

LAND OFF PEPPER STREET KEELE
KEELE HOME LTD

13/00970/OUT

The Application is for outline planning permission for residential development for up to 100 dwellings. All matters of detail are reserved for subsequent approval with the exception of the means of access to the site, the details of which have been submitted for approval at this stage. The proposed access is off Pepper Street (B5044).

The site contains existing industrial commercial uses, a burning coal spoil tip, remains of a former farmstead, site of a former landfill site and agricultural land.

The total area of the site extends to approximately 13.8 hectares is within the Green Belt boundary and is also within an area of landscape restoration designation as defined by the Local Development Framework Proposal Map. The Haying Wood within the site is protected by Tree Preservation Order No. 1

The 13 week period for the determination of the planning application expired on 21st March 2014.

RECOMMENDATIONS

A. Subject to

(i) the receipt and consideration of further advice from the District Valuer as to what affordable housing provision and financial contributions that this development could support, and a further report to the Committee on this aspect

(ii) the applicant entering into a Section 106 obligation by 15th September 2014 to require:-

- 1. A contribution towards school spaces (the amount to be recommended following the outcome of (i) above) and the sum being able to be adjusted should the development as built be for less than the full 100 units;**
- 2. Affordable Housing provision (the level of which to be recommended following the outcome of (i) above);**
- 3. The entering into of a Management agreement to secure the long term maintenance of the public open space;**
- 4. A Travel Plan monitoring fee (the level of which to be recommended following the outcome of (i) above);**

Permit subject to conditions relating to the following matters:-

- 1. Submission and approval of reserved matters.**
- 2. Time limit for the submission and approval of reserved matters and for commencement.**
- 3. Reserved matter submission to be informed by principles within the submitted Design and Access Statement and set out in the Master Plan (drawing no. 14-019-SK1001 Rev D dated Feb 2014).**
- 4. Prior approval of the full and precise details of the methodology for the remediation of the burning spoil heap, and that works are to be carried out in accordance with the approved details before development commences.**
- 5. Prior approval of full and precise details of the steps to be taken to protect public health and the amenity of residents and users of the woodland before any engineering works take place, and that works to be carried out in full accordance with the approved details.**
- 6. The residential development shall not be commenced until such time as it has been demonstrated that the fire has been extinguished and is unlikely to reignite.**
- 7. Contaminated land conditions to be satisfied for the area of the site to be developed for residential purposes and the area identified as public open space on the draft master plan (drawing no KEE8-1-001 Rev) if it is intended that this area will be accessible to the occupiers of the development and the wider public.**
- 8. Area identified as public open space shall be fenced off and access prevented unless the contaminated land conditions have been satisfied.**
- 9. Japanese Knotweed**
- 10. Construction Management Plan and restriction on the hours of construction.**
- 11. No impact piling on any part of the site.**
- 12. No external lighting without prior approval.**
- 13. The access to the development to be carried out in accordance with the approved plan SCP/12301/F01 Rev A.**
- 14. Notwithstanding the details shown on the approved plans no development, other than demolition, shall be commenced until revised access details indicating a minimum width of 5.5m for the first 10m from the carriageway edge should be submitted and approved and the access completed prior to first occupation and retained as such for the lifetime of the development.**
- 15. Prior approval of a Highways Construction Method Statement details the site compound with associated temporary buildings; parking of vehicles for site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; and wheel wash facilities.**
- 16. Prior to first occupation all private parking and vehicle access areas shall be hard surfaced in a porous material and drained in accordance with details that have been approved.**

17. Development shall not be commenced until such time as a scheme to limit the surface water run-off has been agreed.
18. Development shall not be commenced until a scheme to manage the risk of flooding from overland flow of surface water on the proposed development has been agreed.
19. Contaminated land conditions.
20. Piling or any other foundation designs using penetrative methods shall not be permitted unless it can be demonstrated that there is no resultant unacceptable risk to groundwater.
21. If during development, contamination not previously identified is found to be present at the site development to cease until a remediation strategy has been agreed.
22. Prior to commencement of development further intrusive site investigation works to be undertaken in order to establish the exact situation regarding the coal mining legacy issues on the site to be submitted and agreed, including any identified remedial works to treat the mine entries and/or areas of shallow mine workings to ensure the safety and stability of the proposed development
23. In the event that such site investigation works required by condition 22 confirm the need for remedial works, such remedial works identified shall be undertaken prior to commencement of the development.
24. Submission of a detailed arboricultural survey is undertaken and used to inform a landscape led final master plan which shall show the exact alignment of dwellings within areas of woodland using principles demonstrated in the draft master plan.
25. Submission of existing and finished levels.
26. Retained trees and root protection areas shown on a proposed layout plan.
27. Arboricultural Impact Assessment in accordance with BS5837:2012
28. Dimensioned tree protection plans in accordance with BS5837:2012
29. Schedule of works to retained trees
30. Arboricultural method statement in accordance with BS5837:2012
31. Full hard and soft landscaping proposals based upon principles identified in the Landscape and Visual Impact Assessment
32. Full landscape maintenance schedules.
33. All recommendations contained within the submitted ecological surveys to be complied with.

B. Failing completion by 15th September 2014 of the above planning obligation, that the Head of Planning be given delegated authority to either refuse the application on the grounds that in the absence of such obligations the proposal fails to provide appropriate level of affordable housing which is required to provide a balanced and well functioning housing market, secure the on-going maintenance of on site open space provision , and an appropriate contribution towards school provision; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for Recommendation

The proposal constitutes inappropriate development within the Green Belt. It is considered, however, that the extinguishing of the spoil heap fire, which has been burning since 2006 and which expert advice indicates could continue for a considerable period of time amount to the very special circumstances. Extinguishing the fire once and for all will secure benefits in the long term to health and the environment and the visual amenity of the area; and will quickly remove the risk to the safety of those that access the site, the consequences of which could be catastrophic, all of which clearly outweigh the harm to the Green Belt by reason of inappropriateness

The scheme is considered acceptable in terms of impact on landscape, highway safety and trees. Subject to the imposition of suitable conditions and appropriate financial contributions, it is not considered that there are any material considerations which would justify a refusal of outline planning permission. Advice now received suggests that the scheme cannot support a fully compliant proposal (in terms of the amount of Section 106 contributions and affordable housing). The final report of the District Valuer is awaited, however, and unless that report reaches a different conclusion there are certain options as to how any funding shortfall could be addressed. The final report of the District

Valuer and how the funding shortfall could be addressed will be reported, once the further advice of the District Valuer has been received.

Proposed Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application

Officers have worked with the applicant to address all issues of the site and the application is now considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

Policies and Proposals in the approved Development Plan relevant to the decision:-

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS)

Policy SP1: Spatial Principles of Targeted Regeneration
Policy SP2: Spatial Principles of Economic Development
Policy SP3: Spatial Principles of Movement and Access
Policy ASP6: Rural Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change
Policy CSP4: Natural Assets
Policy CSP5: Open Space/Sport/Recreation
Policy CSP6: Affordable Housing
Policy CSP10: Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy S3: Development in the Green Belt
Policy H1: Residential Development: Sustainable Location and Protection of the Countryside
Policy E11: Development of Employment Land for Other Uses
Policy T16: Development - General Parking Requirements
Policy T18: Development – Servicing Requirements
Policy C4: Open Space in New Housing Areas
Policy N3: Development and Nature Conservation – Protection and Enhancement Measures
Policy N4: Development and Nature Conservation – Use of Local Species
Policy N12: Development and the Protection of Trees
Policy N13: Felling and Pruning of Trees
Policy N17: Landscape Character – General Considerations
Policy N21: Area of Landscape Restoration

Other material considerations include:

National Planning Policy Framework (March 2012)

National Planning Practice Guidance (August 2013)

Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

Conservation of Habitats and Species Regulations (2010)

Community Infrastructure Levy Regulations (2010) as amended and related statutory guidance

Supplementary Planning Guidance/documents

Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD

Space Around Dwellings (SAD) (July 2004)

Developer Contributions SPD (September 2007)

Affordable Housing SPD (2009)

Planning for Landscape Change – SPG to the former Staffordshire and Stoke-on-Trent Structure Plan

Waste Management and Recycling Planning Practice Guidance Note (January 2011)

pdoesStaffordshire County Council Education Planning Obligations Policy approved in 2003 and updated in 2008/09

Relevant Planning History

04/01321/EXTN	Permitted 2009	Extension of time limit to implement planning permission 04/01321/EXTN
04/01321/FUL	Permitted 2004	Demolition of buildings, erection of buildings for industrial, storage or business use
04/00794/FUL	Refused 2004	Replacement industrial and storage units
03/00495/OUT	Refused 2003	Permanent equestrian dwelling
02/00966/OUT	Refused 2002	Equestrian dwelling
02/00224/OUT	Refused 2002	Proposed dwelling
01/00680/FUL	Refused 2001	Engineering works and car park
00/00430/PLD	Permitted 2000	Certificate of lawfulness for a proposed use as Sunday car boot sales for no more than 14 days in one calendar year
99/00568/FUL	Permitted 1999	Erection of stable block
98/00633/FUL	Permitted 1998	Renewal of permission for use of land for the keeping of horses and retention of ménage area
97/00282/COU	Permitted 1997	Change of use to keeping of horses and formation of ménage area
96/00537/ELD	Permitted 1996	Application for a certificate of lawfulness for an existing use for business/storage purposes
96/00272/ELD	Refused 1996	Application for a certificate of lawfulness for an existing use for business/storage purposes
95/00465/CPO	Unconfirmed	Modification of condition 5 of permission NNR3969
93/00664/CPO	Permitted 1993	Continuation of underground coal mining and development of two new adits

Views of Consultees

Keele Parish Council objects to the application and raises concerns and makes comment as follows:

- They are committed to maintain the integrity of the Green Belt and believe that if this application is allowed it will have implications not only for the parish of Keele but for other Green Belt areas.
- The safest and best policy is to let the tip burn out.
- Recent ministerial statements indicates that failure to meet housing supply demands as no justification for building in the Green Belt and the Borough's own report makes clear it has already met its rural housing target.
- The proposed open space, given the foul state of the ground and the absence of a financial bond, could not be accepted by any public or charitable organisation.
- The Highway Authority do not address the width of footpaths along the whole stretch of the road; the narrow section of Pepper Street opposite Quarry Bank which is not wide enough for 2 large vehicles to pass;
- Public land has been added to the application site which would restrict sight lines along Pepper Street and remove an existing off road parking area thus increasing on road parking near to the dangerous junction of Quarry Bank; and lack of visibility at the junction of Quarry Bank road and Pepper Street.
- Questions the timing of the publication of some of the submitted information and raises concerns that the submission of new material makes it very difficult for residents and their representatives to evaluate and comment upon the application.

- Whilst the Desk Top Study has been resubmitted it does not indicate that further ground-work investigations have been carried out, nor addressed the issue of the foul ground on the former marl hole site.
- The applicant remain silent on the size of the bond to cover liability in the event of work on remediating the burning tip being permitted, nor do they address who would pick up the bill in the event of subsequent gas migration.
- Who will pick up the Highway Authority and Education Authority bill?
- The proposal does not address Network Rails concerns.
- Access to the public rights of way and clarification of the management of transport of various materials pertaining to the fire and contaminated land should be addressed in the submission.

Silverdale Parish Council advise that the majority of the Councillors present at the meeting that considered the application were in favour of the application proceeding although some Councillors were against the application proceeding.

The **Environmental Health Division** initially objected to the application, but upon consideration of additional information that has been submitted they have removed their objection.

They advise that following their initial response a site visit was undertaken with a representative from Public Health England. It was evident that the tip is still actively burning as there was smoke and an acrid smell. The smoke appeared to be coming predominantly from fissures within the surface on the top of the tip face, with the Hollywood Lane flank of the tip appearing to have burnt out some time ago, as evidenced by the amount of vegetation which has colonised a significant proportion of this area. There appeared to be evidence that persons had recently accessed the tip via Hollywood Lane, and previous inspections of the site have established that it is possible to access the tip from adjoining land. The ease of access onto the site and the surface instability of the tip poses a significant risk to persons accessing the site.

The latest development proposals therefore offer a means of effectively dealing with the issues posed by this site once and for all.

Further advice has been sought from Public Health England concerning the public health implications of the spoil heap remediation proposals detailed in the outline permission. They remain concerned about potential adverse impacts on air quality and health from fumes, gases and particulates along with the potential for nuisance odours still remain. However it is now considered that it should be possible to effectively control and monitor such issues in order to safeguard public health and residential amenity throughout the remediation phase.

Given the scale of the financial commitment and time and effort involved in remediating the spoil heap, it is also considered necessary to ensure that an appropriate financial guarantee is arranged to secure the remediation of the spoil heap, should works cease part way through.

Conditions relating to the following are recommended:

- Prior approval of the full and precise details of the methodology for the remediation of the burning spoil heap, and that works are to be carried out in accordance with the approved details.
- Prior approval of full and precise details of the steps to be taken to protect public health and the amenity of residents and users of the woodland before any engineering works take place, and that works to be carried out in full accordance with the approved details.
- The residential development shall not become occupied until such time as it has been demonstrated that the fire has been extinguished and is unlikely to reignite.
- Contaminated land conditions
- Japanese Knotweed
- Construction Management Plan and restriction on the hours of construction.
- No impact piling on any part of the site.
- No external lighting without prior approval.

The **Highway Authority** makes the following comment:

- The applicant is recommending that the development is supported by a Travel Plan which encourages the use of alternative modes of transport to the private car. This is welcomed, however it is dependent on one of the residents volunteering and continuing to carry out the role of a Travel Plan Co-ordinator and continuing to do so. This causes concerns with regard to the long term implementation and function of such a plan.
- As indicated in the proposed Travel Plan it is recommended that each of the properties within the site is provided with a Residents Travel Plan Welcome Pack upon its first occupation.
- The access junction off Pepper Street will replace two existing substandard accesses. It is recommended that the width of the access is increased to a minimum of 5.5m in order to improve the free flow of two-way traffic at this location.
- A new 2m wide footway is to be provided over the Pepper Street frontage of the site in order to improve pedestrian access to and from the development. This will link up to an existing footway to the south-western end of the site which will also improve pedestrian facilities for existing residents in the area. It will also provide a link to the existing bus stops on either side of Pepper Street which unfortunately are not presently operational. Given the increase in patronage that the proposal represents hopefully these existing bus stops may well be brought back into use.
- The submission indicates that some of the new properties will front onto Hollywood Lane, which is a byway open to all traffic (BOAT) and as such is not constructed to adoptable highway standards. It is recommended that no vehicular access is taken from Hollywood Lane due to its poor surfacing and restricted visibility out onto Pepper Street. In addition no direct pedestrian access to any of the properties should be allowed as this is likely to result in residents vehicles being parked within the Lane.
- The indicated pedestrian/cycle link will be provided from the site onto Hollywood Lane and given its byway status this is acceptable and should improve sustainability.
- The results of the analysis within the submitted Transport Assessment demonstrate that the junctions of Pepper Street/A525 Station Road and of Pepper Street/Scot Hay Road/Sutton Avenue/High Street, a mini roundabout, will continue to operate well.

An NTADS contribution of £71,878 is required as it is estimated that a net increase in trip generations of 39 arrivals and 13 departures in the PM peak hour will be generated by the development. This should be secured by a S106 obligation, and in addition a Travel Plan and monitoring fee is required.

The following conditions are recommended:

- The development to be carried out in accordance with the approved plan SCP/12301/F01 Rev A.
- Notwithstanding the details shown on the approved plans no development, other than demolition, shall be commenced until revised access details indicating a minimum width of 5.5m for the first 10m from the carriageway edge should be submitted and approved and the access completed prior to first occupation and retained as such for the lifetime of the development.
- Prior approval of a Highways Construction Method Statement details the site compound with associated temporary buildings; parking of vehicles for site operatives and visitors; loading and unloading of plant and materials; storage of plant and materials; and wheel wash facilities.
- Prior to first occupation all private parking and vehicle access areas shall be hard surfaced in a porous material and drained in accordance with details that have been approved.

The **Environment Agency** initially objected to the application but following receipt of additional information they now comment that it has no objections subject to the following conditions:

- Development shall not be commenced until such time as a scheme to limit the surface water run-off has been agreed.
- Development shall not be commenced until a scheme to manage the risk of flooding from overland flow of surface water on the proposed development has been agreed.

- Contaminated land conditions.
- Piling or any other foundation designs using penetrative methods shall not be permitted unless it can be demonstrated that there is no resultant unacceptable risk to groundwater.
- If during development, contamination not previously identified is found to be present at the site development to cease until a remediation strategy has been agreed.

The **Coal Authority** (CA) advise that the proposals for excavating into the tip and removing material to an adjacent site for spreading, quenching and cooling, before returning it and re-compacting is the only way to effectively deal with a burning tip. The CA recommends that the LPA impose a planning condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat the mine entries and/or areas of shallow mine workings to ensure the safety and stability of the proposed development, this should also be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

In addition, an appropriate planning condition will need to be imposed to ensure that the burning colliery spoil tip is safely extinguished prior to commencement of development. This would involve the submission of a detailed methodology of the works to be undertaken and then the submission of a validation report following completion of the works.

The Coal Authority considers that the content and conclusions of the Desk Study Report and Ground Investigation Reports are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore has **no objection** to the proposed development **subject to the imposition of the above conditions**.

Natural England indicate that they have not assessed the proposal for impacts on protected species and refer to standing advice that they have published and which is a material consideration in the determination of applications. They advise that if the site is on or adjacent to a local site the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application. The application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird boxes. Consideration should be given to securing measures to enhance the biodiversity of the site from the applicant. They advise that the proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by the Authority's landscape character assessment where available, and the policies protecting landscape character.

Network Rail initially objected to the proposal, however as land owned by Network Rail has been removed from the proposal they have now withdrawn their objection.

The **Education Authority** indicates that this development falls within the catchments of Madeley High School and St John's CE (VC) Primary School. They advise that St John's Primary School is full and is expected to remain so for the foreseeable future. Madeley High School is projected to have insufficient places available to accommodate all of the likely demand from pupils generated by the development. They therefore request an education contribution for 21 primary school places (21 x £11,031 = £231,651) and 9 secondary school places (9 x £16,622 = £149,598). This gives a total request of £381,249.

The **Landscape Development Section** (LDS) has concerns about the impact upon Haying wood and the loss of hedgerows, but do not object to this development subject to the approval of detailed development proposals that are based upon the information submitted in the application.

The LDS further comments that the number and final positions of properties within the TPO'd section of woodland (i.e. low density properties) is not defined in this outline application, but is crucial to the success of the developer's intention to retain protected woodland in this area. A layout that is less favourable than is shown on the submitted draft master plan would not be supported.

The following conditions are recommended:

- A detailed arboricultural survey is undertaken and used to inform a landscape led final master plan. The information submitted should show the exact alignment of dwellings within areas of woodland using principles demonstrated in the draft master plan which are retention of woodland buffer around the ponds; retention of more important specimens where possible; retention of woodland buffer between the low and high density housing; and retention of a woodland buffer between the site and Hollywood Lane.
- Submission of existing and finished levels.
- Retained trees and root protection areas shown on a proposed layout plan/
- Arboricultural Impact Assessment in accordance with BS5837:2012
- Dimensioned tree protection plans in accordance with BS5837:2012
- Schedule of works to retained trees
- Arboricultural method statement in accordance with BS5837:2012
- Full hard and soft landscaping proposals based upon principles identified in the Landscape and Visual Impact Assessment
- Full landscape maintenance schedules.

In addition a contribution for off site public open space should be secured at a rate of £2,943 per dwelling to be used at the Underwood Road play area and/or Ilkley Place. Any new playground and open space provision within the development should be maintained through an appropriate management agreement.

The County Council **Rural County (Environmental Advice) Team** comment as follows:

Historic Environment – A review of the site and the information contained in the Historic Environment Record suggests that there is low potential for the presence of below ground archaeological remains on the site. However the existing buildings may be associated with an historic tile manufactory and may retain valuable evidence. Recording should be made prior to any dismantling of any building and this should be secured by condition.

Historic Landscape Character – In order to reinforce the historic landscape character of the field pattern it is recommended that the historic field boundaries should be retained.

Ecology – incomplete information appears to be available. Measures identified in reports do not appear to have been incorporated into proposals. Whilst in the case of outline consent full details may not be required, outline mitigation measures should be proposed and included on plans.

Rights of Way – No rights of way are recorded in the immediate vicinity of the proposals and the County Council has not received any application to add to or modify the Definitive Maps.

The **County Mineral and Waste Authority** has no objection to the proposal.

The **Staffordshire Fire and Rescue Service** (SFRS) do not object to the proposal to build houses on the site, however they stress that the remedial works to address the underground fire as outlined in the proposal would be of high risk to the contractors carrying out the work. In addition they strongly recommend the provision of a sprinkler system to a relevant standard in the dwellings. The SFRS was consulted again following submission of additional information, and have confirmed that in their opinion remains that it would be a difficult process to remove the burning items and that it would require an expert on this matter to manage it.

The **Police Architectural Liaison Officer** (PALO) advises that the aspirations to provide good quality housing with a strong hierarchy of streets and space featuring blocks onto public spaces helping to create a sense of natural surveillance and security is welcomed. However the open nature of the surrounding area adjoining the site and the fact that it will sit on the edge of the greater urban locality has less natural social policing. Whilst this is not a disproportionately high crime area, it could be considered that all units should benefit from minimum standards for security in order to serve the occupants over future years. The addition of one hundred residential units is capable of changing the crime profile of the area by virtue of creating more targets of opportunity. The PALO advises that the development would benefit from gardens that are enclosed by appropriate fencing, doors and windows installed to minimum standards, and every dwelling should have at least a build in fused

spur enabling the householder to retro fit a burglar alarm or alternatively burglar alarms fitted as standard. Vehicle parking should be in-curtilage where possible.

The **Woodlands Trust** advises that the proposed development is adjacent to Holly Wood an area of Ancient Semi Natural woodland. The submitted land and visual assessment states that the woodland will be protected during the works to ensure there are no tree losses or damage to trees within it. An offset of 15m from the edge of the ancient woodland boundary will be required in accordance with Natural England best practice as indicated on the landscape strategy. As stated within the submission all construction activities and vehicle movements should be prevented from damaging the woodland through use of a construction exclusion zone and/or ground protection. The use of native, broad-leaved species for new woodland planting and soft landscaping is welcomed but they remain concerned about the loss of woodland within Haying Wood and the additional hedgerow loss within the site boundaries. While new planting is to occur, the loss of this woodland and the construction of 100 dwellings between Holly Wood and Haying Wood would have a negative impact on habitat connectivity for woodland wildlife, while increasing the fragmentation of the remaining woodlands. It is vitally important that all mitigation proposals enhance the wider landscape, making it function better for both wildlife and people. If the council are mindful to grant planning permission they recommend that the 15m buffer is planted with native woodland to provide a graduated edge to the ancient woodland and that it should be a condition that the buffer is maintained for a minimum of 10 years with any losses replaced. They also recommend that the area adjacent to the woodland is retained as greenspace to help provide an additional buffer for the ancient woodland from the intensified use of the eastern section of the site.

The **Urban Vision Design Review Panel** commented on the proposed development prior to the submission of the application. The main points from their detailed comments are set out below:

- Levels drawings should be provided to explain the process of how the burning material will be dealt with and how this will affect the final levels across the site.
- Re-working of the landscape could potentially provide an improved local landscape, but a statement is needed to explain how the open space created will be used, managed and accessed after remediation.
- No historical evidence has been provided to show the position and scale of the original industrial buildings on site to demonstrate that the proposed development will have no greater impact on the green belt than the existing. This information is essential because it would provide the rationale for the positioning and the extent of any new development that is allowed on the site. This analysis should also include an assessment of the surviving buildings on the site to determine their heritage significance or other merits.
- More explanation should be provided to illustrate the site layout and clarify the positioning of the buildings and their orientation. The diagrammatic layout provided does not enable a good enough assessment to be made of the urban design qualities of the proposal. The concept master plan indicates blocks with depths that appear to be unrealistically large and there may be scope for reducing the area of development and increasing the density.
- The decision to omit development originally proposed at the end of the site nearest to the settlement at Quarry Bank Road would mean that the new development would be isolated and would not satisfy the policy requirement that new dwellings in the green belt 'should normally be site within, and designed to fit in with, an existing group of dwellings or farm buildings'. They thought that a better relationship with Quarry Bank Road settlement should be created including pedestrian links to the new public open space.

The conclusions and recommendations of Urban Vision are set out in full below.

"The Panel thought that although this proposal involves new development in the green belt, which is normally regarded as inappropriate, there are special circumstances which may justify an exception being made in this case. The proposal has the potential to improve the quality of the local environment significantly, however, on the basis of the information provided so far it would be difficult to make a strong enough case for such an exception.

In order to make a convincing case the Panel thought that further information is required on the parameters and guidelines for the proposed development which determine inter alia its scale, extent, layout and architecture. Many of the Panel's recommendations could be met in producing the Design and Access Statement which will be required to support the planning application.

Recommended Actions

1. A levels drawing should be produced to explain how the material from the burning spoil tip would be re-distributed following its remediation and how this material would be used to create the proposed final levels across the site.
2. A statement should be provided explaining how the proposed public open space would be used, managed and accessed following remediation.
3. An assessment should be made of the surviving industrial buildings on the site to determine their original purpose, current use, scale, condition and their heritage significance. Such information should be used to inform the extent, location and layout of the proposed new development on the site.”

Staffordshire Wildlife Trust advises that they are not able to respond to the consultation.

Severn Trent Water has no objection subject to a condition requiring the submission and approval of drainage plans for the disposal of surface water and foul sewage.

The views of the **Staffordshire Badger Conservancy Group, Housing Strategy, United Utilities, the Waste Management Section and Economic Regeneration** have been sought, however as they have not responded by the due date it is assumed that they have no comments to make on the proposal.

Representations

79 letters of objection/concern (including a letter from Cllr Rout and three letters from Cllr Kearon) and two petitions (including 44 and 158 signatures) have been received raising the following matters;

- The fire is no longer causing problems for local residents.
- The submission contradicts the findings of the 2008 White Young Green report which warns against opening up the area or allowing air and water to enter because this could create fire entering other coal seams as the tip overlies two thick coal seams. The report recommended that the site is secured and the fire allowed to burn out.
- No consideration is given to the nature of the tip material which is to be spread on the adjacent field, which is proposed to be public open space, and the potential contaminants that may be produced in the quenching process, and the management of resulting pollution.
- By working on the fire it will pollute the atmosphere causing health problems.
- Young children and adults would be exposed to dangerous wind-born dust from the site which is known to include cyanide, arsenic and asbestos.
- The Ground Investigation reports are inadequate. The area of public open space is contaminated containing hazardous waste related to former industrial use and this is not covered in the Ground Investigation reports. The proposal makes no attempt to assess the nature of the contaminants, other than methane gas, that may be escaping from this landfill, nor to model future contaminant migration from this site. It is unlikely that any public or private body would want to adopt it. The Ground investigation reports are based on inadequate geological records. The Ground Investigation reports do not adequately identify the position of a geological fault in which a risk of gas migration may exist and it fails to recognise or evaluate the infill of the former clay pit.
- A substantial bond (£40-80 million) should be secured, to include a 5 mile radius from the site and cover potentially carcinogenic substances and fire entering other coal seams for 50 years.
- The development would introduce a large number of new residents to the dangers of ponds and water voids which would remain close to the development
- The footpaths in Pepper Street is too narrow, only half the width recommended in Manual for Streets, any extra traffic will increase the risk to pedestrians.
- Traffic will cut through Quarry Bank to Keele as the gates are constantly left open.
- The development would greatly increase traffic around St Luke's Primary School as well as through unsuitable roads through Silverdale Village.

- In the short-term the traffic associated with the remediation of the tip and the building of the development will impact on Pepper Street which has a pinch point at its junction with Quarry Bank.
- Local schools and doctors surgeries are already full to capacity.
- The development is not in keeping with its rural setting, and it is only suitable for an urban location.
- The site has been allowed to deteriorate and is an eyesore.
- There have been several breaches of planning control on the land.
- The development would cause devastation to the abundant wildlife around Pepper Street.
- The development will result in the loss of Green Belt land, and once it is gone it is gone forever.
- The Green Belt in this area is appreciated by an increasing number of walkers.
- A lack of a five year housing land supply does not justify development in the Green Belt.
- The gift of public open space on heavily polluted land does not justify development in the Green Belt.
- The site is in an unsustainable location, 2km from Keele Village centre by car.
- The sewerage station at Silverdale Road cannot accommodate the development.
- The application is before any logical, unified plan has been prepared identifying where development should take place. Until such a time the Green Belt should not be developed except for very small development.
- The County Council have requested an education contribution, but as the developer has indicated that there would be no contribution the full costs will have to be borne by the County Council.
- No affordable housing has been proposed on or off site. The financial viability report will need to be thoroughly and independently assessed to ensure the viability arguments are justified and a claw back mechanism secured if any increase value of the development occurs.
- Existing jobs would be lost as a result of the development, and none are proposed.
- No on site equipped children's play area is proposed.
- There are a number of discrepancies on the forms.
- If planning permission is granted it would set a precedent for other similar development on Green Belt and Greenfield land.
- Unmet housing need is unlikely to outweigh harm to the Green Belt and other harm to constitute very special circumstances justifying inappropriate development.
- The ability of the applicant to successfully put out the fire is questioned.
- The applicant has not explained adequately what will happen to the surface water runoff that would be created as a result of dousing the burning materials.
- The underground fire is on private land and therefore no tax/rate payer should have to contribute towards remediation.
- The submitted additional information does not overcome concerns that have been expressed.
- The site as amended includes land in the ownership of the Highway Authority and it is necessary to serve notice upon the land owner.
- The site is in an isolated location and the development will increase the risk of crime and disorder.
- To improve the prospects of the occupiers interacting with the existing community at Keele an off-site play area should be provided in Keele at the expense of the applicant.
- The Ground investigation reports cover only those parts of the site on which it is proposed to build.
- It is questioned why it has been deemed unnecessary for an Environmental Impact Assessment to be made of this development.
- Since the application was submitted there have been several attempts to start fires on the area of the underground fire.

Five letters of support have been received indicating the following:

- Other contaminated sites have been successfully developed
- The housing development is ideally situated and will bring much needed trade and business to the community.

- The development will regenerate the eyesore that is the site and extinguish and remove the dangerous burning tip to everyone's benefit.
- If the tip is not treated it will continue to give off obnoxious and potentially noxious fumes and will be a continued risk to those who venture onto the site.
- There is a risk that the fire could extend to Haying Wood and extinguishing the fire will remove that risk.
- The traffic report shows that Pepper Street is perfectly adequate to cope with the additional traffic from the development.
- There would also be the prospect of bringing a bus service back to Pepper Street, a benefit for the area.
- The type of housing proposed would support the development of Keele Science and Business Park and University.
- Whilst smell and dust will increase as the spoil heap is removed, willing to accept a short term inconvenience for a long term gain to the area.
- The proposed public space may have contamination but that exists now so with monitoring there would be no increase in danger to the public.
- Pepper Street is inadequate for the traffic but can be improved.
- The development would be a link between Silverdale and Keele.
- We need more houses nationally.

Applicant's/agent's submission

The applications are accompanied by the following documents:

- Planning Statement
- Design and Access Statements
- Landscape and Visual Impact Assessment
- Site Investigation Reports
- Transport Assessment
- Travel Plan
- Agricultural Land Quality Assessment
- Services and Utility Review
- Ecological Surveys and Impact Assessment
- Viability Assessment
- Statement of Community Involvement
- Addendum Report on Disused Burning Tip

The documents are available for inspection at the Guildhall and at www.newcastle-staffs.gov.uk/planning/1300970OUT

KEY ISSUES

The site lies within the North Staffordshire Green Belt and an Area of Landscape Restoration as designated on the Local Development Framework Proposals Map.

The development involves the loss of employment generating uses however it is not considered that the site is of good quality or that its loss would unacceptably limit the range and quality of sites and premises available for employment. In the circumstances and given the policy context, it is considered that the main issues for consideration in the determination of this element of the application are:

- Is the proposal appropriate or inappropriate development in Green Belt terms?
- Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?
- Does the proposed development have any significant adverse impact on the trees on the site?
- Would the proposed development have a significant adverse impact on the character and appearance of the area or the wider landscape?

- Would the proposed development have any impact upon highway safety, does the development promote sustainable travel choices and how does this need to be secured?
- Is affordable housing provision required and if so how should it be delivered?
- What impact would the development have upon the local school in terms of additional pupil numbers and how could this matter be addressed?
- Will appropriate provision of open space be made?
- Would there be any significant impact upon any protected species?
- What are the health and safety implications of the proposed development?
- Are there the required Very Special Circumstances to warrant setting aside Green Belt policies?
- Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

Is the proposal 'appropriate' or 'inappropriate' development in Green Belt terms?

The site is located within the Green Belt. The NPPF states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. According to the NPPF the construction of new buildings within the Green Belt is inappropriate unless it is for one of a number of exceptions including the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Whilst the precise volume of buildings that would be constructed as part of the proposed development is not known at this time, it is clear that it will significantly exceed the volume of buildings on the site that are to be demolished. It is therefore considered that the development will have a greater impact on the openness of the Green Belt in the local context although not in the wider landscape given the topography of the area.

With respect to the second test that the NPPF requires is applied (the comparison of the impact on the purpose of including the land within the Green Belt) the NPPF states that the Green Belt serves five purposes:-

- To check the unrestricted sprawl of large built-up areas;
- To prevent neighbouring towns merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic towns; and
- To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

It is considered that as the development would not safeguard the countryside from encroachment, as the proposed development would extend beyond the area currently developed, and as such the proposed development would also impact upon the purposes of including land within the Green Belt.

It is therefore concluded that the proposed development represents inappropriate development in Green Belt terms and therefore there is a need for the applicant to demonstrate very special circumstances.

Is this an appropriate location for residential development in terms of current housing policy and guidance on sustainability?

Policies concerning development within the countryside apply with equal force within the Green Belt. The site lies within the Rural Area of the Borough, outside the Major Urban Area of the North Staffordshire conurbation.

CSS Policy SP1 states that new housing will be primarily directed towards sites within Newcastle Town Centre, neighbourhoods with General Renewal Areas and Areas of Major Intervention, and within the identified significant urban centres. This site is not one of the targeted areas. It goes on to say that new development will be prioritised in favour of previously developed land where it can

support sustainable patterns of development and provides access to services and service centres by foot, public transport and cycling.

CSS Policy ASP6 on the Rural Area states that there will be a maximum of 900 net additional dwellings of high design quality primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads, Madeley and the villages of Audley Parish, to meet identified local requirements, in particular, the need for affordable housing.

In terms of open market housing, the development plan indicates that unless there are overriding reasons, residential development in villages other than the Rural Service Centres is to be resisted. The adopted strategy is to allow only enough growth to support the provision of essential services in the Rural Service Centres. This site is not one of the identified Rural Service Centres or within a village envelope (as referred to in NLP Policy H1), it lies beyond the Major Urban Area of North Staffordshire, and the proposed dwellings would not serve an identified local housing requirement.

The LPA, by reason of the NPPF, is required to identify a supply of specific deliverable sites sufficient to provide 5 years worth of housing against its policy requirements (in our case set out within the CSS) with an additional buffer of 5% to ensure choice and competition in the market for land. Where, as in the Borough, there has been a record of persistent under delivery of housing, the LPA is required to increase the buffer to 20%. The Borough is currently unable to demonstrate a five year supply of deliverable housing sites as the latest housing land supply figure is 3.12 years.

The principle of residential development on the site must therefore be assessed against paragraph 49 of the NPPF which states that *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*

Whilst the proposal is contrary to Development Plan policies the application could not be refused on that basis due to relevant policies referred to above being considered out-of-date as a consequence of being unable to demonstrate a five year supply of deliverable housing sites.

As relevant policies are out-of-date it is necessary to address the second bullet point of paragraph 14 of the NPPF:

- *Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:-*
 - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
 - *specific policies in this Framework indicate development should be restricted.*

A footnote within the NPPF indicates that reference to specific policies includes policies relating to the Green Belt. As indicated above the development is considered to be inappropriate in the Green Belt and as such specific policies of the NPPF indicate that the development should be restricted.

In conclusion, whilst the proposal cannot be said to be contrary to Development Plan policies relating to the location of new residential development it is contrary to specific Green Belt policies of the NPPF and as such there is not a presumption in favour of this development.

Does the proposed development have any significant adverse impact on the trees on the site?

There are a significant number of mature trees on the site, many of which are the subject of a Tree Preservation Order.

NLP Policy N12 states that the Council will resist development that would involve the removal of any visually significant tree, shrub or hedge, whether mature or not, unless the need for the development is sufficient to warrant the tree loss and the loss cannot be avoided by appropriate siting or design. Where, exceptionally, permission can be given and trees are to be lost through development,

replacement planting will be required on an appropriate scale and in accordance with a landscaping scheme.

Details of the layout of the development have not been submitted for approval at this stage. The submission is, however, supported by a number of documents and plans which indicate that a lower density of development would be carried out in the TPO'd sections of woodland. Provided that this is secured through conditions of the permission which require adherence to the principles of the draft master plan and submission of further supporting information (such as an Arboricultural Impact Assessment; a layout plan that shows the retained trees and their root protection areas; and tree protection measures) it is considered that the development could be undertaken without an unacceptable and adverse impact on the trees.

Would the proposed development have a significant adverse impact on the character and appearance of the area or the wider landscape?

CSS Policy CSP1 states that new development should be well designed to respect the character, identity and context of Newcastle and Stoke-on-Trent's unique townscape and landscape and in particular, the built heritage, its historic environment, its rural setting and the settlement pattern created by the hierarchy of centres. It states that new development should protect important and longer distance views of historic landmarks and rural vistas and contribute positively to an area's identity and heritage (both natural and built) in terms of scale, density, layout, use of appropriate vernacular materials for buildings and surfaces and access. This policy is considered to be consistent with the NPPF.

The Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance (2010) in 10.1 indicates that the aims for development within, or to extend, existing rural settlements are

- a. *To respond to the unique character and setting of each*
- b. *Development should celebrate what is distinct and positive in terms of rural characteristics and topography in each location*
- c. *Generally to locate new development within village envelopes where possible and to minimise the impact on the existing landscape character*

It goes on to state that new development in the rural area should respond to the typical forms of buildings in the village or locality. The elevations of new buildings must be well composed, well proportioned and well detailed and new buildings should respond to the materials, details and colours that may be distinctive to a locality.

The site is within an Area of Landscape Restoration and NLP Policy N21 states that the Council will support, subject to other plan policies, proposals that will help to restore the character and improve the quality of the landscape. Within these areas it will be necessary to demonstrate that development will not further erode the character and quality of the landscape.

CSS Policy CSP4 indicates that the location, scale, and nature of all development should avoid and mitigate adverse impacts (on) the area's distinctive natural assets and landscape character. This policy is considered to be consistent with the NPPF which states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.

Members should note that applications for outline planning permission are required to include information on the *amount* of development proposed for each use referred to in the application. In the absence of any condition to the contrary any reserved matter would need to comply with and can refer to and draw support from the Design and Access Statement submitted with an application. Where an applicant indicates that the proposal is for up to a certain number of dwellings, in the event of outline planning permission being granted, unless a 'floor' or minimum number of units is imposed by a condition a reserved matters application seeking approval for any number of units up to the specified upper number would be in accordance with the outline planning permission. However if the Authority were to conclude that only a lesser number of dwellings would be appropriate, the appropriate course of action would be to refuse the application detailing the basis for this conclusion.

The indicative layout included on the submitted master plan indicates that the residential development will largely take place on the 'brownfield' parts of the site where the existing industrial buildings/activities take place although the proposed development would extend further into Haying Wood than current development does. The area of the burning colliery spoil tip is shown to be planted with broad-leaved native woodland planting which will connect to the existing woodland at Haying Wood. The former landfill site within the overall site is shown to be public open space with additional woodland planting, hedgerow reinstatement and the creation of a meadow/flower glade.

The master plan shows a series of cul-de-sac and internal roads radiating from a 'central' landscaped square. All the properties would be accessed from the internal road layout with no direct access onto Pepper Street or Hollywood Lane. Two existing ponds, within Haying Wood, are shown to be retained with a landscaped area around them.

There is no doubt that the introduction of 100 dwellings in this rural location will change the character of the immediate environs of the site. The proposed development, however, offers an opportunity to improve the quality of the landscape through the removal of the existing buildings and uses that have an adverse visual impact, and through the remediation of the burning spoil tip. The submission is supported by a Landscape and Visual Impact Assessment which has been used to develop a landscape led master plan that seeks to increase woodland cover on the site and reinstate field hedgerows and hedgerow trees.

Whilst the master plan has been amended from that considered by Urban Vision the concern expressed by them that no development at the end of the site nearest to the settlement at Quarry Bank Road would not satisfy the policy requirement that new dwellings in the green belt 'should normally be site within, and designed to fit in with, an existing group of dwellings or farm buildings' has not been addressed. The choice to site the dwellings away from the existing dwellings Pepper Street/Quarry Bank Road has resulted in the incorporation of a landscaped buffer along the site frontage on either side of the access road, which will soften the external appearance of the development and will enhance the landscape setting that the applicant is seeking to create for the development.

Subject to careful consideration of the external appearance of the dwellings, to ensure that they reflect their rural setting; layout to ensure that as many trees are retained as possible and that the density of the development is lower in the location of the protected woodland; and landscaping to secure hedgerow reinstatement and woodland reinforcement/enhancement it is considered that the development would not have an unacceptable visual impact on the area.

The main principles of the proposed design and layout of the site are outlined in the Design and Access Statement. The content of that document is considered appropriate as a basis for the reserved matters submission and therefore, a condition would be appropriate that requires any subsequent reserved matters applications to be in accordance with the principles of the Design and Access Statement. Overall it is considered that the development accords with Development Plan policies which seek to protect, restore and enhance the landscape character.

Would the proposed development have any adverse impact upon highway safety, does the development promote sustainable transport choices and if so how does this need to be secured?

This application is for outline planning permission with all matters of detail reserved for subsequent approval with the exception of the means of vehicular access to the application site from the existing highway network. The internal on site access arrangements are not part of the submission.

The proposed single vehicular access would be off Pepper Street and would replace two existing accesses off Pepper Street which the Highway Authority (HA) considers to be substandard. The Highway Authority consider that the proposed access, which is in the form of a simple priority junction and minimum visibility splays of 2.4m by 90m, is acceptable subject to its width being increase to 5.5m for the first 10m from the edge of the carriageway to improve the free flow of two-way traffic. This could be secured by condition. In other respects the HA has raised no objection to the proposal and does not support the concerns that are raised within representations and the views of Keele

Parish Council that Pepper Street does not have the capacity to safely accommodate the development with particular reference made to a 'pinch point' opposite Quarry Bank.

The HA has expressed concerns regarding the indication in the draft master plan that new properties will front onto Hollywood Lane. The indication is that Hollywood Lane is a byway open to all traffic (BOAT) and as such is not constructed to adoptable highway standards. The HA advise that if properties front onto Hollywood Lane they should have not vehicular access from it. In addition they should not gain any direct pedestrian access to individual properties as that would encourage parking on the lane.

A further master plan has been submitted, which the HA have not commented upon. This includes a more detailed indicative layout which does not suggest that any vehicular or pedestrian access would be provided onto Hollywood Lane thereby overcoming the HA's concerns. Should permission be issued a condition could be imposed to ensure that any reserved matters adhere to the principles as set out in the master plan and other supporting documents in this regard so as to avoid such a situation arising.

In terms of the sustainability of the site in transport terms, it is located less than 2km from Silverdale which has a number of services and facilities which could serve any new development. In addition it is approximately 2km from Keele with its, limited, services and facilities. Whilst this proposal is for outline planning permission and as such the detail of the final development is to be subsequently approved this submission indicates potential pedestrian/cycle links to the surrounding area. The links are shown to the existing bus stops on either side of Pepper Street which, unfortunately, are not in use at this time.

A travel plan has accompanied the application, as an appendix to the submitted Transport Assessment. Whilst there are some concerns raised by the Highway Authority regarding the Travel Plan Co-ordinator, this is otherwise welcomed. The travel plan would promote sustainability of the development including promoting the existing and proposed public transport links and the provision of a "welcome pack" to the new householders on the site which promotes sustainable modes of transports open to new residents.

It is considered the site, whilst in the rural area, is in a reasonably sustainable location within reach of surrounding services and facilities and the proposal would enhance this sustainability by providing improved pedestrian and cycleway links. Conditions would however need to be appropriately worded to ensure that this critical permeability is achieved.

The Highway Authority has also recommended that a Newcastle (urban) Transport and Development Strategy (NTADS) contribution of £71,878 should be sought. NTADS, however, finished in early April this year which was after the Highway Authority comments were received and as such it would not be reasonable to secure such a contribution at this time. The Highway Authority has been informed of this and has not sought any other contribution for off site highway works in the absence of a NTADS contribution.

Is affordable housing provision required and if so how should it be delivered?

CSS Policy CSP6 states that residential development within the rural area, on sites of 5 dwellings or more will be required to contribute towards affordable housing at a rate equivalent to a target of 25% of the total dwellings to be provided. Within the plan area the affordable housing mix will be negotiated on a site by site basis to reflect the nature of development and local needs.

On this site it is considered that 25% of the residential units within the development (25 units) should be affordable with 15 of the units being social rented properties and a further 10 units being shared ownership, all of which would have to be transferred to a Registered Social Landlord.

Paragraph 50 of the NPPF states that where they have identified that affordable housing is needed, local planning authorities should set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. The Council's Developer Contributions SPD also indicates that affordable housing should be provided on the application site so

that it contributes towards creating a mix of housing, but where it can be robustly justified, off site provision or the obtaining of a financial contribution in lieu of on-site provision (of broadly equivalent value) may be accepted. The SPD suggests that one of the circumstances where offsite provision may be appropriate is where the Council considers that “the provision of completed units elsewhere would enable it to apply the contribution more effectively to meet the Borough’s housing need”.

A large development such as this should be able to accommodate some on-site affordable units which should be integrated into the scheme to contribute to the provision of mixed communities, particularly bearing in mind the above significance of the scheme to the rural area.

What impact would the development have upon the local school in terms of additional pupil numbers and how could this matter be addressed?

Staffordshire County Council as the Education Authority, and the body charged with ensuring sufficient school places, advises the development site falls within the catchment of Madeley High School and St John’s CE (VC) Primary School. They advise a development of the scale proposed could generate an additional 21 Primary School aged pupils and 9 High School aged pupils.

They have requested an education contribution for a development of £381,249 based on the primary and high school places advising that the primary school is full and expected to remain so for the foreseeable future and the high school is projected to have insufficient places available to accommodate all the likely demand from pupils generated by the development.

The comments are made based on the development providing 100 dwellings and if that number was to be different or the dwelling breakdown was to alter, a revised calculation will be necessary.

The number of children attributable to the proposed housing and the contribution per pupil place has been calculated using the methodology set out within Staffordshire County Council Education Planning Obligations Policy approved in 2003 and updated for 2008/09.

The statutory tests in the CIL Regulations which planning obligations must pass require that a planning obligation should be:-

- Necessary to make the development acceptable in planning terms
- Directly related to the development
- Fairly and reasonably related in scale and kind to the development

The calculations have a clear and reasonable rationale and it is considered that the CIL tests are met. Accordingly the education contribution sought is considered reasonable.

Will appropriate open space provision be made?

The saved NLP Policy C4 states that appropriate amounts of publicly accessible open space must be provided in areas of new housing, and its maintenance must be secured.

The indicative layout shown on the master plan, whilst showing a large area of publicly accessible open spaces and smaller, informal areas within the housing layout, does not include any formal equipped play areas to meet the needs of the development and as such the Landscape Development Section has requested a financial contribution for capital development/improvement and ongoing maintenance to be spent off site at Underwood Road and Ilkley Place. They advise that any public open space or playground provided within the development is maintained through an appropriate management agreement.

Again the suggested above contribution must pass the statutory test set out in the CIL regulations, as set out in the section above. The calculations have a clear and reasonable rationale and it is considered that the CIL tests are met. Accordingly the open space contribution sought is considered reasonable if the developments needs are not met on site. The applicant has, however, during the application process confirmed that they will provide on site play provision within the development. In light of this there is no justification for a financial contribution for improvements to existing play areas

off site. It will be necessary, however, to ensure that the future maintenance of any equipped play area and other open space areas within the development is secured through a S106 obligation.

Would there be any significant impact upon any protected species?

The application is supported by a number of surveys regarding protected species. The surveys identify a number of protected species and their habitats across the application site. The reports contain recommendations including relocation (under licence) and creation of alternative habitats and habitats sites.

It is considered that there are no sustainable reasons to resist the proposal due to the adverse impact on the ecology of the site.

What are the health and safety implications of the proposed development?

The proposal raises two issues that need to be addressed under this heading, the consequences to public health in undertaking the proposed remediation of the burning spoil heap and issues of contamination of the site and the appropriateness of the proposed uses.

Remediation of Spoil Heap

Initially the Environmental Health Division (EHD) objected to the proposal commenting that there were currently no public health concerns relating to leaving the spoil heap in situ apart from the safety of third parties who may gain access onto the site which could be addressed through appropriate boundary treatments. EHD advised that the air quality impact of the burning spoil heap had previously been assessed and it was concluded that it would not cause a breach of the statutory air quality objectives which are designed to protect health. The response received from EHD, which was prepared in consultation with Public Health England (PHE), was that the submission failed to demonstrate that the proposed remediation of the spoil heap and development site would not have an adverse impact on amenity and health of users of the woodland and the surrounding residential areas.

Further comments have now been received from EHD which re-evaluate the health and safety implications of the proposed remediation of the burning spoil heap following a site visit by representatives of EHD and PHE. The further comments indicate that at the site visit it was evident that the tip was still actively burning as there were smoke emissions visible from the tip as well as an acrid odour typically associated with a spoil heap fire, and that both the smoke emissions and the odour became more pronounced following a short period of heavy rainfall that occurred during the visit. In addition there was evidence, when the site visit was undertaken, that persons had recently accessed the tip to recover wood or for other purposes via Hollywood Lane.

EHD indicate that further advice has been sought from PHE concerning the public health implications of the spoil heap remediation proposals and their concerns about the potential adverse impacts on air quality and health from fumes, gases and particulates along with the potential for nuisance odours still remain. Notwithstanding this, EHD now consider that it is possible to effectively control and monitor such issues so that public health and residential amenity are safeguarded throughout the remediation phase. They now consider that the development proposals offer a means of effectively dealing with the issues posed by the site once and for all and as such are now of the opinion that the benefits of addressing the burning tip outweigh the issues arising from such remediation works which they now consider can be appropriately controlled. This position is supported by the Coal Authority.

Conditions are recommended requiring the methodology to be employed to remediate the burning spoil heap and the steps to be taken to protect public health and amenity of residents and the users of the woodland to be agreed before any work commences. In addition EHD recommend that an appropriate financial guarantee (or bond) be secured to ensure the full remediation of the spoil heap following commencement in the event that the developer is unable to complete.

Keele Parish Council has expressed concern, as have objectors to the proposal, that existing underlying coal seams will catch fire as a consequence of undertaking the proposed remediation works. This risk is acknowledged by the Coal Authority but this has not led to them raising an

objection, on the contrary they endorse the strategy adopted. They advise, however, that any excavation works into coal seams and/or mine entries would require a permit from them. Given the views that have been expressed by the Coal Authority it is considered that the risk of the underlying coal seam is low and this could be suitably addressed through the use of conditions.

Overall it is considered that the benefits in respect of health and safety arising from the remediation of the burning spoil tip outweigh the benefits. It should be noted the development itself can be controlled through the imposition of conditions, however such conditions cannot ensure that the remediation works are fully undertaken and completed. This could only be secured through a S106 obligation.

The consequences, in terms of public health, of the remediation work only partially being undertaken is significant. Whilst the precise amount of the bond is not yet known, and must be agreed to ensure that it is fairly and reasonably related in scale to the development, it is considered that such a requirement is necessary to make the development acceptable in planning terms and would be directly related to this development. Such an obligation would accordingly be lawful.

Contamination

The NPPF, at paragraph 120, indicates that to prevent unacceptable risks from pollution and land instability planning decisions should ensure that new development is appropriate for its location. The National Planning Practice Guidance further advises if there is a reason to believe contamination could be an issue, developers should provide proportionate but sufficient site investigation information to determine the existence of otherwise of contamination, its nature or extent, the risks it may pose and to whom/what so that these risks can be assessed and satisfactorily reduce to an acceptable level.

Initially concerns were expressed by EHD about the adequacy of the submitted Desk Study Report regarding contamination. A revised desk study report has now been received, however, and EHD advise that the majority of points raised in their consultation have now been satisfactorily addressed including recognition that ground investigation works must be undertaken in the area of landfill if public access is anticipated.

EHD advise that their comments in relation to the site investigation works undertaken to date remain largely unchanged, but at this stage without clear proposals on the development layout or changes in site levels and accurate assessment of the site investigation works undertaken to date cannot be made. They advise that in the circumstances the full contaminated conditions should be attached to any permission.

The advice received, therefore, is that proportionate but sufficient site investigation information has been submitted at this stage to determine that the residential development proposed can be undertaken. It remains necessary, however to undertake detailed ground investigation works to establish to extent of contamination and the required remediation measures.

As it is inappropriate development whether the required very special circumstances exist to justify inappropriate development.

The National Planning Policy Framework at paragraph 88 advises "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations."

The applicants' agent has provided a list of reasons why they consider the proposed development as the required very special circumstances:

- Remediation of the burning tip – the submission indicates that the proposed development would ensure the full remediation of the burning tip as the residential development would ultimately fund it although the remediation would be undertaken in full before any residential development occurs. The submission acknowledges the conclusion of the WYG report in 2008 that the only option at that time was to let the fire burn out of its own accord, but

indicated that due to the availability of adjacent land the option of excavating out and quenching the fire was now available.

- Housing supply – the submission highlights that up to 100 dwellings would represent a boost to the local housing land supply. It indicates that the majority of the housing would be erected on brownfield land and the site is a sustainable location and the development represents a logical sustainable site for housing and development which could go some way to protecting other more rural, and less suitable, sites.
- Community open space - The supporting information suggests that an area of 9.32ha will be donated to an organisation such as the Groundwork Trust or the Local Authority to be retained as public open space in perpetuity with an agreement that this land could not be built on in the future. The indication is that the development would result in landscape improvements but would also ensure the perpetual retention of the improved landscape for public enjoyment in years to come. The submission states that the landscape proposals would link to the newly improved public open space to the proposed housing development and to surrounding footpaths thereby delivering positive community benefit.

The case presented is considered below, in light of the earlier observations in this report.

Remediation of burning tip

It is accepted that the best method of extinguishing a tip fire is to excavate the spoil, allow it to cool in a safe place and then compact it in layers to exclude ingress of air. This requires land and involves considerable cost and for these reasons it is therefore accepted that undertaking an enabling development is necessary if this is to happen. In addition it is accepted that the benefits of extinguishing the fire, from a health and safety perspective, outweigh the public health issues that could occur during the remediation as outlined above.

The question that arises, therefore, is whether the benefits of extinguishing the tip fire outweigh the harm from the proposed development by reason of inappropriateness.

The fire started in 2006 and in the consultants report of 2008 it was anticipated that the fire would have burnt out within 2 to 3 years, however in 2014 there remains evidence that the tip is still burning and it is not known when the fire will burn out. Supporting documentation within the application suggest it could last for many years, possibly two decades.

The issues arising from the tip fire are smoke and odour resulting in health and environmental risks; the loss of vegetation and the impact on visual amenity including the loss of protected trees; and the safety risk to those who access the site.

The health and environmental risks have been addressed above appear to be localised affecting those who walk near to the site, rather than residential properties. Extinguishing the fire will increase the amount of smoke and odour but this will be for a relatively short period and impacts could be limited and controlled through condition.

Any vegetation lost will grow back as is evidenced on part of the tip where the fire started. This will take some time, however, particularly for trees to re-establish and grow to the size that they currently are. As such the visual impact of the tip fire will be for a relatively long period.

Whilst the use of appropriate boundary treatments could deter people accessing the site of the burning tip it does not prevent it. The Council has utilised what powers it has to require the Hollywood Lane boundary to be secured, and access to Hollywood Lane has been limited through the introduction of a gate. This has not, however, prevented public access to the land. The ability to access the site and the surface instability of the tip poses a significant risk to the general public.

The consequences of refusing of permission would be the continuation of the fire and the issues highlighted above and it is considered that these amount to very special circumstances that outweigh the harm arising from the development by reason of inappropriateness.

Housing supply

Whilst it is acknowledged that the Council cannot demonstrate a 5 year supply of deliverable housing sites it is not accepted that this amounts to a very special circumstance that could justify inappropriate development in the Green Belt.

Community open space

It is considered that this could be accepted as part of the very special circumstances that justify inappropriate development if the provision of such space meets an identified need and its provision could be guaranteed. There is no evidence that the provision of the public open space would meet an identified need within the locality, however. In addition there is no guarantee that safe and usable open space would be secured as the submission acknowledges that the part of the site where the open space is to be provided is contaminated but states that no allowance for investigation for the landfill has been made, with testing to be targeted to the boundary of the landfill/previously developed area and anticipated faultline only. The applicant is therefore not proposing to undertake any remediation of the landfill site to make it suitable for use as public open space, and it is unlikely that public or other body would take on the site and undertake the necessary remediation work, even if the land is donated to them.

For these reasons this could not be given any weight as a very special circumstance exist that outweigh the harm to the Green Belt by reason of inappropriateness.

Conclusion

Whilst it is considered the above reasons are valid they are reasons which could easily be argued in respect of other site in the Borough and as such do not provide the very special circumstances that clearly outweigh the harm to the Green Belt and warrant setting aside well established Green Belt planning policies.

Would some lesser or nil contributions towards the cost of addressing the above issues be justified given issues of viability?

As indicated above, to comply with policy, certain contributions would be required to make the development acceptable. These are either financial contributions or ones in kind, but they are all capable of being costed, and they would be considered by a developer to be “additional” costs. These are, in no particular order, the provision of affordable housing (an uncalculated but very significant value relative to the other contributions), travel plan monitoring fee, and provision for additional educational capacity. That for the maintenance of the open space on the site can be considered to fall into a different category – this is more for the provision of a service (the adoption of the open space within the development). The financial contributions would total up to £387,449 (or just over £3,874 per unit). This excludes the cost of the affordable housing provision.

A Viability Assessment has been submitted with the application which concludes that a policy compliant development would not be viable. The assessment concludes that the development could not support any financial contribution or affordable housing provision.

It is acknowledged that in some circumstances an applicant may believe that what is being asked for by the Council will render a development unviable. The Developer Contributions SPD, adopted by the Borough Council in September 2007, has a section on the issue of “viability” and it starts with the point that any developer contributions required will need to comply with the tests set out in the then circular on planning obligations, which include those of fairness and being reasonably related in scale and kind to the proposed development, and reasonable in all other respects. Although the circular has since been superseded the principles continue to apply.

The Council’s position is that in such circumstances, for the Council to be persuaded to reduce its requirements, the onus is upon the applicant to justify why and how special circumstances apply. A list of the type of information which an applicant might consider useful to demonstrate why the Council’s requirements are too onerous is provided and it is indicated that negotiations over the level of and nature of contributions will be assessed on a ‘site by site’ basis, having regard to a financial appraisal (which may be informed by independent advice) and that such negotiations will need to take

account of the economics of the development and other national, regional, and local planning objectives that may affect the economic viability of the proposal.

The applicant in this case has submitted financial information to substantiate their claim that the Council's requirements as an LPA (of which affordable housing is one part) would render a policy compliant scheme unviable. The information submitted has been sent by your officers to the District Valuer (an independent third party who has the skills required to assess financial information in connection with development proposals) for further advice. There have been discussions between the District Valuer and the applicants' agents with a range of supporting material being provided.

As indicated above the contributions being sought are ones which make the development policy compliant and 'sustainable'. They are considered to meet the requirements of Section 122 of the CIL Regulations being 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.

Your officers have now received a revised draft Report by the District Valuer setting out his appraisal of the development's viability. His conclusion is that the proposed development could support the full 25% provision of affordable housing within the development with some additional money available to meet, in part, the required financial contributions. The view of the District Valuer differs so greatly from the conclusion of the view the applicant on the basis of the District Valuer consideration that the one of the identified abnormal/development costs that the applicant has concluded is overstated. The applicant has, however, submitted further information to justify the costs and it is possible that the final report of the District Valuer will reach a different conclusion.

Your Officer's will report further on this issue but it appears likely that there are sufficient circumstances here, to justify accepting the development with reduced contributions reflecting the level of contribution which the development can support.

Background Papers

Planning files referred to
Planning Documents referred to

Date report prepared

1st July 2014