

Town and Country Planning Act, 1990
Section 78

**Statement by Staffordshire Moorlands District Council
in respect of the appeal by
Mrs Teresa Critchlow of Sammons Architectural Ltd
on behalf of Mr Peter Bull of Bull Construction Ltd c/o Sammons Architectural
Ltd against the refusal of an application for full permission for: the erection of
a single dwelling and amendments to parking provision for end
terrace approved under planning application SMD/2019/0005 on land at
Black Lane, Whiston, Staffordshire**

1. Introduction

- 1.1 This statement is made by Staffordshire Moorlands District Council in response to the appeal by Mrs Teresa Critchlow of Sammons Architectural Ltd on behalf of Mr Peter Bull of Bull Construction Ltd c/o Sammons Architectural Ltd against the refusal of an application for full permission for: the erection of a single dwelling and amendments to parking provision for end terrace approved under planning application SMD/2019/0005 on land at Black Lane, Whiston, Staffordshire. Nearest post code: ST10 2HZ. Copy of the report and decision notice for the 2019 approved scheme are attached as appendices to this statement.
- 1.2 Full background and details of the original application SMD/2021/0284 subject of this appeal and the LPA's assessment can be found in the Delegated Decision Report previously supplied with the LPA's Questionnaire return in respect of this appeal. It is not proposed in this statement to repeat the contents of the delegated report and the main focus will be to respond to the appellant's submissions and re-emphasise and where necessary clarify the LPA's reasons for refusal.
- 1.3 There were three reasons for refusal set out in the decision notice dated 14th June 2021 which in summary were based on:
- i) The principle of the development by reference to policies SS9 and SS10
 - ii) Character and appearance
 - iii) Harm to non-designated heritage asset
- 1.4 In other words the main issues are ultimately ones of character and appearance and how the impacts of the proposed development would interact with the surroundings including heritage.

- 1.5 The appellant has confirmed (agent's letter – un-dated but supplied accompanying the appeal submissions of 5th November 2021) that the appeal relies upon the Planning, Design and Access Statement (PDAS). This is taken to be the document dated April 2020 Job No. 2020-2573 submitted with the planning application. The LPA notes the list of “all plans, drawings and documents (stating drawing numbers) submitted with the application” as supplied by the appellant. The plan references correspond with those of the decision notice and the plans are therefore understood not to have been revised or changed for the appeal.

2. **Policy Background**

- 2.1 Under the heading of ‘principle’ of the development the officer report establishes that this development is not supported by policy SS10, under which, policy H1(5) would need to be met. It was not part of the application submission, nor is it part of the appellant's appeal submissions, that any of the provisions under H1(5) are relied upon to support the proposal / appeal.
- 2.2 In terms of the principle of the development, the LPA would consider that the appeal falls chiefly to be determined under SS9 and H1(4)(b). The recent development under SMD/2019/0005 (see appendices) has in effect led to an expansion of the village into this location. The appellant refers (PDAS second paragraph / sixth page) to ‘the previous core strategy’. At that time the development plan included an adopted village boundary for Whiston. The appeal site, and that of SMD/2019/0005, lay outside of the then defined development boundary for Whiston. Under the current Local Plan (September 2020) there is no longer a defined development boundary for the smaller villages such as Whiston.
- 2.3 The adopted Local Plan (LP) introduces the policy for smaller villages at LP 6.58 as a policy which “seeks to allow an appropriate level of sensitive development which enhances community vitality”. At 6.59: “Development will be strictly controlled in order to ensure that the character and life of the settlement is not undermined” and “Limited development, including infill will be supported subject to this policy [and Green Belt]”. The policy wording for SS9 is that:
- These settlements shall provide only for appropriate development which enhances community vitality or meets a social or economic need of the settlement and its hinterland. The Council and its partners will achieve this through the following actions...
- 2.4 The stated actions distinguish between (1), actions to enhance community vitality and (2), actions to meet community, social and economic need and it is under this second action that the policy supports “limited new housing development, including small infill schemes in accordance with Policy H1”. There is a further provision to support “rural exceptions housing” but this is not part of the case put forward with this appeal.

- 2.5 In the case of a smaller village, for proposals to be accepted under SS9 they must also meet the requirements of H1(4)(b) and H1(4)(c).
- 2.6 H1(4)(b) supports 'limited infill residential development of an appropriate scale and character' provided that:
The development is well related to the existing pattern of development of a smaller village and will not create or extend ribbon development or lead to sporadic pattern of development.
- 2.7 H1(4)(c) requires:
In all cases the development will not lead to a prominent intrusion into the countryside or have a significant adverse impact on the character and appearance of the countryside.
- 2.8 Firstly, the LPA does not consider that the appeal site should be assessed as an infill plot as it comes at the end of a row. The Local Plan does not define 'infill' and there is no definition in the NPPF. Nevertheless the term is a familiar one in planning. The OED New Shorter Edition (1993) notes a specific use of the term in Town Planning as "the filling of vacant gaps between houses". This site lies between an end-terrace dwelling and a rock exposure (atop of which is the route of the historic Cauldon plateway). It does not lie between buildings.
- 2.9 As an extension to a row, the development would also in effect create or extend a ribbon development, also contrary to H1(4)(b).
- 2.10 As further noted in refusal reason 1, the consequences of this proposal would be to urbanise the location, undermine its hitherto essentially rural character closing off the location's openings and links with the countryside. To further expand on this point the LPA would say that development of this end plot would significantly intensify the impact of built development in this location overstepping a threshold and taking it well beyond a level that can be regarded as 'sensitive' or 'of an appropriate scale and character' (H1(4)(b)).
- 2.11 In reaching this view the LPA is being consistent with its recent past decisions in relation to this site which, although made under earlier and now superseded versions of the development plan, do stem in essence from the same underlying aims – to strike a reasoned balance between development and its impacts.
- 2.12 In the last paragraph PDAS page 7 the appellant concedes that "the provision of a single dwelling will reduce the openness through the site" but then goes on to say that "there are few if any public views of the site from its surroundings". The LPA however is concerned with the public experience – and views – of this section of Black Lane as it will be experienced by the residents of the four dwellings of the terrace currently under construction, the residents of nos. 4 and 5 The Plain and no.1 The Green and anyone visiting them or the location, including perhaps recreationally.
- 2.13 This proposal would be wedged into this narrow site and would appear overtly crammed, almost 'shoe-horned' into this position. This and the loss of landscape backdrop are elements of refusal reason 2. In design the detached

double fronted appearance would again seem odd in this narrow site and more particularly would also stand at odds with the more humble frontages of the adjacent terrace dwellings. These issues are not overcome simply by choice selection of material quality.

- 2.14 The embankment backdrop of this site is a significant feature. Even without its added historical significance it is impressive as a geological feature – it is evidently bedrock at its base and to what extent it is then man made above is not fully clear. As a feature the embankment needs space and cramming this proposed development against it would appear discordant and to some extent incongruous. At PDAS p.8 the appellant comments that no planning condition was imposed on the approved terrace to withhold development from the appeal plot and further adds that “such an omission was remiss” if such importance is to be attached. The LPA would say in response that a condition in such strict terms would have been un-necessary and therefore unreasonable. After all, the site could not be developed without a further planning permission and the issue would be fully capable of being considered in that event (as is happening now). The LPA would wish to draw the Inspector’s attention to the decision notice for the terrace within which site the appeal site is located.
- 2.15 The decision SMD/2019/0005 included conditions 11 and 12 addressing matters of landscaping. A landscaping scheme was submitted under DOC/2019/0103 and was approved 4th March 2020 – drawing PB1118/3A.

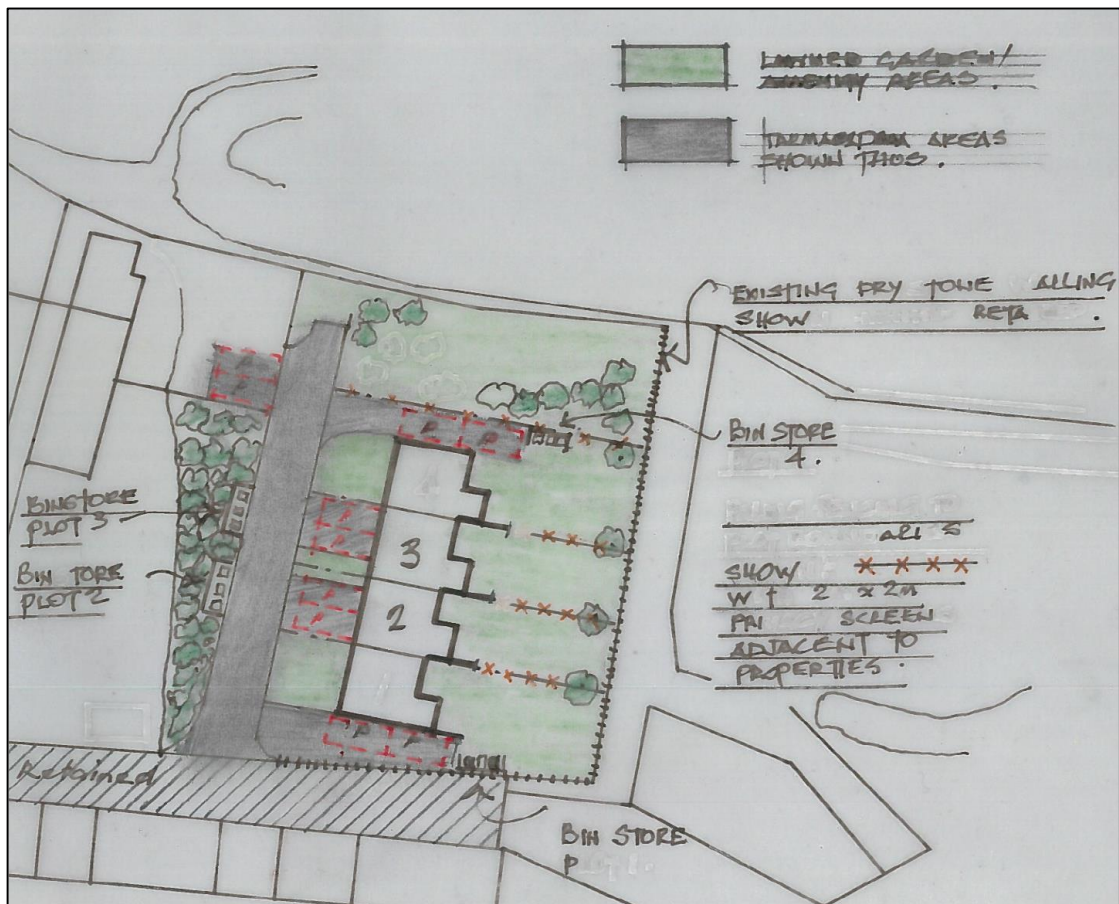


Fig. 1



Fig.2 (12.01.2021)



Fig. 3 (12.01.2021)

2.16 Figure 1 above is an extract of the approved site landscape drawing for the SMD/2019/0005 terrace development. Annotation on the drawing for the green shaded area states: "lawned garden / amenity areas".

2.17 Fig.2 is a site photo of the appeal location showing that bedrock has been excavated against the foot of the embankment and the LPA is of the view that prior to this excavation (not undertaken as part of any planning consent) the appeal site was significantly taken up with the lower slope and bedrock of the embankment. Fig. 3 is a photo in the opposite direction to fig.2 and gives an indication of just how tightly hemmed-in the appeal site is between the end dwelling of the terrace and the embankment. The LPA would add that there must be some uncertainty as to the available space as it would appear the site edge reflects the ownership boundary and on the north side, along the embankment, this appears to be part way up the slope. Unless further excavation has taken place or is intended, the available space would seem to be appreciably less than could be anticipated from plan. The 1:500 block plan shows 13.5m between the end terrace and the red edge boundary. By reference to the site plan 2020-2573-03 rev B however, the available space between the terrace and the rock face is reduced in places to c.10m.

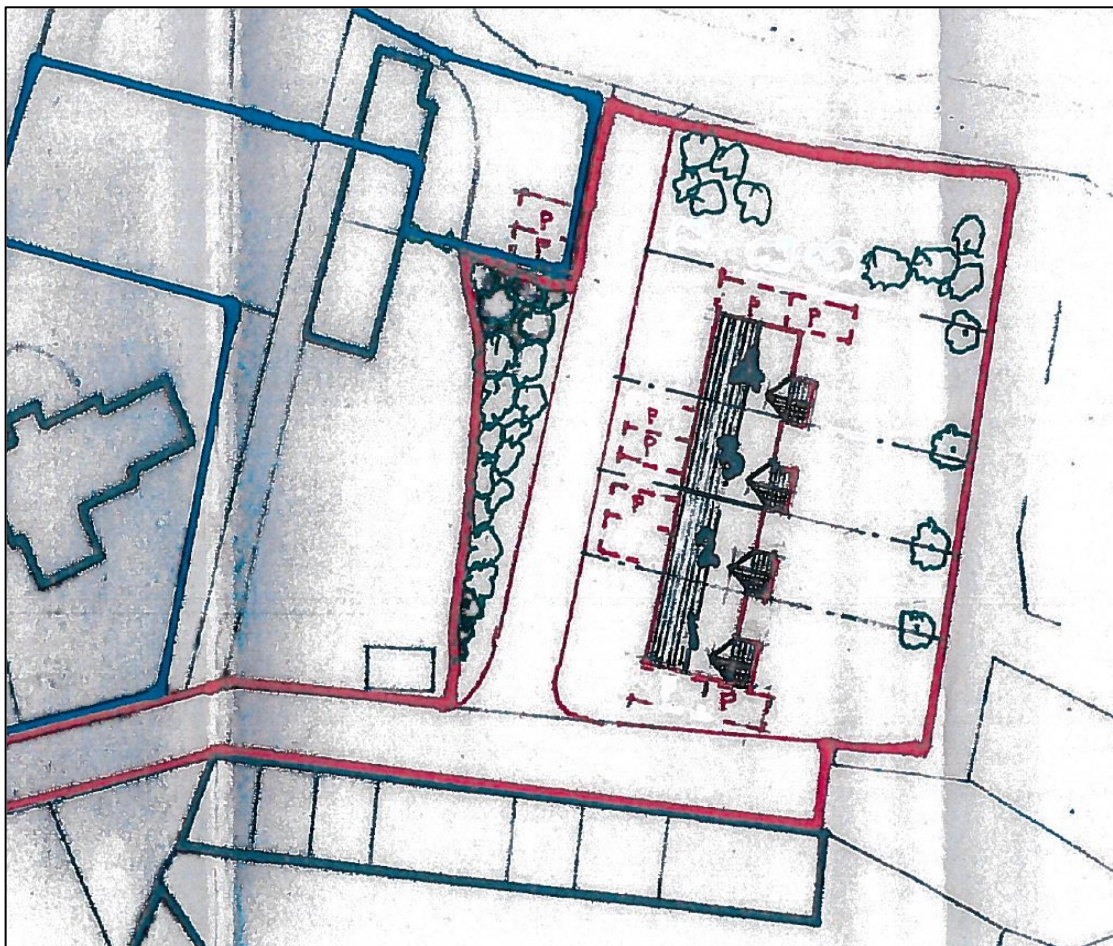


Fig. 4 approved block plan dwg SMD/2019/0005

2.18 The LPA took care to negotiate the final layout of approved scheme SMD/2019/0005 including at pre-app negotiating the scheme to be a terrace of

4 rather than five dwellings which the applicant had been initially seeking – this in particular to achieve an appropriately proportioned separation from the high embankment on the northern boundary edge. Another important design consideration had been to minimise prominent parking at the front of the development. Frontage parking to the central pair of dwellings in the terrace was reluctantly accepted as a negotiated compromise again at pre-app having at least secured parking to the sides for the two end dwellings. To cite frontage parking as a precedent to support more of the same is an outright contradiction and reversal of the previously negotiated arrangement.

Heritage

- 2.19 In counter to the third reason for refusal relating to impacts on the non-designated heritage asset of the Caldon plate-way – the embankment forming the northern site boundary, the applicant cites the submitted Heritage Impact Assessment – heritage statement (HS) for single dwelling March 2021 ref 2067 /HS / V04. This states at 3.1 “The applicant does recognise that the former tramways adjacent to the site, but not owned by the applicant, is a non-designated heritage asset.”
- 2.20 At HS 4.0 it is said to be *“important to note that it is the smaller section of the remains of the tramway that is adjacent to the site”*. The meaning or significance of this point and why the point is “important” is not understood. What matters in relation to this application / appeal is what is the significance of the tramway at this point. The LPA would aver that the tramway embankment is especially striking at this point owing to its height. Furthermore nos. 4 and 5 The Plain found alongside the tramway at this point were brakesmen’s cottages directly associated with the running of the tramway. This information was contained in the Council’s Heritage Conservation Officer’s response to the earlier SMD/2018/0309 application for which it was advised:

The site is an area of heritage significance due to its location adjacent to a line of the Cauldon Tramways. At this point the tramway is marked by the Whiston incline and the brakesmen’s cottages on this site were built to house the brakesmen and their families. The 1804 line had cottages for brakesmen at the top of each of the three main inclines. The site also lies within the setting of Whiston Hall and has an historic fishpond to the east. The significance of the site is explained in the recent Historic England/Staffs County Council document ‘Caldon Low Early Railways’ by Marion Barter. There may be other structures on the site of heritage significance associated with the tramways.

- 2.21 The LPA finds the submitted HS a somewhat disjointed and confusing document. Much of the HS considers items well removed from the appeal site. The HS returns to consider the tramway at section 5 (thirteenth page onwards) and concludes with an ‘impact statement’ at section 10. What perhaps can be seen and is well known locally is that Whiston has distinct industrial heritage associations. The tramway is one example and has obvious significance both in the extent of its surviving visible presence and its historic role which is directly

associated with the burgeoning early pottery industry of Stoke-on-Trent which sourced ingredient raw materials from the limestone quarried at Cauldon and brought via the tramway to the canal at Froghall for onward shipment into the Potteries.

- 2.22 The HS fails to identify that the proposed development has entailed some excavation of the toe of the embankment within the appeal site and in contradiction of this seems to assert that the fabric of the structure would not be affected. At 8.4 it is claimed there would be no aesthetic harm apparently on the grounds the dwelling would not exceed the height of the tramway. No consideration is given to the proximity the dwelling would have and the contrast of this with the setting as before and with the developments as approved to date.
- 2.23 Notwithstanding the submitted HS the LPA remains of the view that developments approved to date have been based on making an appropriately balanced judgement as expected by NPPF 203 (and DC2) and the appeal scheme oversteps that balance. The scheme is harmful to heritage as set out in refusal reason 3. The LPA can identify no useful clear or correct reasoning in the HS to counteract this assessment.

3. Conclusion

- 3.1 The scheme is not 'infill' development as it comes at the end of a row. The scheme would tip the balance of development impact at this location from being acceptable in terms of character and appearance to being suddenly and very overtly 'over-developed'. The effect would be to result in development that is far from being 'sensitive' which is the avowed aim of policy SS9 (LP 6.58 and 2.10 above).
- 3.2 The scheme would force additional vehicle parking into house front positions and eliminate areas of visual green space which serve to harmonise the current development with its rural setting. Insertion of this fifth dwelling would have a significantly intensifying effect on the overall development at this location and create a crowded urbanised site. The scheme would not therefore relate well and it would undermine the care taken to ensure the preceding approved scheme can relate suitably.
- 3.3 The LPA considers the effect of the development to result in a significant adverse impact on the character and appearance of the countryside contrary to H1(4)(c).
- 3.4 The LPA regards the impacts as significant in the public realm as a community of residents would be affected.
- 3.5 The development would impinge physically on the embankment cliff face of the 1804 historic tramline and would detract from its setting and the ability to appreciate this feature.

- 3.6 Based on the reasoning and contents of the delegated officer report and the additional responses in this statement the inspector is respectfully asked to dismiss the appeal.

Staffordshire Moorlands District Council

22.02.2022

Appendices

A – LPA report for SMD/2019/0005

B – LPA decision notice for SMD/2019/0005