
Agenda Item:	7.3
---------------------	-----

Site:	72 Stubby Lane, Draycott in the Clay, Staffordshire, DE6 5BU
Proposal:	Outline application for up to 9 dwellings including details of 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/2017/01569	
Planning Officer:	Rob Duckworth	
Type of Application:	Outline Planning Application	
Applicant:	Mr & Mrs Barber	
Ward:	Crown	
Ward Member (s):	Councillor Gordon Marjoram	
Date Registered:	03 January 2018	
Date Expires:	21 June 2018	

1. Executive Summary

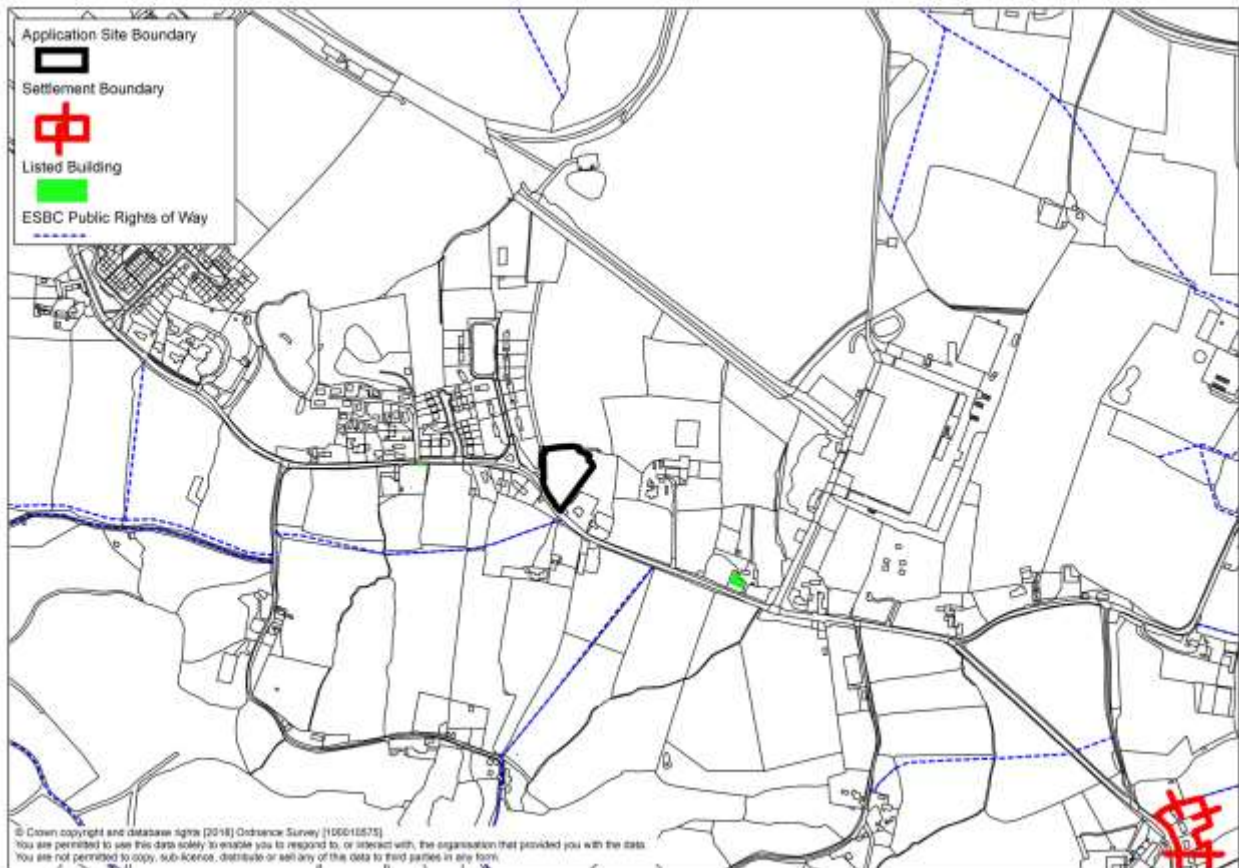
- 1.1 The application site is a 0.35 ha rectangular field to the northern side of Stubby Lane between No.72 Stubby Lane and Deep Cut Road, between the settlements of Draycott in the Clay and Marchington.
- 1.2 The application proposes the erection of up to 9 dwellings in outline with only details of access to be approved.
- 1.3 The site lies outside any settlement boundaries identified in the policies map of the Local Plan and therefore is in the countryside. Policy SP8 of the Local Plan is therefore relevant in this instance.
- 1.4 The NPPF has a presumption in favour of sustainable development. The site is 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 future residents of the 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.

- 1.5 The proposal is outside any settlement boundaries and is therefore contrary to Policy SP8 of the Local Plan and the Housing Needs Assessment that has been submitted as part of the application is insufficient and has not been prepared in accordance with the requirements of the Housing Choice SPD.
- 1.6 The submitted application fails to provide adequate information to demonstrate that an adequate visibility splay at the site access / Stubby Lane can be achieved and that forward visibility is sufficient for vehicles turning right into the development site. The proposed development fails to demonstrate a safe / practical pedestrian route between the development site and the residential area to the west thereby leading to an increase in the likelihood of pedestrian / vehicle conflict. The proposed development fails to demonstrate that sustainable travel is viable and this will result in the likelihood that future residents would be unduly reliant on the private car for transport. Based on these factors the application is contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.
- 1.7 Drainage problems have been identified on the site and in the area which are being reviewed by Severn Trent Water Ltd and will follow as an update.
- 1.8 The application is not accompanied by any Ecological Appraisal so the impacts of the proposals on protected species are unknown. As per the ODPM Circular 06/2005 & Defra Circular 01/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System where there is reasonable risk to protected species the risk needs to be fully assessed prior to the determination of any application. In this instance there is a reasonable likelihood of protected species on the site including reptiles, great crested newts, breeding birds and bats with potential foraging sites for bats and badgers, therefore the application cannot be determined without the appraisal of an ecological appraisal therefore the application is contrary to and would fail against the aforementioned Circulars and Local Plan Policy SP29 and the NPPF.
- 1.9 There are no issues with the design, layout, landscape impact, neighbour amenity or impacts on heritage assets; all of which have been assessed as being acceptable in accordance with the relevant Local Plan Policies and the NPPF.
- 1.10 The application is recommended for refusal for the following reasons:
 1. The proposed development is outside of any settlement boundary, as defined in the Local Plan and its policies 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 in Policy SP8 have been met so the application is considered to be inappropriate and unacceptable.
 2. The 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 not conducted in

accordance with the methodology of the Housing Choice SPD to justify a rural exception site and as such is not an accurate marker of specific housing needs in the area which would not otherwise be met. 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 submitted application fails to provide adequate information to demonstrate that an adequate visibility splay at the site access / Stubby Lane can be achieved and that forward visibility is sufficient for vehicles turning right into the development site contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.
4. 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.
5. The proposed development fails to demonstrate that sustainable travel is viable and this will result in the likelihood that future residents of the proposed development would be unduly reliant on the private car for transport contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.
6. The application is not accompanied by any Ecological Appraisal so the impacts of the proposals on protected species is unknown. As per the ODPM Circular 06/2005 & Defra Circular 01/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System where there is reasonable risk to protected species the risk needs to be fully assessed prior to the determination of any application. In this instance there is a reasonable likelihood of protected species on the site including reptiles, great crested newts, breeding birds and bats with potential foraging sites for bats and badgers, therefore the application cannot be granted until this information is suitably presented and would fail against the aforementioned Circulars and Local Plan Policy SP29 and the NPPF.

Map of site



2. The site description

- 2.1 The application site is to the northern side of Stubby Lane (B5017) to the west of No.72 Stubby Lane, which is owned by the applicant, between Draycott in the Clay and Marchington. The site appears vacant and has returned to meadow but its former use includes land for grazing of horses and agriculture. The site is located between No.72 Stubby Lane and the junction to Deep Cut Road opposite No.71 Stubby Lane. An old track runs along the eastern side of the site but it is now very overgrown.
- 2.2 The site is level. Dense hedges and a number of trees run around the northern, eastern and western boundaries of the site with fencing on the southern boundary to Stubby Lane.
- 2.3 The site is located outside any settlement boundaries and, therefore, is in the countryside. The application site is 0.35 Ha and is to be accessed off the turning head for Stubby Lane.
- 2.4 The site is in an area of archaeological interest being part of the former Army Barracks (MI ID1775 Army Camp, Prisoner of War Camp, Military Depot Marchington).

3. Planning history

- 3.1 There is no planning history for the site.
- 3.2 A planning appeal for outline permission for 8 dwellings at The Lont was allowed in March 2017, approximately 125 metres from the application site.

Relevant planning history is a material consideration in decision making and it is considered that the appeal decision, due to it relating to a similar scheme in the broad vicinity of the Stubby Lane area is a material consideration for this application. In the appeal, the Inspector found that even though there was conflict with policies SP2, SP4 and SP8 of the Local Plan, because of the specific characteristics of the ‘Lont’ site on Stubby Lane there would be very little harm by virtue of that conflict, which was considered to be “merely theoretical” and the proposal would not undermine the overall development strategy of the area and would comprise sustainable development. Whilst the appeal decision is a material consideration, there are reasons why the decision maker is not required to come to the same conclusion. Firstly, it is legitimate to consider the cumulative impact of the application and the permitted appeal scheme as well as the cumulative impact of the proposed development and other applications currently awaiting determination, considered separately in other items of this committee. Secondly, 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. Thirdly, all applications should be determined on their own merits, which are discussed in detail in this report.

4. The proposal

- 4.1 The application proposes a development of up to 9 dwellings in outline with all matters reserved apart from access. An indicative layout plan shows the development comprising of two pairs of semi-detached dwellings, three detached houses and two detached bungalows and the erection of associated garages with a central access road and private drive to the north. The proposed access would be immediately opposite the house of No.71 Stubby Lane.

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 Parish Council	<p>Draycott in the Clay Parish Council objects to this planning application due to concerns about any further development which would increase traffic on Stubby Lane. Stubby Lane already experiences dangerous traffic conditions and has no footpaths for significant stretches, making pedestrian use particularly hazardous.</p> <p>The Parish Council is also concerned that the local infrastructure, particularly the sewerage system, may be unable to cope with the proposed development and that local flooding issues would be made worse.</p> <p>If, despite these concerns, ESBC Planning Department is mindful to permit this application the Parish Council requests that:</p>

		<p>1. The proposed access to these dwellings is moved to another location (as indicated on the map below in red) as where it is currently visibility is very tight and the validity of the length of the sight lines needs to be investigated. It is thought that the visibility at this alternative location is better.</p> <p>2. If a new mains sewerage connection is being added to the proposed site, a connection is left to enable the future removal of the open septic tank at 71 Stubby Lane. This would make the area a lot better for everyone, especially during the summer months.</p>
5.3	SCC Highways	<p>Object</p> <p>The submitted application fails to provide adequate information to demonstrate that an adequate visibility splay at the site access / Stubby Lane can be achieved and that forward visibility is sufficient for vehicles turning right into the development site contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.</p> <p>The proposed development fails to demonstrate a safe / practical pedestrian route between the development site and the residential area to the west thereby leading to an increase in the likelihood of pedestrian / vehicle conflict contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.</p> <p>The proposed development fails to demonstrate that sustainable travel is viable and this will result in the likelihood that future residents would be unduly reliant on the private car for transport contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.</p>
5.4	SCC Flood Risk Team	<p>The proposed development will only be acceptable if the following measure(s) as detailed in the Drainage Strategy and/or other planning documents submitted with this application are implemented and secured by way of a planning condition on any planning permission</p> <p>Condition:</p> <ul style="list-style-type: none"> • The development permitted by this planning permission shall only be carried out in accordance with the Drainage Strategy and the following mitigation measures detailed within the FRA: • Limiting the surface water run-off generated by the site

		<p>to 2l/s so that it will not exceed the run-off from the undeveloped site and will not increase the risk of flooding off-site.</p> <ul style="list-style-type: none"> • Provision of an appropriate calculated volume of attenuation flood storage on the site to a 100 year +30% standard. • Finished floor levels are set no lower than 150mm above local ground level. • Confirm which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule and that is achievable.
5.5	SCC Schools Organisation	<p>In the catchment of schools so contributions should be sought (£13,827 for one Middle School space).</p> <p>(Contributions not requestable if less than 10 dwellings proposed)</p>
5.6	SCC Historic Environment	No objection
5.7	SCC Property	No response received.
5.8	SCC Minerals and Waste	No objection.
5.9	Severn Trent Water	Presently reviewing the submissions with comments to be reported on the update sheet.
5.10	Architectural Liaison Officer	No representations received.

Internal Consultees		Response
5.11	Environment Manager (Waste)	<p>No objections but developer should contribute £75 per bin required via S.106 agreement.</p> <p>(Contributions not requestable if less than 10 dwellings proposed)</p>
5.12	Planning Policy	Housing Needs Assessment is insufficient for purpose. More information is required.

6. Neighbour responses

6.1 15 representation have been received.

Neighbour responses	
Principle	<ul style="list-style-type: none"> • Outside settlement boundaries • Unsustainable location: poorly connected, no services • Cumulative development impact • The Lont approval for 9 executive houses provides sufficient provision of need for the village.

	<ul style="list-style-type: none"> • Further housing need needs to be formally assessed. • No need for more houses of this type in the area (250 2-4 bed properties for sale in area) • Brownfield sites in area more appropriate for development. • No affordable provision.
Impacts on Amenity	<ul style="list-style-type: none"> • Unsustainable location: poor public transport and no services • Street lighting will result in evening amenity issues / light pollution.
Highways Impacts	<ul style="list-style-type: none"> • Bad bend by site • More use of Stubby Lane junction with high numbers of HGV movements resulting in safety risks. • Poor public footpaths. • Poor street lighting
Flood and drainage impacts	<ul style="list-style-type: none"> • Sewer capacity and regular blockages • Surface water and flooding issues
Ecology	<ul style="list-style-type: none"> • Impact upon wetland area – pond close by.

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 2012 – 2031
- SP8 Development Outside Settlement Boundaries
- SP16 Meeting Housing Needs
- SP24 High Quality Design
- SP25 Historic Environment
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP30 Locally Significant Landscape
- 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 Historic Environment: Other Heritage Assets
- DP7 Pollution and Contamination
- DP8 Tree Protection

Supplementary Planning Documents

- East Staffordshire Design Guide
- Parking Standards SPD
- Housing Choice SPD

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.

9. 5 Year land Supply

9.1 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.

10. Local Plan

10.1 Policy SP1 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.

10.2 The Local Plan sets out in Policies SP2 and SP4 a development strategy directing growth to the most sustainable places; main towns (Burton and Uttoxeter) and settlements with settlement boundaries. Policy SP8 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 the development is, amongst others:

- 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
- development under the Rural Exception Sites policy; or
- Otherwise appropriate in the countryside

10.3 The site lies outside settlement boundaries identified in the policies map of the Local Plan and is located between Draycott in the Clay and Marchington; therefore Policy SP8 is relevant in this instance. The proposal fails to satisfy any of the criteria SP8 of the Local Plan. In response to this, a local need for housing was investigated by the applicant and is the next logical step in justification for housing outside of settlement boundaries.

10.4 A Housing Needs Assessment was submitted with the application. The applicant states 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.'

- 10.5 This is not correct, 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.
- 10.6 Instead of carrying out a housing needs assessment in line with the Housing Choice SPD, which the applicant recognises is required, the methodology instead focuses on the type of housing required citing numerous reasons why a housing needs survey is not believed to result in the 'best of most useful results'. 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 and the timing for when the need should be met.
- 10.7 The assessment pulls out information on households from the 2011 census and average house prices, along with figures on the type of houses, size of households, social grades, population profile and housing tenure. The applicant claims that this demographic information demonstrates that Draycott is an affluent area, largely populated by 2 person, professional or retired households. The conclusion also considers that there is a draw to the area from professional families and a further need for smaller accommodation suitable for retired people.
- 10.8 It is not considered that the data referred to in the assessment is more detailed, or more up to date than that used in the Strategic Housing Market Assessment (SHMA) 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, in particular how much housing over the whole Borough is required aswell as the type of housing, and therefore the submitted assessment doesn't provide the decision maker with any new or suitably detailed information about specific housing needs in the locality.
- 10.9 It therefore turns to whether the development strategy (level of housing need) is, or is still capable of, being achieved. The submitted assessment prepared by the applicant does not consider that the development requirement of 20 dwellings for Draycott can be delivered within the settlement boundary (as per Policy SP4 of the Local Plan). However it is not clear why that view has been concluded. The settlement boundary for Draycott was specifically drawn to accommodate the development strategy over the plan period (2012 – 2031).
- 10.10 Whilst the applicant does not refer to the Council's 5 year land supply, the Council can currently demonstrate a five year land supply and therefore full weight can be given to the policies in the plan.
- 10.11 In order for a scheme for residential development outside the settlement to comply with the relevant policies in the plan (Policy SP8), a

housing needs survey in line with the guidance set out in the Housing Choice SPD is required. The purpose of a housing needs survey is to understand if there are any local households that are in specific housing need, such as for specialist housing or affordable housing which would not otherwise be met by the development strategy or current permissions.

- 10.12 The request to the applicant for an updated Housing Needs Assessment was not produced by the applicant, notwithstanding a response from the Applicant was received in an attempt to counter what was relayed from the Planning Policy's review of the submitted assessment. The response reiterated many of the points within the submitted assessment and did not successfully overcome the principle objection relating to its preparation contrary to the method required by the Housing Choice SPD; therefore, the principle remains unacceptable.
- 10.13 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.
- 10.14 The proposal is a greenfield site which has been used for agricultural purposes in most recent times. 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 dwellings on the site. The closest services, school and shop are in the village of Draycott in the Clay which is only reasonably accessible via car from the location due to lack of continuous footpaths or public rights of way (PRoW). Other services are available in Marchington but are equally as difficult to access and further away.
- 10.15 To provide context in terms of distances:
- | | |
|---------------------------------|---------------------|
| St Augustines School, Draycott: | 0.9 mile / 1.43km |
| Draycott Shop/PO: | 0.97 miles / 1.56km |
| Marchington School: | 1.73 miles / 2.79km |
| Marchington shop: | 1.89 miles / 3.04km |
- 10.16 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, approximately 260m from the site towards Marchington, is not accessible via continuous footway or public footpath and is poorly defined. There appears to be no hail and ride service available for the area (certainly not advertised online) which prevents impromptu trips without a car; this was a matter raised on a previous appeal decision at The Lont (APP/B3410/W/16/3148540) but no such service appears to exist. It is considered that the proposal will have an overriding need for car use.
- 10.17 A previous unimplemented approval for development at the Kuehne and Nagel site had a provision of a footway towards Draycott to aid pedestrian access but even if that was to be secured again in the future it is not considered it

would be enough to outweigh the unsustainable location. It is considered that any future occupants' proposal will have an overriding need for car use.

- 10.18 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 eight houses is not sufficient to rely on, especially considering the separation and poor links.
- 10.19 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.
- 10.20 The proposal is in the countryside on a greenfield site which may provide habitats for a number of species so with respect to the environmental arm of sustainability the site is far from ideal. Furthermore, the isolation from existing settlements and the reliance on private motor vehicles does not aid this arm.
- 10.21 It is considered that the proposal is in an unsustainable location, on a greenfield site in an area where housing is precluded, unless in special circumstances, which have not been demonstrated, 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.

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

- 11.1 Local Plan Policies SP1 SP24, DP1, DP3 and SP30 as well as the East Staffordshire Design Guide state that development proposals must contribute positively to the area in which they are proposed. The policies list a number of criteria that 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.
- 11.2 Policy DP2 aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible.
- 11.3 The application is in outline so no detailed plans or elevations have been provided but it is reasonable to assume that an appropriate design could be prepared as part of any reserved matters application to reflect the local vernacular and respect the surroundings.
- 11.4 The indicative plans show that up to 9 dwellings can be accommodated on the site whilst providing sufficient amenity, parking and access (within the site) so it is considered that the quantum of development is acceptable.

- 11.5 The development will be a continuation of the infill an area of Stubby Lane between interspersed houses. The site could never be considered visually isolated and the impact on the landscape will be limited to the immediate visibility rather than wider vistas. The site is relatively well screened from all sides except the south and the addition of more houses in this area would not significantly change the character of the area or the landscape. The indicative layout also indicates the general scale of the buildings which would be proportionate to other developments in the area but such matters would be reserved for later approval and could be conditioned if necessary (ridge heights, for example).
- 11.6 It is considered that the proposal could satisfactorily accord with the Local Plan Policies SP1, SP24, DP1 and DP3 and could provide a high quality built environment subject to appropriate details upon a reserved matters application. It is not considered that Policy SP30 is significantly compromised by the proposals.

12. Residential Amenity

- 12.1 The National Planning Policy Framework and DP1 and 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.
- 12.2 The application is in outline so no detailed plans or elevations have been provided but it is reasonable to assume that an appropriate design could be prepared so as not to impact upon neighbouring properties. As part of any reserved matters application this issue would be considered in detail.
- 12.3 It is considered that the proposal could satisfactorily accord with the Local Policy DP3 of the Local Plan and the NPPF and could afford neighbouring properties sufficient amenity subject to appropriate details upon a reserved matters application. This is also the case for the amenities of future occupiers
- 12.4 The proposed residential use is unlikely to lead to additional noise and disturbance and the proposal would not unacceptably affect the amenities enjoyed by the occupiers of nearby dwellings. .
- 12.5 In this regard it is considered that there will be no specific amenity issues associated with the development and therefore it will accord with Policy DP3 of the Local Plan and the NPPF.

13. Sustainability of Construction (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.
- 13.2 The proposals do not specify any particular methods for the reduction of carbon but through modern design and construction methods the buildings will undoubtedly be much more efficient than those properties in the vicinity.

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 ensure 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.
- 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 proposes a new access off Stubby Lane opposite the house of No.71 Stubby Lane. The indicative plan shows the access continuing through the middle of the site with parking served off it and via a private drive at the end.
- 14.5 The access geometry is such that visibility splays cannot be sufficiently achieved, specifically turning right (towards the west) onto Stubby Lane. No speed survey has been submitted so no leniency can be given to the required visibility splay and, based on the representations received it seems as though road speeds are close to the enforced limit.
- 14.6 The Highway Authority has objected to the proposal based on the poor visibility as well as the lack of 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; and by reason that the proposed development fails to demonstrate that sustainable travel is viable and this would result in a high likelihood that residents would be unduly reliant on the private car for transport.
- 14.7 The indicative plans show that parking can be accommodated within the site to a reasonable extent roughly in accordance with the Parking Standards SPD but details of parking would have to be assessed comprehensively under any reserved matters application. As such it is reasonable to presume that the proposals could meet the requirements of the Parking Standards SPD and County Highways advice relating to parking, subject to the appropriate detail.
- 14.8 The application proposals fail to achieve sufficient highway visibility splays so it is considered that there would be an undue risk to highway safety should the application be approved. The site is not located in a suitable

location to enable safe, practical nor sustainable transport by foot or public transport for the future occupants of the development leading to pedestrian vehicle conflict and for overreliance on the private motor car. Therefore the application is considered to result in unacceptable highway safety issues and contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF.

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 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. If there would be some harm to the setting of the listed building the Council should refuse planning permission unless the harm is outweighed by the planning benefits of the proposed development. This is a statutory presumption in favour of preservation (Barnwell Manor Wind Energy Ltd),
- 15.3 Local Plan Policy SP25, DP5 and DP6 state 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.
- 15.4 There are no designated above ground heritage assets - conservation areas or listed buildings - within 0.5km of the application site. The Marchington Conservation Area is some 1.54 km distant to the north-west and the nearest listed building at Draycott Lodge is 235m away to the south east on Stubby Lane. Given the separation distances, intervening vegetation and developments (existing and approved), and the topography of the intervening landscape, it is not considered that the proposal will have any impact on views into, or those out of designated areas, or affect any listed building or its setting and that the statutory duties under Section 66 and under Section 72 are not therefore engaged.
- 15.5 The site is within an area marked as an Archaeological Site – MI ID1775 Army Camp, Prisoner of War Camp, Military Depot, Marchington. Whilst the Staffordshire Historic Environment Record (HER) identifies a degree of historic interest within the area the Historic Records Officer has raised no archaeological concerns regarding the proposed development in this instance therefore it is considered that the requirements of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are satisfied and the proposals accord with the relevant policies of the Local Plan, as noted above, and NPPF.

16. Flood Risk and Drainage

- 16.1 Section 10 of the NPPF seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere.

- 16.2 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. The site lies within Flood Zone 1 and as such is at low risk from fluvial flooding. While it is acknowledged that localised flooding has occurred it is not considered that the application can be refused on grounds of flooding subject to suitable mitigation. . Local Plan Policy SP27 expects all new development to incorporate Sustainable Drainage Systems (SUDS).
- 16.3 SCC Drainage and Flooding Team have commented that there are issues relating to surface waters but because of the sites topography the issue is unlikely to cause issue subject to mitigation measures which can be conditioned.
- 16.4 The percentage of comments in the objections that related to surface water and sewerage was high and photographic evidence was provided of standing water at the end of Woodlands Rise.
- 16.5 Severn Trent Water initially stated there was no objection to the proposal merely requesting a standard condition, although this has been questioned as it is clear that potential drainage issues exist and persist. The final 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.

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 Policy SP29 of the Local Plan lists a criteria including development retain features of biological interest produces a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits.
- 17.4 The application is not accompanied by any Ecological Appraisal so the impacts of the proposals on protected species is unknown. Based on the site characteristics it is reasonable to assume that nesting birds, newts (including Great Crested variety), badgers and bats may be present or use the site and, therefore, insufficient evidence has been submitted to determine the application.
- 17.5 Under Regulation 70 Conservation of Habitats and Species Regulations 2017/102 there is a need for the Local Planning Authority to be satisfied that there be no adverse impacts upon the integrity of any protected species. The

evidence submitted as part of the planning application is insufficient and too vague as to be conclusive as to the potential risks to protected species and therefore an Ecological Survey would be required to demonstrate that protected species are not to be impacted negatively by the development and/or to suggest appropriate levels of mitigation.

- 17.6 ODPM Circular 06/2005 & Defra Circular 01/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System; Part IV; Conservation of Species Protected by Law Paragraph 99 states (Case Officer emphasis):

“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of a licence under the procedure”

- 17.7 Based on insufficient information it is considered that the application cannot be approved nor can conditions be imposed as there is a reasonable chance of protected species to be present on the site, therefore the application cannot be granted until this information is suitably presented and would fail against the aforementioned Circulars and Local Plan Policy SP29 and the NPPF.

- 17.8 The proposals are unlikely to lead to the removal of any trees or hedges within or around the site as all of the peripheral trees and hedges are to be retained. This is considered reasonable and acceptable and will allow for some screening of the proposed development as well as providing a softer, mature edge.

18. Contributions

- 18.1 Paragraph 204 of the 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.

- 18.2 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).
- 18.3 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.
- 18.4 The following obligations have been sought from consultees, however as set out above, these are not requested.

Item	Planning Obligation	Cost
Refuse Containers	Contribution to provide refuse storage containers at £75 per dwelling	If approved can be conditioned
Education	In the catchment of schools so contributions should be sought (£13,827 for one Middle School space).	Not requested – see paragraph 17.1

19. Conclusions

- 19.1 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 footways and the 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 alternative modes of transport. The development is therefore not sustainable.
- 19.2 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.

- 19.3 The application proposals fail to achieve sufficient highway visibility splays so it is considered that there would be an undue risk to highway safety should the application be approved. The site is not located in a suitable location to enable safe, practical nor sustainable transport by foot or public transport for the future occupants of the development leading to pedestrian vehicle conflict and for overreliance on the private motor car. Therefore the application is considered to result in unacceptable highway safety issues and contrary to Policies SP1 and SP35 of the Local Plan and Paragraphs 17 and 32 of the NPPF.
- 19.4 The application is not accompanied by any Ecological Appraisal so the impacts of the proposals on protected species is unknown. As per the ODPM Circular 06/2005 & Defra Circular 01/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System where there is reasonable risk to protected species the risk needs to be fully assessed prior to the determination of any application. In this instance there is a reasonable likelihood of protected species on the site including reptiles, great crested newts, breeding birds and bats with potential foraging sites for bats and badgers, therefore the application cannot be granted until this information is suitably presented and would fail against the aforementioned Circulars and Local Plan Policy SP29 and the NPPF.
- 19.5 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan is the starting point for decision making and this application conflicts with the development in relation to policies SP2, SP4 and SP8. The Red House Farm appeal which was dismissed reinforces that the development strategy of the Local Plan represents sustainable development and reliance upon the development plan in decision making should be given significant weight. Any conflicts with an up to date development plan will normally be refused unless there are compelling reasons to grant permission.
- 19.6 In addition the impact of the application site will be cumulative taking into account the appeal decision of the Lont. In particular there is a cumulative impact of the additional houses without a safe footway or footpath to promote access to nearby services and facilities in Marchington and Draycott.
- 19.7 It is reasonable for this application to be determined on its own merits and as such the content of this report sets out the assessment of impacts.
- 19.8 Whilst the Lont appeal decision is a material consideration which should be taken into account in the decision making process for the reasons set out above it is given less weight.

20. RECOMMENDATION

- 20.1 For the reasons set out in the above report then REFUSE for the following reasons:
1. The proposed development is outside of any settlement boundary, as defined in the Local Plan and its policies map, and is, therefore, in the countryside. Policy SP8 of the East Staffordshire 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 East Staffordshire Local Plan under Policies SP2, SP4 and SP8. Whilst a Housing Needs Survey has been submitted it was not 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 submitted application fails to provide adequate information to demonstrate that an adequate visibility splay at the site access / Stubby Lane can be achieved and that forward visibility is sufficient for vehicles turning right into the development site contrary to Policies SP1 and SP35 of the East Staffordshire Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.
4. 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.
5. The proposed development fails to demonstrate that sustainable travel is viable and this will result in the likelihood that future residents would be unduly reliant on the private car for transport contrary to Policies SP1 and SP35 of the East Staffordshire Local Plan and Paragraphs 17 and 32 of the NPPF in terms of sustainable and safe highway use.
6. The application is not accompanied by any Ecological Appraisal so the impacts of the proposals on protected species is unknown. As per the ODPM Circular 06/2005 & Defra Circular 01/2005 Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System where there is reasonable risk to protected species the risk needs to be fully assessed prior to the determination of any application. In this instance there is a reasonable likelihood of protected species on the site including reptiles, great crested newts, breeding birds and bats with potential foraging sites for bats and badgers, therefore the application cannot be granted until this information is suitably presented and would fail against the aforementioned Circulars and East Staffordshire Local Plan Policy SP29 and the NPPF.

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. 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/2017/01569

23. Crime and Disorder Implications

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

24. Equalities Act 2010

24.1 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: Rob Duckworth
Telephone Number: 01283 508729
Email: rob.duckworth@eaststaffsbc.gov.uk