

Agenda Item:	5.1
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Site:	7 Lovatt Close, Stretton, DE13 0HZ
Proposal:	Erection of a detached dwelling including associated parking

Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by John Kirkham

[Hyperlink to Application Details](#)

Application Number:	P/2016/00653	
Planning Officer:	Charlotte El Hakiem	
Type of Application:	Detailed Planning Application	
Applicant:	Mr Martin Berwick	
Ward:	Stretton	
Ward Member (s):	Councillor Len Milner Councillor Mrs J A Killoran Councillor R Carlton	
Date Registered:	11 August 2016	
Date Expires:	06 October 2016 (Extension of time limit agreed)	

This application has been called in by Councillor Carlton for the following reasons:

Following objections from residents of Lovatt Close and myself, I am requesting this planning application to be called in on the grounds of the impact the proposed new dwelling would have on the Close. The appearance of the proposed dwelling is totally out of character to the existing dwellings and would be an overbearing and dominant eyesore in such a uniformed Close.

Being a 50 year-old housing estate, its highway and access to properties is established and cannot be changed. The cul-de-sac is congested with additional vehicles and by creating another dwelling with no garage facility and off road parking where current vehicles park and turn, will create further parking and access problems, especially as there is no through road.

There are also trees that will be affected by the proposed development and the outlook to some neighbours who will have their outlook hindered by solid brick walls.

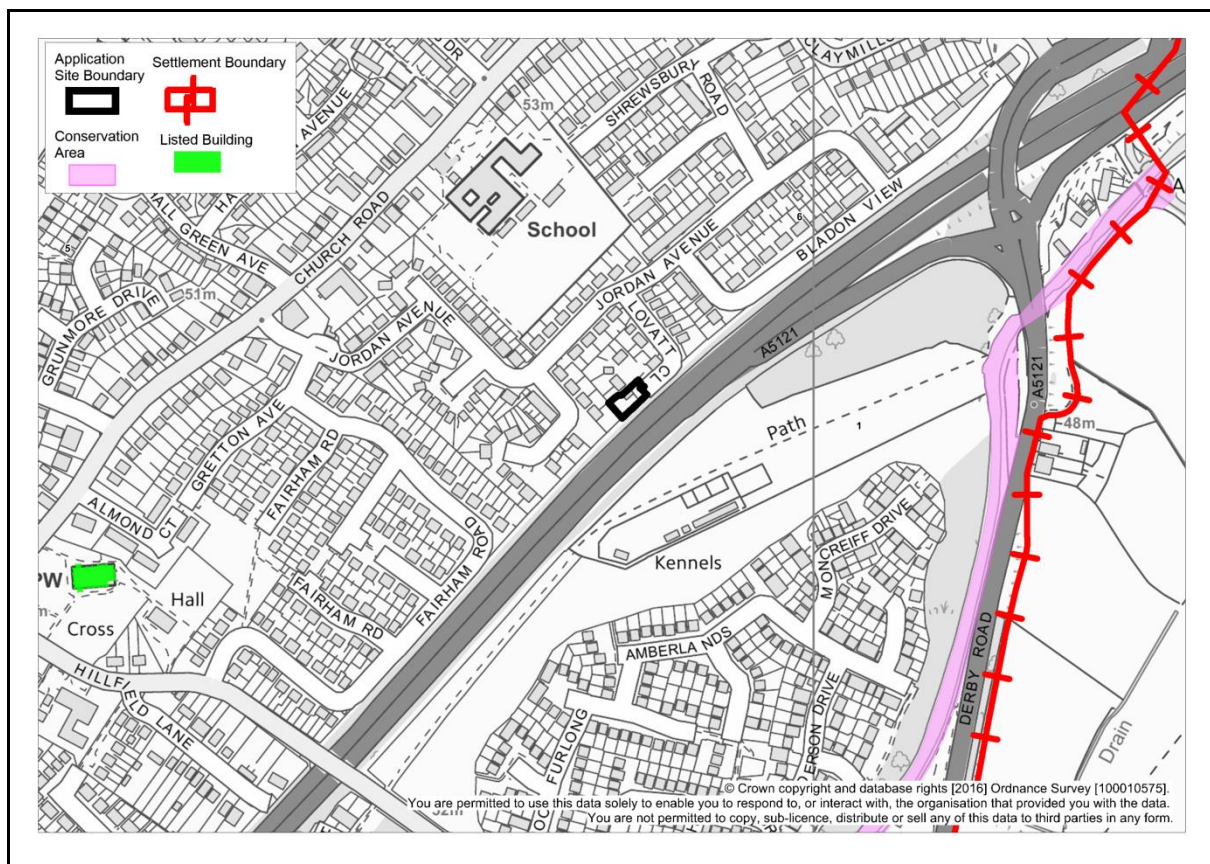
The majority of existing dwellings are dormer bungalows, and the proposed dwelling would overshadow lower level living accommodation for existing residents.

I, therefore, request that this planning application receives the Planning Committee's attention and that a site visit is also undertaken before any decisions are made.

1. Executive Summary

- 1.1 Planning permission is sought for the erection of one two storey detached dwelling and associated parking.
- 1.2 The application site forms the side garden of No.7 Lovatt Close, Stretton.
- 1.3 Statutory consultees have raised no objections. It is considered that the development is of sufficiently high quality design within its local context and complies with the supplementary Design Guide.
- 1.1 6 objections have been received from local residents. Stretton Parish Council and Councillor Carlton and Councillor Killoran have all made objections.
- 1.4 The proposal will not have an unacceptably adverse impact on the existing highway or sewerage networks or on the residential amenity of neighbouring properties.

Map of site



2. The site description

- 2.1 The application site forms part of the side garden of No.7 Lovatt Close which is the last property on the southern side of the close.
- 2.2 Lovatt Close is a residential estate of houses built approximately in the 1960's/1970's. Lovatt close is a mix of bungalows on the eastern side of the entrance to the road and two storeys to the remainder of the street. The site itself is situated at the head of the cul de sac.
- 2.3 The properties within the immediate area have a distinct character with a mansard hipped roof and low level eaves and are typically all of the same period. There is however a bungalow built in the opposite corner of the cul de sac that was given planning approval in 2010 which has a different character.
- 2.4 The site measures a maximum of approximately 10m by 30m and has a total site area of 0.046 hectares.
- 2.5 The majority of the site is lawned with a flat topography and is currently utilised as garden for no.7 Lovatt Close.
- 2.6 Beyond the site, approximately 25m in the south-easterly direction is the A38. The site is separated by a dense and mature tree line.
- 2.7 No.7 itself is a 2 storey property, which has a larger garden as a corner plot compared with the spatial pattern of the area.

3. Planning history

- 3.1 No relevant planning history

4. The proposal

- 4.1 Planning permission is sought for the erection of a 3 bedroom two storey detached dwelling with associated parking for two vehicles. The vernacular of the local area is defined by the mansard roof design, therefore the proposed dwelling seeks to take a design element by applying a hipped roof and a vertical tile hanging cladding. The property is proposed to follow the same building line as the adjacent property but has a projecting single storey rear element. The windows and doors would be white UPVC to match the adjacent properties.
- 4.2 The side garden has small shrubs but no notable trees will need to be removed as part of the proposal.

List of supporting documentation

- 4.3 The following documents have been provided as part of the application:

Application Form.pdf

Design and Access Statement.pdf

Existing Location and Block Plans.pdf

P_2016_00653 Noise Survey.pdf

P_2016_00653 Proposed Elevations, Floor Plans and Roof Plan.pdf

P_2016_00653 Proposed Location and Block Plans.pdf

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4.4 The relevant findings are dealt with in section 8 onwards below.

5. Consultation responses and representations

5.1 A summary of the consultation responses is set out below:

Statutory and non statutory consultee		Response
5	Parish Council	<p>Stretton Parish Council would like to register an objection to the above application.</p> <p>Stretton Parish Council have visited the site and consider the proposals to be overbearing and severely impacting on its neighbours.</p> <p>Stretton Parish Council also consider the proposal to be an overdevelopment of the area and whilst looking feasible on paper the reality of the space available is of great concern. The space available for two parked vehicles is also questionable.</p> <p>The main worry is the joining of the new sewer into the existing combined sewer which runs from 8 Thornewill Drive. There is a history of issues relating to the sewer and residents have experienced flooding and considerable problems.</p> <p>Stretton Parish Council hope that the above is taken into consideration when assessing this application and making a decision.</p>
5	SCC Highways	No objections subject to conditions relating to the surfacing of the parking area.
5	Severn Trent Water	No objection subject to a condition to securing the implementation of the approved the disposal of foul and surface water flows.

Internal Consultees		Response
5	Environmental Health	No objections

6. Neighbour responses

6.1 6 were received.

Neighbour responses	
Principle	<ul style="list-style-type: none"> • Overdevelopment of the site.
Impacts on Amenity	<ul style="list-style-type: none"> • It will overlook our property, reducing our privacy.
Highways Impacts	<ul style="list-style-type: none"> • Road already crowded and by removing the turning head where residents normally park. • It would be challenging to reverse off my drive and turn round. • Concerns over the delivery traffic.
Flood and drainage impacts	<ul style="list-style-type: none"> • The surface water drains have experienced flooding on numerous occasions. • There has been significant flooding on 8 Thornewill Drive, it would seem that the houses next to the A38 have main sewers running next to them.
Character and appearance	<ul style="list-style-type: none"> • The dwelling is out of keeping with the close and will not fit in. • Trees will have to be removed. • The plot is tight to fit a dwelling in on the garden.
Miscellaneous	<ul style="list-style-type: none"> • This is another money making scheme, to squeeze a house on the garden and councils seem to be letting them, we pay rates and vote for these councilors but don't seem to be listened to.
Cllr Carlton	<p>Following objections from residents of Lovatt Close and myself, I am requesting this planning application to be called in on the grounds of the impact the proposed new dwelling would have on the Close. The appearance of the proposed dwelling is totally out of character to the existing dwellings and would be an overbearing and dominant eyesore in such a uniformed Close.</p> <p>Being a 50 year-old housing estate, its highway and access to properties is established and cannot be changed. The cul-de-sac is congested with additional vehicles and by creating another dwelling with no garage facility and off road parking where current vehicles park and turn, will create further parking and access problems, especially as there is no through road.</p> <p>There are also trees that will be affected by the proposed development and the outlook to some neighbours who will have their outlook hindered by solid brick walls.</p> <p>The majority of existing dwellings are dormer bungalows, and the</p>

	<p>proposed dwelling would overshadow lower level living accommodation for existing residents.</p> <p>I, therefore, request that this planning application receives the Planning Committee's attention and that a site visit is also undertaken before any decisions are made.</p>
Cllr Killoran	<p>On behalf of Mr & Mrs Ainger (residing at 8 Thornewill Drive), I would like to raise an initial objection to the proposed Planning Application P/2016/00653 on Lovatts Close, Stretton.</p> <p>I went to meet Mr & Mrs Ainger yesterday, and listened to their concerns regarding the proposed erection of a house next to no.7 Lovatts Close, and I agree with them as it stands.</p> <p>We are worried about the impact this might have on the drainage system. There are 4 man-hole covers in the garden of 8 Thornewill Drive, both waste and surface water. There has been flooding of both drainage systems in the past.</p> <p>As recently as this past winter the surface water flooded, and was pouring out of the man-hole in their Garden. Within the last five years there has been significant flooding to the house opposite 8 Thornewill, (it would seem all the houses next to the A38 have the main drainage systems running alongside them), the water was lapping at the front door within an inch of entering the dwelling.</p> <p>Also the waste drain over-flowed into the garden of 8 Thornewill Drive just last Winter. We are very concerned that an extra dwelling will put too much strain on the existing drainage systems, which are not coping with current capacity.</p> <p>I therefore respectfully urge you to please thoroughly investigate the surface water and waste drainage systems for this area before any decisions are made.</p> <p>I also feel to have another property built next to 7 Lovatts Close (the houses would be very close together, unlike existing houses) will be overbearing for No.8.</p>

7. Policy Framework

National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

Local Plan

- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- SP4 Distribution of Housing Growth 2012-2031
- SP24 High Quality Design
- SP25 Historic Environment

- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP3 Design of New Residential Development, Extensions and Curtilage Buildings
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP6 Protecting the Historic Environment: Other Heritage Assets
- DP7 Pollution and Contamination
- DP8 Tree Protection

'Made' Neighbourhood Plans

Stretton

- S3 – Protection and Enhancement of Local Wildlife
- S6 – Flooding

8. Principle of Development

8.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 14 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

8.2 Paragraph 251 of the NPPF states that 'due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the framework, the greater the weight that may be given'.

9. 5 Year land Supply

9.1 The most recent calculation uses figures as at 31st March 2016 and concludes there is 5.72 years of supply. Therefore the housing policies in the plan can be considered up to date.

10. Local Plan

10.1 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. The policies in the plan provide a clear framework to guide sustainable growth and the

management of change, thereby following the Government's presumption in favour of sustainable development.

10.2 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:

- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
- it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
- retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
- re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting;
- integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
- designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
- high quality design which incorporates energy efficient considerations and renewable energy technologies;
- developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
- does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
- creates well designed and located publicly accessible open space;
- would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;
- would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
- uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is appropriate), sustainable waste management practices and minimises construction waste;
- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future;

would result in the removal of contamination and other environmental problems associated with the site.

The Local Plan sets out in Strategic Policies 2 and 4 a development strategy directing growth to the most sustainable places. Burton Upon Trent and Uttoxeter are identified as the main settlements to take housing

development mostly in the form of sustainable urban extensions with some limited growth in the rural area, principally within settlement boundaries.

- 10.3 The site is within reasonable walking distance of services and facilities of Stretton Local Centre and is close to the existing public transport network that is encouraged by Local Plan Policy SP1. The application site is within the development boundary of Burton upon Trent such that there is a policy presumption in favour of the principle of residential development here, as per Local Plan Policies SP2 and SP4. It is also noted that the site is well located to the strategic highway network and is considered acceptable in terms of highway safety by the Highway Authority.
- 10.4 As will be discussed in more detail below, in terms of sustainable development and other aspects of Local Plan Policy SP1 it is considered that the development would not have an adverse impact on the physical environment or the amenity of neighbours. The proposed dwelling would integrate well with the area's existing character including its grain and the style and size of nearby dwellings and demonstrates good design and high quality materials. The visual amenity of the area would not be harmed and the balance between loss of garden and the achievement of an appropriate residential layout is considered appropriate taking account of the amenity value of the area. Furthermore, issues relating to drainage, contamination, energy efficiency/sustainable construction, new landscaping/tree planting, biodiversity and residents privacy can all be suitably resolved by conditions.
- 10.5 In terms of the economic aspect of sustainable development (as detailed in the NPPF) the development is considered to be neutral, bringing only benefits for a very short duration during the construction phase.
- 10.6 Paragraph 6.1.4 of the Stretton Neighbourhood Plan (NP) seeks to prevent the coalescence of Stretton with Burton upon Trent and Rolleston on Dove. Therefore the emphasis in the NP is to protect the settlement boundary while encouraging small-scale, infill development on vacant or underused sites within the built up area, with this said the Neighbourhood Plan does not specifically mention infilling in existing gardens.
- 10.7 The considerations relating to amenity, highway safety, the impact upon heritage assets and design are covered in the following sections of this report

11. Design and Impact on the character and appearance of the area

- 11.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 11.2 The NPPF (Para.53) also requires proposals for dwellings in gardens to not have a detrimental impact on the character and appearance of an area. The Council's Supplementary Planning Document regarding design states "*the Council will expect new houses... to be well-designed and well-related to their context*". The National Planning Policy Framework (paragraphs 131

and 132) advises that development should be “*making a positive contribution to local character and distinctiveness*” and that the suitability of an application should be judged through a balance between impact upon the street scene and securing the optimum viable use of a site. Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. Policy SP24 lists a number of criteria that developments are expected to achieve including *creating a sense of place, reinforcing character, reflecting densities, achieving an appropriate layout that integrates with the existing environment and context, including space around dwellings, and where possible minimise the production of carbon through sustainable construction.*

- 11.3 Detailed Policy 1 re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide. Issues raised include the development’s density, height and massing relative to any views, vista and skylines and how the proposed materials relate to context including local vernacular.
- 11.4 Detailed Policy 2 aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible, including orientation in terms of solar gain.
- 11.5 The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context is considered to be important, as this can support local distinctiveness. It also states that “*On an ‘infill’ site the development must be appropriate not just to the prevailing character of the area, but also to the buildings and spaces immediately adjacent to the plot*”. DP3.
- 11.6 Policy DP 3 of the Adopted Local Plan ensures that `where infilling is proposed in the gardens of houses, it will only be permitted where 1) it would not result in the unacceptable intensification of the area 2) it would be sensitively integrated into the townscape or landscape 3) it would not be visually obtrusive or poorly screened from neighbouring properties and 4) the size of the garden to the new dwelling, and existing building is appropriate for the size of the dwelling and reflects the spatial pattern of the area.
- 11.7 The application site is the side and part rear garden area of No.7 Lovatt Close, which is the last dwelling in a cul de sac on the southern side of the road. The site has the appearance of a residential garden area delineated with a fence on the east and south elevation of the plot. The site is bordered by dense hedging as a landscaping buffer between the property and the A38. The overall feel of the road as one approaches the plot is a small arrangement of semi-detached dwellings of a similar design with the exception of the plot opposite a more modern bungalow.
- 11.8 The proposed development would have a dwelling that respects the area’s building line and style of dwellings, with this dwelling being in keeping with the size, style, height and general design of No.7. The suggested materials for the overall development are all high quality and would be in keeping

with the local vernacular but also add a more modern adaptation to the exterior of the building.

11.9 Overall it is considered that the proposed development is well-considered, presenting a suitable siting, density and design for its setting. It will blend well with the existing built form, density and grain rather than being unacceptable intensification and be well-contained within the current side garden area of No.7. Where there this application is proposed as an infill development it will have a site frontage as opposed to being considered as a backland development.

11.10 Visually appropriate external materials, boundary treatment, landscaping, surfacing materials and a restriction on future extensions, alterations, outbuildings, solar panels and alterations can all be secured by condition for visual amenity reasons.

11.11 In conclusion, subject to the stated conditions the development will suitably comply with the character and appearance requirements of Local Plan Policies SP24, DP1 and DP3, the East Staffordshire Design Guidance and the NPPF.

12. Residential Amenity

12.1 The National Planning Policy Framework and DP1, DP3 of the Local Plan seeks to ensure new residential development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing.

Policy DP3 also advises that garden areas should be commensurate to the dwelling/household size and allow outdoor activities to be undertaken in reasonable privacy. The East Staffordshire Design Guide provides additional detail on the assessment of light to windows in Annex 1.

12.2 The proposed dwelling is situated at the end of the plot and backs on to the rear garden of No.8 Thornewill Drive. The distance from the boundary is 10m, the gardens are back to back. The distance between principal windows is 22m and they are not directly opposite to one and other. This distance is well within the acceptable range of distances between principal windows. The position of the dwelling is no different to the relationship of no.7 Lovatt Close and 8 Thornewill Drive and therefore it is considered that there would be no adverse impacts on the amenities of nearby residents. It is also considered that the proposed development would not have an overbearing or oppressive impact on the occupiers of No.7 or the properties to the rear of the site in accordance with Local Plan Policy DP3 and the East Staffordshire Design Guide.

12.3 It is clear that the new dwelling and No.7 itself would have adequate private amenity space subject to the provision of suitable boundary treatment this would also prevent any amenity issues between these the two dwellings including any unacceptable overlooking.

12.4 Permitted development should be removed to prevent any alterations, outbuildings and or extensions that would have a harmful impact on neighbours' amenity such as reducing separation distances to an

unacceptable level. With such conditions imposed, the proposal will comply with the Local Plan, the NPPF and the Design Guide in terms of residential amenity.

- 12.5 With regard to noise and disturbance during the construction phases of the development, it is recommended that construction hours should be limited given the location of the property within an established residential area, within this it is considered appropriate to limit works to include no working at weekends or on bank holidays and hours of working to be kept to sociable times in the interests of residential amenity.
- 12.6 In terms of the residential amenity of any future occupants of the dwelling (if permission is granted) a noise survey has been carried out in order to assess the impact of the noise generated by the A38. The noise survey concludes that the ambient noise levels in this area are acceptable for habitable accommodation. However, it makes recommendations about ensure soundproofing within the structure of the dwelling. This is therefore recommended as a condition. The application therefore complies with Local Plan Policies DP3 and DP7.
- 12.7 It is therefore considered that there would no impact on neighbour amenity in accordance with the provisions of Local Plan Policies SP24, DP1 and DP3.

13. Sustainability (energy efficiency and low carbon)

- 13.1 DP2 of the Local Plan sets out expectations for development which ensure the design and delivery of low carbon buildings and energy improvements to existing buildings. Considerations include where relevant:
- follow the energy hierarchy of designing out energy demand from the outset, incorporating energy efficiency measures and introducing low carbon energy supply;
 - incorporate the best environmental practice and construction techniques in line with the Governments zero carbon buildings policy;
 - use appropriate materials, form, orientation and layout of buildings to maximise the benefits of passive solar heating, cooling, lighting and natural ventilation;
 - incorporate facilities to minimise the use of water and the creation of waste, and which maximise opportunities for recycling;
 - incorporate ecologically sensitive design and features for biodiversity early on within a development scheme, following guidance in 'Biodiversity by Design' or future revisions;
 - where appropriate prepare Site Waste Management Plans to ensure that at least 25% of the total minerals used derive from recycled and reused content;
 - aim to reduce predicted carbon emissions through the generation of decentralised and renewable or low carbon energy generation where practicable;
 - where on site renewable or low carbon energy generation is not practical, a contribution towards an off-site renewable energy or carbon reduction scheme will be acceptable;

- 13.2 In this case the orientation of the dwelling is very much necessarily dictated by the site's relationship with the road and other existing buildings. Notwithstanding this, the new dwelling would benefit from solar gain by way of the south facing rear windows and natural lighting would be achieved in principal rooms. A condition can be used to achieve sustainable construction techniques, energy efficiency and efficient water use, including grey water recycling if feasible. Sustainable drainage will also be sought by condition (see below).

14. Highway Matters

- 14.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should consider that development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 14.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.
- 14.3 The Council's parking standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses.
- 14.4 The application seeks permission for a 3 bedroom dwelling and as such is required to provide two parking spaces to accord with the parking SPD. The proposed dwelling would be accessed from the head of the cul de sac and has space for two vehicles. Therefore it is considered that the development provides adequate car parking within the curtilage of the dwelling. Whilst it is appreciated that residents have concerns over a conflict with the turning head of the close, this should be utilised for turning and not for parking in any case. The Highway Authority has no objections to this relationship and does not identify any conflicts of the parking area in this location. As such it is not considered that there will be any implications for highway safety as a result of the development.
- 14.5 During the construction phases, there will inherently be additional vehicular movements, in some cases requiring large vehicles to access the site. This will be over a relatively short period of time and all contractors will be required to adhere to highway safety guidelines and conduct.
- 14.6 The Highway Authority has been consulted and has no objections subject to conditions.

15. Historic Environment

- 15.1 Paragraph 126 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 15.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 15.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.
- 15.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes.
- 15.5 Detailed policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology. Detailed policy 6 aims to protect other heritage assets which are not necessarily covered by listed building or conservation area status, such as shopfronts and the setting of important historic landscapes.
- 15.6 The nearest Conservation Area is approximately 300 metres away, The Trent and Mersey Conservation Area.
- 15.7 The nearest Listed Building is St Marys Church situated in the centre of Stretton on Church Road, this is approximately 450m away. There is no intervisibility between the proposal and this building.
- 15.8 Given the distance between the site and the Trent and Mersey Canal , there is no intervisibility, particularly as the A38 is an intervening feature between the site and the conservation area. The separation distances involved therefore are such that the proposed development will have no impact on the conservation area or any listed buildings or their setting and Sections 66 and Section 72 are therefore not engaged.

16. Flood Risk and Drainage

- 16.1 Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.
- 16.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.
- 16.3 The site is located within Flood Zone 1 and as such there is not an issue in terms of flooding relating to nearby water bodies. A suitable surface and foul water drainage system can be secured by condition to prevent localised flooding and to protect human health and water environment. An informative can stress that the sustainable disposal of surface water will be sought first under the condition, as required by Policy SP27. The proposed use of permeable blocks for the access, parking and turning area will aid the sustainable drainage of surface water. The use of such materials can be secured by condition for visual and drainage reasons.
- 16.4 The site lies entirely within Flood Zone 1 and as such is at a low risk from fluvial flooding. The application has been considered by all relevant consultees in relation to flood risk and drainage and no objections have been received. Therefore the application complies with the provision of local Plan Policy SP27.
- 16.5 The surface water drainage has been raised as a major concern over the development and as such Severn Trent Water has been consulted. They have no objections and have approved the scheme of drainage proposed. Severn Trent will have assessed the capacity of the existing network and if a further dwelling would exacerbate any problems. It is important to emphasise that as long as the development does not make any existing situations worse and they can mitigate any impacts that may be created by the development only then a reason for refusal could not be substantiated, a new development of this nature cannot seek to solve existing problems in the area so long as they would not contribute to further problems. For the reasons discussed above, it is concluded that subject to conditions the scheme will suitably comply with the NPPF and the Local Plan in terms of flooding and drainage matters including protecting the water environment and human health.
- 16.6 Stretton NP policy S6 seeks wherever feasible development proposals will be expected to incorporate sustainable drainage systems. The application proposes soakaways and this method has been approved by Seven Trent Water.

17. Biodiversity

- 17.1 Paragraph 118 within Section 11 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.
- 17.2 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.
- 17.3 Strategic Policy 29 lists criteria including development to retain features of biological interest which produces a net gain in biodiversity, in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefit.
- 17.4 Stretton Neighbourhood Plan Policy S4 seeks for new development proposals to demonstrate support and enhance the wildlife value of these features.
- 17.5 Trees/shrubs within the site are, in the most part, to be retained and as such the local habitat will remain fairly constant, however, precise details of the landscaping scheme will be secured by a suitably worded condition to ensure any trees removed as part of the scheme are replaced as necessary with further stipulation on the type of trees to ensure heavy standards are planted to provide more immediate habitat and coverage on the site.
- 17.6 In light of the above, it is considered that the impact upon protected species can be controlled and suitably mitigated against by way of the inclusion of suitable mitigation measures in accordance with Local Plan Policy SP29.

18. Contamination Issues

- 18.1 A condition and informative can suitably resolve the contaminated land and radon gas issues raised by the Contaminated Land Officer compliance with Policies SP34 and DP7.

19. Conclusions

- 19.1 Considering all of the above, it is concluded that subject to various conditions the proposal suitably complies with the overall aims of the relevant Local Plan Policies, the East Staffordshire Design Guide and the NPPF including the aims of the relevant sustainability criteria of Policy SP1.
- 19.2 It is acknowledged that the development is well-located in terms of access to services by non car modes and is well-located relative to the strategic highway network and the site is within the development boundary of Burton where residential development is supported in principle. The scheme which represents garden land development is in keeping with the layout, scale and density of dwellings in the locality. The plot size and dwelling designs and materials also complement the site's context.

19.3 The amenities of neighbouring dwellings will not be materially harmed subject to certain conditions given the separation distances involved and design and scale of the dwelling and highway safety is not compromised. Issues relating to drainage, biodiversity, tree protection and planting, sustainable construction and contamination can all be resolved by conditions.

19.4 The site is not in a conservation area and given the separation distances and the form of existing built development, it is not considered that the proposal would have an impact on views into, or those out of any conservation areas nor would any Listed Building or its setting be affected and therefore the statutory duties under Sections 66 and 72 are not engaged.

19.5 Having weighed in the balance and having taken account of the schemes overall environmental, social and economic impacts it is considered that the scheme does represent sustainable development and fits the overall aims of the Development Plan, SPDs and the NPPF. The proposal also complies with the Made Stretton Neighbourhood Plan.

19.6 **RECOMMENDATION**

19.7 **PERMIT** subject to the following conditions –

- Standard time limit for the commencement of the development (0000001A).
- Compliance with the approved plans (subject to other conditions) (00002).
- Submission and approval of a construction management plan including parking facilities for vehicles of site personnel, operatives and visitors, loading and unloading arrangements for plant and materials and the storage areas for plant and materials used during the construction of the development (00016g).
- Submission and approval of slab levels and compliance with the approved details (00016b).
- Submission and approval of all external materials (including colours) and compliance with the approved details (00002F).
- Submission and approval of full landscaping and boundary treatment including details of tree protection measures for retained trees, the planting of native trees (00003A).
- Submission and approval of full biodiversity enhancement measures and the implementation and maintenance of such (00016l).
- Submission and approval of a scheme regarding sustainable construction and energy efficiency and compliance with such (Bespoke Condition).
- Implementation of the approved landscaping scheme (00003b).
- The Scheme shall be implemented in accordance with the approved surface water and foul water drainage scheme prior to first occupation of the dwelling. (00005A).
- Completion of the access, parking and turning areas in a bound and porous material/s (with exact material/s to be first approved by LPA) and such remaining available for their dedicated purposes for the life of the development (00004a).
- Development shall be carried out in accordance with the recommendation of the noise report.
- All windows and external doors to be set back from outer face of wall by 500mm unless first agreed in writing by the LPA (00006b).

- Removal of PD rights for future extensions, outbuildings, external alterations including any new windows and rooflights, boundary treatment and solar panels for amenity and visual reasons (00012a).

Informatives:

- Pre-commencement conditions standard informative (002a)
- Details of when materials are available for inspection (001a)
- Standard engagement informative (003a)

20. Background papers

20.1 The following papers were used in the preparation of this report:

- The Local and National Planning policies outlined above in section 7
- Papers on the Planning Application file reference P/2016/00653

21. Human Rights Act 1998

21.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

22. Crime and Disorder Implications

22.1 It is considered that the proposal does not raise any crime and disorder implications.

23. Equalities Act 2010

23.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

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