



Department for  
Communities and  
Local Government

Our Ref: APP/Y3425/W/15/3137539

Charlotte Goodwin  
Project Manager  
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CW12 1LB

30 January 2017

Dear Ms Goodwin

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY GLADMAN DEVELOPMENTS LTD  
ERECTION OF UP TO 90 DWELLINGS AT STOWE LANE, HIXON, STAFFORD  
APPLICATION REF: 15/21806/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Nicola Gulley MA MRTPI, who made a site visit on 9 February 2016 and considered written representations into your appeal against the decision of Stafford Borough Council (“the Council”) to refuse your application for planning permission for the erection of up to 90 dwellings at Stowe Lane, Hixon, Stafford in accordance with application ref: 15/21806/OUT dated 30 April 2015.
2. On 14 July 2016, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with her recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Matters arising since the close of the inquiry**

4. Following the making of the Hixon Neighbourhood Plan and the publication of the Written Ministerial Statement on Neighbourhood Plans, the Secretary of State invited additional comments from the main parties to the appeal on 3 January. A list of the representations received is at Annex A and copies may be obtained on written request to the address at the foot of the first page of this letter. The Secretary of State has given careful

consideration to all representations received but, for the reasons given below, does not consider that they raise any further issues on which he requires additional information before proceeding to a decision on this case.

### **Policy and statutory considerations**

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of the Plan for Stafford Borough (PSB) 2011-2031 (adopted June 2014) and the Hixon Neighbourhood Plan (HNP) (made on 22 November 2016). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR7-8 together with relevant policies in the now made Hixon Neighbourhood Plan (IR12).
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning practice guidance ('the Guidance') and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

### **Emerging development plan**

8. The emerging plan comprises Part 2 of the Plan for Stafford Borough (eP2PSB). The Secretary of State notes that, following submission of Inspector's report into this appeal, the Council has received the Plan Inspector's final report and that this was published on the Council's website on 10 January. The Secretary of State considers that, given the advanced stage of the eP2PSB, considerable weight should be given to the significance of the proposed settlement boundary for Hixon.

### **Main issues**

9. The Secretary of State considers that the main issues are those set out by the Inspector in her conclusions (IR34-42).

#### *Supply and distribution of housing*

10. The Secretary of State has considered carefully the Inspector's analysis at IR34-37 and agrees with her conclusion at IR38 that there is an agreed 5 year housing land supply; that the presumption in favour of sustainable development in NPPF14 does not apply; and that there is no demonstrable need to extend the settlement of Hixon into the countryside. He further agrees with the Inspector that the proposed development would contribute to an unsustainable pattern of development and would undermine the spatial strategy of the PSB and the HNP. He also considers that, in this regard, the proposal conflicts with the emerging development plan.

#### *Landscape character*

11. For the reasons set out at IR39-40, the Secretary of State agrees that in visual terms, the development would result in the erosion of part of the countryside surrounding Hixon, but also agrees that, given the proposed landscaping, there would not be a significant adverse impact on the visual qualities of the settlement and surrounding areas. Overall, and like the Inspector he considers that the appeal proposal would accord with the relevant policies of the PSB (IR40)

### *Other matters*

12. The Secretary of State has considered the other matters raised during this appeal. For the reasons set out at IR41-42, he agrees with the Inspector on these matters.

### **Planning conditions**

13. The Secretary of State has given consideration to the recommended conditions set out in the Inspector's Report and national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions would comply with the policy test set out at paragraph 206 of the Framework, but he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

### **Planning obligations**

14. Having had regard to the Inspector's analysis at IR21, the Section 106 Agreement, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State considers that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, directly related to the development, and are fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for deciding that the appeal should be dismissed and planning permission should be refused.

### **Planning balance and overall conclusion**

15. The Secretary of State considers that the appeal scheme is not in accordance with the adopted PSB and the made HNP. He also considers it conflicts with the emerging eP2PSB. The Secretary of State concludes that the appeal proposal is not in accordance with the development plan overall. He has gone on to consider whether there are any material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He attaches moderate weight in favour of the appeal scheme to the delivery of housing (especially affordable housing).
16. Overall, the Secretary of State does not consider there are sufficient material considerations which indicate that the proposal should be determined other than in accordance with the development plan. He therefore concludes that the appeal should be dismissed and planning permission refused.

### **Public Sector Equality Duty**

17. In making this decision, the Secretary of State has had due regard to the requirements of Section 149 of the Equality Act 2010, which introduced a public sector equality duty that public bodies must meet, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. In this regard and in coming to this decision, the Secretary of State has considered the negative impact that would arise given that affordable homes will not be built.

## **Formal decision**

18. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses outline planning permission for the erection of up to 90 dwellings in accordance with application ref: 15/21806/OUT dated 30 April 2015 at Stowe Lane, Hixon, Stafford.

## **Right to challenge the decision**

19. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

20. A copy of this letter has been sent to Stafford Borough Council.

Yours sincerely

*Ray Colbourne*

Authorised by Secretary of State to sign in that behalf

**Schedule of representations**

<b>DATE</b>	<b>CORRESPONDENT</b>	<b>Nature of response</b>
10/01/2017	John Dolman Planning Application Case Officer Stafford Borough Council	Response to reference back of 03/01/2017 consultation
13/01/2017	Laurie Lane Planning Director Gladman Developments Ltd	Response to Final reference back of 11/01/2017 consultation

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# **Report to the Secretary of State for Communities and Local Government**

**by Nicola Gulley MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Date: 28 October 2016**

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TOWN AND COUNTRY PLANNING ACT 1990

STAFFORD BOROUGH COUNCIL

APPEAL BY GLADMAN DEVELOPMENTS LIMITED

Site visit made on 9 February 2016

Stowe Lane, Hixon, Stafford, ST18 0NF

File Ref: APP/Y3425/W/15/3137539

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**File Ref: APP/Y3425/W/15/3137539**  
**Stowe Lane, Hixon, Stafford, ST18 0NF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
- The appeal is made by Gladman Developments Limited against the decision of Stafford Borough Council.
- The application Ref 15/21806/OUT, dated 16 February 2015, was refused by notice dated 30 April 2015.
- The development proposed is 90 dwellings with associated access.

**Summary of Recommendation: The appeal be dismissed.**

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**Procedural Matters**

1. Determination of the appeal was recovered by the Secretary of State by way of a direction dated 14 July 2016. The reason given for the recovery is that *"the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made"*.
2. The application is made for outline planning permission with all matters except access reserved for later approval.
3. The application was refused for two reasons which in summary were: 1) That the proposal would contribute towards a disproportionate amount of development at lower levels of the sustainable settlements hierarchy and would conflict with, and undermine the development strategy set out in Spatial Principle 4 of the Plan for Stafford Borough; and 2) that the proposal would not constitute sustainable development because it would impact adversely on important views and would affect the character of the area and would conflict with Spatial Principle 7(f) of the Plan for Stafford Borough.
4. Additional information has been provided by the Council in respect of the planning policy context for the site and a recent appeal decision, reference APP/Y3425/W/16/3145593, has been included in this report. The appellant has had the opportunity to consider this information and has no comments to make.

**The Site and Surroundings**

5. The appeal site comprises an area of approximately 4.8 hectares of largely open pasture located to the east of Stowe Lane on the northern fringe of the settlement of Hixon. The site is bordered by open land to the north, east and west and by residential and commercial development along Stowe Lane, Legge Lane and Greenfields Road. Pedestrian and vehicular access to the site is afforded via Stowe Lane and the car park of The Green Man Public House. The site is crossed by a public footpath.
6. The settlement of Hixon is served by a number of shops, community and recreational facilities and educational services. Public transport facilities are provided by a regular bus service to Uttoxeter, Great Haywood and Stafford and by rail services at Stafford which has frequent services to Lichfield,

Wolverhampton, Tamworth, Birmingham, Stoke-on Trent, Crewe, Macclesfield, Manchester and Liverpool.

## **Planning Policy**

### *Plan for Stafford Borough*

7. The local planning policy framework is provided by the adopted Plan for Stafford Borough (PSB) (2014). Section 6 of the PSB provides the strategy for the delivery of new housing development. Spatial Principle (SP) 1 outlines a presumption in favour of sustainable development. Whilst SP2 expresses a requirement for 10,000 new dwellings over the plan period to meet the objectively assessed housing needs of the Borough. This will be delivered by a combination of committed sites, C2 development, windfall sites and the development of 4 no. Strategic Development Locations (SDLs). New dwellings will be delivered in accordance with SP3 (Sustainable Settlement Hierarchy) and SP4 (Housing Growth Distribution). The combination of SP3 and SP4 Principles require: 70% (7,000) of the new housing to be developed in Stafford; 10% (1,000) in Stone; 12% (1,200) in 11 no. Key Service Villages (KSV), which includes Hixon; and 8% (800) in the Rest of Borough Area.
8. In addition, SP7 (Supporting the Location of New Development) outlines a requirement for the designation of settlement boundaries and provides criteria for the assessment of development proposals, which include the impact of development proposals on the special character of the area. This approach is supported by Policy N8 which provides a detailed framework for the assessment of the impact of proposals on the character of settlements and their landscape setting.
9. In determining the planning application the Council assessed the proposed development in accordance with the requirements of Policy C5 (A) of the PSB. The policy provides a framework for assessing and controlling development proposals that are located outside the settlement hierarchy identified in SP3. However, the settlement of Hixon is identified in SP3 as a KSV and, as a consequence, this policy does apply to the proposed development.

### *Plan for Stafford Borough Part 2*

10. In addition, the emerging Plan for Stafford Part 2 (PSB2) was submitted for examination to the Secretary of State at the end of April 2016. PSB2 contains proposals for a settlement boundary for Hixon which, it is suggested, seeks to protect the countryside surrounding the settlement from inappropriate development. The appeal site lies outside the proposed boundary and, during the deposit period, two representations were received to the Draft PSB2 requesting the inclusion of the appeal site in the settlement boundary for Hixon. These were considered as part of the examination into the PSB2 held in August 2016.
11. Following the Examination in PSB2 the Council has been asked to consult on three main modifications. None of these changes relate to amending the settlement boundary at Hixon. Consultation on the main and additional modifications proposed will be issues for public consultation during September 2016.



### *Hixon Neighbourhood Plan*

12. The HNP includes, amongst other things, proposals for a settlement boundary that excludes the appeal site and seeks through Policy No. 1 to limit new housing development in the village to 125 dwellings between 2011 and 2031. The Plan was made available for public consultation in November 2015 during which time representations were received from the appellant requesting the inclusion of the appeal site in the settlement boundary. The subsequent examination into the policies and proposals contained in the HNP, which reported in February 2016, indicated that, subject to some modifications, the Plan could proceed to referendum. These modifications did not include an amendment to the settlement boundary to include the appeal site.
13. The HNP referendum was held on the 15 September 2016 at which time the residents of the settlement voted to approve the Plan. The Neighbourhood Plan will be considered for adoption at a meeting of Stafford Borough Council's Cabinet on 3 November 2016 and thereafter at a meeting of Full Council on 22 November 2016.

### *National Planning Policy Framework*

14. Specific reference to the national Planning Policy Framework (2012) is set out in the remainder of this report.

### **Planning History**

15. An outline application, reference 14/20863/OUT, which proposed the construction of up to 101 dwellings at the appeal site, was refused by the Council in November 2014. The subsequent appeal, reference APP/Y3425/W/15/3004521, was withdrawn by the appellant on the 28<sup>th</sup> July 2015.

### **The Proposals**

16. The development proposes the construction of 90 dwellings on an area of approximately 4.8 hectares of land.
17. A request for an EIA screening opinion was made to the Council on 29<sup>th</sup> May 2014. The Council responded on 16<sup>th</sup> July 2014 stating that the proposal did not constitute EIA development and that an Environmental Statement was not required.
18. In support of the application the appellant has submitted: a Design and Access Statement; Planning Statement; Flood Risk Assessment and Surface Water Drainage Strategy; Foul Drainage Analysis; a Revised Landscape and Visual Impact Assessment; Transport Assessment; Framework Travel Plan; Affordable Housing Statement; Ground Conditions Study; Noise Assessment Report; Archaeological Assessment; Arboricultural Assessment; Ecological Appraisal; Air Quality Screening Report; Sustainability Assessment; Socio-Economic Impact Assessment; and Statement of Community Involvement.
19. A Framework Plan was also submitted with the application, which indicates areas of development and shows the central section of the site designated for "Higher Density Streets" up to 2 to 2.5 storeys, with "Low Density Green Edge"

to the south and east of this central section. Areas of open space are intended to be provided along the eastern and western boundaries of the site.

20. Access details have been submitted for approval and comprise: a single central access onto Stowe Lane; the provision of additional vehicle passing points along the Stowe Lane; and pedestrian/cycle access utilising the existing public footpath crossing the site and exiting onto Greenfields and Lea Road.
21. A signed and dated Unilateral Undertaking containing planning obligations pursuant to section 106 of the Act was submitted by the appellant. The Undertaking makes provision for: 30% affordable housing of which 80% shall be affordable rented housing and / or social rented housing and 20% intermediate housing; the future management and maintenance of public open space within the site; a financial contribution of £40,670.32 for play space at Millennium Green, Hixon; a financial contribution of £35,268.00 towards the provision, or improvement, of a swimming pool and artificial pitches; and a financial contribution of £159.00 per dwelling towards the Cannock Chase Special Area of Conservation.

### **The Case for Stafford Borough Council**

22. In summary the case for the appellant is as follows:

#### *Supply and distribution of housing*

23. The Council contends that: it can demonstrate a 6.84 year housing land supply including a 20% delivery buffer using the Sedgefield approach and a 7.37 year supply using the Liverpool approach: and that progress is being made in meeting the PSB housing target through the delivery of the SDLs and by the development of a number of windfall sites. To support this position the Council has provided evidence in the form of a Statement of Five Year Housing Land Supply (HLS) (31 March 2015) and a number of recent appeal decisions<sup>1</sup>.
24. In addition, the Council maintains that the proposal would result in the over provision of new residential development in Hixon, which would contribute towards the disproportionate distribution of development within the KSV and undermine the objectives of the PSB's development strategy<sup>2</sup>.
25. Moreover, the Council comments that the appeal site lies outside the settlement boundary for Hixon contained in the PSB2 and the emerging HNP and that, should the appeal be allowed, it would cause irreversible harm and would set a precedent for future development<sup>3</sup>.

#### *Landscape character*

26. The Council contends that the proposed development would be contrary to Policies SP 7(f) and N8 and result in the loss of open views, have an unacceptable impact on the visual amenity of nearby residents and users of the public footpath and, in order to create vehicular access and passing points along Stowe Lane, result in the removal and fragmentation of a dense hedgerow

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<sup>1</sup> The Council's Statement of Case, paragraphs 10.3 – 10.58

<sup>2</sup> The Council's Statement of Case, paragraphs 10.59 – 10.73

<sup>3</sup> The Council's Statement of case, paragraph 10.74

which makes a significant contribution to the rural character and appearance of the lane. Whilst the Council accepts that the appeal site is not an area of special landscape value, it maintains that the core planning principles set out in paragraph 17 of the NPPF require that the planning system recognises the intrinsic character and beauty of the countryside<sup>4</sup>.

### **The Case for the Appellant - Gladman Developments Limited**

27. In summary the case for the appellant is as follows:

#### *Supply and distribution of housing*

28. The appellant does not dispute that the Council can demonstrate a 5 year housing land supply plus delivery buffer, but contends: that the findings of the HLS demonstrate that the Council has failed to deliver the required amount of housing in the first four years of the plan period; that to ameliorate the situation planning permission should be granted for a wide variety of housing sites in different locations. Further, that the NPPF does not state that granting planning permission for sites in areas with a 5 year housing land supply is prohibited or harmful. In support of this the appellant cites a number of recent appeal decisions in which the individual circumstances of the case have led inspectors to conclude that development may be acceptable even where the local planning authority can demonstrate that they have a 5 year supply of housing land<sup>5</sup>.
29. The appellant notes that there are currently sites with permission or resolutions to grant for new 151 dwellings in Hixon. But maintains that the addition of a mere 90 dwellings at the appeal site would take the total homes in the village to 231 and the total in the KSV to 1,440, which itself is only 20% more than the minimum figure in the PSB. Moreover, the appellant considers that the exceedance of the requirement at the KSV tier is therefore not so substantial that it would materially compromise the intended spatial strategy pattern or so significant that it will prejudice the delivery of homes in the Council's Strategic Development Locations<sup>6</sup>.
30. It is suggested by the appellant that the proposal would assist in providing a choice of sites to help the Council deliver its housing target and address its accumulated backlog. In addition the appellant comments that the proposal would help the Government meet its housing delivery ambitions of 1 million additional homes by the end of this parliament<sup>7</sup>.
31. With regard to the HNP the appellant states that it made representations to the Plan, which highlighted serious concerns regarding the provisions of the emerging Plan, including the omission of the appeal site from the settlement boundary and significant issues regarding compliance with the statutory Basic Conditions, which are set out in paragraph 8 (2) of Schedule 4B of the Town and Country Planning Act 1990 (as amended by section 38a of the Planning and Compulsory Purchase Act 2004), such that, in its view,

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<sup>4</sup> The Council's Statement of Case, paragraphs 11.1 – 11.16

<sup>5</sup> The Appellant's Statement of Case, paragraphs 5.1.3 – 5.1.16

<sup>6</sup> The Appellant's Statement of Case, paragraphs 5.1.17 – 5.1.23

<sup>7</sup> The Appellant's Statement of Case, paragraph 5.1.24

significant additional work would be required for the plan to progress successfully<sup>8</sup>.

### *Landscape character*

32. The appellant contends that the policy approach contained in SP7 is inconsistent with the requirements of the NPPF because it seeks to restrict outright any development that has an adverse impact however minor. Furthermore, the appellant maintains that the appeal site: is not subject to any formal landscape designation; has not been identified in either the PSB or the HNP as being an important open space or as being part of an important view; and that its development for housing would only have a minor visual impact on the area in the long term. In support of this the appellant has submitted a landscape and visual impact evidence in the form of the Revised Landscape and Visual Appraisal (RLVA) (2015)<sup>9</sup>.

### **Residents' Objections**

33. Objections to the proposed development have been received from Hixon Parish Council, Stowe-by-Chartley Parish Council, the Hixon Neighbourhood Plan Group and 322 local residents. The objections received from these organisations / individuals relate, in summary, to the following:

- The scale, density and design of the proposed development;
- The impact on the countryside, landscape and rural character and appearance of the settlement;
- Concerns about highway and pedestrian safety particularly along Stowe Lane;
- The impact on the settlement's limited facilities and services;
- The adverse effect on residential amenity;
- The impact on the surface water and drainage of the site;
- Concerns that the proposal would undermine and prejudice the HNP; and
- The disproportionate distribution of development in the KSV.

### **Inspector's Conclusions**

#### *Supply and distribution of housing*

34. The NPPF requires local planning authorities to identify a 5 year supply of deliverable housing sites, plus a suitable additional buffer of 5 or 20% to provide choice and competition in the market<sup>10</sup>.
35. I note the requirement of the PSB and the current position with regard to the delivery of houses to meet the requirement set out in the HLS<sup>11</sup>. However, I am

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<sup>8</sup> The Appellant's Statement of Case, paragraphs 6.1.1 – 6.1.3

<sup>9</sup> The Appellant's Statement of Case, paragraphs 5.2.1 – 5.2.23

<sup>10</sup> The NPPF, paragraph 47

mindful that build rates on large allocated sites, like those in the SDLs, can be lower than anticipated in the early stages of delivery because of matters such as the need to obtain planning permission for the site. With this in mind, I am conscious that the evidence presented by the Council demonstrates that although the delivery rates are below those anticipated, progress is being made with the North Stafford and Western Stafford SDLs and as a consequence the rate of new housing delivery will improve in the short term without the need for additional sites<sup>12</sup>. [7,23,28 and 29]

36. A key element of the PSB spatial strategy is to limit the development of new housing in the smaller villages and rural areas of the Borough and to concentrate development on the larger, more multifunctional settlements of Stafford and Stone. This approach was supported by the PSB Inspector who commented that the proposed distribution would enable a reasonably balanced and flexible amount of new housing to be provided in the KSV without detracting from the main focus of development<sup>13</sup>. The PSB Inspector continued, observing that the proposed levels outlined in SP4 should be used as a guide for the distribution of housing in each of the main settlements, which would enable the overall housing strategy to be delivered, provided that the proposed location for development is sustainable and meets the criteria of other policies<sup>14</sup>. [7].
37. The evidence presented indicates that planning permission has been granted for 1330 dwellings in KSV since 2011 and that approximately 75% of this development would be located primarily within 4 no. of the KSV. The Council's evidence indicates that planning permission exists for 142 dwellings in Hixon, subject to a S106 agreement, for a further 9 dwellings. This equates to approximately 12% of the total allocation for the KSV. The development of the appeal site for up to 90 dwellings would increase the provision of new housing in the village to 241 dwellings and the quantum of new housing development in the KSV to 1429 dwellings. This would mean that the figure of 1200 dwellings to be constructed in the KSV would have been achieved and exceeded by 229 dwellings (18%) in the first quarter of the plan period and that approximately 86% of the new housing development would take place in 5 no. of the KSV (Gnosall, Yarnfield, Great Heywood, Eccleshall and Hixon). Whilst I recognise that the figure of 1200 dwellings contained in SP4 was a guide and that one of the aims of the NPPF is to boost housing supply, I am nevertheless mindful that the scale of the proposal would contribute to the disproportionate distribution of new housing development within the Borough and be contrary to the objectives of the PSB spatial strategy<sup>15</sup>.
38. In light of the evidence presented which suggests that the PSB will deliver the required level of new housing development and the agreed 5 year housing land supply, I do not consider that the provisions of paragraph 14 of the NPPF apply and, as such there is no demonstrable need to extend the settlement of Hixon into the countryside. Furthermore, I consider that additional development in this settlement would, cumulatively, contribute to an unsustainable pattern of

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<sup>11</sup> The Council's Statement of Case, document 5 and the Appellant's Statement of Case, appendix 11

<sup>12</sup> The Council's Statement of Case, paragraphs 10.45 – 10.55

<sup>13</sup> Report on the Examination of the Plan for Stafford Borough Development Plan Document, paragraph 51

<sup>14</sup> Report on the Examination of the Plan for Stafford Borough Development Plan Document, paragraph 53

<sup>15</sup> The Council's Statement of Case, paragraphs 10.64 – 10.73 and the Appellant's Statement of case, paragraphs 5.1.18 – 5.1.23

development which would undermine the spatial strategy of the PSB. As such I consider that the proposed development would be contrary to the objectives of SP1, SP3 and SP4 of the PSB.

### *Landscape character*

39. In addition to those contained in the RLVA<sup>16</sup>, and based on my observations at the site visit I consider the main view points of the site include those from Stowe Lane and the elevated position afforded to the residential estate centred around Puddle Hill and Highfield Road. When viewed from Stowe Lane, I consider that the siting of the proposed vehicular access, close to the junction with Black Lane and Church Road, would mean that it would have the appearance of being part of the developed area of the village. In terms of the view from the residential estate around Puddle Hill and Highfield Road, the proposed development would be seen against the exposed urban edge of the village to the rear of the residential properties fronting Greenfields Road and would provide the opportunity to soften the boundary between the village and adjoining countryside.
40. In visual terms the development of the appeal site for housing would result in the erosion of part of the countryside surrounding Hixon. However, I do not consider that the loss of these unremarkable fields would have a significant adverse impact on the visual qualities of the settlement and surrounding area or that any minor impact that may occur would not be effectively compensated for by the implementation of a landscaping scheme commensurate with that outlined in the Development Framework Plan. With regard to the NPPF, whilst I note that the guidance recognises the importance of the countryside it does not seek to restrict all forms of development within rural locations. As a consequence, I consider that the proposed development accords with the objectives of SP7 (f) and Policy N8 of the PSB.

### *Other Matters*

41. A significant number of objections have been raised by local residents in respect of matters such as the impact of the proposed development on pedestrian and highway safety, the loss of hedgerows and the scale and design of the proposed dwellings. Whilst I note these concerns I am mindful that the proposed development has been subject to a detailed transport assessment, which indicates that safe access can be achieved, and that no substantive evidence has been presented which demonstrates that the findings of the assessment are incorrect. With regard to the impact of the proposed development on hedgerows and the scale and design of the proposed dwellings, I am conscious that this is an outline application with all matters except access reserved, and issues in relation to landscaping and design could be satisfactorily managed as part of the reserved matters process.
42. The Council has drawn my attention to an appeal dismissed in August 2016, reference APP/Y3425/W/16/3145593, which it is suggested is relevant to this appeal. The appeal relates to the proposed development of land to the east of Church Lane, Hixon for the 8 no. dwellings. In dismissing the appeal the

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<sup>16</sup> The Council's Statement of Case, paragraphs 11.6 – 11.14, the Appellant's Statement of Case, paragraphs 5.2.10 – 5.2.21 and the RLVA

Inspector considered: the existing and emerging planning policy context for the site provided by the PSB, PSB2 and HNP; the Council's 5 year housing land supply as at 31 March 2015; the requirement and level of provision for new housing in Hixon and the KSVs; and site specific matters in relation to flooding, ecology and landscape quality. The Inspector concluded that, although there were social and economic benefits to the scheme and that the development would not have an adverse affect on the environment, the proposal would have a harmful impact on the distribution of housing and therefore could not be considered to be sustainable development<sup>17</sup>. Although I note that the appeal was dismissed, it relates to a scheme for new housing in Hixon and fell to be considered under the same national and local planning policy framework. I am however, mindful that the scale and therefore impact of the scheme is different to those of the appeal proposal and as such do not, wholly, parallel the circumstances of this case.

### Conditions

43. A set of draft conditions was submitted by the appellant in respect of the proposal<sup>18</sup>. The Council has not provided draft conditions nor have they raised any concerns in respect of the conditions submitted by the appellant. These draft conditions have been reviewed and, having regard to planning practice guidance, amended to improve the clarity of the condition or, where they were found not to be necessary, omitted.
44. Insofar as conditions are concerned, in addition to the standard time limit conditions **[conditions 3 and 4]**, conditions are required in relation to the submission of reserved matters **[conditions 1, 2 and 6]**. In order to management the potential impact of the development on a non-designated heritage asset a condition is necessary requiring the implementation of a programme of archaeological work **[condition 7]**. A condition is also required in order to ensure that appropriate provision and retention of affordable housing on the site **[condition 8]**. In relation to the water environment a condition is necessary in order to ensure the provision of a scheme for the effective management of surface water and drainage at the site **[condition 9]**. To ensure highway and pedestrian safety conditions are required in relation to the site access, visibility splays, pedestrian and cycle access, the creation of passing bays and the widening of Stowe Lane **[conditions 10, 11, 12 and 13]**. In order to promote sustainable modes of transport a condition is necessary requiring the provision of a travel plan condition **[14]**. A condition in relation to construction method statement is necessary in the interests of residential amenity **[condition 15]**, and in order to ensure the effective management of ecological assets conditions are necessary in relation to the provision of an ecological management area and protected species **[conditions 16, 17, 18 and 19]**.

### Conclusions and Planning Balance

45. The NPPF, paragraph 14, outlines a presumption in favour of sustainable development. In doing so the paragraph makes clear that when taking decisions: proposals that accord with the development plan should be approved

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<sup>17</sup> Appeal Decision reference APP/Y3425/W/16/3145593, paragraphs 16 - 22

<sup>18</sup> The Appellant's Statement of Case, appendix 19

without delay; and where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits of development, when assessed against the policies in the framework taken as a whole. In the case of proposals for new housing development, the NPPF paragraph 49 makes clear that where the relevant local planning authority is unable demonstrate a 5 year supply including a buffer, of deliverable housing sites then applications should be considered in the context of sustainable development.

46. In this instance, the Council contends that it can demonstrate a 6.84 year housing land supply including a 20% delivery buffer using the Sedgefield approach and a 7.37 year supply using the Liverpool approach. This is not disputed by the appellant. Therefore, in accordance with paragraph 49, I am satisfied that the Council's policies relating to the supply of housing may be considered to be up-to-date and when assessing proposals for sustainable development and can be afforded full weight. [23 and 28]
47. The definition of sustainable development contained in the NPPF provides for the consideration of social, economic and environmental factors. I recognise that the construction and occupation of new housing in Hixon would have social and economic benefits for the settlement particularly through the creation of additional jobs, by providing support for local facilities and services and the provision of affordable homes to meet the defined local need. Furthermore, I am satisfied that the development would not have an adverse impact on environmental matters such as formal landscape designations, public open space or have an adverse effect on the visual qualities of the area. These benefits and the lack of demonstrable harm are not insignificant. However, given the full weight that must be afforded to the PSB, together with substantial weight that must be afforded to the PSB2 and the HNP, these benefits do not outweigh the strong policy objections which I have identified [21 and 32].
48. In light of this, I consider that the proposed development would contribute to the disproportionate distribution of new housing development within Stafford Borough and result in the unjustified encroachment of built development into the countryside. As such I consider the proposals would be contrary to the objectives of SP1, SP3 and SP4 of the PSB.

### **Formal Recommendation**

49. For the reasons I have given, I recommend that the appeal should be dismissed. However, if the Secretary of State disagrees, I recommend that any grant of planning permission be subject to the conditions set out in Appendix 1 to this report.

*Nicola Gulley*

INSPECTOR



## **APPENDIX 1 – CONDITIONS SCHEDULE**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) The development hereby permitted shall comprise no more than 90 dwellings.
- 3) The development hereby permitted shall be carried out in general accordance with the details shown on the submitted Development Framework Plan, drawing numbers [6140-L-01].
- 4) Application for approval of the reserved matters shall be made to the local planning authority not later than *three* years from the date of this permission.
- 5) The development hereby permitted shall be begun either before the expiration of:
  - (a) *three* years from the date of this permission, or
  - (b) *two* years from the date of approval of the last of the reserved matters to be approved.

whichever is the later.
- 6) The reserved matters application for landscaping shall be accompanied by a detailed Landscape Masterplan and Strategy to demonstrate that the landscaping proposals have taken account of and been informed by the existing landscape characteristics of the site and by any loss of existing vegetation on the site.
- 7) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the planning authority. The work shall be carried out strictly in accordance with the approved scheme.
- 8) The development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - I. the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units/bed spaces;
  - II. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

- III. the arrangements for the transfer of the affordable housing to an affordable housing provider[or the management of the affordable housing] (if no RSL involved) ;
  - IV. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - V. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 9) The development hereby permitted shall not be commenced until such time as the details of a satisfactory surface water design has been submitted to and approved in writing by, the Local Planning Authority. Including:
- Confirmation of impermeable areas, attenuation volumes and discharge rates, based on the methodology in Hydrock Flood Risk Assessment ref: R/14207/002 dated February 2015.
  - Confirmation that existing areas of surface water flooding are outside of the built development area.
  - Details of diverted culverted watercourse and measures to prevent debris leaving the development site.
  - Confirmation of who will maintain the culverted watercourse and attenuation ponds and the maintenance regime.
- 10) The development hereby permitted shall not be commenced until a scheme showing full details of the proposed site access junction onto C233 Stowe Lane / Eccleshall Road illustrated on drawing no. 002 rev C, which shall incorporate further two dimensional and three dimensional revisions as recommended by a Stage 2 Safety Audit and in accordance with engineering details which shall be submitted to, and approved in writing by, the Local Planning Authority and shall thereafter be implemented in accordance with the approved details and be completed prior to the occupation of development.
- 11) The development hereby permitted shall not be commenced until scheme showing details of off-site highway works including those in relation to the creation of passing bays and widening along Stowe Lane have been submitted to and approved in writing by the Local Planning Authority. The off-site highway works shall be constructed in accordance with the approved scheme and be completed prior to the occupation of development.
- 12) The development hereby permitted shall not be brought into use until the visibility splays shown on plan ref. no 002C have been provided. The visibility splay shall thereafter be kept free of all obstructions to visibility over a height of 900 mm above the adjacent carriageway level.
- 13) The development hereby permitted shall not be commenced until a scheme showing full details of the proposed pedestrian/cycle accesses onto Greenfields and Legge Lane, illustrated on drawing no. 002 rev C have been submitted to, and approved in writing by, the Local Planning Authority. The approved scheme thereafter be implemented in accordance with the approved details and be completed prior to the occupation of development.

- 14) No part of the development permitted by this consent shall be occupied until details of the submitted Travel Plan have been approved in writing by the Local Planning Authority. The Travel Plan shall set out proposals to promote and actively encourage travel by sustainable modes which are acceptable to the Local Planning Authority. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary of the date of the planning consent to the Local Planning Authority for approval for a period of five years from first occupation of the development permitted by this consent.
- 15) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- I a site compound with associated temporary buildings;
  - II. the parking of vehicles of site operatives and visitors;
  - III. loading and unloading of plant and materials;
  - IV. storage of plant and materials used in constructing the development;
  - V wheel wash facilities.
- 16) Details of a scheme for the incorporation of 10 No. bird and bat boxes into the scheme, including a timetable for implementation, have been submitted to and approved in writing by the local planning authority. The proposals shall be installed in accordance with the approved details and timetable and retained thereafter.
- 17) Before any development or other operations commence a management plan for the Ecological Management Area, identified on Framework Plan 6140-L-01 shall be submitted to and approved in writing in by the local planning authority.
- 18) Before any development or other operations commence, and within one month of the planned commencement of works, an assessment of the trees on the site for bat roosts shall be undertaken by a licensed bat ecologist. A copy of the assessment report shall be submitted to the Local Planning Authority and any necessary mitigation plan shall be agreed, implemented and if necessary maintained in consultation with Natural England and confirmed in writing by the Local Planning Authority.
- 19) No tree/shrub clearance works shall be carried out on the site between 1st March and 31st August inclusive, unless the site is surveyed beforehand for breeding birds and a scheme to protect breeding birds is submitted to and approved in writing by the local planning authority. If such a scheme is submitted and approved the development shall thereafter only be carried out in accordance with the approved scheme.



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.