



Appeal Decision

Hearing held on 5 April 2017

Site visits made on 4 and 5 April 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2017

Appeal Ref: APP/B3438/W/16/3159689

Bee Cottage, 17 Saltersford Lane, Alton, Staffordshire ST10 4AU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr RS/M Jackson/Geal against the decision of Staffordshire Moorlands District Council.
 - The application Ref SMD/2015/0435, dated 2 July 2015, was refused by notice dated 17 June 2016.
 - The development proposed is described as 'residential development of 23 residential dwellings'.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 22 residential dwellings at Bee Cottage, 17 Saltersford Lane, Alton, Staffordshire ST10 4AU in accordance with the terms of the application, Ref SMD/2015/0435, dated 2 July 2015, and the plans submitted with it, subject to the conditions set out in the schedule attached to this Decision.

Application for costs

2. An application for costs has been made by Mr RS/M Jackson/Geal against Staffordshire Moorlands District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was amended from 23 dwellings to 22 dwellings during the course of the application and I have considered the appeal on this basis. This is reflected in paragraph 1 above.
4. The application was submitted in outline, with all matters reserved except for the access. I have dealt with the appeal on that basis, treating proposed site layout plans as illustrative, except in relation to the access.
5. The Council confirm that reason for refusal 2 should refer to Policy T1 of the Staffordshire Moorlands Local Development Framework Core Strategy (Core Strategy) Development Plan Document (2014) not Policy TR1 and I have dealt with the appeal on this basis.
6. The Supreme Court's judgment¹ of 11 May 2017 concerning the interpretation of paragraph 49 of the National Planning Policy Framework (the Framework) and its relationship with paragraph 14 of the Framework was issued following the hearing.

¹ Suffolk Coastal district Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council

Parties have had the opportunity to comment on the judgment, the implications of which are reflected in my reasoning below.

Main Issues

7. The main issues in this case are:

- Whether the proposal would be premature having regard to the emerging site allocations document taking into account the existing development plan and housing supply such that it would prejudice the plan making process;
- The effect of the proposal on highway safety with specific reference to the access;
- The effect of the proposal on the living conditions of the existing occupiers of No 7 Uttoxeter Road, Glenfield, Orchard View and residents along Uttoxeter Road with specific reference to privacy, outlook, noise and disturbance; and
- Whether the proposal can make satisfactory provision for surface water drainage.

Reasons

Prematurity, development plan and housing supply

8. The development strategy of the Staffordshire Moorlands Core Strategy (Core Strategy) Development Plan Document (2014) is to concentrate the bulk of new housing in the towns of Leek, Biddulph and Cheadle. Within the rural areas Policy SS6a of the Core Strategy identifies larger villages including Alton as the most sustainable settlements and able to accommodate the bulk of rural development after the towns. The development boundaries of the Staffordshire Moorlands Local Plan 1998 have been saved until they are reviewed under the emerging Site Allocations Document.
9. Consultation on site options and development boundaries was undertaken in July 2015. The appeal site was originally included as a potential suitable site. However, in a subsequent consultation in April 2016 on Preferred Options Sites and Boundaries the site was not included as a preferred housing allocation and was excluded from the proposed settlement boundary.
10. Planning Practice Guidance² states that in the context of the Framework and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and other material considerations into account. Refusal of planning permission will seldom be justified where a draft local plan has yet to be submitted for examination. The Plan has yet to be submitted for examination; however, the Council consider that the proposal is of such a scale as to prejudice the plan making process.
11. The Council acknowledge that Alton is a sustainable location for small scale development; however, it considers that the appeal proposal represents incremental development and that further housing beyond existing permissions and the proposed site allocation would not be sustainable. Whilst Policy SS6a identifies Alton as a larger village and rural service centre, the Council and local residents point to the Development Capacity Study which shows that the village is the eighth smallest village listed in the policy with fewer services and facilities. Residents

² Planning Practice Paragraph 014 ID: 21b-014-20140306

consider that the village has reached a tipping point and that further development would put pressure on infrastructure and services.

12. I acknowledge that the only bus service is soon to be withdrawn from the village and consequently residents would be reliant on the private car to access higher order services in nearby towns. Nevertheless, Alton has a range of services including a primary school, GP surgery, village convenience store, village hall, post office/newsagents, churches, sports pitch/playing field, mobile library and local employment opportunities at the nearby theme park. Consequently, there are a range of services within walking distance of the site to meet the day-to-day needs of future residents. In light of the range of services within the village, I agree that the settlement is a sustainable location for small scale development.
13. The latest Strategic Housing Market Assessment (SHMA) (2016) states that objectively assessed need is likely to fall within the range of 250 dwellings per annum and 440 dwellings per annum. The SHMA advises that a lower figure would give rise to adverse housing, economic and other outcomes. A figure at the top end of the range would be significantly higher than the annual housing requirement set out in the existing Core Strategy. Whilst an indicative housing requirement for Alton is proposed, given the stage of plan preparation and the SHMA this figure cannot be regarded as fixed.
14. Policy SS2 of the Core Strategy makes provision for 6000 additional dwellings in the District and Policy SS3 which seeks to accommodate 28% (1680 dwellings) of this housing in the rural area. The initial consultation proposed 25 dwellings for the village of Alton. However, due to the number of planning permissions for residential development which have already been granted planning permission since the initial options stage this figure has been reduced to 13 dwellings. The preferred site for development in Alton is now site number AL012, known as 'Capri'. There is a resolution to grant planning permission for approximately 13 dwellings on the site, however, the section 106 has not yet been signed. A planning application for another site known as Ivy Cottage was withdrawn. Consequently, these sites are by no means guaranteed sources of housing supply.
15. I have had regard to the fact that the appeal site taken together with the preferred site Capri would result in a population increase in the village of Alton of more than 10% which the Council and residents consider to be substantial. Whilst I do not underestimate these concerns, there is no cogent evidence before me that the Council's indicative housing requirement would be the maximum which the infrastructure, services and facilities of the village could support or that the proposed additional development of 22 dwellings would somehow represent a tipping point in terms of capacity. For example, concerns were raised by residents regarding the capacity of the school; however, I note that the education authority did not request a contribution. As the plan has yet to be submitted for examination and in light of the significant shortfall of housing land the indicative requirement of 25 dwellings cannot be regarded as a maximum.
16. The proposal is within the quantum of development estimated for Alton and even taking into account existing commitments, permissions and the preferred housing site, the proposed development for 22 dwellings within the overall allocation of 6000 would not be so substantial either individually or cumulatively as to prejudice the emerging strategy or the plan making process. Consequently, the application cannot be regarded as premature.
17. Policy SS6a states that where development is required to be met on land outside the built-up area this will only be small scale and on sites which relate well to the built-

up area, can be assimilated into the landscape and have good access. The Policy thus appears to allow some flexibility for housing outside the built-up area. The proposal would be small-scale and whilst the appeal site is situated outside the existing settlement boundary of Alton it is enclosed by residential development on the majority of the southern boundary and along its western boundary.

Consequently, I consider that the site relates well to the built-up area. Whilst detailed landscaping proposals are not before me, the indicative plans show that it is proposed to strengthen the existing landscaping on the boundaries of the site. Hence I am satisfied that the proposal could be assimilated into the landscape with a satisfactory scheme. I, therefore, consider that the proposal does not conflict with Policy SS6a.

18. However, there is no evidence before me to suggest that the development would meet an essential local need and as the proposed development would be situated outside the existing settlement boundary conflict arises with Policy SS6c of the Core Strategy and the settlement boundaries set out in the Local Plan.
19. For the reasons stated, I conclude that the proposal would not be premature to the emerging Preferred Options Sites and Boundaries or prejudice the plan making process. The proposal would contribute to housing land supply and support a local service centre in accordance with Policies SS2, SS3, SS6 and SS6a of the Core Strategy. Nevertheless, I consider that conflict with Policy SS6c of the Core Strategy is such that the proposal should be regarded as being in conflict with the development plan as a whole. It is, therefore, necessary to consider whether there are material considerations that indicate that permission should be granted, notwithstanding this conflict.

Highway Safety

20. The development would utilise an existing access on Uttoxeter Road. It was originally intended to also have another access from Saltersford Lane; however, this was omitted on the basis of advice from the Highways Authority. There is scope for a cycle/pedestrian link to Saltersford Lane.
21. The Council's highways consultant generated Trip Rate Information Computer System (TRICS) data to estimate the likely traffic generated by the development. The results indicated that the proposed development would generate a total of 18 vehicular movements in the AM peak hour period and 19 vehicular movements in the PM peak hour period. This equates to approximately one additional vehicle on the existing network every three minutes. This evidence was not challenged by the appellant. No survey work has been carried out by either main party in relation to existing traffic flows on Uttoxeter Road.
22. The Council and local residents are concerned that the traffic generated by the proposal would have a significant impact when added to existing traffic flows, although this did not form part of reason for refusal 2. Uttoxeter Road is one of the main traffic links to the nearby theme park and thus experiences seasonal increases in traffic. There are only two routes to the theme park and hence 50% of the traffic comes via Uttoxeter Road.
23. The appellant acknowledges the effect of the theme park on traffic flows and indeed at the time of my site visit (1700) the predominant traffic flows were from the theme park towards the Uttoxeter Road/Saltersford Lane junction. Although there was a steady flow of traffic leaving the theme park there were only relatively short queues at the junction which did not extend back to the appeal site. I acknowledge that at peak times during the summer holidays that queues may be worse.

24. The Council's highway consultant acknowledged that the impact of the traffic generated by the development on peak flows would be low in summer months relative to the volume of traffic and I agree. When the theme park is closed the traffic flows along Uttoxeter Road are likely to be significantly less and hence the amount of traffic generated by the development would represent a higher proportion of existing traffic flows. Nevertheless, the road would have much greater capacity out of season to accommodate the increase in traffic arising from the development. Given the low level of traffic generated, I do not consider that the proposal would have a materially significant effect on traffic flows compared to the existing situation either within or outside the theme park season.
25. The existing access is to be widened to 5 metres with a bell mouth opening onto Uttoxeter Road. Visibility splays of 2.4m x 45m are proposed on land entirely within the adopted highway boundary. Whilst some cars park along Uttoxeter Road which restricts visibility to a degree, given the straight stretch of road it is, nevertheless, possible to have sufficient advance notice of approaching cars. Furthermore, there is no cogent evidence before me to suggest that either the existing access or other vehicular accesses along Uttoxeter Road have resulted in highway safety issues. In any event the access could achieve a much greater visibility splay due to the depth of the pavement and nature of the road if so required.
26. Furthermore, the widened access would extend for a length of 20 metres into the site enabling any vehicles entering the site to avoid any vehicles exiting the site and vice versa. Vehicles would not, therefore, have to queue on the highway whilst awaiting the passage of another vehicle. Consequently, I consider that the proposed access onto Uttoxeter Road would not result in harm to vehicular or pedestrian safety.
27. The access would narrow down to single track width outside of the property Orchard View. Concerns have been raised by the Council and local residents as to whether this section would be wide enough to accommodate the vehicular carriageway, a footpath and landscaping. In addition a service strip of approximately 2m may be required were the road to be adopted. Particular concerns were raised as to whether a fire engine could pass this point without mounting the pavement.
28. Paragraph 6.37 of the appellant's statement indicates that the gap between the northern and southern boundaries is approximately 5m at this point confirmed by measurements taken at the accompanied site visit (approximately 5.2m). The Manual for Streets (MfS) indicates that a carriageway width of 3.7m is required for the passage of a fire engine which allows for operating space at the scene of a fire. The appellant indicated that the landscaping strip could be reduced to a minimum of 0.5m and a footpath would be a minimum of 1.8m which would leave a carriageway width of approximately 2.7m-2.9m.
29. The MfS states that to simply reach a fire the access route could be reduced to 2.75m over short distances, provided the pump appliance can get to within 45m of dwelling entrances. If a developer wishes to reduce the running carriageway width to below 3.7m they should consult the local fire safety officer and it is not clear whether this has been done. Nevertheless, the carriageway width of approximately 2.7-2.9m would meet the minimum carriageway width for the passage of a fire engine as set out in MfS. Furthermore, the carriageway would widen out again beyond this into the site.
30. There is a hedge on the southern boundary and there is the possibility it may clip the wing mirrors of a fire engine. As such, there is a small possibility that the fire engine may need to mount the pavement, however, given that the fire engine and

other vehicles would be moving slowly at this point any risk to pedestrian safety would be very low.

31. Reference was made to the level change at the point at which the access road would change direction into the site beyond Orchard View which the Council considers would restrict driver visibility. However, the incline is not significant and the bend would be relatively gentle. As such I consider that there would be sufficient forward visibility to see on-coming vehicles and pedestrians. Furthermore, vehicles would be travelling slowly at this point. Taking these factors in combination, I consider that the risk of any vehicular or pedestrian conflict would be low.
32. A separate service strip could not be accommodated at the narrowest point of the road; however, services could be provided via Saltersford Lane. This would be a matter for the appellant to resolve with the highway authority and service providers.
33. Concerns were also raised regarding the safety of the access to Orchard View. When a car is parked in the driveway of Orchard View, there is insufficient room for another vehicle to turn within the site. Hence, vehicles may need to reverse out into the access road with the potential for conflict with oncoming vehicles. Whilst this is a current situation there would, nevertheless, be an intensification of the use of access road. However, as vehicles would be moving slowly at this point, I consider that any risk of collision would be low. The positioning and extent of the proposed landscaping along this boundary can be agreed through reserved matters to ensure that it does not unduly restrict visibility. Attention has also been drawn to the junction of Uttoxeter Road and Saltersford Lane; however, I note that this is not included in the reason for refusal and there is no cogent evidence before me that the proposal would result in harm to highway safety at this junction.
34. For the reasons stated, I consider that the proposal would not cause harm to highway safety. It would not, therefore, be contrary to Policy T1 of the Core Strategy which states that the Council will promote and support development which reduces reliance on the private car for travel journeys and reduces the need to travel by ensuring that new development is located where the highway network can satisfactorily accommodate traffic generated by the development. Furthermore, no conflict would arise with paragraph 32 of the Framework which states that development should only be prevented or refused on transport grounds were the residual cumulative impacts of development are severe.

Flood Risk

35. Policy SD4 of the Core Strategy states that 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.
36. Paragraph 100 of the National Planning Policy Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The Planning Practice Guidance (PPG) states that on major developments it is expected that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. Planning authorities should consult the relevant lead local flood authority on the management of surface water.

37. The appeal site falls within Flood Zone 1, and is not shown at risk of fluvial flooding as shown on the Environment Agency's Flood Map for planning. The risk of flooding to the site is less than 0.1% in any one year and the site lies outside the 1 in 1000 year floodplain, with an annual probability of fluvial flooding of 0.1% (1 in 1000) or less. There is no detailed modelling or broad scale "Jflow" fluvial modelling for this area due to the small catchment size of less than 3km².
38. A high level flood risk assessment (FRA) has been prepared which informed the preparation of a Strategic Drainage Plan. This shows proposed surface water connections, leading to a surface water retention pond designed for a 1 in 100 year +30% climate change storm event. The pond would have a hydro-brake system installed to restrict outflow from the pond to the equivalent of greenfield run-off rates (7.2 litres per second). A new surface water connection to a nearby culverted watercourse would then be provided. Maintenance of the drainage system would be to adoptable standards, or could be maintained via a private management company. The appellant considers that the proposal would ensure that run-off rates are no greater than that which would be associated with existing run-off rates from the site.
39. The Lead Local Flood Authority (LLFA) (Staffordshire County Council) has no objection in principle to the proposed development. However, the updated Flood Map for Surface Water shows the areas of land where surface water could be expected to collect and flow during extreme events. An extract of the map for the location of the appeal site has picked up a flow route that runs along the eastern boundary and the Strategic Drainage Plan shows the location of the culverted watercourse to the east of the site.
40. Whilst the LLFA is not aware of any formal recorded incidents of flooding there is anecdotal evidence from Alton residents that the appeal site floods. There is also anecdotal evidence that surcharge from foul sewers has been experienced in the Saltersford Lane area. I noted on my site visit that the land in the south east corner of the site is not well drained.
41. The FRA flood risk assessment concludes that overland flow would be intercepted by the eastern water course. The final proposed discharge point for surface water outflows is a culvert which is situated outside the redline boundary, to the east of the development site. The LLFA requested a CCTV survey of the culvert in order to ascertain its condition and whether it could accommodate attenuated flows but as the culvert is within third party ownership this was not forthcoming. The appellant considers that this could be dealt with by a Grampian style condition requiring the necessary survey work of the culvert to be carried out and I agree.
42. Paragraph 30 of the Planning Practice Guidance states that the objectives of a site specific flood risk assessment are to establish, among other matters, whether a proposed development is likely to be affected by current or future flooding from any source. Whilst a sewer could be requisitioned to the culvert itself, any failures or deficiencies would, nevertheless, require remediation. If the culvert is in disrepair, works would be required to replace or upgrade the pipework, prior to any discharge from the site; however, this could also be required by condition.
43. In the event that third party consent cannot be secured to explore the suitability of the existing culvert, the appellant points to the fact that under Section 98 of the Water Industry Act 1991 provisions exists for a sewerage undertaker to provide a new sewer or lateral drain in response to a requisition request made by a land owner/developer. Or alternatively discharge into the mains sewer that runs along Saltersford Lane. Consequently, a drainage solution exists in any event.

44. The PPG reinforces that on major developments it is expected that sustainable drainage systems for the management of run-off are put in place, unless demonstrated to be inappropriate. The approach would be in accordance with the hierarchy of drainage options as a balancing pond is being provided to attenuate flows to that of green field run-off rates and connection to a mains sewer would only occur should connection to the nearby water course not prove feasible. Thus I consider the approach is in accordance with the PPG.
45. The Framework requires that flood risk is not increased elsewhere and on the evidence before me I am satisfied that a drainage solution exists which can be secured by means of a Grampian condition. Paragraph 009 (ref ID:21a-009-20140306) of the PPG provides guidance on the use of conditions prohibiting development authorised by the planning permission until a specified action has been taken. It states that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. Whilst the appellant does not know who the landowner is, there is equally no evidence before me that there is no prospect of the landowner giving consent or that the works could not be secured within the time limit of the permission. Consequently, I consider that the test set out in the PPG has been met.
46. Attention is drawn to an appeal decision³ in which the inspector concluded that there was insufficient evidence to demonstrate that a sustainable drainage solution could be provided and that a condition would not be appropriate to address the issue. However, this case relates to a different Council area and I am not aware of the evidence which was before the inspector. Furthermore, I cannot be certain that the range of drainage solutions available in the current appeal proposal were available in this case. The case is not, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to it in my Decision.
47. On the basis of the above I conclude that with the condition, the proposed development would make satisfactory provision for surface water drainage. Consequently, the proposal would not conflict with Policy SD4 of the Core Strategy or the Framework.

Living Conditions

48. The proposal would utilise an existing access point from Uttoxeter Road. The existing access road serves properties known as No 7 Uttoxeter Road (No 7), Glenfield, Orchard View and Bee Cottage. This would be the primary access road serving the proposed 22 dwellings.
49. The main front elevation of No 7 faces onto the proposed access drive and contains windows serving habitable rooms. However, the property is set well back by approximately 9 metres behind a post and rail fence and a front garden. It is proposed to plant landscaping on either side of the access road in order to protect against headlights. I consider that this would sufficiently safeguard the privacy of the occupiers of No 7 and also protect occupiers from the glare of headlights. Due to the distance from the access road the occupiers would not suffer unduly from noise or disturbance. Consequently, I consider that the proposal would not have an adverse effect on the living conditions of the occupiers of No 7.
50. Glenfield is situated on the southern side of the access road. The gable end is approximately 1m back from the access road. It has a long curtilage enclosed by a mature leylandii/conifer hedge which encloses the rear garden and a semi-mature hedgerow enclosing its front garden. It is proposed to reinforce the landscaping to

³ Appeal reference APP/C1435/W/16/3142802

the northern edge of Glenfield adjacent to the access road in order to protect the occupiers from headlights from cars turning into the access. I consider that this would address the issue of headlights and also protect the privacy of occupiers. Issues were raised regarding land ownership and the position of services on this boundary; however, there is no cogent evidence before me on these matters. In any event, I consider that the exact location and nature of the landscaping can be determined at reserved matters stage.

51. Orchard View is situated facing the access road and set back from the access drive by approximately 4m. There is a projecting bay window at ground floor level which serves a living room facing towards the access road. A low level boundary fence defines the boundary together with a hedge which commences just after the bay window and which extends down the access lane and around the perimeter of the rear garden. It is proposed to plant a hedge along the southern boundary of the access road from the existing hedge in front of the property in order to provide privacy and protect against car headlights. Whilst this would result in the loss of some outlook the living room is also served by patio doors which face onto the rear garden and thus the occupiers would have sufficient outlook from this room. The proposed landscaping would also mitigate the impact of headlights from cars. The positioning of the landscaping would need to ensure that some visibility for the access was retained.
52. Cars would pass by the property in close proximity as they do at present; however, the number of trips would intensify as a result of the development. As such there would be a change in the living conditions of the occupiers of Orchard View. Although there is a slight incline from the south of Orchard View, the narrow section of carriageway outside of this property would act as a natural traffic calming measure and cars would, therefore, be travelling at slow speeds. Whilst there would be a change in the living conditions of the occupiers of Orchard View, taking into account the slow speed at which cars will be travelling and the location of Orchard View on the access road at present, I do not consider that the effect of the increased use of the access would be so significant that it would render living conditions unacceptable.
53. Concerns are also raised by residents along Uttoxeter Road whose gardens would back onto the site. However, the indicative plans show that there would be substantial buffer planting along the western boundary of the site which would prevent overlooking or disturbance to those properties.
54. I, therefore, conclude that the proposal would not cause material harm to the living conditions of the occupiers of No 7 Uttoxeter Road, Glenfield, Orchard View or residents along Uttoxeter Road in terms of privacy, outlook or noise and disturbance. The proposal would not, therefore, be contrary to Policy DC1 of the Core Strategy which states that new development should protect the amenity of the area, including residential amenity, in terms of satisfactory daylight, sunlight, outlook, privacy and soft landscaping.
55. Furthermore, the proposal would not be contrary to paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.
56. Submissions were made in relation to the residents' human rights, with specific reference to Article 1 of the First Protocol of the Human Rights Act 1998 (the Act) which concerns enjoyment and deprivation of possessions. In addition Article 8 states that everyone has a right to respect for his home and private life, his home and correspondence. These are qualified rights, whereby interference may be

justified in the public interest. The occupier of Overdale considers that the appeal would breach the aforementioned provisions due to noise, smell, pollution, the dominating effect of the development and the loss of surrounding countryside. However, I have concluded that the proposal would not have a materially harmful effect on the living conditions of surrounding occupiers. There is no evidence before me to suggest that the development would result in odours or pollution. In any event, I have imposed a condition relating to unexpected contamination and soil importation to ensure that all potential risks to human health are known and dealt with via remediation or management of those risks. Furthermore, I consider that the proposal could be assimilated into the landscape with a satisfactory landscape scheme. Consequently, I do not consider that the proposal would interfere with residents' rights under Article 1 or Article 8 of the Act.

Other Matters

57. Concerns have been raised by residents regarding the effect of the proposal on wildlife; however, it is proposed to create a 10m buffer along the eastern edge of the site adjacent to the open countryside which will provide the opportunity to create habitats linked into the surrounding landscape. The proposed surface water retention pond will also create a habitat of conservation value. Furthermore, a condition requiring additional survey work and an Ecological Management Plan are imposed. The significant 10m buffer would also create a pleasant environment for users of the public footpath to the east of the site.
58. A completed section 106 agreement has been signed by the parties which includes obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy.
59. Policy H2 of the Core Strategy requires developments to deliver 33% affordable housing on site. It is proposed to provide 7 affordable housing units, or 33% as part of the development. The Section 106 agreement confirms the provision. In these circumstances, I consider that this element of the obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
60. Policy C2 of the Core Strategy states that the Council will promote the provision of high quality recreational open space by implementing and supporting schemes that will protect and improve the quantity, quality and accessibility of open space and outdoor sports, leisure and children's play facilities throughout the District. Due to the size of the development there is no requirement for on-site play areas or open space and as there is a play area and playing field nearby.
61. The section 106 agreement makes provision for off-site financial contributions towards the development, maintenance and/or refurbishment of the existing playing fields (£48,216) and play space contribution (£38,640) at Hurstones Lane, Alton in accordance with the Council's Supplementary Planning Guidance Public Open Space 2004. The development will provide family housing which will generate a demand for play space and playing fields. In these circumstances, I consider that this element of the obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
62. In principle I am, therefore, satisfied that there is sufficient evidence to demonstrate that the need for the contributions arise from the development and that the contributions are necessary to make the development acceptable in planning terms. I also consider that the contribution is directly and fairly and reasonably related in

scale and kind to the development and meets the test set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the National Planning Policy Framework (the Framework).

63. From 6th April 2015, Regulation 123 of the Community Infrastructure Levy (CIL) Regulations state that no more than 5 obligations can be used to fund particular infrastructure projects or infrastructure types which could be funded through CIL. The Council has confirmed that no other contributions have been requested for this project/site since 6 April 2010 and the contribution, therefore, meets the tests set out in Regulation 123 of the CIL Regulations. I have, therefore, taken the Section 106 agreement into account in my Decision.

Conditions

64. In addition to the standard time limit conditions for outline permissions and the submission of reserved matters (1, 2, 3) I have imposed a condition specifying the relevant drawings as this provides certainty (4).
65. As the development is outline I have imposed a condition (5) restricting the development to 22 dwellings in order to define the scope of the permission. I have attached a condition (6) requiring details of permanent foul and surface drainage to be submitted and approved in order to ensure proper site drainage.
66. A condition (7) requiring the submission of an Ecological Management Plan (EcMP) is necessary in the interests of nature conservation. I have amended the wording of the condition in the interests of brevity. The condition requires an EcMP to be approved by the Local Planning Authority and their consideration can include an assessment of the relevance of the detail outlined in the suggested condition. I have also amended the wording of the condition to ensure that the survey work is carried out in advance of the preparation of the EcMP as the protected species and any potential impacts can only be known after the relevant surveys have taken place. A further condition (8) is necessary to ensure the protection of existing trees and hedgerows which are to be retained.
67. The Council have suggested a condition requiring full details of the layout of the site including disposition of roads and buildings and provision of parking, turning and servicing within the site curtilage, means of surface water drainage and surfacing materials. However, the layout of the site would be submitted at the reserved matters stage and hence the Council's suggested condition would duplicate condition 1 in this respect. Also, the submission of surface drainage details, including the investigation of sustainable drainage techniques is required by condition 6. Consequently, I have not imposed the Council's suggested condition as it would duplicate conditions 1 and 6.
68. Conditions (9 and 10) requiring further details of the access, road layout, traffic management and connections through the site for pedestrians and cyclists are necessary in the interest of highway safety and sustainable transport.
69. Conditions relating to a Construction Method Statement (11) and a noise assessment (12) are necessary to protect the living conditions of existing occupiers of surrounding residential properties during the construction phase and also future occupiers. Further conditions (13, 14) relating to unexpected contamination and soil importation are required to ensure that all potential risk to human health, controlled waters and the wider environment are known and dealt with via remediation or management of those risks.

Planning Balance

70. Paragraph 49 of the Framework 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 housing land. At September 2015 the Council's housing land supply was 1.84 years with a 20% buffer and consequently the Council acknowledge that it cannot demonstrate a five year supply of housing land.
71. Paragraph 59 of the recent Supreme Court judgment makes it clear that the primary purpose of paragraph 49 is to trigger the operation of the tilted balance in paragraph 14 where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. Consequently, in light of the significant shortfall of housing in the District paragraph 14 is triggered regardless of whether the relevant policies are deemed to be policies for the supply of housing.
72. Whilst this does not change my duty to determine the proposal in accordance with the development plan it, nevertheless, alters my approach. I have concluded that the conflict with Policy SS6c of the Core Strategy is such that the proposal should be regarded as being in conflict with the development plan as a whole. It is, therefore, necessary to consider whether there are material considerations which indicate that permission should be granted, notwithstanding this conflict.
73. Paragraph 14 of the Framework states that where the development plan is absent, silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. The Supreme Court judgment clarifies that footnote 9 of the Framework also includes relevant development plan policies. In light of my conclusions on the main issues, there are no policies in the Framework or the development plan relating to footnote 9 which indicate that development should be restricted or refused.
74. I have concluded that the proposal would be in a sustainable location and that it would not be premature to the emerging site allocations document. The proposal would also make a modest contribution to housing land supply and make provision for affordable housing in accordance with Policy SS2 and SS3 of the Core Strategy and paragraphs 49 and 50 of the Framework.
75. Moreover, the proposal would support a local service centre in accordance with Policy SS6a of the Core Strategy and paragraph 55 of the National Planning Policy Framework (the Framework) which states that housing should be located where it will enhance or maintain the vitality of rural communities. The proposal would also have economic benefits in the short term during the construction phase and in terms of future occupiers supporting local businesses in the longer term. These factors weigh significantly in favour of the proposal.
76. Whilst the proposal would conflict with Policy SS6c of the Core Strategy, given the extent of the shortfall of housing supply, I give limited weight to this conflict. Although there would be a change in the living environment of nearby residents, I have concluded that these changes would not be unacceptable or materially harmful. I have also concluded that the proposal would make appropriate provision for surface water drainage and would not have a materially harmful effect on highway safety.
77. Consequently, I conclude that there are no adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal in terms of the provision of housing, including affordable housing when assessed against the

policies in the Framework taken as a whole. The proposal, therefore, represents sustainable development and permission should be granted in accordance with the presumption in favour of sustainable development.

Conclusion

78. For the reasons stated and taking all other considerations into account, the appeal should be allowed subject to the conditions set out in the schedule attached to this Decision.

Caroline Mulloy

Inspector

APPEARANCES

FOR THE APPELLANT:

Rob Duncan	Planning Consultancy
Gareth Small	Drainage consultant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Jane Curley MRTPI	Staffordshire Moorlands District Council
Bob Hindhaugh BSc /TEP FIHE; MIHT	Highways Consultant

INTERESTED PERSONS:

Hannah Hogan	Staffordshire County Council
Councillor Stephen Ellis	Staffordshire Moorlands District Council
Councillor Forester	Staffordshire Moorlands District Council
Councillor Worthington	Staffordshire County Council
Alan Walters	Resident
Donald Hurst	Resident
Jonathon Shepherd	Resident
Paula Gwinnet	Resident

Documents submitted at the hearing:

- 1) Extract from SMDC website entitled Policies Maps

Schedule

Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 00408_AL(0) 01F.
- 5) The development hereby permitted shall not exceed 22 dwellings.
- 6) No development shall take place until comprehensive details of permanent foul and surface drainage proposals for the site have been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:-

- Final drainage calculations for the site as they contribute to the site network;
- Infiltration tests for use of soakaways;
- Final drainage layouts including sustainable drainage principles;
- Details of how the scheme shall be maintained and managed in perpetuity after completion, and;
- Details of the landscaping and safety features of any balancing ponds.

Before accepting any surface water flows into the sewerage network (which in any case shall be limited to greenfield run-off rates), evidence must be provided that the use of soakaways and other sustainable drainage techniques have been investigated and demonstrated not to be feasible. The scheme shall be fully implemented and subsequently maintained in accordance with the timing/phasing arrangements embodied within the approved scheme. No dwelling hereby permitted shall be occupied until the 'approved drainage scheme' including any works to improve the existing public foul sewerage network so that it is able to cope with the flows from the proposed development have been completed.

- 7) No development shall take place (including any site clearance) until an EcMP (Ecological Management Plan) and a Landscape Management Plan (LMP) has been submitted to and approved in writing by the Local Planning Authority. The detailed scope and content of the EcMP and LMP, survey work and method statement shall be agreed with the Local Planning Authority in advance of their preparation.

Survey work shall be carried out in advance of the preparation of the EcMP in order to ensure that it identifies protected species and any potential impacts. Surveys shall include:

- badger survey;

- reptile survey;
- bat survey; and
- a check for breeding birds. If nesting birds are located, work shall cease until nesting is completed and fledged young have departed the site.

The EcMP must include all avoidance, mitigation and compensation measures to address impacts on legally protected species. The approved EcMP and LMP shall be fully implemented in accordance with the details and timescales set and maintained thereafter.

- 8) No development shall take place (including any site clearance, stripping, site establishment and formation of new access) until temporary protective fencing and advisory notices for the protection of the existing trees and hedges to be retained shall be erected in accordance with guidance in British Standard 5837:2012 *Trees in Relation to Design, Demolition and Construction – Recommendations*, and as set out in the RGS Pre-development Arboricultural Survey Report dated January 2016 submitted in support of the application, and shall be retained in position for the duration of the period that development takes place, unless otherwise agreed by the LPA. Within the fenced areas there shall be no excavation, changes in ground levels, installation of underground services, provision of hard surfacing, passage of vehicles, storage of materials, equipment or site huts, tipping of chemicals, waste or cement, or lighting of fires unless otherwise agreed by the Local Planning Authority.
- 9) Notwithstanding any details shown on the approved plans, no development shall take place until revised access details indicating the scheme of traffic management comprising of an extended build out, raised surfacing, road marking and signing to provide carriageway and footway access into the site from Uttoxeter Road and provide priority to vehicles entering the site over those exiting have been submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be carried out in accordance with the approved details, be completed prior to first occupation and shall thereafter be retained as such for the lifetime of the development.
- 10) No development shall take place until details of connections through the site and onto the public highway for pedestrians and cyclists have been submitted to and approved in writing by the Local planning Authority and shall thereafter be constructed in accordance with the approved plans.
- 11) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;

viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 12) Except for works of site clearance and demolition, no phase of the residential development shall take place until a site specific noise assessment and scheme for protecting the proposed residential units for that phase of the site from external noise has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall have due regard for the British Standard 8233:2014 (Sound insulation and noise reduction for buildings) and shall be designed to achieve noise levels of less than 35 dB LAeq in bedrooms, less than 40 dBLAeq in living areas and less than 55 dB LAeq in outdoor living areas. Pre-completion tests shall be carried out to verify compliance with this condition. A report shall be produced containing all raw data and showing how calculations have been made. No dwelling within that phase hereby permitted shall be occupied until the approved works to that dwelling have been completed in accordance with the approved details.
- 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 14) No soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material shall be submitted to and approved in writing by the Local Planning Authority. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validity evidence shall be submitted to and approved in writing by the Local Planning Authority prior to the soils being imported onto site.