

Description of the site.

This statement is produced to support the appeal of a refusal decision for an outline planning application for a new residential development on land at a redundant commercial yard off Akemoor Lane, Biddulph. The yard was previously operated as a commercial skip yard. The use has been in effect since the late 1990s, when a previous owner began to use the site for storing skips. An enforcement notice was served on the site in 1996, but there is no evidence of any action that was taken after this notice was served. Clearly, the then owner did not action the enforcement notice and the site continued to operate. It is unknown why the council did not pursue enforcement action on the site at this time. The site was then sold to the late brother of the applicant, who the council alleged to have resumed enforcement action against because he was continuing with the commercial use of the site as a skip yard. No information relating to the pursued of action against the site and its new owner is known, nor was any action taken when the use continued to operate. If this was to have taken place in the early 2000s, a minimum of 20 years has elapsed since the council may have last been actively working against the site for an unlawful use. During those 20 + years, the site has continued to operate as a commercial skipyard with no further intervention, despite the sites use being flagged during planning applications for adjacent sites.

DBD became involved with the adjacent stable site in 2023 after it had had a previous application refused (SMD/2020/0544) and dismissed at appeal (APP/B3438/W/21/3274870). The objection from the LPA was in relation to concerns of noise pollution from the adjacent skip yard, which is the site of this application. The inspectorate dismissed the appeal based on inconclusive NIA information and ineffective mitigation measures that were put forward. If the council had concerns about the operation of the skipyard, substantial enough to warrant the refusal of a separate development on the adjacent site, it is not known why they didn't take action against it then, rather than refuse a separate application, to the detriment of the applicant, if the adjacent use was unlawful. It seems the commercial use of the skipyard was used to the advantage of pursuing repeated refusals for development on the stables site.

DBD were instructed by the applicant to prepare a revised application which addressed the noise issues of the adjacent site, seeing as the principle had been accepted as an exception of redevelopment of previously developed land in the Greenbelt. Over the course of two additional applications (SMD/2023/0590 & SMD/2024/0117) we provided extensive evidence of existing and proposed noise levels from the commercial site, as well as mitigation measures. Despite this the LPA and Environmental Health department continued to object to the stables development with the following reasons provided.

“...an adjacent and established commercial skip yard is deemed to lead to significant noise and disturbance issues that would adversely affect the residential amenities and living conditions of future occupiers of the dwelling and these impacts cannot be sufficiently mitigated.”

-SMD/2024/0117 Committee Report

We made the LPA aware that the owner of the skip business (this applicant's brother) had passed away and that the applicant would inherit the site and ensure the skip business would not continue, hoping this would elevate issues of its continued or intensified use, however, application (SMD/2024/0117) was put forward to the planning committee, who suggested that the commercial use of this site would need to cease and be confirmed to have been formalised with another use before a residential use of the stable site would be viable. Given that the closure and change of use of this commercial site was so strongly wished for in the past, it has been anticipated that the formal redevelopment of this site to provide further residential dwelling(s) would have been looked upon

more favourably, as otherwise, the established commercial use would remain in place and could restart with a new commercial venture, as suggested in the committee report for application SMD/2024/0117.

After the refusal of the latter application, the applicant instructed us to prepare an appeal (APP/B3438/W/24/3357062) given the council had not provided substantiated reasons as to why noise would be an issue from the site relevant to our application. The main argument of the LPA was centred on an “established commercial use” of the adjacent site which was not restricted to any operational hours or industrial processes. This is because the site had established a lawful use as a commercial site through unchallenged operations for more than of 10 years. There was also concern shown by the LPA that, given the unrestricted use of the site, operations could intensify, with the suggestion of 24/7 operation being suggested, although it is unknown how or why a small-scale skip yard would or could operate at these times. At this time, if the site was of substantial concern to the council, they chose not to take new enforcement action on the site, potentially because efforts to stop the sites commercial use would not be possible due to its extended time operating as a skip yard without substantial intervention. The inspectorate for APP/B3438/W/24/3357062 concluded that, even if operations continued, mitigation measures were sufficient to allow the redevelopment of the stables site for a single residential dwelling. The council had not provided any counter evidence that the mitigation measures were not effective, therefore their claims of inadequate neighbour amenity were unjustified.

Impact on the Greenbelt.

The existing development undoubtedly causes substantial harm the surrounding greenbelt and would in no way be considered an appropriate use for a site in this rural location, had it not got an established use as a commercial site. The repurposing of previously developed land to provide new housing in the greenbelt is an exemption to what would otherwise be inappropriate development. We strongly believe this site is an example of this type of development, where by the proposal would lead to substantial improvements to the amenity of the area, subject to the details of a reserved matters application being put forward to demonstrate this.

The two existing road frontage buildings display an overbearing and dominant appearance on the street scene when passing the site, and no buildings that were scrutinised by a planning officer during a planning application would be permitted in such a location, yet in the officer report, it is suggested that they are not unusual or intrusive on the landscape. I am not aware of any other site locally where high eaves buildings have been granted planning permission directly off the roadside frontage, more so where there is no footpath of grass verge. The removal of these building and the replacement with native hedgerows, either side of a revised entrance to the site, would bring significant improvements to the openness of the greenbelt alone, regardless of the improvements made elsewhere across the site.

The majority of the open area of the site is a sealed surface, hardstanding, with the exception of spoil piles to the North boundary and the small coppice area to the East. The removal of materials from the site, contaminated or otherwise would bring further benefits to the amenity of the area. More over improvements/re-establishing hedge rows will be a more innkeeping feature in this rural area than the ramshackle remnants of building currently on the site.

The application was outline, with all matters reserved, however there is repeated mention to the quantity of dwellings, their size and design style, being described as “suburban”. It was our

understanding that none of these factors were to be assessed in an outline application, as they would not form part of the approved details. The scheme put forward was labelled as indicative and shows, what we feel, would be an absolute maximum number of dwellings which could reasonably fit on the site. This is of course subject to further surveys and reports, which would be conducted after an outline application was approved, otherwise funds would be wasted on specialist survey before the principal of the development is accepted., defeating the principal of this type of application. It is not a requirement to provide a proposed layout for all matters reserved application, however we do this to demonstrate feasibility, so this level of information should not be considered to form part of a refusal. We are aware of site constraints that may limit the area available on site to provide dwellings, so it is likely that the number of dwellings would reduce for this site, if it passed the outline stage, however this is a detail to be assessed at a later time.

Is the Development in a sustainable location?

Akesmore Lane is described as tortuously narrow and winding, although the majority of the lane is a double car width and there are numerous passing points at parts of the lane which narrow to a single car width, one of which is conveniently located only a few metres to the south of the site entrance. Staffordshire County Council highways correctly identified that the site had an established commercial use and the commercial traffic associated with the site, when in use, would be far more substantial than residential occupants of 1-4 dwellings moving to and from the site. Previously, skip wagons moved skips to and from the site to the surrounding area, and large lorries will visit the site periodically to remove the sorted materials and transport them to appropriate facilities elsewhere. This is in addition to employee vehicles.

The definitive route of Public Right of Way (PROW) Biddulph Town 16 do not cross any part of the site. It runs parallel to the southern boundary of the site, wholly within the adjacent field. The access stile to this route is visible on Akesmore Lane, directly running into the field from the roadside and not passing through the application site. The public footpath is clearly defined on historic and modern OS maps. I note within the SMDC's Interactive mapping system (<https://www.staffs Moorlands.gov.uk/smdc-aurora>) there are two filters to show "PROW" and "footpaths", which so differing routes, the latter being through the site. This information is inaccurate as there is no record of the site benefitting from any public right of way. We have had similar issues with SMDC where they have cited this information for other sites which show the PROW incorrectly following a different route to the designated public footpath. A public comment from Alan Bell from the District Footpaths of Staffordshire Moorlands and consultee comments from Peak and Northern Footpaths Society, confirmed that Biddulph 16 runs close to the perimeter of the site, not through it. A consultee comments from SCC Rights of Way refers to this unknown right of way being visible on their Staffordshire County Council Public WebMap, but this is a fairly crude denotation of the right of way and does not accurately reflect the true route of the footpath. In conclusion, we do not believe this to be a considerable reason for refusal.

Potential of ground contamination and historic mining activities.

Following the initial comments from The Coal Authority, we instructed a new CMRA to be completed, at their request. This was submitted to the case officer for re-consultation; however, the case officer didn't not feel that the contents would be relevant to the overall outcome of the application. Therefore, we do not have revised comments from the professional consultee, which

would likely have overcome the original concerns. That being said, the conclusion of the report summarised that intrusive ground investigations would be required before a subsequent reserved matters application, so that areas suitable for development could be identified and any remedial works could be scheduled. It is possibly that once all relevant information has been collated, the number of proposed dwellings could be reduced to one, in order to adapt to the findings of the surveys. With an outline application, with all matters reserved, we would expect that this level of detail would be provided during the later reserved matters application once a definite scheme had been designed in accordance with the outcomes of such surveys. The purpose of an outline application, to determine the principle of a development, would be counter-productive if extensive surveys and reports were commissioned before such principles of supportable development had been determined.

Consultee comments from Environmental Health were referred to in the officer report, however, these do not feature on the online portal, so the full details cannot be considered, nor could we have addressed them during the course of the application because the comments weren't made available for viewing. It is suggested that the application should be refused based on no instructive ground investigations being conducted to determine levels of ground contamination and the required remediation work that may be necessary. Like the mining response, we would view this information as secondary to the objective of an outline application, which is to determine the acceptability of the site for a residential use, subject to the inevitable reports and investigations that would follow with a reserved matters application. Any form of contamination, likely from the mining history can be rectified by licensed removal of waste from the site and the importation of clean soil for sensitive areas of the development, so it is unlikely the site could have levels of contamination that could not suitably be mitigated against. A reserved matters application should then consider whether the proposed mitigation methods are suitable to allow for approval of the development. In other cases we have worked in the past, contamination details have been conditioned, for later approval, after a decision has been made on a full planning application. We do not believe it is necessary to require such information or state a reason for refusal of an outline application, based on specific levels of site details mentioned in this case.

Summary

In conclusion, we respectfully ask that the appeal is upheld, and outline permission is granted for a new residential development on the site, subject to a subsequent reserved matters application, which would discharge all outstanding details of the development.

We do not believe that the site can be deemed as agricultural, greenbelt land, given its historic use as a commercial yard which has been acknowledged, accepted, and used as a material consideration for other past developments in the area. The appearance of the site, within its rural setting, would be greatly improved by the change of use and it would remove an "inappropriate" and "uncontrollable" commercial use on the site in exchange for a more harmonious residential development, which through good design, could contribute positively to the local amenity and wildlife habitat.

We do not believe the level of intrusive site surveys requested, as part of an all matters reserved outline application, are appropriate for this type of application. These details requested would be provided during a subsequent reserved matters application, should the principle of the development be accepted as a result of this appeal.