

**Town and Country Planning Act 1990
(As Amended)**

Planning Statement

Outline planning application for the demolition of existing Buildings and the erection of up to 29 dwellings (including details of access).

Site: Hurst Quarry, Hurst Road, Biddulph

Our Ref: REN57/1

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Appendix A SMDC Housing Supply as at 31 March 2015

1. INTRODUCTION

- 1.1 This planning statement has been prepared to accompany an outline planning application by Renew Land Developments Limited for residential development (up to 29 dwellings) on land at Hurst Quarry, Hurst Road, Biddulph. The application includes details of access, with all other matters reserved for subsequent approval.
- 1.2 This planning statement sets out the planning history of the site, the planning policy and legislative framework within which the application must be determined, and assesses the proposed development against this framework. The focus of this statement is on assessing whether, in light of the main planning considerations, the granting of planning permission for this proposed housing development on land in the Green Belt can be justified. A case has been advanced within this statement that there is a range of factors that amount to very special circumstances to justify a departure from the development plan. We would welcome the opportunity to provide further information in response to any queries from the LPA in relation to this main issue and any other planning considerations that they will take into account when determining this planning application. .
- 1.3 The planning application has been informed by engagement with Biddulph Town Council and the local community, culminating in a community engagement event held on 9th July 2015 at St Lawrence Church Hall, Congleton Road, Biddulph. Local residents were notified of this event by way of leaflet drop and press release. More detail regarding the community engagement event carried out in connection with the proposals is set out within the accompanying statement of community engagement.
- 1.4 In addition to this statement, this planning application is accompanied by the following plans and documents:
- Site Location Plan, Sketch Site Plan (for indicative purposes only) and Sketch Site Sections by Barrie Newcombe Associates;
 - Indicative Contours Plan and Isopachyte by E3P;
 - Topographical Survey by RJP;
 - Landscape and Visual Appraisal and Landscape Strategy by PGLA;
 - Design and Access Statement by Barrie Newcombe Associates;
 - Statement of Community Engagement by Knights;
 - Urban Design Appraisal by BPUD;
 - Access Design (submitted for approval) and Technical Note by SCP;
 - Arboricultural Implication Study/Method Statement by White Peak Tree Consultancy;
 - Preliminary Ecological Appraisal and letter dated 29 February 2016 by Solum Environmental;
 - Flood Risk Assessment and Drainage Strategy by Waterco;
 - Heritage Assessment by The Heritage Collective;
 - Phase I Geo-Environmental Site Assessment by E3P;
 - Mineral Sterilisation Assessment by The Mineral Planning Group;
 - Residential Viability Appraisal by John Broadbent Consulting; and
 - Draft Heads of Terms by Knights.

- 1.5 The proposals present a high quality scheme for up to 29 dwellings, access roads, and associated open space and landscaping. The design and access statement by Barrie Newcombe Associates, the urban design appraisal by BPUD, and the landscape and visual appraisal by PGLA set out the design parameters of the proposal to demonstrate that a high quality residential development can be delivered that can be assimilated into the landscape.
- 1.6 This planning statement will assess the proposals against the development plan and other material considerations and will demonstrate that very special circumstances exist to justify granting planning permission for this proposed development in the Green Belt and that such very special circumstances outweigh any harm caused by inappropriateness, and any other harm. In accordance with Section 38(6), the LPA is requested to grant outline planning permission.

2. SITE AND SURROUNDINGS

- 2.1 The site measures approximately 11.99ha and is located off Hurst Road to the north east of Biddulph and north west of Biddulph Moor.
- 2.2 The site comprises an active sandstone quarry. The southern half of the site comprises previously developed land, including buildings and associated outdoor storage areas used by J2K Engineering and other buildings used for storage purposes.
- 2.3 The existing buildings are substantial, with a footprint of 2,754m², and are prominent at the site entrance as shown on the aerial photo looking towards the east (photo 1) below. Other large buildings associated with the quarrying activity are also shown towards the centre of the aerial photo, as well as further storage buildings to the bottom (west) of the photo.



Photo 1

- 2.4 The wider site has been subject to sandstone extraction, and the topographical survey shows the extent of the quarrying operations that have taken place.

- 2.5 Previous quarrying activity on the site has lowered its level, leaving the site within a “bowl” with escarpments around the edges. The extraction of sandstone has resulted in the creation of a substantial scar in the landscape. This visible scar in the landscape is shown in the aerial image at photo 2 below, which is taken from the south of the site looking north.



Photo 2

- 2.6 The Staffordshire Moorlands Local Plan Proposals Map confirms that the site is located in the Green Belt and also within a Special Landscape Area, but is not subject to any other designations.
- 2.7 The site does not lie within a conservation area, nor does it contain any other known heritage assets. The site is located to the north of Biddulph Grange and Gardens. A Heritage Assessment accompanies this planning application which establishes the significance of any heritage assets within close proximity to the site.
- 2.8 The site is located on the northern side of Hurst Road and vehicular access to the site is taken off Hurst Road. This access is used both in association with activities at/the use of the quarry and by J2K Engineering. Both the existing engineering use, and the quarry utilise Hurst Road to the main existing point of access to the site, with this entrance being utilised by large goods vehicles/delivery vehicles, as well as staff vehicles. Hurst Road is subject to a 30 mph speed limit.
- 2.9 Hurst Road otherwise serves a number of existing residential dwellings and farms to the west of the site. Most of the dwellings comprise substantial detached dwellings, in addition to some semi detached dwellings.
- 2.10 More details regarding the site and surroundings is contained within the accompanying Design and Access statement by Barrie Newcombe Associates, the Landscape and Visual Impact Assessment by PGLA and the Urban Design Appraisal by BPUD.

3. PLANNING HISTORY

- 3.1 83/11921/OLDDC - Land reconstruction by the landfill disposal of controlled waste - approved dated 14/01/1984.
- 3.2 78/06250/OLDDC - Site for new workshop and stores - approved dated 24/03/1981.
- 3.3 78/06219/OLDDC - Proposed new stockpile - approved dated 20/08/1979.
- 3.4 78/05008/OLDDC - Extension to offices - no decision information available.
- 3.5 78/04989/OLDDC - Proposed covering to pen number 2 - approved dated 17/02/1978.
- 3.6 The above planning applications were submitted by HSS Engineering, and these decisions demonstrate that the engineering company have utilised the southern half of the site for a considerable period of time for this use. As such, there can be no doubt that this part of the site is previously developed land.
- 3.7 With regard to the remaining balance of the site that has been utilised for mineral extraction, applications for such operations are county matters, and have been dealt with by Staffordshire County Council as the mineral planning authority. The recent mineral planning history of the site is summarised at Appendix C within the Mineral Sterilisation Assessment by The Mineral Planning Group, which confirms that the application site is the subject of an extant permission for extraction, which covers an area of approximately 21 hectares and remains extant until 31 December 2036 (at which point the site would be restored in accordance with the approved restoration scheme).

4. THE PROPOSAL

- 4.1 This application is submitted in outline form with all matters reserved except for access.
- 4.2 The proposal seeks outline consent for residential development on previously developed land and scarred landscape for 29 dwellings. The submitted layout that accompanies this planning application is submitted for indicative purposes and shows how 29 dwellings could be accommodated on the site, taking into account the site characteristics, opportunities and constraints. This equates to a very low housing density of around 2.4 dwellings per hectare.
- 4.3 The submitted indicative layout shows a careful arrangement of the proposed development, taking into account the site opportunities and constraints, including the local topography. The careful arrangement of the proposed dwellings create enclosure and ensure that external spaces can be provided of an appropriate scale.
- 4.4 The proposed development would have a single vehicular access off Hurst Road. The internal road layout would comprise a “country lane” vernacular that would provide access to all properties. The design and layout of the internal access roads would be designed such that it would limit vehicle speeds to 20mph in accordance with Manual for Streets.
- 4.5 Each of the proposed dwellings would be provided with sufficient external space within the curtilage to provide off-street parking space for around 3-4 cars.
- 4.6 The proposed development would be well landscaped, with existing trees around the perimeter of the site being retained as far as possible. The existing landscape framework would be complemented by additional landscaping and tree planting, which would utilise native trees and shrubs. Ornamental planting would be limited to private garden space only.
- 4.7 The proposed dwellings would be limited to two storeys in height, be of traditional rural appearance, but would be constructed utilising the latest required building standards for construction and energy use, including renewable energy sources. The scale of the proposed dwellings would be consistent with existing properties in the local area whilst respecting the immediate context of the surrounding area. As the application is submitted in outline form, the detailed appearance of the proposed dwellings would be dealt with at the reserved matters stage.
- 4.8 The proposal is for a low density development of 29 open high quality, high value homes in a well landscaped setting. As set out in the Residential Viability Appraisal that accompanies this application, viability is a key consideration but it is considered that the development would remain viable if all of the proposed dwellings are open market homes and financial contributions of £500,000 towards off site provision of affordable housing and £55,155 towards education (as established in pre-application engagement with Staffordshire County Council) are made. Accordingly the Draft Heads of Terms for a Section 106 Agreement submitted with this outline planning application confirms the applicant’s proposal to make these two financial contributions.

5. THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS

The Development Plan

- 5.1 The development plan comprises the following:
- (a) The Staffordshire Moorlands Core Strategy (adopted March 2014)
 - (b) The Staffordshire Moorlands Local Plan Proposals Map (adopted 1998)
- 5.2 The Core Strategy does not include within it detailed site allocations for all settlements across the District. As such, the Staffordshire Moorlands Local Plan Proposals Map that was adopted in 1998 remains a saved Development Plan Document until the Council's Site Allocations Development Plan Document is adopted.
- 5.3 The Council recently completed its first "Site Options Consultation" that will inform the preparation of the Site Allocations DPD. Hurst Quarry was not included in the consultation document as a suggested allocation for housing or employment purposes, however representations were submitted to the LPA to promote the site as a potential housing allocation in September 2015. The council is expected to carry out its next round of consultation on site allocations during Spring 2016.

The Core Strategy

- 5.4 The Staffordshire Moorlands Core Strategy was adopted in March 2014 and covers the period between 2006 and 2026.
- 5.5 The Core Strategy was adopted in accordance with the 2004 Planning and Compulsory Purchase Act and in accordance with the National Planning Policy Framework. As such, the plan as a whole is considered to be "up-to-date" in accordance with paragraph 14 of the Framework. However, relevant policies are "out-of-date" in cases where a 5 year housing land supply cannot be demonstrated against the requirements set out in the Core Strategy.
- 5.6 With regard to the five year housing land supply in the Staffordshire Moorlands, the LPA acknowledge that they cannot currently demonstrate a deliverable 5 year supply of housing sites. A copy of the LPA's latest 5 year housing land supply position is attached at **Appendix A**, which acknowledges a supply of 1.84 years. This equates to a shortfall of 1,557 dwellings as at 31 March 2015. As such, relevant housing policies contained within the Core Strategy will be considered to be out of date.
- 5.7 This planning statement will establish which policies the applicant considers to be out of date under the various policies listed in the remainder of this section. The Council are currently in the process of reviewing their annual housing requirement as part of the Site Allocations DPD preparation process, and have proposed to increase their annual requirement to 320 dwellings per annum in accordance with updated objectively assessed housing needs. The implications on the 5 year housing land supply of this uplift is considered at section 6 of this statement.

5.8 With regard to the saved 1998 Local Plan Proposals Map, the site is shown to be located within the Green Belt and Special Landscape Area.

5.9 Relevant adopted Core Strategy policies for the determination of this planning application are provided below.

5.10 SS1 – Development Principles

The Council will expect the development and use of land to contribute positively to the social, economic and environmental improvement of the Staffordshire Moorlands in terms of delivering, in partnership with other agencies and services:

- a mix of types and tenures of quality, affordable homes to meet the needs and aspirations of the existing and future communities;
- quality local services, including provision for education, healthcare, leisure, community, cultural and tourist facilities in response to anticipated population change and visitor numbers;
- easy access to jobs, shops and transport services by all sections of the community;
- increased economic prosperity and opportunities for employment and greater local capacity with an educated, skilled and flexible workforce;
- a healthy, safe, attractive and well-maintained environment;
- development which maintains the distinctive character of the Staffordshire Moorlands, its individual towns and villages and their settings;
- development that is undertaken in a way that protects and enhances the natural and historic environment of the District and its surrounding areas both now and for future generations;
- development which secures high quality, sustainable environments, efficient and effective use of resources and contributes effectively to tackling climate change and reduced carbon emissions.

All proposals for development will be considered in the context of the District-wide Spatial Strategy and with regard to both its direct and indirect cumulative impact over the longer term. New development will make the best use of previously developed land and buildings and will follow a sequential approach to the sustainable location of development.

5.11 SS1a - Presumption in Favour of Sustainable Development

When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work pro-actively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

Planning applications that accord with the policies in the Core Strategy (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise – taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- Specific policies in that Framework indicate that development should be restricted.

5.12 SS2 – Future Provision of Development

Provision will be made for 6,000 additional dwellings (net of demolitions) to be completed in Staffordshire Moorlands (excluding the Peak District National Park) during the period 2006 to 2026. Sufficient deliverable land will be identified to provide at least 5 years of development at all times.

Provision will be made for at least 24 hectares of additional employment land in Staffordshire Moorlands (excluding the Peak District National Park) during the period 2006 – 2026. Sufficient deliverable land will be identified to provide at least 6 hectares of employment land at all times.

Provision will be made for new retail, transport, recreational, community and tourism facilities and services to meet the identified needs of settlements within Staffordshire Moorlands (excluding the Peak District National Park) up to 2026 as set out in policies SS5 and SS6.

The Council will undertake and complete an early and comprehensive review of the Core Strategy by 2016 to cover the period 2016 – 2031 to ensure that future provision will continue to adequately meet objectively assessed needs and reflect development potential. This will be rolled into a single Local Plan combined with the Site Allocations DPD.

- 5.13 The above policy makes reference to housing numbers. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply as required by this policy, and as such, the relevant phasing of housing delivery proposed as part this policy is considered to be **out of date**, and as such, **does not carry full weight in the determination of this planning application**.

5.14 SS3 – Distribution of Development

Development will be located in accordance with the Spatial Strategy and will be distributed between the towns and rural areas as set out below. In identifying land for new development or in considering planning applications, development shall also be compatible with the settlement hierarchy in terms of the development approaches set out in policies SS5 and SS6 below.

	Housing	Employment
Leek	30%	30%
Biddulph	20%	20%
Cheadle	22%	20%
Rural Areas	28%	30%

With regard to the number of homes that is to be delivered in each, area, Figure 9 of the Core Strategy identifies that 1,800 homes are to be delivered in Leek, 1,200 in Biddulph, 1,320 in Cheadle and 1,680 in the rural areas. For the rural areas, which is applicable to Biddulph Moor, there is a residual requirement to deliver 928 dwellings over the plan period.

- 5.15 The above policy makes reference to housing numbers and how they are to be distributed across the District. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply, and as such, the proposed distribution of housing across the District required by this policy is considered to be **out of date**, and as such, **does not carry full weight in the determination of this planning application**. In accordance with paragraph 14 of the Framework, the test is whether or not the proposed development is sustainable, taking into account social, economic and environmental factors, and as such, the location of the proposal is only one such factor.

5.16 SS4 – Managing the Release of Housing Land

The release of land for housing across the District will be managed in order to deliver the level and distribution of development set out in policies SS2 and SS3. The adequacy of supply will be assessed and monitored through the Strategic Housing Land Availability Assessment (SHLAA) and the Annual Monitoring Report. A Housing Implementation Strategy that details the approach to managing delivery of the housing will be set out in a Housing Delivery SPD. Where deemed appropriate, measures will be used to adjust the delivery of housing by bringing forward or holding back development in accordance with the Housing Delivery SPD.

The Strategic Housing Land Availability Assessment (SHLAA) and future reviews will identify specific deliverable sites sufficient for 5 years supply of dwellings, and an additional buffer supply of 5% of the 5 year supply. In those time periods when dwelling completions significantly underperform against the 5-year supply, the Council will provide a 20% buffer of the five year supply. The SHLAA and future reviews will also identify specific developable sites or broad locations within the 6-10 years and 11-15 years periods that will underpin the Annual Monitoring Report and Housing Trajectory. Housing sites will also be allocated as part of the Site Allocations DPD and the review of the Core Strategy. The Housing Trajectory

(Appendix G) shows a significant underperformance in dwelling completions for the years 2011-2012 so that, in accordance with the requirements of the NPPF (para 47) the Council will ensure that a 20% buffer supply will be added to the year 5 requirement to 2016.

Allowance will also be made for an assumed contribution from unidentified (windfall) sites of up to 25% of the annual development rate in urban areas and up to 30% in rural areas. This will be additional to the net housing requirement being sought on allocated sites but will be taken into account in managing the release of land for housing.

There will be a preference for previously developed sites and sites within urban areas before greenfield and edge of urban areas, other than where required to bring forward significant infrastructure needs or as set out in Policy SD1. In the Green Belt and settlements inset within the Green Belt, levels of new housebuilding will be restricted in the period up to 2016 through the phased release of housing allocations and the limited granting of permissions on unidentified (windfall) sites in order to avoid undermining the renaissance of the North Staffordshire conurbation. Any restraint should be balanced with the need to improve prospects in the Biddulph local regeneration area.

- 5.17 The above policy makes reference to managing the release of housing land over the plan period. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply, and as such, the proposal to manage the release of housing land policy is considered to be **out of date**, and as such, **does not carry full weight in the determination of this planning application**.

5.18 SS6 – Rural Areas

The rural areas comprise of the following development categories:

- Larger villages
- Smaller villages
- Other rural areas

In total these will provide for around 1,680 new dwellings and 7.2 hectares of employment land between 2006 and 2026 in accordance with the Area Strategies set out in policies SS6a – SS6c.

The Site Allocations DPD will define the urban areas of larger villages by a Development Boundary and will allocate sites for development sufficient to ensure that the requirements set out above can be met. In the smaller villages an Infill Boundary will be defined within which limited infill development will be permitted.

5.19 The above policy makes reference to housing numbers and the allocation of housing numbers to the rural areas. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply, and as such, the proposed allocation of housing numbers to the rural areas is considered to be **out of date**, and as such, **does not carry full weight in the determination of this planning application**. A cap on numbers certainly cannot be applied. In accordance with paragraph 14 of the Framework, the test is whether or not the proposed development is sustainable, taking into account social, economic and environmental factors, and as such, the location of the proposal and the number of units proposed are only two such factors to weigh in the overall planning balance.

5.20 SS6c – Other Rural Areas Area Strategy

The other rural areas comprise the countryside and the Green Belt outside of the development and infill boundaries of the towns and villages, as defined in the Site Allocations DPD, including those small settlements and dispersed developments not identified in Policies SS5, SS6a and SS6b.

These areas will provide only for development which meets an essential local need, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism or enhances the countryside. The Council and its partners will achieve this through the following actions:

1. Meet essential local needs by:

- Restricting new build housing development in the countryside to that which is essential to local needs, including affordable housing (in accordance with policies H2, H3 and R2);
- Allowing the conversion, extension or replacement of an existing rural building in accordance with policies R1 and R2;
- Allowing suitable development which would secure the future conservation of a heritage asset in accordance with policy DC2;
- Allowing rural exceptions housing (in accordance with policies H2 and R2)
- Allowing community facilities which meet a local need, where that need cannot be met in a settlement within the hierarchy. In such cases the development should be in a sustainable location close to an existing serviced settlement.

2. Sustain the rural economy by:

- Enabling the limited expansion or redevelopment of an existing authorised business for employment uses;
- Supporting the diversification of existing farm enterprises (in accordance with policy R1);
- Supporting the development of appropriate ICT and new means of communications to enable home working and small businesses reliant one-technology.

3. Enhance and conserve the quality of the countryside by:

- Giving priority to the need to protect the quality and character of the area and requiring all development proposals to respect and respond sensitively to the distinctive qualities of the surrounding landscape;
- Limiting uses which generate a substantial number of regular trips in areas that are not well served by public transport;
- Ensuring renewable energy schemes are of an appropriate scale, type and location;
- Recognising and conserving the special quality of the landscape in the Peak District National Park (in accordance with Policy DC3);
- Encouraging measures which protect and enhance the biodiversity, geological resources and heritage of the District.

4. Regenerate underused major developed areas in the countryside by:

- Identifying major developed areas through the Site Allocations DPD at:
 - Bolton Copperworks, Froghall – uses which may be suitable are employment, residential, tourist-related retail and accommodation, leisure; any development shall make provision for appropriate off-site highway improvements.
 - Anzio Camp, Blackshaw Moor – uses which may be suitable are employment, extra care housing, tourist accommodation;

Development of these areas shall be complementary to and not undermine the role of the towns and larger villages nor shall it undermine wider strategic objectives. It shall also avoid or minimise environmental impacts and congestion and safeguard and enhance natural and cultural assets.

- Facilitating the appropriate redevelopment of other major developed areas where the proposed development brings positive benefits to the area and any resultant environmental or highways concerns could be adequately addressed and minimised. Such proposals will be expected to provide supporting information that demonstrates clearly that the redevelopment will complement the overall development strategy for the District.

Any development proposal that might have the potential to affect a European or Ramsar Site must itself be subject to appropriate assessment and also a rigorous environmental impact assessment to determine potential effects on ecology, protected species and site integrity.

5. Enhance tourist opportunities by:

- Supporting sustainable tourism developments and measures in the Churnet Valley in accordance with Policy SS7;
- Allowing for small-scale tourism developments in other areas (in accordance with policies E3 and R1);
- Establishing strong linkages between recreational and tourist resources;
- Recognising and developing the close linkages to the Peak District National Park.

6. Maintain the Green Belt within Staffordshire Moorlands but its detailed boundaries will be reviewed to ensure that its purpose in separating the urban areas and maintaining their identity is consistent with the need to promote sustainable patterns of development around settlements in or on the edges of the Green Belt. This review will be undertaken through the Site Allocations DPD to allow for any small scale site allocations required to meet local needs in exceptional circumstances.

Strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government policy.

5.21 The first part of the above policy makes reference to constraining house building in the countryside. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply, and in accordance with recent case law¹, the first part of the policy is considered to be a policy for the supply of housing development as it is a restrictive housing policy. As such, **the first part of this policy does not carry full weight in the determination of this planning application.**

5.22 SD1 – Sustainable Use of Resources

The Council will require all development to make sustainable use of resources, and adapt to climate change. This will be achieved by:

1. Giving encouragement to development on previously developed land in sustainable locations in allocating land for development and determining planning applications, except where:

- a previously developed site performs poorly in sustainability terms and could not be made otherwise acceptable;
- development upon a previously developed site would cause harm to some asset of acknowledged importance or if it would create an unacceptable flood risk.

¹ *Cotswold District Council v (1) Secretary of State for Communities and Local Government (2) Fay and Son Limited* [2013] EWHC 3719 and *South Northamptonshire Council v Secretary of State for Communities and Local Government* [2014] EWHC 573 (Admin)

Development on non-allocated greenfield land will only be considered acceptable where the proposal:

- relates to the provision of needed development which cannot be accommodated on a deliverable previously developed site or other allocated site in the locality and is in a sustainable location, or;
- relates to the conversion or reuse of a rural building in accordance with policy R2, or;
- would secure the future conservation of a heritage asset through appropriate enabling development in accordance with policy DC2, or;
- is for a rural exceptions affordable housing scheme in accordance with policy H2.

2. Supporting or promoting proposals that remediate brownfield sites affected by contamination, where this is consistent with other policies and also ensuring that any legacy from former land uses (such as coalmining) is appropriately addressed so that no future liability for future maintenance or public safety arises.

3. Requiring that development is located and designed to minimise energy needs and to take advantage of maximised orientation to achieve energy savings in line with Policy SD3.

4. Ensuring all major-scale planning applications (10 or more residential units or 1,000+ square metres floor area) are accompanied by a Sustainability/Energy Statement. This should address the energy efficiency, water conservation, sourcing of construction materials, and site orientation aspects of the scheme, and where possible the feasibility of integrating micro-renewables. The degree of detail expected will depend on the scale/complexity of the proposal.

5. The Council will expect that all developers investigate the potential for re-using construction or construction waste materials, especially those sourced locally (which can include those minerals available on site, as appropriate) and integrates where possible on-site waste management facilities.

6. The Council will promote water conservation standards in approved schemes which exceed those set out in the Buildings Regulations (for example as expressed in the Code for Sustainable Homes and the BREEAM offices scale).

5.23 SD3 – Carbon Saving Measures in Development

The Council will promote further carbon-saving measures in both new and existing developments (where this is consistent with other Core Strategy Policies), in the following ways:

1. Supporting developers who propose exceeding the thermal efficiency standards required by law for new buildings or extensions, at the time of the application. In the case of larger developments such as housing estates the Council will support measures such as 'communal' micro-renewables, or District Heating installations.

2. The Council will support measures by landowners/developers designed to contribute to existing or emerging District Heating networks (for example by connecting 'exporters', with receptors, of heat).

3. The Council will support measures designed to improve the sustainability of existing buildings (such as improved thermal insulation, water conservation, or the installation of micro-renewables).

5.24 SD4 – Pollution and Flood Risk

The Council will ensure that the effects of pollution (air, land, noise, water, light) are avoided or mitigated by refusing schemes which are deemed to be (individually or cumulatively) environmentally unacceptable and by avoiding unacceptable amenity impacts by refusing schemes which are pollution-sensitive adjacent to polluting developments, or polluting schemes adjacent to pollution sensitive areas, in accordance with national guidance.

Development proposed within the floodplain will be guided to first make use of areas at no or low risk of flooding before areas at higher risk, where this is viable or possible and compatible with other policies aimed at achieving a sustainable pattern of development. Development deemed acceptable within areas at risk of flooding due to national or other policies or other material considerations, must be subject to a flood risk assessment. Additionally, approved schemes must be designed and controlled to mitigate the effects of flooding on the site and the potential impact of the development on flooding elsewhere in the floodplain. In all cases, schemes will be determined after having considered both individual and cumulative impacts.

When considering planning applications and future allocations in the Site Allocations DPD, the Council will also have regard to all relevant Catchment Flood Management Plans affecting the District.

5.25 E2 – Existing Employment Areas

Employment areas and premises (falling within Use Classes B1, B2 or B8) that:

- are well located to the main road and public transport network; and
- provide, or are physically and viably capable of providing through redevelopment, good quality modern accommodation attractive to the market without harm to the amenity of nearby residents; and
- are capable of meeting a range of employment uses to support the local economy;

will be safeguarded for such purposes.

Redevelopment of such areas for housing, retail or other non-employment uses will not be permitted unless:

- the site is identified in the Site Allocations DPD for redevelopment; or,
- it can be demonstrated that the site would not be suitable or viable for continued employment use having regard to the above criteria and evidence can be provided that no suitable and viable alternative employment use can be found, or is likely to be found in the foreseeable future; or
- substantial planning benefits would be achieved through redevelopment which would outweigh the loss of the site for employment use.

Where redevelopment is proposed preference will be given to a mixed use redevelopment scheme which retains an element of employment provision on the site. Where this would not be viable the Council will negotiate for funding to support off-site employment provision.

5.26 H1 – New Housing Development

New housing development should provide for a mix of housing sizes, types and tenure including a proportion of affordable housing as set out in policy H2, and where appropriate housing for special groups, to meet the needs and aspirations of the current and future population having regard to the Area Strategies in SS5 and SS6.

All development will be assessed according to the extent to which it provides for high quality, sustainable housing and to which it meets identified local housing market needs and the strategy for the area having regard to the location of the development, the characteristics of the site and the economics of provision.

In addition:

Housing for special groups, particularly for older people, should meet a genuine and proven local need and demand and be of a scale and in a location which is appropriate to its needs.

Housing proposals of 10 dwellings or more will be required to provide a mix of housing in terms of size, type and tenure on the site. The final mix will be negotiated with the developer based on local housing needs as informed by the Strategic Housing Market Assessment and other relevant factors such as available supply and market demand.

All housing development should be at the most appropriate density compatible with the site and its location, and with the character of the surrounding area. This will generally be within the range of 40 dwellings per hectare or more in or on the edge of town centres, 30 – 40 dwellings per hectare in other urban areas and villages and 20 – 30 dwellings per hectare in remoter rural areas.

Residential development and redevelopment on unidentified (windfall) sites will be permitted up to an indicative maximum scheme size of 9 dwellings within the Development Boundaries of the towns and larger villages, and up to an indicative maximum scheme size of 5 dwellings within the Infill Development Boundaries of the smaller villages. Exceptionally, larger windfall schemes may be permitted where it would provide over-riding affordable housing, regeneration, conservation or infrastructure benefits and it would not undermine delivery of the spatial strategy.

All new dwellings should aim to be built to “Lifetime Homes” standard in accordance with the current national advice and targets.

All new dwellings must be of sufficient size to provide satisfactory levels of amenity for future occupiers whilst respecting the privacy and amenity of existing occupiers.

All new dwellings must meet the sustainable design and construction requirements set out in policy SD1.

- 5.27 The above policy makes reference to windfall housing development, providing for maximum scheme sizes depending upon location. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The above policy effectively seeks to cap the amount of dwellings delivered as part of any windfall development as long as it does not undermine the delivery of the spatial strategy. Given the absence of a 5 year housing land supply, it is considered that the part of the policy that refers to windfall development is **out of date**, and that the test is whether or not the proposal would comprise sustainable development in accordance with paragraph 14 of the Framework.

5.28 H2 – Affordable and Local Needs Housing

The provision of affordable housing will be delivered through the following measures:

1. In the towns, residential developments of 15 dwellings (0.5 hectares) or more shall provide a target of 33% affordable housing on-site from all sources. The actual level of provision will be determined through negotiation taking into account development viability and other contributions
2. Elsewhere, residential developments of 5 dwellings (0.16 hectares) or more shall provide a target of 33% affordable housing on-site from all sources, unless there are exceptional circumstances which dictate otherwise.

Exceptionally this may be provided through a commuted sum payment in lieu. The actual level of provision will be determined through negotiation taking into account development viability and other contributions.

The above targets and thresholds will be reviewed for the period after 2016.

3. In or on the edge of villages, small schemes for 100% affordable housing will be allocated in the Site Allocations DPD or will be permitted on suitable rural exceptions sites which are well related to services and facilities and where a demonstrable need exists within the local area which cannot otherwise be met by means of provision in the plan.

4. Schemes proposing 100% affordable housing will be targeted to those areas in greatest demonstrable need.

5. In areas of low demand or where the stock does not meet and is not capable of meeting local housing market needs consideration will be given, in consultation with local communities, to options for renovation/improvement or redevelopment schemes to create more sustainable and balanced housing.

6. Unless circumstances dictate otherwise and in agreement with the Council, 70% of all affordable dwellings provided on each site should be social rented housing with the remainder being intermediate housing.

5.29 The above policy makes reference to the delivery of affordable housing. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply, however, this policy does not seek to influence the delivery of housing numbers, other than to determine how affordable housing should be provided as part of a proposed housing development. As such, whilst a 5 year housing land supply cannot be demonstrated, it is considered that this policy is up to date.

5.30 D1 – Design Considerations

All development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area in line with the Council's Design SPD. In particular, new development should:

- be of a high quality and add value to the local area, incorporating creativity, detailing and materials appropriate to the character of the area;
- be designed to respect the site and its surroundings and promote a positive sense of place and identity through its scale, density, layout, siting, landscaping, character and appearance;
- create, where appropriate, attractive, functional, accessible and safe public and private environments which incorporate public spaces, green infrastructure including making provision for networks of multi-functional new and existing green space (both public and private) in accordance with policy C3, landscaping, public art, 'designing out crime' initiatives and the principles of active design;
- incorporate sustainable construction techniques and design concepts for buildings and their layouts to reduce the local and global impact of the development, and to adapt to climate change, in accordance with policy SD1;

- protect the amenity of the area, including residential amenity, in terms of satisfactory daylight, sunlight, outlook, privacy and soft landscaping; promote the maintenance, enhancement, restoration and re-creation of biodiversity and geological heritage, where appropriate, in accordance with policy NE1;
- provide for safe and satisfactory access and make a contribution to meeting the parking requirement arising from necessary car use;
- ensure that existing drainage, waste water and sewerage infrastructure capacity is available, and where necessary enhanced, to enable the development to proceed;
- ensure, where appropriate, equality of access and use for all sections of the community.

5.31 DC2 – The Historic Environment

The Council will safeguard and, where possible, enhance the historic environment, areas of historic landscape character and interests of acknowledged importance, including in particular scheduled ancient monuments, significant buildings (both statutory listed and on a local register), the settings of designated assets, conservation areas, registered historic parks and gardens, registered battlefields and archaeological remains by:

1. Resisting 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.
2. Promoting development which sustains, respects or enhances buildings and features which contribute to the character or heritage of an area and those interests of acknowledged importance through the use of conservation area appraisals, design statements, archaeological assessments, characterisation studies and Masterplanning.
3. Preventing the loss of buildings and features which make a positive contribution to the character or heritage of an area through appropriate reuse and sensitive development, including enabling development, unless their retention is not viable or there would be substantial planning benefits to outweigh the loss.

5.32 DC3 – Landscape and Settlement Setting

The Council will protect and, where possible, enhance local landscape and the setting of settlements in the Staffordshire Moorlands by:

1. Resisting development which would harm or be detrimental to the character of the local and wider landscape or the setting of a settlement and important views into and out of the settlement as identified in the Landscape and Settlement Character Assessment;
2. Supporting development which respects and enhances local landscape character and which reinforces and enhances the setting of the settlement as identified in the Landscape and Settlement Character Assessment;

3. Supporting opportunities to positively manage the landscape and use sustainable building techniques and materials which are sympathetic to the landscape;

4. Identifying through the Site Allocations DPD and protecting from inappropriate development, areas of visual open space where the intention will be to retain the land's open and undeveloped appearance. Where appropriate the Council will seek public access agreements with the land owners and seek proposals for the enhancement or improvement of these areas as part of the green infrastructure network in accordance with policy C3. In exceptional cases, limited development of areas of visual open space may be acceptable where this will bring about overriding improvements to the open space itself;

5. Recognising and conserving the special quality of the landscape in the Peak District National Park, and ensuring that development does not adversely affect the wider setting of the National Park.

5.33 C1 – Creating Sustainable Communities

In order to create sustainable communities at a local level the Council will:

1. Support proposals which protect, retain or enhance existing community facilities (including multi use and shared schemes) or provide new facilities. New facilities should preferably be located within defined built up areas where they are most accessible. In exceptional cases facilities may be located adjacent to these areas where it can be demonstrated that this is the only practical option and where a site is well related to the existing settlement.

2. Safeguard land required for the provision of facilities to meet existing and future community needs, as identified by service providers.

3. Resist proposals involving the loss of community facilities unless:

- i. an alternative facility of the same type is available or can be provided in an accessible location in the same locality; or
- ii. a viability appraisal including a marketing exercise by a qualified professional demonstrates that there are no options for continued use as a community facility which are financially viable and it can be demonstrated that loss of the facility would not disadvantage local residents.

4. Only permit new development where the utility, transport and community infrastructure necessary to serve it is either available, or will be made available by the time it is needed. All development proposals must therefore either incorporate the infrastructure required as a result of the scheme, or make provision for financial contributions and/or land to secure such infrastructure or service provision at the time it is needed, by means of conditions or a planning obligation in line with the Council's Developer Contributions SPD, or any subsequently adopted Community Infrastructure Levy.

5. Support the relocation of uses which are no longer compatible with their surroundings due to negative amenity issues such as noise or accessibility where an alternative suitable site can be secured, subject to the requirements set out in Policy E2 in order to facilitate regeneration.

6. Require development proposals to incorporate high quality locally distinctive design features and layouts that will reduce crime and the fear of crime and support inclusive communities, particularly in terms of accessibility and functionality in line with the Council's Design SPD.

7. Require major new development to be accessible by a choice of means of transport, in accordance with policy T1.

5.34 R1 – Rural Diversification

All development in the rural areas outside the development boundaries of the towns and villages will be assessed according to the extent to which it enhances the character, appearance and biodiversity of the countryside, promotes the sustainable diversification of the rural economy, facilitates economic activity, meets a rural community need and sustains the historic environment.

Appropriate development should not harm the rural character and environmental quality of the area or any sites designated for their nature conservation, or historical interest by virtue of the scale, nature and level of activity involved and the type and amount of traffic generated or by other effects such as noise and pollution.

Wherever possible development should be within suitably located buildings which are appropriate for conversion. Where new or replacement buildings are involved, development should have minimal impact on the countryside and be in close proximity to an existing settlement.

Within the Green Belt, inappropriate development which is otherwise acceptable within the terms of this policy, will still need to be justified by very special circumstances.

Priority will be given to the re-use of rural buildings for commercial enterprise, including tourism uses, where the location is sustainable and the proposed use does not harm the building's character and/or the character of its surroundings.

5.35 R2 – Rural Housing

Other than sites allocated for housing development in the Site Allocations DPD, only the following forms of housing development will be permitted in the rural areas outside the settlement and infill boundaries of the town and the villages:

- Affordable housing which cannot be met elsewhere, in accordance with Policy H2.
- A new dwelling that meets an essential local need, such as accommodation for an agricultural, forestry or other rural enterprise worker, where the need for such accommodation has been satisfactorily demonstrated and that need cannot be met elsewhere.
- Proposals for replacement dwellings, provided they do not have a significantly greater detrimental impact on the existing character of the rural area than the original dwelling or result in the loss of a building which is intrinsic to the character of the area.
- Extensions to existing dwellings provided they are appropriate in scale and design and do not have a detrimental impact on the existing dwelling and the character of the rural area.
- The conversion of non-residential rural buildings for residential use where:
 - the building is suitable and worthy in physical, architectural and character terms for conversion; and
 - it can be demonstrated that agricultural or commercial use is not viable or suitable. In such cases there will be a requirement for a marketing exercise to be carried out by a suitably qualified professional or other evidence that the building would be unsuitable for a commercial use; or
 - conversion to residential use would enable a building of particular merit to be safeguarded.

5.36 The above policy makes reference to the delivery of housing in rural areas. Paragraph 49 of the Framework states that where the LPA cannot demonstrate a deliverable 5 year supply of deliverable housing land, then relevant policies for the supply of housing will be considered to be out of date. The LPA has so far failed to maintain a deliverable 5 year housing land supply, and as such, the policy of restraint applied in the above rural housing policy is considered to be **out of date**, and as such, **does not carry full weight in the determination of this planning application**.

5.37 NE1 – Biodiversity and Geological Resources

The biodiversity and geological resources of the District and neighbouring areas will be conserved and enhanced by positive management and strict control of development by:

1. Resisting any proposed development that could have an adverse effect on the integrity of a European site alone or in combination with other plans or projects unless it can be demonstrated that the legislative provisions to protect such sites can be fully met.

2. Conserving and enhancing any Sites of Special Scientific Interest. The Council will not permit any development proposal which would directly or indirectly (either individually or in combination with other developments) have an adverse effect on a Site of Special Scientific Interest.

3. Conserving, and enhancing regional and locally designated sites. The Council will not permit any development proposal which would directly or indirectly result in significant harm to geological and biodiversity conservation interests including ancient woodland, unless it can be demonstrated that:

- there is no appropriate alternative site available; and
- all statutory and regulatory requirements relating to any such proposal have been satisfied; and
- appropriate conservation and mitigation measures are provided; or if it is demonstrated that this is not possible the need for, and benefit of, the development is demonstrated to clearly outweigh the need to safeguard the intrinsic nature conservation value of the site and compensatory measures are implemented.

4. Supporting opportunities to improve site management and increase public access to wildlife sites including supporting the objectives of the Staffordshire County Council Rights of Way Improvement Plan.

5. Ensuring development where appropriate produces a net gain in biodiversity, and ensuring that any unavoidable impacts are appropriately mitigated for.

6. Ensuring development promotes the appropriate maintenance, enhancement, restoration and/or re-creation of biodiversity through its proposed nature, scale, location and design. The Staffordshire Moorlands Biodiversity Opportunity Map, in conjunction with the Staffordshire Biodiversity Action Plan, will be used to guide biodiversity enhancement measures to be included in development proposals as appropriate to the nature and scale of development proposed and other environmental interest, in particular supporting opportunities to increase grassland and heathland habitats including supporting targets in the UK and Staffordshire Biodiversity Action Plan.

7. Protecting and enhancing habitats and species of principal importance for the conservation of biodiversity as identified in legislation, and recognising and implementing appropriate measures, including landscape-scale conservation management, to take account of the fact that the distribution of habitats and species will be affected by climate change.

8. Recognising the value of the natural environment for sport and leisure activities and the need to manage such activities to ensure there is no conflict.

9. Ensuring the provision and protection of green infrastructure networks in line with Policy C3.

5.38 T1 – Development and Sustainable Transport

The Council will promote and support development which reduces reliance on the private car for travel journeys, reduces the need to travel generally and helps deliver the priorities of the Staffordshire Local Transport Plans, where this is consistent with other policies. This will be achieved by:

1. Ensuring that all new development is located where the highway network can satisfactorily accommodate traffic generated by the development or can be improved as part of the development.
2. Ensuring that major development is located in areas that are accessible by sustainable travel modes or can be made accessible as part of the proposal.
3. Referring to appropriate parking standards as laid out in national guidance, or any parking standards that may be produced locally.
4. Where appropriate all new development shall facilitate walking and cycling within neighbourhoods and town centres, and link with or extend identified walking or cycling routes.

Development which generates significant demand for travel or is likely to have significant transport implications (as identified within a Transport Assessment) will, where appropriate:

- Contribute to improved public transport provision
- Provide proactive facilities and measures to support sustainable transport modes including on-site features to encourage sustainable travel methods e.g. cycle path links, cycle storage facilities, bus stops etc.
- Provide and actively promote travel plans.

Other Material Considerations

The National Planning Policy Framework (The Framework)

- 5.39 The Framework supersedes all previous planning policy guidance notes and statements upon which the policies of the extant Local Plan are based. The Framework carries with it a presumption in favour of sustainable development (which should be seen as the golden thread running through both plan-making and decision-taking).
- 5.40 The Framework at paragraph 14 states that for decision taking, development proposals that accord with the development plan should be approved without delay.
- 5.41 Where the development plan is absent, silent, or relevant policies are out of date, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits or specific policies in the Framework indicate that development should be restricted.

- 5.42 In this case, footnote 9 of the Framework is applicable. Land designated as Green Belt is one policy area of paragraph 14 where it is indicated that development should be restricted. It should be noted that footnote 9 seeks to restrict development, rather than prevent it. As such, there is still a presumption in favour of sustainable development within the Green Belt, subject to other material considerations, albeit on a limited basis.
- 5.43 Paragraph 7 sets out the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:
- **An economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
 - **A social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of the present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
 - **An environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change including moving to a low carbon economy.
- 5.44 The Framework seeks to deliver a wide choice of high quality homes (paragraph 50), widen opportunities for home ownership and create sustainable, inclusive and mixed communities. In order to achieve this local planning authorities should:
- plan for a mix of housing based on current and future demographic trends, market trends and the need for different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); and
 - identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand.

- 5.45 The Framework aims to significantly boost the supply of housing (paragraph 47), to do this local planning authorities should:
- use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
 - identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
 - identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;
 - for market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five year supply of housing land to meet their housing target; and
 - set out their approach to housing density to reflect local circumstances.
- 5.46 Paragraph 49 states that housing applications should be considered with a presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up to date if the LPA cannot identify a five year supply of deliverable housing sites.
- 5.47 In this case, policies for the supply of housing contained within the adopted Core Strategy for the Staffordshire Moorlands have been assessed and it has been determined that, in accordance with paragraph 49, housing policies contained within the Core Strategy are out of date for the purposes of determining this planning application.
- 5.48 Paragraph 55 notes that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups or smaller settlements, development in one village may support services in a village nearby.
- 5.49 Paragraph 56 confirms that the Government attached great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people.
- 5.50 Planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

- 5.51 Planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.
- 5.52 Section 9 of the Framework sets out Government Policy to protect Green Belt land. Paragraph 80 re-affirms previous PPG2 guidance and sets out the five purposes for including land within the Green Belt, which are:
- 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.
- 5.53 Paragraph 87 states that as with previous PPG2 policy, inappropriate development is, by definition harmful to the Green Belt, and should not be approved, except in very special circumstances. 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.
- 5.54 Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt comprises inappropriate development, but lists limited infilling in villages, and affordable housing for local community needs under policies set out in the Local Plan as an exception.
- 5.55 Paragraph 142 of the Framework states that Minerals are essential to support sustainable economic growth and our quality of life. It is therefore important that there is a sufficient supply of material to provide the infrastructure, buildings, energy and goods that the country needs. However, since minerals are a finite natural resource, and can only be worked where they are found, it is important to make best use of them to secure their long-term conservation.
- 5.56 Paragraph 144 of the Framework gives great weight to the benefits of mineral extraction, including to the economy. Bullet point 7 of paragraph 144 states that when determining planning applications, other forms of development should not normally be permitted in mineral safeguarding areas where they might constrain future use of the land for the purposes of mineral extraction.
- 5.57 Paragraph 146 of the Framework states that mineral planning authorities should plan for a steady and adequate supply of industrial minerals by providing a stock of permitted reserves of at least 25 years for brick clay.
- 5.58 Paragraph 214 states that for 12 months from the day of publication, decision makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.

- 5.59 Paragraph 215 states that in other cases and following this 12 month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

Emerging Staffordshire Moorlands Site Allocations DPD

- 5.60 The LPA recently carried out a "Site Options" Consultation as part of the first stages of preparing a site allocations DPD.
- 5.61 The Site Options consultation invited responses and suggestions for proposed housing and employment sites to meet the housing and economic development needs identified in the adopted Core Strategy.
- 5.62 Hurst Quarry was not identified as a potential housing or employment site, however representations were submitted to the consultation in September 2015 on behalf of the applicant to suggest the re-development of the Hurst Quarry site for residential purposes.
- 5.63 The council will soon be proceeding with the next stage of its Site Allocations DPD, which will also revise the annual housing requirement up to 320 dwellings per annum following the publication of an updated SHMA. An assessment of the 5 year housing land supply is provided at Section 6 of this statement to reflect the revised annual housing requirement.

Minerals Local Plan 1999 and Emerging Minerals Local Plan for Staffordshire 2015 – 2030

- 5.64 Mineral planning in the area is subject to policies contained within the Staffordshire and Stoke-on-Trent Minerals Local Plan (1999) and the Emerging Minerals Plan for Staffordshire 2015 - 2030.
- 5.65 Section 3 of the Mineral Sterilisation Assessment by The Mineral Planning Group sets out the relevant mineral planning policies applicable to the proposals. This confirms that Hurst Quarry and its immediate surrounds are within an Area of Safeguarding for Silica sand.

Ministerial Statements

The Ministerial Statement of Brandon Lewis dated 1 July 2013

- 5.66 The ministerial statement of Brandon Lewis delivered on 1 July 2013 and published in writing on 2 July 2013 related to planning and travellers. The statement was primarily aimed towards planning decisions relating to traveller sites, however decisions relating to conventional housing were also highlighted within this statement.

5.67 Relevant extracts of the statement are provided below:

As set out in that document and in March 2012's National Planning Policy Framework, inappropriate development in the green belt should not be approved except in very special circumstances. Having considered recent planning decisions by councils and the Planning Inspectorate, it has become apparent that, in some cases, the green belt is not always being given the sufficient protection that was the explicit policy intent of ministers.

The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt.

Ministerial Statement of Brandon Lewis dated 17 January 2014

5.68 The ministerial statement of Brandon Lewis delivered on 17 January 2014 and published in writing on the same day re-affirms the Government's intentions with regard to the importance of the protection of the Green Belt. The statement was again principally targeted towards traveller sites, however again, conventional housing was included within the statement.

5.69 Relevant extracts of the statement are provided below:

The government's planning policy is clear that both temporary and permanent traveller sites are inappropriate development in the green belt and that planning decisions should protect green belt land from such inappropriate development. I also noted the Secretary of State's policy position that unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the green belt.

The Secretary of State wishes to re-emphasise this policy point to both local planning authorities and planning inspectors as a material consideration in their planning decisions.

5.70 In the context of the above ministerial statements, they simply re-affirm Government Planning Policy that was previously contained within PPG2 and policy that is now contained within both the Framework and NPPG.

5.71 The first statement from July 2013 is clear in that *each case will depend on its facts*, and in this case, it will be demonstrated that in this particular case and when considered in the round, very special circumstances exist to justify the granting of planning permission for the proposed low density housing scheme at Hurst Quarry.

Ministerial Statement – 4 October 2014 – Eric Pickles and Brandon Lewis and publication of update to NPPG

- 5.72 On 4 October 2014 Communities Secretary Eric Pickles and Housing and Planning Minister Brandon Lewis issued a ministerial statement to accompany new guidance that was published on 6 October 2014.
- 5.73 The guidance (contained within NPPG) explains that, once established, green belt boundaries should only be altered in exceptional cases, through the preparation or review of the Local Plan, which re-iterates the policy contained within the Framework. It should be pointed out that this is not new policy.
- 5.74 It also states that housing need – including for traveller sites – does not justify the harm done to the green belt by inappropriate development.
- 5.75 The above re-iterates the previous statements given by Brandon Lewis as summarised above.
- 5.76 The ability of an LPA to determine that very special circumstances exist has not been taken away, and each case must continue to be determined on its merits.

Planning Case Law

R (Basildon District Council) v First Secretary of State and Temple [2004] EWHC (Admin) 2759

- 5.77 In the context of R (Basildon District Council) v First Secretary of State and Temple [2004] EWHC (Admin) 2759 para 17, Sullivan J had said that:
- “... in planning, as in ordinary life, a number of ordinary factors when combined together result in something very special. Whether any particular combination amounts to very special circumstances for the purposes of PPG2 will be a matter of planning judgement of the decision maker.”*
- 5.78 In the case of the above, whilst this judgement was made prior to the publication of both the Framework and NPPG, a number of factors when combined together may result in something very special, the weight of which is a matter for the decision maker. As such, this will be an important consideration when considering the very special circumstances that will be advanced in this case.

Redhill Aerodrome Limited v Secretary of State for Communities and Local Government [2014] EWHC 2476 (Admin)

- 5.79 The issue in *Redhill* was, whether: (i) the words “any other harm” in ‘very special circumstances’ test in the second sentence of paragraph 88 of the Framework mean “any other harm to the Green Belt”, or; (ii) do they include any other harm that is relevant for planning purposes, such as harm to landscape character, adverse visual impact, noise disturbance or adverse traffic impact? The Court of Appeal held that the words continue to have the wider meaning in (ii), as was the position in PPG2.
- 5.80 The Court pointed out that if the first interpretation was correct, then all of the considerations in favour of granting permission would now be weighed against only some, rather than all of the planning harm that would be caused by an inappropriate development. There was no indication that such a change had been made to either the words of the policy nor in the Framework generally. Such an imbalance would be illogical. The argument advanced on behalf of the Aerodrome, to the effect that the Framework changed the context of Green Belt policy and so changed the approach to a very special circumstances decision, was rejected.
- 5.81 The appeals were allowed and the Inspector’s decision was reinstated.

Suffolk Coastal DC vs Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP vs Cheshire East Borough Council [2016]. EWCA Civ 168

- 5.82 In this case, the Court of Appeal fully considered the application of paragraph 49 of the Framework. This judgement has implications for proposals located on land designated as Green Belt.
- 5.83 To provide some context to the above judgement, the following paragraphs are taken from the Framework for ease of reference:
- “17. Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. These 12 principles are that planning should:

- *be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area.*

.....

- *.... Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth. Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities;*

.....

- *take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;*
.....”

47. To boost significantly the supply of housing, local planning authorities should:

- *“use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;*
- *identify and update annually a supply of specific deliverable(11) sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land; ...”*

“49. 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 up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

“14. At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.

For plan-making this means that:

- *local planning authorities should positively seek opportunities to meet the development needs of their area;*
- *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, 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 (9)”*

5.84 Footnotes (9) and (10) state, respectively:

“9 For example, those policies relating to sites protected under the Birds and Habitats Directives (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

10 Unless material considerations indicate otherwise.”

5.85 Thus:

- I. The full objectively assessed housing needs (paras 17, 47) must be provided for in the Local Plan unless, for example, specific policies in the Framework, including Green Belt policies, indicate that development should be restricted (para 14).
- II. Where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted (and the proposal is to be treated as sustainable development)² unless, for example, specific policies in the Framework, including Green Belt policies, indicate that development should be restricted. (para 14 and footnote 9)
- III. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (para 49).

5.86 As to (iii) the Court of Appeal in Suffolk Coastal held that:

- a) Relevant policies for (the supply of housing) means relevant policies affecting the supply of housing (para 32) – i.e. it is a broad meaning;
- b) “The ‘supply’ with which the policy is concerned, as the policy in paragraph 49 says, is a demonstrable ‘five-year supply of deliverable housing sites’.
- c) Green Belt policies may affect the supply of housing. Lindblom L.J. said:

² Cheshire East v. SSCLG [2016] EWHC 571 (Admin) 16th March 2016 per Jay J. (referring to the first indented point under the heading of decision-taking in NPPF para 14, but the same would apply to the second indented point):

“19. ... Where the second bullet point applies, because the development plan is absent, silent or relevant policies are out-of-date, the proposal under scrutiny will be sustainable development, and therefore should be approved, unless any adverse impacts significantly and demonstrably outweigh the benefits.”

Jay J. is, in my view, correct to disagree with Lang J. in William Davis Ltd v SSCLG [2013] EWHC 3058 (Admin) who considered that development must first be sustainable before the presumption in paragraph 14 applies (and some of Patterson J.’s judgment in Dartford BC v SSCLG [2015] 1 P&CR 2); and in the Suffolk Coastal decision, it may be noted that Lindblom LJ, confirmed, albeit obiter and without express reference to the relevant case law (cited at para 32 of Jay J.’s judgment) that:

“45. ... If the decision-maker finds that relevant policies of the plan are “out-of-date”, he applies the “presumption in favour of sustainable development” in the way that paragraph 14 of the NPPF requires.” (and see, too, paragraph 70)

“33. Our interpretation of the policy does not confine the concept of “policies for the supply of housing” merely to policies in the development plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites. It recognizes that the concept extends to plan policies whose effect is to influence the supply of housing land by restricting the locations where new housing may be developed – including, for example, policies for the Green Belt, policies for the general protection of the countryside, policies for conserving the landscape of Areas of Outstanding Natural Beauty and National Parks, policies for the conservation of wildlife or cultural heritage, and various policies whose purpose is to protect the local environment in one way or another by preventing or limiting development. It reflects the reality that policies may serve to form the supply of housing land either by creating it or by constraining it – that policies of both kinds make the supply what it is.

...

35. Restrictive policies, whether broadly framed or designed for some more specific purpose, may – we stress “may” – have the effect of constraining the supply of housing land. If they do have that effect, they may – again, we emphasize “may” – act against the Government’s policy of boosting significantly the supply of housing land. If a local planning authority is unable to demonstrate the requisite five-year supply of housing land, both the policies of its local plan that identify sites for housing development and policies restrictive of such development are liable to be regarded as not “up-to-date” under paragraph 49 of the NPPF – and “out-of-date” under paragraph 14. Otherwise, government policy for the delivery of housing might be undermined by decisions in which development plan policies that impede a five-year supply of housing land are treated as “up-to-date”.

...

39. ... The purpose of [footnote 9 to paragraph 14 which includes reference to Green Belt policy], we believe, is to underscore the continuing relevance and importance of these NPPF policies where they apply. In the context of decision-taking, such policies will continue to be relevant even “where the development plan is absent, silent or relevant policies are out-of-date”. This does not mean that development plan policies that are out-of-date are rendered up-to-date by the continuing relevance of the restrictive policies to which the footnote refers. Both the restrictive policies of the NPPF, where they are relevant to a development control decision, and out-of-date policies in the development plan will continue to command such weight as the decision-maker reasonably finds they should have in the making of the decision. There is nothing illogical or difficult about this, as a matter of principle.

...

45. ... If the decision-maker finds that relevant policies of the plan are “out-of-date”, he applies the “presumption in favour of sustainable development” in the way that paragraph 14 of the NPPF requires.

...

46. We must emphasize here that the policies in paragraphs 14 and 49 of the NPPF do not make “out-of-date” policies for the supply of housing irrelevant in the determination of a planning application or appeal. Nor do they prescribe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision-maker (see the speech of Lord Hoffmann in *Tesco Stores Ltd. v Secretary of State for the Environment* [1995] 1 W.L.R. 759, at p.780F-H). Neither of those paragraphs of the NPPF says that a development plan policy for the supply of housing that is “out-of-date” should be given no weight, or minimal weight, or, indeed, any specific amount of weight. They do not say that such a policy should simply be ignored or disapplied. That idea appears to have found favour in some of the first instance judgments where this question has arisen. It is incorrect.

47. One may, of course, infer from paragraph 49 of the NPPF that in the Government’s view the weight to be given to out-of-date policies for the supply of housing will normally be less than the weight due to policies that provide fully for the requisite supply. The weight to be given to such policies is not dictated by government policy in the NPPF. Nor is it, nor could it be, fixed by the court. It will vary according to the circumstances, including, for example, the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a “green wedge” or of a gap between settlements. There will be many cases, no doubt, in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 in the absence of a five-year supply of housing land. Such an outcome is clearly contemplated by government policy in the NPPF. It will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date. This is not a matter of law; it is a matter of planning judgment (see paragraphs 70 to 75 of Lindblom J.’s judgment in *Crane*, paragraphs 71 and 74 of Lindblom J.’s judgment in *Phides*, and paragraphs 87, 105, 108 and 115 of Holgate J.’s judgment in *Woodcock Holdings Ltd. v Secretary of State for Communities and Local Government and Mid-Sussex District Council* [2015] EWHC 1173 (Admin)).

...

70. The effect of a relevant policy being found to be “out-of-date” or not “up-to-date” under paragraph 49 is that the presumption in favour of sustainable development is to be applied as paragraph 14 of the NPPF provides. As we have said (in paragraph 46 above), this does not mean that the policy in question is to be disregarded. It must still be given the weight it is due in all the circumstances of the

case. In this case, for example, there was nothing wrong in the inspector finding policy NE4 to be one of the relevant policies of the local plan that was “out-of-date” under the policy in paragraph 49 but nevertheless giving it appropriate weight in the planning balance in view of its particular purpose to maintain a “green gap” between Willaston and Rope.”

- 5.87 It therefore follows that, in the absence of a 5 year supply (as is the case in Staffordshire Moorlands), relevant policies including Green Belt policies are to be regarded as out-of-date (paragraph 49). Those policies are therefore weakened – implicitly because it may be appropriate to grant permission, notwithstanding those policies, because of the need to provide a 5 year supply of deliverable housing.
- 5.88 We accept that the above conclusion, in light of the Court of Appeal ruling, does not mean that Green Belt policy carries no weight at all and that such policies are still relevant. Green Belt policy therefore needs to be weighed against other material considerations, including the context of the site at Hurst Quarry. The actual extent of the 5 year housing land supply shortfall in the Staffordshire Moorlands District will also be relevant.
- 5.89 If the relevant policies for the supply of housing are out-of-date, the wording in paragraph 49 of the NPPF in effect directs the reader to paragraph 14. The second bullet point under the heading of ‘decision-taking’ in paragraph 14 applies and planning permission should, as a matter of policy, be granted unless Green Belt policy indicates otherwise. Green Belt policy is that “very special circumstances” must be demonstrated before planning permission is granted for development of the type proposed.
- 5.90 Whilst the absence of a 5 year housing land supply in itself may not amount to “very special circumstances”, Staffordshire Moorlands District Council as the LPA must give careful thought to what cumulatively will be considered to be sufficient. We have provided the LPA with a number of considerations later on in this statement, which are considered to represent “very special circumstances” when considered cumulatively as a whole.
- 5.91 This planning statement will now assess the proposals against relevant planning policy and other material considerations and determine whether or not very special circumstances exist to justify the proposals within the Green Belt, and whether the proposals would otherwise comprise sustainable development.

6. STAFFORDSHIRE MOORLANDS HOUSING LAND SUPPLY

- 6.1 The council's latest published housing land supply assessment, setting out the position as at 31 March 2015, is contained at **Appendix A**. This assessment is based upon an annual requirement of 300 dwellings per annum. The council's assessment identifies that they can demonstrate a housing land supply of 1.84 years (including a 20% buffer), which falls well below the 5 year requirement required by the Framework.
- 6.2 The adopted Core Strategy makes a commitment to undertake an early and comprehensive review of the plan for the period 2016 – 2031 to take account of longer term development requirements. The review of the Core Strategy would also roll it forward into a single local plan combined with site allocations.
- 6.3 On 2nd March 2016, the Council agreed to a gross housing requirement of 6,080 dwellings to be delivered across the district between 2012 and 2031, which equates to a requirement to deliver 320 dwellings per annum. This is based upon an updated assessment of objectively assessed housing needs. The revised OAN therefore needs to be taken account of in the 5 year housing land supply calculation (as per *Hunston*³), until any final constrained figure is arrived at through the Local Plan review.
- 6.4 This would have the following implications for the 5 year housing land supply.

Monitoring Year	Requirement	Net Completions	Shortfall/Surplus
2006-2007	300	260	40
2007-2008	300	261	39
2008-2009	300	236	64
2009-2010	300	185	115
2010-2011	300	110	190
2011-2012	300	58	242
2012-2013	320	96	224
2013-2014	320	78	242
2014-2015	320	278	42
Total	2760	1562	1198

Table 1

- 6.5 In light of the above, there can be no doubt that there has been persistent under-delivery of housing over a 9 year period and that a 20% buffer should apply. This fact is not disputed by the LPA.
- 6.6 The LPA identify that as of 31 March 2015, they had a deliverable supply of sites to deliver 1,081 dwellings.

³ City and District Council of St Albans v R (Hunston Properties Limited) and another [2013] EWCA Civ 1610 (12 December 2013)

6.7 The five year housing land supply calculation would therefore be as follows:

Draft Plan Requirement	320	
Supply	1081	
5 Year Requirement	1600	(320 x 5)
Previous under-delivery identified in table 1 above	1198	
New 5 year requirement	2798	(1600 + 1198)
New annual requirement	560	(2798 / 5)
20% buffer over 5 years	560	(20% of 2798)
Annual 20% buffer	112	(20% of annual requirement)
5 year requirement with 20% buffer	3358	(2798 + 560)
Annual Requirement over first 5 years	672	(3358 / 5)
5 year supply plus 20%	1.61	(1081 / 672)
Shortfall	-2277	(3358 - 1081)

Table 2

6.8 The significance of such a shortfall is a material consideration. It is certainly the case that taking into account the objectively assessed needs figures the shortfall in deliverable housing land to deliver both market and affordable housing in Staffordshire Moorlands is serious and highly significant. The significance of the shortfall can be highly material in this case as set out by Mr Justice Lindblom QC in *Phides*⁴:

“Paragraph 14 of the NPPF prescribes an approach to decision-making when relevant policies, including “[relevant] policies for the supply of housing”, are “out-of-date”. It does not, however, prescribe the weight to be given to the ability of a particular proposal to reduce a shortfall in housing land supply as a benefit to be put in the balance against “any adverse effects”. This is a matter for the decision-maker to judge, and the court will not interfere with that judgment except on Wednesbury grounds. Naturally, the weight given to a proposal’s benefit in increasing the supply of housing will vary from case to case. It will depend, for example, on the extent of the shortfall, how long the deficit is likely to persist, what steps the authority could readily take to reduce it, and how much of it the development would meet. So the decision-maker must establish not only whether there is a shortfall but also how big it is, and how significant. This will not be possible unless the relevant policies are correctly understood.” [60]

6.9 The above position was also accepted at paragraph 71 of *Crane*⁵.

6.10 As such, there can be no doubt that in accordance with paragraph 49 of the Framework, relevant policies for the supply of housing are out of date and that there is a presumption in favour of granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

⁴ *Phides Estates (Overseas) Limited v SSCLG* [2015] EWHC 827 (Admin)

⁵ *Crane v Secretary of State for Communities and Local Government* [2015] EWHC 425 (Admin) (23 February 2015)

- 6.11 The Richborough Estates Court of Appeal Judgement⁶, as set out in Section 5 of this Statement confirms that the absence of a 5 year housing land supply and the extent of the shortfall are relevant considerations when considering proposals for housing development within the Green Belt and that the application of paragraph 49 of the Framework applies equally to sites that are located within the Green Belt. Again, we accept that the conclusions reached in the Court of Appeal ruling do not mean that Green Belt policy carries no weight at all and that such policies are still relevant, although the extent of the shortfall and the specific site context in this case are also relevant material considerations that need to be considered in the round.

7. ASSESSMENT

- 7.1 Taking account of the site's planning context, as set out in the previous sections of this statement, it is considered that the main issues for consideration in determining this outline planning application are:
- The acceptability of the proposal in principle including whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such that very special circumstances exist to justify granting planning permission;
 - Whether the development would have an acceptable impact on matters of acknowledged importance, including highways, ecology, trees, flood risk and drainage, and heritage assets.

Acceptability in Principle

- 7.2 The application site is located outside of the settlement boundaries of both Biddulph to the south west and Biddulph Moor to the south east. The Staffordshire Moorlands Local Plan Proposals Map confirms that the site is located in the Green Belt and also within a Special Landscape Area, but is not subject to any other designations.
- 7.3 As confirmed in the Mineral Sterilisation Assessment that accompanies this outline planning application, Hurst Quarry and its immediate surrounds are within an Area of Safeguarding for Silica sand. The application site is also the subject of an extant permission for extraction, which covers an area of approximately 21 hectares and remains extant until 31 December 2036 (at which point the site would be restored in accordance with the approved restoration scheme).
- 7.4 The southern end of the site accommodates an engineering business, including associated buildings and outdoor storage areas. This part of the site comprises previously developed land.

⁶ *Suffolk Coastal DC vs Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP vs Cheshire East Borough Council* [2016]. EWCA Civ 168

- 7.5 With regard to the site's location within a Special Landscape Area, the saved Local Plan Proposals Map was originally adopted in 1998 and this is the sort of policy designation that PPS7 deprecated (at paragraphs 24 and 25) when it was subsequently published in 2004. It is therefore considered that the Special Landscape Area designation ought to have been removed long ago and is therefore itself out of date. The Core Strategy acknowledges this point where it states (at paragraph 8.6.12) that:
- "There has been a move away in national Government guidance from 'blanket' local landscape designations in favour of locally based Landscape Character Assessments. The continued use of the current Special Landscape Area designation is therefore not considered sufficiently sensitive to local landscape characteristics and it is proposed to address local landscape impact through the use of a Landscape Character Assessment instead".*
- 7.6 With the above in mind it is not considered that the site's position within a Special Landscape Area on the saved Local Plan Proposals Map has a material impact on the acceptability of the proposal in principle.
- 7.7 When considering the principle of development for housing, Green Belt policy is one of the overriding policy considerations in this case.
- 7.8 Paragraph 90 of the Framework confirms that mineral extraction is not inappropriate development within the Green Belt. Given that an extant permission exists until 31 December 2036 for extraction on this site, the site could be lawfully used for such purposes (and generate associated HGV movements and other on-site activity and resulting noise/dust/air issues related to such a use) within the scope of the extant permission.
- 7.9 Recent case law⁷ suggests that paragraph 49 of the Framework, which states that *"relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites"* also applies to the Green Belt.
- 7.10 The Court of Appeal in *Suffolk Coastal/Richborough Estates* held that:
- d) Relevant policies for (the supply of housing) means relevant policies affecting the supply of housing (para 32) – i.e. it is a broad meaning;
 - e) "The 'supply' with which the policy is concerned, as the policy in paragraph 49 says, is a demonstrable 'five-year supply of deliverable housing sites'.
 - f) Green Belt policies may affect the supply of housing.

⁷ *Suffolk Coastal DC vs Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP vs Cheshire East Borough Council* [2016]. EWCA Civ 168

- 7.11 If a local planning authority is unable to demonstrate the requisite five-year supply of housing land (which is the case in Staffordshire Moorlands), both the policies of its local plan that identify sites for housing development and policies restrictive of such development are liable to be regarded as not “up-to-date” under paragraph 49 of the Framework – and “out-of-date” under paragraph 14. Otherwise, government policy for the delivery of housing might be undermined by decisions in which development plan policies that impede a five-year supply of housing land are treated as “up-to-date”.
- 7.12 The policies in paragraphs 14 and 49 of the Framework do not make “out-of-date” policies for the supply of housing (including Green Belt) irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision. Weight is, as ever, a matter for the decision-maker (as found in *Tesco Stores Ltd. v Secretary of State for the Environment* [1995] 1 W.L.R. 759, at p.780F-H). Neither of those paragraphs of the Framework says that a development plan policy for the supply of housing that is “*out-of-date*” should be given no weight, or minimal weight, or, indeed, any specific amount of weight. They do not say that such a policy should simply be ignored or disapplied.
- 7.13 The decision maker may, of course, infer from paragraph 49 of the Framework that in the Government’s view the weight to be given to out-of-date policies for the supply of housing will normally be less than the weight due to policies that provide fully for the requisite supply. The weight to be given to such policies is not dictated by government policy in the Framework. It will vary according to the circumstances, including, for example, the extent to which relevant policies fall short of providing for the five-year supply of housing land, the action being taken by the local planning authority to address it, or the particular purpose of a restrictive policy – such as the protection of a “green wedge” or of a gap between settlements. There will be many cases, no doubt, in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 in the absence of a five-year supply of housing land. Such an outcome is clearly contemplated by government policy in the Framework. It will always be for the decision-maker to judge, in the particular circumstances of the case in hand, how much weight should be given to conflict with policies for the supply of housing that are out-of-date. This is not a matter of law; it is a matter of planning judgment.
- 7.14 In this case therefore, Green Belt policies for the Staffordshire Moorlands may be considered to be out of date. In terms of the specific context in this specific case, the Council has a material shortfall in its housing land supply of 2,277 dwellings. This equates to some 7.1 years of housing land supply. Furthermore, the council is currently consulting on its site allocations plan and Core Strategy review and proposes to release land from the Green Belt across the District to meet objectively assessed housing needs. It is therefore clear that the existing extent of the Green Belt is constraining the delivery of housing across the District.
- 7.15 Notwithstanding the above and in accordance with Green Belt policy it needs to be determined whether or not a proposal for housing is appropriate development within the Green Belt. If the proposal is deemed to be inappropriate development, then consideration needs to be given as to whether or not very special circumstances exist to justify the proposed development.

Appropriate Development?

- 7.16 Paragraph 89 of the Framework states that the construction of new dwellings in the Green Belt is inappropriate. Exceptions include buildings for agriculture and forestry, replacement buildings, appropriate facilities for sport and recreation, limited extensions or alterations to existing buildings, limited infilling in villages or the partial or complete redevelopment of previously developed land.
- 7.17 In this case the proposal would, in part, comprise the redevelopment of previously developed land. However, given that the proposal includes the construction of homes on parts of the site that do not comprise previously developed land, the proposal overall is inappropriate development by definition within the Green Belt.

Very Special Circumstances

- 7.18 As referred to earlier, in the context of *R (Basildon District Council) v First Secretary of State and Temple* [2004] EWHC (Admin) 2759 para 17, Sullivan J had said that:

“... in planning, as in ordinary life, a number of ordinary factors when combined together result in something very special. Whether any particular combination amounts to very special circumstances for the purposes of PPG2 will be a matter of planning judgement of the decision maker.”

- 7.19 In this case, one or a number of factors combined could amount to the very special circumstances required to justify inappropriate development in the Green Belt.
- 7.20 The very special circumstances that are being advanced by the applicant are summarized as follows:
- The proposal includes a significant element of previously developed land, including a number of substantial existing buildings that are not associated with mineral extraction;
 - The remainder of the site comprises a quarry with a lawful fallback position for sand extraction to continue for a further twenty years;
 - There is no longer significant demand for sand/sandstone from this site and a combination of an inability to recycle/blend aggregates at the site and the rapid run-down of mineral extraction at the nearby White Moss Quarry (which now has the benefit of planning permission for housing) renders mineral (Silica Rock) at Hurst Quarry uneconomically viable to extract for the foreseeable future;
 - The combination of the above presents an opportunity to bring forward the permanent cessation of quarrying activity at the site and the relocation of the engineering business at the southern end of the site by way of the proposed residential development of the site, which would in turn deliver resulting benefits including those summarized below;

- The lawful fallback position of a potential further twenty years of sand extraction at the site would result in adverse impact on the amenity of occupiers of residential properties nearby by way of noise and dust from extraction operations, as well as vehicle movements by HGVs and employee vehicles along Hurst Road which impact on both residential amenity and the local highway network. As such the proposal would result in betterment for the existing residents in the area and local highway network;
- The topography of the site that has resulted from mineral extraction would ensure that any development is contained, and the escarpments surrounding the site would prevent any pressure for further encroachment into the countryside in this location by providing defensible boundaries from development;
- The proposal would otherwise not compromise the five purposes of including land within the Green Belt;
- Staffordshire Moorlands District Council are currently preparing a site allocations plan, which follows on from the overall development strategy for the area advocated in the Core Strategy. Both the Core Strategy and the emerging site allocations plan accept a need to release land from the Green Belt to deliver the homes that are needed. The release of this site from the Green Belt for housing would result in the redevelopment of both previously developed land and an already scarred landscape, which would reduce pressure to release other Green Belt sites in the area that are virgin greenfield sites and/or make a positive contribution to landscape character;
- The proposal offers the potential to enhance biodiversity in the local area and avoid further tree loss that may result from further quarrying activity at the site, whilst low quality self-seeded trees within the site that would be removed to accommodate the proposed development would be replaced by native tree planting;
- As set out earlier, the proposal would make a material contribution to the LPA's housing land supply shortfall, which is significant such that it renders the LPA's housing supply policies out of date and the Green Belt policies for the Staffordshire Moorlands may be also considered to be out of date;
- The proposal would also make a material contribution (£500,000) towards the provision of off-site affordable housing;
- The proposal would have significant and wide ranging economic, social and regeneration benefits for the local area. The proposal would result in social and economic benefits, through the provision of housing to meet a significant and demonstrable shortfall in the council's 5 year housing land supply, and in addition, the proposal would also result in local economic and environmental benefits.

7.21 The key considerations above are addressed in more detail below, which is followed by an assessment of the impact of the proposal on other matters of acknowledged importance. Conclusions on the case for very special circumstances and overall planning balance are set out in section 8 of this statement.

Previously Developed Land and Comparison of Impact on Green Belt

- 7.22 The southern half of the site comprises previously developed land that is occupied by substantial buildings in terms of floor space, height, and volume. Existing buildings on the site are currently in use for both commercial and storage purposes that are not associated with any quarrying/extraction operation. As such, these buildings, along with associated areas of hardstanding and other land within their curtilage are considered to be previously developed land.
- 7.23 The sixth bullet point of paragraph 89 of the Framework allows for the limited infilling or partial or complete redevelopment of previously developed land within the Green Belt. As such, an assessment needs to be made as to the extent of previously developed land and buildings in comparison to the extent of dwellings proposed.
- 7.24 The existing buildings currently have a footprint of 2,754.18m², and vary in height to take account of the various functions that take place within them.
- 7.25 In terms of the extent of the proposed development, it is accepted that the proposals extend beyond the extent of the previously developed part of the site. However, this extent of the proposed development is justified by the overall case for very special circumstances that has been put forward and the supporting viability appraisal (discussed later in this statement).
- 7.26 With regard to the proposed dwellings, the sketch site plan is submitted for indicative purposes, however the proposed dwellings would each have an approximate building footprint of between 115m² and 132m² square metres. Assuming the largest footprint for all 29 dwellings as a worst case scenario, the residential development would have a combined building footprint of 3,828m². Applying the mid-point of this range in footprint of the homes on the sketch site plan (123.5m²) as an 'average' footprint would reduce the combined building footprint to 3,582m².
- 7.27 The proposals would result in a maximum increase in footprint of 1,074 square metres (an increase of 39%), reducing to 828m² (a 30% increase) if the 'average' footprint is applied.
- 7.28 As such, in terms of a quantitative assessment, it is acknowledged that there would be an increase in built footprint as a result of the proposals. However, the fact that the proposal includes, in part, the redevelopment of previously developed land that accommodates substantial buildings is an important factor to weigh in the balance when assessing the case for very special circumstances and the planning balance overall.
- 7.29 Furthermore from the perspective of a qualitative assessment of the proposal, it would replace a number of substantial unsightly and prominent buildings at the southern end of the site with a larger number of generally smaller/lower scale buildings spread out across the site. A low density development of high value homes with a high quality design and landscape setting is envisaged (the final details of which would be secured at reserved matters stage if outline consent is granted), which are factors that would mitigate the impact of the proposal on the openness of the Green Belt and deliver improvements to the character, appearance and visual amenity of the Green Belt as compared to the extant appearance of the

site/buildings and potential further scarring of the landscape that would result from up to a further twenty years of quarrying activity (albeit that a restoration scheme would need to be implemented following completion of such activity). The content of the Design and Access Statement, Landscape and Visual Appraisal and Urban Design Appraisal are also relevant to an assessment of the impact of the proposal in these respects.

Minerals Considerations

- 7.30 The Mineral Sterilisation Assessment by The Mineral Planning Group that accompanies this application states that Hurst Quarry is an active, albeit low output quarry, that is currently undergoing its first periodic review (ROMP) as part of the relevant legislation.
- 7.31 The assessment goes on to conclude that a combination of unfavourable geological horizons (a combination of glacial erosion and bedding plane dip angle) and the imminent cessation of mineral extraction at the “sister” White Moss Quarry, Alsager (which now has the benefit of a residential planning permission) has, at this time, rendered the mineral reserve at Hurst Quarry uneconomically viable to extract.
- 7.32 To expand upon the above, and as set out earlier, there is no longer significant demand for sand/sandstone from this site and a combination of an inability to recycle / blend aggregates at the site and the rapid run-down of mineral extraction at the nearby White Moss Quarry (which now has the benefit of planning permission for housing) renders mineral (Silica Rock) at Hurst Quarry uneconomically viable to extract for the foreseeable future. It should be noted that in 2012, Staffordshire County Council refused aggregate recycling and blending operations at Hurst Quarry, and as such, have restricted any potential use of the site for viable mineral extraction or processing.
- 7.33 In light of the above considerations, the site currently comprises scarred landscape that is not viable for use for further mineral extraction in the foreseeable future, and as such, could be utilised for other purposes, such as housing which would have more limited environmental impacts when compared to the existing lawful use particularly when taking account of the high quality design and landscaping envisaged with this proposal for low density, high value housing and the scale, appearance and prominence of existing buildings within the southern section of the application site.

Impact on Highway Network and Residential Amenity

- 7.34 The site has a fall-back position for mineral extraction until 31 December 2036. In addition, part of the site is also currently used for storage purposes as well as an existing engineering firm. As such, a significant number of goods vehicles and employee vehicles use Hurst Road, and there is scope for this number to increase should extraction activities ever intensify under the scope of the current mineral permission.
- 7.35 As such, the supporting highway technical note by SCP confirms that there is a fallback position that allows for 30 HGV movements associated with the quarrying use in each direction on a daily basis on what is considered by many local residents to be an unsuitable road for use by commercial vehicles.

- 7.36 The existing engineering business which also operates from the site has a floor space of approximately 1,750m².
- 7.37 Paragraph 27 of the Technical Note by SCP includes a table showing vehicle movements associated with the existing uses of the site, including staff and commercial vehicles. The combined use of the site for quarrying and engineering generates 25 vehicles per hour during the morning peak hour, and 22 vehicles per hour during the evening peak hour. On a daily basis, the site is anticipated to attract a total of 192 vehicles per day, which is the equivalent of 276 passenger car units per day.
- 7.38 The proposed use would generate 203 passenger car units per day (a reduction of 27% in daily flow). In addition, the proposals would remove all movements from commercial vehicles. The proposals would, as a result, lead to a material reduction in vehicular movements, which would result in betterment to the local highway network, as well as removing a use that can cause nuisance to local residents by way of noise and dust from both quarrying and engineering operations in addition to the reduction in vehicular movements.
- 7.39 As such, the above is a circumstance in favour of the proposals.

The development of a site of poor landscape and visual character would remove pressure to release other Green Belt sites elsewhere

- 7.40 Staffordshire Moorlands District Council are currently preparing a site allocations plan, which follows on from the overall development strategy for the area advocated in the Core Strategy. Both the Core Strategy and the emerging site allocations plan accept a need to release land from the Green Belt to deliver the homes that are needed. The release of this site from the Green Belt for housing would result in the redevelopment of both previously developed land and an already scarred landscape, which would reduce pressure to release other Green Belt sites in the area that are virgin green sites and/or make a positive contribution to landscape character.
- 7.41 As part of the council's evidence base, a Green Belt review has been published. The site lies within an area identified as parcel N8 within the Green Belt review. This review provides an assessment of the contribution of this area to Green Belt purposes.
- 7.42 In terms of checking the unrestricted sprawl of large urban areas, the site makes a contribution to this objective, as well as assisting in the safeguarding of the countryside from encroachment. However, as set out above, any encroachment into the countryside as a result of the proposal would be restricted purely to the site where mineral extraction has taken place, owing to the overall topography.
- 7.43 In terms of other Green Belt purposes, the area provides a limited role in terms of preventing neighbouring towns from merging into one another, and makes a limited contribution to assisting in urban regeneration by encouraging the recycling of derelict and other urban land. This proposal in any event would allow for an area of derelict/under-utilised quarry land to be recycled and remove some pressure to release other virgin Green Belt land / land that contributes positively to landscape character through the Local Plan process.

- 7.44 In light of the above considerations, the proposal would cause limited harm to the purposes of including land in the Green Belt.

Landscape Impact

- 7.45 A Landscape and Visual Appraisal (LVA) and Landscape Strategy prepared by PGLA accompanies this outline planning application.
- 7.46 As set out above, the previous quarrying activity on the site has lowered its level, leaving the site within a “bowl” with escarpments around the edges. The extraction of sandstone has resulted in the creation of a substantial scar in the landscape.
- 7.47 The topography of the site as a result of the mineral extraction would ensure that any development is contained, and the escarpments surrounding the site would limit substantially the visual impact of any housing that is provided within the site.
- 7.48 A large proportion of the boundary vegetation has remained unharmed through the extractive processes. Hedgerows with hedgerow trees are aligned to all of the boundaries and are particularly dense on the southern and south eastern edges of the site. The quarry site is subject to an approved Restoration Plan which proposes that the site be restored to a landscape that includes tree planting, grassland and the inclusion of small lakes.
- 7.49 The proposed development would provide an opportunity to enhance the landscape character by improving the current condition of the quarry site; and bring forward positive changes to its character and appearance rather than potentially wait for further quarry activity for up to a further twenty years and associated further change to the landscape before doing so.
- 7.50 The Landscape Strategy demonstrates how the perimeter treatments could form an attractive and distinct landscape edge by reinforcing the existing intermittent native hedgerows and introducing high quality planting. The proposed development will be set back into the site and relatively low in the remodelled topography to accommodate a substantial landscape buffer to the boundaries. The development will conserve and enhance the existing field boundaries and green infrastructure.
- 7.51 The assessment of the effects outlined in the LVA have been measured against the approved Restoration Plan as opposed to the current damaged condition of the site.
- 7.52 The assessment of the potential effects on the landscape concludes that there would be an immediate change in the character of the restored landscape as housing is introduced. The likely significance of effects will be Moderate / Major and Permanent Adverse. There is potential for the adverse effect being reduced to Moderate and Permanent Minor Adverse over time as the planting and landscape framework within the site matures.
- 7.53 The setting of the site would benefit from the introduced planting within the development and especially around the perimeter. The likely effects are deemed to be Moderate Permanent Minor Adverse at the operational stage becoming Moderate/Minor Permanent Neutral after the introduced planting within the site has matured.

- 7.54 The proposed development would have no significant effect on the broad landscape character. However, the landscape proposals are considered to be potentially beneficial as they are consistent with the guidelines offered for landscape management within the Staffordshire Planning for Landscape Change document.
- 7.55 The visual assessment that has been carried out as part of the LVA has demonstrated that the proposed development would have some general effects on the surrounding visual amenity. The main visual receptors that would have an effect would be taken in the proximity of the site on the eastern edge of the site and located on the Staffordshire Moorlands Walk, as seen from viewpoints 1-4 of the LVA and the assessment has concluded that the effects will be insignificant due to the long range views across the site being maintained, where currently open, and with little change in the vicinity of the sites boundary that is currently heavily screened with planting. There is also potential for the development to offer an overall improvement and enhancement to the existing hedgerow to the western boundary of the site. The long range footpath network would experience no significant effects due to landform, small settlements and the existing vegetation within the countryside.
- 7.56 In conclusion, the effects of the development on the site, landscape and visual amenity are not likely to be significant. Adverse effects that have been identified in the LVA to be present at the operation stage will be reduced and offset by the mitigation provided in the planting scheme described in the Landscape Strategy. Therefore, the findings of this report demonstrates that the site is able to accommodate residential development without causing undue harm to the landscape character and visual amenity of Biddulph, the Green Belt and surrounding countryside.

Acceptability in Other Respects

Ecology

- 7.57 Solum Environmental have carried out ecology surveys of the site, which included both desk top surveys and field surveys, the findings of which are set out in the Preliminary Ecological Appraisal.
- 7.58 The report identifies that there are no records of Great Crested Newt, bats, otter, badger, water vole or reptiles, although the site does offer some potential for breeding bird habitat.
- 7.59 The proposed development would incorporate new areas of open space and landscaping (including the planting of native species). As such, this would provide opportunities to enhance biodiversity in the local area.
- 7.60 In light of the above considerations, it is considered that there would be no ecological constraints to development and there is the potential to enhance biodiversity in the local area.

Arboriculture

- 7.61 An arboricultural survey has been carried out on site. The report establishes that significant trees are well established around the escarpments that surround the development site, and would remain largely unaffected and safe from development by virtue of their location. They also offer amenity value and continue to screen the site. The existing woodland that extends along Hurst Road and the formal planting associated with the site would also be retained and incorporated into the development.
- 7.62 The only tree loss that would arise would come from within the site along the floor of the quarry where several areas of self-seeded trees and scrub have become established.
- 7.63 Substantial new planting is proposed as part of the landscape proposals to offset tree losses within the site. Such new planting and landscaping would be subject to a designated management plan to be secured by way of a section 106 legal agreement.
- 7.64 In light of the above considerations, there would be no impact on the existing mature trees of landscape and amenity value that surround the site, and the low quality self-seeded trees within the site would be replaced by native tree planting as part of a wider landscaping strategy.
- 7.65 As such, no material objections arise from an arboricultural perspective and the proposal offers the potential to avoid further tree loss that may result from further quarrying activity at the site, whilst low quality self-seeded trees within the site that would be removed to accommodate the proposed development would be replaced by native tree planting.

Flood Risk and Drainage

- 7.66 A Flood Risk Assessment and Drainage Strategy (FRA) accompanies this application.
- 7.67 The FRA confirms that the site is located within Flood Zone 1 - an area considered to have the lowest probability of fluvial and tidal flooding.
- 7.68 The risk of surface water flooding would be mitigated through the re-profiling of site levels, ensuring that all properties would not be located within a topographical depression or a flow path. Any potential runoff would be directed onto highway areas and into the site's drainage system.
- 7.69 As the proposed development would increase the impermeable drainage area through the introduction of buildings and roads, surface water runoff rates and volumes would inevitably increase. In order to ensure that this increase would not have an impact elsewhere, Sustainable Urban Drainage Systems (SUDS) would be incorporated into the proposed development.
- 7.70 Soakaways and permeable paving would be used subject to infiltration testing. Where soakaways are not feasible, an alternative is discharge surface water runoff to watercourse.

- 7.71 The proposed dwellings would have a finished floor level 150mm above ground levels.
- 7.72 In light of the above considerations, the proposals would not be at risk from flooding, nor would they increase the risk of flooding elsewhere and would therefore be acceptable in this regard.

Heritage

- 7.73 The site is located within the setting of Biddulph Grange, which is a Grade 1 registered park.
- 7.74 A Heritage Assessment by The Heritage Collective accompanies this application which sets out the significance of nearby heritage assets and any impact of the proposal on the significance of those heritage assets.
- 7.75 The Heritage Assessment confirms that the proposal would not affect the architectural, historical, archaeological or artistic significance of Biddulph Grange. No views of, out of, or across Biddulph Grange will be affected due to the size, maturity and density of the trees and vegetation which are present on the boundaries of the park and which are present throughout much of the surrounding landscape. The mature trees around the border of the park help to evoke a self-contained character that allows Biddulph Grange, particularly the park, to feel very much distinct from its wider surroundings.
- 7.76 The proposals would take place in parts of the site that have been subject to previous quarrying activity and as such, will sit lower than the surrounding landscape, thus lessening their impact on the setting of nearby heritage assets.
- 7.77 As such, there would be no harm for the purpose of the planning balance in the Framework and the duty of preservation under Section 66(1) of Planning (Listed Buildings and Conservation Areas) Act can be achieved.

Viability

- 7.78 A residential viability appraisal has been carried out by John Broadbent Property Consultancy.
- 7.79 The report was produced utilising a recognised appraisal software package (Pro Dev for Windows 2014 / 2015) and takes into account advice contained within the HCA's Economic Appraisal Tool User Manual 2.0 dated July 2009. Due regard has been given to recent guidance published by the RICS (Financial Viability Appraisal in Planning Definitions) Theory and Practice April 2015), the Growth and Infrastructure Act and the recently published NPPG.
- 7.80 The appraisals detailed within Appendices 4 and 5 of the Viability Appraisal clearly demonstrate that viability is a significant issue on the subject site and this is therefore a material consideration in the setting of planning obligations.

- 7.81 The appraisals produced assume a scheme consistent with that detailed in the application documents and represent a good quality residential offer, which will contribute to the ongoing regeneration of the wider Biddulph area and the LPA's significant housing land supply shortfall and deliver a number of additional planning benefits.
- 7.82 With no planning obligations, the development results in a residual site value of £2,061,000. Whilst this is below the legitimate residential benchmark land value, it is still higher than the existing use value at £350,000; the landowner would receive £2,061,000, which less the cost of the land value/relocation payment to J2K Engineering of £750,000, provides an adjusted net land figure equating to £1,311,000. Thus, it can be argued that there is an incentive for the landowner to bring forward the site for development, in conjunction with the developer accepting a lower profit on GDV margin of 18%.
- 7.83 The imposition of the proposed S106 obligations of £55,155 towards education (as established via pre-application engagement with Staffordshire County Council) and £500,000 towards off-site provision of affordable housing, would cause a greater viability concern, to the extent that the landowner would receive £1,549,000, which less the cost of the land value/relocation payment to J2K Engineering of £750,000 provides a reduced land figure of £799,000, equating to a 128% increase on existing use value and therefore an incentive for the landowner to release the land for housing to help the area meet its objectively assessed needs.

8. CONCLUSION - THE OVERALL PLANNING BALANCE

- 8.1 The planning statement has been prepared to accompany an outline planning application by Renew Land Developments Limited for residential development (up to 29 dwellings) on land at Hurst Quarry, Hurst Road, Biddulph. The application includes details of access, with all other matters reserved for subsequent approval.
- 8.2 This planning statement has set out the planning history of the site, the planning policy and legislative framework within which the application must be determined, and assesses the proposed development against this framework.
- 8.3 In accordance with Section 38(6) of the 2004 Planning and Compulsory Purchase Act, the starting point for the determination of this planning application is the development plan, which comprises the adopted Staffordshire Moorlands Core Strategy in addition to the Saved Staffordshire Moorlands Local Plan Proposals Map. The latter confirms that the site is located within the Green Belt and Special Landscape Area.
- 8.4 With regard to the site's location within a Special Landscape Area, the saved Local Plan Proposals Map was originally adopted in 1998 and this is the sort of policy designation that PPS7 deprecated (at paragraphs 24 and 25) when it was subsequently published in 2004. It is therefore considered that the Special Landscape Area designation ought to have been removed long ago and is therefore itself out of date.

- 8.5 The Framework states that the construction of new buildings in the Green Belt are inappropriate, however the listed exceptions to this include 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.
- 8.6 The proposal would, in part, comprise the redevelopment of previously developed land. However, given that the proposal includes the construction of homes on parts of the site that do not comprise previously developed land, the proposal overall is inappropriate development by definition within the Green Belt. As a result, very special circumstances need to be demonstrated.
- 8.7 Following the principles established in relevant case law, one, or a combination of a range of factors can amount to the very special circumstances needed to justify a departure from the development plan in this case. In addition, paragraph 88 of the Framework also requires the decision maker to assess any harm by reason of inappropriateness with any other harm.
- 8.8 In this case, the following circumstances are advanced that are considered to outweigh any harm by reason of inappropriateness:
- (a) The circumstances at the site present an opportunity to bring forward the permanent cessation of quarrying activity at the site and the relocation of the engineering business at the southern end of the site by way of the proposed residential development of the site, which would in turn deliver resulting benefits including those summarized below;
 - (b) The proposal would make a material contribution to the LPA's housing land supply shortfall, which is significant such that it renders the LPA's housing supply policies out of date;
 - (c) Furthermore, in light of the recent *Suffolk Coastal/Richborough Estates* Court of Appeal Decision⁸, Green Belt policies for the Staffordshire Moorlands may be considered to be out of date in light of the absence of a 5 year housing land supply, the council only being able to demonstrate a 1.61 year supply. In terms of the specific context in this specific case, the Council has a material shortfall in its housing land supply of 2,277 dwellings - equivalent to 7.1 years of housing provision. Furthermore, the council is currently consulting on its site allocations plan and proposes to release land from the Green Belt across the District to meet objectively assessed housing needs. It is therefore clear that the existing extent of the Green Belt is constraining the delivery of housing in the District;
 - (d) The proposal would also make a material contribution (£500,000) towards the provision of off-site affordable housing;

⁸ *Suffolk Coastal DC vs Hopkins Homes Limited and the Secretary of State for Communities and Local Government and Richborough Estates Partnership LLP vs Cheshire East Borough Council* [2016]. EWCA Civ 168

- (e) The proposal would in part redevelop a significant portion of previously developed land which includes a large building in B2 use, other B8 storage buildings, and substantial areas of hard standing;
- (f) The proposed residential development would take place within a substantial scar in the existing landscape, and would also be set within a bowl, such that the proposal would enhance the landscape by providing landscaping to remove the landscape scar, as well as providing development within a bowl that would not be prominent in wider views in the local landscape. As well as the proposed development being contained as a result of the topography of the site that has resulted from mineral extraction and the escarpments surrounding the site, these factors would prevent any pressure for further encroachment into the countryside in this location by providing defensible boundaries from development;
- (g) The proposal would otherwise not compromise the five purposes of including land within the Green Belt;
- (h) The LPA are currently in the early stages of preparing a site allocations DPD. Both the adopted Core Strategy and the emerging site allocations DPD acknowledge that some release of land from the Green Belt is required to meet objectively assessed housing needs, and the release of this particular site for housing (which as set out above, comprises in part previously developed land, as well as scarred landscape) would remove some pressure to release virgin green fields or other sites that make a greater contribution to Green Belt purposes and/or contribution to landscape character;
- (i) The proposal would result in betterment to local residents and the local highway network through the removal of non-conforming/bad neighbour quarrying and B2 uses, which would in turn remove HGV and employee traffic from Hurst Road, and remove noise and dust emissions from the local area;
- (j) The proposal offers the potential to enhance biodiversity in the local area and avoid further tree loss that may result from further quarrying activity at the site, whilst low quality self-seeded trees within the site that would be removed to accommodate the proposed development would be replaced by native tree planting;
- (k) The proposal would have significant and wide ranging economic, social and regeneration benefits for the local area. The proposal would result in social and economic benefits, through the provision of housing to meet a significant and demonstrable shortfall in the council's 5 year housing land supply, and the proposal would also result in local economic and environmental benefits.

8.9 In terms of any other harm, the proposals demonstrate that no harm would arise as a result of ecology, arboriculture, drainage, highways, or landscape impact, and would otherwise result in some betterment in most respects.

- 8.10 A Heritage Assessment by The Heritage Collective accompanies the planning application. In accordance with s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 special regard has been paid to the desirability of preserving the setting of Biddulph Grange. The proposal would not affect the architectural, historical, archaeological or artistic significance of Biddulph Grange. No views of, out of, or across Biddulph Grange will be affected due to the size, maturity and density of the trees and vegetation which are present on the boundaries of the park and which are present throughout much of the surrounding landscape. The mature trees around the border of the park help to evoke a self-contained character that allows Biddulph Grange, particularly the park, to feel very much distinct from its wider surroundings.
- 8.11 The proposals would take place in parts of the site that have been subject to previous quarrying activity and as such, will sit lower than the surrounding landscape, thus lessening their impact on the setting of nearby heritage assets.
- 8.12 As such, there would be no harm for the purpose of the planning balance in the Framework and the duty of preservation under Section 66(1) of Planning (Listed Buildings and Conservation Areas) Act can be achieved.
- 8.13 In light of the above conclusions, the range of circumstances put forward in this specific case are considered to amount to the very special circumstances required to justify a departure from the development plan in terms of allowing residential development in the Green Belt.
- 8.14 In our professional opinion, planning judgement can be exercised in this case given the recent Suffolk Coastal/Richborough Estates Court of Appeal Decision in the context of the LPA not being able to demonstrate a 5 year housing land supply and proposals to release Green Belt land across the district to enable the authority to meet objectively assessed housing needs, which it has materially failed to do over the Core Strategy plan period so far. There are a range of circumstances that we have put forward in support of the case. Whilst some of the circumstances presented on their own may not amount to very special circumstances, the range of circumstances put forward are considered to amount to very special circumstances in combination. As set out in our planning statement, in the context of *R (Basildon District Council) v First Secretary of State and Temple* [2004] EWHC (Admin) 2759 para 17, Sullivan J had said that:
- “... in planning, as in ordinary life, a number of ordinary factors when combined together result in something very special. Whether any particular combination amounts to very special circumstances for the purposes of PPG2 will be a matter of planning judgement of the decision maker.”*

- 8.15 The above sits squarely with the most recent Court of Appeal decision referred to above. The LPA in this case is entitled to exercise planning judgement as per the findings in *Tesco Stores*⁹ that the range of circumstances we have put forward do amount to very special circumstances and that the release of Green Belt in this case can be justified. The council can recommend approval in this case on the basis of the range of circumstances put forward, and can do so without fear of legal challenge. The courts will not interfere with matters of planning judgement.
- 8.16 We therefore invite the Council, on the basis of the range of circumstances put forward, to recommend approval of this proposal which would have significant and wide ranging economic, social and regeneration benefits for the local area.
- 8.17 The proposal would result in social and economic benefits, through the provision of housing to meet a significant and demonstrable shortfall in the council's 5 year housing land supply, and in addition, the proposal would also result in local economic and environmental benefits.
- 8.18 This planning statement demonstrates overall that very special circumstances exist to justify the proposed development and that such very special circumstances outweigh any harm caused by inappropriateness, and any other harm. In accordance with Section 38(6), the LPA is respectfully requested to grant outline planning permission.

Knights Professional Services Limited

April 2016

⁹ *Tesco Stores Ltd. v Secretary of State for the Environment* [1995] 1 W.L.R. 759, at p.780F-H

Appendix A

SMDC Housing Supply as at 31 March 2015

STAFFORDSHIRE MOORLANDS HOUSING DELIVERY SCHEDULE

HOUSING SUPPLY – 31st March 2015

Sub-area	Commitments		TOTAL SUPPLY		TOTAL DELIVERABLE SUPPLY	
	Balance under Construction (Gross)	Planning Permission (Gross)	Gross	Net	Gross	Net
LEEK	209	272	481	472	481	472
BIDDULPH	126	50	176	162	176	162
CHEADLE	27	89	116	112	116	112
RURAL	138	206	344	335	344	335
DISTRICT	500	617	1117	1081	1117	1081

Definitions

Total Supply – Total supply over the next 5 years. Comprises of balance of all dwellings under construction and all unimplemented sites with valid planning permission.

Total Deliverable Supply – Number of dwellings on sites which are assessed to be deliverable over the next 5 years. Comprises of balance of all dwellings under construction and all unimplemented sites with valid planning permission, but excludes uncommitted sites identified in the Strategic Housing Land Availability Assessment which may be deliverable over the next 5 years.

Gross – The gross figure includes proposed new build dwellings and gross gains from change of use and conversions.

Net – The net figure is the gross figure less any proposed losses through change of use, conversions and demolitions.

Sub-area – Based on parishes of Leek, Cheadle and Biddulph and other rural parishes.

HOUSING COMPLETIONS – 31st March 2015

Sub-area	Completions 2006/7		Completions 2007/8		Completions 2008/9		Completions 2009/10		Completions 2010/11		Completions 2011/12		Completions 2012/13	
	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net	Gross	Net
LEEK	77	77	106	105	64	62	76	75	50	48	34	17	41	41
BIDDULPH	40	40	44	41	18	17	7	- 4 *	8	8	7	7	6	6
CHEADLE	9	9	20	20	27	26	47	46	5	2	1	1	37	37
RURAL	134	134	95	95	134	131	69	68	53	52	34	33	12	12
DISTRICT	260	260	265	261	243	236	199	185	116	110	76	58	96	96

Notes -

* 11 losses in the year

**37 losses in the year

Sub-area	Completions 2013/14		Completions 2014/15		Total Completions	
	Gross	Net	Gross	Net	Gross	Net
LEEK	15	-22**	174	149	637	552
BIDDULPH	78	71	61	60	269	246
CHEADLE	3	3	32	31	181	175
RURAL	28	26	40	38	599	589
DISTRICT	124	78	307	278	1686	1562

5 Year Land Supply Assessment

A.	Completions from April 2006 to 31st March 2015	=	1562
B.	Under Construction as at 31 st March 2015	=	500 gross
C.	Sites with Planning Permission as at 31 st March 2015	=	617 gross
D.	Losses as at 31 st March 2015	=	36
E.	Total Supply [B + C – D]	=	1081 net
F.	Housing Requirement (2006-2026)*	=	6000
G.	Annual Requirement [F/20]	=	300
H.	Target Completions (April 2006 to 31 st March 2015) [Gx9]	=	2700
I.	Current shortfall [H-A]	=	1138
J.	5 year requirement with shortfall [(Gx5)+I]	=	2638
K.	Annual 5 year requirement with shortfall [J/5]	=	528
L.	20% buffer moved forward [(Gx5)x20%]	=	300
M.	Annual Requirement with shortfall and 20% buffer [(J+L)/5]	=	588
N.	No. of years supply [E/M]	=	1.84 years

Notes - * Core Strategy requirement as adopted 26th March 2014

Comments

- Net completions between 1/4/14 and 31/3/15 are the highest since 2006. This is predominantly due to Ascent, a joint venture between Staffordshire Moorlands District Housing and Your Housing Group to build affordable housing units across the Staffordshire Moorlands.
- Past completions and deliverable supply is highest in Leek.
 - Completions in Leek since 2006 = 552 (net)
 - Deliverable supply in Leek = 472 (net)
- Past completions and deliverable supply is lowest in Cheadle.
 - Completions since 2006 = 175 (net)
 - Deliverable supply in Cheadle = 112 (net)
- There are a number of permissions which have been granted since 31/3/2015 for residential development which will be included in the next 5 Year Land Supply Assessment. These include the Former Colourworks, Biddulph (19 units), Barnfields Road, Leek (175 units) Russell Grove, Werrington (31 units) Turners Pasture, Cheadle (36 units) Former Council Offices, Cheadle (10 units), Mill Street. Leek (21 units).