DELEGATED DECISION REPORT

SMD/2020/0125 **Valid 05/03/2020**	**LAND AT ABBEY VIEW FIELDS BRIDGE END MACCLESFIELD ROAD LEEK**	**VARIATION OF CONDITION 1 RELATING TO SMD/2017/0696** **(RESERVED MATTERS - SMALL-SCALE MAJOR APPS)**

MAIN ISSUES

- Validity of Outline Planning Permission ref. SMD/2013/1099
- Character and Appearance
- Trees

DESCRIPTION OF SITE

The 0.96 ha previously developed application site consists of part of an enclosed area of land containing two redundant reservoirs which formerly served a nearby dye works. These take the form of indentations into the land covered with black butyl linings. Immediately to the south, and at a lower level, are houses in Bridge End and a chemical works situated on the outskirts of the town of Leek, the main settlement in the District. To the north-west is the Leek Cricket Club. For the purposes of the Saved Local Plan boundaries, the site falls within the defined development boundary for Leek, however, adjoins open countryside designated as a Landscape Character Area.

PROPOSAL

This application seeks consent for amended layout matters with reference to planning permission ref. SMD/2017/0696 for reserved matters relating to access, appearance, landscaping and scale, which followed outline planning permission ref. SMD/2013/1099 granted on appeal on the 23rd October 2014. It permitted the erection of 11 dwellings on the application site subject to the conditions as detailed in Appendix 1 of report as well as a planning obligation providing for the payment of contributions towards the provision of off-site affordable housing (£90,000) and education facilities (£22,062).

The approved reserved matters scheme ref. SMD/2017/0696 comprises of full details pertaining to the erection of 11 single storey 'bungalow' dwellings (House Type 1). These plots would be arranged around a cul-de-sac type road. Each dwelling would benefit from two frontage off-street car parking spaces and a private rear garden amenity space. Vehicular access would be taken from the existing track leading up from Bridge End via the Macclesfield Road (A523).

Changes sought comprise of amendments to the previously approved layout involving the omission of one plot (now 10 dwellings shown) and therefore re-positioning of the others to varying degree generally comprising of a tightening of the

built cluster arrangement to greater relieve the northern site entrance area of the application site. No approval has been sought to the approved access or landscaping reserved matters ref. SMD/2017/0696 in respect of the amended private driveway, hedgerow and tree planting arrangements arising from the proposed layout changes. Accordingly, these would require separate approval from the Council.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

The Development Plan comprises of:

- Staffordshire Moorlands Local Plan (Adopted 1998)
- The Staffordshire Moorlands Local Development NPPF Core Strategy (Adopted March 2014)
- The Minerals Local Plan (Adopted December 1999) Saved Policies 2007
- Staffordshire & Stoke-in-Trent Joint Waste Core Strategy (Adopted March 2013)

Staffordshire Moorlands Local Plan (1998)

Development boundaries within the 1998 Adopted Local Plan are still in force until such time as they are reviewed and adopted through the site allocations process.

Adopted Staffordshire Moorlands Local Development Framework (LDF) (26th March 2014)

The Staffordshire Moorlands Local Development Framework (LDF) is a District wide development plan which replaces the Staffordshire Moorlands Local Plan to provide a framework for delivering development up to 2026. The Core Strategy is the key LDF document. It is a strategic District wide plan which influences how and where the Staffordshire Moorlands will develop in the future. It sets out what the Council would like to achieve in each of the main towns and the rural areas outside of the Peak District National Park. The Core Strategy provides the framework for future LDF documents which will then identify specific sites for development in the District (Site Allocations Development Plan Document) and provides detailed guidance to supplement the policies (Supplementary Planning Guidance).

Core Strategy Development Plan Document (Adopted 2014)

The following Core Strategy policies are relevant to the application:

SS1 Development Principles
SS1a Presumption in favour of sustainable development
SS5a Leek Area Strategy
H1 New Housing Development
DC1 Design Considerations
DC2 Historic Environment
DC3 Landscape and Settlements
NE1 Biodiversity and Geological Resources

T1 Development and Sustainable Transport

Supplementary Planning Document

Space about Dwellings (1996)

Supplementary Planning Guidance

Staffordshire Moorlands Design Guide (2018)

Local Plan Evidence Base

Landscape and Settlement Character Assessment (LSCA) 2008 Main Report LSCA Leek Identifies a significant public footpath and open area to the east.

Emerging Staffordshire Moorlands Local Plan

National Policy Guidance

Paragraph 48 of the newly adopted NPPF states that:

"…decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Local Plan Process

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 was agreed by the Council and the subject

of public consultation between 18th September 2019 and 31st October 2019. The schedule consisted of modifications that the Inspector has deemed necessary to make the Local Plan sound. Following the consultation, the Inspector concluded that further hearing sessions were necessary to consider; proposals for safeguarded land at Gillow Heath in Biddulph, housing land supply, Local Green Spaces in Cheddleton (Ox Pasture), Biddulph (Dorset Drive and implications for the emerging neighbourhood plan) and Blythe Bridge. They were held on 4th and 5th February.

On 27th February, the Inspector issued his post hearing advice. Key recommendations in the letter include:

- The proposed safeguarded land at Gillow Health, Biddulph should be removed. Neither should the site be allocated for housing as requested by the landowners as the case for exceptional circumstances has not ben met. The land will remain Green Belt as per the Local Plan Submission Version agreed by the Council in June 2018
- No further housing allocations in Biddulph are required
- No further amendments to the housing trajectory are required aside from pushing back the predicted commencement of the Wharf Road, Biddulph site (excluding BDNEW) until 2022/23.
- Monitoring of housing supply will determine if a full or partial Local Plan review is required within 5 years
- Land at Ox Pasture (Cheddleton) and Dorset Drive (Biddulph) should revert back to the Local Green Space designations as per the Local Plan Submission Version as agreed by the Council in June 2018.
- Other modifications were considered during the recent hearings sessions are necessary to make the plan sound, including; updating neighbourhood area housing requirements (Policy SS4) to reflect the latest monitoring data, updating the employment land area for the Tunstall Road allocation to reflect the masterplan and other adjustments to the wording of Policy SS4 and Policy DC2.

No further representations will be sought by the Inspector. As such, the Local Plan policies as proposed to be modified in September 2019 along with the Inspector recommended revisions (February 2020) provide a strong indication of the final policies likely to be adopted in the Local Plan. The Inspector's final report is expected within 2 months and will reflect the post hearing advice. The Council will be able to consider the adoption of the Local Plan at this point. As such, the plan is at a very advanced stage of preparation with some of the key outstanding objections now having been resolved following the February 2020 hearing sessions.

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 considered below:

- The stage of preparation – the Local Plan is now at an advanced stage of preparation as the main modifications have been subject to consultation
- The extent to which there are unresolved objections to relevant policies this varies depending on the policy in question – the Inspector wishes to explore

outstanding objections on a limited number of issues at the February hearing sessions further before drawing conclusions.

- The degree of consistency of the relevant policies in the emerging plan to this Framework – policies have been modified to address soundness issues identified by the Inspector to date. It is the Council's view that the policies (as modified) are consistent with national policy. The Inspector has yet to draw final conclusions, particularly on the matters subject to further hearing sessions.

Given the above, the majority of policies (as modified) can be given substantial weight.

Emerging Policies

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

- SS1 Development Principles
- SS1a Presumption in favour of sustainable development
- SS5 Leek Area Strategy
- H1 New Housing Development
- DC1 Design Considerations
- DC2 Historic Environment
- DC3 Landscape and Settlements
- NE1 Biodiversity and Geological Resources
- T1 Development and Sustainable Transport

National Planning Policy Framework

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2018/0679 - Erection of five detached, single storey five bedroomed dwelling houses. Refused 19th September 2019.

SMD/2017/0696 - Reserved matters relating to access, appearance, landscaping and scale relating to SMD/2013/1099. Approved with conditions 15th March 2018.
SMD/2013/1099. Approved with conditions 15th March 2018.
SMD/2013/1099 - Erection of 11 dwellings - Allowed at Appeal 23rd October 2014.
SMD/2012/0822 - Erection of 11 dwellings – Refused.

CONSULTATIONS

Publicity

Site Notice expiry date: 21st April 2020
Neighbour consultation period ends: 27th March 2020
Press Advert: 8th April 2020

Public Comments

A single representation of objection has been received as follows:

- Bridge End is totally unsuited to further traffic (estimated to be some 100-200% increase). Currently it is private and unadopted.

- Major road resurfacing and a complete drainage system (to cope with flood water and foul water) would be necessary. The road surface at the moment cannot cope and the existing waters simply wash materials away.

- Access. This is a major concern. At no time has it been established that access has been demonstrated. In fact the gates at the top have been locked for over 20 years.

- Extra traffic entering and exiting onto the A523 would constitute a very hazardous risk.

- One more point to consider, the local residents all know that in winter following even a light snowfall it becomes impossible to drive more than halfway. I am unable to see how services, refuse collection and maintenance could be applied.

Leek Town Council

Refuse – significant issues with access through a private road

SMDC Aboricultural Officer

- *The proposed site plan drawing number is slightly confusing, being shown as "ABL 104 E Revision F" and presumably the "E" is an accidental editing leftover from the previous revision.*

- *There also appears to be an editing error in the drawing key on the Revision F plan – the cross-hatching annotated in the key as representing meadow grassland is shown in two areas contained within the woodland edge planting, whilst the speckled shading annotated in the key as representing woodland planting is shown around the edges of the landscaped area, immediately around the pond and close to the rear elevations of plots 2 & 3. This is the opposite of how these landscape treatments were shown on the previously approved Revision D drawing, so I am sure they have simply been accidentally transposed and assuming at some stage they will be corrected for the avoidance of doubt, the proposed landscaping is otherwise again considered acceptable.*

- *The latest Revision F plan proposes amendments to the previously approved layout involving the omission of one plot (now 10 dwellings shown) and re-positioning of the others to varying degrees.*

- *The dwelling at Plot 1 is now shown some 3m closer to the existing trees at the northern boundary of the site and whilst it is demonstrated that the dwelling footprint would remain outside Root Protection Areas the reduced clearance from tree crowns could increase pressure for felling or substantial pruning. Such re-positioning appears unnecessary for the overall amended layout now proposed, and would preferably be retained as shown on the Revision D approval, or at least rotate the footprint clockwise about its western-most corner so that the outlook from the rear elevation (main living accommodation) is better aligned towards the wide gap between trees T59 and T60. However, it is noted that the proposed amended position of Plot 1 dwelling increases clearance from tree T55 to the side, which is a benefit, and this could still be maintained with the rotation suggested.*

- *Dwellings at Plots 7 & 8 as now proposed on Revision F push development further to the south-west such that these two plots would have short rear gardens and be quite significantly impacted by shading/overbearing impacts of protected trees in their south-western outlook from main living accommodation. The most obvious measure to address this would appear to be to omit one of these two plots and bring the other dwelling forward to fit the general building line along Plots 4 to 10; however no doubt the developer would not be too keen on dropping a further plot from the scheme. But given the character of the proposed house types, with open plan main living accommodation having almost full width/full height windows and glazed doors, I would anticipate that occupants might expect a more open aspect to match, and the close proximity of the tree belt to the rear of Plots 7 & 8 as now proposed would be likely to create a relatively dark/enclosed outlook and give rise to pressure for felling and/or substantial crown pruning. Whilst the main trees are protected by TPO, we may find it more difficult to resist such tree work proposals if we have approved a layout which is more likely to lead to such problems.*

- *As this is a variation of condition application relating only to Condition 1 of planning permission SMD/2017/0696, I assume that the other existing conditions of that consent would remain valid other than updating any reference to drawing number revisions where relevant, and that therefore additional/replacement conditions (e.g. for temporary tree protection measures, implementation and maintenance of new landscaping etc) would not be required in the event that the current application is approved.*

SMDC Environmental Health

SMDC Waste

No objections.

SCC Highways

There are no objections on Highway grounds to this proposal.

Application is for an alteration to the layout. There is no intensification of use. Bridge End is a private/unadopted road. The applicant should satisfy themselves that they have the appropriate rights and permissions to carry out works to Bridge End; that they have appropriate right of access; that they have rights and permissions to use

Bridge End for constrruction vehicles. SMD/2013/1099 was allowed on appeal. The inspector included a condition to reconstruct the access road between A523 and the site boundary.
As it is a private road, the reconstruction should be agreed with fronting owners. Response is based on understanding that other conditions will remain. Current records show that there were not any Personal Injury Collisions on A523 Macclesfield Road within 50 metres either side of the access for the previous five years.

OFFICER COMMENTS

Policy Context

As with all applications, the Local Planning Authority is required to determine this application in accordance with the Development Plan, unless there are material circumstances which indicate otherwise and in determining these applications, it shall have regard to the provisions of the Development Plan, in so far as material to the application and to any other material considerations.

Core Strategy Policy SS1a establishes a 'Presumption in Favour of Sustainable Development' in line with the National Planning Policy (herein referred to as the NPPF) where: (1) planning applications that accord with policies within the Core Strategy will be approved without delay and (2) where there are no relevant policies or they are out of date, the Council will grant planning permission unless material considerations indicate otherwise considering:-

I. Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or,
II. Specific policies within the NPPF indicate that development should be restricted.

The Core Principles of the NPPF are set out at paragraph 8 which, amongst other things, seek to proactively drive and support sustainable economic development to deliver homes, businesses, industrial units, infrastructure and thriving local places that the country needs. High quality design should be sought and a good standard of amenity is expected for all existing and future occupants of land and buildings. Section 5 of the NPPF relates to the delivery of a wide choice of high quality homes. The application site is located within the Leek Town Development Boundary. Leek, Biddulph and Cheadle are the largest settlements in the District and in accordance with policy SS5 these settlements will accommodate the bulk of the District's housing, employment and retail needs. Policy SS5a seeks to support the role of Leek as the principal service centre and market town. This is to be achieved, amongst other things, through increasing the range of available and affordable housing types. Furthermore, encouragement is given to the development of previously developed sites (brownfield land).

Policy H1 states that all new development will be assessed according to the extent to which it provides for high quality, sustainable housing and to which it meets identified

local housing market needs. Outline planning consent for the construction of 11 dwellings with all matters reserved except for access was allowed on Appeal under planning ref. SMD/2013/1099.

There are no changes to the principles of development established at this outline stage and and this application does not represent an opportunity to revisit it.

Reserved Matters (Layout)

The approved outline planning permission established a proposed development of 11 houses as fully detailed in the subsequent reserved matters permission. This application seeks consent for an amendment to the approved reserved matter layout in the context of these approvals, however, proposes a reduction in dwellings to total 10 units. At the outline stage, the Inspector noted that the proposed 11 houses would be restricted to the western part of the enclosure, covering the area occupied by one reservoir and part of the other. Whilst the eastern part of the enclosure would be reserved for tree planting, a pond and open space. Vehicular access to the site would be taken from Bridge End along a private track via the Macclesfield Road. In addition, as the site lies close to services and facilities in the town of Leek, the Inspector considered that its development would in this respect represent a sustainable form of development involving the use of previously developed land close to the town of Leek.

In respect of the appeal decision, the Inspector noted that the site occupied an elevated position and houses on it would be seen from a number of vantage points in the town of Leek. It was considered, however, that the restriction of development on the site to the western part would allow the eastern part to be landscaped therefore enabling planting to soften this visual impact. He also considered that the key issue would be whether the development could be seen as unduly prominent and thereby not result in a high quality design, contrary to CS Policy DC1. The Inspector noted that it was clear that housing on the site would be visible from some vantage points around the town. However, that once the trees and shrubs had matured, the visual impact of development on the site could be mitigated. He also noted that the development on the top of hills is a feature of the town of Leek, whose town centre itself occupies such a location. Accordingly, it was considered that it would be neither unusual nor detrimental for further development to occur in such a location whereby a high quality design could be achieved at the reserved matters stage. As a consequence, he considered that the adverse impacts of this development were of a low order of magnitude having regard to the appearance of the area.

The approved reserved matters planning permission ref. SMD/2017/0696 secured a substantial level of planting to the south-eastern landscape/planting, including woodland / woodland edge type planting of native trees and shrubs to mitigate against landscape harm. As well, the planting area would extend significantly further to the south-east to be close to the edge of the steep slope off the plateau down to the rear (north-west) of the tenants Chemicals plant and Churnet Works employment / retail development. Furthermore, the planting area was extended further to the north-east, therefore providing for a wider spread of screening against views towards / into the application site from the east to be deemed acceptable in landscape and settlement policy terms.

In respect of the proposed layout changes, the Council's Aboricultural Officer confirms that amended Plot 1 is now shown some 3.0m closer to the existing trees at the northeast boundary of the site and whilst it is demonstrated that the dwelling footprint would remain outside Root Protection Areas, the reduced clearance from tree crowns could increase pressure for felling or substantial pruning. He also comments that such repositioning appears unnecessary for the overall amended layout now proposed and should preferably be retained as shown on the Revision D approval. In addition, the Council's Aboricultural Officer confirms that the amendments proposed in respect of dwellings at plots 7 and 8 would push development further to the south-west with resultant short rear gardens. These in turn would be significantly impacted by shading/overbearing by protected trees in their south-western outlook from main living accommodation and give rise to pressure for felling and/or substantial crown pruning impacting on the main trees, which are protected by TPO.

Whilst the overall character of this inward facing development is not objected to in the context of previous approvals, however, it does raise significant amenity concerns in respect of the future occupiers of plots 7 and 8 with a potential knock on impact to the southwest boundary protected tree cover. Furthermore, it is clear that the layout amendments in respect of plot 1 would also lead to an erosion of the northeast boundary planting, which abounds open countryside.

Accordingly, the scheme would create conflict with CS Policies SS1, SS1a, SS5a, H1 'New Housing Development', DC1 'Design Considerations' and DC3 'Landscape and Settlements' in particular and the NPPF.

Other Matters

It appears that an unlawful start on site commenced on the 29th February 2020 following the approval of the reserved matters planning permission SMD/2017/0696. Critically, relevant pre-commencement conditions were not satisfied prior to the outline planning permission ref. SMD/2013/1099 expiring on the 15th March 2020. It is considered that the start of works is unlawful and the outline planning permission has therefore fallen away. Accordingly, the current planning application submission ref. SMD/2020/0125 (Variation of Condition 1) seeking layout changes cannot proceed as the related outline planning permission ref. SMD/2013/1099 has expired. The applicant has been advised that he has the option of submitting a lawful development certicate in an attempt to establish a lawful start of works and therefore extant outline planning permission.

CONCLUSION / PLANNING BALANCE

The scheme is not considered to be sustainable development in the terms of the NPPF. Neither does it meet with the relevant policies of the Adopted Local Plan. A recommendation of refusal is therefore given.

OFFICER RECOMMENDATION : REFUSE

Case Officer: Rachael Simpkin
Recommendation Date: 04/06/2020

X B.J. Haywood

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council