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Chief Executive

Mr S Harris
Emery Planning Partnership Ltd
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Macclesfield
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SK11 8BS

Mr I Fowler
Wain Homes (North West) Ltd
Kelbum Court Daten Park
Cheshire
WA3 6UT

Application no: SMD/2017/0387

Determined on: 11/09/2017

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015

REFUSAL OF PLANNING PERMISSION

Location of Development:
Land Off WARDLE GARDENS LEEKBROOK LEEK STAFFORDSHIRE

Description of Development:
Proposed erection of 41 dwellings

Staffordshire Moorlands District Council in pursuance of powers under the above mentioned Act hereby **REFUSE** to permit the development described above in accordance with plans ref: for the reason(s) specified below:-

1. The application site lies within Flood Zone 3 of the Leek Brook as defined by the Environment Agency Flood Map for planning (Rivers and Sea) as having a high probability of flooding. The site also lies adjacent to the Leek Brook, which flows into the River Churnet, which is downstream of the site. Both of these watercourses are designated as "main rivers". The application is supported by a Flood Risk Assessment (FRA), which was undertaken in support of the previous refused planning permission (SMD/2014/0544) and has not been revised for this proposal. It is set out that new guidelines for climate change allowances were published in February 2016 to take into account higher flood levels that are anticipated as a result of climate change and therefore as a result, the FRA does not consider the impact of this. In these circumstances, the FRA is considered to be outdated and does not comply with the requirements as set out in the NPPF and the supporting planning guidance. This is further contrary to Adopted Core Strategy Development Plan Document Policies SS1 and SD4.

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2. The proposed development is unacceptable owing to its drainage design and flood risks arising from the proposal. In particular, the proposal is not acceptable because:

   a) The proposed flood storage area is sited outside of the red line boundary and occupies land not currently within the applicant's control.
   b) The proposal advocates a dual usage pond to accommodate both fluvial volumetric compensation and storm water balancing in one device, outside of the application site. Floodplain compensation relies on removing an equivalent volume and area of land outside of the floodplain to that which is lost by any development within the floodplain. Compensation should be made on a level for level basis instead of in terms of volumetric compensation.
   c) Drawing No. CHWY_URS_XX_XX_DR_DR_00002, Rev 01 shows a proposed development platform of 142.30mAOD and the base level of the pond set at 138.30mAOD. It is proposing a 4.0 metre deep pond, regardless of water level. This is a health and safety risk given the sheer depth of the pond and given that the side slopes are unlikely to be a 1 in 3 slope, it would make maintenance difficult and the pond unsafe. In the event of someone falling in, escape would be difficult. Due to the depth, this device would pose a major risk next to a residential development site.
   d) The proposal requires mitigation to take the site out of the functional floodplain of the Leek Brook with the baseline model results predicting flooding on the development site in a 20 year return period event both when flood events coincide on Leek Brook and the River Churnet. The URS Technical Note in support the hydraulic modelling shows that one source of flooding occurs from direct overtopping of the right bank of Leek Brook onto the development site in a 20 year return period event. In accordance with Table 3 of the NPPF, 'more vulnerable' development is not permitted in Zone 3b and that the exception test is required for development in Flood Zone 3a.

   In these circumstances, the proposal does not comply with the requirements as set out in the NPPF and the supporting planning guidance. This is further contrary to Adopted Staffordshire Moorlands Core Strategy Development Plan Document Policies SS1 and SD4.

3. Core Strategy Policy E2 'Existing Employment Areas' states that 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. The proposal would clearly result in the loss of an existing employment site, at a time, when there is a shortfall in the supply of such sites and the loss would be harmful to the economic well-being of the area. Further, the NPPF encourages economic growth and the creation of employment opportunities and the development proposed would be harmful to this aim, particularly the need to ensure that adequate land remains available for such growth and

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employment. The applicant has not produced robust evidence to demonstrate that the site would not be viable or suitable for employment use having regard to the above criteria, that evidence can be provided that no suitable and viable alternative use can be found or is likely to be found in the foreseeable future or that substantial planning benefits would be achieved through redevelopment, which would outweigh the loss of the site for employment purposes contrary to the Adopted Staffordshire Moorlands Core Strategy Development Plan Document Policies SS1, SS3 and E2 in particular and the NPPF.

4. Overall, the proposed layout is overdeveloped with no space for wet woodland corridors as a biodiversity enhancement / mitigation. Wet woodland is a Staffordshire and UK priority biodiversity habitat. Evidently, the proposal would represent an intensive use of the site, which does not make provision or opportunity for any worthwhile structural landscape treatment, to address the need for mitigation and enhancement of landscape and habitat / ecology. In this sense, the proposal is not considered to be of high quality, it has not been designed to respect the site and its surroundings neither would it promote a positive sense of place nor the maintenance, enhancement, restoration and re-creation of biodiversity contrary to Adopted Staffordshire Moorlands Core Strategy Development Plan Document Policies SS1, SS6c, SS7, H1, DC1, DC3, C3 and NE1 in particular and the NPPF.

5. Insufficiently detailed surveys have been in respect of badgers and the potential of the site to support invertebrates. The development may also result in the loss of grassland that meets Local Wildlife Site criteria. The survey analysis has failed to consider this and how impacts will be mitigated and compensated. In the absence of this information, the applicant has failed to demonstrate compliance with Policy NE1 of the Staffordshire Moorlands Core Strategy, the NPPF and therefore the Local Planning Authority is unable to discharge its obligations under the Habitats Directive.

6. The proposed access driveway from Wardle Gardens would form the primary route into the site to serve 41 dwellings. In these respects, there would be an evident loss of amenity experienced by an increased number of passing cars / pedestrians to those dwellings, which would adjoin the access at Primrose Close and significantly less than the current level of residential amenity current enjoyed by them to conflict with Policy DC1 of the Staffordshire Moorlands Core Strategy in particular and the NPPF.

Informative(s)

1. The principle of such development is unsustainable and does not conform to the provisions of the NPPF. It is considered that the applicant is unable to overcome such principle concerns and thus no amendments to the application were requested.

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X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

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NOTES

1. If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

2. If the decision to refuse planning permission is for a householder application, and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

3. If this is a decision to refuse planning permission for a minor commercial application, and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

4. If this is a decision to refuse express consent for the display of an advertisement, if you want to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.

5. If you want to appeal against your local planning authority's decision for any other type of development, including listed building consents then you must do so within 6 months of the date of this notice Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at https://acp.planninginspectorate.gov.uk

6. The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

7. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

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