DELEGATED DECISION REPORT

DET/2020/0030 **Valid 23/06/2020**	**HIGH VIEW FARM** **HOLT LANE** **KINGSLEY**	**INFILLING OF STEEP SIDED LINEAR DEPRESSION ON GRASSLAND WITH CLEAN CONSTRUCTION WASTE TO PROVIDE A LEVEL SAFE SURFACE FOR FARM VEHICLES (THE AREA IS TO BE RESURFACED WITH TOP SOIL INITIALLY REMOVED AND RESEEDED)** **(AGRICULTURAL/FORESTRY DETERMINATION)**

MAIN ISSUES

- Whether or not the prior approval of the LPA is required as set out under GPDO Schedule 2 Part 6 Class A – namely as to the:
- Siting

DESCRIPTION OF SITE

Rural field location in the Green Belt coming to within a c.100m to 150m radius of the easterly development boundary of Kingsley and in sight of perimeter dwellings of the village. The site would be at c.80m from the nearest public road at its closest.

The proposed site is at the southerly (or SW) head of an initially shallow valley or depression within the fields which quickly steepens north eastwards into a semi-wooded ravine incised into the steep flanks of the Churnet Valley above Froghall. The site is marked on the OS map as a watercourse and although this was not evident as a free-flowing feature at the site visit, vegetation and nature of the ground suggests water flows may emerge seasonally or in response to rainfall.

A noticeably used public footpath enters the fields from the roadside war memorial to the north and passes the southerly end of the site. The tower of the Grade II Listed church of St Werburgh is visible at some 200m NW of the site.

By reference to the Government's MAGIC map the application site lies within a defined SSSI impact zone.

PROPOSAL

As in the application description. The infilling material is described as "clean construction waste comprising broken brick and concrete" ; area 0.4ha; depth up to

2m (application form box 4) and volume 8,000m3. There is said to have been a previous area of 0.2ha of infilling having been undertaken on the 137ha farm holding.

On drawing HHKE02(1) the maximum depth of fill is stated as 5m and is indicated by drawn contours. The approximate average depth is given as 2m.

The drawn area measures to c.4.8ha though stated at 0.4ha. The plan is also annotated that the application is "for he avoidance of doubt" as the cumulative area of deposits may exceed 5ha.

The water course is described as a piped 'occasional' flow. At c.500m to the east, the Froghall Meadows SSSI lies in the path of this drainage.

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
SS6c Other Rural Areas Area Strategy
DC1 Design Considerations
DC2 The Historic Environment
DC3 Landscape and Settlement Setting
R1 Rural Diversification
NE1 Biodiversity
T1 Development and Sustainable Transport

Local Plan Submission Version (February 2018)

SS1 Development Principles
SS1a Presumption in Favour of Sustainable Development
SS10 Other Rural Areas Area Strategy
DC1 Design Considerations
DC2 The Historic Environment
DC3 Landscape and Settlement Setting
NE1 Biodiversity and Geological Resources
T1 Development and Sustainable Transport

<u>Local Plan process</u>

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.

National Planning Policy Framework February 2019
Paragraph(s) 1 – 14;
Section(s) 4 – Decision making; 6 – Building a strong and competitive economy; 11 – Making effective use of land; 12 – Achieving well designed places; 13 – Protecting Green Belt Land; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

Core Strategy Supporting Evidence Documents:
- Landscape and Settlement Character Assessment (2008)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS
None specifically identified.

CONSULTATIONS

N/A

OFFICER COMMENTS

Principle of Development
The application is made under the Permitted Development procedure for agricultural development contained at GPDO (2015) Schedule 2, Part 6 Class A. To qualify for the Permitted Development route the proposed works must be "reasonably necessary for the purposes of agriculture within that unit". The agricultural use of the land must be "for the purposes of a trade or business" and the unit must be "occupied as a unit for the purposes of agriculture", all as set out in the Interpretation Section (D.1) for Part 6 Classes A to C.

Subject to conditions as set out at section A.2, the provisions of Class A(a) of Schedule 2 Part 6 to the GPDO are in connection with agricultural buildings and the provisions at A(b) are for "any excavation or engineering operations" which are

"reasonably necessary for the purposes of agriculture within the holding" to be undertaken as Permitted Development subject to a prior notification to the LPA, with subsequent assessment if the LPA so determines. The site must be within an agricultural unit of 5 hectares or more which the LPA can be satisfied is not in doubt here.

The circumstances in which 'waste' can be deposited are however specifically limited by condition A.2(1)(c) as follows:

> (c) waste materials are not brought on to the land from elsewhere for deposit **except for use in works described in Class A(a) or in the provision of a hard surface** and any materials so brought are incorporated forthwith into the building or works in question [emphasis added].

As this proposed scheme is neither in connection with development of a farm building nor in connection with the formation of a 'hard surface' it is apparent to the LPA that the proposal cannot qualify for a determination under Part 6.

There is reference at A.2(2)(c) to:

> (c) the carrying out of excavations or the deposit of waste material (where the relevant area, as defined in paragraph D.1(4) of this Part, exceeds 0.5 hectares);

and that this would be subject to the need for prior notice to the LPA for a determination as to whether the prior approval of the authority will be required as to the siting of "the deposit".

D.1(4) states as follows:

> "For the purposes of paragraph A.2(2)(c) of this Part, the relevant area is the area of the proposed excavation or the area on which it is proposed to deposit waste together with the aggregate of the areas of all other excavations within the unit which have not been filled and of all other parts of the unit on or under which waste has been deposited and has not been removed."

Given the 4.8ha plan area of deposit proposed and the reference to a previous 0.2ha of deposit, the 'for the avoidance of doubt' application is perhaps understandable. It does not however overcome the more fundamental restriction on waste at A.2(1)(c) being also subject to the reason for which it is being brought on to the holding.

Whilst it appears clear to the LPA that this proposal is not eligible under part 6 it would nevertheless be prudent on the part of the LPA to inform the applicant that if it can be shown that the proposal is in fact permissible subject to prior notice then the LPA would indeed consider prior approval to be required in respect of siting.

The reasons for this are due to:

a) the amounts proposed to be sited;
b) the implications in terms of water flows, land stability and pollution;
c) being sited within a SSSI impact zone within which consultation with Natural England is required for proposals involving waste, landfill including inert landfill, non-hazardous landfill and hazardous landfill;
d) implications of the siting on the means of access for importing the waste;
e) implications for trees and hedgerows

CONCLUSION / PLANNING BALANCE
As discussed in the report this proposal does not appear to qualify for prior notice under Part 6. However, in the event that the applicant can demonstrate otherwise the LPA should stipulate that prior approval is (would be) required.

OFFICER RECOMMENDATION : **Prior approval required (subject to being found compliant with Part 6)**

Case Officer: Arne Swithenbank
Recommendation Date: 21st July 2020

X B.J. Haywood

Signed by: Ben Haywood
On behalf of Staffordshire Moorlands District Council