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## APPELLANT'S SUBMISSION

APPEAL AGAINST REFUSAL OF PLANNING PERMISISON BY

STAFFORDSHIRE MOORLANDS DISTRICT COUCIL

LA REF - SMD/2018/0116

FOR A SINGLE DETACHED DWELLING TO LAND ADJACENT

2 CANAL COTTAGES,

STANLEY MOSS LANE,

STANLEY,

STAFFORDSHIRE.

ST9 9LR

## **1. Introduction**

1.1 This document is the appellant's statement of case in respect of an appeal against refusal of planning permission for a new dwelling on land adjacent 2 Canal Cottages, Stanley Moss Lane, Stockton Brook, ST9 9 LR.

1.2 The existing site is currently a piece of the private garden land of the existing dwelling. It has a road frontage and it was occupied by a dwelling until several decades ago.

1.3 This application proposes a single dwelling, a detached 2 storey house. This new application is in detailed form with specific plans and details of the new house.

1.4 The surrounding area is dominated by dwellings and its past use as a house and garden is the rationale behind seeking planning permission to add a single dwelling on the site, in preference to any other form of development.

1.5 It is requested that the appeal be considered under the written representations procedure.

## **2. Site Description**

2.1 The site is designated as Green Belt. However, the site lies within an obviously recognisable settlement. The area around the site has the visual character of a clearly built up area, with a strong suburban character.

2.2 The site adjoins other residential properties and has a road frontage. There is an existing gated vehicular access. The site is also screened by vegetation. None of these are rare or unusual and have become overgrown.

2.3 The site is generally flat and level. There is no evidence on the site of significant biodiversity value.

2.4 There are no environmental restrictions prohibiting or severely restricting the potential for residential development of the site.

2.4 There are mains services nearby which are capable of serving the proposed additional dwelling.

2.5 The site is accessible to services and facilities by means other than a private car. Stanley Moss Lane is a long no-through road.

2.6 There are trees and hedges on the site, mainly confined to the road frontage. These are not protected.

### **3. Planning History and Constraints**

3.1 The site has not been subject to previous applications to secure additional residential development.

3.2 The site lies within the designated Green Belt. It does not lie within or within the curtilage of a Listed Building. None of the trees on the site are protected.

3.3 A Conservation Area lies within the site vicinity. It is the Caldon canal and as such is a linear designation including locks and bridges. It is considered that the development of the site will not affect the setting, character or appearance of this heritage assets.

3.4 The planning application was accompanied by a tree survey and report, and an Ecology Report. Both have previously been submitted to the Planning Inspectorate.

### **4. The planning Application SMD/2018/0116**

4.1 The consultations undertaken by the Council during the planning application process resulted in no adverse comments from statutory consultees, with the result that there are no technical reasons to refuse planning permission as matters relating to drainage and highways are satisfactory. Additionally, no issues of heritage or biodiversity arise from the development proposed. Neither will there be a significant adverse impact on the nearby Conservation Area

4.2 Objections were raised by a number of interested third parties. Copies of these have been forwarded to the Inspector by the LPA. During the consideration of the planning application Forefront Development Consulting Ltd, as agents, submitted a document entitled "Response to Objections" addressing the comments raised by the tenants of nearby dwellings. This has already been forwarded to the Planning Inspectorate.

4.3 Planning permission was refused under delegated powers by the local planning authority, Staffordshire Moorlands Council, on 25th April 2018 for the following reason.

"1. The application site is located within the Green Belt wherein the the proposed detached dwellinghouse and associated garden and domestic paraphernalia would constitute inappropriate development, harmful to the openness of the Green Belt. The proposed development would, by virtue of its siting and scale, significantly compromise openness, the essential characteristic of the Green Belt and would conflict with one of the main purposes of including land within the Green Belt namely that of safeguarding the countryside from encroachment. Local Planning Authorities are required to give substantial weight to any harm to the Green Belt. It is not considered that very special circumstances exist to justify the approval of inappropriate development in the Green Belt.

It is for these reasons that the proposal is contrary to Policy SS6c of the adopted Core Strategy Development Plan Document and national advice in the National Planning Policy Framework.”

4.4 The reasons for refusal therefore means that the majority of comments raised by the neighbours should be disregarded.

4.5 The refusal of planning permission relates solely to matters of planning policy and its relevance to the appeal site. This document addresses that issue including reference to precedents set elsewhere on comparable sites.

## **5. Proposed development**

5.1 The proposed use of the site is for a residential development, specifically detailed plans for a single house. The new dwelling would be served by an existing vehicular access.

5.2 The existing roadside hedge and trees can be largely retained, to maintain the present appearance in the street scene and partly screen the proposed new building.

5.3 The scheme has been devised to allow for a single new home. This has been laid out to provide a well-positioned and aesthetically pleasing living environment that will incorporate areas of landscaped space as well as incorporating existing trees and hedgerows. The layout corresponds to and enhances the surrounding area.

5.4 Cars associated with the new dwelling will be able to have off road parking thereby limiting their impact upon the site.

5.5 The site was occupied by a dwelling until several decades ago and as such the site still resembles a garden plot. The proposed new house will therefore reinstate a feature in the landscape.

5.6 The proposed house would benefit from a good-sized area of private amenity space. The siting devised offers an appropriate level of separation between the existing houses and the new dwelling. The proposal will therefore not result in a significant and demonstrable adverse impact to residential amenity, and accords with the provisions of policy DC1 in this regard.

5.7 The dwelling would be sited centrally within the site which means that the new house will appear with open land on all sides, creating a building with open space around it, in keeping with the existing houses in the area.

5.8 The new dwelling is modest in size, having a low eaves and ridge line. It will have a pleasing appearance without dominant features. The dwelling will not appear strident or dominant in the street scene.

5.9 The new dwelling will not be at odds with the general pattern of built form in the area. Neither will it appear cramped or over-developed.

5.10 The site frontage will include hardsurfacing for parking and maneuvering.

## **6 Planning Policy**

6.1 The site is located within the designated North Staffordshire Green Belt. This however is not, in isolation, sufficient grounds to warrant refusing planning permission for the reasons detailed below.

Paragraph 80 of the NPPF states that;

“Green Belt serves five purposes:

- 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.”

Elsewhere the NPPF states;

“88. 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.

89. A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

1. buildings for agriculture and forestry;
2. provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;
3. the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
4. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
5. limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or

6. limited infilling or 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. “

6.2 The development the subject of this application is considered to represent infilling within an otherwise built up frontage. This is assessed elsewhere in this statement. As the site is considered to be an infill, there is no requirement to demonstrate Very Special Circumstances

6.4 The original object of establishing the Green Belt was to discourage uncontrolled urban sprawl into the open countryside around our larger towns and cities and to prevent the coalescence of two or more large neighbouring towns. No-one would disagree with that broad objective; but it has resulted in unnecessary and inappropriate rigidity in the treatment of development proposals, which seeks to resist all development in the Green Belt unless either it is deemed to be ‘appropriate’ development or exceptional circumstances can be demonstrated.

6.5 Rather than this increasingly inflexible approach, the approach should be that within Green Belts, development should not be permitted which would prejudice the objectives of the Green Belt and/or which would compromise its openness. Accordingly in determining applications for development in the Green Belt local planning authorities should examine the contribution that the application site in question makes to the Green Belt (in other words, its ‘Green Belt value’). It would thus be the impact of the development on the Green Belt as a whole that would be the determining factor, rather than the ‘appropriateness’ of the development in the Green Belt (in land use terms) or any question of exceptional circumstances being required to justify the development. The essential point is that Green Belts are not and never have been intended to create wholly development-free zones in the countryside.

6.6 The National Planning Policy Framework made it clear that local planning authorities are to significantly boost the supply of housing and where, as in this case, a District does not have a five-year supply of deliverable housing sites existing policies restricting housing such as development envelopes are to be considered out of date.

6.7 In the absence of a five year supply of deliverable housing sites, the test to be applied to planning applications is that in paragraph 14 of the NPPF. Planning permission is to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole or specific policies in that document indicate development should be restricted.

6.8 Staffordshire Moorlands Housing Land Supply Statement (March 2016) is a document which sets out the Local Authority's performance in respect of housing land supply and housing delivery. It confirms that the Local Authority has a deliverable supply of housing land equivalent to 1.87 years supply.

6.9 The Local Plan process which it is part way through has to allocate at least five years supply of deliverable housing sites. To be 'deliverable' sites should be available now, offer a suitable location for development now, be achievable with a realistic prospect that housing will be delivered on the site within five years and be viable. This site meets all those criteria.

6.10 The settlement boundaries and Green Belt boundaries within Staffordshire Moorlands were adopted in September 1998, over 16 years ago.

6.11 In 2001 the Council began a review of the Local Plan, with a view to extending the plan period to 2011, but the review was suspended in 2003, and the revised Local Plan was never adopted.

6.12 The absence of an up-to-date allocation of housing sites has inevitably led to an acute housing shortfall in the District. Staffordshire Moorlands adopted its Core Strategy in March 2014. The Core Strategy identifies broad locations for both housing and employment development. It increases the housing requirement for the District and identifies those development areas which are considered central to the achievement of the strategy, and the anticipated nature and scale of development in those areas but does not identify suitable housing sites to redress their acute housing shortfall.

6.13 This Application Site is located in close proximity to Stanley, Bagnall, Endon and Stockton Brook, within the Rural Area of the Borough. The Core Strategy identifies that Rural Areas will have viable, attractive villages and smaller settlements which will continue to foster appropriate, sensitive growth and vitality to support rural living and work. The larger villages will be the rural centres for services, facilities and jobs acting to sustain the rural areas. Smaller village communities will also continue to thrive with a range of affordable housing opportunities to meet local needs and improved access to community services.

6.14 Given the absence of a fully up-to-date Local Plan, this Application will be need to be assessed against the policies contained within the Core Strategy, the housing evidence base, and the Council's housing supply requirements depending on its degree of consistency with the guidance contained within the NPPF

6.15 The Council's most up-to-date assessment of Housing Supply (31st March 2014) identifies that since April 2006 up until March 2014 the Council delivered a net 1265 housing units against the 8 year requirement of 2400 units, resulting in a housing shortfall

of 1135 units in total and a proposed housing supply of 2.17 years. This housing provision in the Staffordshire Moorlands Borough is, therefore, significantly short of the Government's expectations and minimum 5 years supply requirement (with a 20% buffer – see Paragraph 47 of the NPPF).

6.16 The Council needs to redress their current under supply and cannot wait for the adoption of the Site Allocations Development Plan Document to allocate sites if they are to accord with the National Planning Policy Framework's (NPPF's) clear message that LPA's need to "boost significantly the supply of housing" (paragraph 47) in order to make up for their persistent shortfall.

6.17 Furthermore, paragraph 49 of the NPPF identifies that relevant policies for the supply of housing (i.e. Policies should not be considered up to date if the LPA cannot demonstrate a five-year supply of deliverable housing sites, and housing applications should be considered in the context of the presumption in favour of sustainable development.

6.18 The site is located within the 'Rural Areas' of the District, with the Rural Areas being identified as accommodating 28% of the District's housing allocation, this translates to 818 residential units over the next 5 years, or 164 dwellings per annum. . This particular area has a strong relationship with the neighbouring Stoke-on-Trent housing market. The SHMA highlights that it is important to consider the contribution that this area makes to meeting the housing market requirements of the Stoke-on-Trent District, and this is an important consideration if the LPA is to meet with the Government's 'Duty to Co-operate'. Indeed, paragraph 54 of the NPPF stresses that:

"In rural areas, in exercising the duty to cooperate with neighbouring authorities, local planning authorities should be responsive to local circumstances and plan housing development to reflect local needs, particularly for affordable housing...Local Planning Authorities should in particular consider whether allowing some market housing would facilitate the provision of significant additional affordable housing to meet local needs."

6.19 The Application Site is also a short distance from Endon, a 'Large Village' that serves as a key rural service centre due to it being the fifth largest settlement in the Borough. With the exception of one small site, all of Endon's SHLAA sites are greenfield Green Belt sites located outside of the settlement boundary. The settlement has reached capacity and any future housing delivery will be reliant on the release of greenfield sites located in the surrounding Green Belt if the Council are to deliver their committed housing supply and make up for the existing shortfall.

6.20 Paragraph 49 of the NPPF identifies that housing applications should be considered in the 6.47 context of the presumption in favour of sustainable development, and policies for the supply of housing should not be considered up-to-date in the Staffordshire



Moorlands District given that the Council acknowledge that they do not have a 5-year supply of deliverable housing sites.

6.21 In defining 'sustainable development' the Ministerial Foreword to the NPPF provides a clear message to the planning profession:

"The purpose of planning is to help achieve sustainable development. Sustainable means ensuring that better lives for ourselves don't mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate."

6.22 Paragraph 7 of the NPPF indicates that sustainable development has three dimensions: economic, social and environmental. The Application Site is sustainably located and represents a sustainable form of development. It is well located to meet the future housing needs of the District and the wider Stoke-on-Trent Housing Market Area. The site is sustainably located given its relative proximity to Endon, Stockton Brook, Bagnall and Stanley. It lies within easy walk distance of a good range of services, including many everyday services such as a post office, convenience store, GP surgery, dentist, pharmacy, children's nursery and primary school. Other facilities include pubs, hairdressers, village hall, a selection of shops and leisure facilities including a golf club, tennis club and outdoor pursuits Centre.

6.23 There are mains services in Bagnall Road which are capable of serving the proposed additional dwelling. The site is accessible to services and facilities by means other than a private car.

6.24 The site has good public transport links, with bus stops within 800m of the site and further bus stops on the A53, Leek Road that link through to further services and facilities within the many villages towards Hanley, Burslem and other Potteries' Towns in the west and Leek in the east

6.25 The development of this site will not appear as an isolated dwelling in the countryside but will visually appear as infill development. It should therefore be considered as appropriate development within the Green Belt.

6.26 Given the absence of a fully up-to-date Local Plan, this proposal needs to be assessed against the policies contained within the Core Strategy, the housing evidence base, and the Council's housing supply requirements depending on its degree of consistency with the guidance contained within the NPPF.

6.27 The Council needs to redress their current under supply and cannot wait for the adoption of the Site Allocations Development Plan Document to allocate sites if they are to accord with the National Planning Policy Framework's (NPPF's) clear message that

LPA's need to "boost significantly the supply of housing" (paragraph 47) in order to make up for their persistent shortfall.

## **7 Precedents**

7.1 Staffordshire Moorlands District Council have exhibited inconsistency in their approach to planning applications for new dwellings in the Green Belt, as demonstrated below.

### **7.2 'Wyn Dene' Leek Road, Longsdon**

Planning permission was granted under SMD/2014/0748 for the erection of a dwelling within the garden area of a detached property known as 'Wyn Dene' Leek Road, Longsdon. This is also a Green Belt site. Details are attached at Appendix 1.

The Planning Officer's report on that planning application included the following remarks;

"When viewing the site in the context of the existing built form it is clear that that the land can be considered as infill development; dwellings are located to the east and west of the site within a linear roadside fronting pattern. The application site is not a back-land site, rather it has a generous length of roadside frontage, exhibiting all of the characteristics of an infill site. For the above reasons it is considered that the residential development of this site is not inappropriate development within the Green Belt."

The same considerations apply equally well to the appeal site.

### **7.3 Endon Riding School**

Planning permission for up to 10 new houses in the Green Belt was granted under SMD/2014/083 on appeal in March 2016 at Endon Riding School. This lies approximately 400m to the South East of the application site.

The Inspector's decision letter includes the following comments:-

"In that context, the main issues in this case relate to:

- whether the proposal comprises inappropriate development, having regard to the Green Belt policies of the development plan and the National Planning Policy Framework;
- highway safety;
- and whether future occupiers would have reasonable access to shops, services and facilities."

And

“The Green Belt serves five purposes: to check the unrestricted sprawl of large built up areas; to prevent neighbouring towns from merging; to assist in safeguarding the countryside from encroachment; preserving the setting and special character of historic towns; and to assist urban regeneration by encouraging the recycling of derelict and other urban land. The development proposed would be confined to previously-developed land, with an overall reduction in built form and footprint. As such, I am satisfied that the appeal scheme would not represent sprawl, it would not result in, or contribute to a merging of neighbouring towns, and it would not encroach into the countryside. It is no part of the Council’s case that the appeal site lies within the setting of an historic town and there is nothing to suggest that the appeal scheme would discourage development of previously-developed land elsewhere.”

And

“ I have found that the appeal site comprises previously-developed land. However, the Council, and others, consider the appeal site to be isolated from shops, services and facilities. In support of the appeal, the appellant refers to the ‘Accession’ output for the site,<sup>3</sup> which shows that whilst the site is remote from towns within the District, a range of facilities, including a post office, convenience store, doctor’s surgery, church, children’s nursery and a primary school, pubs, hairdressers, village hall, shops and leisure facilities are within a 2 kilometre walking distance of the appeal site, located mostly at Endon. The Core Strategy categorises Endon as a Larger Village which, together with the towns within the Authority area, are identified as being the rural centres for services, facilities and jobs, acting to sustain the rural areas and are expected to accommodate the bulk of the District’s housing and employment development needs. Further services and facilities are found within 5 kilometres cycling distance of the appeal site, in the villages towards Burslem in the west and Leek to the east. I am mindful, in this regard, that Government advice in the publication Manual for Streets suggests that walking offers the greatest potential to replace short car trips, particularly those under 2 kilometres.

24. However, the shortest walking route to Endon is along a public footpath that passes across the fields a short distance to the north of the appeal site, which heads north-west crossing the nearby canal. Moreover, the minimum distances assume links to the public footpath from the site, across land that is outside the appeal site, although it is land that is under the control of the appellant. Alternatively, the footpath can be accessed from the far end of Stanley Moss Lane. Whilst that reduces the length of the route that is traversed over fields, the lane has no footways, is unlit, and levels drop, albeit gently, towards the canal. It also increases the travel distance by around 0.2 kilometres. Travelling to Endon by road increases the journey length further still. Even then, the route is not conducive to walking, given speed limits and the absence of footways/street lighting. That said, the appeal site is reasonably close to Endon and would be within a fairly short cycling distance of the settlement, although the topography and route safety may discourage younger and less experienced cyclists.

25. Limited information is before me in relation to the bus services accessible from the site. The Council indicates that Hanley/the outer conurbation of Stoke and Leek are accessible in around 30-45 minutes by bus, with the appellant suggesting that Tunstall, Hanley and Leek, in addition to villages along the route, are within a 45 minute bus journey, including the walk to the bus stop. Whilst there are bus stops within some 800 metres of the site, they do not support frequent services to the towns/conurbation. However, the bus stops in Endon, where there are more frequent services, lie within approximately 1 kilometre of the site, depending on the route taken.

26. I recognise that the site is remote from some facilities, and therefore is not as accessible as a more central or urban location. Overall however, whilst it has some shortcomings, I am satisfied that the site does offer opportunities for walking, cycling or using public transport instead of future occupiers being wholly reliant on the private car, with any such journeys being relatively short, given the location close to a sustainable settlement. As such, I consider that, whilst not ideal, this previously-developed site is not in an unacceptably remote location, with future occupiers having what I consider to be reasonable access to shops and services. I find no fundamental conflict therefore, with policy T1 of the Core Strategy which seeks, among other things, to reduce reliance on the private car for travel journeys and reduce the need to travel generally, or with policies SS1, SD1 and SS4.”

These conclusions hold equally well in respect of the application site.

#### 7.4 Coltslow, Stanley Book Lane

The appeal decision was followed by an application SMD/2016/0561 for a single new dwelling immediately adjacent to the stables site, at Coltslow, Stanley Book Lane. This was granted planning permission by Staffordshire Moorlands District Council. The relevant sections of the Officer’s Report are as follows:

“In rural areas, policies SS6c and R2 of the Council’s Core Strategy Development Plan Document (adopted March 2014) restrict new development to specific categories.

The application site does not relate to an allocated site and the scheme proposed does not fall within any of the categories set out in those policies. However, the Council accepts that it cannot currently demonstrate a five year supply of housing land and therefore as per paragraph 49 of the Framework, paragraph 14 is triggered.

Part 6 of policy SS6c of the Core Strategy sets out that strict control is to be exercised over inappropriate development within the Green Belt, allowing only for exceptions as defined by Government policy. Among other things, paragraph 89 of the National Planning Policy Framework (the Framework) allows for the limited infilling, or 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.

The Council is satisfied that the application site comprises of previously-developed land in parts, which is defined by the building envelope, gravelled access track and loosely arranged yard. In terms of openness, the development proposed would result in a modest decrease in cubic built form. Floor area would also decrease and combined would result in a reduced impact upon the openness of this part of the Green Belt. The development scheme, however, would not be confined to previously-developed land owing to the proximity of the trees to the north/northwest application site boundary. The scheme, however, would return a greater area of brownfield land to greenfield land to neutralise this encroachment effect into the countryside. In these circumstances, there would be a conflict with the purposes of including land in the Green Belt. The scheme, however, carries clear benefits of an overall net benefit of greenfield land and the replacement of untidy buildings with a well designed dwelling to constitute very special circumstances to overcome such Green Belt harm.

The Endon Riding School appeal decision allowing residential development in respect of the adjoining site recognised that the site was not in an unacceptably remote location, with future occupiers having reasonable access to shops and services to comply with Core Strategy policy T1. "

### **7.5 Rose Cottage Moss Hill Stockton Brook**

Staffordshire Moorlands Council granted planning permission on 23/11/2017 under SMD/2017/0417 for a dwelling at Rose Cottage Moss Hill Stockton Brook. This is also a Green Belt site. Extracts from the application are attached at Appendix 2. The officers report states that

"Paragraph 89 of the National Planning Policy Framework confirms that limited infilling in villages should be regarded as appropriate development in the Green Belt. The site is clearly within the village of Stockton Brook, and as a single dwelling is "limited" in scale. The proposed development is to be positioned between Rose Cottage and Victor House within an established ribbon of development and is therefore considered to be "infilling". The principle of development is therefore considered to be acceptable."

7.5 The LPA has therefore set a precedent for the erection of dwellings in Stockton Brook on Green Belt sites.

## **8. Green Belt Analysis**

8.1 As noted above, the NPPf allows some forms of development in the Green Belt including "limited infilling in villages". It is considered that the site represents such a form of development, and as a result there is no requirement to demonstrate Very Special Circumstances.

8.2 The site is considered to be infill within a village for a number of reasons. Firstly, the site was formerly occupied by a dwelling and historically therefore was an integral part of the enclave of traditional dwellings in the vicinity.

8.3 Secondly in geographical terms, there are neighbouring dwellings to the west at Canal Cottages, to the east at Forge Cottages and north east along Stanley Moss Lane. In addition, the site is separated from surrounding open land by roads. It does not form part of a field or larger open area. The surrounding built environment appears generally built up and forms a recognisable residential cluster.

8.4 A High Court decision assessed the issue of whether a site constituted infill with a village within the Green Belt. The Court of Appeal (Sullivan, Bean and King LJ) allowed an appeal against the judgment of HHJ Mackie (sitting as a Deputy High Court Judge) in *Wood v Secretary of State for Communities and Local Government* [2014] EWHC 683 (Admin). The Appellant had appealed against the decision of Gravesham Borough Council to refuse planning permission for a single dwelling in a site which lay in the Green Belt but was surrounded by existing built development. The principal issue for the Court was the proper interpretation of one of the exceptions in the NPPF to the construction of

new buildings being "inappropriate development" in the Green Belt. Paragraph 89 provides that an exception to the general rule is "limited infilling in villages". Sullivan LJ (with whom Bean and King LJJ agreed) found that the policy required the decision-maker to consider whether, as a matter of fact on the ground, the site appeared to be in the village. The fact that the site lay outside the village boundary as designated in the development plan was not determinative of the point. In limiting himself to considering whether the proposal was within the designated village boundary, the Inspector had misdirected himself as to the proper meaning of paragraph 89 of the NPPF. The same considerations apply to this site.

8.5 An appeal APP/D2320/W/16/3154595 considered the same point. The relevant extracts from the Inspector's decision are relevant to this appeal.

"The Framework establishes that new buildings within the Green Belt are inappropriate unless they fall within certain exceptions. Paragraph 89 of the Framework gives two of these exceptions as:-

- "Limited infilling in villages..."(bullet point 5); and
- "limited infilling or 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." (bullet point 6) ..

The appeal site is amongst a clearly identifiable frontage of buildings because there is a dwelling adjoining the site to one side and a barn with planning permission for a residential conversion on the other side. The barn and its outbuildings are of a rural character; nonetheless, they are buildings which contribute to the built up frontage. Therefore, I consider that the site falls within the definition of infill as contained within LP Policy HS7 and would not extend the frontage. ..

Both parties accept that the site is outside of the settlement area; the appellant indicating that it is some 256m away from the boundary. That said, the site is within a clear continuum of development spreading out from the settlement. Notwithstanding the location of the formal boundary, there is nothing to obviously separate the site from the rest of the settlement.

Therefore, it is my view that the appeal site forms part of the settlement. Regardless of the Council's designation of Coppull as an ULSC, it would be reasonable to describe Coppull, in common parlance, as a "village". Just because it is not a "smaller village" as referred to in CS Policy 1 (f) does not mean that it not a village at all. Furthermore, Paragraph 89 does not specify what size a village must be. Neither does it specify that a village must be designated as such in the development plan nor that a site must fall within a settlement boundary. I therefore conclude that the proposal would constitute infill within a village and would therefore not be inappropriate development within the Green Belt. "

## **9 Conclusion**

9.1 Planning permission should be granted as the local plan and the policies within are considered to be out of date.

9.2 There is a presumption in favour of sustainable development set out in the NPPF and in addition where an LPA cannot demonstrate a five-year supply of housing land, as in this case, then there is a double presumption in favour of development. The Council does not have a five-year supply of housing land and that consequently its development plan housing policies should be regarded as being out of date. In these circumstances, the National Planning Policy Framework (NPPF) confirms that the key test is whether adverse impacts would significantly and demonstrably outweigh the benefits of the scheme.

9.4 Although the site lies within the Green Belt, its development for a single dwelling would not result in harm to interests of acknowledged importance as the site does not serve a Green Belt purpose. The site does not separate built up areas and does not prevent encroachment into the countryside. NPPF policies at paragraphs 89 and 90 and the Council's Policy is to exercise "strict" control on development in the Green Belt. Limited infilling within a village is an allowed exception. The appeal site meets that requirement.

9.5 The proposed dwelling would represent limited infilling in an obvious village cluster, and that it would not, therefore, be inappropriate development in the Green Belt. The council has tacitly accepted that view by the recent grant of planning permission under SMD/2016/0561 on a Green Belt site within 450m of the application site, on a piece of land without residential antecedents

9.6 In principle therefore the development of the site for residential development is acceptable in principle. Matters of parking, access, and environmental issues are satisfactory. The outstanding issue is therefore whether or not the development proposed respects the character and appearance of the surrounding area.

## **APPENDIX 1 'WYN DENE' LEEK ROAD, LONGSDON.**

### **DELEGATED REPORT SMD/2014/0748**

**MAIN ISSUES:** Principle of development (Green Belt); highways; design/visual impact; neighbour amenity; trees; Environmental Health.

**PUBLICITY/REPRESENTATIONS:** Longsdon Parish Council: Objection. Development is within the Green Belt; inappropriate development of the site; inconsistency between the Design & Access Statement and submitted plans; not in keeping with surrounding properties. County Highways; No objections on highways grounds subject to conditions. Planning Policy officer: Core Strategy policies allow for 'limited infilling in villages' otherwise new development within the Green Belt is inappropriate development. Consider design and spacing, trees, sustainability and car parking. Trees and Woodlands officer: No representations received. Environmental Health officer: Conditions recommended. Seven Trent Water: No objections subject to conditions. Neighbour notification: No representations received.

**CASE OFFICER ASSESSMENT:** Full planning permission is sought for the erection of a dwelling within the garden area of a detached property known as 'Wyn Dene' Leek Road, Longsdon. The submitted drawings show that accommodation would be spread over three floors, the third being within the roof space. Accommodation includes lounge, dining, kitchen, WC on the ground floor, four bedrooms (including two ensembles) and a bathroom on the first floor and a further two bedrooms and a single bathroom within the roof space. Other accommodation includes an integral garage and study above (within the limited roof space). A large garden (with planting) would be to the rear of the plot whilst to the front there would be additional landscaping and hard surfaces for the parking/turning of vehicles. Wyn Dene currently benefits from two vehicular accesses, it is proposed that future occupants of the new property would have the use of either (red edge application site includes both accesses).

#### **Principle of Development**

Local Planning Authorities should regard the construction of new buildings as inappropriate development in the Green Belt; one of the exceptions is for limited infilling in villages, under policies set out in the Local Plan. Paragraph 87 of the NPPF states that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF paragraph 88 requires Local Planning Authorities to place substantial weight 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. Core Strategy policy SS6 informs that the Site Allocations DPD will identify Infill Boundaries within smaller villages. The 'Smaller Villages Area Strategy' (Core Strategy policy SS6b) identifies Longsdon as a 'smaller village' where limited infilling could be allowed. As such, if the principle of development in this location is accepted then there would be no need for the applicant(s) to demonstrate very special circumstances to justify the proposal. The smaller villages strategy is to seek 'an appropriate level of sensitive development which enhances community vitality or meets a local social or economic need.' When viewing the site in the context of the existing built form it is clear that the land can be considered as infill development; dwellings are located to the east and west of the site within a linear roadside fronting pattern. The application site is not a back land site, rather it has a generous length of roadside frontage, exhibiting all of the characteristics of an infill site. For the above reasons it is considered that the residential development of



this site is not inappropriate development within the Green Belt.

**Highways** The proposal is to offer potential future occupants the option of using either of the two existing vehicular accesses. The County highways officer has advised that there are no highways objections to the application subject to conditions. It is acknowledged by the Highways officer that over the course of time, separate owners may prefer separate accesses, however the main aim would be to maximise visibility and that the fact that the accesses may be separated over time does not raise any concern with him. For these reasons it is concluded that there are no highways objections to the scheme.

**Design and Visual Impact** The proposed dwelling would be set back from the road behind a generously sized garden, in keeping with the character of the immediate built development to the west and east. Whilst the building would be seen from the roadside it would not result in any adverse visual impact upon the street scene at this point. Surrounding properties vary in size and design and there is no overriding dwelling design character in the area. The design of the dwelling itself does not cause any concern, the use of gable and bay window features allows it to tie in with the features of the existing Wyn Dene property and whilst it is large matters such as levels details, planting/landscaping and materials could be agreed via appropriately worded conditions. Window and door openings are proportionately sized with principal windows being located to the front and rear elevations of the dwelling.

**Neighbour Amenity** The siting of the proposed dwelling within its large plot does not raise any neighbour amenity concerns. A small extension to the western side of Wyn Dene would be removed in order for the application plot to be developed. The site plan shows that technically the ground floor rear section of the new build dwelling would breach the 45 degree horizontal angle taken from the mid point of the French doors within the rear of Wyn Dene. The French door serves a lounge area but it is not the only window opening, a smaller secondary lounge window currently faces the boundary with the application site. The 45 degree breach is not considered to be a reason for refusal, both plots are extremely spacious and the breach of the angle occurs at some 10m from Wyn Dene's French doors, it cannot be said that the proposed dwelling would cause any overbearing or unsatisfactory amenity impact upon the current (or future) occupants of Wyn Dene. No objections have been received from the property known as Nearacre (dwelling to the west). During the site visit it was noted that Near Acre had a bow window within its side elevation, historic planning records show that this window was originally to serve a second bedroom, it is unknown whether this internal arrangement remains the same. In any case Near Acre and the proposed new dwelling would be offset at an angle and there is sufficient space between the two properties to ensure that there would be no overbearing impact relationship.

**Trees** There are no protected trees on this site. A landscaping condition could be added to ensure that the site remains visually attractive and in keeping with the surrounding area.

**Environmental Health** The council's Environmental Health officer has confirmed that there are no objections subject to a number of standard E.H conditions. The proposed development is close to existing properties so care needs to be taken during the construction phase to ensure that these activities do not cause unreasonable disruption to neighbours.

For the above reasons it is recommended that the application is approved subject to conditions.

**RECOMMENDATION:** Conditional approval.

## **Appendix 2 ROSE COTTAGE MOSS HILL STOCKTON BROOK**

### DELEGATED DECISION REPORT

SMD/2017/0417 Valid 27/06/2017

### ROSE COTTAGE MOSS HILL STOCKTON BROOK

### DEMOLITION OF OUTBUILDINGS AND ERECTION OF DWELLING

### MAIN ISSUES

- Green Belt – principle of development; • Design; • Amenity; and • Highway safety.

### DESCRIPTION OF SITE

This application relates to land located to the east of Rose Cottage which is currently used in association with the existing site and stabling. The site forms part of an established linear pattern of development on the northern side of the highway. An existing brick built barn is positioned within the north eastern corner of the site and is to be demolished as part of the proposed scheme.

For the purposes of this assessment the site is blanketed by the Green Belt. A tree positioned on neighbouring land to the east is not served by a Tree Preservation order.

### PROPOSAL

Planning approval is sought for the demolition of an existing barn and for the construction of a detached dwellinghouse with associated outdoor amenity space and access arrangements.

### RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

S01 Spatial Objectives SS1 Development Principles SS1a Presumption in Favour of Sustainable Development SS6b Smaller Villages Area Strategy DC1 Design Considerations DC3 Landscape and Settlement Setting R1 Rural Diversification R2 Rural Housing T1 Development and Sustainable Transport

National Planning Policy Framework

Paragraph(s) 1 - 17 Section(s) 7 & 9

### SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

There is no planning site history relevant to the determination of this application.

## CONSULTATIONS

### Publicity

Site Notice expiry date: 06.10.2017 Neighbour consultation period ends: 19.07.2017 Press Advert: N/A

### Public Comments

Points raised in objection are summarised as follows:

- Overbearing impact due to change in levels;
- Loss of privacy;
- The road is incapable of supporting any extra traffic;
- Highway safety during construction;
- There is no pavement and a large number of school children use the road;
- Impacts on birds and protected species;
- Flooding;
- Rodents will be disturbed during construction work causing a potential health risk;
- Approval would set a precedent.

Points raised in support are summarised as follows:

- No problem with the new build.

Town / Parish Comments -No comments received.

Environmental Health -No comments received.

Staffordshire County Council Highways -No objection.

## OFFICER COMMENTS

### Principle of Development

In accordance with policy SS1 the Council expects the development and use of land to contribute positively to the social, economic and environmental improvements of the Staffordshire Moorlands. Policy SS1a comments that when considering development proposals the Council shall take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Stockton Brook is identified as a 'Smaller Village' by virtue of policy SS6b. Policy SS6b outlines that the smaller villages will provide only for appropriate development which enhances community vitality or meets a local social or economic need of the settlement and its hinterland.

Paragraph 89 of the National Planning Policy Framework confirms that limited infilling in villages should be regarded as appropriate development in the Green Belt. The site is clearly within the village of Stockton Brook, and as a single dwelling is "limited" in scale. The proposed development is to be positioned between Rose Cottage and Victor House within an established ribbon of development and is therefore considered to be "infilling". The principle of development is therefore considered to be acceptable.

### Design

The Government attaches great importance to the design of the built environment, which should be seen as a key aspect of sustainable development. Paragraph 55 of the NPPF advises that in order to promote

sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Core Strategy policy DC1 sets an expectation that requires all new development to be well designed to respect the site and its surroundings. Regard should be had to matters of scale, density, layout, siting, character and appearance, in line with the Council's Design SPG.

The application site forms the eastern side of the plot that is currently known as Rose Cottage. Access to the site is taken from Moss Lane which bounds the site to the south. The site falls within an established ribbon of residential development which extends along the north and southern sides of the Lane. The prevailing character of the streetscene is of properties of varying age and architectural detailing. Rose Cottage, Victor House and The Lodge are of a traditional detached cottage character and all vary in scale and general appearance. Properties to the south of the site comprise of circa 1930's ribbon development which present a much greater degree of uniformity.

The proposed development is to be positioned between Rose Cottage and Victor House. The scheme presented has taken cues from the local vernacular and proposes a modest dwellinghouse of simple form that would not appear at odds within the streetscene context.

#### Amenity

Core Strategy Policy DC1 requires all new development to protect the amenity of the area, including residential amenity, in terms of satisfactory daylight, sunlight, outlook, privacy and landscaping.

The resulting plot is bound to the east by Victor House, a detached stone built two storey cottage positioned within a spacious plot. This neighbouring dwelling is set circa 15m north of the southern boundary shared with Moss Hill and consequently the dwelling occupies an elevated position. The proposed dwellinghouse is to sit on a perpendicular angle to Moss Hill and forward of the principal elevation of Victor House. Habitable room windows are to be positioned within the east and west facing elevations of the proposed dwelling. A distance of circa 30m would remain between the rear elevation of the proposed dwellinghouse and the closest elevation of Victor House. Nevertheless, it is acknowledged that the proximity of the proposed dwellinghouse to the outdoor amenity space of Victor House would likely lead to a sense of overlooking that does not exist at present.

The east site boundary is served by a stone wall and established bushes which appear to fall under the control of the occupants of Victor House. Additionally, there are also a number of mature trees located within the south western corner of this neighbouring plot. The level of boundary treatment and the presence of these trees would serve to filter views from the proposed dwelling and limit the level of overlooking that could be achieved. Victor House is set within a spacious plot which benefits from a generous garden area. At the spacing distances achieved it is not considered that the scheme would lead to significant and demonstrable harm that would warrant a decision of refusal.

Bryn Eurn, The Crescent and Linthorpe are positioned to the south of the site on the opposite side of Moss Hill. These properties comprise of circa 1930's detached and semi-detached dwellings positioned northwards within long rectangular plots that extend southwards. It is recognised that the land slopes away from the application site and consequently these neighbouring properties sit on a lower ground level to that of the host site.

A distance of no less than 18m would remain between the southern elevation of the proposed dwelling and these neighbouring dwellings. The south elevation of the proposed dwelling is to comprise of 1 no. ground

floor window which is to serve as a secondary window to a kitchen dining room. A number of windows located within the north elevations of Bryn Euryn, The Crescent and Linthorpe serve principal accommodation. In accordance with the Council's Space About Dwellings SPG a distance of 14m is regarded as an acceptable distance in such circumstances, though this distance can reasonably be increased where a change in land levels occur. In this instance a public highway separates the application site and these neighbouring dwellings. This in itself presents a reduced level of privacy. Taking this into account the 18m the distance specified is considered to be acceptable and in accordance with the Council's Guidance and policy DC1. The private amenity space of these neighbouring dwellings would remain unaffected by the proposal.

Rose Cottage is positioned to the west of the proposed dwelling and though the home of the applicant, the LPA has a duty to consider the impact on the amenity of all adjoining sites. A distance of 18m would remain between the principal elevation of the proposed dwelling and the west site boundary. The dwelling is to be positioned forward of Rose Cottage and would present no greater overlooking than that already achieved from public vantage points, particularly given the oblique angle between windows in the front elevation and those in Rose Cottage.

#### Highway Safety

In accordance with Core Strategy policy DC1 all new development should provide for safe and satisfactory access. The proposed development would utilise the existing vehicular access that serves Rose Cottage. A number of concerns have been raised in respect of highway safety. Staffordshire County Council Highways Section has considered the details of this application and raise no objection to the scheme. It is unlikely that the addition of one dwelling would result in a significant increase in vehicular traffic and in light of the 'no objection' received from SCC Highways it is considered that a refusal on such grounds is unlikely to be substantiated.

#### Flooding

Objection has been raised in respect of flooding. The application site does not fall within a Flood Zone and is already laid to hardstanding. It is recommended that a condition be applied to secure a landscaping scheme prior to the commencement of development. A scheme for foul and surface water drainage is also to be addressed by condition that would require the approval Severn Trent Water.

#### Protected Species

This application has been supported by a Protected Species Survey that has been conducted by Stephen Gower, dated September 2016. The survey concludes that there was low potential for the building to contain a bat roost and a further detailed survey was not recommended. No breeding birds were recorded. The Council's Ecologist has considered the details submitted and raised no objection subject to a condition to secure ecological enhancements in the form of two additional bat boxes.

#### Trees

There is a large mature tree on the boundary with Victor House, which is noted on the plans for pollarding. Part of the proposed dwelling falls within the Root Protection Area of the tree and it would heavily overshadow the rear garden and windows of the proposed dwelling. The tree is not subject to a TPO and the Council's Tree Officer has confirmed that he has no objections to the proposals. Accordingly it is not

considered that a refusal on tree grounds could be sustained.

#### CONCLUSION / PLANNING BALANCE

The proposed development is considered to be of an acceptable design and scale that would not be considered to detract to the character and appearance of the application site or wider area. The development would not cause significant injury to the amenity of nearby properties or lead to a threat to highway safety. This application is therefore considered to accord with policies SS1, SS1a, SS6b, R1, R2, DC1, DC3 and T1 of the Staffordshire Moorlands Core Strategy and Chapter 7 and 9 of the National Planning Policy Framework.

OFFICER RECOMMENDATION : Approval