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Dear Members

### **Planning Committee**

A meeting of the Planning Committee will be held on **Wednesday, 15 March 2023** at **6.30pm** in the **Craddock Room, Civic Centre, Riverside, Stafford** to deal with the business as set out on the agenda.

Please note that this meeting will be recorded.

Members are reminded that contact officers are shown in each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

A handwritten signature in black ink, appearing to read "I. Curran".

Head of Law and Administration

## **PLANNING COMMITTEE - 15 MARCH 2023**

**Chairman - Councillor E G R Jones**

**Vice-Chairman - Councillor P W Jones**

### **AGENDA**

- 1 **Minutes**
- 2 **Apologies**
- 3 **Declaration of Member's Interests/Lobbying**
- 4 **Delegated Applications**

Details of Delegated applications will be circulated separately to Members.

	<b>Page</b>	<b>Nos</b>
5 <b>Planning Applications</b>	3	- 40
6 <b>Planning Appeals</b>	41	- 63

### **MEMBERSHIP**

**Chairman - Councillor E G R Jones**

F Beatty	P W Jones
A G Cooper	B McKeown
A P Edgeller	A Nixon
A D Hobbs	G P K Pardesi
J Hood	C V Trowbridge
E G R Jones	

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PLANNING COMMITTEE - 15 MARCH 2023

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**Ward Interest - Nil**

**Planning Applications**

*Report of Head of Development*

**Purpose of Report**

To consider the following planning applications, the reports for which are set out in the attached **APPENDIX:-**

		<b>Page Nos</b>
<b>22/36913/FUL</b>	<b>Westbridge Park, Stafford Street, Stone</b>	4 - 40
This matter was referred to the Committee as the Borough Council is the applicant		
<b>Officer Contact</b> - Sian Wright, Development Lead Telephone 01785 619528		

**Previous Consideration**

Nil

**Background Papers**

Planning application files are available for Members to inspect, by prior arrangement, in the Development Management Section. The applications including the background papers, information and correspondence received during the consideration of the application, consultation replies, neighbour representations are scanned and are available to view on the Council website.

<b>Application:</b>	22/36913/FUL
<b>Case Officer:</b>	Alfia Cox
<b>Date Registered:</b>	21 December 2022
<b>Target Decision Date:</b>	15 February 2023
<b>Extended To:</b>	-
<b>Address:</b>	Westbridge Park, Stafford Street, Stone, Staffordshire ST15 8QW
<b>Ward:</b>	Walton
<b>Parish:</b>	Stone Town
<b>Proposal:</b>	Development of children's play area, MUGA, wheeled sports facility and associated access, paths and seating.
<b>Applicant:</b>	Stafford Borough Council
<b>Recommendation:</b>	Resolved to approve, subject to referral to the Secretary of State

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## **REASON FOR REFERRAL TO COMMITTEE**

This planning application has been referred to committee under Section 3.5.1 (e) (vii) of the Scheme of Delegation, being a scheme to which there are objections to an application submitted by or on behalf of the Council for its own development.

### **1.0 CONTEXT**

#### **SITE AND SURROUNDINGS**

- 1.1 The application is located within the Westbridge Park, which is largest park in Stone. The site forms a small portion of the wider park area and is located at the park's western boundary. The area covered by the application site is measured approx. 0.42ha and laid to recreational grass, some trees to the south and hedge fronting the site along Stafford Road.
- 1.2 To the north of the site there is a supermarket, leisure centre, scout hall and the Trent and Mersey Canal, with residential development beyond. To the south there is a Canoe Club house adjacent the boundary of the site, a car park, the River Trent, which is used recreationally for canoe/kayaking. The main road to the site is Stafford Road which runs parallel with the western boundary.

- 1.3 The site is generally flat, sloping gently south towards the River Trent. The existing football pitches, which occupy the northern section of the site are located on the elevated approx. 2m higher ground levels than the southern section. It is understood that the raised area is a former landfill.
- 1.4 Current pedestrian access to the site is gained through its open boundary with the wider Westbridge park in all directions. A restricted vehicular access is through an existing field gate from an off-shot off Stafford Road.
- 1.5 Westbridge Park is not within a conservation area nor are there any listed buildings within its curtilage; however it is abutted by both the Stone and Trent and Mersey Canal Conservation Areas to the northern boundary. Just beyond the south-western corner of the site is the grade II listed Walton Bridge, an ashlar bridge, which is dated medieval/post-medieval period with some 17th and 18th century rebuilding.
- 1.6 Westbridge Park is designated as 'Local Green Space and Community Facilities' within the Stone Neighbourhood Plan.
- 1.7 The site lies partially within Flood Zones 2 and 3, which is categorised as less than 1 in 100 annual probability of flooding.

## **PROPOSAL**

- 1.8 Planning permission is sought for construction of a children play area, MUGA, wheeled sports facility and associated and associated access, paths and seating.
- 1.9 The proposal would incorporate the following element:
  - Children play area would be created along the boundary with Stafford Road. The following equipment would be included:
    - Palace Gian and Side Tower with Tube Slide would measure 651cm in height
    - Wheelchair Carousel
    - Two Tower and Bridge
    - Boulder Scramble and Slide
    - BLOQX measuring 300cm in height
    - Dino Swing measuring 314cm in height
    - Swing frame measuring 274cm
    - Talk and Tumble
    - Picnic benches
    - Litter bin
  - Multi-Use Games Area (MUGA) would provide for a mix of sports and would be sited centrally with the application site. The area to be occupied by the MUGA would measure approx. 712.4m<sup>2</sup> excluding an area for seating and cycle parking which would add further 39m<sup>2</sup>. The northern, southern and eastern perimeter of the MUGA fencing would consist of 3m high rebound rigid panel fencing and the western section of the fencing would comprise 4m high rebound rigid panel fencing. There would be a 3m wide double

access gate to allow for maintenance access to the northern boundary. The pitch surface is proposed to be black tarmac. The MUGA would be designed to accommodate various sports such as tennis, football and basketball.

- The wheeled skate facility would be located within the southern portion of the site. The facility would be utilising the existing topography and connected by footpaths within the application site to the MUGA and play area. The skate facility would be irregular in shape with a maximum length of 57.7m and 30.6m in width, maximum height would be 1m above the existing ground level. No details of the facility in relation to its finishing materials and details of its maximum depth have been included as part of the supporting information.
- As part of the proposal there would be a new footpath network created to connect the new facilities to the existing footpaths. These works are carried out under the permitted development rights.
- Additional landscape improvement works are proposed planting within the children area which consists of enhancement hedgerow planting along the Stafford Road boundary hedge, new trees and hedging around the perimeter of the play area.

## OFFICER ASSESSMENT - KEY CONSIDERATIONS

Section 70 of the Town and Country Planning Act 1990 and Section 38 (6) of the Planning and Compulsory Purchase Act (2004) set out that the determination of applications must be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises of The Plan for Stafford Borough 2011-2031 of The Plan for Stafford Borough Part 2 2011-2031.

### 2.0 PRINCIPLE OF DEVELOPMENT

- 2.1 The NPPF (2021) is a significant material consideration in the determination of all planning applications as it sets a presumption in favour of sustainable development.
- 2.2 Paragraph 92 of the NPPF advises that planning policies and decisions should aim to achieve healthy, inclusive and safe places which (c) *'enable and support healthy lifestyles, especially where this would address identified local health and well-being needs - for example through the provision of safe and accessible green infrastructure, sports facilities ... layouts that encourage walking and cycling.'*
- 2.3 Paragraph 98 makes it clear that access to a network of high quality open space and opportunities for sport and physical activity important for the health and well-being of communities.
- 2.4 The Plan for Stafford Borough states the vision that by 2031 Stafford Borough would have

*b) provided high quality designed developments including recreation, open space and sports provision.*

2.5 Key objectives for Stone include:

*18. New open space sport and recreational facilities including indoor and outdoor provision to meet the need of the community*

*19. Safeguard and enhance the landscape setting through new green infrastructure provision, avoiding development in flood risk areas and habitat creation, including the role of the Trent Valley corridor through the town in terms of biodiversity, accessibility, recreation and community uses.*

2.6 The relevant section of the Policy Stone 1 - Stone Town states:

*Ensure that there is adequate provision of open space, sport and recreational facilities by addressing the following requirements identified in the local evidence base with reference to Sport England's Sports Facility Calculator. New development will provide high quality facilities by ensuring:*

*c) Improved quality of play areas;*

*f) Adequate range of facilities for teenagers.*

2.7 Policy C7 is particularly relevant in this case as it relates to provision of open space sport and recreation in the borough and states that

- *Support will be given to sport and recreation by:*
  - a. Retaining, protecting, supplementing, or enhancing all types of sport, recreation and open space facilities, in order to address deficiencies of both indoor and outdoor facilities outlined in the Open Space, Sport and Recreation Assessment and any subsequent revisions;*
  - b. Encouraging additional provision, and enhancement to existing provision, which will reduce or prevent deficiencies, and requiring new housing development to contribute to provision, to help meet the Local Standards set out in Appendix G;*
  - c. Implementing specific open space proposals detailed in the area based policies.*
- *Development that results in the loss of existing open space, sport and recreation facilities will be resisted unless better facilities in terms of quality, quantity and accessibility can be provided or that redevelopment would not result in deficiency in the local area. New facilities should be located in areas that are accessible by walking, public transport and cycling and such development will be particularly welcome in areas with identified deficiencies.*

- 2.8 In relation to Westbridge Park, Stone Neighbourhood Plan in paragraph 17.3 states:

*'.. the Park comes within the remit of policy CAF3, in that it is a recognised Asset of Community Value. It contains expansive areas of natural and semi natural green space along with two football pitches, a formal children's play area, scout and guide buildings, and a fitness centre. It is also the home to the prestigious Stafford and Stone Canoe Club which since its establishment in 1973 is now recognised as one of Europe's foremost canoe slalom club producing world class canoeists for GB teams...'*

- 2.9 Stone Neighbourhood Plan sets out the vision for Stone town and the relevant aims for Plan's policies are

*SA3: Identify and designate important areas of local green space and development a green infrastructure strategy to protect and improve those areas.*

*SA6: Protect and improve leisure, cultural and sports facilities and improve access to those facilities.*

- 2.10 The application site is within the Westbridge Park and proposals forms part of the wider programme to improve the facilities and use of Westbridge Park. Other elements of the programme do not form part of this application.
- 2.11 The proposal would enhance and provide a wide range of sport and recreation activities for the local community catering for children of various age groups, thereby protecting the local green space and enabling the local community the wider access to leisure and sports facilities. Therefore the principle of the development would be in line with the Plan for Stafford Borough's Vision and objectives and Neighbourhood Plan's aims and Policy CAF1 and therefore could be broadly acceptable.
- 2.12 Having said the above, the development is not entirely in compliance with Policy C7 in that the proposed MUGA would encroach the existing playing field; thereby resulting in a loss of the playing field, which is marked as 'Adult' football pitch. More detailed assessment of the impacts on the existing playing field is considered below in the report.

### **3.0 PLAYING FIELD MATTERS**

- 3.1 The area of the site to be occupied by the proposed MUGA partially encroaches onto the existing playing fields. It should be noted that the provision of the MUGA is related to the mitigation requirements for the development of Marks & Spencer at Westbridge Park, which resulted in the loss of 3no. tennis court (ref. No. 16/24242/FUL).
- 3.2 Paragraph 99 of the NPPF ensures that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- (a) *an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*

(b) *the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location;*

or

(c) *the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

- 3.3 The Strategy and Action Plan made in July 2019 is the Playing Pitch Strategy for Stafford provides an detailed assessment of the existing and future capacity of the playing pitches facilities in Stafford Borough up to 2040. Wedgewood Sports Ground and Tiling Drive both have been noted as poor quality pitches but, subject to improving their quality from poor to standard could be considered as actual capacity which would reduce any overplay within the existing good quality playing grounds.
- 3.4 The submitted Planning Statement acknowledges that the MUGA would infringe on the adult pitch currently marked out on the site. However, it is stated that the same size pitch would be retained, at a rotated orientation, to prevent conflict with the proposals. A youth football pitch (U13/14) would be retained within the stie. Although it has been recognised that there would be an overall loss of open playing field, Sport England's Exception Policy E5 would be met through the provision of a MUGA, which is marked out for 5 a side football and utilised for mixed sport.
- 3.5 Sport England, a statutory consultee, has objected to this application on the grounds that the application conflicts with their own policy E5: *'The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.'*
- 3.6 Sport England has noted that by siting the MUGA within the grounds of the existing playing field would reduce the sporting capacity of the playing field to accommodate playing pitches. The alternative playing field proposed would not be capable of accommodating an adult FA recommended pitch (106x70m inclusive of run off area), which the Playing Pitch Strategy and Football Foundation identify that there is a strategic need for to meet current and future demand. Additionally, Sport England is also concerned that the proposed adult pitch would be reduced in size in comparison to the larger of the two pitches marked out on the site in 2021 and would not be suitable for affiliated football.
- 3.7 Furthermore, Sport England also notes that the children play area and access routes would be sited on playing field land capable of forming part of pitch and are the elements that can be considered a sporting facility nor an ancillary facility supporting the principal use of the playing field site.
- 3.8 The agent for the applicant in their response to Sport England's objection stated that the existing on-site adult pitch has been retained, albeit re-aligned and its size retained at the FA recommended size guidelines of 82v50m (ex. run-off). The development would therefore not provide any loss to the existing adult provision.

- 3.9 In their response to Sport England's concern about the growth of 16, 7v7 and 9v9 teams since the 2019 PPS which would potentially increase the demand for youth and adult 11v11 pitches, the Stafford Borough Council have found that it is not always the case that an increase in junior football means an increase in adult football moving forward. The applicant has noted that a number of children drop out of football relatively early as they start at U7 at the present time. For those who continue there are also other options in Stone as pitches at Tilling and Walton Common are also currently unused.
- 3.10 The applicant has also noted that grassed surface of the existing marked playing area would be playable during certain times of the year when the surface conditions allow. The addition of a MUGA to the site would ensure the provision of mixed sport facility usable all year round. The marked pitches would not be rotated mid-season and the applicant would undertake any maintenance works required to maintain the pitches to the required standard.
- 3.11 The proposal would in view of the applicant provide a significant increase in overall year round access to sport provision within the site, meeting the needs of a much broader range of users than the current condition, providing facilities for basketball, 5-a-side football, and tennis, in addition to the retained provision of two grass football pitches. Together with the wheeled skate facility, the combined benefits of the new facilities from both an access to sport and social cohesion points of view would represent a significant benefit to Stone.
- 3.12 The applicant has had a meeting with Sport England. However, it is understood that the consultee maintains their objection.

Policies and Guidance:-

National Planning Policy Framework  
Paragraphs: 98 and 99

The Plan for Stafford Borough:  
C7 Open Space, Sport and Recreation

#### **4.0 APPEARANCE AND HISTORIC ENVIRONMENT**

- 4.1 Policy N1 of The Plan for Stafford Borough requires new development to be of a high quality design and in keeping with the character of the surrounding area.
- 4.2 The relevant Development Plan policy in this case is also Policy N9 (Historic Environment), which states that all proposals that would affect the significance of a heritage asset will not be acceptable for consideration unless they provide sufficient information for that impact to be assessed. Development will be expected to sustain and, where appropriate enhance the significance of heritage assets and their setting by understanding the heritage interest, encouraging sustainable re-use and promoting high design quality. All potential loss or harm to the significance of a heritage asset, including its setting, will require clear justification.

- 4.3 Policy CAF3 (Protected Views and Vistas) of the Neighbourhood Plan ensures that all new development proposals must, where appropriate assess and address their impact on the special local views and vistas within the built and natural environment of Stone, which include views and vistas along the Trent and Mersey Canal Corridor.
- 4.4 Stone Neighbourhood Plan in paras. 21.3-21.5 identifies Stafford Road (A520) as the main gateway to the Town from South (Stafford via the A34) and West (Eccleshall Road). These views are afforded along the river, across the river flood plain and meadows to the north; and across the green expanse of Westbridge Park to south. Distant views across Westbridge Park to the Grade II Listed The Moorings and to the tower of the Grade II Listed Church of St Michael have been noted.
- 4.5 The surrounding area is open with recreational grounds to the west. Westbridge Park is not located within a conservation area nor are there any listed buildings within its curtilage. However the site is abutted by both the Stone and Trent and Mersey Canal Conservation Areas to the northern boundary. Just beyond the south-western corner of the site is the grade II listed Walton Bridge. Therefore, taking into account the wider key views, Westbridge Park is considered to be a positive contributor to the setting of both the conservation areas and the listed bridge.
- 4.6 The closest feature to the listed Walton Bridge would be the wheeled sports facility. As this would be of low standing and necessitate removal of some mature trees as part of the proposed development, the mature tree belt running along the southern boundary of the car park of the Canoe Club would be retained and provide a reasonable amount of screening.
- 4.7 The proposed children's play area, would most likely be the most prominently visible from the listed bridge as there is little to no screening and some of the play equipment proposed is quite high, particularly the Giant L and Slide Tower.
- 4.8 It should also be noted that due to its proximity to Stafford Road and its height, the Giant L and Slide Tower would also be visible on the approach to the Town from south. However, these key views and visas would not be blocked or adversely disrupted as the highest part of the slide is set at some 27m-28m distance from the A520. The slide has been carefully positioned within the site as it would be partially screened by the mature highway trees planted along A520.
- 4.9 The tall fencing of the proposed MUGA would be visible in views from the bridge looking north-east between the Canoe Club building and the existing tree belt on the southern side of the Canoe Club car park. However, a toned down, dark green colour for the MUGA fencing as proposed would be acceptable as a mitigation measure against its intrusion into the park and would make it less conspicuous.
- 4.10 Council's Conservation Officer has been consulted as part of the application and raised no objection. However a condition has been advised to introduce more screen trees to the south-western corner of the play area to out the tower in views from the listed bridge. A condition is considered to be necessary and justifiable in planning terms. Therefore it should be added accordingly.

- 4.11 In terms of more detailed design considerations, details of all finish material used in the equipment can be secured by way of conditions following any grant of consent. Conditions can also secure the finished ground levels of the wheeled skate park, fencing/enclosures and overall soft landscaping and planting scheme to the satisfactory appearance of the development.
- 4.12 In this case, the site is abutted by both the Stone and Trent and Mersey Canal Conservation Areas to the northern boundary. Just beyond the south-western corner of the site is the grade II listed Walton Bridge.
- 4.13 In line with paragraph 199 of the NPPF, a balancing exercise should be undertaken between less than substantial harm to the significance of the designated heritage asset on the one hand, and the public benefits of the proposal, on the other.
- 4.13 In terms of public benefits of the proposal the main benefits are considered to comprise the provision of the new facilities, which would solely serve the community. The new facilities that would improve and enhance the existing sport facilities in the area. The proposal is also in accordance with the vision as set out for the Westbridge Park Development Plans and would attract wider public community and intensify the use than this is currently the case. These benefits are of moderate weight.
- 4.14 The site faces would also alternative use and would introduce sport/recreational facilities that could be used all year round. The existing playing field, albeit not entirely complying with the Sport England's standard requirements, would be improved in terms of their management and still would form part of the essential community sporting provision in the area. Additional planting to its heritage significance or upgrading the current use to meet modern standards would be carried out around the site and wider area. The desirability of retaining sporting/recreational facilities on site both for the benefit of the local community and, as the best means of safeguarding its original character is recognised. As such the proposal would also be in accordance with Stone Neighbourhood Plan, which aims to preserve and enhance the special character of the town and to improve the quality of the environment. These benefits are also of moderate weight.
- 4.15 There is a need to pay special attention to the desirability of preserving and enhancing the character or appearance of the conservation area as set out in section 72(1) of the Planning (Listed Building and Conservation Area) Act 1990. Furthermore para. 199 of the NPPF confirms that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the conservation of the asset. Para. 200 of the NPPF also requires that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification.
- 4.16 Taking all the above into consideration, on balance, significant weight can be afforded to the public benefits of the proposed development, which would outweigh the harm to the significance of the conservation area and the grade II listed Walton Bridge.

Policies and Guidance:-

National Planning Policy Framework  
 Paragraphs: 130, 132, 134, 199, 200  
 The Plan for Stafford Borough:  
 N1 Design  
 N9 Historic environment

Supplementary Planning Document:  
 Stone Conservation Area Appraisal

Stone Neighbourhood Plan:  
 Policy CAF3 - Protected Views and Vistas

## **5.0 RESIDENTIAL AMENITY**

- 5.1 Policy N1 of The Plan for Stafford Borough requires (b) to take account of noise and light implications, together with the amenity of adjacent residential areas or operations of existing activities and (i) to be safe, secure and crime resistant by the inclusion of measures to address crime and disorder through environmental design and meet “Secure by Design” Standards.
- 5.2 The Environmental Health Officer has been consulted on the proposed scheme and has raised no objection to the proposals on the basis of a series of planning conditions. The conditions relate to related to construction hours, dust prevention measures and inaudible equipment. These conditions are considered to be reasonable, necessary and justifiable in planning terms in order to safeguard the amenities of the nearest residents and therefore should be added accordingly.
- 5.3 Due to the level of distancing between the development and nearby residential properties, it is considered that the proposal would not result in any demonstrable harm to the neighbouring residential amenity through noise from the proposed activities on site.
- 5.4 Concerns raised by the local residents regarding the existing anti-social behaviour on site is noted.
- 5.5 Staffordshire Police Design Out Crime Officer has been consulted on the proposed scheme who advised that the development should be carried out in accordance with Design out Crime guidance.
- 5.6 In their response, the applicant has explained that there would be CCTV installed around the wider area of Westbridge Park which should also cover the site and the proposed facility would not be lit as it is not anticipated to be used during hours of darkness. Furthermore, the applicant would introduce onsite staff to the facility what would ensure the safety of park users with daily site inspections, help promote public interest and increase the awareness, appreciation and understanding of the park and open space by all users. The staff would also maintain the toilets. Additionally, the staff would provide a front-line contact with the public ensuring byelaws are observed and adverse behaviour would be discouraged.

- 5.7 Given the above, it is reasonable to accept that anti-social behaviour measures would be in place. Nevertheless, an informative should be added to draw applicant's attention to Design out Crime guidance.

Policies and Guidance: -  
National Planning Policy Framework  
Paragraphs: 128, 130, 185

The Plan for Stafford Borough  
Policy N1 - Design  
Supplementary Planning Document (SPD) - Design

## **6.0 HIGHWAY SAFETY AND TRAFFIC**

- 6.1 The existing park access point along its western boundary with Stafford Road currently served by a field gate. As part of the wider improvement works, the access is to be reconfigured to provide a new pedestrian centric access point to the park adjacent to the proposed children's play area. These works are not covered by the application as it is understood that these works would be carried out under permitted development.
- 6.2 The existing entrance would continue to provide vehicular access to the park for events and would be supported by the formation of another park entrance, also installed under permitted development and as part of the wider park works, adjacent to the children's play area, opposite M&S store.
- 6.3 Under the improvement works proposed in Westbridge Park, the two existing car parks (outside of the application area) would be refurbished under permitted development and would continue to serve the park, providing an improved provision for the new facilities.
- 6.4 The carpark is used by visitors to the Town as it is currently free to park for an unrestricted time period. The carparks are owned and managed by Stafford Borough Council.
- 6.5 It is also the applicant's intention to better control the use of the car parks for park users. This is currently being explored through the introduction of parking charges supported with appropriate signage. The existing/new CCTV provision also intended for the car park to help further support this and deter users from using the car parks for other means.
- 6.7 The Highway Officer has been consulted as part of the application; however no response has been received at the time of writing this report. The consultation response would reported to the Planning Committee separately. Having said this, it should be noted that the proposed new recreational facilities are designed for the benefit of the local community; more specifically, to be used by children and teenagers who would be walking or/and relying on public transport. Similarly, the children play area would also be used by the local residents with young children who would most unlikely be travelling by car to use the facility. Should car parking be required there would be parking available within the existing car park for users and further parking is also provided within Stone town within walking distance from the site.

- 6.8 It is therefore reasonable to conclude that the proposal would not lead to unacceptable impact on the existing highway and parking demand.

Policies and Guidance:-

National Planning Policy Framework  
Paragraphs: 100,107 and 108

The Plan for Stafford Borough  
T1 Transport;  
T2 Parking and manoeuvring facilities;  
Appendix B - Car parking standards

## **7.0 FLOODING**

- 7.1 The application site is partially located within Flood Zones 2 and 3 which is categorised as less than 1 in 100 annual probability of flooding.
- 7.2 It is noted that the local residents disagree with the flooding report which ignores the regular flooding of the proposed skate park and that a further informed flood report be submitted.
- 7.3 The submitted Flood Risk Assessment (the FRA) considers the skate facility to be 'water compatible' development and would not involve creating ground raising; being suitably fixed and open construction. Nevertheless, the recommendations include dry access route provision within the wider park area and erection of flood warning signage within the park and at the proposed skate park to warn of the potential for flooding to that amenity. The applicant has also been advised to sign up to received flood warning for the park and incorporate this trigger into any flood response plans for the Borough's portfolio of amenities and parks.
- 7.2 The Environment Agency (the EA) has been consulted as part of the application. Given the size of the proposal, the EA has raised no objection to the proposal, subject to a recommended with Flood Risk Standing Advice.
- 7.3 Nevertheless, the submitted FRA recognises all proposed use as water-compatible development and it is not expected to increase the risk of flooding at the result of the development. Measures set out in submitted document are in line with the EA Standing Advice criteria. A condition is therefore appropriate to ensure that the development is carried out in accordance with the recommendations as set out in the Assessment in order to minimize the risk from a flood. On this basis, no further informed flood related information as requested by the local residents is required.

Policies and Guidance:-

National Planning Policy Framework  
Paragraphs 167

The Plan for Stafford Borough:  
Policy N2 Climate Change

## **8.0 LAND CONTAMINATION**

- 8.1 The application site is located on an historic landfill, known as 'Westbridge Park.' The application is supported by a contamination risk assessment.
- 8.2 The Environment Agency has considered the submitted document acceptable and agreed with the conclusions that a targeted intrusive investigation, including sampling and analysis of soils and groundwater, should be carried out. A pre-commencement condition has been recommended which requires details of remediation strategy to deal with the risks associated with contamination of the site in respect of the development.
- 8.3 The applicant has considered the requested condition unnecessary and stated given the limited depths of proposed excavation works. Further clarifications on the requirement of the recommended condition has been sought. The EA has been re-consulted and no response has been yet provided at the time of writing the report. Should the EA consider that the condition is deemed necessary or alternative condition be recommended, it is recommended to be added accordingly.
- 8.4 Council's Environmental Health Officer has advised that during construction where potentially contaminated deeper materials are exposed, dust arising should be controlled, particularly from stock piles by for example the use of water sprays or covers. It is recommended that any proposed or future fully enclosed buildings in direct contact with the ground be either elevated or benefit from ground gas protections. An informative is recommended for the applicant to note the recommendations.

Policies and Guidance:-  
National Planning Policy Framework  
Paragraphs 183 and 184

The Plan for Stafford Borough:  
Policy N2 Climate Change

## **9.0 TREES AND BIODIVERSITY**

- 9.1 There are 6 mature trees within the site boundary. 4 trees would be removed in order to accommodate the development.
- 9.2 The Tree Officer has objected to the development, noting some inaccuracies within the submitted tree plans and information. The applicant has submitted a revised plan and clarifications. The applicant has explained that a total of 15 new trees proposed to be planted within the planning application boundary the majority of which would be located within the children's play area. These would mitigate the tree loss at just under a 4 to 1 ratio. Additional 3 trees would also be planted between the wheeled skate facility and MUGA just outside of the southeast corner of the application site as well as further tree planting across the site.

- 9.3 No further comments from the Tree Officer has been received at the time of writing the report. However, it is reasonable to recommend conditions which ensure that the remaining trees are appropriately protected during the construction phase and the landscape plan is submitted prior to the development being brought into use.
- 9.4 The Council's Biodiversity Officer has also been consulted as part of the planning application. It has been advised that the areas of marsh and rough grassland on the north-east edge of the meadow area should be enhanced as part of the development. A wildlife pond can be excavated in this naturally wet area and enhanced with native planting.
- 9.5 Although the above advice is noted, the biodiversity enhancement measures relate to works which are not covered by the red line/application site. Having said this, an informative should be added advising to note the Biodiversity Officer's advice.

Policies and Guidance:

National Planning Policy Framework:  
Paragraphs 131 and 180

The Plan for Stafford Borough  
Policy N1 Design

Policy N4 The Natural Environment and Green Infrastructure

## **10.0 PLANNING BALANCE AND CONCLUSION**

- 10.1 The application site is located within the Westbridge Park. The proposal forms part of the wider improvement of the quality and offers diversity of the facilities within the park for the local community through its redevelopment. Local and national policy indicates that the playing field should not be built on unless assessed to be surplus to requirements, or the loss can be replaced with equivalent or better, or development is for alternative sport provision. It is for these reasons, the proposal would not meet the NPPF requirement as set out in paragraph 99 and policy C7 of The Plan for Stafford Borough.
- 10.2 The application site located within the Westbridge Park. The proposal forms part of the wider improvement of the quality and offers diversity of the facilities within the park for the local community through its redevelopment. Although not meeting the Sport England's requirements for adult sized playing pitches, the proposal would still offer a wide range of outdoor facilities for children of different age group, including adults. The new sport and recreation facilities are solely for the benefit of the community and facilitating greater access to sports facilities.
- 10.3 Considerations should also be taken of the proposed design and layout of the development, which is acceptable and would not give rise to adverse impacts on the nearby historic environment, surrounding character or nearest residential properties. Safety and security matters to prevent anti-social behaviour would be in place in accordance with the Policy Design out Crime guidance.
- 10.4 Additional tree and hedgerow planting is proposed to mitigate for the loss of the existing trees.

- 10.5 The proposal would not result in unacceptable adverse impacts upon highway safety.
- 10.6 Moving onto the overall planning balance, while the proposed development would not comply with national and local relevant policies in relation to the loss of the playing pitch, there are important material considerations which indicate that the development should be permitted and thereby justify making a decision not in accordance with the development plan and NPPF.
- 10.7 The recommendation is to approve the application, subject to recommended conditions. However, the application remains subject to referral to the Secretary of State in view of the Objection from Sport England which remains in place.

## Consultations

### ENVIRONMENT AGENCY - No objection

The proposals partly fall within Flood Zone 3 of the River Trent. Given their size and flood risk vulnerability classification (as defined by Annex 3 of the NPPF) we consider that this proposal falls within the scope of our Flood Risk Standing Advice, and as such we will not be providing bespoke comments on this matter and advise you to consider the proposals accordingly.

The Environment Agency have reviewed the proposals submitted and have no objection to the application, subject to the imposition of conditions.

### Contaminated Land

The following comments relate solely to the protection of controlled waters. Matters relating to human health should be directed to the relevant department of the Local Authority.

Reference to the 1:50,000 geological map indicates that the site is located on the Secondary B Aquifer of the Mercia Mudstone formation. Superficial Alluvium deposits are also indicated to be present, designated as a Secondary A Aquifer by the Environment Agency. These superficial deposits are likely to be in hydraulic continuity with the adjacent River Trent, which forms the south-southwest boundary of the site. The Trent and Mersey Canal is located towards to the northern boundary of the site.

We have reviewed the following document submitted in support of this application:

- 'Westbridge Park, Stone - Phase I Land Contamination Preliminary Risk Assessment' *Socotec* (August 2022).

Reference to Environment Agency databases indicates that the site is located on an historic landfill, known as 'Westbridge Park.' This historic landfill is known to have accepted household waste. The above referenced report identifies potential contaminant linkages associated with the historic landfill and controlled waters receptors at this location. The potential to mobilise existing contamination during redevelopment should also be considered. Based on this information, we agree with the conclusions of the above Phase I report that a targeted intrusive investigation, including sampling and analysis of soils and groundwater, should be carried out. We would be supportive of this and therefore recommend that the following condition be attached to any planning permission granted.

The location of this proposed development site on a historic landfill represents a contamination risk that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive due to the presence of a Secondary A Aquifer and linked surface water receptors.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 184 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 177 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

### **Condition**

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

- 1 A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- 2 The results of the site investigation and the detailed risk assessment referred to in (1) 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.
- 3 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 (2) 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 does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 177 of the National Planning Policy Framework.

In accordance with Government Policy detailed in the National Planning Policy Framework (paragraph 184), 'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'. Therefore, should any significant contamination subsequently become apparent then responsibility remains with these parties.

We recommend that developers should:

- Follow the risk management framework provided in LCRM - Land Contamination Risk Management when dealing with land affected by contamination.
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage

Please consult us on the details submitted to your authority to discharge this condition and on any subsequent amendments/alterations.

In accordance with the planning practice guidance (determining a planning application, paragraph 019), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

### **COUNTY COUNCIL'S FLOOD RISK MANAGEMENT - no comments**

We note that the site is within the EA Flood Zone 3, with risk of flooding from the River Trent (Main River). As the EA are statutory consultee upon all proposed developments within Flood Zones 2 and 3, it is envisaged that the Environment Agency will comment on the flood risk vulnerability, flood depths and suitability of the proposal in flood risk terms. Where the EA do not provide bespoke comments, you should be guided to their standing advice.

We note that the site location is at risk of 1 in 100 year surface water flooding in the south most part of the location and has 1 reported flooding hotspot within 100 metres. The Flood Team have no further comments to offer on this application.

### **COUNCIL'S CONSERVATION OFFICER - no objection**

The application site forms part of the south-western corner of Westbridge Park but excludes the existing Canoe Club and its dedicated car parking. Westbridge Park is not within a conservation area nor are there any listed buildings within its curtilage; however it is abutted by both the Stone and Trent and Mersey Canal Conservation Areas to the northern boundary. Just beyond the south-western corner of the site is the grade II listed Walton Bridge, an ashlar bridge, probably medieval/post-medieval date with some 17th and 18th century rebuilding. Westbridge Park is considered to be a positive contributor to the setting of both the conservation areas and the listed bridge.

The current application seeks planning permission for a new children's play area, Multi Use Games Area (MUGA), wheeled sports facility and associated accesses, paths, and seating, in the south-eastern corner of Westbridge Park near the Canoe Club building. The proposals form part of a wider scheme of redevelopment and enhancement of Westbridge Park.

The closest feature to the listed Walton Bridge is the wheeled sports facility, this will be of low standing and although some trees are proposed to be removed as part of the proposed development, the mature tree belt running along the southern boundary of the car park of the Canoe Club will be retained and provide a reasonable amount of screening.

The proposed children's play area, whilst further away than the wheeled sports, will likely be the most prominently visible from the listed bridge as there is little to no screening and some of the play equipment proposed is quite high, particularly the Giant L and Slide Tower. From a conservation perspective it would be preferable for more screen trees to be planted to the south-western corner of the play area to at least filter out the tower in views from the listed bridge.

MUGA's by their nature are quite visually obtrusive, as a tall fenced off games area. The MUGA will be visible in views from the bridge looking north-east between the Canoe Club building and the existing tree belt on the southern side of the Canoe Club car park. However, a toned down, dark green colour for the MUGA fencing as proposed will help mitigate against its intrusion into the park and make it less conspicuous.

In summary, there is no conservation objection to the proposed development which would for the most part adequately preserve the character and setting of the conservation areas and the grade II listed Walton Bridge. It would however be preferable for more screen tree planting to be provided to the south-western corner of the proposed children's play area to screen views of the tower slide from the listed bridge.

## **SPORT ENGLAND - Objection**

The site is considered to constitute playing field, or land last used as playing field, therefore Sport England advises that this proposal would require statutory consultation, under the terms of the Town and Country Planning (Development Management Procedure) (England) Order 2021, at the formal planning application stage.

Sport England considers proposals affecting playing fields in light of the National Planning Policy Framework (NPPF) (in particular Para. 99) and against its own playing fields policy, which states:

‘Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of:

- all or any part of a playing field, or
- land which has been used as a playing field and remains undeveloped, or
- land allocated for use as a playing field unless, in the judgement of Sport England, the development as a whole meets with one or more of five specific exceptions.’

### **Sport England Policy Exceptions**

E1 A robust and up to date assessment has demonstrated, to the satisfaction of Sport England, that there is an excess of playing field provision in the catchment, which will remain the case should the development be permitted, and the site has no special significance to the interests of sport.

E2 The proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.

E3 The proposed development affects only land incapable of forming part of a playing pitch and does not:

- reduce the size of any playing pitch;
- result in the inability to use any playing pitch (including the maintenance of adequate safety margins and run-off areas);
- reduce the sporting capacity of the playing field to accommodate playing pitches or the capability to rotate or reposition playing pitches to maintain their quality;
- result in the loss of other sporting provision or ancillary facilities on the site; or prejudice the use of any remaining areas of playing field on the site.

E4 The area of playing field to be lost as a result of the proposed development will be replaced, prior to the commencement of development, by a new area of playing field:

- of equivalent or better quality, and
- of equivalent or greater quantity, and in a suitable location, and
- subject to equivalent or better accessibility and management arrangements.

E5 The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

Sport England's Playing Fields Policy and Guidance document can be viewed via the below link: [www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing\\_fields\\_policy](http://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#playing_fields_policy)

### **The Proposal and Impact on Playing Field**

The proposal at Westbridge Park entails the development of a children's play area; MUGA; wheeled sports facility; and associated access paths and seating. In viewing Google Earth imagery, the playing field site in 2021 (below) was marked out for an undersized adult football pitch (99x61m excluding 3m run off area with the recommended FA dimensions being 100x64m excluding 3m run off area) alongside a further set of goal posts with a pitch length of 75m which would be capable of supporting a U11/12 youth pitch (recommended

FA dimension 73x46m excluding 3m run off area).

The proposed wheeled sports area appears to be sited on land created following the removal of shrubs/trees, as such it would not impact on land capable forming part of a playing pitch.

However, the proposed children's play area, MUGA and access routes will encroach onto usable playing field land that has been marked out for playing pitches. The submitted proposed site plan indicates that two pitches (no dimensions provided) will be retained at the site with the planning statement stating that they will be marked out for adult and youth (u13/14) football pitches.

Whilst not forming part of this application there are number of other elements to the wider scheme which are stated to be undertaken via permitted development rights such as new footpaths, zip wire equipment, bike rack and toilet/kiosk build block which would also encroach onto playing field land.

### **Assessment against Sport England Policy**

The Council's Playing Pitch Strategy (PPS) identifies that the site contains one adult (played to capacity) and one youth football pitch which are both of poor quality. A recommendation is made that the playing pitch quality is improved through enhanced levels of dedicated maintenance and that options are explored to reduce the levels of unauthorised access and dog fouling. Within the sub area the site is located within the PPS identifies that there will be a future shortfall in adult and youth football pitches, whilst mini 7v7 and 5v5 pitches will be at capacity.

In relation to tennis provision the PPS identifies that there is sufficient supply to meet current and future demand. For informal tennis the PPS identifies a number of existing sites (minimum of four courts with accompanying changing facilities and floodlighting preferred) which would be suitable for the LTAs ClubSpark programme.

It should be noted that the Council, Sport England and the relevant sporting national governing bodies held a meeting to discuss the PPS as part of the annual Stage E process as per Sport England's Playing Pitch Guidance. During these discussions it was apparent that the supply and demand figures for the authority have altered to such an extent that it was recommended that the document would need to be reviewed.

To inform this response Sport England consulted the Football Foundation (responding on behalf of the FA) with the following comments received:

- We are aware that there has been previous usage by an adult team and an U15 team, although there is no known usage for this season according to Staffordshire County FA data.
- There has been a growth of 16, 7v7 and 9v9 teams since the 2019 PPS, therefore, future demand for youth and adult 11v11 pitches is likely to be high. Other local sites have added capacity but this has now been reached, therefore, considering previous use and anticipated future need, ensuring these pitches are retained and also meet FA pitch dimension requirements is important.
- As per the point above, the pitch sizes need to be as they were previously and they need to meet the correct sizes for FA compliance including associated run-offs, especially given the other proposals on the site.
- Pitch Quality needs to be improved to meet the future demand with likely multiple games per week, especially with other events taking place on the pitches in addition to football. It was also noted in the PPS that there are no changing facilities available for use. We would therefore need to understand how football users can utilise existing/new changing rooms and have access to toilet/washing facilities etc.

The submitted Planning Statement acknowledges that the MUGA would infringe on the adult pitch currently marked out on the site. However, it is stated that the same size pitch would be retained, at a rotated orientation, to prevent conflict with the proposals. Further to this a youth (U13/14) football pitch will be retained within the site. The applicant recognises that there will be an overall loss of open playing field though consider Sport England Exception Policy E5 would be met through the provision of a MUGA (marked out for 5 a side football and utilised for mixed sports).

However, the applicant fails to acknowledge that the play area and access routes will be sited on playing field land capable of forming part of pitch. This part of the development is also not a sporting facility nor an ancillary facility supporting the principal use of the playing field site. As such, given the demand for football pitches in the locality and no replacement playing field provision being proposed, it is considered that this element would not meet any of Sport England's Exception Policies.

Notwithstanding the above, part of the application relates to the provision of a new outdoor sports facility on existing playing field at the above site. It therefore needs to be considered against exception 5 of the above policy, which states:

'The proposed development is for an indoor or outdoor facility for sport, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.'

Sport England assess the potential benefit of the new sports facility by taking into account a number of considerations. As a guide, these may include whether the facility:

- meets an identified local or strategic need e.g. as set out in a local authority or NGB strategy (rather than duplicating existing provision);
- fully secures sport related benefits for the local community;
- helps to meet identified sports development priorities;
- complies with relevant Sport England and NGB design guidance;
- improves the delivery of sport and physical education on school sites; and
- is accessible by alternative transport modes to the car.

Proposals will also need to demonstrate that the loss of any area of playing field will not have an unacceptable impact on the current and potential playing pitch provision on the site. For example, it is unlikely that a loss would be acceptable if:

- it would result in the main user (e.g. a school or a club) being unable to meet their own minimum requirements for playing pitches (the Department for Education provide area guidelines for playing fields at existing schools and academies).
- other users would be displaced without equivalent replacement provision;
- it would materially reduce the capability and flexibility of the playing field to provide for a range of sports and natural grass playing pitches; or the area of playing field is significant in meeting local or strategic needs.

As highlighted within the Council's PPS, the provision of the MUGA would not meet a strategic need for tennis. It should also be noted that the provision of the MUGA is in fact related to the mitigation requirements for the development of Marks and Spencers at Westbridge Park, which resulted in the loss of 3no tennis courts (Planning Reference 16/24242/FUL). Sport England raised no objection to this planning application with the provision of a replacement court (alongside off site improvements to existing courts together with the planned replacement of the built sports facilities on the wider site) deemed to have broadly met Sport England Exception Policy E4. However, based on Sport England Exception Policies the provision of a replacement MUGA which would result in the loss of land capable of forming part of a playing pitch, would not have accorded with Exception Policy E4 as there was no replacement playing field provision.

The location of the MUGA will reduce the sporting capacity of the playing field to accommodate playing pitches and impact on the capability to rotate or reposition playing pitches to maintain their quality. As such, the proposed playing field layout would not be capable of accommodating an adult FA recommended pitch (106x70m inclusive of run off area), which the PPS and Football Foundation identifies that there is a strategic need for to meet current and future demand. Further to this the proposed "adult pitch" would also be reduced in size in comparison to the larger of the two pitches marked out on the site in 2021. It should also be noted that the MUGA whilst proposed to be marked out for 5 aside

football would not be suitable for affiliated football and therefore not able to address any playing pitch demand identified within the PPS or by the Football Foundation.

The position of the MUGA (and footpaths) would also prevent the pitches from being rotated to maintain the quality. This is pertinent as the remaining playing field land will be utilised more intensively (from a sporting perspective and wider community usage) further impacting on the quality of the pitches, which the PPS already identifies as being of poor quality.

Given the above, it is considered that the provision of a MUGA would not be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss, or prejudice to the use, of the area of playing field.

## **Conclusion**

In light of the above, Sport England objects to the application because it is not considered to accord with any of the exceptions to Sport England's Playing Fields Policy or with Paragraph 99 of the NPPF.

Should the local planning authority be minded to grant planning permission for the proposal, contrary to Sport England's objection then in accordance with The Town and Country Planning (Consultation) (England) Direction 2021, the application should be referred to the Secretary of State, via the National Planning Casework Unit.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

## **COUNCIL'S LEISURE - Support**

The proposed redevelopment of Westbridge Park is bringing in several new features. The first is a new play equipment area which has a good mix of equipment for early years, and older children. The equipment will encourage balancing, climbing, jumping, spinning, and exploring. This area will replace an old and poor-quality existing play area.

There will also be a wheeled skate area which has made good use of the existing landscape as part of its features. It appears to be well designed incorporating several design features that users expect when using it. This new facility will be replacing a previous wheeled skate area which was removed to allow the development of the new leisure centre in 2017.

A new MUGA will be added to the site. This is to replace three tennis courts lost when the new Marks and Spencers store was built in 2017. The design of the MUGA will ensure that it is of sufficient size to incorporate the required dimensions for a tennis court. There will also be sockets in the MUGA to allow the installation of tennis nets. This will therefore, meet the requirements of the LTA.

The MUGA is placed near the car park and therefore will provide easy access to it.

The MUGA will provide an ideal opportunity for the casual "kickabout" that children enjoy. It will have a 5 a side pitch marked out. The MUGA will be playable in all types of weather.

This should stop the use of casual use on the grass pitches and help to improve the condition of the pitches.

The inclusion of youth and adult pitches is in line with the report from the FA in 2022 that there is an increase in youth teams, and this will result in a need for youth and adult pitches. In 2019 Knight, Kavanagh and Price commented that the existing pitches were of a poor quality partly due to the large events that are held throughout the year on the site. This in turn makes it difficult for the necessary maintenance to be carried out at the appropriate time. Moving forward there needs to be an improvement in quality of the playing surface.

Table supplied by Staffs FA

Age Group	Sub Area								Local Authority Area	
	North		East		West		Stafford		2019	2022
	2019	2022	2019	2022	2019	2022	2019	2022		
Adult	7	7	3	3	7	3	21	23	38	36
Youth 11 v 11	13	12	5	0	4	15	23	47	45	74
Youth 9 v 9	9	13	5	0	9	6	13	22	36	41
Mini 7 v 7	8	14	0	0	0	12	31	35	39	61
Mini 5 v 5	7	13	0	0	0	8	22	16	22	37
<b>Total</b>	44	59	13	3	19	44	110	143	186	249

The regeneration of this park will enable the space to be used to its full potential as a destination play space and is therefore supported.

### **COUNCIL'S ENVIRONMENTAL HEALTH - no objection**

The contaminated Land Risk report identified the requirement for phase II intrusive investigations, the phase II report Ref: LO/NOR2073/002/CL Rev00 section 9 advises no significant additional human health considerations. The recommendations of the report including material management should be adopted supported by a Materials Management Plan (MMP). The UKWIR potable water pipe ground contamination risk assessment recommends no significant precautions.

During construction where potentially contaminated deeper materials are exposed, dust arising should be controlled, particularly from stock piles by for example the use of water sprays or covers. It is recommended that any proposed or future fully enclosed buildings in direct contact with the ground be either elevated or benefit from ground gas protections.

Where high intensity lighting is proposed during construction it is recommended that such lighting is directed downwards and away from residences and not be used when construction activities are not taking place, except for security purposes when time limiters should be used. Where high intensity site lighting is proposed ( for example in conjunction with CCTV) then a lighting report should be submitted to minimise residential nuisance.

A construction management plan should be submitted for approval.

There are no significant air quality impacts.

#### General Conditions (construction):

- All works, including demolition, site works and construction shall only take place between the hours of 8.00am and 6.00pm Monday to Friday; 8.00am to 2.00pm Saturdays and not at all on Sundays or bank holidays.
- There should be no burning on site during development
- All demolition materials shall be removed from site and properly disposed of.
- Facilities shall be provided at the site and used when necessary for damping down to prevent excessive dust.
- Any equipment which must be left running outside the allowed working hours shall be inaudible at the boundary of adjacent occupied residential dwellings.

#### **STAFFORDSHIRE POLICE DESIGNING OUT CRIME OFFICER - no objection but advised the following:**

The development should be carried out in accordance with Police CPI's Secure by Design guidance.

#### **NATURAL ENGLAND - No comments**

Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.

Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland.

The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites. It is for the local planning authority to determine whether or not this application is consistent with national and local policies on the natural environment. Other bodies and individuals may be able to provide information and advice on the environmental value of this site and the impacts of the proposal to assist the decision making process. We advise LPAs to obtain specialist ecological or other environmental advice when determining the environmental impacts of development.

We recommend referring to our SSSI Impact Risk Zones (available on Magic and as a downloadable dataset) prior to consultation with Natural England. Further guidance on when to consult Natural England on planning and development proposals is available on gov.uk at [www.gov.uk/guidance/local-planning-authorities-get-environmental-advice](http://www.gov.uk/guidance/local-planning-authorities-get-environmental-advice)

## **SEVERN TRENT WATER**

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

However: Severn Trent Water advise that there is a public 375mm combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

## **CANAL AND RIVER TRUST - No objection**

The potential impact of the proposal on the Trust's assets and interests has been taken into account in the preparation of the application. We look forward to continuing to work closely with Stafford Borough Council on further improvements to the canalside corridor of Westbridge Park which may or may not require planning permission.

## **COUNCIL'S BIODIVERSITY OFFICER - No objection**

### **Protected Species**

*Ground Control* undertook a Preliminary Ecological Appraisal and Biodiversity Net Gain Report during December 2022. The following report recommendation should be carried out as stated:

### **Nesting birds**

All wild birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981. This means that any vegetation clearance works should not be undertaken in the nesting season (March to August), unless it can be demonstrated by the developer that breeding birds will not be affected. This can be done by requesting a method statement for protection / avoidance of nesting birds as a condition - this may include timing of work, pre-work checks, avoiding nesting areas etc,

4x Schwegler 1B bird boxes to be installed in suitable locations on mature tree on site.

## **Badgers**

No sign of badger was found within the development area. Any excavations left open overnight should be provided with a means of escape.

## **Bats**

Consideration should be given to external lighting ensuring downward facing, directional lighting of the play areas. Light spill on trees, hedgerows and the river corridor should be minimised where possible.

2x Schwegler 1FS and 2x Schwegler 2F bat boxes should be installed in suitable locations on buildings, or mature trees on site.

## **Biodiversity Net Gain**

Biodiversity Net Gain (BNG) calculations require a minimum uplift of 1.7 biodiversity units. This is in addition to the bird and bat boxes requested above.

I am not in favour of either BNG scenario suggested (page 27 - 28) for the following reasons.

1. Woodland enhancement has already been recognised as part of the ongoing tree management of the site and therefore can be achieved over time as good practice.
2. The meadow area has already been enhanced through seeding and plug planting and is currently managed as a hay meadow. The analysis of this area was made at a sub-optimal time and therefore naturally missed a more accurate assessment.

It would be preferable to enhance areas of marsh and rough grassland on the north-east edge of the meadow area. A wildlife pond can be excavated in this naturally wet area and enhanced with native planting. I am willing to assist in the design process and draw up a management plan.

As BNG, any enhancement work will need to be maintained over the next 30 years, as part of the park's management.

## **COUNCIL'S TREE OFFICER - Objection**

The wheeled skate facility is poorly located. It requires the removal of a number of mature prominent trees, impacts upon the rooting area of a retained tree to such an extent that it will most likely decline and have to be removed. Additionally, the wheeled skate facility is an extremely high-risk target being located in an area where currently the risks are much more transient.

The loss of the large trees in the southeast corner of the proposal will cause a significant amenity loss to the area. It is unclear why it is considered these are considered expendable given their size and maturity. Whilst they are internal to the site, the site is a public park and there are paths passing next to these trees so inherently they become of greater value than most trees located as such.

There is significant encroachment into the RPA of one retained mature tree for the wheeled skate facility and whilst it is noted ground protection is proposed for part of the impacted area the RPA is likely to extend a great deal further than show and so the location of the structure will need to be moved north significantly to avoid significant harm.

The submitted AIA and AMS are inaccurate and potentially misleading owing to significant inaccuracies in the initial constraints appraisal. The associated tree constraints and protection plans within the AMS shows protective measures for land outside the planning application. Such measures are not possible to enforce and therefore must be considered irrelevant.

It is suggested in the AIA that the majority of the vegetation is being retained, when in fact of the 6 trees within the application boundary 4 are being removed. The two hedges within the application boundary are also being retained but these are small boundary features of low Arboricultural merit. Therefore this must be considered a misleading statement.

The location of the wheeled skate park is considered to be poor and problematic for trees on the site.

### **Arboricultural Recommendation**

From an Arboricultural point of view I recommend that this amended application is Refused for the following reasons:

The applicant results in loss of a number of mature trees and will lead to the significant harm to the rooting area of a number of other trees.

### **STONE TOWN COUNCIL**

The Town Council supports the comments made by Staffordshire Police and recognises that there are some concerns which it asks the Borough Council to recognise and give clear assurances will be answered/addressed.

**Neighbours** (24 properties consulted): 13 representations received objecting to the proposal on the following grounds:

- Anti-social behaviour
- Flooding
- Removal of parking spaces would restrict the car parking provision for Canoe Club whose users benefit from free of charge parking during training and Club events
- Disruption to Canoe training and activities anticipated as the result anti-social behaviour
- The proposals do not include provision of waste bins and toilet facilities
- Noise

- The application uses a piecemeal approach by dealing with the “application area”, which is described in future landscaped areas context in the remaining part of the park. It does not present evidence, considering impact, or implication on a range of events within the whole site.
- Reduced provision of green infrastructure in Stone by placing new assets in the existing playing field, on playing pitches; thus resulting in a net loss of provision and access to sports, recreation and leisure in the town and the application makes a further contribution
- There is a conflict between the security of the assets and children using the proposed facilities, even if this is improved with better lighting. The area around the girl guides and scout building will remain unlit.
- The current application does not mitigate for the loss of playing fields in Sport England’s policies E2, E3 and E4 - the applicant’s explanation is unjustified and not supported by any evidence
- Reducing the town’s playing capacity here and in other locations in Stone Town is unjustified and the Borough’s continued lack of support for the game of football is a serious disservice to the town.
- The proposal does not atone with the policy in the Stone Neighbourhood Plan related to ‘Protected View and Vista’
- The position of the proposal is erroneous when the Red Kite Network Consultation (Option C) offers a better location, which would have far less impact on the playing field, the Canoe Club, and the Stone Neighbourhood Plan.
- The proposal is not user friendly nor safe for families with different aged children who need supervision considering proximity of open water nearby.
- Why are the children play area so close to the main busy road and access road to the leisure centre?
- Why is the children play area not nearby the MUGA and skate park where it would be better accessed by all?
- There is no acknowledgement of the Stone Food Festival in the planning statement. The access which is normally used would be built on with the play area and the office/toilet block. The planned access also crosses a pedestrian access where young children would be playing with no vehicle segregation.

**Site notice** expiry date: 1.02.2023

**Press notice** expiry date: 8.02.2023

## RELEVANT PLANNING HISTORY

**06/07053/FUL** - Change of use of land in association to canoe club and the erection of canoeing club building. External works include disabled ramp, steps to river, car park, boundary fencing including gates and access road. Proposed Use Class D2 - withdrawn 21.11.2006

**08/10997/FUL** - Demolition of existing dilapidated clubhouse and erect a new single storey clubhouse to include boat storage, changing facilities, storage, flexible space, clubrooms and kitchen. External works to include 2 no. disabled bays, ambulant disabled steps as well as general works - approved on 1.04.2009

**16/24242/FUL** - demolition of existing buildings and construction of a food store (Use Class A1) with ancillary café, car parking with associated access work, landscaping and other works - approved on 14.11.2016

**16/25394/FUL** - provision of a new permanent modular building to replace the Wells Bladen Girls Guides centre at Westbridge Park. The replacement building will be sited adjacent the existing pumping building. The development includes provision of a new hardstanding, cross-over to the private access road, foundations and services. An existing skateboard park will be demolished and relocated within Westbridge Park - approved on 26.01.2027

**17/26207/FUL** - erection of new Leisure Centre and associated car parking facilities. Demolition of an existing Fitness Centre building - approved on 14.07.2017.

## Recommendation

Approve subject to the following conditions:

- 1 The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.
- 2 This permission relates to the submitted details and specifications and to the following drawings, except where indicated otherwise by a condition attached to this consent, in which case the condition shall take precedence:-

J220850-GC-L-DR-3-001	Location Plan
J220850-GC-L-DR-3-003	Proposed Site Plan
J220850-GC-L-DR-3-100	Developed Concept Masterplan
J220850-GC-L-DR-3-004	Play Area Proposal Plan
J220850-GC-L-DR-3-005	MUGA Layout and Fencing Plan
J220850-GC-L-DR-3-006	Play Area Elevations

J220850-GC-L-DR-3-007	Soft Landscape Proposal Plan
01 DIMENSIONS, Rev. B, dated 12/12/2022	Westbridge Park Skatepark
02 CROSS SECTIONS, Rev. A, dated 12/12/2022	Westbridge Park Skatepark
03 FEATURES, Rev. A, dated 7/12/2022	Westbridge Park Skatepark
04 LOCATION, Rev. A, dated 12/12/2022	Westbridge Park Skatepark
10 GUARD RAILING, dated 21/12/2022	Westbridge Park Skatepark
J220850-GC-L-DR-3-001	Tree Survey Plan
J220850-GC-L-DR-3-002/A	Tree Constraints and Protection Plan Extract for T4

Produce Datasheet Pack, dated December 2022

Tree Report: Arboricultural Impact Assessment, dated December 2022

Arboricultural Method Statement, dated December 2022

Preliminary Ecological Appraisal and Biodiversity Net Gain Report, prepared by Ground Control, December 2022

Contamination, Waste Classification Risk Assessment Report, prepared by SOCOTEC UK Ltd, dated 26.10.2022

Phase 1 Land Contamination Preliminary Risk Assessment, Report No. NOR2073/001, prepared by SOCOTEC UK Ltd, dated August 2022

Pre-construction Report, dated December 2022

Flood Risk Assessment, Version 1.0, prepared by RAB Consultants Limited, dated 15.12.2022.

Letter from Ground Control Limited, dated 22 February 2023.

- 3 There shall be no burning on site during development.
- 4 Facilities shall be provided at the site and used when necessary for damping down to prevent excessive dust.
- 5 Any equipment which must be left running outside the allowed working hours shall be inaudible at the boundary of occupied residential dwellings.
- 6 All works including demolition, site works, construction and related deliveries shall only take place between the hours of 08.00 and 18.00 Monday to Friday, 08.00 and 14.00 on Saturdays and not at all on Sundays and Bank or Public Holidays.

- 7 In this condition "retained tree / hedge" means an existing tree / hedge which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of the occupation of the building for its permitted use.
- (a) No retained tree / hedge shall be cut down, uprooted or destroyed, nor shall any retained tree / hedge be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with British Standard BS5837:2012 - Trees in Relation to Design, Demolition and Construction.
- (b) If any retained tree / hedge is removed, uprooted or destroyed or dies, another tree / hedge shall be planted at the same place and that tree / hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
- (c) The erection of fencing for the protection of any retained tree / hedge shall be undertaken in accordance with the approved plans before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.
- 8 Notwithstanding any description/details in the application documents, prior to the development hereby permitted shall be brought into use, details of both hard and soft landscaping works shall be submitted to and approved in writing by the Local Planning Authority. Hard landscaping details shall include hard surfacing materials and the soft landscaping details shall show a planting scheme which includes a schedule of plants noting species, plant sizes and proposed numbers / densities. The hard and soft landscaping works shall thereafter be provided before the development is first brought into use. Any plants or trees in the planting scheme that are removed, die or become seriously damaged or diseased within a period of 5 years from the date of planting shall be replaced with others of similar size and species in the next planting season, unless otherwise agreed in writing by the Local Planning Authority
- 9 Notwithstanding any description / details in the application documents, prior to their installation, details of the height, design, materials and colour finish of all site boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved boundary treatments shall be provided before the first occupation of the development and shall thereafter be retained.

- 10 No external lighting shall be installed on or around the development hereby permitted or site unless and until a full lighting scheme have been submitted to and approved in writing by the Local Planning Authority. The lighting scheme shall include details of the location, design, intensity and spread of any proposed external lighting and internal. The lighting scheme shall thereafter be installed in accordance with the approved details before the development is first brought into use and maintained as such for the life of the development.
- 11 No external CCTV on or around the development hereby permitted shall be installed unless and until details of the CCTV scheme have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed in accordance with the approved details and maintained as such for the life of the development.
12. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment, Version 1.0, prepared by RAB Consultants Limited, dated 15.12.2022.
- 13 Notwithstanding any description/details in the application documents, prior to the development hereby permitted shall be brought into use, until the following biodiversity enhancement measures have been provided and maintained as such for the lifetime of the development:
  - (i) 4x Schwegler 1B bird boxes to be installed in suitable locations on mature tree on site.
  - (ii) 2x Schwegler 1FS and 2x Schwegler 2F bat boxes to be installed in suitable locations on buildings, or mature trees on site.
- 14 No development hereby permitted shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the Local Planning Authority. This strategy shall include the following components:
  - (a) A site investigation scheme to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
  - (b) The results of the site investigation and the detailed risk assessment referred to in (a) 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.
  - (c) A verification plan providing details of the data that shall be collected in order to demonstrate that the works set out in the remediation strategy in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The strategy shall thereafter be implemented in accordance with the approved details, unless otherwise has been in writing by the Local Planning Authority.

The reasons for the Council's decision to approve the development subject to the above conditions are:

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To define the permission.
- 3 To safeguard the amenities of the area and to protect the natural features that contribute towards this and that are important in the appearance of the development. (Policies N1 and N4 of The Plan for Stafford Borough).
- 4 To safeguard the amenities of the area and to protect the natural features that contribute towards this and that are important in the appearance of the development. (Policies N1 and N4 of The Plan for Stafford Borough).
- 5 To safeguard the amenities of the area. (Policy N1 of The Plan for Stafford Borough).
- 6 To safeguard the amenities of the area. (Policy N1 of The Plan for Stafford Borough).
- 7 To ensure the satisfactory appearance of the development and future well-being of the trees in the interest of the visual amenity of the area. (Policies N1 and N4 of The Plan for Stafford Borough).
- 8 To ensure the satisfactory appearance of the development. (Policies N1 and N4 of The Plan for Stafford Borough).
- 9 To ensure the satisfactory appearance of the development. (Policy N1 of The Plan for Stafford Borough).
- 10 To minimise light pollution and to safeguard the amenities of the area. (Policy N1 of The Plan for Stafford Borough).
- 11 To ensure satisfactory appearance of the development (Policy N1 of The Plan for Stafford Borough).
- 12 To ensure that the proposal does not result in flooding, or would be at risk from a flood (Policies N1 and N2 of The Plan for Stafford Borough).
- 13 In order to ensure that the development does not have a detrimental impact on protection species or matters of biodiversity importance and that appropriate enhancement measures are provided. (Policy N4 of The Plan for Stafford Borough).
- 14 In order to safeguard human health and the environment and identify potential contamination on-site. (Policy N1 of The Plan for Stafford Borough)

## Informative(s)

- 1 In accordance with the requirements of Article 35 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015, as amended, and the National Planning Policy Framework 2021, the Council has worked in a positive and proactive way in determining the application and has granted planning permission.
- 2 The applicant should note the advice from the Environment Agency regarding prevention of land contamination risk. The developers should:
  - Follow the risk management framework provided in LCRM - Land Contamination Risk Management when dealing with land affected by contamination.
  - Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
  - Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
  - Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
  - Discharge of liquid effluents
  - Land contamination
  - Ground source heat pumps
  - Drainage
- 3 The applicant should note the advice from the Council's Environmental Health that during construction where potentially contaminated deeper materials are exposed, dust arising should be controlled, particularly from stock piles by for example the use of water sprays or covers. It is recommended that any proposed or future fully enclosed buildings in direct contact with the ground be either elevated or benefit from ground gas protections.
  - 4 The applicant should note the advice from Staffordshire police Design out Crime Officer that the development should be carried out in accordance with Police CPI's Secure by Design guidance.

- 5 The applicant should note the advice from Severn Trent Water that there is a public 375mm combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact Severn Trent Water at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

- 6 The applicant should note the advice provided by the Council's Biodiversity Officer with regards to enhancement of areas of marsh and rough grassland on the north-east edge of the meadow area. A wildlife pond can be excavated in this naturally wet area and enhanced with native planting. For more advice on the design process and a management plan, please contact Stafford Borough Council's Biodiversity team. Please note that any enhancement work will need to be maintained over the next 30 years, as part of the park's management.



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 PLANNING COMMITTEE - 15 MARCH 2023
 

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**Ward Interest - Nil**

### Planning Appeals

*Report of Head of Development*

#### Purpose of Report

Notification of new appeals and consideration of appeal decisions. Copies of any decision letters are attached as an **APPENDIX**.

#### Notified Appeals

Application Reference	Location	Proposal
<b>22/35563/HOU</b> <b>Delegated Refusal</b>	White House Lane Cottage  Whitehouse Lane	Link extension to connect dwellinghouse to existing single storey outbuilding, including incorporation of part of outbuilding into main dwellinghouse.

#### Decided Appeals

Application Reference	Location	Proposal
<b>21/34415/HOU</b> <b>Appeal Allowed</b>	Thyon Bradley Lane Bradley	Increase in ridge height to existing dwelling to take dormer bungalow to a two-storey dwelling with two-storey side and front extensions.
<b>21/35303/HOU</b> <b>Appeal Dismissed</b> <b>Partial Costs Awarded</b>	Ben Rhydding Long Lane Derrington	Ground and first floor side extension and first floor rear dormer roof extension
<b>19/31299/FUL</b> <b>Appeal and Costs Allowed</b>	Woodfield Hilderstone Road Spot Acre	Removal of conditions 1 and 2 of permission APP/Y3425/W/15/3119166 in relation to site occupation

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**Previous Consideration**

Nil

**Background Papers**

File available in the Development Management Section

**Officer Contact**

John Holmes, Development Manager, 01785 619302



## Appeal Decision

Site visit made on 8 January 2023

**by Sarah Colebourne MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 February 2023**

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**Appeal Ref: APP/Y3425/D/22/3307464**

**Thyon, Bradley Lane, Bradley, Stafford, ST18 9DP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr M Owens against the decision of Stafford Borough Council.
  - The application Ref 21/34415/HOU, dated 25 May 2021, was refused by notice dated 12 July 2022.
  - The development proposed is described as 'front and side extension'.
- 

### Decision

1. The appeal is allowed and planning permission is granted for an increase in ridge height to existing dwelling to take dormer bungalow to a two storey dwelling with two storey side extension and front extensions at Thyon, Bradley Lane, Bradley, Stafford, ST18 9DP in accordance with the terms of the application Ref 21/34415/HOU, dated 25 May 2021, subject to the conditions below:-
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P01 Rev B, P03 Rev B.
  - 3) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 4) The development hereby permitted shall not be brought into use until the parking layout has been carried out in accordance with plan no P01 Rev B (Block & Location Plans) and shall thereafter be retained as such for the lifetime of the development.

### Preliminary matter

2. The Council's decision notice refers to the proposed development as an 'increase in ridge height to existing dwelling to take dormer bungalow to a two storey dwelling with two storey side extension and front extensions'. As this describes the proposal in more detail than the description given in the application, I have used this as the basis for my decision and in the formal decision above.

## Reasons

3. The main issue in this appeal is the effect of the proposed development on the character of the dwelling and the area. The development plan includes policy C5(C) of The Plan for Stafford Borough 2011-2031 (2014) which sets out a limit for extensions of no more than 70% of the dwelling as originally built in areas outside identified settlements unless the design and appearance of the proposed extension is proportionate to the type and character of the existing dwelling and the surrounding area. Policies N1g and N1h of The Plan require that proposals are of a high standard of design and have regard to the local context. The National Planning Policy Framework also places great emphasis on high quality design and requires that developments add to the overall quality of the area.
4. The appeal site comprises a small gable fronted, detached bungalow that has been previously extended with a side roof dormer. It sits within a row of detached dwellings on the edge of the village of Bradley that are set well back from and raised above the road, overlooking fields to the front. The dwellings in the row are very varied in style and design, but are all of one and a half or two storeys (two are dormer bungalows) with higher ridges and of significantly greater size than Thyon. There is a sense of openness with generally a gap of a similar width to a single driveway between dwellings. Thyon appears out of scale and disproportionately small in the street scene and somewhat dwarfed by the larger dwellings on either side. It provides little contribution to the character of Bradley Lane.
5. The proposed development would increase the ridge height and would add two storey side and front extensions to the building. Its form would be substantially remodelled from that of a gable fronted bungalow to a two storey house with a roof described by the appellant of 'half dutch gable ends'. Each elevation would be significantly altered. The resultant dwelling would be a two storey house with a half hipped roof with a lower projecting central gable on its front elevation and two small gabled dormer windows either side of that. Materials would be mainly coloured render with brickwork detailing and interlocking concrete roof tiles.
6. As such, the dwelling would have a cottage-style appearance and would be more rustic in character than the more suburban character of the existing bungalow and the other dwellings in the row. I noted at my visit that there are more traditional, vernacular style dwellings in the village further to the south on Holly Lane. This approach is therefore appropriate given the edge of village location, proximity to open countryside, the wide variety of designs in the row and the wider village context.
7. In terms of size and scale, the proposal would be clearly above the 70% threshold in policy C5C with an increased floor area of some 136%. However, the increased height of the dwelling would bring it broadly in scale with its neighbours and would represent a positive enhancement to the street scene. The resulting dwelling would not project significantly beyond the front or rear elevations of the existing or neighbouring dwellings and would respect the established building line along Bradley Lane. The existing gap with Sky View to the north would be retained and although the gap between Thyon and Elmwood to the south would be reduced by reason of the side extension, an adequate gap would be maintained and assisted by the half-hipped roof of the proposal

and the gap at first floor level by reason of the attached neighbouring garage. The proposal would therefore retain a sense of openness between the dwelling and its neighbours. Its size and scale would therefore be acceptable.

8. The plans show a mix of materials, with coloured render for the main walls but brickwork for the projecting gable, plinth and chimney. Although most of the dwellings in the row are built of brick, the projecting gable of the adjacent dwelling 'Sky View' is of white render. The mix of materials proposed would therefore be appropriate. A subtly coloured render would help the proposal blend into the street scene but further details are necessary and would require approval through a materials condition.
9. The replacement of an outdated, suburban style bungalow with this well considered vernacular style house would be a positive addition in this location and the proposal would significantly enhance the street scene. This is an important material consideration that outweighs the conflict with the 70% requirement in policy C5C and the proposal is clearly proportionate to the type and character of dwellings in the surrounding area.
10. As I have not found that any harm would occur, I have not taken into account the fallback position submitted by the appellant that an alternative scheme could be built under the prior approval process.
11. I conclude then that the proposal is of a high standard of design that has regard to its local context. It would add to the overall quality of the area and would not result in significant harm to its character or appearance. It would accord therefore accord with development plan policies N1g and N1h. Whilst there is some conflict with policy C5C in regard to the existing dwelling, this is outweighed by the significant benefit in terms of overall design quality.

### **Conditions**

12. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, in order to provide certainty. A condition requiring the approval of details of external materials is necessary because the plans do not specify full details. To ensure the provision of adequate off-street parking facilities in the interests of the convenience and safety of users of the highway as referenced in policy T2d of The Plan for Stafford Borough, a condition requiring the implementation of parking provision is necessary.

### **Conclusion**

13. For the reasons given above, I conclude that the appeal should be allowed.

*Sarah Colebourne*

Inspector



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## Appeal Decision

Site visit made on 8 January 2023

**by Sarah Colebourne MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 February 2023**

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**Appeal Ref: APP/Y3425/D/22/3306800**

**Ben Rhydding, Long Lane, Derrington, Stafford, ST18 9LL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mrs Alice Waters against the decision of Stafford Borough Council.
  - The application Ref 21/35303/HOU, dated 15 November 2021, was refused by notice dated 22 June 2022.
  - The development proposed is a ground and first floor side extension and first floor rear dormer roof extension.
- 

### Decision

1. The appeal is dismissed.

### Main issues

2. The main issues in this appeal are the effect of the proposed development on:-
  - the character and appearance of the dwelling;
  - the living conditions of the neighbouring occupiers of Wimbourne in terms of privacy.

### Reasons

#### *Character and appearance*

3. The development plan includes policy C5(C) of The Plan for Stafford Borough 2011-2031 (2014) which sets out a limit for extensions of no more than 70% of the dwelling as originally built in areas outside identified settlements unless the design and appearance of the proposed extension is proportionate to the type and character of the existing dwelling and the surrounding area. Policies N1g and N1h of the Plan require that proposals are of a high standard of design and have regard to the local context. The National Planning Policy Framework also places great emphasis on high quality design and requires that developments add to the overall quality of the area.
4. The appeal site comprises a traditional, hipped roof semi-detached bungalow located on a rural lane outside the village of Derrington. Although it sits within a row of mainly large, detached dwellings on Long Lane, this pair of dwellings occupy large, well screened plots and as such, are seen in isolation and the other dwellings are not clearly seen within the same context.

5. The two dwellings are not symmetrical in design. The appeal dwelling appears to have been previously extended some time ago with a small flat roof side extension which would be demolished as part of this proposal. Its neighbour, Wimbourne, has been more recently extended with a large side extension which is flush with the main front elevation and has extended the main ridge to the side with a hipped roof. That extension was approved by the Council in 2016.
6. The proposed development includes a side extension which would be similar to that approved at the neighbouring dwelling, albeit set back from the front elevation slightly with a slightly lower ridge. The Council has not raised any objection to this element in terms of character and appearance and given its similarity to the neighbouring extension, I agree that this would be acceptable in this regard.
7. It has, however, objected to the first floor dormer roof extension which would extend across most of the existing rear roof slope and across part of the extended rear roof slope. It would therefore occupy most of the rear roof slope and by reason of its siting, size and scale, would be unduly bulky and disproportionate to the scale of both the existing bungalow and if it were extended with the side extension. The neighbouring dwelling does not contain any dormers and I disagree with the appellant that the proposed dormer would result in a more balanced appearance. I have noted that the rear of the site is very private and that the dormer would not be seen from the lane and only from the rear of the neighbouring dwelling. However, the Council's policy requires that proposals have regard to character as well as to appearance. Character is not dependent upon visibility from the surrounding area but is an intrinsic element of good design.
8. Whilst roof additions can be added to a dwelling under permitted development rights, including a hip to gable extension and a box dormer, I have not been provided with any evidence to indicate that such extensions would be significantly more harmful than what is proposed here or that those extensions would be acceptable to the appellant and are a likely possibility.
9. Regardless of the appellant's argument that the Council has not accurately assessed whether the proposal falls below the 70% threshold, the proposed dormer would not be proportionate to the dwelling and does not constitute a high standard of design. I conclude, therefore, that it would cause significant harm to the character of the dwelling, contrary to the development plan policies referred to above.

#### *Living conditions*

10. The proposed extension includes a first floor south-facing bedroom window which would overlook the rear of the neighbouring property, Wimbourne, at a distance of some 11m. I have noted that the extension would be outside a line of 45° from those rear facing windows. The extension would slightly exceed the distance between principal windows required by the Council's Supplementary Planning Document 'Design' (SPD) by 0.5m but in any case, the SPD provides guidance only.
11. At my visit I saw that the main garden for Wimbourne lies to its side and is of a generous size. I was able to look over the side boundary wall which separates the rear garden of the appeal site from the rear of Wimbourne. Although it is

separated in part from the appeal site by a small rear flat roofed extension, that would not make a significant difference to any overlooking given that the proposed window would be at first floor level. However, I noted the short distance from the rear elevation to the rear boundary and the restricted size and outlook of the rear area limits its useability. The area comprises a narrow area of hardstanding and does not appear to be used as a sitting out area but as a storage area only.

12. Whilst there would be some degree of overlooking of that area from the proposed window, given that the principal area of useable garden to the side would not be overlooked, I am satisfied that the proposal would not result in a significant loss of privacy and would not harm the living conditions of the neighbouring occupiers of Wimbourne. There is, therefore, no need for me to consider whether there are any conditions that would satisfactorily mitigate the impact of any overlooking. The proposal would accord with policy N1e in The Plan which requires that proposals have regard to residential amenity.

### **Conclusion**

13. For the reasons given above, although I have found that the proposed development would not cause harm in terms of living conditions, my findings in regard to the character of the existing dwelling are significant and overriding. I conclude that the appeal should be dismissed.

*Sarah Colebourne*

Inspector



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## Costs Decision

Site visit made on 8 January 2023

**by Sarah Colebourne MA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 February 2023**

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### **Cost application in relation to Appeal Ref: APP/Y3425/D/22/3306800 Ben Rhydding, Long Lane, Derrington, Stafford, ST18 9LL**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mrs Alice Waters for a partial award of costs against Stafford Borough Council.
  - The appeal was made against the refusal of planning permission for a ground and first floor side extension and first floor rear dormer roof extension.
- 

### **Decision**

1. I allow the application for a partial award of costs.

### **Reasons**

2. The government's Planning Practice Guidance (PPG) states that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant seeks a partial award of costs in relation to the Council's second reason for refusal regarding the overlooking of a proposed bedroom window to the private garden area of the neighbouring dwelling, Wimbourne. In the appeal decision I have dealt with this under the heading 'Living Conditions'. She contends that the Council acted unreasonably, in relation to a substantive matter, on the grounds of:-
  - a) vague, generalised or inaccurate assertions about the proposal's impact, which are unsupported by any objective analysis;
  - b) refusing planning permission on a planning ground capable of being dealt with by suitable conditions that would enable the proposed development to go ahead.

#### *Ground a)*

4. The PPG says that where a local planning authority has failed to produce evidence to substantiate each reason for refusal on appeal or has prevented development that should clearly be permitted according to the development plan, they are at risk of a substantive award of costs due to unreasonable behaviour.
5. The applicant says that during its assessment, the Council should have referred to its 'Design' SPD, to an existing single storey projection, to the width

- constraint of the rear garden in limiting its useability and to the main area of garden to the side.
6. Looking at those matters in more detail, the applicant considers in her appeal statement that as the proposed spacing at 11m exceeds the SPD standard, it ought to have been considered acceptable. The Council's report referred to the SPD in regards to the impact on another property, Barncroft, which adjoins the boundary on the other side of the property but not in regard to the impact on Wimbourne. However, the SPD provides guidance only and given the narrow margin of only 0.5m, even if the Council had referred to it, the planning officer would have been entitled to make their own judgment in that regard and it is unlikely that it would have made a significant difference.
  7. Whilst the Council did not refer to the rear ground floor projection at Wimbourne, as that is very small and the window in question would be at first floor height it would not make a significant difference to overlooking of the rear garden area, as I noted in my appeal decision. Therefore, the omission of any reference to that was not significant and may not have made a difference to the planning officer's assessment.
  8. However, and crucially, the report did not note that the main area of garden lies to the side of that property. Neither did it refer to the fact that the rear area is constrained in its size and outlook. I further noted that it is an area of hardstanding and found that its restricted size and outlook seem to have limited its useability, particularly as the side garden forms the main garden to the property. The matters I have noted in this paragraph were important in my findings. I agree with the applicant that the Council did not make a full assessment of the site characteristics at Wimbourne and that had it done so, then the need for the appeal on that matter could have been avoided.

*Ground b)*

9. The appellant also states that this issue could have been dealt with by a condition for obscure glazing. I did not address the matter of such a condition in my decision because I concluded that there was no harm in terms of living conditions and there was, therefore, no need to consider whether or not any harm could be satisfactorily mitigated.
10. The Council says that as the applicant did not take the opportunity to amend the proposal in that regard during the course of the application, despite being aware of the officer's concerns, and that as the application was being refused for an additional reason, it had to include all matters it found unacceptable.
11. I disagree because if the officer's report had considered whether there were any suitable conditions that might overcome its concerns, the need for a refusal on this matter may have been avoided as might the need for the applicant to address the matter of living conditions in her appeal.

**Conclusion**

12. For the reasons given above, I find that unreasonable behaviour, in substantive terms, resulting in unnecessary or wasted expense as described in the PPG has been demonstrated in regards to both grounds a) and b) and that a partial award of costs is justified.

### **Costs Order**

13. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Stafford Borough Council shall pay to Mrs Alice Waters the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
14. The applicants are now invited to submit to Stafford Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Sarah Colebourne*

Inspector



## Appeal Decision

Inquiry held on 1 – 2 and 21 November 2022

Site visit made on 3 November 2022

**by Phillip J G Ware BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 February 2023**

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**Appeal Ref: APP/Y3425/W/3119166**

**Land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr George Clee against the decision of Stafford Borough Council.
  - The application Ref 19/31299/FUL, dated 9 October 2019, was refused by notice dated 4 December 2019.
  - The development proposed is the removal of conditions 1 and 2 of planning permission reference APP/Y3425/W/15/3119166 granted on appeal (15th November 2016) to facilitate the change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use.
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### Procedural matters

1. The description of the development varied between the planning application form, the Council's decision notice, and the appeal form.
2. Several Case Management Conferences were held to discuss procedural matters and the description in the banner heading above was agreed by all parties as being accurate. I am satisfied that this fairly describes the proposal and that no prejudice would be caused by dealing with the appeal on that basis.

### Decision

3. The appeal is allowed and planning permission is granted for the removal of conditions 1 and 2 of planning permission reference APP/Y3425/W/15/3119166 granted on appeal (15th November 2016) to facilitate the change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use on land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP in accordance with the terms of the application, Ref 19/31299/FUL, dated 9 October 2019, subject to the conditions set out in the Annex to this decision.

### Application for costs

4. At the Inquiry an application for partial costs was made by Mr George Clee against Stafford Borough Council. This application is the subject of a separate Decision.

## Main issues

5. The parties agree that the proposal is inappropriate development in the Green Belt, and that harm to the Green Belt should be afforded substantial weight. On that basis, the issues in dispute are:
  - The effect of the development on the openness of the Green Belt and the purposes of including land within it.
  - The weight to be attached to matters argued in favour of the proposal:
    - The provision of and need for gypsy sites within the area.
    - The alleged failure of policy.
    - The accommodation needs and personal circumstances of the site occupants.
    - Human Rights, Public Sector Equality Duty and the Best Interests of the Child.
  - Whether the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

## Reasons

### The site and relevant planning history

6. The appeal site is located in an area of generally undeveloped countryside around 370 metres northwest of Spot Acre, 650 metres west of Crossgate and 2.7km southeast of Meir Heath. There are agricultural fields to the north, with woodland immediately to the south, dense woodland to the east, and Hilderstone Road to the west – from which access is gained. There is some sporadic residential development in the area.
7. The site has been used as a gypsy caravan site since early 2005, and there are a number of relevant planning decisions since that time. These are set out in the General Statement of Common Ground.
8. In particular an appeal decision in 2009 allowed the use of the site for the stationing of caravans for 5 gypsy pitches and related facilities.<sup>1</sup> This was a five year limited period permission and was made personal to a number of named individuals.
9. In 2016 planning and enforcement decisions dealing with two appeals were issued.<sup>2</sup> These allowed the continuation of the use on a personal basis for a three year period.
10. The purpose of this appeal is to remove the personal and temporary conditions imposed in 2016 and to allow permanent occupation of the site by anyone who is a Gypsy or Traveller. Personal circumstances related to the existing occupiers of the site were also put forward.

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<sup>1</sup> APP/Y3425/A/09/2099291

<sup>2</sup> APP/Y3425/W/15/3119166 and APP/Y3425/C/15/3133219-3133223

### The development plan

11. The development plan includes The Plan for Stafford Borough 2011-2031 (adopted 2014). The most important policies are SP7 and C6.
12. Policy SP3 directs the majority of new development to service centres. SP7 deals with land outside service centres and settlement boundaries and provides that, in such areas (including the appeal site), development will only be supported if, amongst other matters, it is in line with national policy (this specifically is stated to apply to development in the Green Belt).
13. Policy C6 states that provision will be made for the delivery of sufficient good quality, appropriately located residential pitches to satisfy local need as set out in the Gypsy and Traveller Accommodation Needs Assessment. It provides that specific sites will be identified through a Site Allocations SPD. This has not in fact happened. The policy also provides a number of criteria for considering proposals.
14. It is useful to note that, in closing submissions, it was accepted for the Council that the policy framework is now very similar to the position at the time of the 2016 appeal decision.

### Green Belt

15. As referenced above, the parties accept that, in line with national policy, the proposal is inappropriate development in the Green Belt, and it is clear that such development should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt – and this includes ‘definitional harm.’
16. The parties agree that the proposal would have an effect on the openness of the Green Belt, although they differ as to the extent of the effect. The Council’s position is that there would be a significant adverse effect whereas the appellant refers to the extent of screening which is said to greatly reduce any effect.
17. Clearly the use of the site has a modest spatial effect on openness, and this is not contested by the appellant. In relation to the visual dimension, I note that Hilderstone Road is well treed and from most locations the effect on the openness of the area is very limited indeed. However at the entrance the extent of the development is clear and the upper parts of the caravans and structures can be seen. The effect on openness is limited due to the relatively small scale of the development and the extent of natural screening.
18. In terms of safeguarding the countryside from encroachment, it is clear that the use has had and would have a limited effect on this purpose of the Green Belt.
19. Overall, the definitional harm to the Green Belt, to which must be added the limited harm to openness and to one of the purposes of including land in the Green Belt, is a matter to which I give substantial weight. It would conflict with policy SP3 summarised above.

### The need for and provision of gypsy sites

20. The situation regarding the general need for and supply of sites for gypsies and travellers is materially different to the position which existed at the time of the

2016 appeal. Unlike the position at that time the Council now accepts that it cannot demonstrate a 5 year supply of land for gypsy and traveller sites.

21. I will return to personal needs later, but as an example of the general position the parties agree that there are no alternatives for the current occupiers of the site. This is the same position as at the 2016 appeal. The parties also agree that any sites which could be considered must be available, affordable, acceptable and suitable.
22. The Gypsy and Traveller Accommodation Assessment (GTAA) (2022), which will be part of the evidence base for the draft Local Plan, sets out the current position. However there are a number of issues raised which leads to the appellant's conclusion that the assessment seriously underestimates the problem.
23. Any alleged deficiencies in the GTAA will doubtless be considered at a future Local Plan examination, but they are of some importance as evidence in this appeal in order to consider the robustness of the Council's position. The key issues raised by the appellant related to the Council's position are:
  - Whether turnover can reasonably be included as a component of supply. I appreciate that the last Inspector considered it reasonable to make some allowance for turnover in the particular circumstances of that appeal. I do not know what evidence was put before him, but in the case of the current appeal there is nothing to guide me as to likely turnover rates and, in the absence of any such evidence, I do not regard this as positive planning to meet an acknowledged need. The Council accepted at the Inquiry that reliance on turnover does not equate to deliverability in terms of national policy.
  - The pitch size and overall capacity of the Council's Glover Street site was discussed. But again I have nothing before me to be able to assess the likely capacity of that site. (What was agreed was that it is not suitable for the current occupiers of the appeal site.)
  - It was stated that there have been no interviews as part of the GTAA process with those in conventional housing. If that is the case, it does seem that this could be a potential issue with the robustness of the figures.
  - It was put that the GTAA allows for outward migration but not inward migration. This reason for this approach was not persuasively explained at the Inquiry, and it does seem an odd approach to adopt.
  - There was a dispute as to whether sites for which details are withheld and which do not have planning permission can be considered as part of potential future supply. At the Inquiry it was stated for the Council that there are two specific sites in this category, but I was told that no details could be given. On that basis, I give them no weight nor do I give any other similar confidential sites any weight.
  - The reliance on windfall sites was argued not to represent positive planning in line with national policy. Whilst it is reasonable to assume that there may be an element of windfall, I do not see how this equates

with the positive approach in national policy – nor with the Council’s own development plan policy. The Council accepted at the Inquiry that windfall sites cannot be considered deliverable in terms of national policy.

24. Overall, the Council’s approach as explained at the Inquiry is, to say the least, optimistic.
25. But even ignoring these matters, which may arguably result in an underestimation, there is a 31 pitch shortfall from 2026/27 to 2039/40. In addition it is unclear if these figures will increase as a result of the judgement in the Smith v SSLUHC decision<sup>3</sup>.
26. In considering this matter I am aware that the Council’s position is that the need will be addressed by the draft Local Plan – said to be due for adoption in 2024. However, despite previous commitments, there are still no allocations nor evidence of any allocations process underway.
27. The last Inspector, based on the evidence before him, preferred the GTAA approach rather than the appellant’s position, but still found a significant unmet local need, which was an important material consideration in his conclusion. In the current absence of a 5 year supply, I give this matter very great weight. The proposal complies with policy C6 to the limited extent that it bites on proposals for private sites rather than public provision. I obviously appreciate that the site is within the Green Belt, and am aware of the position as set out in Planning Policy for Traveller Sites, but this does not mean that unmet need can or should be ignored.

#### Policy failure

28. The failure of policy is a matter raised by the appellants in this case.
29. For this to be an issue in its own right, attracting weight, it must be more than an existing unmet need or inability to provide a five year supply of pitches. There must be evidence of a persistent failure of the authority to put policies or other measures in place to meet the accommodation needs of Gypsies and Travellers and of a corresponding long-standing unmet need for sites.
30. The appellant’s position is that the Council has expressed the intention to address the assessment of need and provide for that need since 2009. But it is submitted that this has not happened.
31. In the 2009 appeal decision the Inspector considered that provision would be made through an Allocations DPD which was, at that time, anticipated to be adopted in 2012. But no allocation was forthcoming.
32. In 2014 the Plan for Stafford Borough provided that specific sites would be provided through a site allocations DPD. However this has not happened.
33. In the 2016 appeal decision the Inspector noted that there was a strong expectation that alternative accommodation (for the site occupiers) would be available within 2-3 years. The Inspector at that time noted the failure of policy but considered that in view of the Council’s progress towards meeting the identified need, the failure of policy did not have serious consequences and

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<sup>3</sup> Smith v SSLUHC & Ors [2022] EWCA

- warranted only moderate weight. There is still no alternative accommodation available.
34. It is also noteworthy that in 2016 the Council stated that it was able to demonstrate a 5 year supply of sites. The position now is worse and the Council accepts that there is no 5 year supply.
  35. The Council's position in submissions is that it is not tenable to assess success or failure when half of the plan period remains, and that the position should only be considered at the end of the period. Frankly this flies in the face of common sense – there would be no point in considering the success of a policy or plan only at the end of the period – when nothing could be done about any failure. Logically the progress of a plan must be assessed throughout its lifetime and, if necessary, action taken.
  36. Nor do I consider that reliance on windfall sites – which have in any case had little impact on the position – amounts to positive planning. I have seen no evidence of the constructive and proactive efforts referenced by the Council. Since 2009, and perhaps before, there have been no allocations and nothing to indicate that the Council is attempting to address the acknowledged need.
  37. With this background I am unsurprised to note the Council's evidence that “..there has been a failure of policy to fully meet the needs of gypsies and travellers through the current development plan, with the LPA not demonstrating positive planning by relying on windfall sites to meet an identified need.” Whilst accepting this position in general, I do not agree with the Council's use of the word “full”. The Council's evidence continued that the progress which was stated to be in hand to meet the need reduces the weight to moderate. As explained, I am not aware of any significant progress and the 5 year supply position is in fact getting worse.
  38. The Council's failure to deliver sites to meet the acknowledged general need means there is also a failure by the Council to have due regard to its duty under the Public Sector Equality Duty (PSED) set out in s149 of the Equality Act 2010. This is because the Council is required to consider how it could positively contribute to the advancement of equality and good relations, with s149 placing an onus on public authorities not only to avoid discrimination, but also be proactive in promoting equality.
  39. Consequently, the persistent and prolonged failure of planning policy to provide sites to meet the immediate and pressing need of the gypsy and traveller community weighs substantially in favour of allowing the appeal.

#### Other matters and planning balance

40. Various other matters were raised in evidence by the Council, which I will address briefly.
41. The Council, in evidence though not in the reason for refusal or Statement of Case, stated that the site is locationally unsustainable. The discussion focussed on the policy in Planning Policy for Traveller Sites is that new traveller sites should be very strictly limited in “..open countryside that is away from existing settlements..”.
42. In this context although some settlements have a relatively dispersed form, I do not agree with the appellant that this site falls within a non-nucleated

- settlement, but rather that it is set in the open countryside that is away from existing settlements. However there was little evidence of the potential consequences of that location in sustainability terms, and this is not a matter which is central to my decision.
43. There was also a suggestion in evidence that the proposal would harm the character and appearance of the area. However that was not a reason for refusal and was accepted by the Council as to be 'so immaterial as to be neutral'. I agree.
  44. There was also a suggestion in evidence, though not in the reason for refusal, that the proposal comprised intentional unauthorised development. The appellant made submissions on that suggestion, but it was not pursued further by the Council and is not a matter I need to consider.
  45. In overall summary I have given substantial weight to the harm caused by inappropriate development in the Green Belt, including the effect on openness and related to encroachment. However set against that is the very great weight I have given to the need/supply position in the context of the lack of a 5 year supply, with additional substantial weight as a result of the failure of policy.
  46. Overall, very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm is clearly outweighed by other considerations. I note that Policy E of the Planning Policy For Traveller Sites (PPTS) provides that that subject to the best interests of the child, personal circumstances and unmet need are unlikely to clearly outweigh the harm to the Green Belt and any other harm so as to establish very special circumstances (my underlining).
  47. However, in this case, there is a considerable scale of need, which may be even greater having regard to a recent judgement and the issues related to the GTAA. There is no 5 year supply of sites and a failure to comply with PPTS in relation to site provision. There is a persistent and prolonged failure of the Council's planning policy, and a failure to meet PSED.
  48. I therefore conclude that the harm to the Green Belt by reason of inappropriateness, and other harms, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
  49. Personal circumstances have been put before me, however, it has not been necessary to examine these in any great detail as I have already concluded that the balance is in favour of allowing the appeal. The site clearly meets the occupiers' needs but no personal condition is necessary, as consideration of personal circumstances could only add to arguments in favour of permission.
  50. I have had regard to the human rights of the families in question and the best interests of the children. As I intend to allow the appeal and grant permission there would be no interference with their rights or interests.

Conclusion

51. For the reasons given above I conclude that the appeal should be allowed.

*P. J. G. Ware*

Inspector

**Annex**

**Conditions**

1. There shall be no more than five pitches on the site and on each of the five pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a static caravan or mobile home.  
Reason: In the interests of controlling the scale of the development in terms of the character of the area.
2. No sheds or utility/day buildings, other than those hereby permitted, shall be erected on the site unless details of their size, materials and location have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.  
Reason: In the interests of controlling the scale of the development in terms of the character of the area.
3. No vehicle over 3.5 tonnes shall be stationed, parked or stored on the site  
Reason: In the interests of the amenity of occupiers of the development and nearby residents.

**APPEARANCES**

**FOR MR GEORGE CLEE**

Mr Michael Rudd of Counsel, instructed by the Mr Matthew Green	
He called:	
Mr Matthew Green BA(Hons)	Director, Green Planning Studio
(The witness statements listed below were taken as read and not called of cross-examined)	

**FOR DORSET COUNCIL**

Mr Timothy Leader of Counsel, instructed by Mr John Holmes	
He called:	
Mr David Pickford BSc(Hons) MSc MRTPI	Associate Planner, Pegasus Group

**INQUIRY DOCUMENTS**

Doc 1	Appellant's opening submissions
Doc 2	Council's opening submissions
Doc 3	Council's letter of notification of the Inquiry
Doc 4	Adult site occupants (2/11/22)
Doc 5	Third Witness statement of Jim Smith junior
Doc 6	Third Witness statement of George Clee
Doc 7	Third Witness statement of William Varey
Doc 8	Third Witness statement of John Varey
Doc 9	Third Witness statement of Jim Smith senior
Doc 10	Council's closing submissions
Doc 11	Appellant's closing submissions
Doc 12	Costs application by the appellant
Doc 13	Council's response to the appellant's costs application
Doc 14	Appellant's response to the Council's costs response



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## Costs Decision

Inquiry held on 1 – 2 and 21 November 2022

Site visit made on 3 November 2022

**by Phillip J G Ware BSc DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 February 2023**

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### **Costs application in relation to Appeal Ref: APP/Y3425/W/3119166 Land to the northeast side of Hilderstone Road, Spot Acre ST15 8RP**

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr George Clee for a partial award of costs against Stafford Borough Council.
  - The inquiry was in connection with an appeal against the refusal of planning permission for the removal of conditions 1 and 2 of planning permission reference APP/Y3425/W/15/3119166 granted on appeal (15th November 2016) to facilitate the change of use for the stationing of caravans for five gypsy pitches, with utility/day rooms, access road and areas of hardstanding ancillary to that use.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

#### **The submissions for Mr George Clee**

2. The Council raised three matters for the first time in the proof of evidence. These had not been referenced in the reason for refusal, as they were required to be, nor in the Council's Statement of Case. The unreasonable introduction of this material at such a late stage required the production of a rebuttal statement to ensure that the appellant's case was fully before the Inquiry. The cost of the production of this rebuttal evidence was unnecessary.
3. The first new matter was the allegation of harm to the character and appearance of the countryside. The Council's Statement of Case expressly dealt with openness in the context of the Green Belt. It did not address the impact on the character and appearance of the countryside.
4. The Council's statement in an email in August 2022 that the impact on character and appearance could be given "neutral weight" is not relevant. The Council did not withdraw the evidence.
5. The second new matter was the site's alleged isolated location in the open countryside. Again, this was not mentioned until the proof of evidence, and the fact that a previous Inspector had dealt with the matter did not imply that it was part of the Council's case to be considered at the Inquiry.
6. The third matter was the allegation of intentional unauthorised development. As before, this was not raised until the proof of evidence and the fact that the Council subsequently did not pursue the matter is not relevant. As with the

other matters, it was an unexpected complaint against the appeal which the appellant had to deal with.

### **The response by Stafford Borough Council**

7. In relation to the effect on the character and appearance of the countryside, the Council's Statement of Case referred to the effect of development on the visual qualities of the land. The effect of the scheme on the appearance and character of the site and the surrounding area of the Green Belt is synonymous with the effect on its visual qualities.
8. In any event the Council's witness, following the final Case Management Conference, confirmed that the issue of character and appearance should be attributed "neutral weight". That could only sensibly be interpreted as meaning that it was not relied on as a reason for refusal.
9. The site's isolated location in open countryside was a matter dealt with by a previous Inspector, and it was clear that this would also be an issue in this appeal.
10. Intentional unauthorised development and the related Written Ministerial Statement was capable of being a material consideration at the start of the Inquiry. The status of the site's occupants was far from clear until almost the close of the Inquiry. When this became clear the Council stated that it would not submit that this matter was material to the decision.

### **Reasons**

11. Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
12. The claim for partial costs relates solely to the appellant's rebuttal evidence which, it is alleged, was necessitated by the Council's evidence going beyond the reasons for refusal and the Statement of Case. Before turning to the specific areas of complaint, I will deal with the principle.
13. As a matter of law and procedural fairness, it is important that the parties to an appeal should know the case they have to face. The days of surprise evidence being produced at a late stage have long gone. Although inevitably the evidence becomes more detailed after the Council's reasons for refusal, up to and including the Inquiry itself, the principle of the issues should be clear from a very early stage.
14. In particular it is a requirement that where planning permission is refused, the refusal notice should state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan that are relevant to the decision. If that is not done, and the position of the authority departs from the reasons for refusal, that could well be unreasonable behaviour.
15. I will now turn to the particular complaints raised by the appellant.
16. Firstly the impact on the character and appearance of the countryside was not raised as a reason for refusal. The Council's position was confusing on this matter. In the Council's planning proof it was stated that a number of matters

were “..pertinent to this appeal..”. These matters included character and appearance, and seven relatively lengthy paragraphs were devoted to that topic, with the conclusion that modest weight should be given to that harm. The Council suggested that it flowed from the reason for refusal. But it did not do so as the effect on character and appearance is not the same as Green Belt issues (which were raised in the reason for refusal).

17. The reference by the authority to the Council’s Statement of Case is disingenuous as paragraph 22 of that document is clearly referring to the Green Belt and not the effect on character and appearance.
18. In an email in August 2022 the Council stated that this matter should be given “..neutral weight..”. However the relevant parts of the evidence were not withdrawn and remained before me for consideration.
19. Secondly the site’s isolated location in the open countryside. Again, this was not mentioned in the reason for refusal of elsewhere, but was included in the proof of evidence. This took the form of three relatively substantial paragraphs, concluding that there was a conflict with the development plan and stating that this harm should be given significant weight.
20. Finally the matter of intentional unauthorised development (referring to the Written Ministerial Statement). Again, there was no reference in the reason for refusal or subsequently but was a matter raised in the proof of evidence. Six paragraphs in the proof concluded with the this should be given significant weight. The Council at the Inquiry did not pursue this matter.
21. All three matters were raised by the Council at a very late stage, all went well beyond the reason for refusal and the Statement of Case. The fact that they were pursued to a limited and variable extent at the Inquiry is not relevant as the claim for costs relates to the clear need for the appellant to produce rebuttal evidence to address this new material. The emergence of these issues at a late stage was clearly unreasonable and put the appellant to the unnecessary expense of producing evidence in response.
22. I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated and that a partial award of costs is justified.

#### COSTS ORDER

23. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED Stafford Borough Council shall pay to Mr George Clee, the costs of the appeal proceedings described in the heading of this decision, related solely to the production of the appellant’s rebuttal evidence; such costs to be assessed in the Senior Courts Costs Office if not agreed.
24. The applicant is now invited to submit to Stafford Borough Council details of those costs with a view to reaching agreement as to the amount.

*P. J. G. Ware*

Inspector