

This hybrid planning application seeks:

- full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial) and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

The Newcastle Local Plan Proposal allocates, at policy E2, the site which measures 44ha, for employment development.

A number of public rights of way cross the site. The application site is located within a Mineral Safeguarding Area as defined in the Minerals Local Plan for Staffordshire (2017). The southern part of the site is a designated Site of Biological Importance.

**The 13 week period for the determination of this application expired on the 21<sup>st</sup> December 2018, but the applicant has agreed an extension to the statutory determination period to the 8<sup>th</sup> February 2019.**

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## **RECOMMENDATIONS**

### **A. Subject to**

- (a) further comments of the Highway Authority being received which raise no objections to the proposal that could not be addressed through the use of conditions and confirming the withdrawal of their holding objection, and**
- (b) Should Highways England not withdraw their holding objection within 1 month of the date of Committee and as such there remains a Direction requiring the Local Planning Authority if it is minded to approve the application to consult with the Secretary of State for Transport, that consultation is then undertaken, and a Direction under Article 31 of the Development Management Procedure Order is not then served directing the Council to refuse the application**

**PERMIT the application subject to conditions relating to the following:**

- i. Time limit for implementation of earthworks, the submission of application/s for approval of reserved matters and commencement of development. Such periods to be set to recognise the need for greater periods of time than would normally apply.**
- ii. No development to commence until a suitable assessment of the needs of walkers, cyclists and horse riders has been carried out and appropriate amendments to the off-site highway works at the A500 Talke roundabout as identified in the assessment have been agreed and implemented.**
- iii. No development to commence until a Sustainable Drainage Strategy has been submitted and agreed, which is to be fully implemented.**
- iv. No development to commence until intrusive site investigation works and remedial works have been undertaken in accordance with approved details.**
- v. Implementation of earthworks in accordance with the approved plans**
- vi. The development on plots C and D shall be for Class B1(b) and B1(c) or B2 which are demonstrably consistent with the role and objectives of this premium employment site.**
- vii. Removal of permitted development rights to change from Class B1(b) and B1(c) to Class B1(a) (which is a main town centre use)**
- viii. The total amount of floorspace for Class A3 and A5 uses shall not exceed 350m<sup>2</sup>**
- ix. Approval of a Framework Travel Plan and no building to be occupied until a Travel Plan has been agreed which is in accordance with the agreed Framework**
- x. Any reserved matters application shall be supported by further ecological surveys as appropriate.**
- xi. The details of the main spine access road shall be designed to enable a bus to turn safely.**
- xii. No building shall be occupied until full details of the pedestrian and cycleway enhancements have been approved and implemented which shall include cycle links to Bathpool Park, the existing cycleway on Reginald Mitchel Way, and existing cycleway in Bradwell Woods and Newcastle Road.**
- xiii. Detailed structural landscaping scheme to be submitted and approved within 12 months of the commencement of the earthworks. The scheme is to accord with the Green Infrastructure Strategy and should include the planting of a verge adjoining the footpaths. The structural landscaping scheme shall be implemented prior to any construction of buildings commences.**
- xiv. The on-plot landscaping details as submitted shall include areas of landscaping within parking and other hardsurfaced areas as appropriate.**
- xv. Approval of tree and hedgerow protection measures.**
- xvi. Approval and implementation of woodland and landscape management plans.**
- xvii. No development shall take place on any part of the site until the development has secured the implementation of a programme of archaeological works**
- xviii. Any reserved matters application relating to plots A and B shall incorporate rail freight access or shall demonstrate why such access is not appropriate/feasible.**
- xix. Submission and approval Environmental Management Plan for construction works**
- xx. Submission of an assessment into potential impacts arising from operational noise**

- and onsite vehicle movements in support of any reserved matters applications
- xxi. Approval of details of external lighting
  - xxii. Submission of an Air Quality Assessment in support of any reserved matters application to address the impact upon the nearby residential caravan.
  - xxiii. Air quality assessment prior to first use of any combustion appliance
  - xxiv. Electric vehicle charging points to be included in the development details submitted within reserved matters applications
  - xxv. The reporting of unexpected contamination and preventing the importation of soil or soil forming material without approval.
  - xxvi. Any appropriate condition recommended by the Highway Authority and Highways England

**B. In the event that the Secretary of State under the terms of the Development Management Procedure Order directs refusal of the application, that the application be refused only for the reason given in that Direction.**

### **Reason for Recommendation**

This is a strategically significant employment development in accordance with development plan and regeneration strategies for the area. The proposal accords with the provisions of the approved development plan for the area and there are no other material considerations which would justify refusal of the application. It is considered that provided the development is undertaken in accordance with the conditions listed above appropriate mitigation of any effects arising from the development will have been obtained. As such it is considered that planning permission can be granted although this, assuming Highways England issue a further direction, can only be done following consultation with the Secretary of State for Transport. If the Secretary of State directs refusal then the Council will have no alternative but to refuse the application in accordance with that direction

### **Statement as to how the Local Planning Authority has worked in a positive and proactive manner in dealing with the planning application**

Officers have been in discussions with the applicant to address concerns raised by consultees and this has resulted in amended and additional information and plans being submitted.

### **Key Issues**

1.1 The application, as indicated above, seeks;

- full planning permission for earthworks associated with the creation of development plateaus, access roads and drainage works (i.e. cut and fill operations to form the levels upon which the development will be constructed); and
- outline planning permission for employment uses and ancillary services. All matters of detail are reserved for subsequent approval including access although the submitted supporting information shows a main point of access into the site from Peacock Hay Road and the formation of a roundabout at that junction, and a secondary access also onto Peacock Hay Road.

1.2 The site, Chatterley Valley, is a key development site which has a long standing employment allocation and has previously been subject to planning permission for its redevelopment.

1.3 The site is currently vacant and in part has been previously used for mining and quarrying operations. It extends to an area of 44ha, however the full application relating to the earthworks involves only part of the site - 24.5ha of land.

1.4 The issues to be addressed within this report are as follow;

- Principle of the development
- Minerals
- Visual impact of the development.

- Highway safety/ sustainability
- Impact on rail safeguarding area
- Nature Conservation

## 2.0 Principle of the development

### *Employment uses (Class B)*

2.1 Saved Local Plan policy E2 allocates this site for employment development. It indicates that development of the Premium Employment Site, which forms the northern half of the site, will be restricted to light industrial uses and forms of manufacturing development which are demonstrably consistent with the role and objectives of this premium employment site. On the remainder of the site development for Class B uses will be supported in principle. It indicates that the following requirements must be met:

- i) Viable reserves of Etruria Marl underlying the site should be proved and provision made for their extraction prior to development occurring in accordance with the Mineral Local Plan policies 4, 5 and 6 (now superseded by Policy 3 of the latest Mineral Local Plan) and in a manner which does not jeopardise the realisation of the site's development prospects.
- ii) The design of development should be high quality
- iii) High quality landscaping should be provided to enhance the setting of development and the nature conservation value of the site should be enhanced and habitat linkages provided
- iv) The potential for rail freight access to the site should be safeguarded and exploited.
- v) The potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

2.2 The requirements (i)-(v) will be addressed in the following sections.

2.3 Policy SP1 of the Joint Core Spatial Strategy (CSS) identifies that Chatterley Valley is designated as the area's Regional Investment Site. CSS Policy SP2 sets out spatial principles of economic development which include, amongst others:

- improvements in the levels of productivity, modernisation and competitiveness of existing economic activities, whilst attracting new functions to the conurbation, especially in terms of service-based industries;
- capitalising on North Staffordshire's potentially strong geographical position, its people and its productive asset base.
- Strategically planned land use on major brownfield sites for high value business growth to complement smaller, localised employment development elsewhere in the plan area.

2.4 CSS Policy ASP5 indicates that a minimum of 104ha of employment land will be brought forward over the plan period. It refers to Chatterley Valley providing a significant volume of high value added employment opportunities in accordance with its identified role as the plan area's Regional Investment Site.

2.5 At paragraph 80 the National Planning Policy Framework (NPPF) states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

2.6 At paragraph 82 it indicates that planning decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.

2.7 As can be seen both local and national policy is fully supportive of the employment development on this site and there are therefore no objections to the principle of the proposed Class B uses (other than Class B1(a) offices for reasons set out below). However to ensure full accordance with Local Plan policy E2, which specifies that the northern half of the site (the Premium Employment Site) will be B1 uses and forms of Class B2 uses which are demonstrably consistent with the role and

objectives of this premium employment site, a condition should be imposed to ensure that the development on plots C and D accord with this policy requirement.

#### *Ancillary uses (Class A3 Restaurant and Cafes and A5 hot food takeaways)*

2.8 The proposed Class A3 and A5 uses are defined in the NPPF as main town centre uses. Whilst the following policies do not address such uses it is considered that they have some bearing upon the determination of the application as they do relate to other primary town centre uses.

2.9 CSS policy SP1 indicates that retail and office development will be focussed towards the City Centre and Newcastle Town Centre. Development in other centres will be of a nature and scale appropriate to their respective position and role within the hierarchy of centres.

2.10 ASP5 indicates that retail development outside of Newcastle Town Centre will be of a nature and scale appropriate to the role of each local centre and will primarily be to meet identified local requirements.

2.11 The NPPF indicates at paragraph 85 that planning policies and decisions should support the role that town centres play at the heart of local communities. At paragraph 86 it indicates that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

2.12 The indication within the submitted application is that the Class A3 and A5 uses as proposed are for purposes ancillary to the wider development scheme. It is noted that a very small amount of floorspace is proposed for such uses and as such it is considered that they will be primarily used by those employed on the wider site and limited passing trade rather than be a destination in their own right. Bearing that in mind it would not be appropriate to require consideration of town centre or edge of centre sites as they would not meet the site specific need for such uses. Provided that any planning permission granted limits the amount of floorspace that could be constructed for such uses it is concluded that there would be no objections in principle to them.

2.13 The application does not seek consent for Class B1(a) (office development) which is also defined in the NPPF as a main town centre use. It is, however, possible to change from Class B1(b) and B1(c) uses to Class B1 (a) uses without the need for planning permission. To avoid such a change of use taking place without any control by the Local Planning Authority and consideration against policies relating to main town centre uses, it would be appropriate to prevent such a change from happening through the imposition of a condition.

### 3.0 Minerals

3.1 Policy 3 of the current Minerals Local Plan (MLP) indicates that mineral resources, including Etruria Marl, within the Mineral Safeguarding Areas (MSA) will be safeguarded against needless sterilisation by non-mineral development. Policy 3.2 states that within an MSA non-mineral development except for identified exemptions, which do not apply in this case, should not be permitted until the prospective developer has produced evidence prior to determination of the application to demonstrate:

- a) The existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) That proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

3.2 Policy 3.3 states that within an MSA, where important mineral resources do exist, except for those types of development that are exempt which do not apply in this case, non-mineral development should not be permitted unless it has been demonstrated that:

- a) the non-mineral development is temporary and does not permanently sterilise the mineral; or,

- b) the material planning benefits of non-mineral development would outweigh the material planning benefits of the underlying or adjacent mineral; or,
- c) it is not practicable or environmentally acceptable in the foreseeable future to extract the mineral.

3.3 As indicated above saved Local Plan policy E2 indicates viable reserves of Etruria Marl underlying the site should be proved and provision made for their extraction prior to development occurring in accordance with the Mineral Local Plan and in a manner which does not jeopardise the realisation of the site's development prospects.

3.4 Paragraph 201 of the NPPF indicates that local planning authorities should not normally permit other development proposals in MSAs.

3.5 The application is supported by a Mineral Safeguarding Statement (MSS) which reviews the volume of recoverable marl and its current viability.

3.6 The MSS acknowledges that it was a condition of the previous outline planning permissions that minerals extraction was undertaken in compliance with an extraction scheme permitted by the County Council as Minerals Planning Authority. The current proposal involves a different earthworks scheme to the previous permission and the design of the plateaus has also changed due to the location of mineshafts and the need to make efficient use of land whilst retaining the former marl pit at southern end of the site to allow this water filled pit to provide ecological habitat. The MSS indicates that the proposed schemes requires the utilisation of all on-site material for the cut and fill works and it anticipates that there will be no surplus materials. It indicates that if the marl excavated as part of the proposed earthworks was to be removed, then there would be a 268,000m<sup>3</sup> shortfall in "on-site" engineering materials available for the plateau creation.

3.7 The MSS sets out that the implications of the previously approved prior extraction scheme would involve delays and costs to the proposed earthworks scheme as it would require the import of suitable engineering materials and the acquisition and development of a local stockpiling site. In addition, given the range of current selling prices for Etruria Marl, the applicant suggests the estimated cost of the permitted scheme far outweighs the potential income that could be derived from the marl. While cost is a major factor, the fundamental issue to the applicant is one of timescales however.

3.8 The MSS considers alternative options for marl extraction but does not identify any viable alternatives.

3.9 The scheme has therefore been designed so as to avoid any removal of marl and thereby avoids the need for the importation of materials to replace the marl.

3.10 Staffordshire County Council as the Minerals Planning Authority (MPA) has considered and accepted the arguments set out in the MSS. The MPA indicates that in the absence of any industry interest in the marl at this time, or indeed when the previous extraction scheme was permitted, and having regard to the findings in the MSS that the prior extraction is unviable given there is no commercial interest in it, the additional costs incurred and the increased risk of delay, it is reasonable to conclude that the requirement to extract would jeopardise the delivery of the proposed employment scheme. As such the MPA has raised no objections to the proposal.

3.11 The views of the MPA on this issue should be given considerable weight in the determination of this application and are accepted by your Officer. In recognition of these comments it is concluded that the proposal is compliant with relevant saved NLP policy E2 as it is considered that it has been demonstrated that the extraction of the marl would jeopardise the realisation of the site's development prospects and that the benefits of this development outweigh the material planning benefits of the extraction of the underlying or adjacent mineral.

#### 4.0 Visual impact of the development

4.1 Saved NLP policy N17 indicates that development should be informed by and be sympathetic to landscape character and quality and should contribute, as appropriate, to the regeneration, restoration, enhancement, maintenance or active conservation of landscape likely to be affected.

4.2 Core Spatial Strategy CSP1 indicates that new development should be well designed to respect the character, identity and context of Newcastle'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.

4.3 As indicated above saved Local Plan policy E2 requires development at Chatterley Valley should provide high quality landscaping to enhance the setting of development and the nature conservation value of the site should be enhanced and habitat linkages provided and that the design of development should be high quality.

4.4 The application is supported by a Landscape and Visual Impact Assessment (LVIA) in addition to a Design and Access Statement, and includes a Green Infrastructure Strategy. The documents show that the mature woodland landscaping to south eastern boundary and smaller section on the south western boundaries are to be maintained and enhanced. Further screen planting is proposed, by woodland planting, to minimise the visual impact from the south west (the A500 boundary) and north eastern (Western Coastal Mainline). In addition significant landscaping is proposed on the north eastern, Peacock Hay Road, boundary. The Strategy shows landscaping adjoining the main spine road and between the development plateaus.

4.5 The proposal will result in the loss of hedgerows and trees, however to no greater extent than would have been lost in the previously approved schemes.

4.6 The extent of the structural landscaping to the boundaries of the site as proposed is similar to that shown in the previous planning permission. In addition a similar amount of landscaping is proposed within the site albeit distributed differently because the development plateaus differ in design. Such structural landscaping is considered to be appropriate and acceptable, and accords with the requirements of policy E2. Full details will, however, need to be secured by condition.

4.7 The indicative information provided within the application shows 14 units of varying sizes, with smaller units to the north and larger to the south - not dissimilar to the form of development that was shown on the approved masterplan of the previous decisions. Details have not been provided at this stage but there is no reason to consider that a high quality design could not be achieved.

4.8 The levels upon which the buildings are to be constructed on the northern plots (C and D) are being agreed at this stage, however, and as such consideration should be given to the acceptability of such levels bearing in mind the development that is proposed.

4.9 The LVIA that has been submitted considers that the large buildings that are to be constructed reflects large buildings already present in the local context and would be framed by the structural woodland landscaping that is proposed which will mature and assist in the assimilation of the development into the wider landscape context. It concludes that this development would be appropriate in this location and would not give rise to any unacceptable landscape and visual harm. Such conclusions are accepted. Overall it is considered that the construction of buildings for employment development on the levels as proposed can be carried out in a visually acceptable manner and without harm to the wider landscape context.

#### 5.0 Highway safety/ sustainability

5.1 The NPPF indicates at paragraph 108 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) safety 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.

5.2 At paragraph 109 it indicates that development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

5.3 At paragraph 110 it states that applications for development should:

- give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas and second, as far as possible, to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other transport services, and appropriate facilities that encourage public transport use;
- address the needs of people with disabilities and reduced mobility in relation to all modes of transport,
- create places that are safe, secure and attractive.
- allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

5.4 Policy E11 indicates that the potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

5.5 As indicated above the indicative details show access into the proposed development off Peacock Hay Road. This differs from the previously approved development which had an access from Peacock Hay Road serving the northern part of the development and another from the Tunstall Western Bypass which served the southern part of the site. Highway mitigation works were proposed at the Talke (A34/A500) roundabout in the previous schemes and such works have been implemented.

5.6 In the current scheme, therefore, all the traffic generated by the currently proposed development will be using Peacock Hay Road and a larger proportion of the traffic movements will be using the Talke roundabout. As such Highways England (HE) considers that the implemented mitigation works at the Talke roundabout now forms part of the existing highway network and the planning application and its impact needs to be considered afresh.

5.7 The Transport Statement submitted in support of the application indicates that the development causes the Talke roundabout junction to operate above the desired capacity and that it is appropriate to mitigate against the development impact at that junction and improve its capacity. Such mitigation measures involve the creation of a third lane on the roundabout going southbound. In addition a third entry lane is proposed onto the roundabout from the A34 southbound approach to the roundabout.

5.8 Such mitigation measures have been considered by HE and their current response is that there are a number of outstanding matters and that at this time they cannot confirm that the suitability and timing of the proposed mitigation measures are acceptable. It is understood that primary concern is the lack of a Walking, Cycling, Horse Riding Assessment Review within a Road Safety Audit. Whilst the applicant is prepared to prepare and submit this information they request that this is done following the determination of the application via a condition of the permission. It is considered that it would be appropriate for a suitable assessment to be secured by condition as could any recommended adjustments to the off-site highway works proposed at the Talke roundabout junction. In light of the response of HE the local planning authority are currently prevented from granting planning permission for a time limited period which could be extended. At present, therefore, and unless HE do not renew their holding objection (which at present is to lapse on 17<sup>th</sup> January) the local planning authority have to first consult the Secretary of State for Transport and await the decision from the Secretary of State as to whether to serve a direction under Article 31 of the Development Management Procedure Order or not.

5.9 The Highway Authority has reviewed the latest information that has been provided which includes the provision of a Stage 1 Road Safety Audit (RSA). Whilst it is known that they do not have any objection in principle to the development as proposed they advise that at this time the applicant has failed to demonstrate that a safe and deliverable access can be provided. Whilst the means of access onto the site is a detail reserved for subsequent approval, earthworks and the levels on the site at the point of access are being agreed at this stage as part of the full permission. It is therefore important



to ensure that the levels that are approved will not prevent to the design and formation of a roundabout access. It is understood that a meeting took place between the applicant and the Highway Authority and that further information is to be provided. It is anticipated that the further comments of the Highway Authority will be received and these will be reported.

5.10 The indicative layout shows a main spine access into the site with a large turning circle that would be suitable for the turning manoeuvre of a bus. It would therefore be possible a bus route to incorporate the site, however it has to be acknowledged that such an access arrangement makes this less likely to happen as the operator's preference is to serve developments that have a through route and which don't, therefore, require the bus to travel along the same route out of the site onto the highway network..

5.11 The current proposal is therefore not as accessible to non-car modes of transport as the previous approved development, which is regrettable and does not fully comply with NPPF paragraph 110a which indicates that applications for development should – so far as possible - give priority to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus and other public transport services, and appropriate facilities that encourage public transport use.. The formation of a second point of access from Tunstall Western Bypass will, however, it is understood significantly increase the costs of developing the site and therefore would make it less viable. Any such requirement could very well result in a further significant delay in the development of the site for employment purposes.

5.12 In this case it is considered that the benefits of the development which include the provision of much needed employment land and the creation of an estimated 1,842 jobs on site outweigh the harm arising from a development proposal that does not optimise the opportunities to secure a bus service to the site. It would, however, be appropriate to require that the Travel Plan Framework includes a requirement that a shared private bus service be operated on behalf of the businesses on the development for their employees.

5.13 The proposal suggests significant enhancements to the pedestrian and cycleway infrastructure thereby maximising opportunities to access the site on foot or by cycle. Such improvements could be expanded upon in accordance with the advice of the Landscape Development Section and secured by condition.

## 6.0 Impact on rail safeguarding area

6.1 As indicated above saved Local Plan policy E2 indicates that the potential for rail freight access the site should be safeguarded and exploited and the potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

6.2 The previous planning permissions did not secure a rail passenger station as it was not feasible to do so. There have been no material changes in circumstances since those decisions to conclude that this is now a possibility. The lack of a station as part of the current proposal is therefore acceptable.

6.3 A planning condition of the previous planning permission required that an area of land shall be safeguarded from development as to facilitate future rail freight use. The current proposal does not specify the final ground levels for the lowest southernmost plateaus to ensure that the option remains for them to be occupied by a development that could be served by rail from the adjoining railway line should there be a demand from such an operator in the future. The submission, however, points out that the sidings would access directly onto the West Coast Main Line and as such the opportunity to access the site during the day is severely compromised primarily due to the speed differences between freight and passenger trains. In addition there is also a limited market for rail-connected employment. The indication within the submission is that marketing of the site would be ongoing to determine whether the subsequent reserved matters application(s) would or would not create plateaus that would be used by rail freight operators.

6.4 Therefore whilst the applicant is indicating that there is doubt as to whether it would be feasible that the site will be developed and occupied by a rail-connected employment use the proposal as submitted nevertheless safeguards this option.

6.5 The views of Network Rail have been sought but they have not responded. In the absence of any objections it is considered that the proposal is acceptable and satisfies the requirement of policy E2.

## 7.0 Nature Conservation

7.1 CSS policy CSP4 states that the quality and quantity of the plan area's natural assets will be protected, maintained and enhanced through identified measures. Such measures includes ensuring that the location, scale and nature of all development planned and delivered avoids and mitigates adverse impacts, and wherever possible enhances, the plan area's distinctive natural assets, landscape character etc.

7.2 At paragraph 170, the NPPF indicates that planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. It goes on to say at paragraph 175 that when determining planning applications local planning authorities should apply the following principle amongst others:

- if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

7.3 The application site has been subject to a number of ecological surveys undertaken over a number of years since 2004 as part of the ongoing promotion of the site and to support applications. This application is supported by a number of surveys. A lot of the site is grazed pasture land which has negligible ecological value. There will be some losses of habitat and protected species but the development has been designed to reduce the loss of ecological features and includes green infrastructure and aims to maintain habitat connectivity to the wider landscape for species such as Great Crested Newts (GCN), bats and badgers.

7.4 A large population of GCNs were identified within the site boundary mainly associated with waterbodies located within the south of the site. A trapping and translocation process has been ongoing as part of a Licence issued by Natural England.

7.5 The site contains a site of local nature conservation importance designated due to its population of GCNs and an area of ephemeral/short perennial vegetation which would be lost. The submitted proposals aim to mitigate this loss within the development site. Such mitigation involves the provision of four ponds which will accommodate GCN habitats (in addition to those previously permitted and implemented) along with 2.84ha of ephemeral perennial habitat located within close proximity. Broad swathes of tussock grassland and species rich wild flower areas will be located along the site margins and slopes between the plateaus. It is also proposed to provide species rich native hedgerow planting across the site to form ecological corridors for bats and birds.

7.6 The application indicates that the package of mitigation measures ensures that the Favourable Conservation Status is maintained, enhanced and linked to the wider environment to encourage wildlife movement.

7.7 The views of Natural England and Staffordshire Wildlife Trust have been sought but they have not responded. In the absence of any objections and in recognition that appropriate ecological surveys have been undertaken by suitably qualified consultants it is considered that this issue has been suitably addressed within the application proposal.

## **APPENDIX**

### **Policies and proposals in the approved development plan relevant to this decision:-**

#### [Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy SP1: Spatial Principles of Targeted Regeneration  
Policy SP2: Spatial Principles of Economic Development  
Policy SP3: Spatial Principles of Movement and Access  
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy  
Policy CSP1: Design Quality  
Policy CSP3: Sustainability and Climate Change  
Policy CSP4: Natural Assets

#### [Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy E2: Chatterley Valley  
Policy T9: Rail Freight  
Policy T16 Development – General Parking Requirements  
Policy N2: Development and Nature Conservation – site surveys  
Policy N3: Development and Nature Conservation - protection and enhancement measures  
Policy N4: Development and Nature Conservation – use of local species  
Policy N10: New Woodland – considerations  
Policy N12: Development and the protection of trees  
Policy N14: Protection of landscape features of major importance to flora and fauna

#### [Minerals Local Plan for Staffordshire \(2015-2030\)](#)

Policy 3: Safeguarding Minerals of Local and National Importance and Important Infrastructure

### **Other Material Considerations include:**

[National Planning Policy](#)

[National Planning Policy Framework](#) (July 2018)

[Planning Practice Guidance](#) (PPG) (2014)

[Supplementary Planning Guidance/Documents](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)

#### Relevant Planning History

In 2007 outline planning permission was granted (04/00546/OUT) for an employment area, extending over a wider site than the current proposal, comprising B1 offices and workspaces, B2 industrial units, B8 warehousing, C1 hotel including restaurant and cafe (A3) drinking establishment (A4) and leisure use (D2) , leisure facilities, open space and associated highways, footpaths and landscaping. The Masterplan identified areas of development within the site and a phasing plan indicated when these would be delivered. This included 25,150 m<sup>2</sup> of high tech/workshop space on Peacock Hay and 50,000 m<sup>2</sup> of B8 on Chatterley Sidings (site 9) and 5,500 m<sup>2</sup> of offices on Chatterley Gateway North (site 8) (Phase 2). Such office accommodation was to be ancillary to B8 uses on Chatterley Sidings (site 9).

Reserved matters approvals for a single building for a use falling within Class B8 (storage and distribution) on Plot B of the Lowland Road site including a biofuel plant, was approved in 2007 (07/01144/REM) pursuant to the original outline planning permission reference 04/00546/OUT, and that development has been built out (Blue Planet).

In 2008 a further outline planning permission was effectively granted (07/00995/OUT) when an application for the variation of conditions of the original outline planning permission was approved. The conditions that were varied related to the Masterplan and the amount of floor space on the overall site.

The County Council as Minerals Authority permitted an application for the excavation of 530,000 tonnes of marl from the Peacock Hay and Chatterley Sidings sites with storage at the Bradwell West Marl Pit pending sale/disposal (04/00623/CPO).

There have also been two applications which address development associated with the required mitigation measures for Great Crested Newts. The first application was within Bathpool Park, involving the excavation of ditches and ponds for conservation, disposal of material on site, erection and subsequent removal of amphibian fence and hedge and tree planting (05/00811/FUL). That application was permitted in 2006. The second application was permitted in 2007 on land to the north west of the A500 again involving excavation of ditches and ponds for conservation purposes, disposal of materials on site, erection and subsequent removal of amphibian fence, hedge and tree planting (07/00730/FUL).

#### Views of Consultees

The **Environmental Health Division** has reviewed the revised air quality assessment, which has not found any adverse impact from the development proposal on the residential caravan at Copp Lane. The following conditions are recommended:-

- An Environmental Management Plan
- Submission of an assessment into potential impacts arising from operational noise and onsite vehicle movements with any reserved matters applications
- Approval of details of external lighting
- Submission of an Air Quality Assessment with any reserved matters application to address the impact upon the nearby residential caravan.
- Air quality assessment prior to first use of any combustion appliance
- Electric vehicle charging points
- The reporting of unexpected contamination and preventing the importation of soil or soil forming material without approval.

**Highways England** direct that permission should not be granted for a specified period.

The **Highway Authority** recommends that the application should be refused as to date the applicant has failed to demonstrate that a safe and deliverable access can be provided to serve the proposed site. They advise that negotiations and discussions are still ongoing to ascertain if an acceptable design can be delivered.

The **Landscape Development Section** makes the following comment:

- Impact on hedgerows on the site doesn't appear to have been fully assessed. An assessment should be done as to whether the hedgerows would be classed as important under the terms of the Hedgerow Regulations 1997. The proposal would appear to result in a considerable loss of hedgerow.
- The proposals appear to include the retention and strengthening of planting around the pond and surrounding wooded areas which are welcomed. It is suggested that a woodland management plan be provided.
- The strategy for improvements to footpath/cycle path connections could be expanded to cover
  - new cycle links to Bathpool Park, the existing cycleway on Reginald Mitchel Way, Bradwell Woods and Newcastle Road.
  - Surfacing, links to business units, signage, cycle storage.
- The proposed hedgerow planting and general principles shown on the structural landscaping proposals are welcomed, however it is requested that additional strategic structural landscaping be provided to break up large expanses of paving and grassed spaces between buildings to break up and soften views of buildings, changes in levels, and retaining structures.

- It is suggested that adjustments are made to woodland planting proposals to include a verge so that new woodland planting does not abut the public footpath.
- Conditions should be included in any permission requiring tree and hedgerow protection; approval of hard and soft landscaping proposals; approval and implementation of woodland management plans; and approval and implementation of landscaping management plans.

The Council's **Waste Management Section** has no objection or comment.

Staffordshire County Council as the **Minerals Planning Authority** has no objection to the application.

The **Environment Agency** has no objection and recommends contaminated land condition.

The County **Footpaths Officer** advises that the application plans do recognise the existence of Public footpaths No. 2 and 3 which run across the proposed development, but they do not show it in its correct alignment.

The Design and Access statement does indicate that the intention is to either divert or maintain the footpaths as to not isolate current users. The attention of the developer should be drawn to the requirement that any planning permission does not construe the right to divert, extinguish or obstruct any part of the public path network. A further application under section 257 of the Town and Country Planning Act will be required. In addition the granting of planning permission does not constitute authority for interference with the rights of way or their closure or diversion.

It is important that users of the path network are still able to exercise their public rights safely and that the paths are reinstated if any damage to the surface occurs as a result of the proposed development.

They ask that trees are not planted within 3m of the public right of way unless the developer and any subsequent landowners are informed that the maintenance of the trees is their responsibility. It is also unlikely that any of the new linking footways created through this development will be included on the Definitive Map of Public Rights of Way. Alternative arrangements will need to be made to ensure the maintenance in the future either by the developer or subsequent landowners.

The **Coal Authority** concurs with the recommendation in the submitted Ground Conditions Assessment that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works and remedial works should be undertaken prior to development. They recommend a condition to secure such investigation and remedial works.

Staffordshire County Council as the **Lead Local Flood Authority** recommends that planning permission should not be granted until certain points have been adequately addressed.

**Cadent** provide guidance regarding safe working in the vicinity of pipelines, given that a High Pressure Pipeline crosses the southern part of the site, and advise that all works carried out in the vicinity of the pipeline are to confirm to such guidance.

**Police Architectural Liaison Officer** comments are summarised as follows:

- The application represents a very exciting development and employment opportunity for the Borough, which can only be a good thing for the area.
- The ability for businesses to operate securely and for the site not to be subject to repeated criminal or anti-social activity will be an important consideration for the long term success of the venture.
- Whilst they have no objection to the broad proposals, it will be imperative that due consideration is given to matters of security, which should not be left solely to the respective tenants.
- The provision of a single vehicular access/egress point is potentially a big positive in terms of overall site security.
- It will be important to prevent unauthorised access to certain areas on site, notably HGV loading bay yards.
- Serious consideration should be given to the installation from the very outset of a site-wide monitored CCTV system under the ownership and operation of the site owner.

- The external building materials (external doors, roller shutters, windows, building shell etc.) will need to provide an appropriate level of intruder-resistance.

**Staffordshire Badger Conservancy Group** - it is a relief to read that the ecologist feels that use of the site by badgers has declined and that the scheme will replace lost foraging grounds for any badgers in the surrounding area. They support the badger mitigation measures detailed. If there is a delay in starting the project then the ecological survey would need to be updated. They support a survey of the whole area of semi-natural broadleaved woodland, that was in parts inaccessible, when foliage has naturally died back to make sure that no setts of any classification have been missed.

**Severn Trent Water** has no objections subject to conditions requiring the approval of and implementation drainage plans.

The views of **Network Rail, Stoke City Council, Natural England, Staffordshire Wildlife Trust** and the Council's **Economic Regeneration Section** have been sought. As they have not responded by the due date it is assumed that they do not have any comments,

#### Representations

None to date

#### Applicant's/Agent's submission

The application is accompanied by the following documents:

- Planning Supporting Statement
- Design and Access Statement
- Flood Risk Assessment Report and Sustainable Drainage Scheme
- Ecological Appraisal
- Reptile Survey Report
- Bat Report
- Breeding Bird Report
- Invertebrate Assessment
- Arboricultural Assessment
- Landscape/Visual Impact Assessment
- Ground Conditions Assessment
- Transport Assessment
- Travel Plan
- Noise Report
- Air Quality Assessment
- Mineral Safeguarding (Marl) Statement
- Archaeological Appraisal
- Statement of Community involvement

All of these documents are available for inspection at the Guildhall and as associated documents to the application in the Planning Section of Stoke City Council's website via the following link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/18/00736/OUT>

#### Background papers

Planning files referred to

Planning Documents referred to

#### Date report prepared

9<sup>th</sup> January 2019