

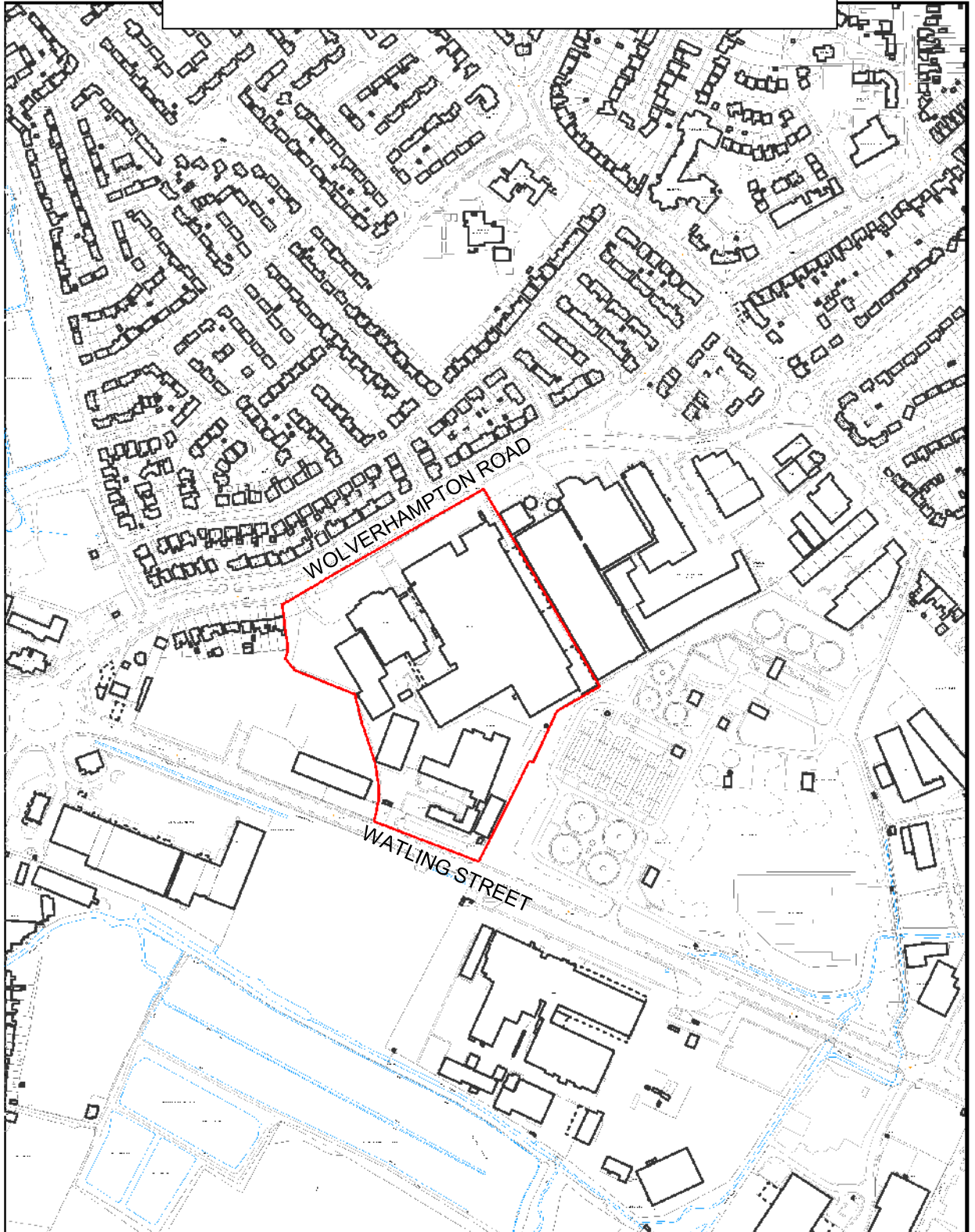


CH/17/323

Gestamp Tallent, Wolverhampton Road, CANNOCK, WS11 1LY

Demolition of existing factory and offices and erection of up to 180 dwellings and up to 30,000 square foot of employment floor space (B1(c) and B8 Use Class), access and associated works (outline application with all matters reserved except for access)

ITEM NO. 6.1



# Location Plan





# Illustrative Masterplan



# Illustrative Site Layout Plan



**SCHEDULE**

PLANT & EQUIP	
180p Units	21 no. @ 8125
280p Units	21 no. @ 8125
SUB TOTAL	42 no. @ 8125

**HOUSES @ 775c**

280p Houses	14 no. @ 8025
380p Houses	25 no. @ 4425
480p Houses	14 no. @ 2225
SUB TOTAL	53 no. @ 8775

**TOTAL** 95 no. Dwellings

**APPROXIMATE 34 @ 80 20%**

**Schedule of Accommodation**

180p Units	21 no.	4710 sqm	9570 sqm
280p Units	21 no.	6030 sqm	12710 sqm
<b>Total Units</b>	<b>42 no.</b>	<b>10740 sqm</b>	<b>22280 sqm</b>

**HOUSES**

280p	14 no.	6030 sqm	910 sqm
<b>TOTAL</b>	<b>14 no.</b>	<b>6030 sqm</b>	<b>910 sqm</b>

**APPROXIMATE 34 @ 80 20%**

**RESIDENTIAL COVERAGE (approx POS)**

180p Units	21 no.	14700 sqm
280p Units	21 no.	12600 sqm
480p Units	14 no.	30800 sqm
<b>TOTAL</b>	<b>56 no.</b>	<b>78100 sqm</b>

**WALKER TROUP ACCREDITED**

**PROPOSED RESIDENTIAL DEVELOPMENT WOLVERHAMPTON ECAD CANCER**

**ILLUSTRATIVE SITE LAYOUT**

**GESTAMP TALENT LTD**

**1:500 @ A0** 3 Dec 17

**1726 - P. 04 A**

**Application No: CH/17/323**

**Received: 22/08/2017**

**Location: Gestamp Tallent, Wolverhampton Road, Cannock**

**Parish: Non Parish Area**

**Ward: Cannock South**

**Description: Demolition of existing factory and offices and erection of up to 180 dwellings and up to 30,000 square foot of employment floor space (B1(c) and B8 Use Class), access and associated works (outline application with all matters reserved except for access)**

**Recommendation:** Approve subject to the conditions attached to the officer update report (with the exception of the reference to the MUGA in condition 18 which shall be deleted) presented to planning Committee on 30<sup>th</sup> May 2018 and the completion of a section 106 agreement to secure: -

- (i) Provision of 5% social rented 2 bed houses as on-site affordable housing contribution.
- (ii) Review of viability and claw back provision at the completion of 80<sup>th</sup> dwelling and clauses for the provision of affordable housing on site or, if money is less than the cost of one unit, the provision of a commuted sum for provision of affordable housing off-site, with clauses for the transfer of units to a registered provider.
- (iii) Future management and maintenance of the Public Open Space including a Neighbourhood Equipped Area of Play and communal landscaped areas (either by transfer of land together with any monies or by management company).
- (iv) Implementation of the Travel Plan and monitoring fee.
- (v) A separate section 106 obligation to deal with the SAC contribution be sought to secure compliance with the Habitats Regulations to mitigate the impacts on Cannock Chase SAC.

#### **Reason for Granting Permission**

In accordance with paragraphs (186-187) of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

#### **Reason for Committee Decision:**

The proposal in some respects is contrary to Policy and guidance and therefore requires a balanced judgement to be taken between competing priorities and the Local Ward Councillor has requested that the application is determined by Planning Control Committee.

#### **Background**

At the meeting of Planning Control Committee on 30<sup>th</sup> May committee resolved to defer the application to allow the applicant the opportunity to review their viability appraisal and to revise their offer in respect to affordable housing.

#### **RESPONSE TO PUBLICITY**



The application was advertised by neighbour letter, site notice and by newspaper advert. Since the last meeting of Planning Control Committee 2 letters of representation have been received stating the following: -

No objection to the principle but object to the draft plan. Too much green space that will not be viewed by occupiers. 17 out of 180 dwellings will have a view! More variety needed.

As a local resident of Clifton Avenue, on the face of it having houses rather than a factory opposite us would seem preferential. However, the weight of traffic and congestion in the immediate area must be considered. The volume of traffic is already horrendous with regular traffic jams. This is not just in the week and is often worse at weekends due to the nearby shopping area at Longford Island and not to mention the car boot sales at Wellington Drive.

The extra levels of pollution the additional cars will be a real consideration.

The planting of trees and hedging on the field and verges to form a barrier between the road and existing housing would help block out some of the sight and sound of traffic and possibly help pollution levels.

Need to look at the access.

### **Affordable Housing**

Gestamp as reviewed its viability appraisal, taken into consideration that members do not wish to have a MUGA on the site and have, without prejudice to their original appraisal made the following statement: -

“I am advised that Cannock Council (the “Council”) have requested that further viability work be undertaken to test the impact on scheme viability of providing some on-site affordable housing.

The original financial viability appraisal (FVA) was submitted to the Council in August 2017 as part of documentation in support of the mixed use planning application. The FVA confirmed that at a policy compliant 20% affordable housing the developer return would be only 9.51% on gross development value. As such it would not meet the viability tests set out in Paragraph 173 of the National Planning Policy Framework:

“To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. [Paragraph 173, NPPF]

Given the scale of unviability the FVA also modelled at nil affordable housing. With the affordable housing removed the developer return was 15.54% equating to a

financial sum of £5,871,250. This level of return remained below the minimum market target of 18.0% on gross development value.

The submitted FVA was independently reviewed by Bruton Knowles on behalf of the Council and they also concluded that the proposed scheme could not support any affordable housing.

In accordance with my instructions I have carried out further sensitivity testing based on the following scenario:

9 x 2 bed houses; social rented (5.0% affordable housing)

The attached model shows a revised return on GDV 14.48%

Equating to a lower financial return of £5,369,118

(Cost to applicant £502,132 compared with nil affordable model)

Briefly the result of the sensitivity testing is that the viability worsens from the perspective of the Applicant given the need to subsidise the delivery of the affordable housing.”

The applicant has asked that the amount of affordable housing is set at 5% in the section 106 agreement rather than a number of units. The reasoning behind this request is that the application is for up to 180 dwellings and hence the final scheme when it comes forward could be for fewer than 180 dwellings and this should be reflected in the final number of affordable housing units that would be delivered.

The applicant has also requested that the trigger for the review of viability is lowered to the 80<sup>th</sup> house which would allow for the review of the affordable housing to be undertaken sooner rather than later.

### **Officer Comment**

National and local planning policy makes it absolutely clear that affordable housing is subject to viability considerations to ensure that the ability to deliver new homes is not prejudiced by unrealistic expectations in respect of the amount of affordable housing that a site is able to support.

Officers consider that having had regard to the applicant's and their own commissioned viability appraisals that the scheme at Gestamp would normally be considered unviable by planning policy with any contribution towards affordable housing. This is due to an expectation in policy terms that a developer would expect a return of 18% profit on gross development value.

In this case it has been estimated that the cost of demolition and site reclamation associated with contaminated industrial site would be substantial. This cost together with the low house values in this area (which is at the interface between a predominantly residential and a predominantly industrial area) act in such a way to mean that at 18% developer profit the proposal would not be able support any affordable housing.

This contribution of (5%) i.e up to 9 houses for social rent, as put forward by the applicant, would mean that the developer profit would be significantly below this threshold and in effect is being subsidised by the developer.

The above has been supported not only by the applicant's viability statement but also by the Council's independent viability appraisal.

In these circumstances the 9 units contribution is considered very generous. Should members be minded to refuse the application on the grounds of insufficient affordable housing officers would advise that should the applicant appeal then they are likely to win the appeal, with a significant risk to the local planning authority that an inspector may be minded to allow the appeal with no affordable housing contribution and potentially an award of costs against the Council if it cannot substantiate its position in respect to the levels of affordable housing it is requesting. In order to substantiate its position at appeal the Council would need to find an independent accredited surveyor to support the Council's position. Given the position taken by Bruton Knowles this may not be possible.

Officers firm advice is that Planning Committee accept the proposed level of affordable housing

The comments made by local people are noted and are taken into account within the main body of the report and, or if they relate to the layout are not material to the determination of this outline application as the layout is a matter which has been reserved.

### **Conclusion**

It is recommended that the application be approved subject to the above provisions.



**APPENDIX 1: Copy of the report Presented To Planning Committee on 30 May 2018**

**Application No: CH/17/323**

**Received: 22/08/2017**

**Location: Gestamp Tallent, Wolverhampton Road, Cannock**

**Parish: Non Parish Area**

**Ward: Cannock South**

**Description: Demolition of existing factory and offices and erection of up to 180 dwellings and up to 30,000 square foot of employment floor space (B1(c) and B8 Use Class), access and associated works (outline application with all matters reserved except for access)**

**Recommendation:** Approve subject to the conditions attached to this report and the completion of a section 106 agreement to secure: -

- (vi) Review of viability and claw back provision at the completion of 100<sup>th</sup> dwelling and clauses for the provision of affordable housing on site or, if money is less than the cost of one unit, the provision of a commuted sum for provision of affordable housing off-site, with clauses for the transfer of units to a registered provider.
- (vii) Future management and maintenance of the Public Open Space including a Neighbourhood Equipped Area of Play and Multi Use Games Area and communal landscaped areas (either by transfer of land together with any monies or by management company).
- (viii) Implementation of the Travel Plan and monitoring fee
- (ix) SAC Contribution

**Reason for Granting Permission**

In accordance with paragraphs (186-187) of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

**Reason for Committee Decision:**

The proposal in some respects is contrary to Policy and guidance and therefore requires a balanced judgement to be taken between competing priorities and the Local Ward Councillor has requested that the application is determined by Planning Control Committee.

Conditions

1. In the case of any reserved matters, application for approval must be made not later than the expiration of five years beginning with the date on which this permission is granted ; and

The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matters to be approved.

## Reason

A longer period of time for the submission of reserved matters is necessary due to the lengthy decommissioning, demolition and remediation period that redevelopment of the site would require.

2. This permission does not grant or imply approval of the layout/ design details accompanying the application which have been treated as being for illustrative purposes only.

## Reason

The application is in outline form with these details reserved for subsequent approval. The illustrative information is not necessarily acceptable from the detailed planning point of view and to ensure compliance with Local Plan Policies CP3 - Chase Shaping Design and the NPPF.

3. No part of the development hereby permitted shall be commenced until approval of the details of appearance, landscaping, layout and scale ('the reserved matters') has been obtained from the Local Planning Authority.

## Reason

The permission is in principle only and does not authorise development to commence until all 'the reserved matters' have been approved. To ensure compliance with the requirements of Section 92 of the Town & Country Planning Act 1990.

Highways

4. No development hereby approved shall take place, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall:
  - i. specify the type and number of vehicles;
  - ii. provide for the parking of vehicles of site operatives and visitors;
  - iii. provide for the loading and unloading of plant and materials;

- iv. provide for the storage of plant and materials used in constructing the development;
- v. provide for wheel washing facilities;
- vi. specify the intended hours of construction operations;
- vii. measures to control the emission of dust and dirt during construction
- viii specify method of piling, should piling be undertaken

**Reason**

In order to comply with Para 32 of the National Planning Policy Framework.

5. Prior to the submission of any reserved matters application in relation to the proposed development hereby permitted, a Masterplan shall be submitted to and approved in writing by the local Planning Authority. The submitted Masterplan shall include the following:

- Street layout and character including measures to restrain vehicle speeds to 20mph
- Parking Strategy including the provision of secure cycle parking facilities for each dwelling
- Development phasing
- Pedestrian connectivity, especially to public transport
- Clear delineation of roads and footways to be offered for adoption
- Location of sustainable drainage features.

The Masterplan shall be approved by the Local Planning Authority prior to the approval of any Reserved Matters submission.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

6. No development hereby permitted shall be commenced until full details of the following have been submitted to and approved in writing by the Local Planning Authority:

- Primary and secondary access points
- Any emergency access
- Provision of parking, turning and servicing within the site curtilage
- Disposition of buildings
- Means of surface water drainage and outfall
- Surfacing materials.

The development shall thereafter be implemented in accordance with the approved details and be completed prior to first occupation/ first use of development.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.



7. No development hereby permitted shall be commenced until details of a Stage 1 Road Safety Audit (with further stages to be submitted as appropriate) have first been submitted to and approved in writing by the Local Planning Authority.

Reason

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

8. Prior to the first use of the proposed development the site access shall be completed within the limits of the public highway; concurrently, the existing accesses made redundant as a consequence of the development hereby permitted, as indicated on submitted Plan 17485-03-1 A, which shall include the access crossing between the site and the carriageway edge, shall be permanently closed and the access crossing reinstated as footway in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

9. The development hereby permitted shall not be brought into use until the visibility splays have been provided as per submitted Plan 17485-03-1 A. The visibility splays shall thereafter be kept free of all obstructions to visibility with nothing placed or retained forward of the splay and the public highway exceeding 600mm in height above the level of the adjacent carriageway.

Reason

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

10. The development hereby permitted shall not be commenced until a scheme for the phasing of the development of the entire site has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved phasing plan.

Reason

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

11. No phase of the development shall take place, including any demolition or clearance works, until a Construction Vehicle Management Plan (CVMP) has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

- Access points to be used for the construction of each phase of the development
- Arrangements for the parking of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Construction hours
- Delivery routeing and hours

- Recorded daily inspections of the highway adjacent to the site access points
- Wheel washing and measures to remove mud or debris carried onto the highway.

#### Reason

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

#### Ground/ Gas Contamination

12. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy shall include the following components: -
1. A preliminary risk assessment which has identified
    - all previous uses;
    - potential contaminants associated with those uses;
    - a conceptual model of the site indicating sources, pathways and receptors
    - potentially unacceptable risks arising from ground contamination at the site.
  2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
  3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

#### Reason

To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water or ground pollution in line with paragraph 109 of the National Planning Policy Framework.

13. Prior to the permitted development being brought into use a verification report demonstrating the completion of works sets out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

## Reason

To ensure the site does not pose any further risk to the water environment and the health of the occupiers of dwellings hereby permitted by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 109 of the National Planning Policy framework.

14. The dwellings hereby approved shall be occupied until: -
- i. an investigation into the potential for ground gas on the site has been undertaken; and if found to be present
  - ii. a scheme for the installation of gas protection measures has been submitted to and approved in writing by the Local Planning Authority; and
  - iii. the works comprising the approved scheme have been implemented; and
  - iv. an independent validation of correct installation has been submitted to the Local Planning Authority.

## Reason

To ensure that risks from ground gas to the future users of the land and neighbouring land are minimised in accordance with Paragraph 121 of the National Planning Policy Framework.

15. No development hereby approved shall take place, until a Environmental Protection and Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the decommissioning, demolition, remediation and construction period. The Statement shall:
- i. specify the type and number of vehicles;
  - ii. provide for the parking of vehicles of site operatives and visitors;
  - iii. provide for the loading and unloading of plant and materials;
  - iv. provide for the storage of plant and materials used in constructing the development;
  - v. provide for wheel washing facilities;
  - vi. specify the intended hours of the decommissioning, demolition, remediation and construction operations;
  - vii. measures to control vibration and the emission of dust and dirt during any demolition, brick crushing or construction activities on the site.
  - viii. specify method of piling, should piling be undertaken; and
  - ix. the protocol for notifying the Council prior to the commencement of any piling activities or brick crushing on the site.

## Reason

In order to ensure that the impacts of the development on the environment and the amenity of the occupiers of neighbouring residential premises are mitigated as far as is reasonably practicable comply with Paragraphs 17 and 32 of the National Planning Policy Framework.



16. No dwelling hereby approved shall be occupied until
- i. the windows to all habitable rooms of that dwelling have been fitted with glazing to a minimum manufacturer's rating of  $R_w33$ ; and
  - ii. all habitable rooms to that dwelling have been provided with trickle vents to achieve background ventilation in accordance with building regulations requirements and
  - iii. that any perimeter wall surrounding the curtilage to that dwelling which is immediately adjacent to a highway and, or an industrial building has been screened with a solid barrier fence of a minimum height of 2 metres.

#### Reason

In the interest of providing a good standard of residential amenity to the occupiers of the dwellings in accordance with Paragraph 17 of the National Planning Policy Framework.

#### Drainage

17. No development shall take place until a detailed surface water drainage scheme has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

The scheme must be based on the design parameters and proposed strategy for the site set out in the Flood Risk Assessment (Ref: C6997-FRA-01b, Oct 2017) and Site Drainage Strategy Drawing (Ref: C6997-SK1000-P2, 02/11/17).

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

Surface water drainage system(s) designed in accordance with the Non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).

SuDS design to provide adequate water quality treatment, which can be demonstrated using the Simple Index Approach (CIRIA SuDS Manual), to include permeable paving to all private driveways and parking areas.

Limiting the total discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm to 26.8l/s to ensure that there will be no increase in flood risk downstream.

Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.

Provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development. This should include a schedule of required maintenance activities and frequencies, and contact details for the organisation responsible for carrying out these duties.

**Reason**

To reduce the risk of flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

18. No part of the development shall be occupied until the surface water drainage system has been completed in accordance with the approved design, and details of the appointed management and maintenance companies have been provided to the LPA.

**Reason**

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development.

19. Notwithstanding the details of the approved plan prior to the first occupation of any dwelling on the site a detailed scheme for the laying out of a Neighbourhood Equipped Area of Play (NEAP) including a Multi Use Games Area (MUGA) and the specification of equipment to be provided within the play space area shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved scheme shall be implemented to a timetable which shall be agreed in writing with the Local Planning Authority. The NEAP/MUGA shall thereafter be retained and maintained for the life time of the development unless otherwise approved in writing by the Local Planning Authority.

**Reason**

In the interests of providing accessible local play areas for young people.

Ecology

20. The development shall not commence until a scheme for the provision of

- i. 6 brick built bat boxes across the site; and
- ii. 24 integrated bird boxes across the site

has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall include: -

- i. The specification of the bird and bat boxes; and
- ii. Which dwellings would be fitted with the boxes and the location of each box.

The scheme shall be implemented on the completion of the 100<sup>th</sup> dwelling. Thereafter the boxes shall be retained and maintained for their intended purpose for the lifetime of the development.

**Reason**

In the interests of protecting and enhancing biodiversity of the site by compensating and mitigating for the loss of habitats on the site in accordance with paragraph 118 of the National Planning Policy Framework.

21. All main herringbone road surfaces shown on the approved plans shall be to an adoptable standard to allow access by 32 tonne refuse vehicle access.

**Reason**

To prevent break-up of the highway surface in the interest of highway safety.

**Trees and Landscape**

22. No part of the development shall commence until details of all arboricultural work have been submitted to and approved by the Local Planning Authority. Details shall include a method statement and schedule of works.

**Reason**

The existing vegetation makes an important contribution to the visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

23. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

**Notes to the Developer**

- i. The conditions requiring off-site highway works shall require a Highway Works Agreement with Staffordshire County Council. The applicant is requested to contact Staffordshire County Council in order to secure the Agreement. The link below is to the Highway Works Information Pack including an application form. Please complete and send to the address indicated on the application form or email to (nmu@staffordshire.gov.uk). The applicant is advised to begin this process well in advance of any works taking place in order to meet any potential timescales.  
<https://www.staffordshire.gov.uk/transport/staffshighways/highwayscontrol/HighwaysWorkAgreements.aspx>

This consent will require approval under Section 7 of the Staffordshire Act 1983 and will require a Section 38 of the Highways Act 1980. Please contact Staffordshire County Council to ensure that all approvals and agreements are secured before commencement of works.

An agreed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, with funding secured via a Section 106 Agreement. The Travel Plan shall thereafter be provided in accordance with the approved details.

Any soakaway should be located a minimum of 4.5m rear of the highway boundary. Sections of the site frontage along Wolverhampton Road are within the extent of the highway boundary and therefore within SCC's freehold title. It is the applicant's responsibility to ensure that the land within the proposed redline is within the ownership of the developer or agreed third party prior to the commencement of any development.



For further advice on Stopping Up Orders please contact SCC's Land Charges department: land.charges@staffordshire.gov.uk.

For further advice on disposal of land please contact SCC's Strategic Property Unit: kevin.danks@staffordshire.gov.uk.

- ii. The developer's attention is brought to the comments of Staffordshire Police in respect to the desirability of achieving Secured by Design accreditation.
- iii. The developer's attention is drawn to the comments of the Environment Agency in their consultation response in respect to model procedure and good practice, the Environment Agency's approach to ground water protection, waste on site and waste to be taken off-site.
- iv. The developer's attention is drawn to the recommendation of the Bird and Bat Survey such that a method of working should be in place with contractors to ensure that in the event of bats being found they will not be injured, such that an offence is not committed under the 1981 Wildlife and Countryside Act (as amended).
- v. The developer's attention is drawn to the comments of the Landscape Officer in respect to the presence of protected trees on the site and that the indicative landscape plan would not be considered acceptable in respect to its impact on the trees.

## EXTERNAL CONSULTATIONS

### Staffordshire Police

Makes reference to section 17 of the Crime and Disorder Act 1998, paragraph 58 and 69 of the NPPF, Policy CP3 of the Local Plan and the Human Rights Act Article and Protocol 1, Safer Places: The Planning System and Crime Prevention and recommends that the proposal attains Police Secured By Design accreditation. The response goes to make detailed recommendations in respect of designing out crime. [Officers note that these comments relate to the details of design which is not for consideration at this outline stage].

### Highways England

No objections.

### Staffordshire County Council Highways

The Highway Authority requires further clarification as to the details of the access and the submission of a Stage 1 Road Safety Audit.

### Environment Agency

No objections subject to conditions in respect of ground contamination remediation and validation.

### Severn Trent Water

No objections subject to conditions.

### South Staffordshire Water

No comments received.

### Local Lead Flood Authority (LLFA)

Since our previous response additional information has been submitted to address the issues raised:

- Flood Risk Assessment (Ref: C6997-FRA-01b, Oct 2017)
- Site Drainage Strategy Drawing (Ref: C6997-SK1000-P2, 02/11/17)
- Drainage Maintenance & Management Plans (Ref: C6997-SWMP-01)
- Email (22/02/2018) confirming porous paving for all private driveways
- and parking and SuDS maintenance to be undertaken by private management company.

The proposed restriction of discharge rates to the greenfield QBAR rate will ensure that flood risk downstream is not increased.

The proposed use of porous paving for private driveways and parking, and the area of public open space will provide increased water quality treatment and ecological benefits in comparison to the existing site. Any opportunity to incorporate additional above-ground SuDS features as the design is progressed would be beneficial.

The proposed development will only be acceptable if the following measures are incorporated in an acceptable surface water drainage scheme, to be secured by way of a planning condition on any planning permission.

### School Organisation

The development falls within the catchments of Bridgtown Primary School and Cannock Chase High School.

The development is scheduled to provide 180 dwellings, excluding 29 RSL dwellings from secondary only, a development of 180 houses including 23 RSLs, could add 38 Primary School aged pupils, 23 High School aged pupils and 5 sixth form pupils. All schools are projected to have sufficient capacity to accommodate the likely demand from pupils generated by the development.

The above is based on current demographics which can change over time and therefore we would wish to be consulted on any further applications for this site.

### Staffordshire County Council Planning Policy and Development Control Team

No objections on mineral safeguarding grounds.

### INTERNAL CONSULTATIONS

#### Waste and Engineering

We would request additional information regarding the adopted/ unadopted/ private roads in relation to refuse collection vehicles and also details of any bin stores (if any) and bin collection areas for the houses if there are any private roads.

### Environmental Health

The supporting documents include an air quality assessment report ref: REP-AQA-19062017-R-Gestamp-AQ-A2. The conclusions of the investigation given as Section 5, page 21 are agreed. The provision of sufficient dust control measures during the demolition, earthworks and construction phases will be necessary and a Construction Environmental Management Plan should be provided. Any use of brick crusher(s) on the site should be notified in advance to this Department and the demolition works undertaken under Building Act provisions and in accordance with BS 6187:2011 Code of practice for full and partial demolition.

A noise assessment has also been submitted ref:REP-1006733-AM-2 Wolverhampton Road, Cannock. This has considered the existing noise climate and the conclusions given in Section 10 are agreed. The recommendations given in Section 9 for window specifications for habitable rooms, trickle ventilators and 2m solid barrier perimeter fencing to gardens should be incorporated into the development.

A ground investigation report has also been provide by Arc Environmental, project no: 16-1081, May 2017. I concur with the recommendations given that following demolition works and removal of the site hardstanding, that phase 2 intrusive investigations should be carried out for the potential identified ground contaminants and ground gases. Any necessary remedial works identified should be submitted for prior approval purposes. Prior to these investigations, in accordance with the operating conditions for the coating and surface treatment processes currently undertaken by Gestamp Tallent on site, laid down in the A2 Permit enforced by this Department under The Environmental Permitting (England & Wales) Regulations 2010, a site decommissioning plan has been produced that requires the site to be remediated to a satisfactory state as defined by the initial site condition report that was submitted in support of the original permit application. This will ensure that the current industrial operations on the site have no residual contaminative impact on the cessation of activities.

The proposals seek to introduce high and medium sensitivity odour receptors that will encroach onto an existing odourous process, namely Cannock Sewage Treatment Works, which is a large area source of potential odour. The site comprises a standard traditional works taking domestic sewage that currently pumps sludges off-site for treatment. As such the works present a medium odour potential although this may change in the future subject to a feasibility study to treat sludges on site. An odour impact assessment has been provided, ref REP-AQA-19062017-CR-Gestamp-Odour-R2. The Institute of Air Quality Management (IAQM) have issued Guidance on the Assessment of Odour for Planning (2014). The report has identified the location of the proposed receptors and their relative sensitivities as high and medium receptors. Odour modelling has been undertaken using the Breeze AERMOD 7.12.0.24 dispersion model (v 16216r) using data provided by Severn Trent and a 5 year windrose from Birmingham Airport which is an accepted approach. Assessment tools look at the impact from exposure and do not measure the resulting effect in terms of disamenity specifically. Complaints regarding odour from the site are occassionaly received by this Department, mainly from residences to the east and north/east of the site. This is in accordance with the wind data information that has been provided. Most recently a complaint



was received from Gestamp Tallent regarding “horrendous odour from the works. The company have made regular complaints about sewage works odours over the years and I am concerned that the odour assessment has understated the significance of the odour effect on the developments proposed. The odour assessment should have included a consideration of baseline conditions including the complaint history of the site. There is reference to this information having been given by Severn Trent, however no reference to the details are given in the report. The report recommends that future planning applications for approval of reserved matters adhere to a 98<sup>th</sup> percentile 1-hour European Odour concentration limit of C3ouE/m3 for new residences which allows for 2% of the year (175) hours when the odour impact may be above this limit. The buffer zone is indicated by a contour of concentration, the 3ouE/m3 isopleth, and all residences should be built outside of this limit. These proposals are reluctantly accepted by Environmental Protection, however further confidence should be assured by undertaking an uncertainty assessment of the contour alignment based on the uncertainty of the model, odour emission rates, metrological data and possible user error.

### Strategic Housing

On sites of 15 units and above, 20% is required for affordable housing so up to 36 units should be provided for affordable housing. 80% is required fro social rent and 20% shared ownership. The recommended bed type based on housing need is 10% 1bed/flat, 60% 2bed house, 25% 3bed house and 5% 4 bed house.

The affordable housing should be pepper potted throughout the development and be indistinguishable from the market hosing.

### Development Policy

This site is a brownfield site within the urban area of Cannock. The site has long been used for employment purposes, being occupied by Gestamp Tallent who are relocating to Four Ashes as the site which is the focus of this application is no longer fit for purpose as explained in the Planning Statement.

Given that this is a long standing employment site, and that there is a shortfall in employment land provision (as shown in the Local Plan Part 2 Issues and Options consultation document), the policy comments are made in this context.

### National Planning Policy Framework (NPPF)

The NPPF is focused upon delivering sustainable development, which has an economic role, a social role and an environmental role (para. 7) which should be considered ‘in the round’. Paragraph 19 stresses that ‘planning should operate to encourage and not act as an impediment to sustainable growth’ and that ‘planning policies should recognise and seek to address potential barriers to investment including a poor environment or any lack of infrastructure, services or housing’ (para 21). Paragraph 21 then goes on to say that planning should ‘support existing business sectors, taking account of whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area. Policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances’. This is clearly the case here and the retention of jobs locally (albeit in a neighbouring district) is to be welcomed as is the continued retention of some employment use on the site. In the context of the NPPF the key debate at the local level therefore focuses upon the appropriateness of the loss of the

rest of an employment site to housing. The NPPF (Section 6) places significant emphasis on housing delivery as part of its drive to achieve sustainable development.

#### Local Plan (Part 1)

The key policies which apply to this outline proposal are:

CP1. This sets out the strategy for the District, which focuses investment and regeneration upon the key settlements with Cannock being the largest of these. In terms of employment land it states: ‘Kingswood

Lakeside and Towers Business Area are defined as high quality employment areas and extension of Kingswood Lakeside is identified for longer term employment use if required by monitoring delivery (Policy CP8)’.

CP2: Developer contributions for Infrastructure: this is expanded in the Developer Contributions & Housing Choices SPD but this development would be expected to comply with the requirements of this document (noting that this is an outline application at this stage with all matters reserved except for access).

As a market housing residential development scheme the proposal is CIL liable. Given that a net increase in dwellings is proposed the development also needs to mitigate its impacts upon the Cannock Chase SAC (Local Plan Part 1 Policy CP13). Should the development be liable to pay CIL charges then this will satisfy the mitigation requirements, as per Local Plan Part 1 Policy CP13, the Developer Contributions SPD (2015) and the Council’s Guidance to Mitigate Impacts upon Cannock Chase SAC (2017). However, should exemption from CIL be sought then a Unilateral Undertaking would be required to address impacts upon the Cannock Chase SAC in accordance with the Councils policy/guidance (note- this does not apply to the 20% affordable housing which is likely to be exempt from CIL).

Any site specific requirements may be addressed via a Section 106/278 if required, in accordance with the Developer Contributions and Housing Choices SPD (2015) and the Council’s most up to date CIL Regulation 123 list. As the scheme is in excess of 15 dwellings, it is required to provide 20% on site affordable housing, in accordance with Local Plan (Part 1) Policy CP7.

It is noted that the proposals do not meet this requirement and the Case Officer will need to consider the evidence submitted in justification of this before coming to any conclusions about the acceptability of the scheme.

CP6 (housing land): at least 5,300 homes need to be delivered between 2006 and 2028 in fulfilment of the national drive to boost the economy through housing growth. With the exception of the strategic site off Pye Green Road allocated through Local Plan Part 1, allocations are to be made via Local Plan Part 2 with the SHLAA as the starting point for this process. Whilst, as mentioned previously, this work is underway, no conclusions have yet been reached on site allocations. Policy CP6 references the need to achieve the re-use of previously developed sites within the built up areas.

CP7(Housing Choice): to ensure our housing meets local need in terms of affordable housing and housing to meet a range of needs. This needs to be considered in the light of CP2 (see

above), and there are serious concerns regarding this as already stated in terms of the non-delivery of affordable housing as part of the proposed redevelopment.

CP8 (Employment Land) states that ‘the Council will seek to assist delivery of at least 88ha of new and redeveloped employment land. It expands: ‘Up to date information will be utilised to inform judgements on the availability of suitable land within the District over the plan period. Where demand at the strategic high quality sites....indicates a need for continued further supply then consideration will be given to the provision of new employment land via the expansion of Kingswood Lakeside. This will be considered further via the Local Plan Part 2.’ This assessment work is underway (following the Issues and Options consultation which identified a shortfall in employment land supply) but no conclusions have yet been reached on allocations given the relatively early stage of this plan.

In relation to the development of employment sites for alternative uses, Policy CP8 states that regard will be had to other Core Strategy policies and several key criterion including the availability of existing businesses on site to relocate to alternative suitable sites (preferably within the District); benefits arising such as improvements to residential and environmental amenity; the quality of the site/ unit and the extent to which it is no longer viable for employment uses. Regard will also be had to the SHLAA, the five year housing land supply position and the overall availability of housing sites (which links to Policy CP6).

There are potential benefits of the partial conversion of the site from employment to residential in view of policy CP8 provisions. It is in a predominately residential area and is presently configured to meet the needs of the user so the buildings are not readily convertible for other employment uses. The part of the site which runs adjacent to the A5 would not be a good location for residential however and the retention of this element for employment uses is more appropriate in this context particularly as it reflects the general employment character of this part of the A5.

CP9 (A Balanced Economy) states that ‘priority will be given to employment uses which add value to and strengthen the local economy’, resisting lower density uses unless supported by sound evidence, the importance of raising the District’s job density, enhancing employment prospects and supporting these through appropriate provision of skills and training initiatives.

CP10: Sustainable Transport noting particularly that the A5 Corridor forms part of the Strategic Road Network

CP16: – Climate Change and Sustainable Resource which covers a range of issues but also noting the presence of an AQMA in the area.

Other policies will apply too and these are being flagged at this stage although will be more applicable to the detail of the scheme. These are:

CP3 (Chase Shaping – design, and the adopted Design SPD)

CP5 (Social Inclusion and Healthy Living)

In summary, the mixed use proposal for the scheme is supported in principle in policy terms. The retention of jobs locally (albeit in a neighbouring district) is to be welcomed as is the retention of some employment use on the site. This will partially offset a further shortfall in employment land, noting the national policy driver to deliver housing and the flexibility

required by the NPPF when formulating local policy responses to address this matter (noting the local context i.e. that site allocations have not yet been determined as part of Local Plan Part 2).

Despite this, however, the matter of developer contributions is a serious concern as set out earlier in this response and therefore the Case Officer will need to consider the evidence submitted in justification of this before coming to any conclusions about the acceptability of the scheme.

#### Ecological Officer

No comments received.

#### Economic Development

Economic development are sorry and disappointed to see the loss of major employer Gestamp but note that the new development also makes provision for warehousing and office space as well as residential dwellings, we feel the suggested plans will be the best option for the development.

The Economic Development service would also welcome the creation of a training facility in the more modern premises at quadrant Pint which the company lease from a third party. Notwithstanding, the current application site excludes these buildings and is restricted to Gestamp's freehold ownership, it is understood that the company have publically expressed interest in the creation of such a facility and they should be encouraged to bring forward detailed proposals as soon as possible. these proposals have extra significance as a consequence of the closure of South Staffordshire College's High Green Campus in Cannock Town Centre.

#### Trees, Landscape and Countryside

The site has no formal landscape designation, however there are significant protected trees on site. 3 Number Lombardy Poplars near the Avon road Access ( TPO 20/86) and 3 willows & 4 Sycamore near the A5 Watling street ( TPO 1012-08).

Street scene is that of a green verge and hedgerow screening to a large industrial factory. This screening vegetation should be retained and or replaced with an improved scheme as it is on a key access route into and through Cannock which presently provides an overall well landscaped green corridor that helps to improve the image of the locality and district as a whole.

In order to improve the image of Cannock and also help to address the pollution cause by passing vehicles on the A5 Corridor we are seeking a 5-10m wide green verge along its entire length where new developments are proposed. These can be grass verges, hedgerow planting or ideally large street trees. This should also be followed on through any adjoining main road ie the A461 Wolverhampton Road.

#### Generally

The proposal incorporates an area of 1.03ha as Public Open Space (POS) including a Locally Equipped Area for Play (LEAP). Whilst the extent of the area is adequate in terms of provision, a development of this size and in this location would require the provision of a Neighbourhood Equipped Area for Play (NEAP) including a Multi Use Games Area.

Whilst the submitted site layout is noted as only indicative, the location of the Public Open Space would not be acceptable as it is tucked away to the rear of the development and has limited linkage to the rest of the site. The open space needs to be central to the development and preferably fronting onto Wolverhampton Road and or adjacent one of the access points. Linking to one access point would also help to create a strong visual entrance way into the site as a whole and would also help to improve the appearance of the Wolverhampton Road Street scene.

The POS area needs to be usable and any areas of buffer planting to existing development, would not be counted as part of usable POS provision.

Whilst the principle of development for dwellings and office accommodation is acceptable the indicative layout would not be acceptable for the following reasons:-

A three storey development so close to the main road will dominate the street scene, this will be in contrast to two storey dwelling on the adjacent side of the road. This could be off set by moving the three storey block back of the main road and replacing the frontage with the public open space.

Location of the Eastern access road will result in the loss of protected trees, without any suitable replacements. Having POS at the front could provide space for additional tree planting.

The open space should ideally be positioned centrally and this would act as the catalyst for the rest of the development, not pushed aside, to one corner out of the way. Property values increase where they are located adjacent open spaces or large tree lined avenues. A development of this size in this location would benefit from this approach.

There is very little space within the layout to plant new street trees and allow them to develop naturally with adequate rooting zones.

The drainage plan should not be approved. This would result in the loss of virtually all of the protected trees but also dwellings cannot be constructed on the easement line of an existing sewer run.

There are a large number of mature trees on both the site and immediately adjacent. These haven't been afforded protection but still make a great contribution to the street scene and wide character of the area. The trees on the main A4601 Wolverhampton Road add greatly to the greenery and aesthetics of the area. These should be retained as key features of any new development.

#### Ecology

Application should be sent to the Council's Ecologist for input on this aspect.

#### Summary

No objection to the proposed outline for residential and business use however, there are major issues with the indicative layout as noted above and as such this should not form part of any approved drawings if overall consent is granted.



RESPONSE TO PUBLICITY

The application was advertised by neighbour letter, site notice and by newspaper advert. No letters of representation have been received.

RELEVANT PLANNING HISTORY

The planning history relates to the development of the site as an industrial site. The most recent applications are: -

- CH/15/0032: - Retrospective application to increase the height of existing chimney stacks. Approved.
- CH/15/0428: - Installation of Regenerative Thermal Oxidiser with 3no. Flues. Approved.
- CH/12/0393: - Extension to existing manufacturing unit to house new effluent treatment plant. Approved.

1. SITE AND SURROUNDINGS

- 1.1 The application site comprises part of the Gestamp Tallent site dominated by a series of modern industrial units and associated service areas with well-established landscape to the frontage along Wolverhampton Road.
- 1.2 The site has boundaries to both Wolverhampton Road and to the A5 Watling Street. The boundary of that part of the site fronting Watling Street is delineated by a row of leylandii conifers.
- 1.3 To the east of the site is a sewage works, to the north east is the remaining part of the Gestamp site. To the south are Watling Street and the "Available Car" site with a large area used for the sale of cars.
- 1.4 To the west is a row of dwellings fronting onto Wolverhampton Road and to the north-northwest, across Wolverhampton Road, is the residential suburb of Longford. to the north east is the remaining part of the wider Gestamp site.
- 1.5 There are several trees within the site which benefit from a tree preservation order.
- 1.6 The site is unallocated and undesignated in the Cannock Chase Local Plan and is located within Flood Zone 1 on the Environment Agency's flood risk maps.
- 1.7 There are a wide range of shops, schools, community and medial centre and restaurants within 10 minutes walking distance of the site which would serve the day to day needs of the occupiers of any dwellings approved. In addition Wolverhampton Road is served by the Route 67 bus service giving access by public transport to Cannock and Wolverhampton. In addition there is a pedestrian crossing across Wolverhampton Road near the Cedars Business Park giving access to the local primary school and medical-community centre.

2. PROPOSAL

- 2.1 The application seeks outline planning permission for the demolition of existing factory and offices and erection of up to 180 dwellings and up to 30,000 square foot of employment floor space (B1(c) and B8 Use Class) with access and associated works with all matters reserved except for access. Therefore issues such as layout, scale, appearance and landscaping are not for consideration at this point.
- 2.2 In support of the application the applicant has submitted an indicative layout showing how applicant envisages the site could accommodate the quantum of residential development applied for whilst meeting the Council's guidance for space about dwellings and other major constraints. The plan is therefore not for approval at this stage but is included for information purposes only.
- 2.3 The indicative plans shows the layout of 180 dwellings served by one access onto Wolverhampton Road (with an additional emergency access) and 2787sqm of B1 light industrial and B8 (storage and distribution) units fronting onto the A5. The plan also shows 1.03 hectares of public open space with a locally equipped area of play (400sqm) along the eastern side of the site.
- 2.4 No affordable housing provision is proposed on the grounds of viability.
- 2.5 The proposed accommodation schedule is as follows: -

<u>Flats @ 25%</u>	
1B2P Flats	21no @12%
<u>2B4P Flats</u>	<u>21no @11%</u>
Sub Total	42no @ 23%
<u>Houses @75%</u>	
2B4P Houses	32no @ 23%
3B5P Houses	71no @ 52%
<u>4B6P Houses</u>	<u>35no @25%</u>
Sub total	138no @77%
Total	180

### 3. PLANNING POLICY

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014).
- 3.3 Other material considerations relevant to assessing current planning applications include the National Planning Policy Framework (NPPF) and Supplementary Planning Guidance/Documents.

Cannock Chase Local Plan Part 1 (2014)

3.4 Relevant policies within the Cannock Chase Local Plan include: -

CP1: -	Strategy
CP2:-	Developer Contributions for Infrastructure
CP3: -	Chase Shaping – Design
CP5: -	Social Inclusion and Healthy Living
CP6: -	Housing Land
CP7: -	Housing Choice
CP12: -	Biodiversity and Geodiversity
CP14: -	Landscape Character and Cannock Chase Area of Outstanding Natural Beauty
CP16: -	Climate Change and Sustainable Resource Use

3.5 National Planning Policy Framework

3.6 The NPPF sets out the Government’s position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it outlines the “presumption in favour of sustainable development”.

3.7 The NPPF confirms that a plan-led approach to the planning system and decisions must be made in accordance with the Development Plan. In particular the following NPPF references are considered to be appropriate.

3.8 Relevant sections and paragraphs of the NPPF include: -

Paragraphs 7, 8	Three dimensions of sustainable development.
Paragraph 14	The presumption in favour of sustainable development.
Paragraph 17	Core planning principles.
Paragraphs 47, 49, 50	Delivering a wide choice of high quality homes.
Paragraphs 56, 60, 61, 64	Design.
Paragraph 73	Promoting healthy communities.
Paragraph 96, 103	Meeting the challenge of climate change, flooding.
Paragraphs 109, 111, 118, 120, 121, 122, 123, 124	Conserving the natural environment.
Paragraphs 216	Implementation.

3.9 Other Relevant Documents

Design Supplementary Planning Document, April 2016.

Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport Supplementary Planning Document (2005).

Manual for Streets

#### 4. DETERMINING ISSUES

##### 4.1 The determining issues for the proposal are

- (i) Principle of the development
- (ii) Design and the impact on the character and form of the area
- (iii) Impact on residential amenity
  - (a) space about dwellings
  - (b) noise and odour from surrounding land uses
- (iv) Impact on highway safety and capacity
- (v) Impact on nature conservation interests
- (vi) Drainage and flood risk
- (vii) Ground contamination
- (viii) Air quality
- (ix) Design, crime and the fear of crime
- (x) Waste and recycling
- (xi) Sustainable resource use
- (xii) Affordable housing provision
- (xiii) Play space and recreation
- (xiv) Education
- (xv) Minerals Conservation
- (x) Whether any adverse impact of granting planning permission would be significantly and demonstrably outweighed by the benefits, when assessed against the policies in the Framework, taken as whole.

##### 4.2 Principle of the Development

4.2.1 Policy CP1 of the Local Plan provides the overall strategy in respect of the District and states that in Cannock Chase District the focus of investment and regeneration will be in existing settlements whilst conserving and enhancing the landscape of the AONB, Hednesford Hills, Green Belt and the green infrastructure of the District. Other than this point the Local plan is largely silent on the issue of housing on unallocated sites.

4.2.2 Paragraph 49 of the NPPF states that "housing applications should be considered in the context of the presumption in favour of sustainable development. What the presumption means in practice is set out in Policy CP1 of the Local Plan and Paragraph 14 of the NPPF which states

"For decision taking this means

approving development proposals that accord with the development plan without delay; and

where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as whole; or

specific policies in this framework indicate development should be restricted.

- 4.2.3 The reference above to specific policies in the framework relates to those policies in the Framework relating to sites protected under the Birds and Habitats Directive and/or designated as Sites of Special Scientific Interest, land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National Park, designated heritage assets and locations at risk of flooding or coastal erosion. Officers can confirm that the site is not subject to any designation that would render it appropriate to be considered under any of the above policies. As such the proposal should be assessed against whether any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 4.2.4 In respect to the principle of the proposal it is noted that the site is located within the main urban area of the town of Cannock and hence broadly conforms to the requirements of policy CP1. Furthermore, as an area of previously developed land, the proposal would meet the core planning principle of encouraging "the effective use of land by reusing land that has been previously developed provided that it is not of high environmental value NPPF, para 17)"
- 4.2.5 In addition to the above the site is located within a sustainable location with good access to local bus routes along Wolverhampton Road giving access to Wolverhampton, Featherstone and Cannock. Hence occupiers of the proposed development would have good access to local goods and services by a range of transport methods including public transport, walking and cycling and therefore the proposal meets the core planning principle of actively managing "patterns of growth to make fullest possible use of public transport, walking, cycling and focus significant development in locations which are or can be made sustainable" (NPPF, para 17).
- 4.2.6 As such it is concluded that the proposed development would be located within a sustainable location.
- 4.2.7 In respect to the loss of established employment land it is noted that there already is a shortfall in employment land provision as shown in the Cannock Chase Local Plan (Part 2) Issues and Options consultation document. However, it is also noted that Gestamp Talient are relocating to Four Ashes as the site which is the focus of this application is no longer fit for purpose as explained in the Planning Statement.
- 4.2.8 In considering the above in respect of national policy it is noted that the NPPF is focused upon delivering sustainable development, which has an economic role, a social role and an environmental role (para. 7) which should be considered 'in the round'. Paragraph 19 stresses that 'planning should operate to encourage and not act as an impediment to sustainable growth' and that 'planning policies should recognise and seek to address potential barriers to investment including a poor environment or any lack of infrastructure, services or housing' (para 21). Paragraph 21 then goes on to say that planning should 'support existing business sectors, taking account of

whether they are expanding or contracting and, where possible, identify and plan for new or emerging sectors likely to locate in their area although it does state that policies should be flexible enough to accommodate needs not anticipated in the plan and to allow a rapid response to changes in economic circumstances'. This is clearly the case here and the retention of jobs locally (albeit in a neighbouring district) is a factor which weighs in favour of the proposal.

- 4.2.9 In relation to the development of employment sites for alternative uses, Policy CP8 states that regard will be had to other Core Strategy policies and several key criterion including the availability of existing businesses on site to relocate to alternative suitable sites (preferably within the District); benefits arising such as improvements to residential and environmental amenity; the quality of the site/ unit and the extent to which it is no longer viable for employment uses. Regard should also be had to the SHLAA, the five year housing land supply position and the overall availability of housing sites (which links to Policy CP6).
- 4.2.10 There are potential benefits of the partial conversion of the site from employment to residential in view of policy CP8 provisions. It is in a predominantly residential area and is presently configured to meet the needs of the user so the buildings are not readily convertible for other employment uses. The part of the site which runs adjacent to the A5 would not be a good location for residential however and the retention of this element for employment uses is more appropriate in this context particularly as it reflects the general employment character of this part of the A5.
- 4.2.11 In conclusion it is noted that this mixed use proposal for the scheme is supported in principle in policy terms. The retention of jobs locally (albeit in a neighbouring district) adds some weight in favour of the proposal, as does the retention of some employment use on the site. This would partially offset a further shortfall in employment land, noting the national policy driver to deliver housing and the flexibility required by the NPPF.
- 4.2.12 As such the proposal would meet the thrust of Policy CP1 to focus investment and regeneration on existing settlements which are expected to accommodate most of the District's housing and it is therefore concluded, on balance, that the proposal is acceptable in principle.
- 4.2.13 However, proposal that are acceptable in principle are still subject to all other policy tests. The next sections of this report will consider the proposal in the light of those policy tests and determine what harms or benefits arise from the proposal.

### 4.3 Design and the Impact on the Character and Form of the Area

- 4.3.1 Policy CP3 of the Local Plan requires that, amongst other things, developments should be
- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
  - (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the



built environment with new planting designed to reinforce local distinctiveness.

- 4.3.2 In addition to the above Paragraph 56 of the NPPF states that the government attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 4.3.3 Paragraph 61 of the NPPF goes on to state: -
- "Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."
- 4.3.4 In addition Paragraph 64 of the NPPF makes it clear that
- "Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."
- 4.3.5 In this respect it is noted that matters such as appearance, scale and landscaping are not for consideration at this stage and that the submitted layout is only indicative and not for approval.
- 4.3.6 However the plan demonstrates how the site could be laid out whilst retaining the landscaped verge to front, and providing a perimeter block style layout with public open space to the eastern side of the site. The latter is situated so as to provide a buffer between the residential units and the sewage works and has been located on the basis of modelled odour contours.
- 4.3.7 As such it is considered that the quantum of residential development applied for could be accommodated on the site without having a detrimental impact on the character and form of the area.
- 4.3.8 The southern part of the site is shown to comprise an employment unit which would be in keeping with the more commercial-industrial character of the A5 at this location.
- 4.3.9 The comments made by the Landscape Officer in respect to the retention of protected trees within the site would need to be considered in the context of the reserved matters where issues such as layout will be addressed. It is recommended that an informative be attached to any permission granted drawing the comments of the landscape officer to the developer, so that the presence of protected trees on the site should be taken into consideration when a design for the layout is being developed.
- 4.3.9 As such it is concluded that there is no reason in principle why a scheme could not come forward at reserved matters stage which would not be in accordance with Policy CP3 of the Cannock Chase Local Plan and paragraphs 61 and 64 of the NPPF.

#### 4.4 Impact on Residential Amenity

4.4.1 A core planning principle is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings and this has been accommodated within Policy CP3 of the Local Plan and supported by the guidance as outlined in the Design SPD.

4.4.2 In this respect there are two issues that emerge in respect of the standard of residential amenity. These are: -

- (a) space about dwellings.
- (b) noise and odour from surrounding land uses.

4.4.3 In this respect to the spatial layout it is noted that the indicative layout generally meets, the guidance for space about dwellings (21.3m main to main and 12m main to side) set out in the Design SPD, both between front to front and rear to rear relationships and in respect of rear garden areas.

4.4.4 As such it is considered that in respect to layout and space about dwellings the proposal would attain a good level of amenity for future occupants and the occupiers of existing neighbouring properties.

4.4.4 As the site lies adjacent to a sewage works and near to the A5 trunk road there is the potential for noise, disturbance and odour to arise from neighbouring land uses and infrastructure.

4.4.5 Paragraph 123 of the NPPF states that planning policies and decisions should aim to

"avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;

mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and

identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason."

4.4.6 Furthermore, Policy CP3 of the Local Plan states that a key requirement of high quality design which will need to be addressed in the development process is that the Council will

"Protect the amenity enjoyed by existing properties including supporting mixed uses whilst avoiding incompatible ones and have regard to existing uses with potential to generate pollution which could have an unacceptably detrimental effect on proposed development."

- 4.4.6 In order to inform the application the applicant has submitted an Air Quality Assessment (dated 19<sup>th</sup> June 2017), prepared by Hoare Lea, Report on the Existing Noise Climate, dated 18<sup>th</sup> June 2017) prepared by Hoare Lea and an odour Assessment, dated 19<sup>th</sup> June 2017) prepared by Hoare Lea.
- 4.4.7 The issue of air quality will be dealt under a later section of this report.

#### Odour

- 4.4.8 The application site lies to the west of the Cannock Waste Water Treatment Works (WwTW) and the applicant has undertaken an assessment of odour. The assessment states that a site visit and odour audit of the WwTW was undertaken and an assessment was made to quantify the potential for impact from the existing Cannock WwTW on the new development. This used dispersion modelling using the Breeze AERMO) D7.12.0.24 dispersion model to predict ground level concentrations of odour at locations. This has enabled odour impact isopleths (isopleth is defined as a line drawn on a map through all points having the same value of some measurable quantity) to be presented which show the odour constraints associated with the WwTW and which has informed the layout of the site such that all residences are outside of the  $3_{OUE}/m^3$ . The assessment therefore indicates that the location of the residences is predicted to be acceptable, based on the emission rates applied and agreed with Severn Trent.
- 4.4.9 The above assessment has been considered by the Environmental Health Officer who has reluctantly accepted the findings of the assessment.

#### Noise

- 4.4.10 In order to inform the application the applicant has submitted a Report on the Existing Noise Climate, produced by Hoare Lea, which concludes

"Measurements and observations made at this site indicate that the existing noise climate primarily is determined by traffic flows on Wolverhampton Road to the north west and Watling Street to the south. These roads carry significant traffic flows during both the day and evening.

Assessment of existing manufacturing operations in the workshop building adjacent to the northern site boundary indicates that break-out sound levels will not have a significant impact upon the proposed new residential development. Current levels of noise break-out from the workshop are significantly below the lowest night time background sound levels and assessment in accordance with BS4142 indicates a condition of "low impact". It will, however, be necessary to seal off the existing roller shutter door which will become redundant with the proposed development.

There was no noise audible from any of the remaining industrial units surrounding the site including the Available Car Motor Dealership or the waste water treatment works.

The survey indicates that BS8233 internal criteria can be readily achieved with appropriate window and vents. In addition BS8233 external criteria can be achieved where gardens are set back from the roadside boundaries or are adequately screened from the roads by intervening dwellings or perimeter fencing."

4.4.11 The Environmental Health Officer has considered the report and has raised no objections subject to conditions.

4.4.12 Having had regard to the above it is considered that, subject to the attached conditions a good standard of residential amenity would be maintained for both future occupiers and existing residents of the surrounding dwellings in accordance with Policy CP3 of the Cannock Chase Local Plan and the NPPF.

#### 4.5 Impact on Highway Safety and Capacity

4.5.1 Paragraph 32 of the NPPF states that Plans and decisions should take account of whether: -

"the opportunities for sustainable transport modes have been taken op depending on the nature and location of the site, to reduce the need for transport infrastructure.

safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds, where the residual cumulative impacts of development are severe."

4.5.2 In order to inform the application the applicant has submitted a: -

Framework Travel Plan (20<sup>th</sup> June 2017), prepared by David Tucker Associates.  
Transport Assessment (20<sup>th</sup> June 2017), prepared by David Tucker Associates.

4.5.3 The Transport Assessment concludes that the application site

"is located in a sustainable area within walking distance of a range of local services including shops, primary schools and bus services"

and continues: -

"A review of the personal injury collision data has been undertaken which confirms that there ae no significant existing road safety issues that would be affected by traffic from the development proposals.

The traffic generation for the site confirms that the site will generate minimal vehicular movements onto the local highway network and would not have any material impact on the operation of the local highway network."

- 4.5.4 The Framework Travel Plan provides a framework under which a package of measures aimed at promoting sustainable transport with the aim of reducing travel by single occupancy vehicles would be developed. This includes the designation of a Travel Plan Coordinator and the production of a travel information pack which would be provided to all new households and staff. In addition it is noted that the Travel Plan states that Broadband internet connections will be supplied to the residences so that any resident who decides to work from home would be able to do so.
- 4.5.5 With regard to highway safety and capacity and the promotion of sustainable transport it is noted that Staffordshire County Council Highways Authority has considered the submitted plans and has stated that subject to the imposition of conditions and the completion of a section 106 agreement they have no objections.
- 4.5.6 It is therefore concluded that the proposal, subject to the attached conditions and the completion of the section 106 agreement for the implementation of the travel plan would be in accordance with Policy CP16 (a) and (c) of the Local Plan and paragraphs 29, 30, 32 and 36 of the NPPF.

#### 4.6 Impact on Nature Conservation Interests

- 4.6.1 Paragraph 118 of the NPPF states: when determining planning applications, local planning authorities should, amongst other things (not relevant to the determination of this application)

"aim to conserve and enhance biodiversity by applying the following principles:

if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"

- 4.6.2 In this respect it is noted that the site is not designated for any nature conservation purpose. However, in order to inform the application the applicant has provided a Bat and Bird Survey (dated July 2017). This has concluded that: -

There is no evidence of bats using the buildings as a place of shelter.

There was no evidence of birds nesting in the building.

There are no roosting opportunities for bats in the buildings on the site.

There are nesting opportunities for birds in the covered loading areas on the site.

The trees on site are being used for nesting blackbirds and chaffinches.

The trees on site will provide a forage opportunity for bats. There is no roosting in the trees on site for bats.

There are sparrows, chaffinches, blackbirds and pigeons foraging on the site.

The development of the site for dwellings would be an opportunity to create new roosting opportunities for bats by installing 6 nos brick built boxes across the site.

The development of the site for dwellings would be an opportunity to create new opportunities by installing 24 integrated bird boxes across the site.

A method of working should be in place with contractors to ensure that in the event of bats being found they will not be injured.

- 4.6.3 The findings of the report are commensurate with the nature of this industrial site which is predominantly comprised of buildings and hard standing. Furthermore the above recommendations for the mitigation of impacts and enhancement of bird and bat opportunities of the report could be secured by condition.
- 4.6.4 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated. Furthermore, in order to retain the integrity of the Cannock Chase Special Area of Conservation (SAC) all development within Cannock Chase district that leads to a net increase in dwellings will be required to mitigate adverse impacts. The proposal would lead to a net increase in dwellings and therefore is required to mitigate its adverse impact on the SAC. Such mitigation would be in the form of a contribution towards the cost of works on the SAC and this normally would be provided through CIL. However, as the site is exempt from CIL the contribution would need to be secured through a unilateral undertaking.
- 4.6.5 Subject to the above conditions and the unilateral undertaking to secure payment towards mitigation of the SAC the proposal is considered acceptable in respect of its impact on nature conservation interests and therefore would be in compliance with Policies CP3 and CP13 of the Cannock Chase Local Plan and the NPPF.

#### 4.7 Drainage and Flood Risk

- 4.7.1 The site is located within Flood Zone 1 in the Environment Agency's Flood Risk maps and hence is at the lowest risk of flooding. Paragraph 103 of the NPPF states that when "determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere". To this end the applicant has submitted

Flood Risk Assessment prepared by Couch Consulting Engineers  
Site Drainage Strategy Plan C6997-SK1000 Rev P2

- 4.7.2 The drainage strategy is to discharge surface water via underground attenuation tanks, fitted into adjacent water course/ sewers.
- 4.7.3 The Local Lead Flood Authority, Severn Trent and South Staffordshire Water have been consulted on the proposals. Severn Trent has stated that it has no objections and no reply has been received from South Staffordshire.
- 4.7.4 The LLFA has stated that it has no objections subject to the imposition of conditions on any permission granted.

4.7.5 It is therefore considered that, subject to the attached condition, the proposal would not be subject to unacceptable flood risk or result in a significant increase in flood risk elsewhere and therefore the proposal would be resilient to climate change in accordance with Policy CP16 (1) (g) and (2) (e) of the Local Plan and Paragraph 17(6) of the NPPF.

#### 4.8 Ground Contamination

4.8.1 Given that the site is being used for general industrial processes there is the potential for ground contamination of the site. In this respect it is noted that Paragraph 120 of the NPPF states

"To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner."

4.8.2 In order to inform the application the applicant has submitted a ground investigation report has also been provided by Arc Environmental, project no: 16-1081, May 2017

4.8.3 The Environment Agency has stated that it has no objections subject to conditions in respect of ground contamination remediation and validation. Similarly the Environmental Health Officer has stated that he concurs with the conclusions and recommendations.

4.8.4 The comments of the Environmental Health Officer are accepted and it is considered that subject to the attached conditions the proposal would be satisfactory in terms of ground contamination and meet the guidance within the NPPF.

#### 4.9 Air Quality

4.9.1 Paragraph 124 of the NPPF states that

"planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.

4.9.2 To this effect the applicant has submitted an air quality assessment which aims to predict the potential air quality impact of the development. The report concludes that the "air quality impact of the vehicles using the development would be negligible, with the proposed development scheme trip generation lower than the existing site use on every road link". The report goes on to state that the "development is sufficiently distant from the main roads, particularly the A5 Watling Street, that baseline air quality would not represent a constraint".



4.9.3 The report states that the construction dust impact will be acceptable once mitigation measures are applied in line with best practice" and concludes that "the predicted air quality and dust impacts are within acceptable limits for purposes of the determining the planning application.

4.9.4 The Environmental Health Officer has stated that he accepts the findings of the report and has no objections subject to a condition in respect of controlling dust during the demolition-construction phase. It is therefore considered that subject to the attached condition the proposal is acceptable in respect of its impact on air quality.

#### 4.10 Waste and Recycling Facilities

4.10.1 Although these are not shown on the submitted plans it is noted that the plan is indicative and that such matters would be looked at under the reserved matters stage. However, there is nothing within the submission that would preclude a suitable scheme coming forward at that stage. As such the proposal would contribute to national and local waste reduction and recycling targets in accordance with the requirements of Policy CP16(1) (e) of the Local Plan.

#### 4.11 Crime and the Fear of Crime

4.11.1 Legislation, policy and guidance in respect of crime and the fear of crime is provided by Section 17 of the Crime and Disorder Act 1998, paragraph 58 and 69 of the NPPF and Policy CP3 of the Local Plan. In this respect the comments of Staffordshire Police are noted.

4.11.2 However, it should be noted that the proposed layout is indicative and the comments made by the Police should be taken into consideration at the reserved matters stage.

4.11.3 Therefore, having had regard to the provisions of the Crime and Disorder Act 1998, paragraph 58 and 69 of the NPPF and Policy CP3 of the Local Plan it is considered that subject to the attached informative the proposal would be acceptable in respect to designing out crime.

#### 4.12 Sustainable Resource Use

4.12.2 The requirements of Policy CP16(3)(a) in respect of the above have now been incorporated into the building regulations. As such, on balance, it is considered that the fact that the proposal would need to meet building control regulations means that the proposal would be in accordance with Policy CP16 without needing to submit a sustainability appraisal at this stage. Furthermore, issues such as sustainable transport have been addressed above where it was found that the site has good access to public transport and is conveniently placed to be accessible by foot and cycle to a wide range of facilities to serve day to day needs.

#### 4.13 Affordable Housing

4.13.1 Under Policy CP2 on sites of 15 units and above 20% is required for affordable housing of which 80% is required for social rent and 20% shared ownership. However, guidance makes it clear that this is subject to viability considerations.

4.13.2 Guidance on the issue of viability is provided by the Planning Practice Guidance. On a general note, Paragraph 001 states: -

"Decision-taking on individual schemes does not normally require an assessment of viability. However viability can be important where planning obligations or other costs are being introduced. In these cases decisions must be underpinned by an understanding of viability, ensuring realistic decisions are made to support development and promote economic growth. Where the viability of a development is in question, local planning authorities should look to be flexible in applying policy requirements wherever possible."

4.13.3 Paragraph 026 of the PPG relates specifically to the redevelopment of previously developed land and states

"The National Planning Policy Framework sets out a core planning principle that in decision-taking local planning authorities should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.

Local planning authorities should seek to work with interested parties to promote the redevelopment of brownfield sites, for example Local Enterprise Partnerships.

To incentivise the bringing back into use of brownfield sites, local planning authorities should:

- look at the different funding mechanisms available to them to cover potential costs of bringing such sites back into use.
- take a flexible approach in seeking levels of planning obligations and other contributions to ensure that the combined total impact does not make a site unviable."

4.13.4 The Planning Practice Guidance goes on to state in respect to how the viability of planning obligations should be considered on decision taking: -

- "In making decisions, the local planning authority will need to understand the impact of planning obligations on the proposal. Where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.
- This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered in line with the principles in this guidance.

- Assessing viability should lead to an understanding of the scale of planning obligations which are appropriate. However, the National Planning Policy Framework is clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development."

4.13.5 In respect to viability the applicant within the submitted Planning Statement states: -

"Evidently, the cost of redeveloping the site is high. Demolition, remediation and site clearance/ regrading comprise abnormal costs that need to be taken into account when considering the ability of the site to deliver the full suite of planning obligations/ CIL.

An open book viability assessment is submitted to the Local Planning Authority to facilitate a discussion regarding what can be viably delivered. The assessment concludes that it is not viable to provide any affordable housing. It is also the case that on account of the buildings being demolished, there would be no requirement for a CIL payment in respect of education, affordable housing and other financial contributions (indoor sport and recreation for example).

4.13.6 In order to assess the applicant's viability appraisal the Council has commissioned the service of Bruton Knowles. Having assessed the applicant's submission Bruton Knowles have advised that the "scheme is not viable" if it were to be policy compliant in respect to affordable housing.

4.13.7 Therefore it is considered, on balance, and having had regard to viability, that the zero affordable housing contribution is acceptable. However, given that viability is dependent on a number of factors which can change over time it is recommended that the issue of viability is revisited on the completion of the 100<sup>th</sup> dwelling which would give greater certainty in respect of viability. A proportion of the super- profits could then be utilised for the provision of affordable housing either on site or as a financial contribution for off-site provision whichever is considered the most appropriate. This could be secured through appropriate clauses inserted into a section 106 agreement.

4.13.8 It is therefore recommended that subject to a Section 106 agreement to ensure the above, the proposal, on balance, is acceptable.

#### 4.14 Education

4.14.1 The development falls within the catchments of Bridgtown Primary School and Cannock Chase High School.

4.14.2 The Education authority has advised that although a development of 180 houses could add 38 Primary School aged pupils, 23 High School aged pupils and 5 sixth form pupils, all schools are projected to have sufficient capacity to accommodate the likely demand from pupils generated by the development.

4.14.3 As such it is considered that there is no basis for requiring the developer to pay a contribution towards education.

#### 4.15 Play Space and Recreation

4.15.1 Policy CP5 of the Local Plan states "subject to viability, development proposals will be required to have regard to the wider determinants of health and make a positive contribution to provision of infrastructure, design and layout which supports social inclusion and healthy living for sustainable communities". Examples of such facilities highlighted within the policy include "parks, open spaces and woodland, open spaces and allotments facilities. However, policy CP5 goes on to make it clear that the above will be delivered through a combination of Community Infrastructure Levy as well as on and off site facilities.

4.15.2 The Developer Contributions and Housing Choices Supplementary Planning Document (DCHCSPD) (July 2015) states: -

Larger scale development schemes may give rise to the need for further on-site facilities in order to meet the needs generated by that development (in line with the Council's open space standards. The Council will generally expect proposals of 100 dwellings or more to provide for onsite formal play provision for young people (play areas and complementary amenity space) in order to meet the needs generated by that development.

4.15.3 However the DCHSPD goes on to make it clear that "the exact nature of the on-site provision required will take into account the nature of the development (including site constraints), the proximity and quality of existing play provision".

4.15.4 The open space provision on site is concentrated on the eastern side of the site provide a buffer between the proposed dwellings and the adjacent sewage works on the grounds that it constitutes a less sensitive receptor. In addition to the above the indicative layout shows that a layout could be brought forward that would ensure that adjacent housing would overlook the POS and therefore allow a degree of surveillance.

4.15.5 In terms of quantity it is noted that Council's guidance states that for a development of this size an area of 0.31 hectares of POS should be provided. The proposed provision would be 1.03ha and therefore well in excess than policy requirements.

4.16.6 In respect to the comments of the Landscape Officer it is accepted that a development of this size and in this location would require the provision of a Neighbourhood Equipped Area for Play (NEAP) including a Multi Use Games Area. This could be controlled through the use of a condition. However, the assertion by the Landscape Officer that the open space needs to central to the development or fronting Wolverhampton road is not accepted. The Council's own guidance makes it clear that the "exact nature of the on-site provision required will take into account the nature of the development (including site constraints)" and a main constraint that the development potentially faces is the odour from the adjacent sewage works.. As such the indicative layout has been produced with the twin objectives of maximising the

efficient use of land for housing and ensuring, through the use of odour modelling, that all dwellings fall outside of the outside of the  $3_{\text{OUE}/\text{m}^3}$  isopleth.

4.16.7 Having regard to the above it is considered that, subject to the provision of a section 106 agreement and the attached conditions the proposal is acceptable in respect to the provision of public open space and outdoor recreational facilities and its ongoing management.

#### 4.17 Minerals Conservation

4.17.1 The application site is located within a minerals conservation area. However the comments made by the County Council are accepted and it is considered that the proposal would not sterilise any mineral and in this respect the proposal is acceptable in respect of the requirements of the NPPF.

#### 4.18 Whether any Adverse Impact of Granting Planning Permission would be Significantly and Demonstrably Outweighed by the Benefits, when Assessed Against the Policies in the Framework, Taken as Whole.

4.18.1 Although the Council has a five year supply of housing land it is noted that such a supply is not a ceiling and it is the Government's firm intention to significantly boost the supply of housing. With this in mind it is noted that the granting of permission would make a significant contribution towards meeting the objectively assessed housing needs of the District.

4.18.2 In addition the proposal would have economic benefits in respect to the construction of the property and the occupiers who would make a significant contribution into the local economy.

4.18.3 Finally, the proposal would have an environmental benefit of making efficient use of land within a sustainable location, the creation of 180 thermally efficient new dwellings which would be required to meet modern building control standards.

4.18.4 Conversely when looking at potential harm it is considered that, subject to the attached conditions and the completion of a section 106 agreement, there would be no significant and demonstrable harm to highway safety, residential amenity, wider nature conservation interests and flood risk.

4.18.5 As such it is considered that any adverse impact of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as whole, the proposal benefits from the presumption favour of sustainable development and should, subject to the attached conditions and obligations, be approved.

#### 5.0 HUMAN RIGHTS ACT

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

## 6.0 CONCLUSION

- 6.1 The site is located in a sustainable location with good access to goods, services and areas of employment by modes of transport other than the private car. As such it is considered that the proposal is acceptable in principle.
- 6.2 In respect to all matters of acknowledged interest the proposal, subject to the attached conditions and completion of a section 106 agreement, is considered, on balance, to be acceptable.
- 6.3 The proposal would not deliver any affordable housing due to viability considerations but it is recommended that viability be reappraised later in the development to determine whether at that point some degree of affordable housing could be provided on the site.
- 6.4 Impacts on the Cannock Chase SAC would be mitigated through a section 106 agreement.
- 6.5 As such it is concluded that the adverse impact of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as whole.
- 6.6 It is therefore recommended that the application be approved subject to the attached conditions and the completion of a section 106 agreement.

## APPENDIX 2

Copy of the Officer Update Sheet  
Presented to Planning Control Committee on 39<sup>th</sup> May 2018

**Planning Control Committee****30 May 2018****Officer Update sheet****Application No: CH/17/323****Received: 22/08/2017****Location: Gestamp Tallent, Wolverhampton Road, Cannock****Parish: Non Parish Area****Ward: Cannock South**

**Description: Demolition of existing factory and offices and erection of up to 180 dwellings and up to 30,000 square foot of employment floor space (B1(c) and B8 Use Class), access and associated works (outline application with all matters reserved except for access)**

Subsection (iv) of the recommendation is amended to read as follows: -

- (iv) A separate section 106 obligation to deal with the SAC contribution be sought to secure compliance with the Habitats Regulations to mitigate the impacts on Cannock Chase SAC.

It is recommended that the Schedule of conditions should be amended to read: -

For the purpose of the interpretation of this decision notice the development hereby approved is considered to constitute two distinct phases as shown on the Phasing Plan. The first phase includes the residential estate and all facilities ancillary to that estate and associated infrastructure and access points serving that estate. The second phase includes the 30,000 square foot of employment floor space (B1(c) and B8 Use Class) and all facilities ancillary to that employment floor space and associated infrastructure and access points serving that employment development.

1. In the case of any reserved matters, application for approval must be made not later than the expiration of five years beginning with the date on which this permission is granted ; and

The development to which this permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason



A longer period of time for the submission of reserved matters is necessary due to the lengthy decommissioning, demolition and remediation period that redevelopment of the site would require.

2. This permission does not grant or imply approval of the layout/ design details accompanying the application which have been treated as being for illustrative purposes only.

**Reason**

The application is in outline form with these details reserved for subsequent approval. The illustrative information is not necessarily acceptable from the detailed planning point of view and to ensure compliance with Local Plan Policies CP3 - Chase Shaping Design and the NPPF.

3. No phase of the development hereby permitted shall be commenced until approval of the details of appearance, landscaping, layout and scale ('the reserved matters') for that phase has been obtained from the Local Planning Authority.

**Reason**

The permission is in principle only and does not authorise development to commence until all 'the reserved matters' have been approved. To ensure compliance with the requirements of Section 92 of the Town & Country Planning Act 1990.

Highways

4. No phase of the development hereby approved shall take place, until a Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period associated with that phase. The Statement shall:
  - i. specify the type and number of vehicles;
  - ii. provide for the parking of vehicles of site operatives and visitors;
  - iii. provide for the loading and unloading of plant and materials;
  - iv. provide for the storage of plant and materials used in constructing the development;
  - v. provide for wheel washing facilities;
  - vi. specify the intended hours of construction operations;
  - vii. measures to control the emission of dust and dirt during construction
  - viii specify method of piling, should piling be undertaken

**Reason**

In order to comply with Para 32 of the National Planning Policy Framework.

5. No phase of the development hereby permitted shall be commenced until full details of the following for that phase have been submitted to and approved in writing by the Local Planning Authority:
  - Primary and secondary access points
  - Any emergency access

- Provision of parking, turning and servicing within the site curtilage
- Disposition of buildings
- Means of surface water drainage and outfall
- Surfacing materials.

That phase of development shall thereafter be implemented in accordance with the approved details and be completed prior to first occupation/ first use of development.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

6. No phase of the development hereby permitted shall be commenced until details of a Stage 1 Road Safety Audit (with further stages to be submitted as appropriate) for that phase have first been submitted to and approved in writing by the Local Planning Authority.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

7. Prior to the first use of the proposed development the site access shall be completed within the limits of the public highway; concurrently, the existing accesses made redundant as a consequence of the development hereby permitted, as indicated on submitted Plan 17485-03-1 C, which shall include the access crossing between the site and the carriageway edge, shall be permanently closed and the access crossing reinstated as footway in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

8. The development hereby permitted shall not be brought into use until the visibility splays have been provided as per submitted Plan 17485-03-1 A. The visibility splays shall thereafter be kept free of all obstructions to visibility with nothing placed or retained forward of the splay and the public highway exceeding 600mm in height above the level of the adjacent carriageway.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

9. The development hereby permitted shall not be commenced until a scheme for the phasing of the development of the entire site has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved phasing plan.

**Reason**

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

10. No phase of the development shall take place, including any demolition or clearance works, until a Construction Vehicle Management Plan (CVMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

- Access points to be used for the construction of each phase of the development
- Arrangements for the parking of site operatives and visitors
- Loading and unloading of plant and materials
- Storage of plant and materials used in constructing the development
- Construction hours
- Delivery routeing and hours
- Recorded daily inspections of the highway adjacent to the site access points
- Wheel washing and measures to remove mud or debris carried onto the highway.

#### Reason

To comply with Paragraph 32 and 35 of the National Planning Policy Framework and in the interests of highway safety.

#### Ground/ Gas Contamination

11. No phase of the development approved by this planning permission shall commence until a remediation strategy for that phase, to deal with the risks associated with contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy shall include the following components: -

5. A preliminary risk assessment which has identified
  - all previous uses;
  - potential contaminants associated with those uses;
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from ground contamination at the site.
6. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
7. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
8. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason

To ensure that the development is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water or ground pollution in line with paragraph 109 of the National Planning Policy Framework.

12. Prior to any phase of the development hereby approved being brought into use a verification report demonstrating the completion of works sets out in the approved remediation strategy and the effectiveness of the remediation for that phase shall be submitted to, and approved in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason

To ensure the site does not pose any further risk to the water environment and the health of the occupiers of dwellings hereby permitted by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 109 of the National planning Policy framework.

13. The dwellings hereby approved shall not be occupied until: -
- v. an investigation into the potential for ground gas on the site has been undertaken; and if found to be present
  - vi. a scheme for the installation of gas protection measures has been submitted to and approved in writing by the Local Planning Authority; and
  - vii. the works comprising the approved scheme have been implemented; and
  - viii. an independent validation of correct installation has been submitted to the Local Planning Authority.

Reason

To ensure that risks from ground gas to the future users of the land and neighbouring land are minimised in accordance with Paragraph 121 of the National Planning Policy Framework.

14. No phase of the development hereby approved shall take place, until a Environmental Protection and Construction Method Statement for that phase has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the decommissioning, demolition, remediation and construction period. The Statement shall:
- i. specify the type and number of vehicles;
  - ii. provide for the parking of vehicles of site operatives and visitors;
  - iii. provide for the loading and unloading of plant and materials;

- iv. provide for the storage of plant and materials used in constructing the development;
- v. provide for wheel washing facilities;
- vi. specify the intended hours of the decommissioning, demolition, remediation and construction operations;
- vii. measures to control vibration and the emission of dust and dirt during any demolition, brick crushing or construction activities on the site.
- viii. specify method of piling, should piling be undertaken; and
- ix. the protocol for notifying the Council prior to the commencement of any piling activities or brick crushing on the site.

#### Reason

In order to ensure that the impacts of the development on the environment and the amenity of the occupiers of neighbouring residential premises are mitigated as far as is reasonably practicable comply with Paragraphs 17 and 32 of the National Planning Policy Framework.

15. No dwelling hereby approved shall be occupied until
- j. the windows to all habitable rooms of that dwelling have been fitted with glazing to a minimum manufacturer's rating of  $R_w33$ ; and
  - ii. all habitable rooms to that dwelling have been provided with trickle vents to achieve background ventilation in accordance with building regulations requirements and
  - iii. that any perimeter wall surrounding the curtilage to that dwelling which is immediately adjacent to a highway and, or an industrial building has been screened with a solid barrier fence of a minimum height of 2 metres.

#### Reason

In the interest of providing a good standard of residential amenity to the occupiers of the dwellings in accordance with Paragraph 17 of the National Planning Policy Framework.

#### Drainage

16. No phase of the development shall take place until a detailed surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

The scheme must be based on the design parameters and proposed strategy for the site set out in the Flood Risk Assessment (Ref: C6997-FRA-01b, Oct 2017) and Site Drainage Strategy Drawing (Ref: C6997-SK1000-P2, 02/11/17).

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

Surface water drainage system(s) designed in accordance with the Non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).

SuDS design to provide adequate water quality treatment, which can be demonstrated using the Simple Index Approach (CIRIA SuDS Manual), to include permeable paving to all private driveways and parking areas.

Limiting the total discharge rate generated by all rainfall events up to the 100 year plus 40% (for climate change) critical rain storm to 26.8l/s to ensure that there will be no increase in flood risk downstream.

Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods.

Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.

Provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development. This should include a schedule of required maintenance activities and frequencies, and contact details for the organisation responsible for carrying out these duties.

#### Reason

To reduce the risk of flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

17. No phase of the development shall be occupied until the surface water drainage system for that phase has been completed in accordance with the approved design, and details of the appointed management and maintenance companies have been provided to the LPA.

#### Reason

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development.

18. Notwithstanding the details of the approved plan prior to the first occupation of any dwelling on the site a detailed scheme for the laying out of a Neighbourhood Equipped Area of Play (NEAP) including a Multi Use Games Area (MUGA) and the specification of equipment to be provided within the play space area shall be submitted to and approved in writing by the Local Planning Authority. The works comprising the approved scheme shall be implemented to a timetable which shall be agreed in writing with the Local Planning Authority. The NEAP/MUGA shall thereafter be retained and maintained for the life time of the development unless otherwise approved in writing by the Local Planning Authority.

#### Reason

In the interests of providing accessible local play areas for young people.

Ecology

19. The development shall not commence until a scheme for the provision of

- j. 6 brick built bat boxes across the site; and
- iii. 24 integrated bird boxes across the site

has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall include: -

- iii. The specification of the bird and bat boxes; and
- iv. Which dwellings would be fitted with the boxes and the location of each box.

The scheme shall be implemented no later than the completion of the 100<sup>th</sup> dwelling. Thereafter the boxes shall be retained and maintained for their intended purpose for the lifetime of the development.

Reason

In the interests of protecting and enhancing biodiversity of the site by compensating and mitigating for the loss of habitats on the site in accordance with paragraph 118 of the National Planning Policy Framework.

20. All main herringbone road surfaces shown on the approved plans shall be to an adoptable standard to allow access by 32 tonne refuse vehicle access.

Reason

To prevent break-up of the highway surface in the interest of highway safety.

Trees and Landscape

21. No phase of the development shall commence until details of all arboricultural work relevant to that phase have been submitted to and approved by the Local Planning Authority. Details shall include a method statement and schedule of works.

Reason

The existing vegetation makes an important contribution to the visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

22. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- 17485-03-1 C
- 17485-03-02 C      Junction Geometry
- 19485-03-3 C      Refuse Tracking
- Phasing Plan
- Location Plan

23. Prior to commencement of the residential phase of the development a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning

Authority. The Travel Plan shall thereafter be implemented in accordance with the approved details.

Reason

In order to comply with Para 32 of the National Planning Policy Framework.

24. Prior to commencement of the commercial phase of the development a Travel Plan for the commercial phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall thereafter be implemented in accordance with the approved details.

Reason

In order to comply with Para 32 of the National Planning Policy Framework.





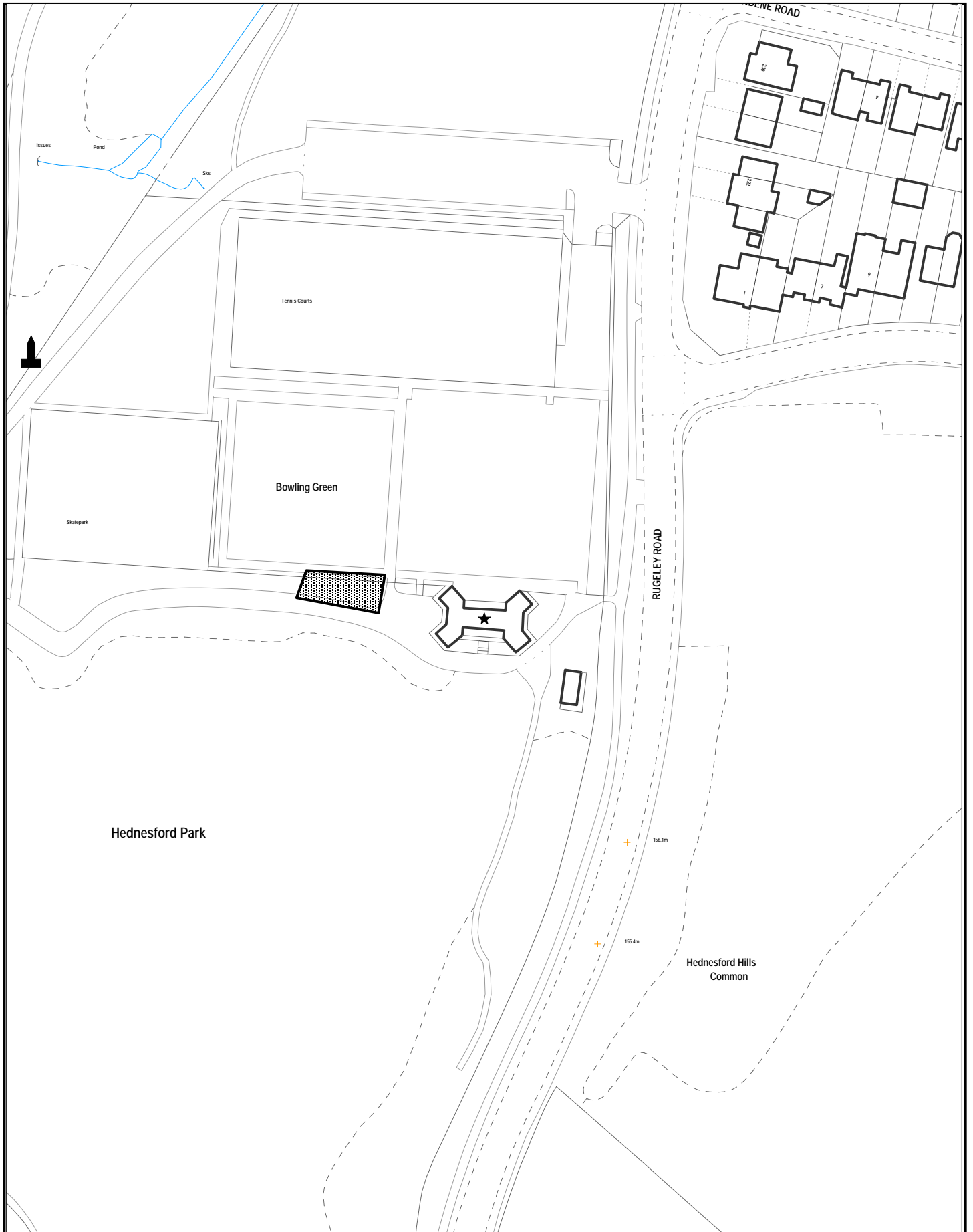
CH/18/154  
Hednesford Pavillion  
Proposed facilities building to include toilet provision  
and changing room

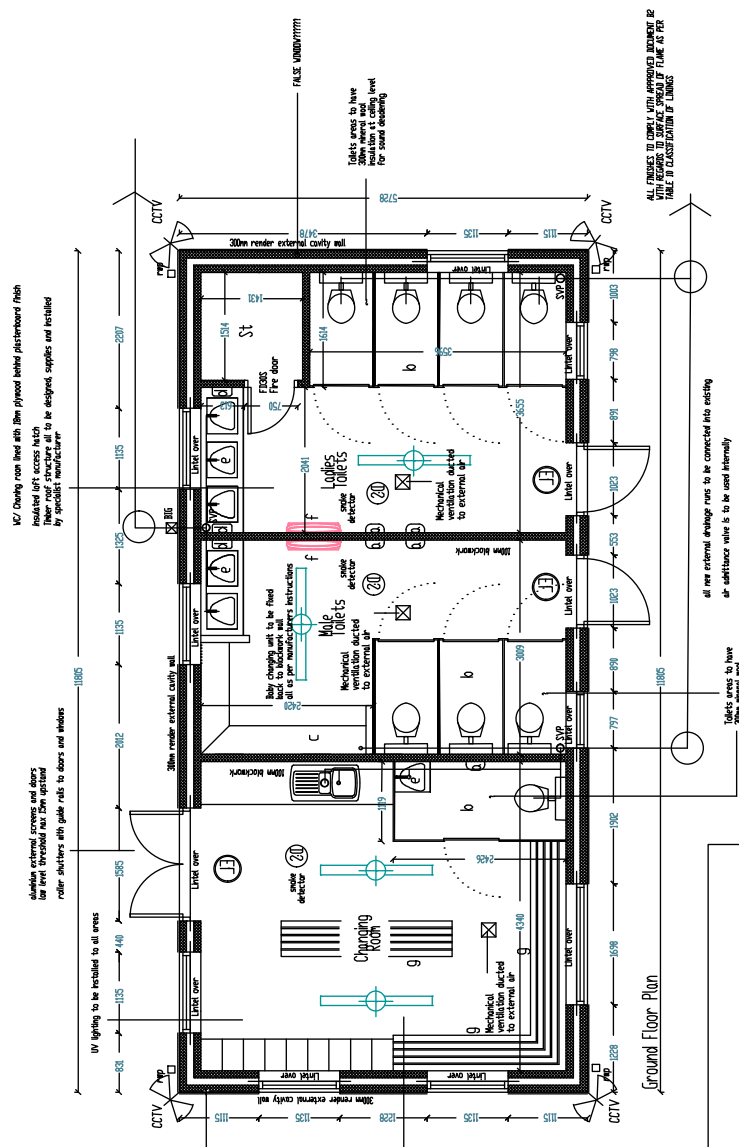
ITEM NO. 6.54



1:1250

20th June 2018





VZ/ Ceiling room lined with 18mm plywood behind plasterboard finish  
 Insulated loft access hatch  
 Timber roof structure all to be designed, supplied and installed  
 by specialist manufacturer

aluminium external covers and doors  
 for front threshold not 12m system  
 roller shutters with guide rails to doors and windows

UV lighting to be installed to all areas

**NOTE: ALL EXTERNAL AND INTERNAL DIMENSIONS TO STRUCTURAL ENGINEERS DE FALS**

Extractor through external wall  
 to be installed in accordance with  
 manufacturer's instructions

All internal wall to be finished internally  
 as per British Standard

ventilation ceiling fans to be terminated through ceiling void  
 in accordance with manufacturer's instructions

all extractor air pipes to be connected into new/  
 existing external drainage runs  
 contractor to confirm drainage rate and suitability  
 to connect new drainage to existing prior to works  
 commencing

**NOTE:**  
 All internal dimensions are taken  
 from blockwork face of external walls  
 and blockwork face of internal walls

Ground Floor Plan

ALL DIMENSIONS TO CORNER WITH APPROVED DIMENSION BE  
 TAKEN UNLESS OTHERWISE STATED. DIMENSIONS TO FACE FOR  
 WALLS IN EXISTING BUILDING IF APPLICABLE

all new external drainage runs to be connected into existing  
 air discharge main & to be used internally

waste pipe to base unit sink to be  
 20mm and 75mm deep trap soil  
 and drainage system  
 incorporated

sink escape pipe above floor slab  
 and connected into SYP  
 all fixed back to adjacent walls providing  
 full

score off cleaning eye and rodding access  
 to be incorporated at all junctions

Scheme : **HEDNESFORD PARK HLF PROGRAMME FACILITIES BUILDING**

Drawing Title : **PLANNING APPLICATION FLOOR PLAN**

Drawing No : **ST/8/HE/21/PL/2103**


Drawn By : **CWD**

Checked By :

Scale : **1:75 @ A3**

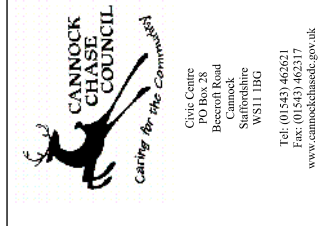
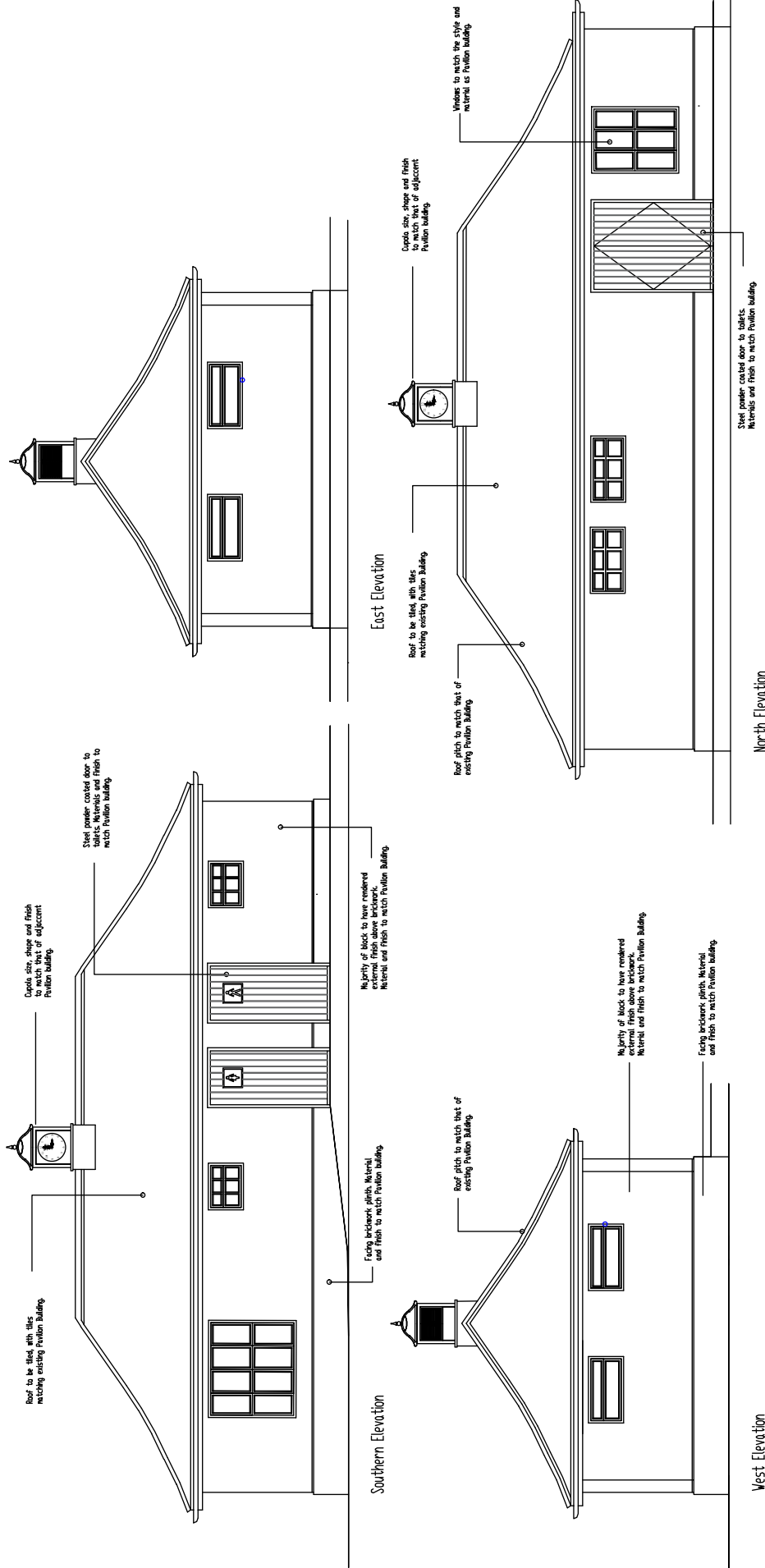
Date : **20 FEB 2018**

Date :



**CANNOCK CHASE COUNCIL**  
*Caring for the Community*

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Scheme: **HEDNESFORD PARK HLF PROGRAMME FACILITIES BUILDING**

Drawing Title: **PLANNING APPLICATION ELEVATIONS**

Drawing No:	ST/8/HE/21/PL/2102	Scale:	1:75 @ A3
Drawn By:	CWD	Date:	20 FEB 2018
Checked By:		Date:	

**Application No: CH/18/154**

**Received: 13-Apr-2018**

**Location: Hednesford Park Pavilion, Rugeley Road, Hednesford, Cannock, WS12 1QR**

**Parish: Hednesford**

**Ward: Hednesford North Ward**

**Description: Proposed facilities building to include toilet provision and changing room**

**Application Type: Full Planning Application**

**Reason for Committee Decision:** The site is owned by the Council

**RECOMMENDATION Approve Subject to Conditions**

Reason for Grant of Permission

In accordance with paragraphs (186-187) of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

1. B2 Standard Time Limit
2. D2 Materials to be Specified
3. E3 Tree & Hedge Protection Implementation
4. Approved Plans

#### INTERNAL CONSULTEES

##### Environmental Health

No objection.

##### Environmental Services

No objection.

##### Environmental Services

No comments received.

#### EXTERNAL CONSULTEES

##### Hednesford Town Council

No objection.

##### Crime Prevention Officer

No objection but recommends the developer utilises accredited / insurance rated products that are fit for purpose.

#### RESPONSES TO PUBLICITY-

A site notice was posted to advertise the application. No representations have been received.

#### 1.0 SITE & SURROUNDING AREA

- 1.1 The application is located within Hednesford Park which is sited on the outskirts of Hednesford Town Centre.
- 1.2 The application site comprises of a small plot of land sited to the side of the existing park pavilion adjacent a tree lined walkway.
- 1.3 The wider park is located north of the town centre. The eastern boundary of the site comprises Rugeley Road. The Walsall to Rugeley railway line delineates the western boundary of the park and a residential estate is sited to the north. Opposite Hednesford Park is a Grade II Listed War Memorial. This is sited approximately 200m from the application site and separated from the main park area by Rugeley Road and further from the application site by the existing pavilion building and existing landscaping.

#### 2.0 PROPOSAL

- 2.1 The proposal seeks consent for the construction of a changing room and toilet facility for users of the park.
- 2.2 The proposed toilet/ changing room facility building would reflect the design of the adjacent pavilion building and would have a footprint of 11.8m x 5.7m. The proposed building would be constructed with a hipped roof to a height of 4.8m and would incorporate a feature cupola.
- 2.3 The proposed building would be finished with facing brickwork plinth and pale render under a tiled roof.
- 2.4 The proposed toilet / changing room facility building would be located adjacent the existing pavilion building within the 'central hub' of the park.

#### 3.0 PLANNING POLICY

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises of the adopted Cannock Chase Local Plan - Part 1 (2014).

3.3 Other material considerations relevant to assessing current planning applications include the National Planning Policy Framework (NPPF) and Supplementary Planning Guidance / Documents.

Cannock Chase Local Plan – Part 1 – Adopted (2014)

3.4 The relevant policies within the Cannock Chase Local Plan are as follows

Policy CP1 – Strategy

Policy CP3 – Chase Shaping – Design

Policy CP15 – Historic Environment

3.5 National Planning Policy Framework

3.6 The NPPF sets out the Government’s position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it outlines the “presumption in favour of sustainable development”.

3.7 The NPPF confirms that a plan-led approach to the planning system and decisions must be made in accordance with the Development Plan. In particular, the following NPPF references are considered to be appropriate.

3.8 The relevant sections of the NPPF in relation to this planning application are as follows:

7, 11–14, 17, 56, 128, 129 131, 132, 134

3.9 Other Relevant Documents

The Cannock Chase District Council's Supplementary Planning Document on Design - April 2016

Section 66(i) of the Planning (Listed Buildings and Conservation Areas) Act

4.0 DETERMINING ISSUES

4.1 The determining issues for the application are:-

- Principle of development
- Setting of a Listed Building
- Design

- Impact upon amenity
- Crime prevention and the fear of crime

#### 4.2 Principle of the Proposed Development

4.2.1 The application site is Part of an established park and the proposal would further improve the facilities already offered at the park for residents of the district. As such, in principle the proposal is supported subject to the following considerations.

#### 4.3 Impact on The Setting of a Listed building

4.3.1 The proposal is located within the setting of Hednesford War Memorial, a Grade II\* listed building located off the Rugeley Road, opposite the wider park.

4.3.2 In respect to the impacts on the listed building it is noted that under Section 66(i) of the Planning (Listed Buildings and Conservation Areas) Act a local planning authority has a general duty, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

4.3.3 In addition to the above Policy CP15 of the Cannock Chase Local Plan states that the District's historic environment will be protected and enhanced via, amongst other things, the safeguarding of all historic sites and by supporting and promoting development proposals that are sensitive to and inspired by their context and add value to the historic landscape (amongst others).

4.3.4 In addition to the above paragraphs 128, 129 131, 132 and in particular 134 of the NPPF are relevant. Paragraph 129 states: -

"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal."

4.3.5 In addition paragraph 131 of the NPPF states: -

"In determining planning applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

4.3.7 In support of the application the applicant has submitted a Design and Access Statement which includes a range of historical information. In this respect it is noted that the park was opened in 1931 and therefore only 9 years later the war memorial was erected in 1922. As such for most of its history the war memorial and park have coexisted.

4.3.8 Given the above, it is noted that the proposal would remain approx. 200m from the Grade II Listed war memorial and would be separated by the main Rugeley Road. Furthermore, the proposed building would be sympathetic to its setting being of a minimal size and scale for its required purpose would match the appearance and finish of the existing pavilion building and be of type, scale and nature of buildings typically found in urban parks.

4.3.9 In this respect it is considered that the proposed buildings would preserve the setting of the listed war memorial. As such it is considered that the development proposal is sensitive to and inspired by its context having had regard to Policy CP15 of the Local Plan and the guidance contained within Section 12 of the NPPF.

#### 4.4 Design and the Impact on the Character and Form of the Area

4.4.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should: -

- (i) be well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials;
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.



4.4.2 The proposed building would be positioned adjacent the existing pavilion building and within close proximity to the sports facilities. The proposed building is of a high quality and has been designed to reflect the adjacent pavilion in terms of appearance and materials. Furthermore, no trees would be removed to accommodate the proposed building.

4.4.3 Therefore, having had regard to Policy CP3 of the Local Plan and the appropriate sections of the NPPF it is considered that the proposal would, on balance, be well-related to existing buildings and their surroundings and successfully integrate with the design of the host dwelling such that it would be acceptable in respect to its impact on the character and form of the residential area.

#### 4.5 The impact on the Surrounding Amenity:

4.5.1 A core planning principle is that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The proposed toilet/ changing room facility would be located some 170m from the nearest residential property (to the north) and would, in any case, be read against the backdrop of the park and existing sports facilities and pavilion building. As such, the proposal accords with Local Plan Policy CP3.

#### 4.6 Crime Prevention and the Fear of Crime

4.6.1 Public toilets can be the focus for crime and antisocial behaviour. Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority to exercise its various functions with due regard to likely effect of the exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area. In addition paragraphs 58 and 69 of the NPPF seek to promote safe and accessible developments where crime and disorder and the fear of crime do not undermine quality of life and community cohesion.

4.6.2 However, in this respect it is noted that the Council will be managing the toilets and Staffordshire Police have no objections to the proposal. As such having had regard to Section 17 of the Crime and Disorder Act 1998, paragraph 58 and 69 of the NPPF and policy CP3 of the Local Plan it is considered that the proposal is acceptable.

#### 5.0 Human Rights Implications

5.1 The proposals contained in the report are considered to be compatible with the Human Rights Act 1998. The proposals could potentially interfere with an individuals rights to the peaceful enjoyment of his or her property as specified in Article 8 and Article 1 of the First Protocol, however, the issues arising have been considered in detail in the report and it is considered that, on balance, the proposal comply with Local Plan Policy and are proportionate.

6.0 EQUALITIES ACT 2010

6.1 This application has been determined with regard to the Council's duties and obligations under the Equality Act 2010. However it is considered that the recommendation made in this report is proportionate taking into account the conflicting matters of the public and private interest so that there is no violation of those rights.

7.0 Conclusions

7.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.

7.2 It is therefore recommended that the application be approved subject to the attached conditions.



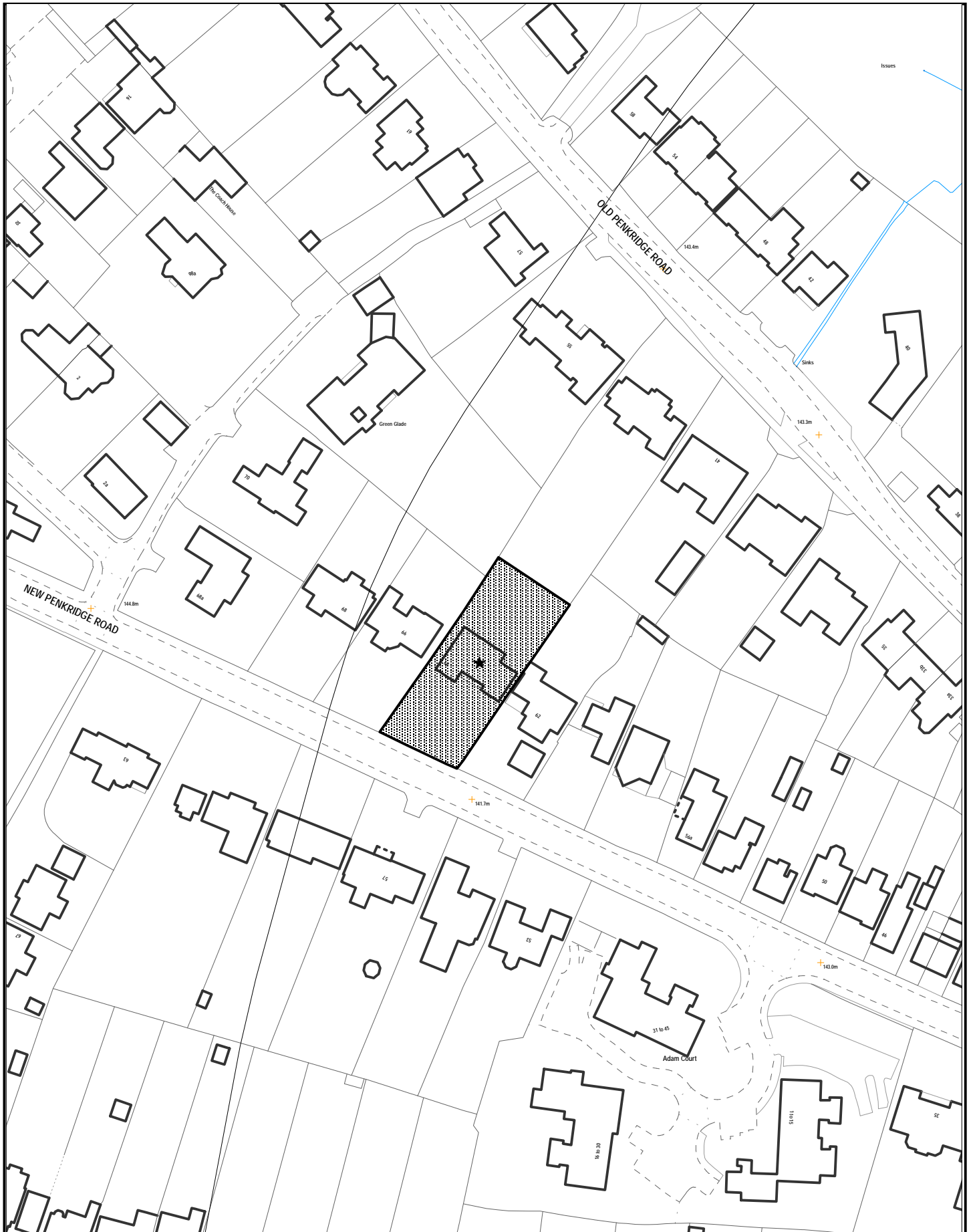
Enforcement Investigation  
CH/17/073  
64 New Penkrige Road Cannock  
Residential development:  
Erection of a five bedroom detached house

ITEM NO. 6.64



1:1250

20th June 2018



## **REPORT OF THE DEVELOPMENT CONTROL MANAGER**

### **ENFORCEMENT INVESTIGATION**

**SITE: 64 New Penkrige Road**

#### **1.0 PURPOSE OF REPORT**

- 1.1 In light of allegations of breaches of planning control in relation to the above site, to:
- a) Investigate and set out the details of such alleged breaches of planning control and enquiries;
  - b) Advise on whether or not any of the alleged breaches of planning control are enforceable, and;
  - c) Recommend what if any further action is necessary, and;
  - c) Consider other matters raised by the complainant.

#### **2.0 SITE AND SURROUNDINGS**

- 2.1 The site is known as 64 New Penkrige Road and comprises a detached dwelling and associated curtilage, which has been recently constructed to replace a former brick built detached dormer bungalow which stood on the site.
- 2.2 The dwellings on either side comprise No. 66 which is a dormer bungalow and 62, which is a two storey dwelling. There is a dwelling to the rear, called “Whitemead”, which is a considerable distance from the application because of the extensive rear garden of the application and to Whitemead.

#### **3.0 POLICY IMPLICATIONS**

##### **3.1 National Planning Policy Framework (NPPF)**

- 3.2 The NPPF sets out the Government’s position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it introduced a “presumption in favour of sustainable development”.

3.3 On the matter of enforcement Paragraph 207 of the NPPF states:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”

### 3.4 Planning Practice Guidance (PPG)

3.5 The Planning Practice Guidance was issued on the 14<sup>th</sup> March 2014 and is regularly updated. As the title suggests this provides practical guidance to support the NPPF. It contains a section on enforcement entitled ‘Ensuring Effective Enforcement’. This provides an overview of enforcement, enforcement advice and enforcement remedies available to Local Planning Authorities.

3.6 Extracts that are of particular relevance are set out below:

#### Who can take enforcement action?

Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas.

Paragraph: 002 Reference ID: 17b-002-20140306

Revision date: 06 03 2014

#### When should enforcement action be taken?

There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.

Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207:

Can breaches of planning control be addressed without formal enforcement action, such as an enforcement notice?

Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it. Furthermore in some instances formal enforcement action may not be appropriate.

It is advisable for the local planning authority to keep a record of any informal action taken, including a decision not to take further action

Paragraph: 010 Reference ID: 17b-010-20140306

Revision date: 06 03 2014

When might formal enforcement action not be appropriate?

Nothing in this guidance should be taken as condoning a willful breach of planning law. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case.

In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:

there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;

development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;

in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

Paragraph: 011 Reference ID: 17b-011-20140306

Revision date: 06 03 2014

#### 4.0 BACKGROUND AND REPORT DETAIL

4.1 The Council is in receipt of a series of complaints alleging breaches of planning control at the above address and other matters. Whilst officers have investigated these complaints; the complainants remain dissatisfied with the Council's responses and lack of action. To this end, the purpose of this report is to investigate and set out the details and context of the alleged breaches of planning control and recommend whether or not to pursue enforcement action in respect of these. The report also advises on other matters raised by the complainant.

4.2 In summary, the complaint and alleged breaches of planning control relate to: -

- (a) The reasoning behind the decision granting approval of the proposal was unlawful.
- (b) That the development, as built, does not conform to the approved plans and that it causes additional harm over and above that of the approved plans and of the original situation.

4.3 Other matters raised by the complainant include:

1. The developer has not acted in a positive and proactive manner.
2. The developer has damaged property in the ownership of the complainant, moved the boundary line to the property, not served a party wall notice, trespassed on the complainant's property, set fire trees on the complainant's property and not answered the complainant's telephone calls.
3. The developer has lit fires in the garden of the application property.
4. The applicant had not put all dimensions on the drawing leaving the matter open to assumption and open for the applicant to build as he goes along.
5. The complainant considers that the property is not built in the correct position and is in closer proximity to his property. There is a clear and distinct difference between the original and new plans and the applicant would have been aware of this at the early stages of the build yet the applicant continued to build.
6. The new building blocks natural light to the complainant's property because of its closeness and mass. The complainant's architect has explained that the new build has in excess 4 reception rooms to the complainant's 1 lounge. Mr Aqbal (the previous case officer) stated that when a room has front and rear facing windows the Council does not consider this [reduction in light] to be an issue.
7. The complainant questions whether the applicant needs a balcony and that the balcony could have been built in the centre of the property to avoid overlooking of the complainant's garden.
8. External lights placed on the new structure result in glare and dis-amenity to the complainant.
9. Not all the land shown in the red line boundary on the approved plans is in the ownership of the applicant.
10. The applicant indicated on the application form that no trees or hedges were to be removed but the hedge on the side boundary was removed.

#### 4.4 Planning History

4.4.1 On 18<sup>th</sup> June 2015 an application (ref CH/15/0295) was received for the “Proposed Demolition of Existing A Two Storey Dwelling To Construct New 5 Bedroom Dwelling House” at The orchard, 64 New Penkridge Road, Cannock. The plans were accompanied by a Tree Survey Report, dated 12<sup>th</sup> August 2015. The application was advertised by neighbor letter and site notice. Following comments received from the Landscape and Tree Officer an Arboricultural Impact Assessment, dated 16<sup>th</sup> October 2015, and amended plans were received. The Landscape and Tree Officer recommended approval subject to a suite of conditions.

4.4.2 No representations were received from third parties and the application was approved under delegated powers subject to conditions, which included the following condition:

-

3. “No trees or hedges shall be cut down, topped, lopped, uprooted or removed without the prior written permission of the Local planning Authority nor shall they be willfully damaged or destroyed.

Any trees or hedges which, within a period of 5 years from completion of the development are cut down, topped, lopped or uprooted without permission of the Local planning Authority or become seriously damaged or diseased or die shall be replaced in the next planting season with similar size and spaces unless the Local Planning Authority gives written permission.

##### Reason

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local plan Policies CP3, CP14, CP12 and the NPPF.

4. No part of the development hereby approved shall commence or any actions likely to interfere with the biological function of the retained trees and hedge shall take place, until details for tree and hedge protection have been submitted to and approved by the Local Planning Authority. Details shall include the position and construction of all fencing and the care and maintenance of the trees and hedges within.

##### Reason

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

5. Prior to the commencement of any construction or site preparation works including any actions likely to interfere with the biological function of the retained trees and hedges, approved protective fencing shall be erected in the positions shown on the approved Tree and Hedge Protection Layout Drawing pursuant to condition 4 above shall be erected to the approved layout).

Within the enclosed area known as the Tree protection Zone, no work will be



permitted without written consent of the Local Planning authority. No storage of material, equipment or vehicles will be permitted within this zone. Service routes will not be permitted to cross the tree Protection Zone unless written consent of the Local Planning Authority is obtained.

#### Reason

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

- 4.4.3 The approved plans associated with application CH/15/0295 are shown at Appendix 1.
- 4.4.4 Subsequent to the granting of the planning permission and commencement of construction works a complaint was received from the owner of the adjacent property at No.66 New Penkridge Road which raised several matters, some detailing that the development was not in accordance with the approved plans and some relating to the planning merits of the case. That email from the complainant and the subsequent email from Mr Aqbal are provided within Appendix 2. Mr Aqbal informed the complainant that having reviewed the 'as-built' development in the light of the approved planning permission he was of the opinion that the applicant had not properly implemented his planning permission and therefore the development was unauthorized. As such Mr Aqbal went on to state that he would be requesting that the applicant submit a new application and that should a new application be submitted that the complainant would be consulted.
- 4.4.5 Mr Aqbal wrote to the applicant on 3 February 2017 informing him that the development was unauthorized and that a new application to seek to regularize the situation would be required.
- 4.4.6 A second application (reference CH/17/073) for a "Residential Development: Erection of a five bedroom detached house" was received on 16 February 2017. The application was advertised by neighbour letter and site notice.
- 4.4.7 A letter of objection was received from the complainant, dated 27<sup>th</sup> March 2017. This is shown in Appendix 3.
- 4.4.8 The application was approved under delegated powers subject to conditions and the decision notice was issued on 13 April 2017. The approved drawings are shown in Appendix 4.
- 4.4.9 Subsequently correspondence has been received from the complainant that the development is not in accordance with the approved plans, reiteration of some of the issues raised in the letter of representation and raising several new issues and raising a complaint into how the two applications were processed and determined.

## 5.0 **Matters for Consideration**

- 5.1 The substantive issue in respect to the above is whether the dwelling has been constructed in accordance with the plans approved under planning permission

CH/17/073, and if so, whether any harm has arisen over and above that of the consented scheme.

- 5.2 In order to obtain an understanding of how the dwelling 'as-built' relates to the approved drawing Members attention is drawn to the proposal as approved under planning permission CH/17/073 (see Appendix 3.1) and the photographs showing the dwelling as built in Appendices 5.10, 5.11, 5.12, 5.13 and 5.14.
- 5.3 However, members' attention is also drawn to the issue that on the approved drawings the representations of the adjacent dwellings, particularly No66 do not appear to be accurate. The complainant has submitted a drawing (see Appendix 6) which purports to give a comparison between those schemes as drawn by the applicant's agent and the dwelling as built. Officers have, in Appendix 7, superimposed the approved plans (in planning permission CH/17/073) onto the drawing supplied by the complainant.
- 5.4 One of the problems that becomes apparent is that there is conflicting information from the two parties involved and the accuracy of the two sets of plans is questionable. This is not just the case in respect to the dwelling itself but also of representations of the dwellings abutting the application site (e.g. Nos 62 and 66).
- 5.5 Notwithstanding the above what is clear from an examination of the approved drawing (appendix 3.1) and the photograph in 5.3 and 5.6 is the dwelling 'as-built' has several rows of bricks between the top of the garage doors and eaves above, whereas in the approved drawing the garage door is almost levels with the eaves. It is also noted that the bay windows to the front elevation are also larger 'as-built' than that shown on the approved plans and that a small first floor central dormer has been formed.
- 5.6 As such it is clear that the dwelling 'as-built' is different from that shown on the approved plans. This being the case the next issue to resolve is whether any material harm has resulted from the breach of planning controls. The potential for harm could arise if the dwelling 'as-built' would result in unacceptable harm over and above that of the consented scheme, either to the character and visual amenity of the area or to the residential amenity of the occupiers of the adjacent dwellings by virtue of loss of light, outlook or by being overbearing.
- 5.7 Looking at the issue of impact on the character of the area it is noted that Policy CP3 of the Cannock Chase Local Plan states that, amongst other things, developments should be: -
  - (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
  - (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

- 5.8 In this respect it is noted that New Penkridge Road is characterized by a range of house types, of varying materials, sizes, scales and architectural detailing, with modern sitting adjacent to traditional and modest dwellings sat adjacent to quite large detached dwellings. In this context it is considered that the dwelling as-built falls within the parameters of the streetscene and sits comfortably within it context. As such it is concluded that the dwelling ‘as-built’ is well-related to existing buildings and their surroundings in terms of layout, density, scale appearance, and materials and in this respect would not be contrary to Policy CP3 of the Local Plan and the design section of the NPPF.
- 5.9 Turning to the issue of the impact on residential amenity it is noted that there are two windows in the side elevation of No66 which serve a habitable room which is also served by a bay window (see Appendices 5.7 and 5.9). The two windows in the side elevation look towards the application site. The original relationship between these windows and the original dwelling at the application site is shown in Appendix 5.1 which shows that the outlook from the side windows was already restricted by the original dwelling and that this was exacerbated by what appears to be a conifer hedge which was approximately as high as the top of the windows.
- 5.10 Having considered the approved drawing and the photographs of the dwelling ‘as-built’ it is noted that the height of the building as built and its distance from the side elevation of No66 is at worst slight. As such it is considered that any additional degree of overshadowing or loss of outlook resulting from the breach of planning control would be so small as to be negligible. As such it is concluded that no material harm to the amenity of the occupiers of No66 has occurred due to the difference between the building ‘as approved’ and that ‘as-built’.
- 5.11 With the above in mind it is noted that Paragraph 011 of the Planning Practice Guidance states
- “Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so. Where the balance of public interest lies will vary from case to case. In deciding, in each case, what is the most appropriate way forward, local planning authorities should usually avoid taking formal enforcement action where:
- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.”
- 5.12 It is considered that the breach of planning control is trivial, has not caused any material harm or adverse impact on the amenity of the site and, or, neighbouring properties and that the dwelling ‘as-built’ is acceptable on its planning merits. As

such it is concluded that it would not be expedient to take formal enforcement action.

## 6.1 Other Issues Raised by the Complainant

6.1 In the course of dealing with this breach of planning control, the complainant has forwarded a large amount of correspondence, some of which relates to the breach of planning control, some reiterating comments made during the application stage and some relating to complaints as to how the application was determined. These issues will now be set out together with the response from officers.

6.2 The developer has not acted in a positive and proactive manner.

6.2.1 Officers would comment that the duty to act in a positive and proactive manner relates to how the local planning authority should act in the determination of a planning application. It does not apply to the conduct of a developer and therefore has no bearing on this case.

6.2.2 The developer has damaged property in the ownership of the complainant, moved the boundary line to the property, not served a party wall notice, trespassed on the Complainant's property, set fire trees on the complainant's property and not answered the complainant's telephone calls.

6.2.3 Officers would comment that the above matters are private and civil in nature. Furthermore the granting of planning permission does not confer any right of access onto third party property or to damage or destroy property held by a third party. These issues therefore have no material bearing on this case.

6.2.4 The developer has lit fires in the garden of the application property.

6.2.5 Should fires cause nuisance there is potential for redress under the Environmental Health legislation and controls should it be expedient to do so.

6.2.6 The complainant questions whether the applicant needs a balcony and that the balcony could have been built in the centre of the property to avoid overlooking of the complainant's garden.

6.2.7 Officers would comment that the issue of the balcony was looked at when the application was determined. It is not for the local planning authority to question why an applicant requires a balcony but it does need to address whether any particular proposal would cause significant harm. In this case officers noted that the balcony was provided with a screen wall along that side of the balcony facing No66 and considered that this was sufficient to protect the amenity of the occupiers. However, it is recognized that what may be acceptable in planning terms and what a private individual may find objectionable can be quite different.

6.2.8 External lights placed on the new structure result in glare and dis-amenity to the complainant.

6.2.9 Officers would refer members to the photograph in Appendices 5.5, 5.8 and 5.9 showing the lamp in situ and the glare resulting to No66. This could readily be dealt

with by blackening out the panel facing the window ay No66. The owner of No64 has been requested to do this.

- 6.2.10 Not all the land shown in the red line boundary on the approved plans is in the ownership of the applicant.
- 6.2.11 Officers would comment that the applicant has signed Certificate A stating that he owns all the land shown in red. In addition it is not for the local planning authority to adjudicate in matters of land ownership.
- 6.2.12 The applicant indicated on the application form that no trees or hedges were to be removed but the hedge on the side boundary was removed, despite the applicant stating on the application form that there were no trees or hedges that would be removed and contrary to the conditions attached to the original consent (CH/15/0295).
- 6.2.13 Officers can confirm that the applicant did not state on the application form whether that there were trees or hedges on or adjacent to the development site. However, officers can confirm that the issue of trees and hedges was looked at during the determination of the application with the Tree and Landscape Officer being consulted, an arboricultural impact assessment being submitted and conditions in respect to the protection of the hedgerow being attached to planning permission CH/15/0295. However, it would appear that the hedgerow was taken out before the development had lawfully commenced.
- 6.2.14 As such at the time of the second application (CH/17/073) the hedgerow was no longer in existence and hence there was no longer a need to attach a condition for its protection during the construction period. If, indeed the hedgerow belongs to the complainant then he could seek redress through the courts for damage to his property.

## **7.0 CONCLUSION**

- 7.1 The substantive issue in this case is whether the building 'as-built' differs from that as approved under planning permission CH/17/073. It is clear from an examination of the approved plans and photographs of the dwelling 'as-built' that there are differences.
- 7.2 However, given that the distances are slight, it is concluded that the breach of planning control is trivial, has not caused any material harm or adverse impact on the amenity of the site and, or, neighbouring properties over and above that of the approved scheme and that the dwelling 'as-built' is acceptable on its planning merits. As such it is concluded that it would not be expedient to take formal enforcement action.
- 7.4 The other issues raised by the complainant do not alter the above conclusion.

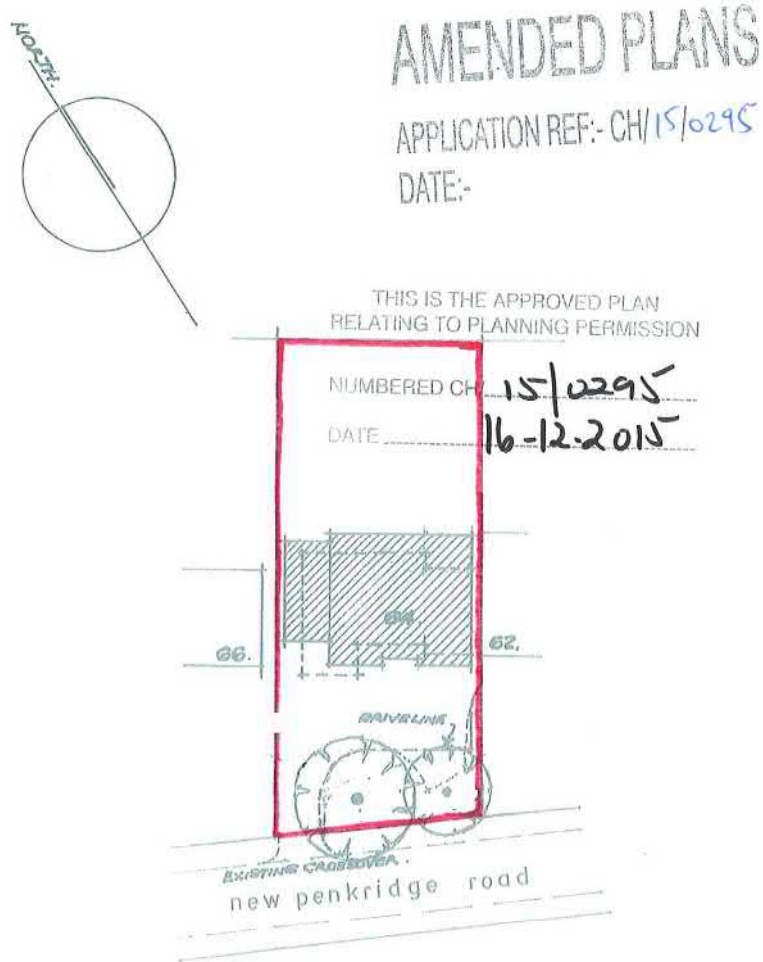
## **8.0 LEGAL IMPLICATIONS**

- 8.1 As set out in this report.

## **9.0 RECOMMENDATION**

9.1 It is recommended that no action is taken.

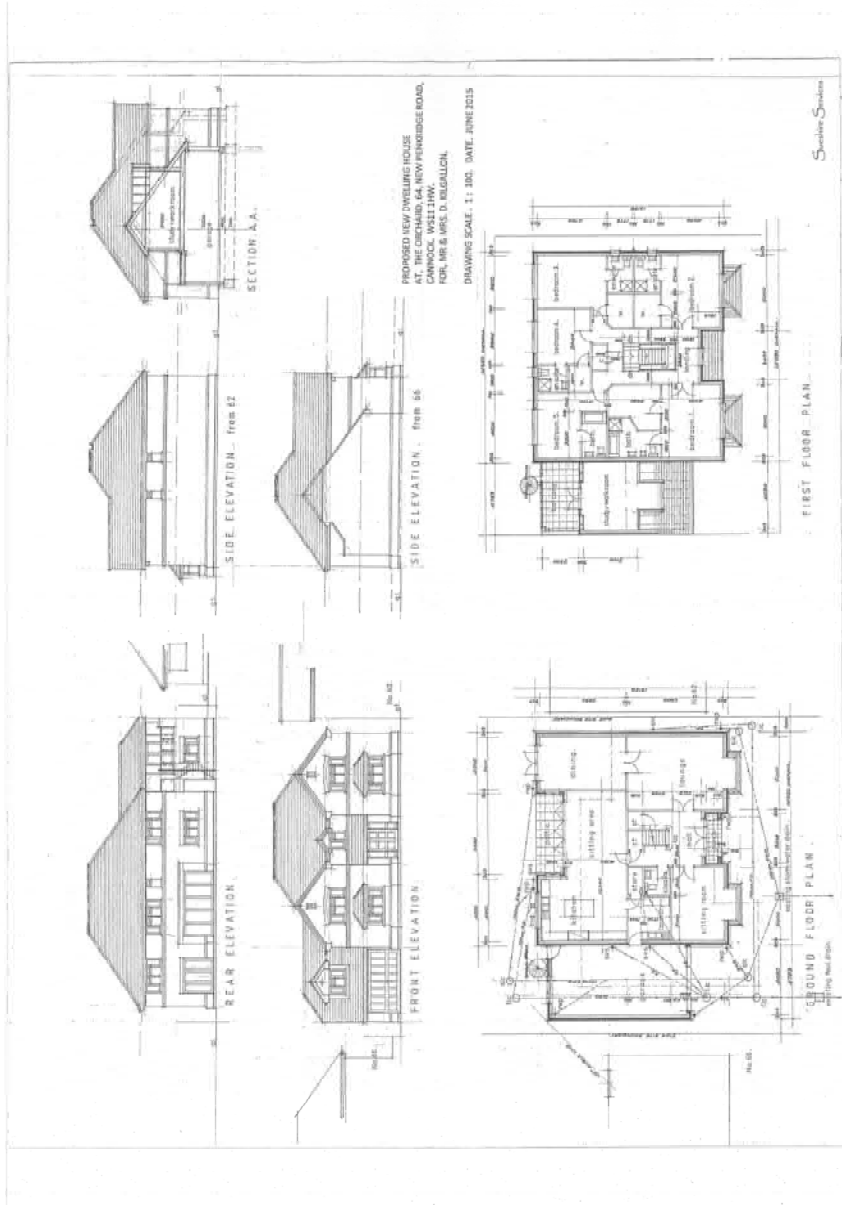
**APPENDIX 1.1:  
Site Plan As Approved Under Planning Permission CH/15/095**



SITE PLAN. 1:500.

SITE PLAN. REVISED DWELLING AT 6A, NEW PENKRIDGE ROAD,  
CANNOCK. WS11 1HW. FOR MR & MRS. D. KILGALLON.

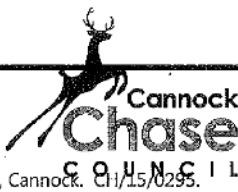
**Appendix 1.2:  
Layout and Elevation Plan As Approved Under Planning Permission  
CH/15/095**



## Appendix 2.

**Email from the Complainant and Reply from Mazer Aqbal in Respect to Planning  
Permission CH/15/095**

**Mazer Aqbal**

<b>From:</b>	Mazer Aqbal	
<b>Sent:</b>	01 February 2017 13:19	
<b>To:</b>	'Jag Suman'	
<b>Subject:</b>	RE: Proposed New Dwelling at 64 New Penkridge Road, Cannock. CH/15/0295.	
<b>Importance:</b>	High	

Dear Mr Suman,

I visited the site yesterday and my response to the matters you have raised in your e-mail dated 31<sup>st</sup> January, previous e-mail dated 30<sup>th</sup> January and prior discussions are set out below.

1. I was aware you were on site with two other gentleman, yesterday. However, as I was there to investigate matters you had raised; to retain your anonymity, I considered it best not to engage with you.

You have set out a number of matters, which relate to how your neighbour has undertaken this particular project. i.e. failing to discuss the project with you as the owner of your property; failure in discharging relevant requirements under the Party Wall Act, changes to the boundary and parking on your drive without your consent. Previously, you have also mentioned scaffolding being erected on your land. Please note that the planning system has no control over these issues as they are civil in nature. I would suggest therefore that you discuss these with your neighbour or seek appropriate legal advice on these matters.

3. Safety concerns over the scaffolding and the competency of the persons undertaking the works are also matters outside of the control of the planning system and I advise that you seek advice on these from the relevant Building Control Inspector.

4. With regards to the 'approved' design and impact on your property. As discussed previously, side windows in your property were noted. However, impact on side facing windows is given limited weight particularly if the neighbouring dwelling has front and rear facing windows to principal rooms.

5. You have expressed concerns over the proposed balcony. Balconies do allow for views over neighbours gardens. However, in urban areas it is not uncommon to be able to view adjacent gardens from first floor level as such in this instance it would be no more invasive than first floor windows.

6. You have also made references to the size of the dwelling and that some elements go beyond what is essential for a new dwelling. The wider area comprises large detached dwellings of various designs. I am satisfied that the size, scale and overall design of the 'approved' dwelling is in keeping with the wider area. As to the applicant making choices on how the dwelling is designed, this is a matter of personal taste. Overall, I am satisfied that the 'approved' dwelling was considered acceptable in light of the wider area and neighbours amenity; having regard to the Council's Development Plan, planning guidance and any other material considerations.

7. In terms of your recent discussion with me expressing your concerns over the proximity of the development in relation to your property, removal of a hedge and location of new boundary wall. I have looked into these matters and can advise as follows:

a. The distance of the new build relative to the shared boundary on the approved drawing is about 0.9m. On site the measurement is 0.8m. However, to the centre of the new wall, assuming that this is the centre of the shared boundary then the distance would be 0.9m. I have also observed that the proposed garage, as built, is larger than that shown on the approved drawing. There are other discrepancies in dimensions between the 'approved' plan and the 'as built' footprint.

b. I have also noted the boundary wall, which is under construction. The final height of this would dictate whether this would require planning permission or not, which I have yet to ascertain. As to the location



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along the boundary, this is a civil matter on which you should seek appropriate legal advice.

c. I also asked the owner of the property regarding removal of hedges. He advised that these had been removed a while back. Notwithstanding, under the particular circumstances I have no control over this through the planning system.

Having reviewed the 'as built' development in light of the 'approved' planning permission; I am of the opinion that the applicant has not properly implemented his planning permission and therefore the development is unauthorised. To this end, I will be requesting that he submits a further planning application. If a new planning permission is submitted then you will be consulted. My initial opinion is that the changes to the footprint are likely to be acceptable having regard to the 'approved' scheme, planning policy and other material considerations, on the basis of the information before me at present.

8. In your previous e-mail you requested details of the building control inspector. I have been advised that the inspections are being undertaken via – Building Consents, Castle Park House, Castle Park, Frodsham WA6 6SB. 01928 734489.

9. You also made reference to not being informed of the proposal through the planning process. As discussed at our meeting the Local Planning Authority undertook the necessary consultations, which included a neighbour notification letter to your property and a site notice near the development site. As such, I can confirm that the planning application was advertised over and above the statutory requirement for this type of planning application.

I hope this addresses the matters you have raised and should you wish to discuss these any further please do not hesitate to contact me.

Regards

Mazer Aqbal  
Development Control Manager  
Planning Services  
Cannock Chase District Council

---

**From:** Jag Suman [mailto:████████████████████]  
**Sent:** 31 January 2017 16:36  
**To:** Mazer Aqbal  
**Subject:** New Penkridge Road/ Design/ Breaches..

Hi Mr Aqbal

Unfortunately I was unable to speak with you today.

Even though we did not arrange to meet today at the new build construction site, I felt that it would have been a good opportunity to briefly discuss some of the matters.

As I mentioned to you, I am not happy with planned construction as I have had no input in this matter from the beginning. My neighbour was fully aware my property was rented but made no attempt to make contact with me through the relevant people.

My tenant is disabled and has suffered from a brain injury and was not in a position to discuss any building matters (not that he did). I feel that this matter has definitely taken advantage of.

Reasons for this include, my neighbour has breached the party wall act, excavated up to and less than 1 metre from my property without authorisation, shifted the boundary line and also created a shift in the earth beside my

property. No procedure in this construction has been followed apart from the authorisation of this new build. The retaining wall is constructed in an unprofessional manner and is not fit for purpose which has resulted in a shift of land.

Today I attended my property with a surveyor without notifying my neighbour and to my surprise the neighbour had 3 off his commercial vehicles parked on my driveway without authorisation. His excuse is that the main road was very busy so he thought he would park his vehicles on my land. The neighbour across the road has photographic evidence of vehicles manoeuvring in and out and being parked on my driveway on a daily basis. Clearly this is not acceptable.

With reference to the design of the new build, especially with the balcony overlooking my garden and one of my side windows now being blocked by a study/ balcony, this is something I would have clearly objected to. The original building was a general like for like building to mine and there was sufficient space between the two buildings but the new build is a completely different specification. Alternative options could have easily been offered for the study room and balcony within the building for example the study could have been put into the loft making the garage a single. A balcony is a luxury item and has no bearing on the way my neighbour dwells but why should he have that luxury facility at cost to my privacy. If he wants a balcony then he should recess it in the centre of his property. Its all very simple design alterations.

As far as I am concerned my neighbour has taken full advantage of his design giving him the added extras that the majority of houses do not have and are generally not a necessity (the fact the balcony overlooks my garden is a design flaw not taking me into any consideration. His architect is also very vague with his drawings especially to the boundary on my side.

In a nutshell and on balance, also taking on board your decision that you don't really look at side windows, please note the new build has approx 4/5 lounge/ sitting rooms as opposed to my 1 lounge/ reception room (I do not have any other rooms). My 1 lounge now has an imbalance of light, as the feature wall in my lounge contains 2 side windows beside the fireplace. One window is now blocked due to a double storey garage. If I had another 4 reception rooms, it would not be such an issue but as I only have 1 it does affect me. My point is there should have been some compromise taking into consideration the size of the new build in comparison to mine. A professional opinion from my architect has also confirmed that we would have put this in the letter of objection to the council.

All in all I have been purposely been kept away from this planning matter. The photographic evidence shows that all procedures have been carried out without negotiating with me and more importantly putting my property at risk knowing I am not there to monitor or oppose. The scaffold is deemed a danger the way it is resting on my land but for some reason the building inspector is turning a blind eye. Another neighbour tells me that my neighbour is conducting the work himself and excavation. Is my neighbour a certified builder, does he have the knowledge of structures?... clearly not as he hasn't even issued party wall notices.

All my neighbour is concerned about is about the value of his property once completed. To me, value is not monetary but consists of honesty and respect.

I would appreciate if my voice is heard at this stage regarding this matter from a planning perspective as you can see that my neighbour has intentionally carried out all of his actions knowing very well that they are incorrect. The property is not yet complete and I feel that the neighbour can still make alterations. If my neighbour is considerate and understands the reasons of the design objection, he will take this on board and make the changes as I can see how critical he is on his own design.

One thing out of my control is the damage already done. This will obviously need to be addressed accordingly and in accordance to correct building procedures.

I genuinely feel this is a genuine case and the fact it has been done intentionally, I feel it should require redress.

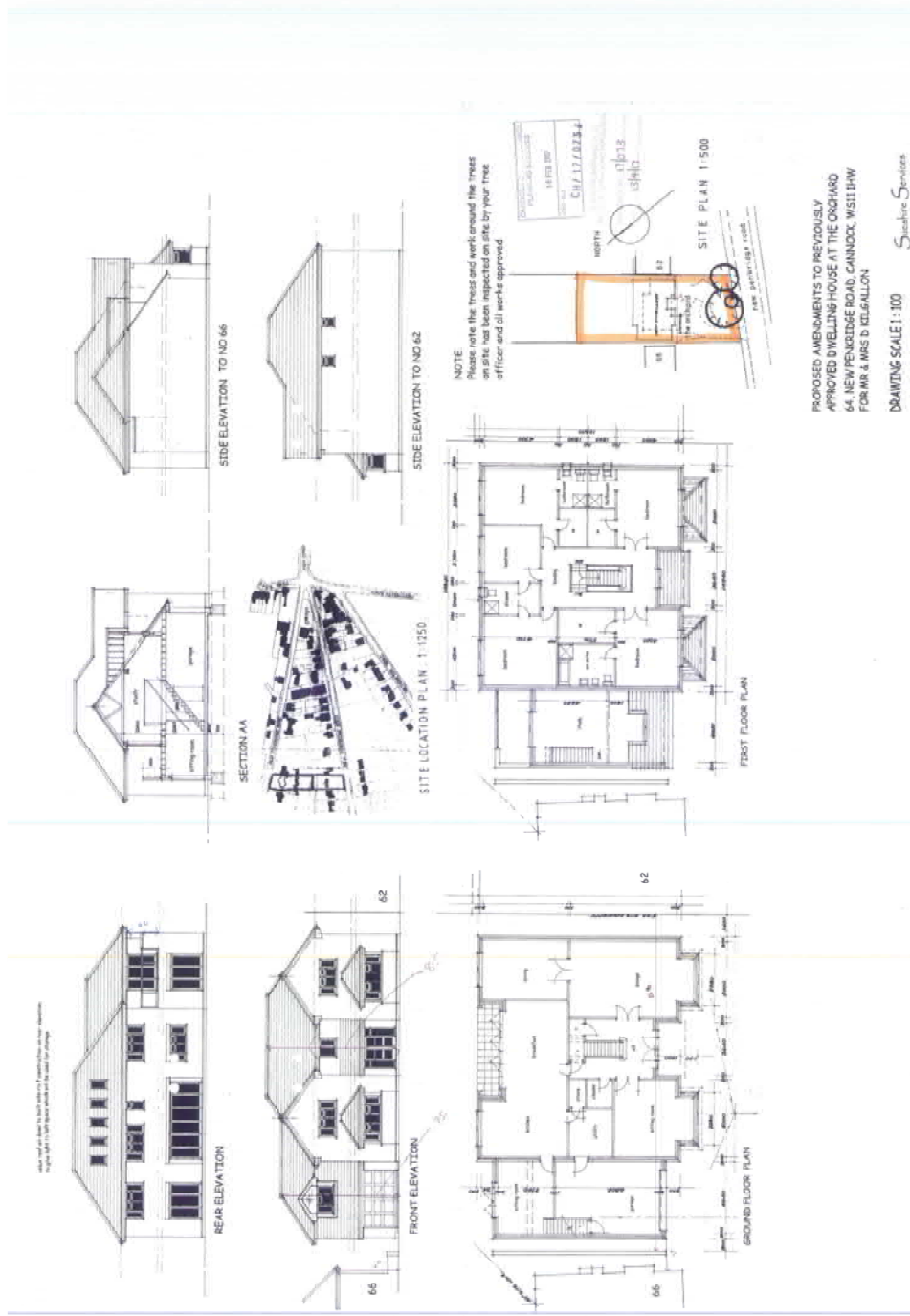
A report will be presented to my neighbour by my solicitor and any relevant action will be taken thereafter.

Kind regards



Tony McGovern | Managing Director  
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**APPENDIX 3.1:**  
**Site Plan Layout and Elevations As Approved Under Planning**  
**Permission CH/17/073**



**Appendix 3:**  
**Letter of Representation on Behalf of the complainant Received in respect of Planning Application CH/17/073**

Roma Parva, Level Two, 9 Waterloo Road, Wolverhampton, West Mids, WV1 4DJ



FAO Mr Mazer Aqbal,  
Cannock Chase District Council,  
Civic Centre,  
Becroft Road,  
Cannock  
STAFFS WS11 1BG

27<sup>th</sup> March 2017

Dear Sir

**NEW BUILD HOUSE - No.64 NEW PENKRIDGE ROAD, CANNOCK, WS11 1HW.  
APPLICATION REF: CH/17/073.**

Please accept this letter, written on behalf of our client Mr Jag Suman of No.66 New Penkridge Road, Cannock, as an objection to the current plans as submitted by Mr Kilgallon within the above application made to the council.

To provide background information regarding the site at No.64 New Penkridge Road, originally a Full Planning Application for a new build house was submitted, and subsequently approved in December 2015. At that time, and during the planning process, our client's property at No.66 New Penkridge Road was subject to a tenancy agreement. As we have been informed the tenant was an elderly person who suffered with a mental health condition. As a consequence any correspondence sent from the council to the property regarding the proposed development was not answered, and ultimately our client was unaware of the situation next door until the tenant vacated the property and works had commenced on site. Had Mr Suman been aware of the scheme submitted at this time he would have raised objection on a number of grounds which still remain present within the latest scheme as submitted on the 12<sup>th</sup> February 2017.

As you are obviously fully aware a re-submission for the new property at No.64 was made to the council following a site inspection undertaken in January 2017 which highlighted a number of variations and discrepancies between the building being constructed on site and the actual council approved plans.

Having now had the opportunity of reviewing the revised scheme our client would wish to formally express his concerns, and raise objection, over the latest proposals with three major concerns as scheduled :-

**1) Boundary offset dimensions.**

The exact location of the boundary line between No.64 and No.66 is currently subject to clarification as it would certainly appear that the line has been moved closer to our client's property robbing valuable side access land. Although an overall dimensioning of the site width has been supplied this cannot be accepted as it is presently in dispute.

On the previous approved drawing plans an offset dimension of 1000mm was clearly noted to the boundary with No.62 New Penkridge Road, with NO corresponding offset dimension provided to the boundary line with No.66. Upon looking at the drawn relationship between the proposed new house at No.64 and the side gable of No.66 ample side access width has been clearly demonstrated to both properties. When viewed on site it is clear to see that a width of such magnitude is not possible.



Directors:  
RICHARD TAYLOR  
JOHN REEVES  
STEPHEN SYMONDS

BA (Hons), B.Arch(Manc), APMP, RMApS, MAPA, RIBA,  
MCIAA,  
BA (Hons), Dip Arch, RIBA.



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Within the latest scheme proposals submitted, an offset dimension of 1400mm has now been stated to the boundary with No.62, thus positioning the new house some 400mm closer to our client's bungalow at No.66. The corresponding boundary offset dimension to No.66 has been stated as 800mm, with the width of access to the side of our client's property shown much narrower than that appearing on previous plans.

Mr Suman has in his possession past photographic evidence which indicates that a substantial screen hedge, as well as ample pathway, previously existed to the side of his property boundary with No.64. This has obviously been encroached upon as an independent Surveyors Report currently being prepared should indicate. With a retaining wall now already constructed between the two properties, whilst access remains possible to the rear of the new house under construction on both sides, access for wheelie bins, garden waste, etc is no longer possible between front and rear to our client's property.

In conclusion on this point it is considered that the overall mass and length of the new building from boundary to boundary is too large and dominant in scale overshadowing our client's bungalow substantially. To reduce the massing at the position of the boundary with No.66 it is suggested that the proposed first floor balcony, and study be omitted from the final design and the garage width reduced to enable a clearly defined gap to be retained between the corresponding two storey and single storey structures.

## **2) Inclusion of Balcony to Rear Elevation.**

The original plans prepared in 2015 showed a balcony, with external stair access, located directly adjacent to the right hand gable of our client's property for which Mr Suman would have raised objection at that time had he been aware of this.

Whilst within the newly submitted plans a wall of greater height has been indicated to the left hand rear end gable which then wraps around the balcony at lower level, and the external spiral access stair has been omitted, it is clear that the balcony position close to the boundary with No.66 remains greatly overlooking our client's rear garden area. A point of significance is that within the new plans prepared opening glazed doors indicated on the rear elevation to the balcony have not been shown on plan, terrace slab hatching has been removed, and the word balcony omitted. It is felt that these measures have been taken to avoid drawing attention to the balcony's continued presence.

When previously questioned on the potential disturbance, and loss of effective privacy, it had been stated that persons standing or sitting on the balcony would create no more of an impact than being in the garden. I find this hard to justify as within the rear garden area activities are, on the whole, screened by way of hedges and fencing

Our client is asking that the balcony be removed from the position as shown, and if still deemed as necessary to the overall build, located centrally within the rear façade thus distancing itself as far as possible from each of the boundaries at the rear.

## **3) Loss of light to existing lounge.**

As a result of constructing the left hand gable of the proposed new house extremely close to the gable of No.66 this has lead to a large overshadowing, and reduction in natural daylighting, to the existing lounge on our client's property, thus creating a somewhat gloomy appearance within what exists as a fairly deep room plan. On the latest scheme submission drawings the depth of the garage has actually been increased to allow for the inclusion of an additional sitting room to the rear. As a consequence where originally only one of the two side windows to the room would result in looking straight onto dark facing brickwork, this will now be worsened through the latest proposals which would ultimately impose the same situation upon both windows, thus darkening the room internally to a far greater degree.



Of particular relevance is that the two existing side windows to the lounge were designed as an important feature within the design of the original bungalow, with decorative arch heads, and a former outlook onto greenery. As a result of the closeness of the new build property, in relation to the original bungalow which occupied the site, this will now become a detrimental loss to our client's property. Furthermore, whilst the new house being constructed at No.64 New Penkridge Road will ultimately possess a total of 4 no. lounges, No.66 has only a single lounge which is clearly being compromised.

Prior to the re-submission for No.64 New Penkridge Road, Mr Suman did contact the Planning Department regarding the loss of light to the lounge on his own property. At that time our client was informed that, as the room also had a bay window to the principle elevation, that side windows would have no bearing. If this is to be the case then on the latest submitted elevations for the new house proposed at No.64 there would seem little to no justification for the inclusion of 5 no. relatively large velux rooflights stated as required to provide natural light for what is labelled as attic storage space. I would most certainly speculate that the rooflights have been added to enable additional habitable rooms to be added at a later date. This would only require simple addition to the present staircase arrangement to enable full access from the first floor accommodation, enlarging the property yet further without application for planning.

Whilst the three major issues explained above compel our client to raise a formal objection to the latest re-submitted scheme, which can be likened to the previously approved scheme upon which Mr Suman was unable to comment, the latest proposals push the boundaries yet further with an increased overall footprint for the proposed house at No.64. As touched on earlier in this letter the latest changes include enlarged front bay windows and additional accommodation now introduced at ground floor, and possibly second floor.

It must be said that the overall scale of the latest building, rather than reducing impact on our client's former bungalow at No.66 New Penkridge Road, will ultimately dominate further. As a result it is considered that should Mr Suman wish to extend his own property at a latter date he could find himself denied permission on the grounds of over-development within the overall street scene due to the unnecessary 'maxing out' of his neighbour's plot.

On a final note, which we also consider to be relevant, and demonstrating Mr Kilgallon's general disregard to both planning and building matters we would advise that the build was commenced without the issue of a formal Party Wall Notice although the building has been constructed within 3m of our client's property. In addition we understand none of the conditions set within the original permission granted have been adhered to, or formally discharged in writing by the council. Such items include the removal of almost all of the screen planting which existed to the boundary between No.64 and No.66, and the construction of a brick retaining wall between the two properties, both of which were subject to details being submitted and approved by Cannock Chase District Council prior to the actual build works commencing on site. Furthermore, although not directly a planning matter, we have been informed by our client, with photographic evidence also available, showing the burning of builders materials on site. This has occurred on several occasions, in one instance requiring the fire brigade to be called out and trees in Mr Suman's rear garden being partially burned.

Yours sincerely  
For and on behalf of ACP Architects

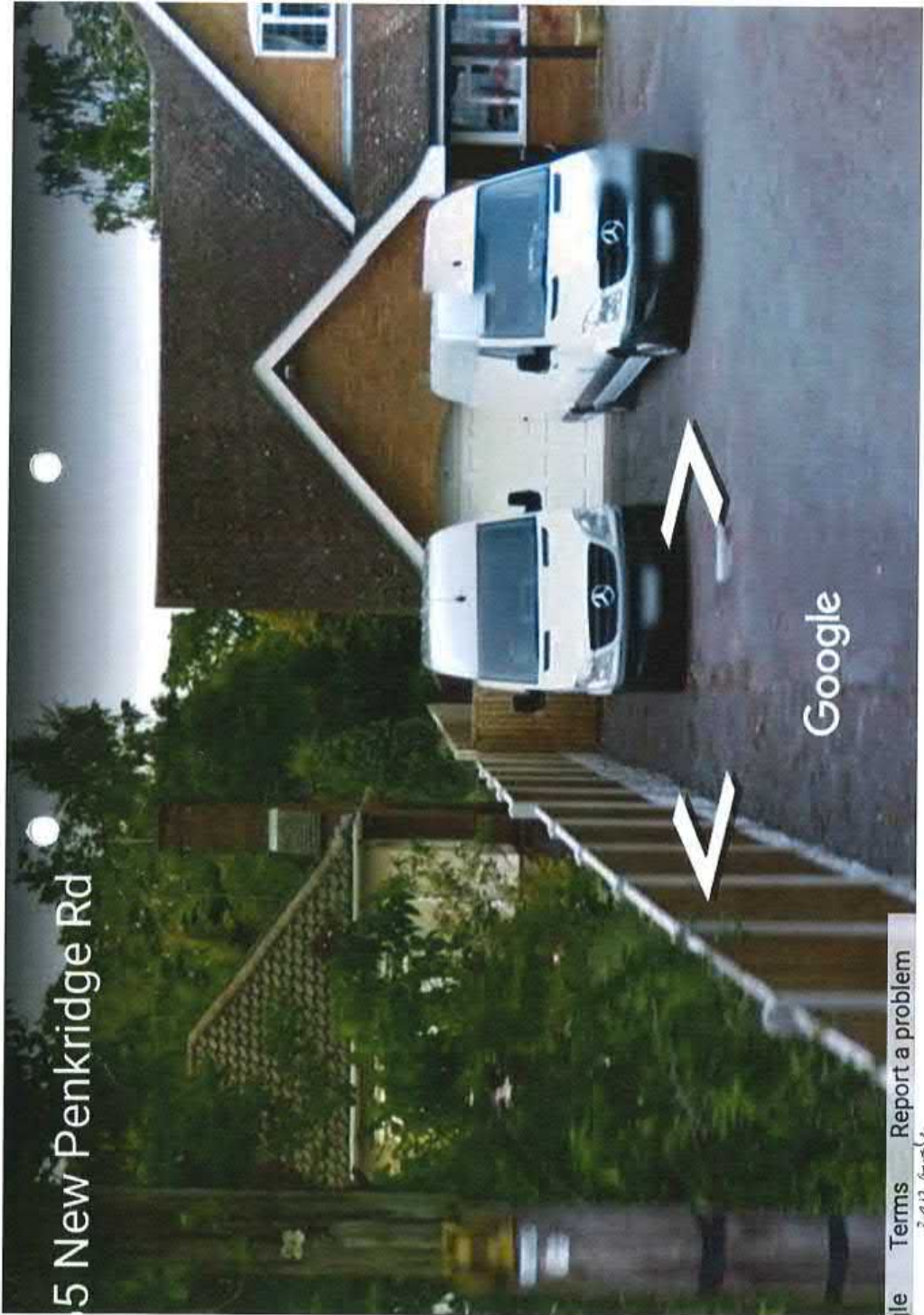
**Stephen G Symonds RIBA**



**Appendix 5.1:  
Photograph of the Application site Showing the site As it Existed Before Development  
Commenced**



**Appendix 5.2:  
Photograph of the Application site Showing the site As it Existed Before Development  
Commenced**





**Appendix 5.3:  
Photograph of the Application site Showing the Relationship Between the New Build  
and the Dwelling at No66 New Penkridge Road**



**Appendix 5.4:  
Photograph of the Application site Showing the Relationship Between the New Build  
and the Dwelling at No66 New Penkridge Road**





**Appendix 5.5:**  
**Photograph of the Application site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkridge Road (NB the window in the side elevation of No 66 New Penkridge Road)**



**Appendix 5.6:**  
**Photograph of the Application site Showing the Relationship Between the New Build and the Dwelling at No66 New Penkrigde Road**



**Appendix 5.7:**

**Photograph Taken from Inside of No.66 showing the Impact of the New Build on the Standard of Amenity to the Occupiers of No.66 New Penkrigde Road**





**Appendix 5.8:**

**Photograph of the External Light Stated to Cause Glare to the Occupiers of No.66 New Penkrigde Road**



**Appendix 5.9:**

**Photograph of the External Light Stated to Cause Glare to the Occupiers of No.66 New Penkridge Road**



Appendix 5.10

Front Elevation Showing the General Façade of the Front Elevation As Built





**Appendix 5.11**

**Photograph showing the Relationship Between the Dwelling as Built and the Neighbouring Property at No66 New Penkrige Road**



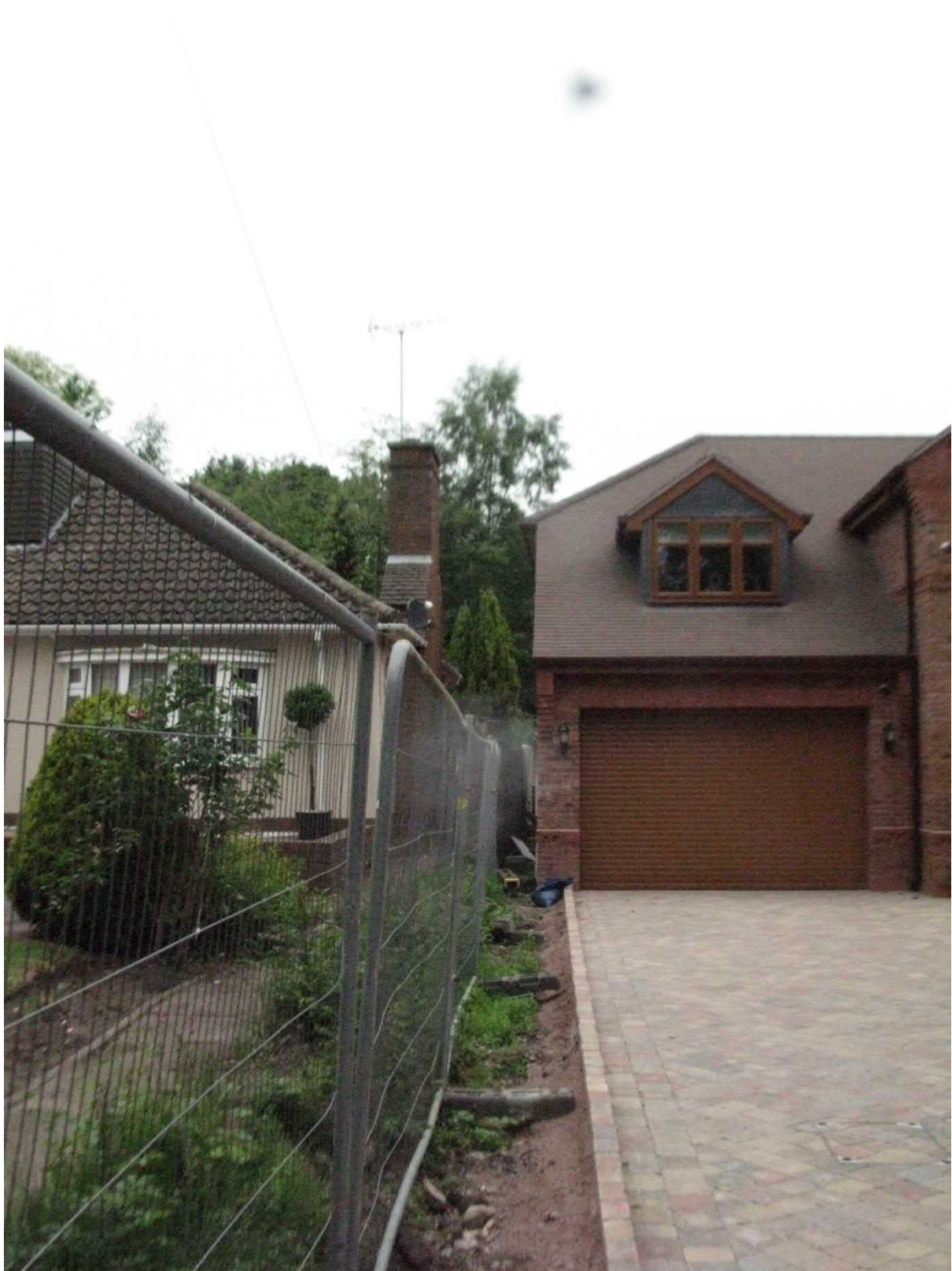
Appendix 5.12

Photograph showing the Relationship between the Dwelling As-Built and the Neighbour at No 62c  
New Penkridge Road



**Appendix 5.13**

**Photograph Showing the Dwelling As-Built and the Neighbouring Property at No66 New Penkrige Road**





**Appendix 5.14**

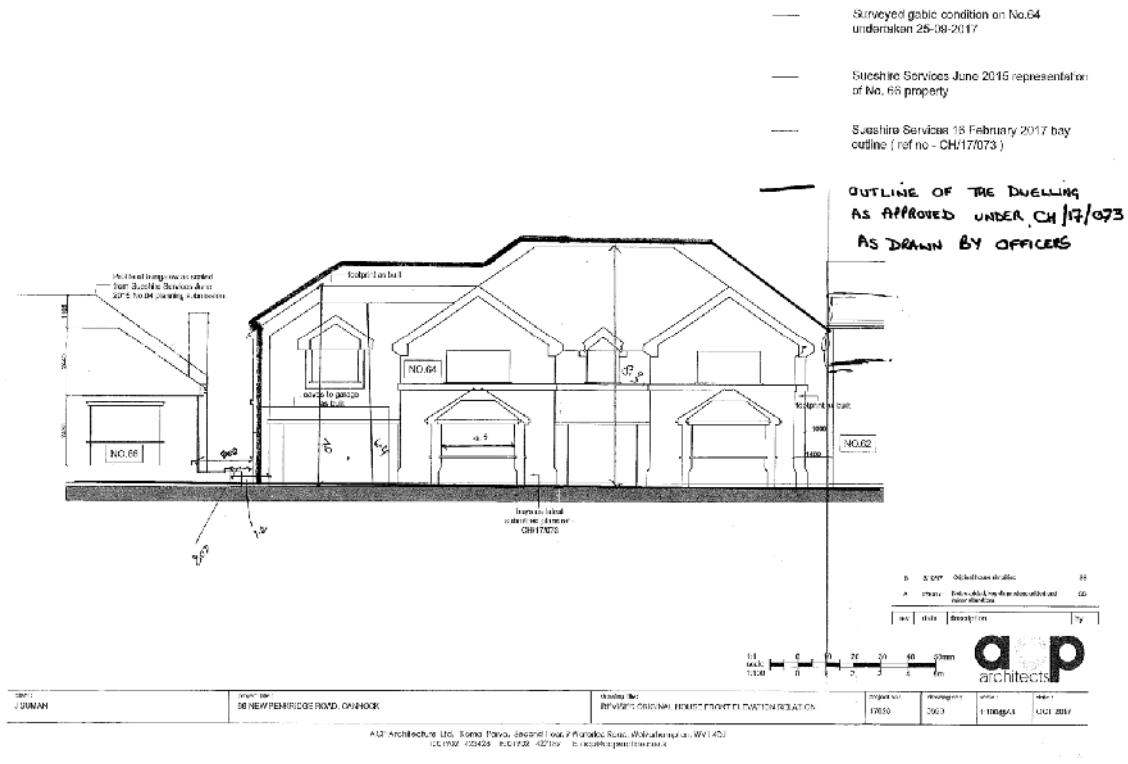
**Photograph Showing the Relationship Between the Sider Elevations of the Dwelling AS-Built and No66 New Penkridge Road**





Appendix 7:

Drawing Showing the Outline of the Dwelling Approved as Per Planning Permission CH/17/073 Superimposed By Officers on the Drawing Supplied by the Complainant



**Subject:** Planning Enforcement Protocol

**Ward:** All Wards

**Parish:** All parishes

**Recommendation:** To recommend to Council that Council agree to adopting and publishing the Cannock Chase Council Planning Enforcement Protocol.

**Background:**

Following an investigation undertaken by the Local Government Ombudsman in respect to how the Council dealt with a complaint regarding development at 26 Watermint Close, the Ombudsman instructed, amongst other things, that the Council should produce a local enforcement plan in accordance with government guidance within six months of the ombudsman final decision.

The development control service has produced a draft Planning Enforcement Protocol (attached at appendix 1) which sets out the Council's policy for the enforcement of planning control within the district, including: -

- (i) The range of enforcement powers that the Council can have recourse to.
- (ii) The principles that guide the implementation of enforcement investigations
- (iii) Key objectives
- (iv) Enforcement priorities
- (v) Enforcement Site Inspection Time scales

It is considered that the Protocol will give greater clarity to all interested parties of the approach that will be taken to Planning enforcement.

APPENDIX 1



**CANNOCK CHASE COUNCIL**

**PLANNING ENFORCEMENT PROTOCOL**

**DRAFT**



## 1. **Introduction**

The planning system operates to regulate development and the use of land in the public interest. The effective and proper enforcement of planning controls is essential to protect the local environment and interests of the residents, visitors and businesses from the harmful effects of unauthorised development.

This protocol sets out Cannock Chase District Council's policy for the enforcement of planning control within the district.

## 2. **Breaches of Planning Control**

The Council has a duty to investigate alleged breaches of planning control. A breach of planning control broadly means the carrying out of development without the grant of planning permission from the Council, or deemed permission by government order. A breach will also include the carrying out of development without compliance with the approved plans or any conditions attached to a planning permission.

The Council has powers to remedy proven breaches by statutory and other means. It is our policy to exercise these powers appropriately and proportionately so that development takes place in accordance with the appropriate legislation or conditions and limitations imposed on any planning permission. The purpose of this policy is to ensure that councillors and officers, external agencies and the general public are aware of the Council's approach to its enforcement responsibilities.

Unauthorised works to listed buildings, trees covered by Tree Preservation Orders, trees within a Conservation Area and advertisements also come within the scope of planning control but unlike the breaches identified above constitute a criminal offence.

The Council also investigates offences under the Hedgerows Regulations 1997 and High Hedge complaints under Part 8 of the Anti-social Behaviour Act 2003.

## 3. **Legislative Framework and Government Guidance**

Local Planning Authorities have powers within the Town and Country Planning Act 1990 (as amended) to investigate alleged breaches of planning control and have powers to remedy proven breaches by statutory and other means.

The following sets out the legislative framework applicable to breaches of planning control:

The Council's powers in relation to planning enforcement are set out in the following Acts of Parliament, Orders and Regulations:

The Town and Country Planning Act 1990 (as amended)

The Planning (Listed Building and Conservation Areas) Act 1990

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Town and Country Planning (Tree Preservation) Regulations (England) 2012 (as amended)

The Town and Country Planning (General Permitted Development) Order 2015 (as amended)

The Town and Country Planning (Use Classes) Order 1987 (as amended)

Advice from Central Government on planning enforcement is set out in the following documents:

The National Planning Policy Framework (March 2012) replaced Planning Policy Guidance Note 18 “Enforcing Planning Control” (PPG18, December 1991). Within the National Planning Policy Framework, a single paragraph (207) relates to enforcement, which states:

“Enforcement

Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”.

The European Convention of Human Rights confers rights that are embodied in the Human Rights Act 1998. It would be unlawful for the Council to act in a way that is incompatible with a Convention right.

#### 4. **Key Objectives of Planning Enforcement**

The main objectives of planning enforcement are:-

- To remedy undesirable effects of unauthorised development
- To bring unauthorised activity under control to ensure that the credibility of the planning system is not undermined.

#### 5. **Approach to Enforcement**

The integrity of the development management process depends on the readiness to take enforcement action when it is considered expedient to do so. Parliament has given Councils the primary responsibility for taking whatever enforcement action is

necessary within the area for which it is the Local Planning Authority. (A private citizen cannot initiate planning enforcement action). The enforcement of matters relating to waste management and mineral workings within this district are the responsibility of Staffordshire County Council.

Whilst nothing in this protocol should be taken as condoning a wilful breach of planning law, the Council's enforcement powers are discretionary and will only be exercised when it is considered expedient to do so. In considering the issue of expediency, the Council will have regard to:-

- whether the breach of planning control unacceptably harms public amenity, or the existing use of land and buildings merit protection in the public interest;
- ensuring any enforcement action is commensurate with the breach of planning control to which it relates. Enforcement action will not normally be taken to remedy trivial or technical breaches of control which are considered to cause no harm to amenity. For example, work that is slightly larger than Permitted Development Rights allow for;
- ensuring that, if initial attempts to persuade an owner or occupier of a site to voluntarily remedy the harmful effects of unauthorised development fail, negotiations should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to stop;
- statutory time limits for taking enforcement action;
- relevant planning policies and other material considerations.

The Council will also have regard to which power (or mix of powers) is best suited to dealing with any particular breach of control to achieve a satisfactory, lasting and cost effective remedy.

The identity of persons reporting suspected breaches of planning control will be treated as confidential. However, where the success of an appeal or prosecution is dependent on evidence being provided by the person who reported the breach of planning control, the Council will discuss with the person whether they are willing to relinquish their confidentiality and provide the required evidence before proceeding with formal enforcement action or a prosecution.

## 6. **Resources**

The Council views breaches of planning control very seriously and therefore has a dedicated officer based within the Planning & Economic Development Team. The officer is responsible for: -

- Investigating reports of alleged breaches of planning control.

- Determining whether breaches of planning control have occurred.
- Initiating and progressing authorised enforcement action.
- Providing advice to users of the planning enforcement service.

The Enforcement Officer receives support from planning officers and solicitors of the Council when required. In some cases other specialist officers may also provide support.

## 7. **Investigation of Suspected Breaches of Planning Control**

Breaches of planning control can be reported to the Council either by visiting the Civic Centre, by letter, email or telephone.

The Council will acknowledge receipt of a reported breach of planning control normally within 3 working days. The acknowledgement will either be by letter, email or telephone and will provide the name and contact details of the investigating officer. If on the initial receipt of a complaint it is obvious that it is not a planning matter or there is deemed to be no breach of planning control the complainant will be advised. If the reported breach relates to a function or activity enforced by another Council service (e.g. fly-tipping or statutory nuisance) the complaint will be forwarded to the relevant department.

We will update the complainant as our investigation is progressing. This may be to explain that a planning application is going to be made, that we are monitoring the situation or that we are considering taking formal action.

To avoid the unnecessary use of resources in responding to hoax or malicious allegations, anonymous reports of suspected breaches of planning control will only be pursued where an initial site visit reveals a clear breach of planning control. All other anonymous reports will not be pursued beyond an initial site visit.

When a complaint is made, it is treated in confidence and the details of the complainant are not shared. If, however, the breach is serious enough that we decide to prosecute, we would need to name the complainant at that point. We would contact the complainant where this is necessary.

### **Enforcement Priorities**

The following sets out the Council's priorities for investigating alleged breaches of planning control or reported criminal offences.

To make the most effective use of available resources, the Council will investigate alleged breaches of planning control in accordance with the priorities listed in table 1 below. The priorities take into account the significance and impact of the breach, the level of harm caused and also the need to react expediently. For example traveller incursions or unauthorised works to listed buildings often require immediate investigation in order to prevent loss of historic features which may be irreplaceable.

Other complaints are minor in nature such as certain breaches of conditions which may not be causing any direct harm and therefore do not require immediate investigation.

As an investigation of a particular case proceeds, for example after a site visit, it may become necessary to change the priority level.

Table 1 - Enforcement Priorities

<b>Priority</b>	<b>Type of Breach</b>
Priority 1 – High	<ul style="list-style-type: none"> <li>- Works to listed buildings (demolition/alteration/disrepair);</li> <li>- Demolition or significant development in a conservation area;</li> <li>- Works to trees covered by a Tree Preservation Order or in a Conservation Area;</li> <li>- Development causing serious and immediate/irreparable harm, particularly to protected ecology or causing serious danger to the public;</li> <li>- Traveller incursions.</li> </ul>
Priority 2 – Medium	<ul style="list-style-type: none"> <li>- Operational development already in progress;</li> <li>- Development where potentially immune from enforcement within 6 months;</li> <li>- Development causing serious harm to amenity;</li> <li>- Breaches of condition/non compliance with approved plans causing serious harm to amenity.</li> </ul>
<b>Priority</b>	<b>Type of Breach</b>
Priority 3 - Lower	<ul style="list-style-type: none"> <li>- Other operational development which is complete;</li> <li>- Changes of use resulting in some harm to amenity;</li> <li>- Advertisements (other than fly-posting);</li> <li>- Breaches of condition/non compliance with approved plans causing non-serious harm to amenity.</li> </ul>
Priority 4 – Low	<ul style="list-style-type: none"> <li>- Changes of use resulting in no harm to amenity;</li> <li>- Untidy land (other than where comes under Environment &amp; Health legislation);</li> <li>- Anonymous complaints.</li> </ul>

Upon receipt of a reported breach of planning control or reported criminal offence as set out in section 2, the Council will endeavour to conduct an initial site inspection in accordance with the priorities listed in table 1 and within the timescales detailed in table 2 below.

Table 2 – Enforcement Site Inspection Timescales

<b>PRIORITY</b>	<b>SITE INSPECTION TIMESCALE</b>
Priority 1	Within 1-2 working days
Priority 2	Within 5 working days
Priority 3	Within 10 working days

Priority 4	Within 15 working days
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We can make visits out of normal working hours where it is appropriate to do so.

Planning Enforcement Officers are not empowered to physically stop unauthorised works on site but can issue enforcement proceedings which can lead to prosecution. Considerable back office support is required to administer enforcement proceedings and accordingly investigations are contained to normal office hours.

## 8. **Enforcement Options**

On completion of the initial site visit, the findings will be assessed and a view taken as to how the investigation will proceed.

### **Option 1 – No further action**

The Council may, following initial investigation decide that there has been no breach of planning control or that the breach is minor or insignificant in nature, or that there is insufficient evidence to pursue the matter.

### **Option 2 – Further investigation required**

It may be necessary to carry out further investigations from the initial site inspection to determine whether a breach of planning control has occurred. This may involve additional site inspections, research, seeking advice from other services or agencies or further information from the complainant, site owner or other parties.

In certain cases, the Council may request the person reporting the suspected breach of planning control to assist with the investigation by providing a written log detailing the dates, times, duration and nature of the suspected breach. If the person reporting the suspected breach of planning control is unwilling to assist, they will be advised that this may result in the Council not being able to pursue the investigation due to insufficient evidence being available.

Where it appears to the Council that a breach of planning control may have occurred, it will consider serving a Planning Contravention Notice or Requisition for Information to obtain information relating to the suspected breach or site ownership details.

### **Option 3 – Negotiate a solution**

Where it has been established that a breach of planning control has occurred, the Council will normally attempt to negotiate a solution to regularise the breach of planning control without recourse to formal enforcement action. Such negotiations may involve the reduction or cessation of an unauthorised use of activity, or the modification or removal of unauthorised operational development. However, these negotiations will not be allowed to hamper or delay the consideration of enforcement action where the breach of control causes serious harm to amenity. Where the Council is unable to negotiate an acceptable solution within a reasonable timescale,

the Council will consider whether or not it is expedient to take formal enforcement action.

#### **Option 4 – Retrospective application for planning permission**

Where a breach of planning control has occurred, but no harm is being caused, or any harm might be removed or alleviated by the imposition of conditions on a planning permission, the person(s) responsible will be invited to submit a retrospective planning application within a specified timescale. In such circumstances it will be made clear that the invitation to submit a retrospective application is made without prejudice to any final decision the Council may take in the matter. If such an application is not submitted, the Council will consider whether or not it is expedient to take formal enforcement action.

#### **Option 5 – Formal enforcement action**

Where it has been established that a breach of planning control has occurred, the Council will consider using its statutory powers to take action to remedy the breach. The use of these powers listed in table 3 below is discretionary and will only be used when it is considered expedient to do so. Any action taken must be proportionate to the breach of planning control and each case is assessed on its own merits.

The decision to take enforcement action or commence a prosecution will be taken in accordance with the delegation arrangements detailed in the Council's Constitution.

There are rights of appeal to the Secretary of State against an Enforcement Notice/Listed Building/Conservation Area Enforcement Notice. In the case of Breach of Condition Notices and Temporary Stop Notices there is no right of appeal to the Secretary of State and these may only be challenged by application for judicial review to the High Court. In the case of Section 215 Notices, prosecutions and injunctions, appeals must be made through the Courts.

Table 3 – Formal enforcement proceedings

<b>Type of Enforcement Action</b>	<b>When will it be used?</b>	<b>What does it do?</b>
Enforcement Notice	<p>The Council will consider the service of an Enforcement Notice where unauthorised operational development or change of use has taken place and it is considered expedient to do so.</p> <p>Where a breach of planning control exists and any harm caused would be removed or alleviated by the impositions of conditions on a planning permission, but the invitation</p>	<p>The Enforcement Notice will specify the reason(s) for its service, the steps required to remedy the breach, the date that it takes effect and the time period for compliance.</p>

	<p>to submit a retrospective planning application or rectify the breach voluntarily has been declined, the Council will consider the expediency of serving an Enforcement Notice.</p> <p>If the breach of planning control relates to a Listed Building, of unauthorised demolition within a Conservation Area, the Council will consider the expediency of serving a Listed Building Enforcement Notice or a Conservation Area Enforcement Notice and where appropriate, commencing a prosecution in the Courts.</p>	
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<b>Type of Enforcement Action</b>	<b>When will it be used?</b>	<b>What does it do?</b>
Stop Notice	Where a breach of planning control is causing very serious harm to public amenity and the environment and this harm could not be removed or alleviated by the imposition of conditions on a planning permission, the Council will consider the expediency of serving a Stop Notice (after the service of an Enforcement Notice) in cases where urgent action is necessary to bring about a cessation of a relevant activity before the expiry of the period of compliance of the related Enforcement Notice.	The Stop Notice will refer to the Enforcement Notice to which it relates, specify the activity or activities that are required to cease and the date that it takes effect.
Breach of Condition Notice	Where the breach of planning control relates to non compliance with a condition on a planning permission or a limitation on a deemed planning permission has been exceeded, the Council will consider the expediency of serving a Breach of Condition Notice.	The Breach of Condition Notice will specify the steps required to comply with the condition(s) or limitation(s), the date that it takes effect and the time period for compliance.
Section 215 Notice (Untidy Land Notice)	In cases where the amenity of an area is adversely affected by the condition of land or buildings, the Council will consider the expediency of serving a Notice under s.215 of the Town and Country Planning Act 1990.	The Notice will specify the steps required to be taken to remedy the condition of the land or buildings, the time period within which the steps must be taken and the date that it takes effect.

<b>Type of Enforcement Action</b>	<b>When will it be used?</b>	<b>What does it do?</b>
Prosecution	<p>The Council will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the following Notices where the date for compliance has passed and the requirements have not been complied with.</p> <ul style="list-style-type: none"> <li>(i) Enforcement Notice</li> <li>(ii) Listed Building Enforcement Notice</li> <li>(iii) Conservation Area Enforcement Notice</li> <li>(iv) Breach of Condition Notice</li> <li>(v) Section 215 Notice</li> <li>(vi) Stop Notice</li> </ul> <p>The Council will also consider commencing a prosecution in the Courts where:</p> <ul style="list-style-type: none"> <li>(a) unauthorised works have been carried out to trees subject to a Tree Preservation Order, or in a designated Conservation Area;</li> <li>(b) an advertisement is being displayed without the necessary consent and the Council's request to remove it within a specified timescale has been declined or ignored;</li> <li>(c) unauthorised works have been carried out to a Listed Building;</li> <li>(d) unauthorised demolition has taken place in a Conservation Area;</li> <li>(e) the recipient of a Planning Contravention Notice has failed to provide a response within the prescribed time period or has supplied false or misleading information.</li> </ul>	<p>Before commencing any legal proceedings the Council will be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.</p>

Type of Enforcement Action	When will it be used?	What does it do?
Injunction	Where an Enforcement Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to remedy the breach of planning control, the Council will consider applying to the Courts for an injunction. Such action will only normally be considered if the breach is particularly serious and is causing, or likely to cause, exceptional harm.	An injunction can stop unauthorised works from being carried out.
Direct Action	Where any steps required by an Enforcement Notice have not been taken within the compliance period (other than the discontinuance of the use of land), the Council will consider whether it is expedient to exercise its power under s.178 of the Town and Country Planning Act 1990 (as amended).	The Council can (a) enter the land and take the steps; and (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

#### 9. **Unauthorised Encampment**

The travelling community can experience difficulties finding an approved place to stay. This means that sometimes they stop on land without permission, including highway verges and laybys. This Council's approach is based on preventing unlawful occupation of land.

Encampments on Council land will result in legal proceedings to evict the travellers. In the case of highway land, such as verges and laybys, the matter will be taken up with Staffordshire County Council, which is the local highway authority.

Trespassing on land is a civil matter, with prevention of trespass being the responsibility of the landowner. Landowners will need to seek appropriate legal advice in these circumstances.

#### 10. **Proactive Enforcement**

Paragraph 207 of the National Planning Policy Framework states "... Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

The Council will undertake a programme of monitoring a sample of development to ensure that:-

- (a) any necessary planning permission has been obtained.
- (b) development has been carried out in accordance with plans approved on planning permissions.
- (c) conditions attached to planning permissions have been complied with.

Investigation Officers will use information from the Council's Building Control Service to help organise the programme.

A percentage of permissions will be selected for monitoring. The Council will not select monitoring cases based on the developers involved.

#### 11. **Violence towards Officers**

The Council is committed to ensuring that its officers are able to carry out their work safely and without fear and will use legal action to prevent abuse, harassment or assaults on officers.

#### 12. **Complaints about the Service**

The Council has a central complaints system. This procedure should be used by any person dissatisfied with any aspect of their dealings with the Council regarding any deviations from the provisions of this Enforcement Protocol.

Persons wishing to make a complaint should do so in writing to:-

Head of Economic Prosperity,  
Cannock Chase Council,  
Civic Centre, P.O. Box 28,  
Beecroft Road,  
Cannock,  
WS11 1BG

Further details of how to make a complaint can be found at

<https://www.cannockchasedc.gov.uk/council/about-council/customer-feedback-help-us-get-it-right>.

If a person is not satisfied with the Council's response to a written complaint he or she can complain to the Local Government Ombudsman. Details of how to complain to the Local Government Ombudsman can be found on its website [www.lgo.org.uk](http://www.lgo.org.uk)

#### 13. **Equality Impact Statement**

It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration should be balanced along with other material planning considerations.

Should you have any queries regarding the information contained in this Protocol please contact 01543 462621 or email at [www.cannockchasedc.gov.uk](http://www.cannockchasedc.gov.uk)