

Agenda Item: 7.2**Site:** The Lont, Stubby Lane, Draycott in the Clay, Staffordshire, DE6 5BU**Proposal:** Erection of up to 9 No. dwellings along with new access**Report of Head of Service (Section 151 Officer)**

This report has been checked on behalf of Legal Services by Sherrie Grant.

[Hyperlink to Application Details](#)

Application Number:	P/2017/00541	
Planning Officer:	Alan Harvey	
Type of Application:	Outline Planning Application	
Applicant:	Ms J Whetter	
Ward:	Crown	
Ward Member (s):	Councillor Gordon Marjoram	
Date Registered:	26 June 2017	
Date Expires:	An extension of time has been agreed until 22 June 2018.	

1. Executive Summary

- 1.1 The application site is approximately 0.98 hectares of paddock area to the east of the dwelling at The Lont which is situated on Stubby Lane (B5017) between Draycott in the Clay and Marchington. The proposed development is to be accessed from the northern side of Stubby Lane by utilising the access arrangements to be provided to serve the residential development (of up to 8 No. dwellings) allowed on appeal on the adjoining site (That appeal scheme is hereafter referred to in this report as the '2015 Application').
- 1.2 The current application is an outline application submission for the erection of up to 9 No. dwellings (with associated garaging and parking), together with details of access. All other matters are reserved.
- 1.3 Statutory consultees have to date raised no objections that cannot be overcome via planning conditions (although the final comments of Severn Trent Water Ltd are still awaited and will be reported on the update sheet). The Parish Council have raised objections in challenging the recent appeal inspector's conclusions that Stubby Lane is safe for vehicular and pedestrian traffic. The Parish Council also raise drainage concerns and question as to

how piecemeal development schemes will deliver education facilities/highway improvements/affordable housing.

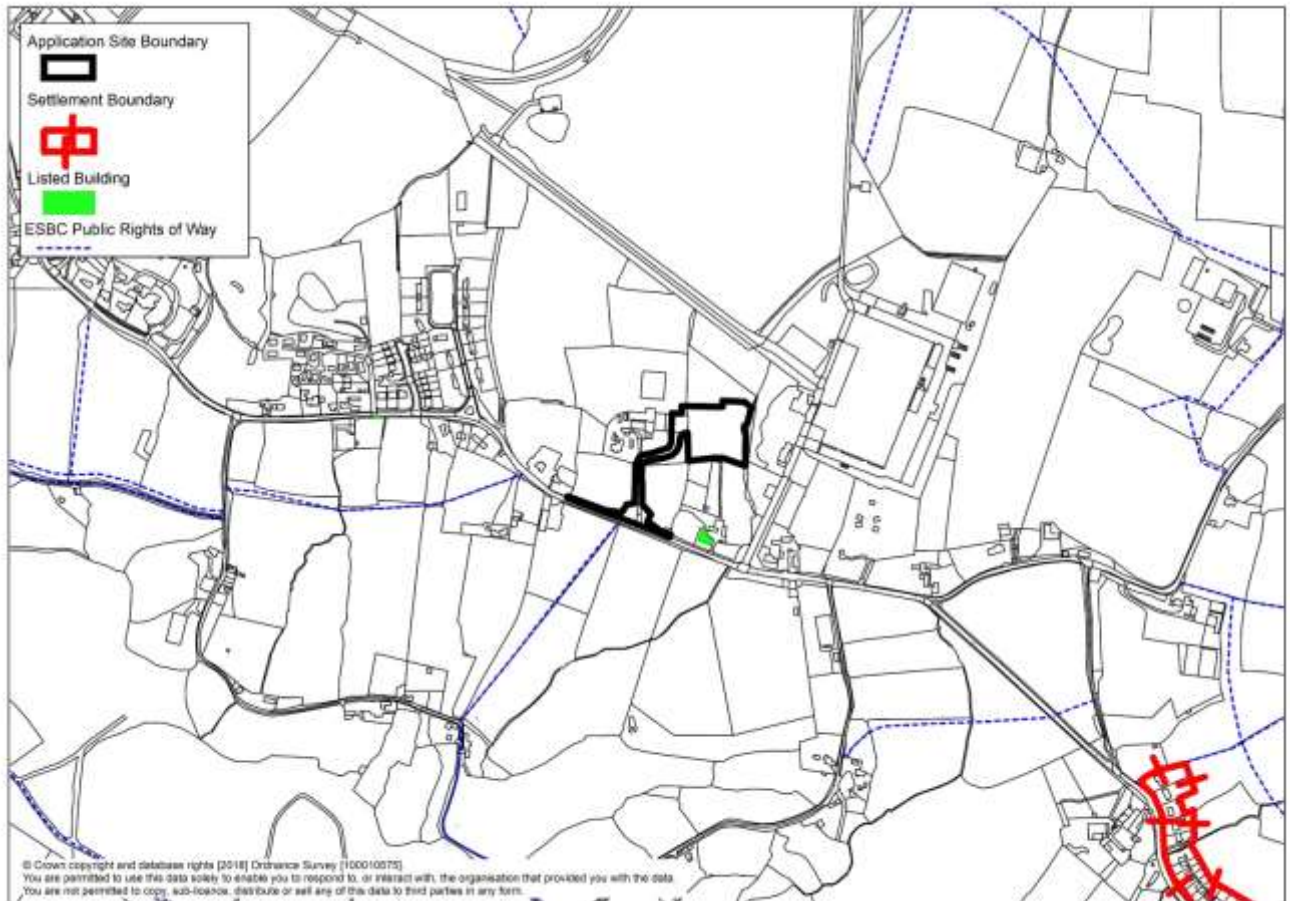
- 1.4 Local residents/businesses were notified of the application and the application was advertised by way of site and press notices. Three No. local residents/interested parties made representations in respect of the proposals raising objections and concerns. These relate to highway safety and drainage issues along with questioning the compatibility of any residential development in proximity to existing commercial premises given noise and disturbance issues.
- 1.5 The site lies outside any settlement boundaries identified in the Local Plan; being located between Draycott in the Clay and Marchington. Therefore, Policy SP8 of the Local Plan is relevant in this instance with the site being separated from the nearest village Draycott in the Clay by relatively open countryside and linked to it by a road without continuous footways. There are no immediate facilities and services to serve any residents on this site other than within Draycott and Marchington, which lie a significant distance away. The lack of continuous footway and distance to Draycott and Marchington, and the infrequent bus service, means that it is likely that journeys to both villages would be dominated by the private car. The routes to either of these villages are not considered to be conducive to alternatives modes of transport. The development is therefore unsustainable.
- 1.7 In relation to the Local Plan, this proposal falls outside of the plan's strategy for housing growth so it is not required to deliver dwellings under the Local Plan during the Plan period. The proposal is outside any settlement boundaries and is therefore contrary to Policy SP8 of the Local Plan and the Housing Needs Assessment (submitted with the application) is insufficient as it has not been prepared in accordance with the requirements of the Housing Choice SPD. Furthermore, the area is not identified as a location for housing development in the Local Plan and therefore the development would be contrary to SP2 and SP4 of the Local Plan.
- 1.8 The proposed development would also exacerbate the risk of pedestrian/vehicle conflict by reason of the lack of readily available continuous pedestrian connectivity to the settlements of Draycott in the Clay and Marchington leading to an increase in the likelihood of danger to highway users. The proposal is contrary to the Local Plan Policy SP1 and SP35 and also Paragraph 17 and Section 4 of the NPPF.
- 1.9 The Appeal Inspectors decision in relation to the recent grant of permission on appeal for 8 No. dwellings on the adjoining site (in the applicant's ownership) has been due consideration, however, whilst being mindful of the conclusions of that Appeal decision and also taking into account the affordable housing provision that the present scheme would bring forward, it is concluded that the planning balance in relation to the current submission is one where the '*other material considerations*' are not considered to outweigh the fact that the scheme would be fundamentally contrary to the policies of the Development Plan in terms of the location of new housing development and would be likely to give rise to increased pedestrian/vehicle conflict along Stubby Lane.

1.10 The proposal would, however, not be likely to adversely affect the amenities of occupiers of existing and proposed nearby dwellings, and would provide an acceptable level of amenity for the occupiers of the new dwellings. The proposal will not have an unacceptably adverse impact on the wider existing highway network in relation to vehicular safety nor give rise to any environmental concerns. The scheme would also provide necessary mitigation in relation to biodiversity. The development would not be to the visual detriment of the locality and would not have a harmful impact on the setting of the nearby listed building at Draycott Lodge or any other heritage assets.

1.11 Accordingly, the application is recommended for refusal for the following reasons:-

1. The proposed development is outside of any settlement boundary, as defined in the East Staffordshire Local Plan and its proposals map, and is, therefore, in the countryside. Policy SP8 of the Local Plan precludes residential development in the countryside unless certain tests are sufficiently met. In this instance none of the criteria have been met in Policy SP8 so the application is considered to be inappropriate and unacceptable.
2. The East Staffordshire Local Plan plans for strategic growth of the Borough through the provision of allocated housing sites and a hierarchy of settlements in which developments would be suitable and acceptable. The location proposed for development is not identified as a location for housing development in the Local Plan under Policies SP2, SP4 and SP8. Whilst a Housing Needs Survey has been submitted it was conducted in accordance with the methodology of the Housing Choice SPD and as such is not an accurate marker of the actual housing need in the area. In respect of this it is considered that the granting of permission would be contrary to SP2, SP4 and SP8 of the Local Plan as well as the Housing Choice SPD.
3. The proposed development fails to demonstrate a safe and practical pedestrian route to the settlements and amenities in Marchington and Draycott-in-the-Clay thereby leading to an increased likelihood of pedestrian/vehicle conflict contrary to East Staffordshire Local Plan Policies SP1 and SP35 and Paragraphs 17 and 32 of the NPPF.
4. The proposed development fails to demonstrate that sustainable travel is viable and this would result in a high likelihood that residents of the proposed development would be unduly reliant on the private car for transport contrary to East Staffordshire Local Plan Policies SP1 and SP35 and Paragraphs 17 and 32 of the NPPF.

Map of site



2. The site description

- 2.1 The application site is approximately 0.98 hectares of paddock area to the east of the dwelling at The Lont which is situated in relatively open countryside to the north west of the village of Draycott in the Clay and to the north east of Marchington. Access to the lands is presently taken along a driveway/track leading from Stubby Lane (B5017) which runs to south.
- 2.2 The application site is adjoined to the south and east by the well treed surrounds to the Grade II listed Draycott Lodge and its associated outbuildings. There are other residential properties close to the site on Stubby Lane to the west of the site access (Nos. 70 and 72). The premises of Kuehne and Nagel Logistics are located to the north-east; the vehicular access to which runs to the east of the curtilage to Draycott Lodge.
- 2.3 The application site, which is presently in equestrian use, site slopes down gently in a southern direction. Hedges run around the boundaries of the site.
- 2.4 The site is outside the settlement boundary for Draycott in the Clay as defined in Policies SP2 and SP4 of the adopted Local Plan. The north-westernmost edge of the settlement boundary lies some 0.55 km to the south-east of the application site.

3. Planning History

- 3.1 **Application ref: LE/16255/020** - Certificate of Lawfulness to continue to use land and buildings for agriculture and keeping and breeding of horses). **Approved.**
- 3.2 **Application ref: CU/16255/017** - Continuation of use of former mobile home as a tackroom. **Refused.**
- 3.3 **Application ref: P/2017/00227** - Application for Certificate of Lawfulness for the continued use of the building as an independent dwelling (Dwelling 1) - **Approved** on 25/04/2017.
- 3.4 **Application ref: P/2015/01585** - Outline application for up to 8 No. residential dwellings with associated garaging including details of access. The application (which as per paragraph 1.1 above is referred to the '2015 Application' in this report) related to the land in the applicants ownership to the south/south-west of the current application site and which fronts onto Stubby Lane. The application was refused for the following reasons :-
1. *“The proposed development is in the countryside and no justification has been provided to demonstrate how the development constitutes acceptable development outside settlement boundaries and as such does not accord with Local Plan Policy SP8 which seek to define which uses are appropriate in the countryside. Thus, the proposal is contrary to the provisions of policies SP8 of the Local Plan.*
 2. *The location is not identified as a location for housing development in the Local Plan. The granting of permission would be contrary to [Policies] SP2 and SP4 of the Local Plan.*
 3. *No affordable housing provision or justification of viability is provided and as such the proposal is contrary to Policy SP17 of the Local Plan.*
 4. *The proposed development would exacerbate the risk of pedestrian/vehicle conflict by reason of the lack of adoptable pedestrian connectivity to the settlement of Draycott in the Clay leading to an increase in the likelihood of danger to highway users. The proposal is contrary to the Local Plan Policy SP35 and also Paragraph 17 and Section 4 of the NPPF.*
 5. *The proposed development fails to adequately demonstrate that sustainable travel can be achieved and this will result in the likelihood that future residents would be reliant on the private car for transport. The proposal is contrary to the Local Plan Policy SP35 and also Paragraph 17 and Section 4 of the NPPF.”*
- 3.5 The appeal was allowed on in March 2017 with the Inspector concluding (at paragraphs 32 and 33) in terms of the ‘*Planning Balance*’ that :-

“32. Notwithstanding, the theoretical conflict with policies SP2, SP4 and SP8 of the Local Plan, having considered the harm and taking a pragmatic approach when considered against the purposes of these policies and the compliance with the requirements of SP1 of the Local

Plan which sets out East Staffordshire’s approach to sustainable development, the proposal would not undermine the overall development strategy of the area. Furthermore, it would be accessible by sustainable modes of transport and would not cause material harm to highway safety thereby complying with SPs 1 and 35 of the Local Plan in these respects.

33. There would be economic, social and environmental benefits from the proposal and no significant disbenefits. Therefore, taken overall I am fully satisfied that the proposal would comprise sustainable development and that it would accord with the development plan when taken as a whole.”

- 3.6 The other sections of the Inspectors decision letter considered most salient to this current application are also set out in the Assessment section of this report.
- 3.7 **Application ref: P/2017/00541** - Outline application for the erection of up to 9 dwellings including details of access - Current application the subject of this report.
- 3.8 **Application ref: P/2017/00965** - Full application for the erection of replacement dwelling and garage - **Approved - 09/10/2017.**

4. The Proposal

- 4.1 The application is an outline application submission for the erection of 9 No. dwellings (with associated garaging and parking), together with details of access. The proposed access arrangements involve an extension - north/north-eastwards - of the access drive that was approved on appeal to serve the ‘2015 application.’ All other matters are reserved at this stage, although the application submissions do include an illustrative layout indicating as to how 9 No. detached dwellings could be accommodated on the site.

List of supporting documentation

- 4.2 The following documents were provided as part of the application as originally submitted:

- Location Plan
- Proposed Indicative Site Layout Plan
- Planning Statement
- Design and Access Statement
- Heritage Statement
- Arboricultural Submissions
- Hedgerow Assessment
- Ecological Submissions (including Protected Species submissions)

- 4.3 The following documents were provided in response to the initial comments of statutory consultees:

- Noise Assessment
- Drainage Strategy

- Supplementary Planning Comments in response to the Planning Policy critique of the Housing Needs Survey.

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

4.5 The applicant's agent has also confirmed - by way of a draft heads of terms - that the scheme will meet in full the Council's requests in relation to the provision of affordable housing (on-site and off-site) and any bin/waste provision. This issue is dealt with in more detail 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
5.2	Draycott in the Clay Parish Council	<p>Comment as follows :</p> <p><i>“The Parish Council challenges the findings of the Inspector with regard to highway safety. With our local knowledge the Parish Council disputes the comments raised about local traffic in the Planning, Design and Access Statement.</i></p> <p><i>The Parish Council is very concerned about the Inspectors assessment of traffic and highways matters with regard to the appeal relating to the recent permitted planning application at The Lont.</i></p> <p><i>The Parish Council also has significant concerns about the increase in the traffic using Stubby Lane; the lack of public footpaths and sewage implications.</i></p> <p><i>Stubby Lane is a dangerous road. Since the Parish Council's response to the previous planning application we have received the following items of correspondence from Parishioners relating to this particular issue:</i></p> <p><i>I would like the council to look into the increase of heavy vehicles travelling fast along a Stubby Lane it's an accident waiting to happen on the little bend as vehicles come round the corner on the wrong side of the road.</i></p> <p><i>We are contacting you to express our deep concern at the present volume of traffic on the B5017 Stubby Lane, from the Marchington turns to the A515 at Draycott. The road winds and undulates, making it unsuitable for heavy loads and large industrial vehicles on such a narrow road. It is hazardous and dangerous for car users. It also carries noise</i></p>

		<p><i>pollution, air pollution, and risk of traffic accidents for us residents...</i></p> <p><i>The Parish Council notes that on appeal the applicant has been granted planning permission for up to 8 residential dwellings, associated garaging and access at The Lont. If this current planning application for up to 9 dwellings is permitted, because both of these applications are for less than 10 dwellings there has not been / will be no Section 106 contribution(s) to the village; such as, for highway matters, local school; also this application does not offer any affordable housing. The Parish is never going to get contributions while piecemeal developments continue.</i></p> <p><i>The Parish Council would like to receive a response as to what would happen regarding Section 106 contributions if a further planning application for less than 10 dwellings was to be submitted at The Lont in the future.</i></p> <p><i>In addition the Parish Council has received 35 further responses about traffic along Stubby Lane and wishes to emphasise the additional loading on the sewage network especially in flood conditions.”</i></p>
5.3	SCC Highways	<p>Recommend refusal as the proposed development fails to demonstrate a safe all weather all season pedestrian route between the settlements of Marchington and Draycott in the Clay and as a consequence would increase the likelihood of pedestrian/vehicle conflict resulting in increased highway danger.</p> <p>SCC Highways also advise that the junction layout onto Stubby Lane to serve the development would be acceptable.</p>
5.4	SCC Education	<p>Requests a total sum of £48,476 in relation to education provision comprising £13,827 towards middle school facilities, £16,622 towards High School facilities and £18,027 towards Sixth Form facilities. The request relates to one place at each facility.</p>
5.5	Environment Agency	No objections
5.6	Severn Trent Water	<p>Initially sought additional information. Further to the necessary provision of that information – and additional flood risk mitigation - the detailed comments Severn Trent are awaited and it is intended to report these to Committee on the update sheet.</p>
5.7	Local Lead Flood Authority	<p>Initially sought additional information and further to the necessary provision of that information (by way of a</p>

		drainage strategy) raises no objections on the drainage proposals. The Authority also required additional information be provided to demonstrate that the drainage ditch to the eastern boundary does give rise to flooding concerns on the site and upon receipt of that information indicated that they have no objections in principle on flood risk grounds.
5.8	Architectural Liaison Officer	Provided guidance on crime reduction.
5.9	Archaeological	Raise no concerns regarding the proposed development.
5.10	Heath Trust	Advise no commuted sum is requested towards health facilities is requested in this instance.

Internal Consultees		Response
5.11	Environmental Health	<p>Raise no objections in principle in respect of contaminated land subject to mitigation.</p> <p>In relation to the noise impacts an assessment was initially requested by Environmental Health to assess the relationship with the logistics premises (of Kuehne & Nagel) to the north-east of the application site. Further to the submission and review of the necessary report - along with the submissions made on behalf of the owners of the Kuehne & Nagel Logistics site (see below at Section 6) - Environmental Health conclude that they :-</p> <p><i>“feel that on balance that the Acute Acoustics (submissions on behalf of the applicants) sufficiently demonstrates that there will not be a significant noise impact on the proposed residential properties as a result of noise from Kuehne & Nagel Logistics or any other environmental noise subject to conditions.”</i></p>
5.12	Conservation Officer	<p>Comments as follows :</p> <p><i>The Grade II listed Draycott Lodge is located to the south of the application site. Architectural and evidential interest is derived from its traditional form and construction being of red brick with clay tile roof. Historic interest is derived from its late C18 origins with later alterations and development. The significance of the setting of the listed building is greatly derived from its location within a large spacious wooded plot, the boundaries of which have been subject to alteration over time. To the north the wider rural setting has been eroded by later large scale modern development. To the south however, the wider rural setting is still evident and makes a positive contribution reflecting the agricultural origins.</i></p>

		<p><i>The site proposed for development is located to the north of the listed building plot. It is open space, but makes a limited contribution to the setting of the listed building considering the degree of separation, screening and other alterations to the north of the site including large-scale modern industrial units. The proposal seeks outline permission for all matters reserved except access. It should be noted that the access has previously been approved as part of another application and there is existing access to the other farm. Due to the degree of separation, the existing screening of the site and the limited contribution that the site makes to the significance of the setting of the listed building when considering the existing later development, the proposal is considered to preserve the significance of the setting which is greatly derived from its curtilage and rural setting to the south.</i></p>
5.13	Environment Manager	Requires a commuted sum provision of £75 per dwelling towards the provision of bins (being a total of up to £675).
5.14	Planning Policy	Comments that the submitted Housing Needs Assessment is insufficient to justify a departure from Policy SP8 of the Local Plan (see also section 9 onwards below). Also advises that in terms of the provision of affordable housing Policy SP17 of the Local Plan provides that two adjacent sites can be considered as one site (where one application extends the permission of a previous site). As such, therefore, a provision of 40% (of the cumulative 17 No. dwellings would be appropriate) being a minimum of 13% on site (i.e. 3 No. dwellings) and an off-site contribution of £152,000.
5.15	Former Ward Councillor Stephen Smith	Expressed concerns that if this development connects into the Marchington SPS (Sewage Pumping Station) the LPA will be putting more sewage through the pumping station that discharges raw sewage into the local brook in flood condition which contaminates the water around the houses in low part of the village and would ask for similar conditions to be applied as the Jacks Lane development in Marchington if consideration was given for approval or at appeal.

6. Neighbour/Interested party responses

- 6.1 Neighbours were notified of the application in its original form and in relation to supplementary submissions, a press notice published and a site notice posted. Comments were received from 3 No. parties in total. The correspondence received from the 2 No. local residents raised

objections/concerns to the scheme in relation to the following issues summarised below:-

Neighbour responses	
Principle of the development	<ul style="list-style-type: none"> • The land is not allocated for housing the Local Plan. • The scheme would not be likely to provide any contribution for local services (e.g. roads, schools, healthcare etc.) as the schemes coming forward will each be less than 10 No. dwellings. • The submissions states that no area for the 20 houses required for Draycott in the Clay in the Local has been identified. This is not the case as ESBC have identified land close to village school within the village settlement boundary.
Impacts on Visual Amenities	<ul style="list-style-type: none"> • The applicants state the scheme is not isolated development; whereas Stubby Lane is actually well-spaced ribbon development and there is no guarantee that the eight houses approved on appeal will be built. • The site will be visible in the locality as result of the removal of hedges to form the vehicular and from well used public footpaths at The Woodlands, from Woodedge Lane and the wider valley.
Drainage/Flood Risk	<ul style="list-style-type: none"> • The scheme is likely to exacerbate drainage problems in the locality which already impact negatively on adjoining properties. • The development will increase flood risk to the adjoining lands and properties (with one of the correspondents forwarding photographs of recent flooding incidents that have occurred in and around the application site).
Wildlife/Landscaping and Open space	<ul style="list-style-type: none"> • It is not clear from the submissions as to whether works are being proposed to hedgerows.
Highways/Transport	<ul style="list-style-type: none"> • Traffic, including HGV vehicles, has increased along Stubby Lane since the appeal (on the 2015 application) and an updated traffic assessment is needed. • There have been road traffic accidents within the vicinity of the Lont and the development would exacerbate the situation. • There is no continuous footpath or verge to the village of Draycott in the Clay making it totally unsafe to walk especially with a child in buggy or with a dog.
Other Matters	<ul style="list-style-type: none"> • It is contended that some of the hedgerows are not owned by the applicants. • The submissions incorrectly state that the application site is garden land whereas it is actually paddock.

6.2 Correspondence was also received from and on behalf of owners of the Kuehne & Nagel (K & N) logistics site - which lies to the north-east of the application site - expressing the view that the scheme would not be compatible with the existing and potential (up to twenty-four hour) operations at their existing commercial premises. The parties concerned point out that the application proposes residential development within about 50 metres of operational parts of the existing commercial premises and as a result, noise (and perhaps other issues) have the potential to harm the residential amenity of the future occupiers of the proposed houses contrary to development plan policy and Government guidance. In support of these objections to the scheme the parties appointed their own consultants to provide a critique of the applicants noise impact assessment who summarily concluded that :-

- *“The measurement and assessments carried out in the report provide an assessment of the general noise climate with respect to new residential development but focusses primarily on BS 8233 and implies that The K&N facility has little impact upon the site.*
- *The report makes little reference to activities at the existing K&N facility and any noise levels generated by these activities. The report does not consider the current unrestricted use or any future changes in activity at the industrial site.*
- *The report provides some practical measures to limit noise impact of the K&N facility upon the proposed development.*
- *It is considered that a more detailed assessment of K&N activities should have been made and made over a working week in order to be fully representative. Where activity noise from K&N is not particularly noticeable at the site, this should be demonstrated by measured sound levels for specific activities. This may require measurements closer to the K&N site and extrapolation of these to determine site impact. This latter approach would provide better confirmation of the potential noise impact of the K&N facility.*
- *Consideration should be given to any future noise impact of the facility for unrestricted operations by K&N or from change of site operator. Such consideration should include night time and weekend working”.*

7. Policy Framework

National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- SP4 Distribution of Housing Growth
- SP10 Education Infrastructure

- SP16 Meeting Housing Needs
- SP17 Affordable Housing
- SP23 Green Infrastructure
- SP24 High Quality Design
- SP25 Historic Environment
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP30 Locally Significant Landscapes
- SP32 Outdoor Sports and Open Space
- SP35 Accessibility and Sustainable Transport
- 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 Heritage Environment
- DP7 Pollution and Contamination
- DP8 Tree Protection

Supplementary Planning Documents/Guidance

- East Staffordshire Design Guide
- Parking Standards
- Waste Storage and Collection Guidance for New Developments

8. Principle of Development 5 Year land Supply

- 8.1 The most recent calculation uses figures as at 30th September 2017 and concludes there is 5.23 years of supply. Therefore the policies in the plan can be considered up to date.

9. Local Plan

- 9.1 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.

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

9.3 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. The following elements guide the development strategy:

- Focus the majority of development at Burton Upon Trent
- Allocate a significant level of development at Uttoxeter
- Identify and support those villages that have a range of essential services and good transport links, including public transport links, to larger towns and their employment areas; and
- Control new development in all other villages and hamlets

9.4 The settlement of Draycott in the Clay is identified as a local service village (tier 2) and Policy SP4 sets out the proposed distribution of housing growth over the Plan period and, including a requirement of twenty No. dwellings within Draycott in the Clay.

- 9.5 The application site is located outside of the defined settlement boundary for Draycott in the Clay within the Local Plan and as such represents countryside location. Strategic Policy 8 provides guidance and criteria on how to deal with development in the countryside and is relevant in this case. This policy states that outside development boundaries planning permission will not be granted unless:
- essential to the support and viability of an existing lawful business or the relation of a new business appropriate in the countryside in terms of type of operation, size and impact and supported by relevant justification for a rural location; or
 - providing facilities for the use of the general public or local community close to an existing settlement which is reasonably accessible on foot, by bicycles or by public transport; or
 - in accordance with a ‘made’ (i.e. legally in force) Neighbourhood Plan; or
 - development under the Rural Exception Sites policy
 - Appropriate re-use of Rural Buildings following guidance set out in the Rural Buildings SPD; or
 - Infrastructure development where an overriding need for the development to be located in the countryside can be demonstrated; or
 - Development necessary to secure a significant improvement to the landscape or the conservation of a feature of acknowledged importance; or
 - Provision for renewable energy generation, of a scale and design appropriate to its location
 - Otherwise appropriate in the countryside
- 9.6 The proposal fails to satisfy any of the criteria of Policy SP8 of the Local Plan and indeed the applicants in their submissions acknowledge that the scheme is outside limits to development and a housing needs assessment was submitted with the application as originally submitted. In the assessment the applicants state that *‘this report is required in accordance with the Local Planning Authorities local validation requirements. The local requirements state that it is necessary for all housing development falling outside of the specified limits to development to justify the specific housing need within the area. This need is not however the quantitative need, which has been identified through the Local Plan process, but is instead the qualitative need, i.e. the ‘type’ of housing required.’*
- 9.7 It is considered that this is not correct; rather any residential development outside settlement boundaries is required to be accompanied by a housing needs survey, identifying housing needs which would not be met through the development strategy identified in the Local Plan, or by developments currently permitted.
- 9.8 The applicant states that the methodology of carrying out a questionnaire approach as set out in the Housing Choice SPD would not prove the best or most useful results as the majority of responses would be based on local opinion, which could fluctuate on a daily basis as a result of various environmental circumstances. However, in experience, the questionnaire approach is the only way to clearly set out the detailed need within the locality, the type and tenure of dwellings needed the timing for when the need should be met.
- 9.9 The statement goes on to say that *“to identify the emerging qualitative needs within the vicinity of the application site; in this case being Draycott in the Clay,*

the latest Census Data has been drawn upon. This is considered to comprise of a statistically robust evidence base that, when used in conjunction with other data sources, will allow various conclusions to be drawn in relation to the housing requirements within the area. Information regarding house prices, house types, health, age and wealth in the immediate locality has been included in the assessment.”

- 9.10 It is not considered that the data referred to in the assessment is more detailed, or up to date than that used in the Strategic Housing Market Assessment which includes consideration of the items listed above. The Council have used the information in the SHMA to prepare the Local Plan and development Strategy – therefore the submitted assessment does not provide the Local Planning Authority with any new or suitably detailed information about housing needs in the locality.
- 9.11 It therefore turns to whether the development strategy (level of housing need) is, or is still capable of being achieved. The assessment states *‘It has also been acknowledged that there is inadequate space within the settlement boundary to provide for this need and as such, delivery of this identified need will have to be met through developing on the adjoining parcels of countryside.’*
- 9.12 There has been no appeal decision or policy statement setting this perceived position out. The applicant has carried out a review of available land within the settlement boundary and concludes that it is very unlikely that the 20 dwellings allocated for this settlement could be built within the existing boundary. However it is not clear what this review has involved or why that view has been concluded. It is therefore reasonable to conclude that the number of dwellings is not proposed as a direct response to any identified need. The main argument is that the allocation of 20 dwellings to be delivered at Draycott will not take place within the settlement boundary and therefore greenfield sites should be positively considered to ensure the development strategy is delivered. This argument is not accepted as the settlement boundary for Draycott was specifically drawn to accommodate the development strategy over the plan period.
- 9.13 In the wider context of the Councils five year land supply, there is no dispute that homes are required, however the development strategy sets out where the objectively assessed housing need is to be delivered over the plan period. The five year land supply adequately addresses under delivery in the calculation and a 5 year land supply can be demonstrated; this being a 5.23 years of supply as of 30th September 2017 (as outlined in paragraph 8.1 above).
- 9.14 Furthermore, the location is not identified as a location for housing development in the Local Plan. The granting of permission would be contrary to SP2 and SP4 of the Local Plan.
- 9.15 The proposal is a greenfield site which has been used for equestrian purposes in most recent times (being one of number of paddock areas to The Lont). Whilst it is preferable to develop on brownfield sites rather than greenfield sites it is also important that the site is sustainably located. The proposal seeks to provide up to 9 No. dwellings. The closest services, school and shop are in the village of Draycott in the Clay which is, it is considered, only reasonably accessible via car from the location due to lack of continuous footways, footpaths or public rights of way (PRoW). Marchington also has a range of services and is equally as difficult to access. To provide context in terms of distances:

St Augustines School, Draycott:	1 mile / 1.52km
Draycott Shop/Post Office:	1 miles / 1.52km
Marchington School:	1.95 miles / 3.14km
Marchington Shop:	2.1 miles / 3.39km

- 9.16 The only bus service that runs along Stubby Lane is service 402 operating on 2 hour frequency. This service only operates Monday to Saturday. The route links Uttoxeter with Burton upon Trent passing through Marchington, Draycott in the Clay, Hanbury and other smaller settlements. The closest bus stop, which appears to be approximately 670-715 m from the site towards Marchington, is not accessible via a continuous footway along Stubby Lane/public footpath and is poorly defined. There appears to be no hail and ride bus service available for the area (certainly not advertised online) which could mitigate trips without a car; which is a position contrary to that commented upon by the Inspector in the appeal decision in relation to the 2015 application. It is considered that as a result the proposal will have an overriding need for car use.
- 9.17 In relation to the social arm of sustainability the development would contribute positively towards the government's aim of boosting the supply of housing, however, the Local Plan has a very clear direction on the appropriate strategy to do this; developing a large quantum of housing in rural areas is not in accordance with the strategy. The site is not well located relative to local services and facilities which should, ideally, be accessible by a range of modes of sustainable travel. Whilst it is acknowledged that the proposal will lead to a larger population to maintain the existing local services it is considered that an increase of nine No. dwellings is not sufficient to rely on, especially considering the separation and poor links.
- 9.18 In terms of the economic arm there are obvious benefits associated with new development, especially during the construction period when the house building industry will employ staff, but this is limited. A similar argument could be had for a brownfield site in a sustainable location.
- 9.19 In relation to environmental impacts the isolation from existing settlements and the reliance on private motor vehicles does not aid this arm.
- 9.20 In national and local planning policies terms it is therefore considered that the proposal is in an unsustainable location, on a greenfield site in an area where housing is precluded, unless in special circumstances, and which will generate a need to use the car, and as such is considered unacceptable against the policies of the Local Plan and the NPPF.
- 9.21 The applicants agent does nevertheless effectively contend - notwithstanding the basis of any housing needs assessment - that there are special circumstances in relation to the development of this site; namely because it would be wholly consistent with the findings of the Planning Inspector in allowing the '2015 application' to which this scheme is a physical continuation to the north/north-east. As such, the applicants therefore contend that the scheme would be compliant with the NPPF and would not give to rise to any residential or visual amenity concerns, that the scheme would not impact on the setting of the listed building or have any negative biodiversity impacts and would be compatible with

existing surrounding uses and with local infrastructure provision. The applicants also point out that as a continuation of the ‘2015 application’ scheme - and thus providing 17 No. dwellings in total (with the developments combined) - the scheme would deliver the necessary affordable housing provision, commuted sum and the waste/bin provision contribution (in line with any requirements of the Local Planning Authority) that otherwise would not come forward for a scheme of the scale being proposed.

- 9.22 With regard to the compliance (or otherwise) of the ‘2015 application’ with the NPPF, when the appeal was allowed on the ‘2015 Application’ in March 2017 the Inspector concluded (at paragraphs 32 and 33) on the decision notice in terms of the ‘Planning Balance’ of that specific application at that time that :-

“32. Notwithstanding, the theoretical conflict with policies SP2, SP4 and SP8 of the Local Plan, having considered the harm and taking a pragmatic approach when considered against the purposes of these policies and the compliance with the requirements of SP1 of the Local Plan which sets out East Staffordshire’s approach to sustainable development, the proposal would not undermine the overall development strategy of the area. Furthermore, it would be accessible by sustainable modes of transport and would not cause material harm to highway safety thereby complying with [Policies] SPs 1 and 35 of the Local Plan in these respects.

33. There would be economic, social and environmental benefits from the proposal and no significant disbenefits. Therefore, taken overall I am fully satisfied that the proposal would comprise sustainable development and that it would accord with the development plan when taken as a whole.”

- 9.23 With regard to any position of the applicants now seeking to rely on the Inspectors conclusions for support of the current scheme, whilst it is not disputed the appeal decision is a material consideration, it is necessary to also consider whether (or not) the inspector in determining the ‘2015 application’ gave the relevant weight to the (identified) conflict with the development plan.
- 9.24 It is also reasonable to consider the cumulative impact of the application proposal and the permitted appeal scheme as well as the cumulative impact of other proposed development. Further, there remains the emphasis that decisions should be plan-led, with the expectation that where there are conflicts with an up-to-date plan, development proposals will normally be refused unless there is a compelling reason to grant permission. Essentially, the application should be determined on its own merits in the context of the contemporaneous planning consideration circumstances. (This approach would also relate to the issue of ‘material harm’ to highway safety as is considered in detail in Section 12 below).
- 9.25 In relation to the Inspectors decision letter (and thus the conclusions in it), it is considered that the appeal inspector on the 2015 application did not give sufficient weight to the conflict with the development plan. Specifically in paragraphs 11, 12 and 17 of the NPPF (amongst others) national policy emphasises the importance of decisions being plan-led and expects that development which conflicts with an up-to-date plan will normally be refused. It is strongly arguable that permission should not be granted in such cases unless there is a “compelling” justification, not simply because little tangible harm would be caused in a particular case.

- 9.26 A further issue created by the sort of approach taken by the inspector in the appeal on the '2015 application' is that, even if (in their opinion) relatively little harm may be caused by permitting a single development outside settlement limits, if such decisions are repeated the cumulative harm is likely to be significantly greater. Thus, in this case it follows that any granting of 9 No. dwellings at The Lont in addition to the 8 No. dwellings allowed on appeal, the cumulative impact of granting permission in this would be greater because at the time of the appeal decision there were no other permissions for dwellings outside the settlement boundary. Furthermore, if the Council were to support a grant of permission, it could be in a position of not being able to reasonably refuse others, in which case the cumulative impact would be commensurately greater still.
- 9.27 There are therefore cogent reasons to conclude that the '2015 application' appeal decision does not provide a sufficient basis to provide support in principle for the current scheme given its conflict with development plan policies and cumulative impact in terms of the aim of those policies to direct new residential development towards sustainable locations.
- 9.28 Insofar as the applicants agent comment that the scheme would deliver the affordable housing provision that otherwise would not come forward for a scheme of the scale being proposed is concerned, it is considered that this 'benefit' is not a compelling argument to support a scheme which is otherwise inappropriate in sustainability terms as there is no substantive evidence to suggest such provision could not be brought forward in the Local Plan period as part of the 20 No. dwelling allocation for Draycott in the Clay cited in Policy SP4 of the Local Plan or (if necessary) by way of an exceptions site located on the edge of the settlement (in line with Policy SP18).

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

- 10.1 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.
- 10.2 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 developments are expected to achieve including creating a sense of place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction. Policy DP3 expands upon this aim with specific reference to residential development. It requires new dwellings to integrate well within the street scene.
- 10.3 Policy DP1 of the Local Plan 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. Policy SP30 deals with the wider Locally Significant Landscape Area within which the application site is located.
- 10.4 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 will be important, as this can

support local distinctiveness. The Guide allows for development which employs a more modern architectural style but in terms of its proportions and siting it should still complement its surroundings.

10.5 The East Staffordshire Design Guide is equally applicable to the policy aspirations of SP24. It states that:

- (a) Residential layouts should be designed with focus on the streets and spaces between dwellings rather than the individual buildings themselves;
- (b) The location of buildings in relation to streets should create interesting streetscapes including consciously arranged views and vistas within and out of the development;
- (c) Long straight and sweeping roads should be avoided with a preference for traffic calming inherent in the design of the development;
- (d) Repetitive house types should be avoided;
- (e) The cramming together of large numbers of detached properties should be avoided.
- (f) High proportions of frontage car parking will not be acceptable.

10.6 Policy 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.

10.7 As the application is in outline form - with only details of access for determination at this stage - the layout provided with the submission is only for illustrative purposes. Nevertheless it is considered that this demonstrates that up to 9 No. dwellings could be accommodated on the site without compromising the residential amenities and would enable satisfactory provision of amenity areas and car parking facilities.

10.8 In terms of the impacts on the wider landscape, in respect of the '2015 application' the officer delegated reported concluded that "the development could be reasonably accommodated into the area without significant detriment" having regard to the following :-

"The site is at present is quite hidden due to the dense hedge to the front. The indicative drawings show this being removed and replanted to provide sufficient visibility for the access of the site. This would certainly change the appearance of the site but in time the new planting would mature and views into the site mellow. Alternatively any reserved matters application could control the loss/protection of the hedge."

10.9 The appeal inspector in turn commented that :-

"Although the appeal site is treated as being within the countryside for planning policy purposes it is no part of the Council's case that the proposed development would cause harm to the character and appearance of the area and from what I saw on my site visit and on the evidence before me I see no reason to take an alternative view."

- 10.10 As is the case with the 2015 site (which remains to be progressed), the application site is at present hidden due to the dense hedge to the frontage along Stubby Lane. The indicative drawings show this being proposed to be removed and replanted to provide sufficient visibility for the access of the site (and that of the 2015 application site). This would again certainly change the appearance of the site but in time the new planting would mature and views into the site would be mitigated. Indeed, given the views from Stubby Lane towards the present site would be more distant and the scheme would also benefit from the screening to its southern side (surrounding Draycott Lodge). It is also recognised that to the north-east the premises of Kuehne and Nagel Logistics would enclose any views towards the site from the east, whilst those from the north and west would be interrupted by mature hedges/trees and The Lont and its outbuildings respectively. As such it is considered that the scheme would not in principle cause substantive harm to the character and appearance of the area.
- 10.11 In terms of the built structures to occupy the site the visual appearance of these and the details of materials could be secured at any reserved matters stage to ensure that they are of a quality design in their own right. Conditions of any approval would also secure proposed materials to be used in the development and ensure sustainable construction methods are utilised. Relevant refuse facilities would be secured by way of a condition of any approval.
- 10.12 It is therefore considered that the proposal could satisfactorily accord with the relevant criteria of Local Plan Policies SP1, SP8, SP24, DP1 and DP3 insofar as visual amenities issues are concerned. Further, it is also recognised that construction materials could be secured (by condition of any approval) to match those prevailing to the locality and as a sustainability approach for this development energy efficiencies could be achieved at any reserved matters stage in line with Policy DP2 of the Local Plan.

11. Residential Amenity (including Noise Pollution Issues)

- 11.1 The National Planning Policy Framework and DP1 and DP3 of the Local Plan seek 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.
- 11.2 The Borough Council's Design SPD sets out in paragraph 2.9 separation distances required. It concludes that there are no set standards specified in terms of separation distances between buildings. The performance of development will be considered in terms of its acceptability in design terms with regard to overlooking. It is considered that the proposed layout shows each new dwelling is sufficiently distant from both existing residential properties and proposed residential properties to avoid causing them unacceptable loss of light or privacy. The scheme is therefore compliant with the provisions of Local Plan Policies DP1 and DP3.
- 11.3 With regard to the relationship with existing dwellings there are separation distances of at least 85 metres and 100 metres respectively between the residential development element of the application site and the existing dwellings at The Lont and Draycott Lodge (No.68). There is also a tree screen that further mitigates any views northwards towards the proposed development site from Draycott Lodge. Accordingly, having regard to the distances of separation from

existing dwellings and any screening provided by existing landscape features, it is considered that the proposed dwellings on the application scheme would not have any significant overbearing, overshadowing or overlooking impacts that would be detrimental to the residential amenities of any existing dwellings.

- 11.4 Within the application site itself, and having regard to the illustrative plans, given the separation distances that could be achieved between dwellings, including garden depths, it is not considered that there would be likely to be concerns about residential amenities in terms of the relationships between proposed dwellings.
- 11.5 In conclusion, therefore, the proposed layout shows that 9 No. detached dwellings can be accommodated on the site without compromising the reasonable amenities of their future occupiers, and allowing for sufficient outdoor private amenity space complying with the relevant provisions of Local Plan Policies DP1 and DP3.
- 11.6 In relation to activity, the scheme will necessarily generate additional traffic along Stubby Lane, however, it is considered that this vehicular activity would not unacceptably affect the amenities enjoyed by the occupiers of existing dwellings in the vicinity of the application site in terms of noise and disturbance. Similarly, the comings and goings of vehicles to individual new dwellings are unlikely to generate levels of noise and disturbance to the detriment of existing residential amenities given the separation distances involved.
- 11.7 With regard to the relationship with the premises of Kuehne & Nagel Logistics immediately to the north-east of the site, the owners of these commercial premises raise objections to the scheme on the basis that the residential development of the site would not be compatible with the noise and activity associated with the operation of the premises which could potentially be a unrestricted twenty-hour use (even though it does not have such hours of operation at present). In support of their objections the owners of the Kuehne and Nagel premises submitted a critique of the applicant's noise assessment (with its summary conclusions set out in Section 6 of this report). In turn the applicants were required by the Borough Council's Environmental Protection section to seek to address the points raised by the submissions of the owners of Kuehne and Nagel Logistics premises. This application's consultants contended that mitigation measures such as acoustic fencing and/or acoustic window units could successfully overcome any concerns in relation to the impact of the premises of Kuehne & Nagel.
- 11.8 The Council's Environmental Health Protection section having reviewed both the applicants and objectors submissions concluded that they *"feel that on balance that the Acute Acoustics (in their submissions on behalf of the applicants) sufficiently demonstrates that there will not be a significant noise impact on the proposed residential properties as a result of noise from Kuehne & Nagel Logistics or any other environmental noise subject to conditions."*
- 11.9 In the light of the conclusions of Environmental Health Protection it is considered a reason for refusal based on noise and disturbance impacts of existing surrounding uses on future residential amenities of the dwellings on the application site could not be sustained in this instance.

12. Highway Matters

- 12.1 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 ensure development proposals have taken the opportunities for sustainable transport modes and to ensure safe and suitable access to the site to be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 12.2 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.
- 12.3 The Council's parking standards SPD - recently revised - sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses.
- 12.4 In relation to the proposed vehicular access arrangements, concerns and objections about its adequacy and road speeds along Stubby Lane have been raised by the Parish Council, Kuehne and Nagel and local residents. The County Highway Authority, however, raise no objections in principle to the vehicular access arrangements themselves. Further, the illustrative drawing indicates that adequate parking and servicing could be provided to each plot. The parking requirements therefore could conform to the Borough Council's updated parking standards.
- 12.5 Insofar as pedestrian access arrangements and linkages are concerned, in relation to the '2015 application' the appeal inspector concluded that :-

"There is no street lighting in the vicinity of the appeal site. Within the vicinity of the appeal site there is a 1.2m wide footway on the southern side of Stubby Lane which runs both eastwards and westwards. However, to the east the footway ends just west of the access to the Kuehne and Nagel Logistics employment site and to the west it ends just east of Woodlands Drive, from where it continues on the northern side of Stubby Lane until it ends at the access to the Poplars Mobile Home Park. Accordingly, there is not a continuous footway along the route from the appeal site to Draycott in the Clay or Marchington and for some of the way pedestrians would need to walk in the carriageway to access the local services and facilities in these settlements. However, much of the road is bordered by grass verges of varying width and so in most places any pedestrian would be able to step off the carriageway when a vehicle passes. There are also a number of driveways and accesses within which it is possible to take refuge. Whilst I appreciate that taking such evasive action may not be as easy for anyone pushing a buggy or using a wheelchair I am also mindful that the hail and ride bus service which can be accessed from immediately outside the site

would provide an alternative to walking to the nearby settlements for those pedestrians.

Having regard to all of the above therefore, I consider that the consequential likelihood of conflict between vehicles and pedestrians due to the lack of a continuous footway from the appeal site to Draycott in the Clay and Marchington is limited and that therefore the proposed development would not cause material harm to highway safety. Accordingly, the proposal would comply with SP1 of the Local Plan which identifies the effect of a proposal on highway safety as being one of the principles to apply in assessing whether a development proposal is as sustainable as possible. Furthermore, it would comply with SP35 of the Local Plan which seeks to encourage the use of sustainable modes of transport."

- 12.6 The Parish Council, however, challenge the Inspectors findings on pedestrian safety along with citing an increase in traffic (since the appeal decision) and officers consider the Inspectors conclusions on the 2015 application "*that the likelihood of conflict between vehicles and pedestrians due to the lack of a continuous footway from the appeal site to Draycott in the Clay and Marchington is limited*" to be somewhat perverse insofar as any day in day out use of Stubby Lane by the residents of the proposed scheme would be concerned. For example it is not considered reasonable for pedestrians - even without buggies/wheelchairs - to be expected to take refuge on driveways and accesses or grass verges whilst vehicles pass given the 40 mph road speed along Stubby Lane; as pedestrian safety at any one moment in time relies on human reactions and the availability of any refuge. Clearly, the fact there is no street lighting in the vicinity of the appeal site also increases the difficulties of finding such refuges outside daylight hours; whilst in overall terms any occupiers of the new development would in any event have different levels of mobility in terms of any ability to seek to use a road without a continuous footway.
- 12.7 It is pointed out that even to walk to the nearest available bus stop - some 670-715 m distance away - would necessitate using a section of Stubby Lane without a continuous footway; which it is suggested would mitigate against the use of the bus service (402) that is available. Further, it is not considered that it would be practical for any hail and ride bus service to be used by residents as an alternative (to walking) as it would rely upon a degree of planning of any trip that is unlikely to be practicable on a day to day basis (although there appears to be no hail and ride service available for the area - certainly not advertised online - therefore preventing any impromptu trips without a car).
- 12.8 The County Highway Authority - as per the 2015 application - raises objection to the scheme. The Highway Authority specifically recommend refusal as the proposed development fails to demonstrate a safe all weather all season pedestrian route between the settlements of Marchington and Draycott in the Clay and as a consequence would increase the likelihood of pedestrian/vehicle conflict resulting in increased highway danger.
- 12.9 As was the case in relation to the development principles section of the report, the Inspectors appeal decision is a material factor to this determination, however, it is again the position that the Authority needs to be

mindful that whilst that determination was taken having regard to specific circumstances of the proposed erection of 8 No. dwellings, any approval of this scheme would cumulatively result in a total 17 No. dwellings with the potentially increased pedestrian movements from the site that would bring. As such, given this change of materiality and the officer assessment of pedestrian safety on Stubby Lane - which (as set above at paragraph 12.6 above) differs substantively from the opinions of the appeal inspector - it is considered that it would be wholly reasonable to come to the conclusion that the proposed development would exacerbate the risk of pedestrian/vehicle conflict by reason of the lack of readily useable pedestrian connectivity to the settlements of Draycott in the Clay and Marchington, or indeed to bus stops on Stubby Lane, leading to an increase in the likelihood of danger to highway users. As such the proposal is contrary to the Local Plan Policies SP1 and SP35 and also Paragraph 17 and Section 4 of the NPPF. The likely necessary reliance of the private motor vehicle given the dangers identified also emphasises the unsuitable nature of the proposed development in sustainability terms.

13. Historic Environment

- 13.1 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.
- 13.2 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 (Barnwell Manor Wind Energy Ltd). 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.
- 13.3 Section 66(1) 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 (Barnwell Manor Wind Energy Ltd),.
- 13.4 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.

- 13.5 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.
- 13.6 The main body of the application site is located a minimum distance of some 100 metres to the north of the Grade II listed Draycott Lodge, with the access road (already approved for the most part by the 2015 application) running to the west. The architectural and evidential interest is derived from its traditional form and construction being of red brick with clay tile roof. Historic interest is derived from its late 18th Century origins with later alterations and development. The significance of the setting of the listed building is greatly derived from its location within a large spacious wooded plot, the boundaries of which have been subject to alteration over time. To the north the wider rural setting has been eroded by later large scale modern development. To the south however, the wider rural setting is still evident and makes a positive contribution reflecting the agricultural origins.
- 13.7 The application site is presently open paddock, but makes a limited contribution to the setting of the listed building at Draycott Lodge considering the degree of separation, screening and other alterations to the north of the site including large-scale modern industrial units. Due to the degree of separation, the existing screening of the site and the limited contribution that the site makes to the significance of the setting of the listed building when considering the existing later development, the proposal is considered to preserve the significance of the setting which is greatly derived from its own curtilage and rural setting to the south. As such, the proposal is not considered to have a harmful impact on the significance of the listed building or its setting.
- 13.8 The nearest conservation area to the application site is the Marchington Conservation Area some 1.5 km to the north-west and given the topography of the landscape and more modern development in Marchington surrounding the historic core there is no inter-visibility with the application site.
- 13.9 Accordingly, having regard to the statutory duties under Section 66(1) and under Section 72 it is concluded that the scheme would not impact harmfully on the significance of heritage assets or their setting.

14. Flood Risk and Drainage/Contaminated Land

- 14.1 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.
- 14.2 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.

- 14.3 The application site is situated in Flood Zone 1 and the Environment Agency and the Local Lead Flood Authority have not raised any objections in principle to the current scheme. The comments of Severn Trent Water Ltd are awaited (and are to be reported on the update sheet) and if positive any detailed foul and surface water drainage could be required to be submitted in due course under the requirements of any reserved matters application. Should Severn Trent Water Ltd have objections in principle to the scheme these would form the basis of an additional reason for refusal.
- 14.4 No specific contaminated land concerns are raised in relation to the development of this site although ESBC Environmental Protection require that a condition provides for mitigation measures.

15. Affordable Housing and Housing Mix

- 15.1 The NPPF states that Local planning authorities should have a clear understanding of housing needs in their area. Local Authorities should address the need for all types of housing, including affordable housing and the needs of different groups in the community. Strategic Policies 16 and 17 along with the guidance set out in the Housing Choice SPD respond to this requirement.
- 15.2 Strategic Policy 16 states that residential development in the main towns and Strategic Villages shall provide an appropriate dwelling or mix of dwellings given the mix required in that part of the Borough according to the Council's evidence base or other evidence.
- 15.3 The Housing Choice SPD expects the following housing mix:

	Strategic Villages
1-bedroom homes (flats, houses or bungalows)	2%
2-bedroom homes (flats, houses or bungalows)	20%
Housing for Older People**	35%
2-bedroom houses	6%
3-bedroom houses	23%
4-bedroom houses	10%
5-bedroom houses	4%

- 15.4 Strategic Policy 16 states that all dwellings providing ground floor accommodation should meet Building Regulations 2010 Standard M4(2) relating to accessible and adaptable dwellings. Further guidance has been prepared setting out how this policy will be applied. The guidance states that the standard will be expected on 10% of major applications. The standard

should be applied to a range of properties and not just those larger properties.

- 15.5 Strategic Policy 17 of the Local Plan states that housing-led residential development that will provide 4 or more dwellings or on a site of 0.14 hectares or more shall provide up to 40% of affordable housing. Policy SP17 also provides that two adjacent sites can be considered as one site (where one application extends the permission of a previous site) for the purposes of the delivery of affordable housing.
- 15.6 Policy SP17 of the Local Plan states that affordable housing provision should be delivered across the site and not in clusters of more than 8 dwellings and the Housing Choice SPD provides guidance on the expected affordable housing mix of sites.
- 15.7 The development on the application site comprises of 9 No. dwellings and the housing mix required by the Housing Choice SPD could be addressed by a condition of any approval.
- 15.8 With regard to the guidance providing that ground floor accommodation should meet Building Regulations 2010 Standard M4(2), this could also be addressed by condition of any approval.
- 15.9 Insofar as affordable housing provision is concerned, the proposed draft heads of terms for scheme provides for 3 No. affordable housing units on the site and £152,000 for off-site provision. This is in line with Policy SP17 Housing Choice SPD and could be secured by way of Section 106 Agreement attached to any approval. With the total number of units being 3 No, the affordable housing provision will not raise any cluster issues having regard to the Housing Choice SPD.

16. Green Infrastructure/Biodiversity/Impact on protected species

- 16.1 The National Planning Practice Guidance is clear that green infrastructure is important to the delivery of high quality sustainable development, alongside other forms of infrastructure such as transport, energy, waste and water. Green infrastructure provides multiple benefits, notably ecosystem services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. To ensure that these benefits are delivered, green infrastructure must be well-planned, designed and maintained. Green infrastructure should, therefore, be a key consideration in planning decisions where relevant.
- 16.2 Strategic Policy 23 states that development should contribute towards the creation, enhancement or ongoing management of a series of local green infrastructure corridors. The policy lists 10 standards which green infrastructure is expected to meet.
- 16.3 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.

- 16.4 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.
- 16.5 Strategic Policy 29 lists criteria including development needing to retain features of biological interest to produce a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits.
- 16.6 The scheme will result in the loss of existing mature hedgerows as a consequence of the development proposals. These losses in the short term will change the habitat for wildlife, however a condition of any approval could provide for new tree and hedge planting. The scheme also provides for the retention of the mature trees to the southern boundary of the site (common to the northern boundary of Draycott Lodge). Protection measures for existing hedges/trees to be retained could also be the subject of a condition of any approval.
- 16.7 With regard to the impact on habitats and protected species, the scheme would not give rise to any specific concerns that would not be addressed by the landscaping and tree/hedgerow planting scheme that could be provided by this development scheme.
- 16.8 It is therefore concluded, in the light of the applicant's submissions along with the appropriate mitigation conditions, that the issue of the impacts on protected species and biodiversity on the site have been necessary addressed as far as the principle of the development of the site is concerned.

17. Open space

- 17.1 The NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. SP32 and SP33 set out the requirements of open space provision across the Borough and developers should provide open space to the local standard identified for the area. Local Standards are identified in the Local Plan Supplementary Planning Document.
- 17.2 The scheme in principle in terms of the size of application site provides sufficient land to accommodate on-site provision and the precise details could be secured by condition of any approval

18. Education

- 18.1 There is a need for education facility provision in East Staffordshire, particularly at Burton upon Trent. The need is for both primary and secondary education. Strategic Policy 10 identifies areas where new schools will be expected in Uttoxeter and Burton upon Trent. In addition, the policy describes how proposals for education facilities will be assessed. Applications will be required to demonstrate that the location is accessible for the need for which it is intended to meet.
- 18.2 The County Education Authority requests a total sum of £48,476 in relation to education provision comprising £13,827 towards middle school facilities,

£16,622 towards High School facilities and £18,027 towards Sixth Form facilities. The request relates to one place at each facility and is based upon mitigating the impact of 17 dwellings.

18.3 In response, the applicants have indicated their willingness to meet the requirements of the County Education Authority, however, as the scheme does not relate to 10 or more dwellings (and unlike affordable housing education requests cannot be cumulatively applied despite the proximity of the sites) such a request would not be compliant with the Council's SPD. Consequently, such a request would not meet the tests set out in paragraph 204 of the NPPF.

19. Section 106

19.1 Paragraph 204 of the National Planning Policy Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

19.2 National Planning Practice Guidance states that when CIL is introduced (and nationally from April 2015), the regulations restrict the use of pooled contributions towards items that may be funded via the levy. At that point, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.

19.3 Planning practice guidance states that section 106 planning obligations should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area).

19.4 Local planning authorities may choose to apply a lower threshold of 5-units or less to development in designated rural areas being areas as described under section 157 of the Housing Act 1985, which includes National Parks and Areas of Outstanding Natural Beauty. No affordable housing or tariff-style contributions should then be sought from these developments. In such situations, local planning authorities should only seek affordable housing contributions from developments of between 6 to 10-units as financial contributions and not affordable housing units on site.

19.5 The restrictions on seeking planning obligations contributions do not apply to development on Rural Exception Sites.

19.6 As outlined in this report the following contributions would be relevant to this development scheme, which for the purposes alone of Policy SP17 of the

Local Plan would represent a cumulative scheme of 17 No. dwellings, should the application be approved:

Item	Planning Obligation	Cost (where applicable)
Affordable Housing	A provision of 40% would be appropriate; being a minimum of 13% on site - i.e. 3 No. dwellings - and an off-site contribution of £152,000 (with the calculation using overall total of 17 dwellings).	£152,000
Refuse Containers	Contribution to provide refuse storage containers at £75 per dwelling	Not appropriate – does not meet paragraph 19.1. (and could be dealt with by condition)
Education	Contribution request of £48,476 based upon 17 dwellings reflecting the scheme already allowed at appeal and the current scheme awaiting determination.	Only the current scheme can be considered and as it falls below the threshold for a viable contribution it cannot be requested as does not meet paragraph 19.1.

20. Conclusions

20.1 The NPPF has a presumption in favour of sustainable development. The site has a location clearly outside of any development boundary, separated from the nearest village Draycott in the Clay by open countryside and linked to it by a road without continuous footways. There are no immediate facilities and services to serve any residents on this site other than within Draycott and Marchington, which lie a significant distance away. The lack of continuous footway and distance to settlements of Draycott and Marchington, and the infrequent bus service means that it is likely that journeys to both villages would be dominated by the private car. The routes to either of these villages are not considered to be conducive to alternatives modes of transport. The development is therefore not sustainable.

20.2 In relation to the Local Plan, this proposal falls outside of the plan's strategy for housing growth so it is not required to deliver dwellings under the Local Plan during the Plan period. The proposal is outside any settlement boundaries and is therefore contrary to Policy SP8 of the Local Plan and the Housing Needs Assessment is insufficient for the purposes here and has not been prepared in accordance with the requirements of the Housing Choice SPD. Furthermore, the area is not identified as a location for housing development in the Local Plan and therefore the development would be contrary to SP2 and SP4 of the Local Plan.

20.3 The proposed development would also exacerbate the risk of pedestrian/vehicle conflict by reason of the lack of reasonable available pedestrian connectivity to the settlements of Draycott in the Clay and

Marchington leading to an increase in the likelihood of danger to highway users. The proposal is contrary to the Local Plan Policy SP1 and SP35 and also Paragraph 17 and Section 4 of the NPPF.

- 20.4 The Appeal Inspectors decision in relation to the recent grant of permission on appeal for 8 No. dwellings on the adjoining site fronting onto Stubby Lane (in the applicant's ownership) has been due consideration, however, whilst being mindful of the conclusions of that Appeal decision and also taking into account the affordable housing that the present scheme would bring forward, it is concluded that the planning balance in relation to the current submission is one whereby the 'other material considerations' are not considered to outweigh the fact that the application scheme would be fundamentally contrary to the policies of the Development Plan in terms of the location of new housing development and would be likely to give rise to increased pedestrian/vehicle conflict along Stubby Lane.

21. RECOMMENDATION

For the reasons set out in this report it recommended to **REFUSE** planning permission, on the following grounds :

1. The proposed development is outside of any settlement boundary, as defined in the East Staffordshire Local Plan and its proposals map, and is, therefore, in the countryside. Policy SP8 of the Local Plan precludes residential development in the countryside unless certain tests are sufficiently met. In this instance none of the criteria have been met in Policy SP8 so the application is considered to be inappropriate and unacceptable.
2. The East Staffordshire Local Plan plans for strategic growth of the Borough through the provision of allocated housing sites and a hierarchy of settlements in which developments would be suitable and acceptable. The location proposed for development is not identified as a location for housing development in the Local Plan under Policies SP2, SP4 and SP8. Whilst a Housing Needs Survey has been submitted it was conducted in accordance with the methodology of the Housing Choice SPD and as such is not an accurate marker of the actual housing need in the area. In respect of this it is considered that the granting of permission would be contrary to SP2, SP4 and SP8 of the Local Plan as well as the Housing Choice SPD.
3. The proposed development fails to demonstrate a safe and practical pedestrian route to the settlements and amenities in Marchington and Draycott-in-the-Clay thereby leading to an increased likelihood of pedestrian/vehicle conflict contrary to East Staffordshire Local Plan Policies SP1 and SP35 and Paragraphs 17 and 32 of the NPPF.
4. The proposed development fails to demonstrate that sustainable travel is viable and this would result in a high likelihood that residents of the proposed development would be unduly reliant on the private car for transport contrary to East Staffordshire Local Plan Policies SP1 and SP35 and Paragraphs 17 and 32 of the NPPF.

22. Background papers

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

- The Local and National Planning policies outlined in the report above
- Papers on the Planning Application file reference P/2017/00541
- Papers - including those relating to the appeal - on the Planning Application file reference P/2015/01585

23. Human Rights Act 1998

23.1 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.

24. Crime and Disorder Implications

24.1 It is considered that the proposal does not raise any crime and disorder implications. It is pointed out that the applicants have addressed the comments of the Police Architectural Liaison Officer in their most recent site layout.

25. Equalities Act 2010

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

For further information contact: Alan Harvey
Telephone Number: 01283 508618