

DELEGATED DECISION REPORT

SMD/2021/0623
Valid 10/08/2021

37 HIGH STREET
KINGSLEY

**CHANGE OF USE OF LAND TO
FORM VEHICLE ACCESS TO
PROPERTY**

(FULL - MINOR)

MAIN ISSUES

- Whether the development is acceptable in the countryside.
- Whether the proposal comprises an exception to inappropriate development in the Green Belt.
- Impact on the character and appearance of the existing dwellinghouse and the surrounding area.
- Impact on neighbouring amenity.
- Impact on highway safety.

DESCRIPTION OF SITE

The application site comprises a detached, two-storey dwellinghouse with an attached two-storey subordinate side projection that incorporates a garage to the ground floor with living accommodation above. To the southeastern side of the existing dwellinghouse is a vehicle access onto High Street that has been covered in hardcore that leads to a gate and the dwelling's rear garden beyond. The dwellinghouse is partly located along the back edge of the pavement and partly set back from the road by a very small front yard bounded by a dwarf brick wall.

The dwellinghouse forms the last dwellinghouse in a ribbon of development located along the southwestern side of High Street. The ribbon of development also extends along the northeastern side of High Street. A grassed field forms the boundary to the southeast, whilst the village recreation ground is located beyond the dwellinghouse's rear garden to the southwest.

The majority of the application site is located in the Development Boundary of Kingsley. However, the southeastern corner of the site is located in the North Staffordshire Green Belt.

PROPOSAL

Retrospective full planning permission is sought for the change of use of the land located to the southeast of the dwellinghouse from agricultural land to garden associated with No. 37 High Street. Retrospective permission is also sought to infill an existing car port with garage doors and for amendments to the rear parking and turning area.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Staffordshire Moorlands Local Plan (Adopted Sept 2020)

SS1 Development Principles
1a Presumption in Favour of Sustainable Development
SS2 Settlement Hierarchy
SS8 Larger Villages Area Strategy
SS10 Other Rural Areas Strategy
DC1 Design Considerations
DC3 Landscape and Settlement Setting
T1 Development and Sustainable Transport

National Planning Policy Framework

Paragraph(s) 1 - 14
Section(s) 4, 9, 12, 13, 15

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

SMD/2007/0974	Detached dwelling Refused
SMD/2008/0629	Detached dwelling Refused
SMD/2008/1364	Detached dwelling Approved
SMD/2013/0537	Extension of time limit of planning permission 08/02072/FUL – Development of detached dwelling Returned prior to validation as application SMD/2008/1364 had expired.
SMD/2013/1150	Proposed detached 2-storey, 3-bedroom dwelling Approved
SMD/2021/0299	Conversion of garage and rear extension along with improved vehicular access and parking Pending a decision/Invalid

CONSULTATIONS

Publicity

Site Notice expiry date: 09/11/2021
Neighbour consultation period ends: 28/09/2021
Press Advert: N/A

Public Comments: One comment has been received from the Kingsley Village Hall Committee who state that they support the planning application. They can see no inconvenience to themselves or other neighbours, in fact they consider that any arrangements which improve the off road parking in Kingsley, especially on the main road, are extremely useful. This application if granted would reduce the necessity of the applicant and their visitors to use the available but limited on street parking. The ability to turn vehicles off road behind and beside the dwelling will improve road safety.

Town / Parish Comments: Kingsley Parish Council support the application.

SCC Highways: Recommend refusal of the application.

Severn Trent Water: No objection to the proposals and do not require a drainage condition to be applied.

OFFICER COMMENTS

Planning History/Background

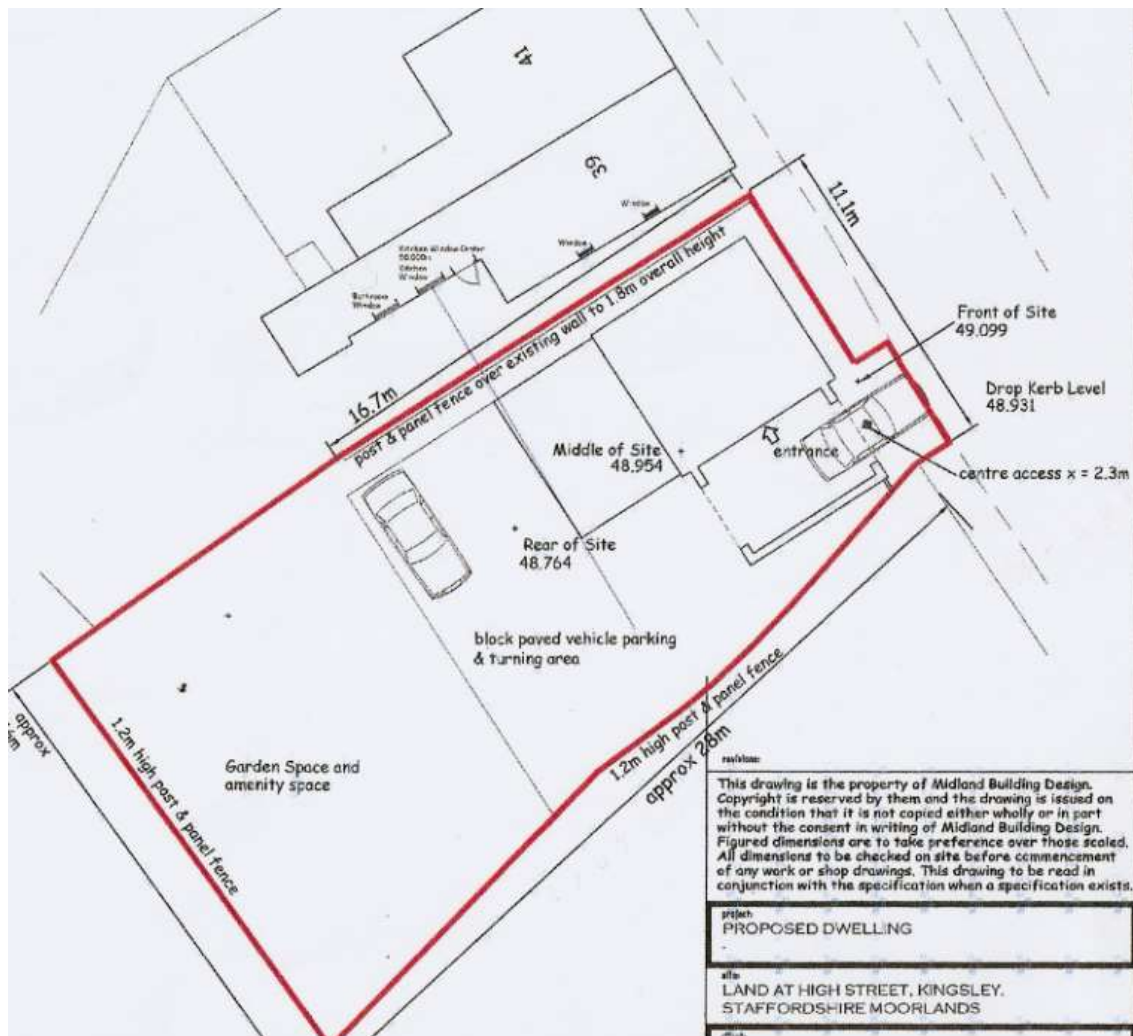
Planning approval was previously gained for the erection of a detached dwellinghouse on land adjacent to No. 39 High Street, Kingsley (SMD/2013/1150). The land formerly comprised a surface car park that served the public house on the opposite side of the road and fell solely within the Development Boundary of the village of Kingsley. The principle of a dwellinghouse in this location therefore complied with the planning policy for new dwellings in larger villages.

The dwellinghouse that was granted permission was for a two-storey detached dwellinghouse comprising the main body of the house, a subordinate two-storey side projection with a car port/undercroft to the ground floor and living accommodation above, and a single storey projection to the rear. The car port/undercroft was to be used to access the rear of the dwellinghouse which the Site Plan indicated was to be a *'block paved vehicle parking and turning area'*. The private amenity space associated with the dwelling would be beyond the parking and turning area to the rear (southwest). The approved drawing is included below.

Conditions were included on the Decision Notice that included:

- Condition 2 – Removed permitted development rights for Classes A, B, C, D and E of Part 1 and Class A of Part 2 of the GPDO.
- Condition 8 – That the access to the site shall be ungated.
- Condition 9 – That the parking and turning areas shall be provided in accordance with drawing 06153F03 and shall be retained for the life of the development.
- Condition 10 – That the parking and turning facilities within the site curtilage shall be maintained free from obstruction and shall be only used for those purposes.

The dwellinghouse was subsequently constructed. Google Streetview images dating from November 2015 shows the dwellinghouse as a shell with the walls and roof in-situ but without any doors or windows. The dwellinghouse then appears to be occupied on a subsequent Google Streetview image dated June 2016.



Drawing Number 06153F03 referred to in Condition 9 of the Decision Notice

Planning application SMD/2021/0299 was subsequently received for an extension to the rear of the dwellinghouse and the Planning Officer undertook a site visit to assess the proposed development. It was during that site visit that it was noted that:

- The car port/undercroft approved as a vehicle access to the rear parking and turning area and conditioned to be 'ungated' had been infilled with garage doors erected to both the front and rear elevations, even though permitted development rights had been removed from the property under Class A, Part 1 of the GPDO. It is assumed this space is used as a garage however, access to the inside of the property was not gained.
- The site edged red did not follow the same boundary as currently exists, or as shown on OS maps or the previously approved application. The southeastern

boundary had been extended into the neighbouring field, hardcore was present on the ground and a skip had been placed on the land. A boundary wall had been erected between the house and the remainder of the field. This section of land falls within the North Staffordshire Green Belt.

- The rear parking and turning area was not constructed in accordance with drawing number 06153F03. Steps were also protruding into the area, reducing the amount of space available for the parking and turning of vehicles.

The planning agent was advised of these issues. The planning agent was also informed that the proposed development could not be submitted as a 'householder' application as it included the land to the southeast that formerly comprised part of the adjacent field.

The planning agent therefore subsequently submitted this application to retrospectively change the use of the land to provide an access/egress/driveway to the dwellinghouse. By association, it also seeks retrospective permission for the reduction in the size of the parking/turning area, to retain the car port/undercroft as a garage and to retain the steps that protrude into the parking/turning area to the rear of the property.

Principle of Development

Paragraph 11 of the National Planning Policy Framework (NPPF, 2021) promotes a 'presumption in favour of sustainable development'. For decision takers this means (c) approving development proposals that accord with an up-to-date development plan without delay; or (d) where there are no relevant development plan policies, or the policies which are more important for determining the application are out-of-date, granting permission, unless: i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Paragraph 8 of the NPPF (2021) identifies three dimensions to sustainable development as being economic, social and environmental. In accordance with policies SS1 and 1a of the Staffordshire Moorlands Local Plan, the Council will expect all new development to make a positive contribution towards the sustainability of communities and to protecting, and where possible, enhancing the environment. When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF (2021).

In respect of the parking/turning area and the alterations to the car port/undercroft, these aspects of the development are sited within the Development Boundary of Kingsley; a larger village as identified by Local Plan policies SS2 and SS8. Extensions and alterations to dwellinghouses in villages are considered acceptable in principle as they accord with both local and national planning policy. These aspects of the development are therefore considered acceptable in principle.

The change of use of the adjacent land to form an access/egress to the parking/turning area to the rear of the dwellinghouse has resulted in what was an irregular shaped boundary to the adjacent field being straightened. The land comprises the North Staffordshire Green Belt and the Open Countryside, whereby policy SS10 of the Local Plan (2020) is applicable.

Policy SS10 states that these rural areas will provide only for development that has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism or enhances the countryside. The policy lists a number of examples of developments that can be considered acceptable in principle within the countryside however, the change of use of land from agricultural to residential is not included. The onus is therefore on the applicant to prove that the development has an essential need to be located in the countryside, supports the rural diversification and sustainability of the rural areas, promotes sustainable tourism, or enhances the countryside.

The development does not support the rural diversification and sustainability of the rural areas, nor does it support sustainable tourism. The dwellinghouse was approved with an access/egress and parking/turning area that was acceptable to the Highways Authority. The approved access/egress could therefore function without harm to highway safety. Google Streetview images indicate that the approved access/egress was infilled with garage doors sometime between November 2015 and June 2016, in breach of Conditions 2 and 8 of planning approval SMD/2013/1150. The infilling of the existing access is not immune from enforcement action (10 year rule) and therefore it could be returned to its intended use as an access/egress. There is therefore no essential need for the additional land to provide an access/egress to the parking/turning area to the rear of the site. In addition, the change of use of the land from agricultural to residential, its subdivision from the remainder of the field, the erection of a wall and gates and the laying of hardcore to what was a grassed piece of land could not be said to *'enhance the countryside'*.

It is for these reasons that the change of use of the southwestern portion of land from agriculture to residential will be unacceptable in principle and contrary to policy SS10 of the Local Plan (2020).

Green Belt

The application site is located in the Green Belt whereby policy SS10 of the Local Plan (2020) and chapter 13 of the NPPF (2021) are applicable. Part (6) of policy SS10 states that strict control will continue to be exercised over inappropriate development within the Green Belt, allowing only for exceptions as defined by Government policy.

Paragraphs 147 and 148 of the NPPF (2021) state *'that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances'* and *'when considering a planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt'*.

The part of the development that falls within the Green Belt involves the change of use of the land from agriculture to residential garden. A stone boundary wall has also been constructed that demarcates the land from the remainder of the field, gates have been erected and hardcore has been placed on the ground. At the time of the Planning Officer's second site visit (to assess this application) it was noted that the land was being used as off-street parking for a car.

Paragraph 150 of the NPPF (2021) outlines that *'certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it'*. One such development type applicable to this application is *'(e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds)'*. Another form of development is *engineering operations* (b)

The development involves a material change of use of land from agricultural field to residential garden and engineering works to install an access. In order for this type of development to comprise an exception to inappropriate development, it has to preserve the openness of the Green Belt and not conflict with the purposes of including land within the Green Belt.

Turning to the requirement that the development needs to *'preserve the openness of the Green Belt'*, it is noted that this does not mean that all new development within the Green Belt will automatically affect openness, instead it is an assessment of a development's harm.

The development has resulted in the corner of the adjacent field encompassed into the garden area of the dwellinghouse. This was an overgrown corner of the field that was not subject to agricultural practices and therefore could have supported wildlife, but it also provided a landscaped area and visual amenity to the street scene.



In its place, is a flat area of land that has been cleared and surfaced with hardcore. A stone built wall of approximately one metre in height has been constructed to demarcate the land from the remainder of the field, whilst two metre high closed boarded gates have been erected across the land. It is proposed to utilise the land

as an access/egress to the parking/turning area to the rear of the dwellinghouse but, as witnessed by the Planning Officer, the land is being used to park a vehicle. The change of use of the land to a level, surfaced area is not in itself considered to adversely affect the openness of the Green Belt. However, the presence of the boundary wall and gates does adversely affect the openness of what was formerly part of an open field. The wall and gates could be removed/demolished to improve the openness of the Green Belt and could be conditioned accordingly. However, it would be difficult to prevent the applicant from parking vehicles on the land. The presence of a vehicle is considered to have an adverse impact on the openness of the Green Belt. The change of use of the land is therefore considered to adversely affect the openness of the Green Belt.

Paragraph 138 of the NPPF (2021) outlines the five purposes of including land in the Green Belt. This includes '*(c) to assist in safeguarding the countryside from encroachment*'. The Development Boundary of Kingsley is defined on the Local Plan Proposals Map with the former field boundary providing a clear distinguishing line between the built-up area of the village and the Green Belt. The change of use of the southeastern corner of the adjacent agricultural field to residential garden has resulted in encroachment into the adjacent Green Belt, contrary to one of the five purposes.

As the development is not considered to preserve the openness of the Green Belt, nor does it comply with one of the five purposes of including land in the Green Belt, it does not comprise an exception to inappropriate development in the Green Belt.

Paragraphs 147 and 148 of the NPPF (2021) state '*that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances*' and '*very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations*'.

No very special circumstances have been advanced by the applicant or their planning agent.

It is now necessary to determine whether there is any other harm arising from the proposal.

Design

Policy DC1 refers to design and seeks to secure development of a high quality which is designed to add value to the area and to respect the site and its surroundings. New development should promote a positive sense of place and identity through its scale, density, layout, siting, landscaping, character and appearance.

Policy DC3 seeks to protect and, where possible, enhance local landscape and the setting of settlements. This includes, resisting development that will lead to a prominent intrusion into the countryside or have a significant adverse impact on the character or the setting of a settlement or important views into and out of the settlement as identified in the Landscape and Settlement Character evidence. It also seeks to support development which respects and enhances local landscape

character and which reinforces and enhances the setting of the settlement as identified in the Landscape and Settlement Character evidence.

Paragraph 130 of the NPPF (2021) requires the design of a development to add to the overall quality of an area, by being sympathetic to local character and by being visually attractive as a result of good architecture. It also requires developments to be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

The Council's Design Guide SPD outlines the Council's expectations in respect of design.

The Landscape & Settlement Character Assessment of the Staffordshire Moorlands identifies the land as being within the Potteries & Churnet Valley character area and within the landscape character type, 'Dissected Sandstone Uplands'. The Planning for Landscape Change Supplementary Planning Guidance to Staffordshire and Stoke on Trent Structure Plan, identifies this landscape character type as locally very sensitive to the impacts of development and land use change. Whilst the Landscape Planning Guidelines states that, *'the open character of the upland landscape must be maintained'*.

The land formerly comprised the boundary between the Green Belt and the Development Boundary of the village of Kingsley. It comprised an unmanaged corner of the worked field and therefore it provided a landscaped edge to the village. This edge has now been eroded and straightened, with development encroaching onto this part of the former field. Although small in area, the encroachment of the property's garden into the adjacent field, the erection of domestic walls and gates, the laying of hardcore and the parking of vehicles has eroded the character of this part of the countryside. The development does not protect or enhance the local landscape, nor does it reinforce or enhance the setting of the settlement of Kingsley.

It is for these reasons that the development is considered to be contrary to policies DC1 and DC3 of the Local Plan (2020) and the NPPF (2021).

Amenity

Policy DC1 and paragraph 130(f) of the NPPF (2021) seek to secure development that protects amenity, including residential amenity, in terms of satisfactory daylight, sunlight, outlook, privacy and soft landscaping.

The proposed development will not adversely affect neighbouring amenity, as no dwellings are located adjacent to or opposite the access/egress/parking area and the changes made to the existing dwellinghouse and rear parking/turning area will not raise any amenity issues.

It is for these reasons that the development will comply with policy DC1 of the Local Plan (2020) and the NPPF (2021), in respect of amenity.

Highway Safety

Policies DC1 and T1 seek to achieve a level of parking and an access that is appropriate to the development it serves.

Paragraph 111 of the NPPF (2021) states that *‘development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’*.

The Highways Engineer has assessed the application and makes the following comments:

‘Dwelling was originally constructed under planning approval SMD/2013/1150. There are differences between what was shown on drawings for that approval, what was conditioned and the details shown as existing on this current application.

Drawings under SMD/2013/1150 showed the original access, which is now labelled as a garage as remaining open to allow vehicular access to the parking and turning area to the rear. Condition 8 required this access to remain ungated. Condition 9 required parking and turning area to be provided in accordance with drawing 06153 F03 and condition 10 required this parking and turning area to be kept free from obstruction. In addition, condition 11 required the footway on the frontage to be increased in width and condition 13 required the length of redundant access crossing to be reinstated as footway with full height kerb, which do not appear to have been completed.

Access approved under SMD/2013/1150 is gated with a roller shutter door contrary to the approved drawings and condition 8 of SMD/2013/1150. The ‘garage’ is the access to the parking and turning area approved under SMD/2013/1150. Under that approval, this should not be a garage.

Proposal title states that an improved vehicular access and parking are proposed. Existing ground floor plan and proposed ground floor plan show no difference in the access. Existing access differs from that approved under SMD/2013/1150 where vehicles would pass through the undercroft, but this layout, although approved and required, is not present.

The proposed rear extension detailed in Drawing No. 20L62 P01 Rev A (SMD/2021/0299) was shown taking up the turning area of the dwelling. This proposed rear extension does not form part of this proposal; the area to the rear of the “garage” is detailed in Drawing No. 20L62 P01 Rev B (SMD/2021/0623) as a parking and turning area. The proposed parking and turning area are considered inadequate space to allow vehicles to manoeuvre to allow access to the A52 High Street in a forward gear. Manoeuvring in the A52 is contrary to the interests of highway safety and cannot be encouraged.

Red line on Drawing No. 20L62 P01 Rev B submitted (SMD/2021/0623) does not appear to match the red line on Drawing No. 06153 (F03SMD/2013/1150) Note on drawing 20L62 P01 Rev B states 'Boundary as constructed following Planning Approval SMD/2013/1150'. This is not the boundary shown on drawings submitted for SMD/2013/1150 and is not the boundary approved under SMD/2013/1150.

Drawing 20L62 P01 Rev B shows vehicles parked to the rear of the dwelling. No dimensions are stated. The alignment of the departing vehicle is presumably intended to suggest it has somehow turned round? The outline of the vehicles scales at 4m – a relatively small vehicle. Maximum width of the parking area scales at 6.1m which is only 1.3m longer than minimum parking space. This does not constitute and cannot be considered to be a turning area.

Development approved under SMD/2013/1150 needs to be constructed as approved.

If the revised access were to be approved, it would require surfacing in a bound material which may be inappropriate in the green belt.

This application should be refused for the following reasons:-

- 1. The proposed development fails to make adequate provision for the turning of vehicles within the site curtilage, resulting in an increase in the likelihood of highway danger due to drivers having to manoeuvre into the A52, High Street.*
- 2. Insufficient/conflicting information.'*

It is therefore considered that the development, as currently exists, has a detrimental effect on highway safety. The development will therefore be contrary to policies DC1 and T1 of the Local Plan (2020) and chapter 9 of the NPPF (2021).

CONCLUSION / PLANNING BALANCE

The development affects the openness of the Green Belt and does not comply with one of the five purposes for including land in the Green Belt. The development therefore comprises inappropriate development in the Green Belt. No Very Special Circumstances have been advanced to clearly outweigh the harm caused by its inappropriateness. The application is therefore contrary to policy SS10 of the Local Plan (2020) and chapter 13 of the NPPF (2021).

The dwellinghouse as approved, was designed with a means of access/egress and a parking/turning area that were acceptable to the Highways Authority from a highway safety perspective. In contrast, the development as currently exists, has been recommended for refusal by the Highways Authority as it poses a danger to highway safety as vehicles are unable to turn within the site and exit in a forward gear onto the A52; a busy main road through the middle of the village. The application is

therefore contrary to policies DC1 and T1 of the Local Plan (2020) and chapter 9 of the NPPF (2021).

No essential need has been demonstrated for the extension of the garden into the adjacent field. The encroachment has resulted in the creation of a new access/egress however, the dwellinghouse as approved functioned without the need for this additional piece of land and the development as currently exists is a danger to highway safety. The development is therefore contrary to policy SS10 of the Local Plan (2020).

The development has encroached into the adjacent agricultural field. It has changed the character of the land from an soft landscaped unmanaged corner of field to a hard engineered domestic driveway with a boundary wall and timber gates. The development has eroded the character of this part of the countryside, it does not protect or enhance the local landscape, nor does it reinforce or enhance the setting of the settlement of Kingsley. The development is therefore contrary to policies DC1 and DC3 of the Local Plan (2020), the Landscape & Settlement Character Assessment of the Staffordshire Moorlands, and the NPPF (2021).

The application is therefore recommended for refusal.

OFFICER RECOMMENDATION: REFUSE

Case Officer: Ailsa Berry

Recommendation Date: 10/12/2021

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council