

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL  
PLANNING APPLICATIONS COMMITTEE**

**18<sup>th</sup> July 2024**

<b>Application No:</b>	SMD/2023/0194	
<b>Location</b>	Land off Tongue Lane, Brown Edge	
<b>Proposal</b>	Outline Planning Permission with all matters reserved for a proposed 2 storey dwelling located on vacant land off Tongue Lane, Brown Edge.	
<b>Applicant</b>	Mr Alan Beaman (A J Beaman Construction)	
<b>Agent</b>	Mr Simon Burgess BHB Architects	
<b>Parish/ward</b>	Brown Edge / Brown Edge and Endon	<b>Date registered</b> 19 <sup>th</sup> Sept 2023
<b>If you have a question about this report please contact:</b> Arne Swithenbank tel: 01538 395578 or e-mail <a href="mailto:arne.swithenbank@staffs Moorlands.gov.uk">arne.swithenbank@staffs Moorlands.gov.uk</a>		

## **REFERRAL**

The application is an Outline – Minor and is referred to the Planning Applications Committee at the request of Cllr Ian Plant in order to consider if the land should be treated as previously developed (brown field). The application was considered by the committee at its 28<sup>th</sup> March 2024 meeting when it was resolved to defer a final decision pending receipt of further coal mining risk analysis and site ecology assessment (Minute 157).

### **1. SUMMARY OF RECOMMENDATION**

<b>Refuse</b>
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### **2. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS**

- 2.1 The site is in the Green Belt and outside of the Local Plan development boundaries. Although it sits between existing developed residential plots that make up a group of about 18 mixed form dwellings known as Ridgeway, this is at most a hamlet and the location is part of the rural countryside in Local Plan terms. The District boundary with Stoke on Trent runs along Bemersley Road which Tongue Lane links to within 20 metres.
- 2.2 There are two small makeshift buildings close to the eastern edge of the site which it is understood may have been used in the past for commercial vehicle storage. Open rural fields lie to the rear (south). The site is bordered by mixed hedges and trees of varying size either within or on adjacent plots at the boundaries.

### **3. DESCRIPTION OF THE PROPOSAL**

- 3.1 This is an outline planning application for the erection of a single two storey dwelling with all matters reserved.
- 3.2 Indicative proposal drawings have been submitted but the decision to be made at this stage is purely about the appropriateness or otherwise of a two storey dwelling on the site. All other matters including scale (beyond that it would be two storey), design and access would be subject to further 'reserved matters' applications which would need to follow in the event of outline approval being granted.
- 3.3 The application was initially accompanied by a non-specialist Ecology Statement, Contamination Risk Assessment and a 'Coal Mining search report'. Following deferral at the March meeting the applicant has submitted a Coal Mining Risk Assessment dated May 2024 (11pp) plus appendices A and B (c.120pp) along with a Preliminary Ecological Appraisal dated April 2024 (66pp).

### **4. RELEVANT PLANNING HISTORY**

- 4.1 SMD/1980/1402 [80/09362/OLDDC] – Use of garage for the parking and maintenance of two furniture vans and siting of touring caravan – Temporary approval granted.
- 4.2 SMD/1983/0817 [83/12343/OLDDC] – Erection of dwelling – refused.
- 4.3 SMD/1986/0575 [86/00012/OLDDC] – Renewal of temporary permission for use of garage for the parking and maintenance of two furniture vans and parking of a touring caravan – approved.
- 4.4 SMD/2017/0587 – Develop former garage / workshop into two 5 No. bedroom dwellings – refused.
- 4.5 SMD/2018/0268 – Proposal consisting of developing former garage / workshop site into two 4 No. bedroom dwellings – refused
- 4.6 APP/B3438/W/18/3211000 – appeal against refusal of SMD/2018/0268 – Appeal Dismissed

### **5. PLANNING POLICIES RELEVANT TO THE DECISION**

- 5.1 **Local Plan (adopted 9<sup>th</sup> September 2020)**
  - SS1 Development Principles
  - SS2 Settlement Hierarchy
  - SS10 Rural Area Area Strategy

- H1 New Housing Development
- DC1 Design Considerations
- NE1 Biodiversity and Geological Resources
- NE2 Trees, Woodland and Hedgerows
- T1 Development and Sustainable Transport

### **National Planning Policy Framework December 2023**

Paragraph(s) 1 – 14;

Section(s) 4 – Decision making; 5 – Delivering a sufficient supply of homes; 8 Promoting healthy and safe communities; 9 – Promoting sustainable transport; 11 – Making effective use of land; 12 – Achieving well designed and beautiful places; 13 – Protecting Green Belt land; 15 – Conserving and enhancing the natural environment; 16 – Conserving and enhancing the historic environment.

### **Adopted Supplementary Planning Documents/Guidance (SPD/G):**

- Space About Dwellings SPG
- Design Principles SPG
- Design Guide SPD adopted 21st February 2018

### **Local Plan Supporting Evidence Documents:**

- Landscape and Settlement Character Assessment (2008)

## **6. CONSULTATIONS CARRIED OUT**

### **Public**

- 6.1 The latest consultation expiry date was 12<sup>th</sup> October 2023 (site notice). A total of five neighbouring dwellings were notified directly by letter.
- 6.2 In response to the neighbour / site publicity two representations raising objections have been received from neighbours at Chapel House and at Four Winds on the following grounds:
- refusal reasons for the 2017 proposal for two houses remain unchanged
  - inappropriate development and no very special circumstances
  - not a sustainable travel location
  - harm to residential amenities at Chapel House – over-dominance and loss of privacy
  - risk of harm to trees including 7 mature trees close to the property boundary
  - harm to character and appearance of the area
  - not shown how drainage would / could be achieved
  - risk of air-borne contamination as the existing building may contain asbestos
  - existing site condition is unsightly
  - Himalayan balsam
  - width of the development [indicative drawing] precludes access to the rear which may restrict foul drainage options

## **Brown Edge Parish Council**

- 6.3 No objection – aware of the Green Belt location but believe that the land would be improved by development due to the current untidy state of the land with an asbestos structure. The Parish Council ask that the Planning Officers will consider the environmental impacts outlined in the Staffordshire Wildlife Trust, the Environmental Health reports and comments made by neighbouring members of the public in making their decision.

## **SCC Highways**

- 6.4 The following is the Highways Authority consultation response.

Recommendation Summary: Conditional

Site visit conducted on 2<sup>nd</sup> October 2023

### Personal; Injury Collisions

Current records show that there were no Personal Injury Collisions on Tongue Lane within a 215m radius of the site from 01/01/2019 to 31/12/2021.

### Background

The site is located on Tongue Lane within the hamlet of Ridgeway on the boundary of Brown Edge and Stoke on Trent. Tongue Lane (Road No. D1062) is an unclassified single-track rural road with no footways or streetlighting with a speed limit of 60 mph. The site is between two residential properties and is approximately 41m east of the junction with Bemersley Road. Bemersley Road is subject to a 30mph speed limit, has speed cushions and streetlights but no footways.

### Previous Applications:

SMD/2018/0268 - Proposal consisted of developing former garage/workshop site into two 4No bedroom dwellings - Conditioned by the Highway Authority.

SMD/2017/0587 - Develop former garage/workshop into two 5 No. bedroom dwellings – Conditioned by the Highway Authority.

### Description of Proposal

Outline Planning Permission with all matters reserved for a Proposed 2 storey dwelling located on vacant land off Tongue Lane, Brown Edge.

### Comments on Information Submitted:

The application is for outline planning permission with all matters reserved, to construct a new 2-storey dwelling within vacant land off Tongue Lane. However, although the application is all matters reserved the red edged plan dictates the location of the access.

### Access

Access to the proposed site would be via an existing access off Tongue Lane. It appears that the site had a previous use/s in connection with commercial/business. The site visit confirmed the presence of a large garage/commercial unit.

Visibility to the east is adequate. Visibility to the west can be improved by the cutting back of vegetation at the access. It is considered the proposal would not have a detrimental impact on the highway. I therefore have no objection to the proposal (application number SMD/2023/0194) subject to the following conditions:

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

- Access
- Layout and disposition of buildings;
- Provision of parking and turning within the site curtilage. Off highway parking shall be in-line with Staffordshire Moorlands Parking Standards, provision for a 4-bedroom property requires 3 spaces a 3-bedroom property requires 2 spaces (spaces 2.4m wide by 4.8m long). Garages shall have minimum internal spaces of 6m x 3m for single or 6m x 6m for double garages.
- Means of surface water drainage;
- Surface water drainage interceptor and drainage to SUDS principles;
- Surfacing materials

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

#### REASONS

To comply with NPPF; to comply with SMDC Local Plan policy DC1; in the interests of highway safety.

#### Note to planning officer:

This is an outline application with all matters reserved. A site plan has been submitted. However, as all matters are reserved, the site plan has not been considered and this response should not be construed as inferring any approval on it.

#### **SMDC waste collection services**

- 6.5 No issues regarding waste collections.

#### **SMDC Environmental Health**

- 6.6 Potential areas of concern:
- Possible contamination/ Coal Mining Area (High Risk Area) (Condition)
  - Construction Impacts (Condition)
  - Light (Condition)
  - Fuel Oil (Building Regulations)
  - Drainage (Building Regulations)

- Asbestos (Advisory)

- 6.7 Five conditions recommended in total: limits on timing of noisy activities during development work; measures to limit pollution during construction; site risk assessment for contamination prior to development with report to be submitted to LPA plus remediation strategy if pollution found and verification report to confirm complete; measures in the event of encountering unexpected contamination; no top soil to be imported until tested and confirmed suitable in accordance with a methodology to be first submitted and agreed; artificial lighting not to increase pre-existing illuminance. Attach informative.
- 6.8 It is noted that the application is accompanied by a property search classifying the contamination risk. Whilst this is a useful document it is not the same as a contamination risk assessment for a proposed development, but rather an assessment of the likely current status of the site. The site is known to have previously been used for the parking and maintenance of two furniture vans and parking of a touring caravan. It is considered that this activity out building / hardstanding and may have some associated contamination from this activity (chemicals / asbestos from old buildings).

**Severn Trent Water**

- 6.9 No objection subject to condition that the development hereby permitted shall not be commenced until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority, and that the scheme shall be implemented in accordance with the approved details before the development is first brought into use. Reason: This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution. Also add informative re possible un-mapped public sewers on the site.

**The Coal Authority**

- 6.10 The site falls within the defined Development High Risk Area and a Coal Mining Risk Assessment is required to support this application.
- 6.11 The Coal Authority records indicate that a thick coal seam outcrops at or close to the surface of the site which may have been worked in the past and historic unrecorded underground coal mining is likely to have taken place beneath the site at shallow depth. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases. The site also lies within a Surface Coal Resource Zone.
- 6.12 Initially the applicant submitted some coal mining information to accompany the planning application; such as a Coal Mining Report, Consultants Report or Enviro All-in-One Report. However, these are factual reports only and this information does not provide any assessment of the potential risks posed to the

development proposal by past coal mining activity. The Coal Authority therefore objected to this planning application.

6.13 It is a requirement of the National Planning Policy Framework, paragraphs 189-190 [previously 183 to 184] that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development.

6.14 Following receipt of the applicant's coal mining risk assessment (CMRA), re-consultation took place with the Coal Authority. Their response dated 26<sup>th</sup> June 2024 comments:

“Based on a review of relevant sources of coal mining and geological information, the report concludes that possible shallow unrecorded mine workings in the Cockshead coal seam pose a potential risk of instability at the site. Accordingly, it goes on to make appropriate recommendations for the carrying out of intrusive ground investigations, in the form of the drilling of rotary boreholes, in order to investigate the potential risks from shallow workings.

“The report acknowledges the presence of a number of off-site recorded mine entries in the vicinity of the site. It considers that these features are located a sufficient distance away to pose no risk to development at the site. It does, however, advise that this may require reassessment if rockhead is found to be present at depths in excess of 5.00mbgl. The report also recommends that a site strip and inspection of the natural formation is undertaken in order to identify any anomalous features that may be indicative of unrecorded mine entries.”

6.15 The Coal Authority's response goes on to identify a number of potential further factors that may come to light following necessary site investigation work that would be required prior to the site's development. The Coal Authority however no longer objects to the application subject to the LPA imposing their specified conditions set out in the consultation response letter.

### **Staffordshire Wildlife Trust**

6.16 Preliminary Ecological Appraisal required – prior to determining the application. The submitted Ecology Statement is not sufficient information to determine if protected species/priority habitats are likely to be present, and potential ecological impacts.

6.17 A full PEA has since been submitted dated April 2024. This provides both a database investigation of relevant known natural history records for the location and on-site survey.

- no impact on designated sites
- no impact on rare or vulnerable habitats
- no requirement for Great Crested Newt Survey but method statement to be observed during work is recommended

- no evidence of site usage by badgers; a repeat check for badgers (which could move in at any time) should be made within six months prior to any site work starting
- the site and surroundings contain suitable bat foraging/commuting habitat, a lighting plan should therefore be incorporated into both the implementation phase and the completed form of the development and this should be complied in accordance with the Institute of Lighting Professionals and Bat Conservation Trust: Guidance Note 08/23: Bats and Artificial Lighting at Night.
- with suitable bird nesting habitat present, if vegetation and/or structures are required to be removed during the bird breeding season, then a further inspection by a suitably qualified ecologist is required no more than twenty-four hours before these are to be removed. This is to ensure that no active nest site is illegally destroyed, due to the protection afforded to all active bird nests under the Wildlife and Countryside Act 1981.
- recommends that precautionary measures are adopted for hedgehogs if site work occurs during their active season (March to October)
- a full presence/absence survey is recommended to establish if and to what extent there is reptile usage of the site – the data records revealed grass snake within 500m to the south west from the site.
- recommendations are made at section 5 of the report for site biodiversity enhancements post-development

## **7. POLICY AND MATERIAL CONSIDERATIONS / PLANNING BALANCE**

### **Principle of Development and Main Issues**

- 7.1 In its general approach, in accordance with policy SS1, the Council expects the development and use of land to contribute positively to the social, economic and environmental improvement of the Staffordshire Moorlands. When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF. This means that planning applications that accord with the policies in the Local Plan shall be approved without delay, unless material considerations indicate otherwise.
- 7.2 The site is located within an area covered by Policy SS10. Paragraph SS10 (6) stipulates that the Green Belt is to be maintained in the Staffordshire Moorlands and that in order to do so “strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government policy”. New building is by definition ‘inappropriate’ in the Green Belt. A restricted list of specified exceptions is set out at NPPF paragraphs 155 and 156 but none of these would apply to this proposal. In the recent dismissed appeal for the immediate preceding application on this site (SMD/2018/0268) the Inspector closely considered the potential options – whether either the location should be regarded as being within a village or whether, alternatively, the appeal could be allowed as being on ‘previously developed land’.



- 7.3 The Inspector found that development on this site could not accord with the exception in NPPF paragraph 154 (e) finding the location is not within a village. The Inspector's reasoning was that:

*The Oxford Dictionary defines a village as a group of houses and associated buildings, larger than a hamlet and smaller than a town, situated in a rural area. It defines a hamlet as a small settlement, generally one smaller than a village, and strictly (in Britain) one without a Church. While a church may have once existed in Ridgeway, there is no church there now as it has been replaced by a dwelling known as Chapel House. There are also no other associated buildings in Ridgeway that would, in [the inspector's] judgement, mean that Ridgeway is anything more than a hamlet.*

- 7.4 The Inspector went on to consider NPPF 155 (g) which would allow the limited infilling or the partial or complete redevelopment of 'previously developed land', whether redundant or in continuing use (excluding temporary buildings), where this would 'not have a greater impact on the openness of the Green Belt than the existing development'. The Inspector noted at the time:

*The site is mostly open and overgrown by vegetation. There are two buildings near to the site's south-western boundary, and a trailer. The buildings were granted planning permission in the 1980s for commercial purposes, albeit on a temporary basis. However, there is no definitive evidence of how the land has been used. Having regard to the Framework's definition of previously developed land the majority of the site has blended into the landscape. That said, if I were to take the appellant's view that the site is previously developed land due to the two buildings, the proposed dwellings and the hardstanding would have a greater impact on the openness of the Green Belt than the existing development. This is due to their respective scales, the proposed layout and footprint. The effect would be permanent and highly visible.*

- 7.5 The application now before the committee differs from that in the appeal in that it is now for a single dwelling in outline whereas the appeal considered a full application for two dwellings but the principles are the same. Despite the reduction to a single dwelling, the proposal would still have a significantly greater impact on the openness of the Green Belt than the existing 2 small makeshift garage buildings on the site. It might also be noted in passing that the indicative plan which has been submitted shows a development at least as big as the two dwellings in the dismissed appeal – but this does not have a bearing when determining the principle of acceptability.

- 7.6 New buildings are 'inappropriate' in the Green Belt and by definition are harmful to the Green Belt. They should not be approved except in 'very special circumstances'. There is no supporting statement with the current application and no suggestion from the applicant as to any 'very special circumstances' that might be considered.

- 7.7 In order to determine the application in accordance with the Local Plan it would need to be refused on Green Belt grounds.

### **Coal Authority – high risk mining area**

- 7.8 The advice of the Coal Authority is very clearly that: a Coal Mining Risk Assessment is required to support this application; the first submitted documents were factual only and did not provide any *assessment* of the potential risks posed from past coal mining activity in the area; the Coal Authority did not consider that the LPA had sufficient information to determine this planning application. With the submission now of a full Coal Mining Risk Assessment commissioned by the applicant the Coal Authority has been provided with sufficient specialist information to be able to support the application subject to its recommended conditions being attached in the event of approval.

### **Ecology**

- 7.9 With a full PEA now having been provided, commissioned by the applicant in line with the Staffordshire Wildlife Trust initial comments, there is now adequate ecological information to conclude that in ecology terms approval could be recommended subject to condition.

### **Design – impact on character and appearance**

- 7.10 As an outline application, matters of design and appearance are for consideration at the reserved matters stage. However, as the application description refers expressly to a two storey dwelling, consideration must be given now to whether this would be acceptable. In the context of the neighbouring dwellings which are effectively two storey and given the spacings involved a two storey dwelling would be unlikely to be problematic in terms of design. This must not be interpreted as giving any opinion on the indicative drawing submitted as this shows a dwelling occupying the full site width and this may well not be found suitable or appropriate at any future reserved matters stage.

### **Amenity**

- 7.11 In terms of living conditions of neighbouring occupiers, the main considerations relate to the adopted Space About Dwellings standards and whether there would be sufficient separation between any principal windows and whether the building could be overbearing. Given the plot size available and the spacing to neighbouring dwellings it is likely that a single dwelling could be accommodated. This must not be interpreted as giving any opinion on the indicative drawing submitted as this shows a dwelling occupying the full site width and this may well not be found suitable or appropriate at any future reserved matters stage.

## Highways

- 7.12 The consultation response raises no objection and recommends conditions in the event of approval. As highway access is however a reserved matter, the site plan has not been considered and the Highways Officer response should not be construed as inferring any approval of the site access as shown.

## Other matters

- 7.13 The issues discussed above should be found to have covered the majority of the criticisms of the scheme raised in the representations.
- 7.14 Whether the location represents a sustainable development site in terms of travel distances was considered by the Inspector in the 2019 dismissed appeal. At paragraphs 10 and 11 the Inspector gives weight to the NPPF in then paragraph 103 (now 109); accepts the site has “shortcomings in terms of walking and cycling to Ball Green” but concludes that “While the site is not as accessible as urban locations, the site does offer cycling opportunities thereby meaning that future occupiers would not be wholly reliant on private vehicles” and “Harm would not arise in terms of access to shops and services”. For this reason limitations of the location in terms of sustainable travel are not put forwards as a reason for refusal.

## 8. Conclusion and Planning Balance

- 8.1 The Inspector found in the earlier dismissed appeal for this site that “*The proposal amounts to inappropriate development in the Green Belt. The appeal scheme would also result in a loss of openness. By definition these are harmful and I attach them substantial weight as required by Framework paragraph 144 [now 153]. The proposed development creates a clear conflict with the environmental role of sustainable development*”.
- 8.2 Nothing has been put forward with this latest application to offer any reason to vary from the previous decisions of the Council and the recent appeal decision of the Planning Inspectorate.  
This appeal decision is material consideration of significant weight in the determination of this application. Notwithstanding that concerns relating to coal mining risk and ecology have now been addressed, the principle of a dwelling on this site remains unacceptable in principle and contrary to Policy SS10 and the NPPF.

## **9. RECOMMENDATION**

### **A. Refuse for the following reason(s):**

- 1. The application site is in the Green Belt. The Council’s adopted Local Plan Policy SS10 is to exercise strict control over inappropriate**

development in the Green Belt allowing for exceptions only in accordance with the NPPF. The proposed residential development of a single open market dwelling does not fall under any of the criteria of development that can be exceptionally allowed in the Green Belt as listed under paragraphs 154 or 155 of the National Planning Policy Framework (NPPF) and therefore the proposal is deemed to be inappropriate development in the Green Belt which by definition, in paragraph 152, is harmful to the Green Belt and should not be approved except in very special circumstances. The Council considers that no very special circumstances have been demonstrated in the application that could be considered to outweigh the harm to the Green Belt or outweigh the operation of Green Belt policy. The proposal is therefore contrary to policies SS1, SS10 and H1 of the Staffordshire Moorlands Local Plan 202 and the NPPF.

### **Informative**

1. This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. In accordance with Paragraph 38 of the NPPF the Case Officer has sought solutions where possible to secure a development that improves the economic, social and environmental conditions of the area.

**B** In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision

## **10. APPENDICES TO THE REPORT**

**10.1** The link below to the Council's website is where the detail of this application can be viewed.

<http://publicaccess.staffsmoorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=169924>

## 10.2 – location plan

