

DELEGATED DECISION REPORT

SMD/2022/0031
Valid 31/01/2022

ANZIO CAMP BUXTON ROAD
BLACKSHAW MOOR
LEEK

SUBSTITUTION OF TWO CARE HOMES WITH EXTRA CARE LODGES, VARIATION OF CONDITIONS 2, 18, & 19 AND REMOVAL OF CONDITIONS OF 20, 21, 22 & 24 OF SMD/2014/0683

(FULL PLANNING - LARGE SCALE MAJOR APPS)

1. INTRODUCTION

1.1 An application made under Section 73 can be used to make changes to conditions imposed on a planning permission by varying or removing such conditions. The change however can only relate to conditions and not to the operative part of the permission

1.2 Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

1.3 During the processing of the application there was some discussion between the applicant and the Council as to whether the submitted application (for wholly holiday accommodation) and the revised proposal in August 2023 (to extra care lodges) could be considered to fall within the remit of Section 73. Legal advice was sought which confirmed that, first and foremost the Council had accepted the application as a valid application and was therefore duty bound to consider it and secondly and in accordance with most recent case law, provided the operative part of the development remained unchanged (which was the case with the latter proposal in August 2023 which the applicant now wishes to be determined) and there is no conflict with any of the conditions, then a S73 is an appropriate route. It is noteworthy that there have been slightly conflicting views on the approach to S73 in the most recent cases (Armstrong and Fiske) with Fiske to be heard in the Court of Appeal in October of this year.

1.4 The original application, SMD/2014/0683, to which this Section 73 relates was EIA development. This Section 73 application is deemed a new application for planning permission under the 2017 Regulations. The applicant did submit an Environmental Statement with the application. However it was the one that had accompanied the original application SMD/2014/0683. It had not been updated to reflect the lapse of time since all the reports were prepared, circa 10 years and nor did it reflect the scheme now proposed. This lack of up to date information in key areas for consideration such contamination, noise, highways, ecology, trees etc is discussed more fully in the Officer comment section below.

1.5 Following a telephone conversation between the applicant and Head of Planning on the 12th July 2024 it was requested that the application be determined as soon as possible and based on the information before the Council (see e-mail Jane Curley to Joe Nugent dated 23rd July 2024)

2. DESCRIPTION OF THE SITE

2.1 This application relates to the site known as Anzio. It is a former army training camp which lies close to but outside of the settlement boundary of the small village of Blackshaw Moor. It lies within the open countryside and within 1km of the Peak District National Park

2.2 Full planning permission was granted on the 9th November 2015 under SMD/2014/0683 for *Erection of extra care housing, live work units, ancillary social centre and facilities building, change of use to holiday park.*

2.3 It is this permission to which the Section 73 application relates

3. PROPOSAL

Original submission January 2022

3.1 The original submission was described as '*Variation of Conditions 2, 18, 18 & 19 and Removal of Conditions of 20, 21, 22 & 24 of SMD/2014/0683*'

3.2 It appeared to be a complete re-submission of every plan and document (often multiple documents/plans and superseded plans were included) from the 2014 application including the ES. All the reports were dated 2014/2015 and had not been updated.

3.3 The only new document provided was a covering letter dated 19th January 2022 which confirmed the proposal as follows:-

The revised development for the site is to provide holiday accommodation primarily focussing on lodges, holiday cottages, social building, ancillary facilities building. The extra care housing, live/work units are to be omitted from the revised development proposals.

3.4 No plan was provided showing a revised layout of the site but from the covering letter the inference was that the scheme now being promoted was wholly for holiday accommodation.

3.5 The Case Officer e-mailed the Agent on the 9th Feb 2022 and again 20th April 2022 advising that a change in the operative part of the development i.e. the description of development fell outside the remit of Section 73 and the applicant was invited to withdraw the application.

3.6 No further contact was had with the Agent until almost 12 months later when a further application was made for the site under SMD/2023/0137 for wholly holiday accommodation. No discussion took place before this application was submitted. With the applicant's agreement this application is 'parked' until determination of the subject application

3.7 Between June and August 2023 there was an exchange of e-mails relating to an alternative proposal for SMD/2022/0031 which involved replacing the two care homes with cottages or lodges – later confirmed to be lodges

Revision submission 11th August 2023

3.8 On the 11th August 2023 a revised submission was made via the Portal. It again included all the plans from the original application SMD/2014/0683. All the reports were dated 2014 and had not been updated to reflect the new scheme. No plan was provided showing a revised layout of the site. A new Planning Statement (August 2023), was provided and it was confirmed in an e-mail dated 11th August 2023 that this could replace the existing Covering Letter (19.01.2022) and Planning Statement (19.01.2022). The Planning Statement (August 2023) confirms the proposal as follows. The crossed through elements are exactly as they appear in the document

Extra Care Housing

- 42 extra care cottages – 1 and 2 bedrooms
- 48 extra care lodges (approx 96 beds)

- ~~2 residential/ nursing homes with a total of 80 extra care ensuite bedrooms~~
- Facilities building for maintaining the extra care development

Holiday Park

- 45 holiday lodges
- Social centre building housing a shop, cafe, and community meeting rooms

Live Work Units

- 4 Live/ Work units

3.9 The submission in effect proposed that the two care homes were to be replaced with 48 extra care lodges albeit that no layout plan was provided to show how the site could accommodate this number of extra care lodges

3.10 From August 2023 until early 2024 there were exchanges between the Case Officer and Agent as to whether this substantial change could be done under a Section 73 – see Introduction above. Requests during this time were also made to update the reports

March 2024 submission

3.11 In March 2024 further information/clarification was sought by the Case Officer from the Agent. It resulted in the submission on 27th March 2024 of the following:-

- An updated Planning Statement – August 2023 Rev 1. This removes reference to 48 Extra care lodges (approx. 96 beds) and replaces with Extra care lodges (approx. 60 beds)
- A layout plan showing the proposed extra care lodges entitled, S73 Masterplan (Care Homes Replaced)

3.12 Upon further examination of the plan entitled S73 Masterplan (Care Homes Replaced) further issues were found and attempts made by the case Officer to address these with the Agent. A summary of actions the Case Officer took are as follows:-

- 30/5/24 Request that the key on the S73 Masterplan (Care Homes Replaced) be updated to reflect what is now proposed and distinguish the extra care lodges from holiday accommodation.
- 13/6/24 Agent contacted as still unclear how the S73 Masterplan (Care Homes replaced) drawing has been revised and updated to define the extra care lodges. Case Officer suggested the extra care lodges need to be a different colour from the holiday lodges and then referenced in the key
- 17/6/24 Further advice provided by e-mail to the Agent requesting that the extra care lodges be distinguished from the holiday lodges and cross referenced in the key which needs to note the brown rectangles as holiday lodges and the blue rectangles as extra care lodges. Reference in the key to A and B also needs to be removed
- 20/6/24 Further queries from the Case officer to Agent advising that
 - Unable to scale off the latest plan provided. The scale bar indicates it is 1:500 but it does not scale off at that. Query as to the references to A and B on the plan and how do they relate to A and B on the key?
 - paths within the Extra care lodges don't seem to connect into the road network?

- 2/7/24 Case Officer wrote in an e-mail

Proposed Site Plan – I am still not able to scale off this. We agreed that you will send a scaled plan through. I know it is obvious why we need a scaled plan but please explain to your client that we have also required one which clearly shows and distinguishes the extra care lodges from the holiday lodges and one that is correctly annotated. All plans must be clear, unambiguous and capable of interpretation by anyone viewing them both now or in the future.

- e) 8/7/24 Agent sent revised S73 Masterplan (Care Homes Replaced) as a *jpeg*.
The Case Officer was subsequently able to open the jpeg in Adobe and save a copy of the plan from that. It is this plan that the decision is based upon

4. RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Local Plan (Adopted 2020)

SS1 Development Principles
DC1 Design Considerations
DC 3 Landscape Protection
NE1 Biodiversity
NE 2 Tree, wood and hedge protection
SS10 Rural Area Strategy
T1 Development and Sustainable Transport
T2 Sustainable travel
SD 4 Pollution
SD 5 Flood Risk

Staffordshire Moorlands Design Guide

National Planning Policy Framework

5. SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

06/0700/FUL-MJ Redevelopment of the site to provide Care Village comprising 238 apartments plus 60 bed spaces with ancillary care facilities. **Withdrawn**

08/01272/OUT-MJ Continuing care retirement community (CCRC) comprising 200 dwellings, integrated 50 bedroom residential care home, healthcare, lifestyle, leisure, administration offices and creche facilities. Refurbishment of 4 existing buildings and on site infrastructure. **Refused**

12/0625/FUL-MJ Extra care housing, holiday park, live/work units and ancillary social centre at Anzio Camo. **Refused and dismissed at appeal**

SMD/2014/0683 Erection of extra care housing, live work units, ancillary social centre and facilities building and change of use to holiday park. **Approved 09/11/2015**

SMD/2019/0417 Certificate of lawfulness for the implementation of planning permission SMD/2014/0683 consisting of works involving the demolition of one building and the digging of foundations in respect of a building approved under the planning permission. **Granted 25/09/2019**

SMD/2023/0137 Change of use to a holiday park (caravan site) including ancillary social centre and facilities, car parking and landscaping. **Pending consideration**

6. CONSULTATIONS

Publicity

Site Notice: Expired

Neighbour consultation: Expired
Press Advert: Expired

Public Comments None

Tittesworth Parish Council

The above matter was discussed at some length at the recent meeting of the Parish Council and reached the same conclusion as the last time this application was put forward.

- The difference between the original application and the current proposal is such that it warrants a new application and not a “variation of conditions”;
- There is a lack of information, size, occupancy, appearance, locations, number about the proposed lodges which makes it impossible to form an opinion;
- It is believed that the potential size and scope of the development would swamp the local hospitality industry to the detriment, not benefit, of the local economy;
- Concerns were expressed about potential noise nuisance given the potential number of occupants and limited management presence.

Given the above the view of the Council is that is not able to support the application and it should be refused.

Environmental Health

Object

The applicant has applied to amend several conditions associated with the previous consent [SMD/2014/0683](#). This includes 3 conditions that either indirectly (conditions 18 & 19) or directly (condition 24) related to the existing noise assessment and proposed mitigation.

It is now nearly 11 years since the noise assessment was compiled for the original application. The noise assessment was conducted to assess the viability for extra care housing in the disused military housing, short term holiday lets in lodges and live work units. This application seeks to make significant changes to the original proposal which appears to be for individual long term accommodation.

However, no new noise assessment or supplemental documentation has been submitted to account for change of habitation type (18 & 19) or support the removal of agreed mitigation (condition 24). Therefore, without this updated assessment it is impossible to accurately evaluate the impact of these changes on the future amenity (noise).

It is recommended therefore that the application is **refused** on the grounds of insufficient information to evaluate the proposed changes to the existing conditions. A new site specific noise assessment should be submitted to support this application.

Further comments

Condition 18 – *Short term holiday lets limited to 4 weeks* (& Condition 19 – *Limit to 45 holiday lodges*).

Any change to this condition which extends stays would require a new noise assessment. As was originally proposed stays would be short term and so the risk of adverse impact to amenity from the shooting range would be relatively short term. **(Object)**

Condition 24: *Before the commencement of the construction of the extra care cottages a precise specification (to include details of the proposed materials, heights and profiles) of the*

proposed acoustic fencing within the approved earth bund and around the north western corner of the site and the timber crib wall has been submitted to and approved by the Local Planning Authority. The acoustic fencing shall be erected in accordance with the approved details before the extra care cottages are first occupied.

This condition was specifically part of the mitigation plan proposed by the acoustician working for the applicant, and even resubmitted with this application e.g. [here](#). Extract from the report:

This report therefore, draws the conclusion that the proposed residential development with the revised mitigation in the form of on-site bunding and localised screening as outlined above will satisfy the NPPF requirements (Object).

Contamination & RDF Waste and submitted Reports

As noted the majority of reports submitted to support this application are the same as those submitted with the original application. Consequently, none of these reports reference the huge amounts of bailed plastic waste (Refuse derived fuel – RDF) that was dumped illegally on the site in 2016 and is still present.

It is therefore highly likely that the majority of the reports submitted with this application are not representative of the current site situation.

Obviously, redevelopment of the site will require the removal of the RDF waste (which is likely to be at significant cost). This may also impact on other mitigation plans (or indeed already has) – ecological etc.

Without this information it is difficult to see how the proposed site could be suitable for development in its current form.

However, it is noted that the applicant has not applied to change or alter the contamination conditions [SMD/2014/0683](#) (based on a 2008 investigation) which is still applicable and would require this new waste to be accounted for.

It is also recommended that consultation is sought with the EA, Staffs County - Waste & Mineral Planning (debbie.morgan@staffordshire.gov.uk) and the fire service (Matthew.White@staffordshirefire.gov.uk), who are aware of this issue and been involved in trying to get it addressed by the landowner.

The Environmental Health Department recommend refusal due;

- Insufficient information being provided to assess noise impacts at the site and the noise impact this development will have on neighbouring properties.
- Insufficient information / inaccurate information on the impact the huge amounts of RDF currently waste on the site, and how this waste may impact the accuracy of the submitted reports and how this will be removed in order to make the site suitable or the proposed development.

Trees and Woodland Officer

None received

Staffordshire Wildlife Trust

No objection. Confirms that the original conditions of SMD/2014/0683 relating to protection of ecology and provision of a landscape habitat management and maintenance plan should continue to have effect:

1. Conditions 13, 16 and 17

In addition, due to the changes in habitats at the site since granting of SMD/2014/0683 new conditions should be attached as follows:

2. Bat inspection and survey prior to any further demolition of buildings
3. Precautionary method statement for protected species prior to any further demolition and commencement of site clearance
4. Sensitive lighting strategy for bats
5. Method Statement for Invasive Species

Staffordshire County Council Highways

First response 23rd June 2022

Commented that all the supporting transportation information seems to be for the original approval SMD/2014/0683. The Technical review of the Transport Statement does not support this VAR application – it supports the previous application.

I would expect the supporting documentation to at least refer to the application. How does the change from care homes to holiday accommodation affect trip generation?

Is there a revised layout drawing? The drawings I have seen all still show the original care home buildings, which I understood to be unviable?

Location and form of the pedestrian crossing was never discussed, but as the care homes are being deleted, there is likely to be more pedestrian demand for a crossing closer to the Three Horseshoes than for access to bus stops..... this should be considered

Second response 2nd May 2024

I previously commented on SMD/2022/0031 on 23rd June 2022. The revised details don't appear to provide any response to or further information for any of the points made in that email.

I have nothing to add to my previous email.

Local Lead Flood Authority - No objection as the conditions sought for amendment/removal do not involve matters of flood risk. Condition 5 on the original decision to be reimposed

Environment Agency

Do not wish to comment

AES (Waste) No issues with waste collection from the site

7. OFFICER COMMENTS

7.1 The issue to consider is whether the proposed amendments are acceptable having regard to the Development plan, other materials considerations and conditions attached to the existing permission and whether or not there have been any material changes in circumstance since the outline permission was granted on the 9th November 2015.

Principle of Development

7.2 Since the grant of outline permission in 2015 a new Local Plan has been adopted (September 2020) which contains a site specific policy for the Anzio site, Policy DSR 5. It refers to the site as an opportunity site for a mixed use development and to the following criteria which development must satisfy:-

*-Uses which may be suitable are employment, extra care housing, tourist accommodation;
-Development should be complementary to and not undermine the role of the towns and larger villages nor shall it undermine wider strategic objectives;
-Development should avoid or minimise environmental impacts and congestion and safeguard and enhance natural and cultural assets;
-Development shall be in accordance with the Churnet Valley Masterplan.*

7.3 Policy SS10 also refers to the regeneration of the developed site at Anzio in accordance with DSR 5. It says that development should complement and not undermine the role of towns and larger villages or wider strategic objectives

7.4 The site is also identified as an Opportunity site in the Churnet Valley Masterplan. This was adopted in 26th March 2014 and was in place when the outline permission was granted.

7.5 Given that the proposed change is for lodges which are said to be for extra care use, there is considered to be no objection in principle because this use falls within the list of uses in both the adopted Local Plan and the adopted Churnet Valley Masterplan considered to be acceptable for this site. As such the principle of the change sought from two care homes to individual lodges for extra care is acceptable and in line with Policies SS10 and DSR 5

Layout, scale, appearance and landscaping

7.6 The substantial change put forward in this application is the removal of the two large care homes which sat at the heart of the development and their replacement with extra care lodges.

7.7 The updated Planning statement provided in August 2023 referred to the replacement of the 2 care homes with 48 extra care lodges (96 beds) but no accompanying plan was provided. At the request of the Case Officer a Masterplan (file ref: S73 Masterplan Care homes replaced) was provided in March 2024. It showed an arrangement of 14 units. In further iterations of this plan the number of units was increased and in the final plan submitted on the 8th July 2024 (which included the changes requested by the Case Officer detailed in the Proposal section above) 21 units are shown arranged around new operational development consisting of access roads, footpaths, hard standings and 39 communal car parking bays. Some of the units appear to have hardstandings for vehicles adjacent to the lodge.

7.8 This proposed scheme raises several issues. Firstly whilst a general arrangement as proposed may well be acceptable for short stay holiday accommodation, that is not what is proposed in this case. The applicant describes these as extra care lodges. They will be permanently occupied as residential accommodation and in accordance with the original Section 106 agreement, occupied by persons aged 55 years or more and in need of care. It is not considered that the layout as shown would create a high quality, beautiful or sustainable place in which to live (para 131 NPPF) for the reasons discussed below.

7.9 The layout has a very inefficient and rather unimaginative road layout leading to a engineered environment dominated by excessive amounts of hard surfacing and parked vehicles. For those units which aren't provided with a parking space next to their unit, the communal bays do not provide safe and convenient access to the front doors of the units which is perhaps a more important design consideration bearing in mind the intended occupants. Furthermore the layout is not based on an up to date Arboricultural Impact Assessment neither has the applicant been willing to update the Landscape plans (LS6155/P/L/105B (Eastern section) and 106C (Central section)) which are based on the approved layout. It is not known therefore if this revised scheme will impact trees that were to be retained and if a satisfactory landscaping scheme can be achieved. Linked to this is the fact that, despite requests, there is no information about what a 'lodge' will look like. No elevational plans, material or detailing is provided. The applicant simply falls behind the fact that the 'lodges' will be 'caravans' within the definition of a caravan under the 1960 and 1968

Acts. Absent of any information about the units themselves it is very difficult to assess how the residential amenity of future occupiers can be protected in terms of privacy and outlook. As noted above such a layout may be acceptable for short term holiday accommodation where reduced levels of amenity are appropriate but these units are for permanent occupation by those aged 55 years and older who, it is assumed may spend a much greater percentage of time within their homes than tourists. The layout is tight in part with seemingly little separation distance between the units. Policy DC1 seeks to ensure that residential amenity is protected in terms of amongst other matters outlook, privacy and visual impact. The application does not demonstrate how or if this can be achieved

7.10 There is also the issue of context. In the approved plans the holiday accommodation to the north was designed as a separate character area, visually and physically separated from the extra care complex by a strong landscaping belt. The proposal now introduces a layout which has all the hall marks of a caravan/lodge park directly adjacent to the traditional extra care cottages which remain unchanged. These have been carefully designed to reflect local vernacular i.e. simple traditional form and detailing, pitched roof, strong solid to void ratio, materials of brick, stone and slates. Although the two care homes were large buildings, they too had been sensitively designed so that their overall appearance and finish complemented the cottages and read together. There is consequently no synergy between the proposed extra care lodges and the approved extra care cottages in form, layout or appearance. The two elements will appear disparate and lack the required design quality for this rural location close to the Peak District National Park. The proposal does not respect the site or promote a positive sense of place or provide an attractive place in which to live. Any certainty of design quality is hampered by a lack of information on tree impact, landscaping and the elevational treatment of the lodges.

7.11 The Agent seems to suggest that as these 'lodges' would fall within the definition of a caravan and a change of use of the land, that consequently the layout and appearance is completely fluid (e-mail 27th March 2024). Such an unrestricted approach may well be acceptable on some sites but in this case, the LPA would, for the reasons above, want to and control the positioning of the units and their appearance including their form, materials and detailing. It also ignores the fact that the roads, paths and hard standings constitute operational development.

7.12 Policy DC1 requires that all development should be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area in line with the Councils Design Guide SPD. It says that new development should be of high quality and add value to the local area incorporating creativity, detailing and materials appropriate to the area and be designed to respect the site and surroundings and create a positive sense of place. National policy in the NPPF says that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design it says is a key aspect of sustainable development. Para 140 refers to diminution of schemes once permission has been granted

7.13 For all the reasons above the scheme put forward in this Section 73 is materially different to the approved scheme for the reasons given above, It does not deliver good design and the quality of the approved development is materially diminished in this Section 73 variation. There is conflict with Policy DC1, the Councils Design Guide and the NPPF

Noise and residential amenity

7.14 The Framework at paragraph 123 says that planning decisions should avoid noise giving rise to significant adverse impacts on health and quality of life.

7.15 The Leek and District Shooting Centre is located a short distance to the northeast of the appeal site. It is noteworthy that an Inspector considering an earlier scheme for extra care housing on the site under 12/00625/FUL-MJ dismissed an appeal on grounds including the unacceptable living conditions for the residents of the extra care housing as a result of noise nuisance from the nearby gun club and insufficient evidence to confirm that this could be satisfactorily resolved through a condition.

7.16 The applicant seeks to rely upon the Noise Assessment dated 20th October 2014 prepared by Sharps Redmore and submitted with the 2014 application. Not only does this report not reflect the scheme put forward in this Section 73 application but it is now almost 10 years out of date. This matters because as the EHO notes the current application seeks a significant change by replacing two large traditionally built, brick and tile care homes with what the Agent says will be extra care 'lodges' (which he says will fall within the definition of a caravan) for permanent occupation by those aged 55 years and older and in need to care.

7.17 In the absence of a new/updated Noise Assessment or Supplementary document (and indeed any information as to what form the 'lodges' may take), to support the proposed change to the accommodation type in this part of the site, it is impossible to evaluate the impact that noise may have on the proposed accommodation and therefore whether the amenity of future residents can be protected in line with policy.

7.18 As such there is conflict with Policy SD 4 which says that the Council will protect people and the environment from polluted environments by ensuring proposals avoid adverse effects or that adverse effects can be adequately mitigated. Para 190 of the NPPF also says that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on amongst other matters, health and living conditions. In doing so it says that decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise and avoid noise giving rise to significant adverse impacts on health and the quality of life.

Contamination

7.19 The reports which supported the 2014 application have not been updated. These did however recognise that the land is likely to be subject to contamination following its use as a military site. As the Environmental Health Officer notes, none of the reports relied upon in 2014 reference the huge amounts of bailed plastic waste (Refuse Derived Fuel RDF) that was dumped illegally on the site in 2016 and is still present. Indeed the application is completely silent as to the presence of the RDF waste. This is a significant change in circumstance since permission was granted on the 9th November 2015 but is not assessed.

7.20 Redevelopment of the site will require the removal of the RDF waste, which is likely to be at significant cost. Whilst contamination conditions on the 2014 permission could be carried forward, the costs of clean up associated with the RDF waste which are likely to be significant may impact upon viability and also impact on other areas – HGV movements, CEMP, ecology etc

7.21 Whilst the PPG confirms that responsibility for securing a safe development rests with the developer and/or landowner, it goes on to say that the LPA should be satisfied that a proposed development will be appropriate for its location and not pose an unacceptable risk.

7.22 In view of the lack of up to date information on this matter, it is not possible to reach such a conclusion. The information is not provided, is not therefore understood and can not be assessed. There is conflict with relevant parts of Policy SD 4 and the NPPF

Landscape and visual impact including tree protection

7.23 No updated LIVIA or Arboricultural Impact Assessment has been provided. It is not possible therefore to assess any changes to the site in the last 10 years or to assess the impact of the proposal on trees that were to be retained.

Furthermore the approved Landscape plans affecting this part of the site LS6155/P/L/105B (Eastern section) and 106C (Central section) have not been amended to reflect the scheme now presented

7.24 Without this information it is not possible to conclude that the proposal will have an acceptable impact on existing trees to be retained or the character and appearance of the area, noting that this is a rural, semi upland location close to the Peak District National Park

Highways/Access

7.25 No updated Transport Statement is provided with the application. This led to the Local Highway Authority expressing concern about the lack of information in comments made in June 2022 and again in May 2024.

7.26 These comments were put to the Agent who responded on the 9th May 2024 as follows:-
'This planning application, SMD/2022/0031, in the proposed development description is for the "Substitution of two care homes with extra care lodges,...". This application retains the extra care residents at the site and therefore directly mirrors the existing and extant planning permission. The only proposed change relates to the type and character of accommodation from care homes to lodges, the lodges retain the extra care use and are not related or proposed for holiday use. As the land use and residents remain as previously granted permission by the LPA there will be no change in vehicle generation or pedestrian movement'.

7.27 The LHA never responded to the Agents comments but they are perhaps surprising comments. Although it is agreed that the application does not seek a different land use, as it remains as extra care, the nature of the proposal is substantially different

7.28 Firstly the two care homes to be removed provided 80 en suite bedrooms with shared dining and other facilities. Residents would be highly dependable on others to provide high levels care and would not be physically active. That contrasts with the proposed change to the extra care lodges which would offer independent residential accommodation for persons 55 years and older. The lodges we are told would be 1, 2, or 3 bedroom. It is a reasonable assumption that the occupants of the extra care 'lodges' could be reasonably active and have cars. Indeed judging by the number of spaces provided in the scheme the applicant shares this view. There are very limited facilities available in Blackshaw Moor. To meet their shopping, healthcare, leisure and other needs, residents are likely to make trips off site, for example to reach the nearest town of Leek. Trip generation would be materially different but is not assessed.

7.29 Secondly the original application described the nature of the extra care as follows:-
The Care Home provision is supported by a mixture of 42 two and single bedroom cottages.... It is often the case that an elderly couple reaching the later part of life can be accommodated on site to suit their individual needs with one residing in the care home whilst the more active residing in their own cottage ensuring couples, at whatever their stage in life, can remain close together

The Section 73 and loss of the care homes materially changes this position and is not assessed

7.30 Thirdly it is not explained how care will be provided for the lodges (or the cottages) following the loss of the Care homes and the potential implications for trip numbers from medical/ care support personnel visiting the site or residents seeking such support off site.

7.31 Fourthly this is not a sustainable location. There is an infrequent bus service and no services and facilities in Blackshaw Moor to provide for day to day living, medical/healthcare facilities, leisure pursuits etc. Although the original application includes for a Social building, the loss of the two care homes, the anchor for the approved extra care scheme providing the

medical/healthcare support, shared dining facilities, hair dressing etc for use by not only those residing in the care homes but also occupiers of the lodges is likely (but not assessed) to lead to a greater number of car journeys to and from the site because the site does not offer opportunity for sustainable travel modes and this is said having regard also the nature of the occupants

7.32 Finally the traffic impact arising from contamination as discussed above would be expected to form part of an updated TA or supporting document

7.33 The conclusion is that the change put forward in this Section 73 could lead to a material change in traffic movements to and from the site which are not assessed and measures to encourage and facilitate modes of travel other than the car are not considered. As such there is conflict with relevant parts of Policy DC1 and T1 and the NPPF

Biodiversity

7.34 The application is supported by a letter from Cresswood (2022) which describes the walkover survey undertaken March 30th 2022. The letter report confirms that although habitats on site are largely unchanged since previous surveys in 2014, due to lack of management the amount of dense scrub had significantly increased comprising mainly bramble with self-set trees. The grassland habitat has become tussocky in places and growing to a height of 30cm. Trees originally mapped as scattered in the west of the site now form an area of broadleaved woodland. In addition, the invasive non-native species cotoneaster and rhododendron are now present in large amounts.

7.35 A thorough inspection of all buildings and trees was not carried out as part of the Crestwood 2022 walkover but the buildings on site at the time of the walkover were noted as being in a state of disrepair or damage. Slipped tiles, broken facias and missing mortar were noted as providing an opportunity for roosting bats in a large number of the buildings. Both maternity and day roosts have previously been confirmed in buildings on the site. Several of the mature trees on site were also noted as having features suitable for roosting bats including woodpecker holes.

7.36 Staffordshire Wildlife Trust have reviewed the application for the Council. Their advice is that owing to the changes in habitat condition since the previous ecology surveys were carried out that several new conditions should be included as well as re imposing the ecology/biodiversity conditions on the original application, Conditions 13, 16 and 17. With these in place they are satisfied that biodiversity interests can be protected in line with Policy NE1 and the NPPF

8. CONCLUSION / PLANNING BALANCE

This Section 73 proposes variations to the following conditions:-

1. Conditions 2 – Plans condition

Planning officer comment

For the reasons expressed above, the proposed loss of the two care homes and replacement with extra care lodges is not acceptable and conflicts with policies in the Development Plan as discussed in detail above

2. Condition 18 - Restriction of occupancy of holiday lodges to 4 weeks.

Planning officer comment

In his e-mails of the 28th Feb 2024, 13th March 2024 and 24th July the Agent says that limiting the holiday use to four weeks is unnecessary. He says tourist seasons are not limited to a

duration or a season and this form of conditional restriction does not meet the tests for planning conditions.

He suggests that the condition can be revised to state the following (or similar): *"No holiday lodge shall be occupied as a person's sole or main residence. The site owners/operators shall maintain an up-to-date register of the names/s of the owners/occupiers of individual lodges on the site, and their main home address, and shall make this information available upon request to officers of the Local Planning Authority."*

This is not accepted and the suggested change is not acceptable. The reason for the condition is to prevent permanent residential use in this unsustainable location in accordance with spatial policies in the Local Plan. Policies in the Local plan seek to focus new housing development in the town and larger villages of the District where services and facilities are available including sustainable modes of travel. Policy DSR 5 and SS10 specifically state that development at Anzio should not undermine the role of the towns and larger villages nor undermine the wider strategic objectives. The limit in the number of weeks is standard practice and ensures that the permanent residential occupation is prevented

3. Condition 19 – Restriction on number of holiday lodges

Planning Officer comment The Agent says 28th Feb 2024 and 13th March 2024 that it is not necessary to restrict numbers and that reference to the Caravan Act can simply be made. This is not accepted. It is necessary to restrict numbers to protect the character and appearance of the area in line with Policies DC1, DC3 and SS10 of the Local Plan

4. Removal of conditions 20, 21, 22, 24

Planning Officer comment

Although the application form clearly seeks to remove Conditions 20, 21 and 22 which relate to the live work units, in his letter of the 28th February 2024 the Agent says they need to be varied. He expresses concern about the reference in the Conditions to Class B1 which as he says is now part of Class E. These conditions are reasonable and necessary to make this part of the development acceptable and ensure implementation of these units as live-work units and to contribute towards the sustainability of the site and the rural economy in line with Policies SS1, SS10 and E1. If approval were to be forthcoming the condition could be reworded to reflect the change in the Use classes Order, however the application seeks the removal of these conditions which is not supported for the reasons above.

Condition 24 relates to the provision of an acoustic fence to protect the residential amenity of occupiers. The application form seeks its removal which would not be acceptable as it would result in the loss of part of the mitigation strategy agreed with the original application and would adversely affect the living conditions of occupiers contrary to Policies DC1 and SD4. In later correspondence (28th Feb) the Agent suggests an amendment to remove the pre commencement element. However this is already tailored to the extra care cottages only and any further dilution would not be acceptable as it goes to the heart of the noise mitigation strategy and acceptability of the proposal

Finally a Deed of Variation would be required if this application were to be approved. As the recommendation is for refusal this has not been progressed with the applicant but in the event of an appeal the Council would wish to progress this.

For all the reasons expressed above, the recommendation is for refusal

OFFICER RECOMMENDATION : REFUSE

Case Officer: Jane Curley

Recommendation Date: 6th August 2024

X *B.S. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council