notifiable occupations (these are jobs where you are in a position of trust or responsibility, for example, teachers, care workers, taxi drivers, soldiers and doctors), you might tell my employer about this simple caution. (I can ask you for a copy of the full list of notifiable occupations.)
- 7 If I apply for certain jobs, either paid or unpaid, that need me to have a criminal records check (CRB check), you might give my new employer information about this simple caution. (CRB checks are needed for nearly all jobs where you work with children or vulnerable adults, as well as for other sensitive jobs involving a high level of trust.)
- 8 I understand that accepting this simple caution may mean that some countries will not allow me to live there permanently, and some may not allow me to visit (for example, on business, for a holiday or as a student).

DECLARATION

**I have read and understand all this information.  
I hereby declare that I**

---

admit the offences described above and agree to accept a caution in this case. I understand that a record will be kept of this caution and that it may influence a decision to institute proceedings should I be found to be infringing the law in the future. I further understand that this caution may be cited should I subsequently be found guilty of an offence by a Court of Law. I also understand that in some circumstances I may be under a duty to disclose the existence of this caution.

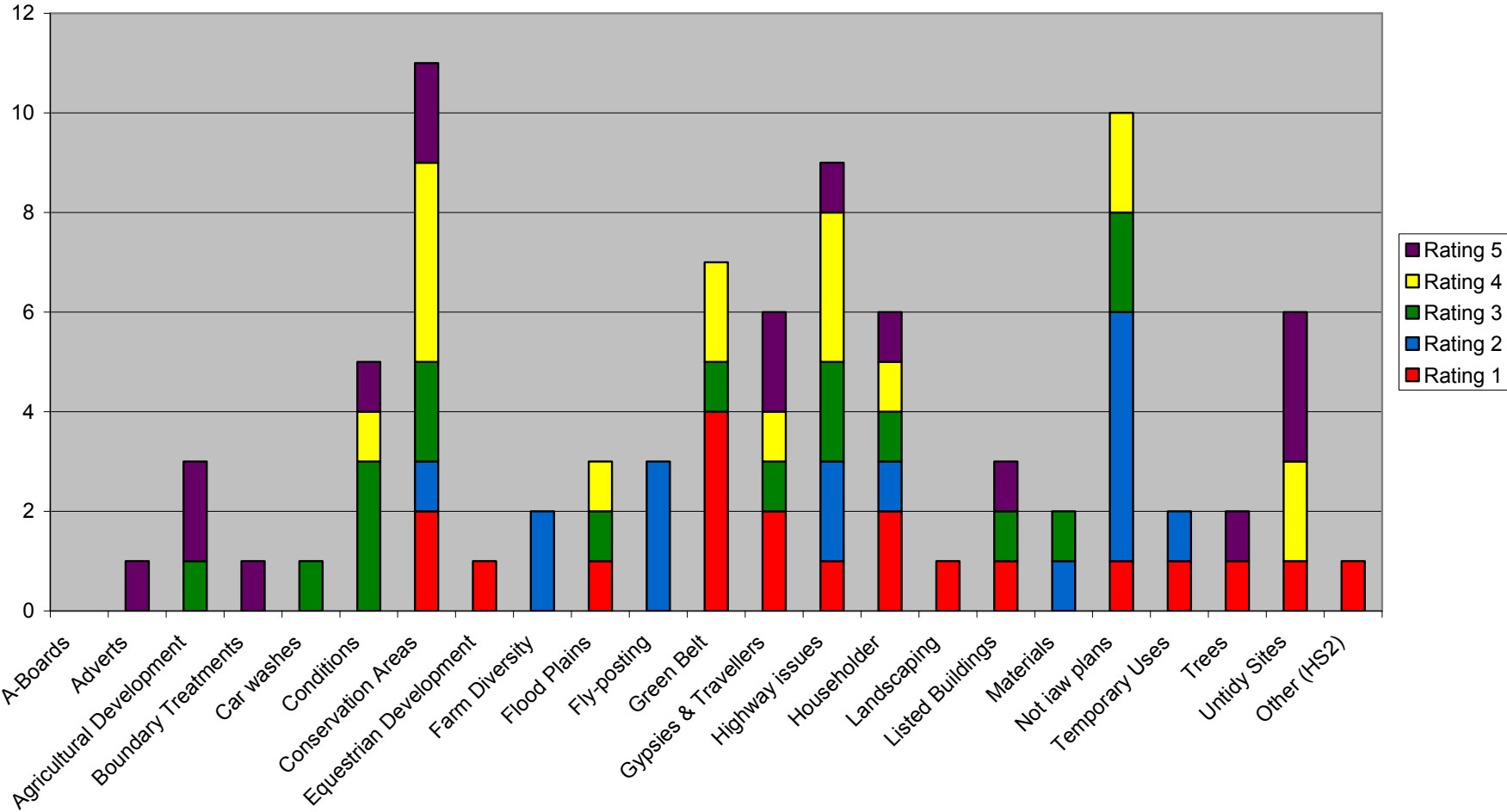
**NAME (*Block capitals*)** \_\_\_\_\_

**SIGNED:** \_\_\_\_\_

**DATED THIS** \_\_\_\_\_ **DAY of** \_\_\_\_\_ **20**

**Appendix H – Consultation with Town and Parish Councils.**

### FREQUENCY OF RATINGS



# CATEGORIES

