DELEGATED DECISION REPORT

SMD/2019/0578	**THE HAWTHORNS**	**VARIATION OF CONDITION 6**
Valid 25/09/2019	**EARLSWAY**	**OF SMD/2014/0761**
	WATERHOUSES	
		(OUTLINE - MINOR APPS)

MAIN ISSUES

The impact on the residential amenities of the area as a result of commencing works on the approved development before submitting a Contamination Risk Assessment report, required by the planning condition.

DESCRIPTION OF SITE

The site is a short distance outside of the former development boundary for Waterhouses village which lies to the north. It comprises part of a former quarry which is now occupied with industrial/storage uses and buildings ("The Hawthorns") and is accessed via an access track which adjoins Earlsway (a C class road) to the west. A dismantled railway line with car parks and kiosk building lie to north of the site down a slope towards the centre of the village. Industrial buildings lie to the south. Open land to the other side of the quarry bank (in the rear part of the site) lies to the east. The site being within the former quarry is fairly flat (other than the bank to the east) despite the sloping land down to the north and west and upwards to the east.

PROPOSAL

This is a Removal/Variation of Planning Condition application which seeks to vary one of the conditions attached to an outline planning permission (ref: SMD/2014/0761) for the erection of one dwelling close to the north-east corner of the former quarry site. The condition is as follows:-

"6. Development shall not commence further until an initial site risk assessment has been undertaken in accordance with a scheme to be agreed with the Local Planning Authority, to assess the nature and extent of any contamination on the site. Once completed, a written report of the findings and recommendations shall be submitted and approved in writing by the Local Planning Authority. If the initial site risk assessment indicates that potential risks exist, development shall not commence until a detailed remediation strategy to bring the site to a condition suitable for the intended use has been prepared, and is subject to the approval in writing by the Local Planning Authority. Prior to bringing the development into first use, a validation report demonstrating completion of the works set out in the approved remediation strategy a shall be submitted to and approved, in writing, by the local planning authority.

Reason:- To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters,

property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors."

The applicant wishes to vary the condition because the subsequent "Reserved Matters" approval for the new house expires on 12th January 2020 but works cannot commence until the above contamination risk assessment is undertaken and approved by the Council, otherwise a breach of the above condition would occur. The above assessment has not yet been undertaken but if works do not commence by the above date, the permission will expire and a new full or outline planning application would need to be submitted for the house, which would be viewed under the planning policies in operation at the time.

The applicant wishes to vary the condition to allow only the creation of a "lay-by" or car passing bay next to the access driveway (within the red line marking the application site) to be undertaken, before the contamination assessment is undertaken, in order to keep the permissions and approvals alive, as this would be deemed to be "the commencement of works" and would still allow the contamination report to still be undertaken and approved at a later date before the development of the rest of the site including the house and curtilage is undertaken.

The applicant therefore wishes to vary the above condition accordingly.

A Construction Method Statement for the proposed access drive works, aiming to demonstrate that such works could be undertaken without leading to the dispersal of contaminated material or dust, potentially affecting local residents or workers, was submitted on 12th December.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Core Strategy Development Plan Document (Adopted 2014)

DC1 Design Considerations
SD4 Pollution and Flood Risk

National Planning Policy Framework (Feb 2019)

12 (Design) and 15 (Natural Environment).

Emerging Staffordshire Moorlands Local Plan

National Policy Guidance

Emerging Policies

The Council agreed to publish the Local Plan Submission Version for representations in February 2018. At this point, the Council agreed that the Local Plan was "sound". Formal representations were then invited from residents, businesses and other stakeholders to provide them with the opportunity to support or challenge the soundness or legal compliance of the Local Plan. This stage in the

process followed three previous public consultations since 2015 which had informed the preparation of the Local Plan alongside a comprehensive evidence base.

In June 2018, the Council subsequently agreed to submit the Local Plan Submission Version to the Secretary of State for examination. An examination in public is ongoing in order to determine whether the Local Plan is sound and legally compliant. Hearing sessions were conducted in October 2018 and the Inspector issued his initial post-hearing advice in January 2019 which set out some actions for the Council and a range of modifications that would be necessary to make the plan sound. The full schedule of modifications is to be determined and will be subject to consultation in due course. The Inspector will then be in position to write his final report. Subject to the findings of the appointed Inspector, the Local Plan can then be adopted by the Council. This is expected to be in 2020. Upon adoption, the Local Plan will supersede the adopted Core Strategy and become part of the statutory development plan for the District.

In this context, the Council's position on the weight to be given to the policies contained in the Local Plan Submission Version in terms of the three criteria set out in Paragraph 48 of the NPPF is as follows:

- The stage of preparation – the Local Plan is now at an advanced stage of preparation as the Council has submitted it to the SoS for examination
- The extent to which there are unresolved objections to relevant policies – this varies depending on the policy in question. The Officer Comments section of this report identifies the level of outstanding objections to each policy and recommends the amount of weight to be given to them at this stage in the process
- The degree of consistency of policies with the NPPF – given that the Council has submitted a Local Plan that it considers to be sound, all policies are deemed to be consistent with the NPPF.

Emerging Policies

The following policies are considered to be relevant to this application:

DC1 Design Considerations
SD4 Pollution and Flood Risk

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2014/0761: Outline Planning Permission for one dwelling.
SMD/2017/0623: Reserved Matters Approval for the above.

CONSULTATIONS

Publicity

Site Notice expiry date: 20.11.19

Neighbour consultation period ends: 20.11.19
Press Advert: N/A

Public Comments

None.

Town / Parish Comments

Objection. The PC feels the original condition should stand.

Environmental Health

The Section raised initial concerns about the application and questioned why the contamination report had not been undertaken in the time since the outline approval was given and asked for a Method Statement. On the basis of this being received, the comments of the Section were as follows:

The method statement is OK, and if it is complied with, should mean that dust will be controlled and the potential for residents / workers to potentially inhale the unknown (possibly contaminated) material is reduced. Its worth noting that the statement "recent trial holes indicating virgin clay loams" is not backed with any evidence (test results pictures etc). Not clear what their definition of hazardous or contaminated substances would be (as its not described) either, but the fact that they are retaining all the spoil is welcomed. However, I am not clear precisely what areas they wish to develop and this needs to be clearly delineated in the condition.

OFFICER COMMENTS

Due to the former use of the overall site as part of a quarry, there is significant potential for the ground in which the development would be built on, to be contaminated and that construction works, including the digging of foundations, could lead to the dispersal of contiminated material or dust, potentially affecting health and safety of construction workers, users of the site and existing nearby residents. This is why a condition was added to the outline approval requiring a risk assessment be undertaken and approved before any works to the approved dwelling development began.

However, in order to commence works without causing this risk, before the required assessment is undertaken, the applicant wishes to construct just the passing bay and not the actual construction of the house and other works which would involve significant extraction works within the ground i.e. foundations. The passing bay works would involve some minor extraction and surfacing next to the existing access road. This is within the red line site boundary and such works would be deemed to be the commencement of development and keep the permission/approvals alive.

A Method Statement has been submitted outlining the exact methods of workings to create the passing bay and this has been deemed to be acceptable to the Environmental Health Section which recommends a new wording of the

condition to reflect the works allowed to be undertaken without causing risk and to follow the Method Statement.

CONCLUSION AND PLANNING BALANCE

Due to the lack of a five year housing land supply and acute shortage of housing in the area, it is in the Council's interests to ensure that new houses in sustainable locations are approved and built without delay, as required in the goverments NPPF. It is therefore considered that the contamination condition can be varied without harms arising from potential site contamination to allow limited works to be undertaken elsewhere on the site to keep the approvals alive and that this would be be more likely to prevent further delays in the provision of the dwelling that may arise from the complete resubmission of the planning applications. The condition should therefore be varied accordingly and would comply with the Core Strategy policies which seek to protect the amenities of the area and the government planning guidance in the NPPF.

OFFICER RECOMMENDATION : APPROVAL

Case Officer: Chris Johnston
Recommendation Date: 3.1.20

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council