



Canal &  
River Trust

26 July 2016

Staffordshire Moorlands District Council  
Moorlands House  
Stockwell Street  
Leek  
Staffordshire  
ST13 6HQ

**Our Ref** BWYS-PLAN-2016-20481  
**Your Ref** SMD/2016/0421

Dear Sirs,

**Proposal:** Outline planning application with all matters reserved except for access and layout for the delivery of residential development comprising of three dwellings.

**Location:** Land to the West of, Cheadle Road, Cheddleton

**Waterway:** Caldon Canal

Thank you for your consultation.

The Canal & River Trust (the Trust) is the guardian of 2,000 miles of historic waterways across England and Wales. We are among the largest charities in the UK. Our vision is that "living waterways transform places and enrich lives". We are a statutory consultee in the development management process.

This application is a resubmission following a recent refusal of planning permission for a development of five dwellings (your ref: SMD/2016/0051). That application was for outline planning permission with all matters reserved except for access. We note that this revised application is for three dwellings, on a slightly different, and reduced, site area. Although this application is also for outline permission, layout and access are both to be considered at this stage.

The Trust has reviewed the application. This is our substantive response under the Town and Country Planning (Development Management Procedure) (England) Order 2015. On the basis of the information available the Trust advises that **planning permission should not be granted** for the following reason(s):

#### **Land Stability**

We remain concerned that there is a significant risk of development on this site adversely affecting land stability. We raised this concern in relation to the previously refused application and were extremely disappointed that this material planning consideration was not acknowledged by the local planning authority to be fundamental to establishing the acceptability in principle of built development on this site. We note the comments contained in the Officer Report on that application, but do not consider that this provides an adequate explanation as to why this matter was disregarded.

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We would remind you that land stability is a material planning consideration and is referred to in paragraphs 120- 121 of the National Planning Policy Framework (NPPF) as well as being the subject of more detailed discussion in the National Planning Practice Guidance (NPPG) (see <http://planningguidance.planningportal.gov.uk/blog/guidance/land-stability/land-stability-guidance/>). We consider that this advice and guidance is clear in identifying that the planning system has a role to play in minimising the risk and effects of land stability on property, infrastructure and the public.

We appreciate that the issue of land stability can be complex and often also involves other regimes such as Building Regulations and legislation such as the Party Wall Act 1996. However, the NPPF is clear that planning decisions should ensure that new development is appropriate for its location in the context of avoiding unacceptable risks from land instability, and being satisfied that a site is suitable for its new use, taking account of ground conditions and land instability. We therefore consider that the potential effect of this application proposal on the stability of the slope adjacent to the canal, and in turn on the structural integrity of the canal itself, should be considered as part of the decision-making process, as it is fundamental to establishing whether or not development can take place as proposed. This is particularly relevant as layout is not a reserved matter, and therefore it is clearly proposed that all three dwellings will be located on a significant slope, without any indication that the Applicant has undertaken any investigations to establish the existing ground conditions or underlying geology.

We refer you to paragraph 006 of the section on Land Stability in the NPPG which states that “developers should ensure that any necessary investigations are undertaken to ascertain that their sites are and will remain stable or can be made so as part of the development of the site”. We consider that this is applicable to the application proposal, where the creation of land instability could lead to a land slip which would damage the adjacent canal as well as the development itself. We would point out that slope stability is determined by more than just a visual assessment of the gradient of a slope, but requires further investigation of existing ground conditions, an understanding of the underlying geology of a site and the loadings that built development (including any excavations and/or regrading of the land) will impose, both on the site and on adjoining land and structures.

We therefore ask that you consider the approach set out in the flow chart at paragraph 012 of the section on Land Stability in the NPPG, which suggests that investigation of potential land stability issues should be undertaken prior to determination of the application. Following receipt of adequate information identifying that any risks are acceptable or capable of mitigation to an acceptable level, the flow chart suggests that a decision can be made subject to appropriate conditions to secure any necessary mitigation. In the absence of such information, however, it is not possible to quantify the risk of creating land instability or determine whether or not adequate mitigation can be secured via planning conditions.

We would further comment that, as with the previous application, there is no reference in the supporting information as to how the spring and stream within the site are to be dealt with. We consider this matter also needs to be addressed, particularly in relation to identifying any implications for land stability, but also in terms of considering any risk of contaminants entering the local water environment and potentially adversely affecting water quality in the canal.

Notwithstanding the failure to refuse planning permission for the previous scheme on these grounds, we ask that, unless or until sufficiently detailed information is provided to demonstrate that development on this site can be safely undertaken without risk of damage to the canal as a result of land instability, that planning permission should be refused, in line with the guidance and advice

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contained in the NPPF and NPPG referred to above. We further request that the Trust is consulted on any additional information as may be provided by the Applicant with regard to this matter.

### **Heritage**

The site lies within the Cheddleton conservation area and adjacent to the Caldon Canal conservation area, and thus the relevant legislation requires that any proposed development must preserve or enhance the character and appearance of the area. The setting of the Caldon Canal conservation area and the special features within it must also be identified and considered. The Caldon Canal is also an important feature which makes a significant positive contribution to the character and value of the Cheddleton conservation area. As such the canal and its setting should also be taken into account in considering the impact and acceptability of this proposal, along with other heritage assets along its bank with which it has a close association, such as the Flint Mill complex.

Paragraph 132 of the National Planning Policy Framework (NPPF) requires great weight to be given to the conservation of designated heritage assets when assessing the impact of new development. The significance of heritage assets can be harmed by development which affects the setting of those assets. Paragraph 133 of the NPPF goes on to advise that development which will lead to substantial harm to the setting of a designated heritage asset should usually be refused planning permission.

From the outward perspective of the canal corridor the proposed development site is distinctly visible. The existing layer of vegetation on the offside bank varies in density and is sparse in places (particularly during winter months), allowing views through the foliage towards the field beyond. Views from the canal corridor towards the development site are further accentuated by the topography of the site, which slopes quite steeply upwards from the canal edge.

In view of the significant slope across the site, it is surprising that no details or sectional drawings are provided to indicate the proposed ground levels on the site, particularly as layout is not a reserved matter, and the location of the dwellings will be as shown on drawing 0255-01/02. This drawing gives no indication that the site is not level, nor does it even clearly identify the adjacent canal. It is evident however that all three dwellings will be located in an elevated and prominent position, clearly visible from the canal, and thus adversely affecting views from the canal, particularly when approaching from the north-west.

The bulk and massing of three dwellings in this location is likely to be visually intrusive, as well as having an urbanising effect which will change the current open character of the southern side of the canal corridor on the approach to the village, to the detriment of the character and appearance of the canal conservation area. We cannot therefore agree with the assertion in the submitted Heritage Statement that the setting of the conservation area when viewed from the towpath will be unaffected (paragraph 4.3). As with the previously refused scheme, we consider that the proposal will lead to substantial harm to the setting of the canal conservation area. If anything the layout proposed by this application is even more prominent than that shown on the indicative layout accompanying the previously refused application.

In addition, we would also highlight the risk of substantial harm to the character, appearance and setting of the canal conservation area which could arise from any land slip arising from land instability created by the proposed development. This could lead to the damage to, or loss of, existing trees, damage to designated heritage assets (specifically the canal) and changes to the landform adjacent to the canal which would adversely affect its setting. As noted above, the application is not supported by any information to indicate that the risks to land stability have been considered by the Applicant.

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This risk should be considered in heritage terms, as well as the technical/engineering terms as already set out above.

Overall therefore we consider that the current proposal remains contrary to the advice and guidance contained in paragraphs 132- 133 of the NPPF, and in Policy DC2 of the adopted Staffordshire Moorlands Core Strategy 2014, which seeks to resist development which would harm or be detrimental to the special character and historic heritage of the District's towns and villages and those interests of acknowledged importance. The application proposes built development in a location which would be detrimental to the character and setting of the Caldon Canal conservation area, and would result in substantial harm to the significance of this designated heritage asset through the introduction of a suburban character which would erode the current open and rural character of the landscape alongside the canal. Furthermore, by failing to consider the risk that the development poses to land stability, additional adverse impacts on the setting of the canal conservation area arising from damage from land slips cannot be discounted.

If you have any queries please contact me, my details are below.

Yours faithfully

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