

<b>Agenda Item:</b>	5.1
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<b>Site:</b>	Bamford Works Pinfold Street Uttoxeter
<b>Proposal:</b>	Outline application (including details of access with other matters reserved) for the erection of up to 148 No. dwellings, the formation of a 'town park' and re-naturalisation of Picknall Brook and alteration of existing vehicular access off Hockley Road, Pinfold Street and Old Knotty Way.

### 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](#)

<b>Application Number:</b>	P/2017/01307	
<b>Planning Officer:</b>	Alan Harvey	
<b>Type of Application:</b>	Outline	
<b>Applicant:</b>	JCB	
<b>Ward:</b>	Town	
	Councillor Mrs S J McGarry	
	Councillor P Hudson	
<b>Date Registered:</b>	07 November 2017	
<b>Date Expires:</b>	5 February 2018 - series of ongoing extensions of time agreed until <b>14 December 2018</b> by the applicants to seek to resolve technical issues and to progress the affordable housing viability assessment process. Further extension of time was requested from the applicants until <b>25 January 2019</b> having regard to the applicants continuing viability submissions (into early January 2019) and in relation to reporting the application to the Planning Committee etc.	

## 1. Executive Summary

- 1.1 Members will recall that this application was withdrawn by officers from the agenda of the Planning Committee meeting of 22 January 2019 in the light of the fact that the applicants submitted (on 19<sup>th</sup> January) documentation comprising legal advice, a statement on the marketing of the application site from Savills and supporting letters from the applicant's agents to be taken into

account ahead of the Committee meeting (one for Councillors and one for officers).

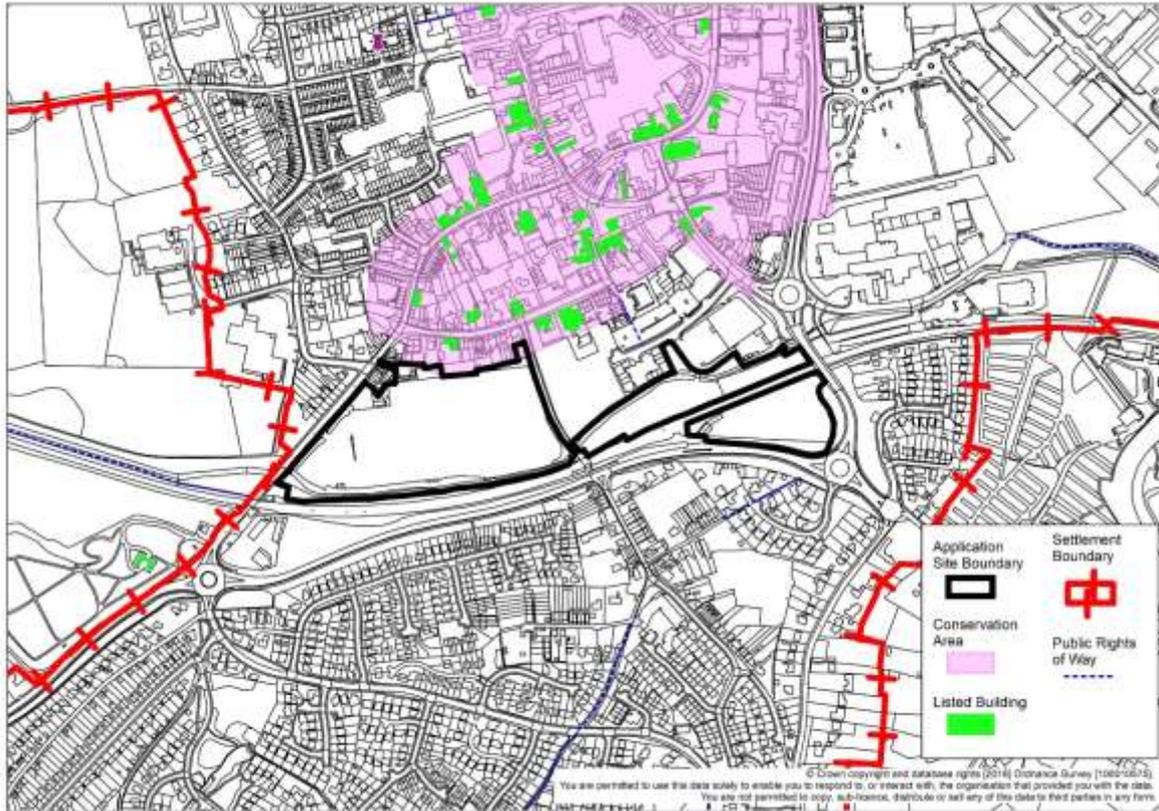
- 1.2 As set out in the Update Sheet prepared for the 22 January Committee meeting - and in turn as read out by the Chairman at the meeting itself – those submissions (hereafter *‘the 19<sup>th</sup> January documentation’*) had been submitted to the Council without any prior indication to officers and brought forward legal opinion in support of the applicants contention that the application could not be determined as per the officer (refusal) recommendation set out in the January committee report. The Update Sheet - and therefore the Chairman’s statement - continued in stating *“that view is not shared by officers - as the recommendation is policy based on an up to date adopted Local Plan - however, it has been deemed appropriate for the Local Planning Authority to instruct its own legal opinion on this matter. However, due to the limited time that remained available to officers to undertake this process it was considered that the application must now necessarily be deferred to a future committee meeting following receipt of the aforementioned legal advice.”*
- 1.3 Members are advised that the necessary legal opinion has now been received and this confirms that the officer (refusal) recommendation as set out in the 22 January Committee report would not have been unlawful. Further, the legal opinion advises that whilst it is usual for the level of affordable housing to be fixed at outline stage that does not mean it is necessarily unlawful to do otherwise.
- 1.4 Accordingly, in the light of the legal opinion provided to the Council this report is being brought back to Committee with the same officer recommendation; being one of refusal based on the level of affordable housing being proposed by the applicants at this stage. In doing so the applicants *‘19<sup>th</sup> January documentation’* is also being taken into account as set out in this report.
- 1.5 The application site consists of 6.5 ha of brownfield land to the south of the Uttoxeter Town Centre that was largely formerly occupied by a JCB factory (the Bamford Works). The site comprises two distinct land parcels which are bisected by both the Derby to Stoke railway and Picknall Brook and which in overall terms are bounded by Hockley Road, Balance Street, Pinfold Street, Bridge Street and Old Knotty Way.
- 1.6 The site has been ‘split’ into three zones by the applicants (Zones 1, 2 and 3) and these are referenced in the report where relevant after their descriptions are set out at paragraph 2.2 below. The application site is allocated for housing development in the adopted Local Plan.
- 1.7 The application is an outline submission for the erection of up to 148 No. dwellings, for the formation of a ‘town park’ and re-naturalisation of Picknall Brook and alteration of existing vehicular access off Hockley Road, Pinfold Street and Old Knotty Way. The detailed pedestrian and vehicular access arrangements are provided at this stage with all other matters reserved.
- 1.8 The County Highway Authority have raised no objections in principle to the scheme and other statutory consultees have raised no objections that cannot be overcome via planning conditions/Section 106 Agreement. Uttoxeter Town Council state that they welcome the development and have no objections.

- 1.9 Local residents were notified of the application, a press notice published and a site notice posted. Seven No. local residents/interested parties made representations raising objections/concerns on issues including the impact of the proposals in relation to the scale of the buildings and the proposed architectural styles, the traffic and parking implications and the potential increased flood risks.
- 1.10 The proposal would not be likely to adversely affect the amenities of occupiers of existing nearby dwellings, and would be likely to be able to provide an acceptable level of amenity for the occupiers of the future new dwellings. The scheme would also enhance the visual amenities of the locality and provide significant areas of new amenity space in an urban environment. The proposal will not have an unacceptably adverse impact on the surrounding highway network nor give rise to any environmental concerns. The scheme would also provide necessary mitigation in relation to ecological and biodiversity impacts. A screening opinion concluded that an Environmental Impact Assessment was not required to accompany the scheme.
- 1.11 The proposed scheme would also offer the opportunity to enhance the character and appearance and setting of the town's conservation area and the setting of the adjoining and nearby listed buildings. Section 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore engaged by this scheme and have been satisfied accordingly.
- 1.12 It is therefore considered that the submitted scheme - and any associated necessary Section 106 Agreement - could in principle be compliant with the provisions of the relevant development plan policies and the National Planning Policy Framework. However, in one key aspect there is a matter of disagreement with the applicants; namely in relation to the point in the development process at which an accurate conclusion can be reached on the commensurate and appropriate level of affordable housing provision.
- 1.13 In respect of the applicant's stated position at the conclusion of the viability assessment exercise they maintained in the light of their submissions that affordable housing provision can be assessed in a robust manner - and thus determined - at the outline stage with there being a 2% allocation on the site (i.e. 3 No. dwelling units) in connection with a 'low density' policy compliant scheme. The external consultants (CPV) appointed by the Local Planning Authority, however, concluded at the end of the viability assessment exercise that in this particular case the Council ought to defer final viability testing until the scheme is fully designed - and thus at the reserved matters stage - because the applicants in changing their design approach from one of a 'high density' project to a 'lower density' scheme during the assessment process have essentially demonstrated that a higher density scheme can generate an increased level of affordable housing. In addition to density resolution, the reserved matters submission will also mean that all dwelling mixes/types will be available, that construction costs will be better known and that as such any abnormal costs (such as foundation construction) can be more readily understood.
- 1.14 In their '19 January 2019 documentation' submissions the applicants are now proposing on a 'without prejudice' basis an offer of 5% affordable housing

provision as *“this would provide a contingency/buffer for any variations to the abnormal foundation costs”* and that *“this was the figure accepted by the Council on the previous permission for the site.”* A 5% offer would bring forward 8 No. affordable housing units based on a 148 No. dwelling scheme.

- 1.15 Whilst the applicants revised offer on affordable housing represents an increase above the 2% figure that the applicants previously argued was ‘robust’, this does not materially alter the basis of the external consultants (CPV) conclusion that the Council should defer final viability testing until the scheme is fully designed; and thus that this should be at the reserved matters stage. Essentially, it is considered that the 5% affordable housing provision now being offered ‘without prejudice’ by the applicants can be no more robust in its calculation at this outline stage than the 2% figure. The reference to the previous permission for the site relates to a scheme of 2013 (under application ref: OU/05254/018) which actually related to a larger site area, included an increased number of dwellings - as well as other proposed uses - and was determined under what are now superseded development plan policies. Each application of course needs to be determined on its own merits in the light of current up to date Local and National planning policies.
- 1.16 Therefore, in taking all relevant factors into account this application is being recommended for refusal as being contrary to the requirements of Local Plan Policy SP17 and Policy H2 of the ‘made’ Uttoxeter Neighbourhood Plan (March 2017). Specifically, it is concluded at this outline stage that the applicants are not in a position to demonstrate that an offer of 2% or 5% affordable housing provision is an appropriate and commensurate level of allocation.
- 1.17 Members are advised that the above is a brief summary of the complex proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

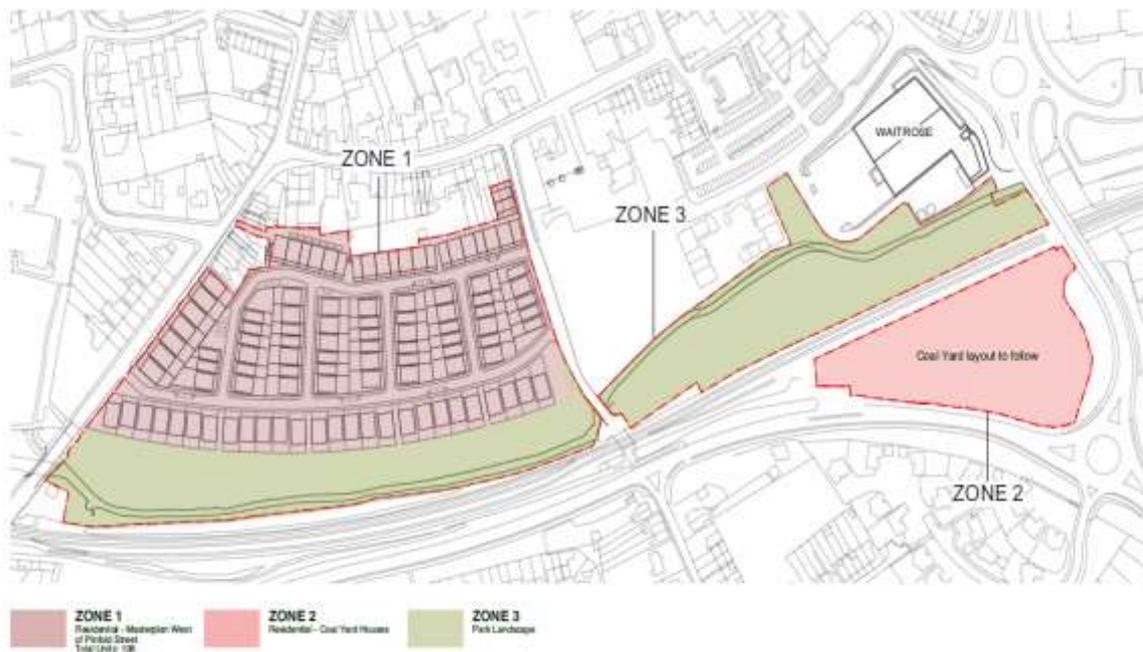
**Map of site**



**2. The site description**

2.1 The application site, which has an overall area of some 6.5 ha, is situated to the south of Uttoxeter town centre and was largely formerly occupied by a JCB factory (the Bamford Works). The site, although divided into three zones for the purposes of the application ('Zones 1, 2 and 3'), comprises two distinct parcels of land which are bisected by the Derby to Stoke railway line. Picknall Brook runs through the site to the north of the railway.

**Zoning Plan**

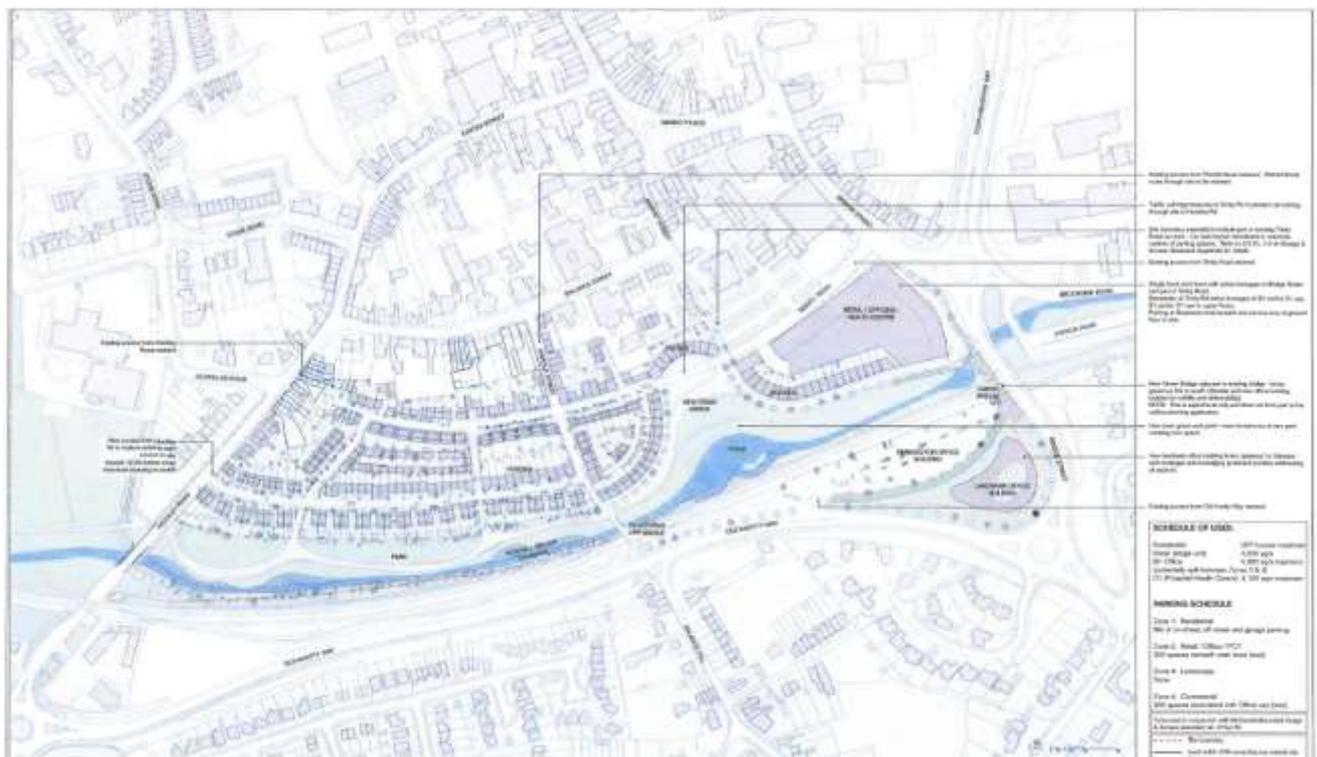


- 2.2 The larger parcel (comprising 'Zone 1' and 'Zone 3') is a linear in form and lies to the south of Balance Street and Trinity Road. It is bounded to the north predominantly by residential properties, although there are some commercial uses and parking areas. The railway line forms the southern boundary, with Hockley Road and Pinfold Street forming the eastern and western boundaries respectively.
- 2.3 The second smaller parcel ('Zone 2') - a former coal yard - lies to the south-east of the railway and is bounded by Bridge Street to the east and by Old Knotty Way, with the roundabout at the junction of Old Knotty Way and Bridge Street being immediately to the south-east of the site.
- 2.4 In terms of the overall site environs there is established residential development to the south of Old Knotty Way, to the west fronting Hockley Road, and to the east of the site on the opposite side of Bridge Street. The Bridge Street Industrial Units are located on the southern side of Trinity Street (adjacent to the northern boundary of Zone 3) and Waitrose and its car parking area lies to the east of them.
- 2.5 Uttoxeter railway station lies further to the east of the site (beyond Bridge Street), whilst an entrance to Bramshall Park is located to the west of the site on the opposite side of Hockley Road. Existing commercial uses including industrial and retail premises are located to the north-east of the site off Brookside Road and Town Meadows Way.
- 2.6 The site is now vacant following the clearance of the former JCB factory buildings. There are existing accesses to the site off Hockley Road, Pinfold Street, Trinity Road and Old Knotty Way. A pedestrian right of way crosses the site from north to south along Pinfold Street. This pedestrian route crosses the railway line towards Old Knotty Way where a pedestrian crossing point provides a link with Balance Hill. The pedestrian link is identified as a 'proposed green link' (Uttoxeter Town 14) in the 'made' Uttoxeter Neighbourhood Plan (2017).
- 2.7 The site is wholly within the settlement boundary and is in part within the Town Centre boundary as defined in the adopted Local Plan. The town conservation area boundary runs to the rear of properties on Balance Street, extending across to Bridge Street, and incorporates small parcels of the northern and north-eastern parts of the application site (of Zone 1). A number of listed buildings are located adjacent to the site on Balance Street, including the Grade II listed Nos. 23, 25 53 and 55 Balance Street and the Roman Catholic Church of St Mary. There are also views to and from the Grade II listed former police station on Pinfold Street.
- 2.8 The application site being bisected by the Picknall Brook means that is partly within flood zone 2 and partly within flood zone 3. A 'proposed green link' ('Uttoxeter Town 3') is identified as running through the site on the northern side of the watercourse in the 'made' Uttoxeter Neighbourhood Plan (2017).

### 3. Planning history

- 3.1 The current application site previously formed part of a larger proposed development site of 8.5 ha (see plan below paragraph 3.4) which had the benefit of an outline permission of August 2013 under application **ref: OU/05254/018** for a mixed use comprising the erection of up to 257 No. dwellings, a single food retail store on Bridge Street, an office scheme (Class B1) off Old Knotty Way, a Class D1 use (possible health centre), formation of a ‘town park’ and re-alignment of Picknall Brook, creation of a new vehicular access off Hockley Road, and the alteration of existing vehicular accesses off Trinity Road and Old Knotty Way. The scheme provided for 5% per cent affordable housing on the site.
- 3.2 The scheme could not however be progressed as envisaged by the 2013 approval as the associated Section 106 Agreement was not signed off by all the relevant landowners. The applicants were then therefore essentially unable to assemble all the necessary land parcels that comprised the 8.5 ha site.
- 3.3 Since the August 2013 approval, building demolition works/site clearance and de-contamination operations have nevertheless progressed on the remaining areas of the site in JCB ownership as facilitated by the conditions of the approvals.
- 3.4 A subsequent approval in October 2014 of a Section 73 application (**ref: P/2014/00969**); and in turn a reserved matters consent; also enabled the development and opening of the Waitrose store with its associated car parking area on Bridge Street/Trinity Road - as the ‘single food retail store element’ - on the easternmost area of the (originally envisaged) larger site.

#### Illustrative Plan Submitted under application ref: OU/05254/018



#### 4. The proposal

- 4.1 This application for outline planning permission proposes the erection of up to No. 148 dwellings, the formation of a 'town park' and the re-naturalisation of Picknall Brook and alteration of existing vehicular access off Hockley Road, Pinfold Street and Old Knotty Way. The scheme at this stage provides detailed proposals for means of access - vehicular and pedestrian - with all other matters reserved for subsequent approval (at a reserved matters stage).
- 4.2 The submissions show that the scheme will comprise residential development within Zones 1 and 2 and for the laying out of the 'Town Park' on Zone 3. The relevant areas are shown on a zonal plan attached as an Appendix to this report for ease of reference. As such it can be seen the substantive level of new residential development would be accommodated on Zone 1.
- 4.3 The proposed residential development on Zone 1 is to have vehicular and pedestrian access off both Pinfold Street and Hockley Road. The southern area of Zone 1 - with pedestrian access from Hockley Road - comprises open space where it adjoins Picknall Brook and this will link into the 'town park' area to be laid out on Zone 3. The town park will have pedestrian access from Trinity Road (alongside the Industrial Units) and Bridge Street (alongside Waitrose).
- 4.4 The proposed residential development on Zone 2 will be accessed by way of a single vehicular access point off Old Knotty Way with a pedestrian access alongside. A second pedestrian access will be available closer to the Bridge Street roundabout junction.
- 4.5 The submitted access details also show that in relation to rear access arrangements to existing properties fronting onto Balance Street that an existing driveway off Pinfold Street will be retained for vehicular access and that a 'minor access lane' off Hockley Road will be retained as being *"intended for use by pedestrians and cyclists."*
- 4.6 Illustrative plans show how dwellings could be potentially accommodated within Zones 1 and 2. Visual illustrations also show how the site could be developed in contemporary architectural style with buildings of two and three storey height. As the scheme is an outline application, however, these submissions are for illustrative purposes only (and thus not for determination at this stage).
- 4.7 Adjacent to the Bridge Street Industrial Units to the eastern side of Pinfold Street (and to the north of Zone 3) is a cleared area of former JCB factory land which (as 'blue land') remains in the applicant's ownership but does not form part of this development proposal.

#### List of supporting documentation

- 4.8 The following documents have been provided as part of the application:
- Site Location Plan
  - A plan showing the zonal composition of the site (being Zones 1, 2 and 3).

- Illustrative housing layouts for the residential zones (Zones 1 and 2)
- Detailed access arrangement points.
- Site levels
- Design and Access Statement
- Planning and Sustainability Statement
- Building Archaeology record
- Archaeological Assessment
- Ecological assessments and surveys (including protected species survey work)
- Tree Survey Report
- Transport Assessment/Highway Assessment (including technical notes)
- Travel Plan
- Sustainable drainage reports and layouts (including additional technical notes and an objector rebuttal report)
- Flood Risk Assessment
- Ground Contamination Report
- Health Impact Assessment
- Noise Assessment
- Land Contamination/Remediation Strategy
- Utilities Assessment
- Section 106 Heads of Terms
- Affordable Housing Statement
- Affordable Housing Viability Statement (Original and Revised) along with supplementary submissions

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

4.10 During the course of the application process revisions and additional submissions have been secured from the applicants in the light of the initial consultation responses of the County Highway Authority, the Lead Local Flood Authority and Network Rail. The submission has been subject to a screening opinion which concluded that an Environmental Impact Assessment was not required to accompany the scheme.

4.11 Also at the early stages of the application process the applicants were requested by officers to provide affordable housing viability submissions in line with the requirements of Local Plan policies and the Housing Choice SPD (2016); the adoption of which both post-date the approval of the larger mixed development scheme of 2013 (under application ref: OU/05254/018).

4.12 Upon the completion of the viability assessment exercise the applicant's submissions concluded with a "*robustly demonstrated*" offer to the Local Planning Authority of affordable housing provision at a level of 2% (i.e. of 3 No. dwellings) as part of a 'low density' policy compliant scheme; as was set out the applicant's summary document (of 10<sup>th</sup> January 2019) which is attached as Appendix A to this report.

4.13 The viability reports and supplementary documentation; submitted by the applicants over the period May 2018 - 10<sup>th</sup> January 2019; were all subject to an assessment by external consultants (CPV) appointed by the Local Planning Authority. CPV concluded that the site ought potentially to be

capable of delivering affordable housing levels above that being proposed by the applicants; albeit that a definitive final calculation can not be made at the outline stage in this instance in the absence of a detailed scheme - where final density, housing types and construction details would be available - and as such viability ought to be recalculated and finalised at the reserved matters stage.

- 4.14 The applicants also in December 2018 set out their position insofar as the progression of the application/the development of the site was concerned; with the main points being made summarised as follows :-
- The application is essentially a resubmission of the comprehensive redevelopment proposals contained in the previous planning permission granted in August 2013 and the subsequent Section 73 permission granted in October 2014.
  - The development is a long standing and well established redevelopment (starting as long ago as 2007) which is much needed and will greatly benefit Uttoxeter and the local area.
  - The level of affordable housing provision was already approved by the LPA in 2013 in the original outline permission and again in the 2014 with the Section 73 approval, namely at 5%. It was considered at the outset of this current application that the offer of 5% remained reasonable and appropriate as the factors relevant in 2013 and 2014 remained the same.
  - The housing development permitted by the 2014 consent could have been implemented and the scheme well on the way to being realised but for the refusal of the Council to acquire the third party land required using its compulsory purchase powers (after it was apparent that the extensive attempts made by the applicants to reach agreement with the third party landowner had been unsuccessful).
  - There was a fundamental disagreement with the LPA's approach on the current application to now looking at the issue of affordable housing provision in the light of the updated Local Plan policies, nevertheless the applicants took the pragmatic view to cooperate with LPA officers in an effort to progress this development and commissioned the necessary viability reports at significant cost.
  - Despite engaging in the viability process the applicants were informed for the first time in November 2018 that the Council would be unable or unwilling to reach a decision on the affordable housing provision required until a later stage (reserved matters). Such a rigid approach is considered obstructive and unjustified.
  - The consequence of deferring the decision on affordable housing levels is that it will delay the development of the site coming forward and as set out in the various correspondences of the applicant's agents it is considered the matter can be determined at the outline stage with a level of 2% in the light of the viability assessment process.
- 4.15 Subsequent to the above correspondence - and as recorded at paragraphs 1.1 -1.4 above - documentation was submitted (on 19 January 2019) by the applicants comprising legal advice, a statement on the marketing of the application site (from Savills) and supporting letters from the applicant's agents to be taken into account in the Committee determination process (one for Councillors and one for officers).

- 4.16 The issues raised by the applicant's legal advice in terms of the lawfulness (or otherwise) of the officer recommendation to the committee along with the officer suggestion that the affordable housing levels be finalised at the reserved matters stage - have been addressed fully at paragraphs 1.1 - 1.4 above. The legal opinion received from its own Counsel indicates to the Authority that there no issues of unlawfulness arising from any recommendations or actions suggested by officers in this report. The applicants legal opinion was attached as a matter of public record to the Update sheet prepared for the 22 January 2019 Committee meeting.
- 4.17 The site marketing statement and supporting letters - also previously attached to the Committee Update Sheet of 19 January 2019 - are reproduced as Appendices B, C and D to this report. The key points being set out by the applicants for members (as per Appendix B) in terms of planning matters are as follows :-
- *“Evidence from JCBs agents (Savills) which confirms the extensive marketing campaign for the higher density scheme which has been undertaken since May 2016 has been unsuccessful in attracting a development partner/purchaser.*
  - *Despite the viability appraisal for the policy compliant scheme demonstrating that 2% affordable housing would be appropriate, to try and resolve the current impasse, JCB is prepared (on a without prejudice basis) to increase the affordable housing provision to 5% on the basis this would provide a contingency/buffer for any variations to the abnormal foundation costs. This was the figure accepted by the Council on the previous permission for the site.*
  - *JCB has also suggested a planning condition limiting the scheme to 138 dwellings to prevent a higher density scheme of 148 dwellings coming forward.”*
- 4.18 The ‘19<sup>th</sup> January 2019 documentation’ has been subject to review by the external consultants (CPV) who conclude that this further documentation does not materially affect their previously stated position that the site ought potentially to be capable of delivering affordable housing levels above that being proposed by the applicants; be that either the ‘robust’ 2% figure being proposed by the applicants at the conclusion of the detailed viability assessment work or the (later) 5% figure now being proposed on the ‘without prejudice’ basis.
- 4.19 The full background and conclusions on the matter of affordable housing provision - which in turn have led to an officer recommendation of refusal on this application given the applicants stated stance of determining the level of provision at the outline stage - are dealt with in detail from section 8 onwards below; in particularly in Sections 22 and 23.

## 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	Uttoxeter Town Council	Welcome the development of the site and raise no objections.
5.3	SCC Highways	<p>No objection subject to conditions/Section 106 provisions, including requirement for the following off-site works :-.</p> <ul style="list-style-type: none"> <li>• traffic calming on Pinfold Street;</li> <li>• a Toucan crossing on Hockley Road;</li> <li>• a Yellow box junction on Hockley Road;</li> <li>• the pedestrianisation of the southern section of Pinfold Street</li> </ul> <p>(with the works to be completed before the completion of the 50<sup>th</sup> dwelling).</p> <p>The following financial contributions are also required :</p> <ul style="list-style-type: none"> <li>• A monitoring fee (£6,760) for an agreed Residential Travel Plan</li> <li>• Funding for pedestrian footway between the Coalyard site and existing pedestrian crossing on Old Knotty Way (£28,800).</li> </ul>
5.4	SCC Education	Request a commuted sum of £491,192 in respect of primary and middle school places (in relation to 148 No. dwellings)
5.5	SCC as Lead Flood Risk Authority	No objection subject to conditions further to the provision of additional information
5.6	SCC Archaeology	Comments that no archaeological recording condition would be relevant in this case.
5.7	Environment Agency	No objection subject to conditions
5.8	Severn Trent Water	No objection subject to conditions
5.9	Natural England	No objection as scheme would not impact negatively on the Cannock Chase Special Area of Conservation (SaC)
5.10	Network Rail	Network Rail advises that the scheme in its construction and occupation phases needs to ensure the safe use of the crossings on Pinfold Street (pedestrian only) and Hockley Road (the detailed comments of Network Rail on this issue are set out and addressed in paragraphs 13.6-13.10 below).

		Network Rail also consider that appropriate noise mitigation needs to be installed to dwellings and they have also set out detailed guidance outlining the safety measures that need to be addressed and observed by the developers during the construction phase (which have been forwarded to the applicants).
5.11	Office of Road and Rail	No comments received to date. Comments to be reported on the update sheet (as they are timetabled to be provided on or before 14 February 2019).
5.12	Historic England	No objection
5.13	Architectural Liaison Officer	No objection but provides advise on security issues.
5.14	Primary Health	Request a commuted sum of £62,160 towards health facilities in the town (in relation to 148 No. dwellings)

Internal Consultees	Response
Environmental Health	No objection subject to conditions in relation to land contamination and noise mitigation.
Housing Strategy	Requires the provision of Affordable Housing in accordance with Policy SP17 of the Local Plan; namely the equivalent of 37 No. dwellings - out of 148 No. dwellings - (which could be provided as 20 No. dwellings on site and a commuted sum of £680,000 for off-site provision).
Open Spaces	An overall total of 0.72 ha of informal and formal open space provision is required; comprising 0.01 ha of equipped play; 0.48 ha of parks and gardens, 0.10 ha of semi/natural green space, 0.05 ha of amenity greenspace and 0.05 ha of allotments.
Conservation Officer	<p>Concludes that :-</p> <ul style="list-style-type: none"> <li>having regard to the planning history and the relationship to heritage assets that the existing site, particularly 'Zone 1', does not make a positive contribution to the character of the Conservation Area or the setting of the listed buildings being cleared industrial land which has changed in character and function over time.</li> <li>there is an opportunity to enhance the Conservation Area and the approach into the Conservation Area by reinforcing building lines and providing a more coherent street scape.</li> <li>the success of this scheme depends on any reserved matters and how these details respect and respond to the existing character and built form within the Conservation Area and the setting.</li> <li>considering the limited contribution that the existing site makes to the setting of heritage assets there is considered to be scope for development which will</li> </ul>

	preserve/enhance the Conservation Area and the setting of the nearby listed buildings.
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## 6. Neighbour responses

6.1 The application was advertised on the site and in the press and adjoining residents/properties consulted. 7 No. letters were received which raise the following concerns/objections to the scheme summarised below :-

Neighbour responses	
<b>Character/Design/Layout of the Development</b>	<ul style="list-style-type: none"> <li>• The proposed buildings as shown on the illustrations would appear soulless and austere; being reminiscent of 1960s Milton Keynes</li> <li>• More tasteful period designs should be used on Hockley Road so as to be in keeping with the design of the existing properties opposite.</li> <li>• The proposed three storey houses are imposing and not in keeping with this historic market town</li> </ul>
<b>Drainage/Flooding</b>	<ul style="list-style-type: none"> <li>• Any work carried out on the Picknall Brook should ensure that the industrial estate is not put at greater risk of flooding as a result of any work carried out.</li> </ul>
<b>Highways/Transport</b>	<ul style="list-style-type: none"> <li>• There is concern that rear vehicular access to properties on Hockley Road/Balance Street will be congested by other vehicles seeking to park. Measures need to be put in place to secure this vehicular access</li> <li>• Balance Street is already highly congested and further traffic will only add to this problem and give rise to pedestrian safety concerns on a route used by schoolchildren.</li> <li>• Pinfold Street should remain with a pedestrian access.</li> <li>• There is lack of car parking facilities with cars likely to be clogging up pavements.</li> <li>• The Council should consider implementing a 'residents only' parking scheme for the layby on Hockley Road as the development is likely to reduce its availability to existing residents.</li> <li>• The scheme is likely to cause access issues along Hockley Road due to the majority of traffic using this as the only clear route out of town</li> </ul>
<b>Impacts on residential amenities</b>	<ul style="list-style-type: none"> <li>• The proposed dwellings would overlook existing properties.</li> <li>• The three storey properties will block a significant portion of natural light into the existing houses to the detriment of existing residents.</li> </ul>

<b>Other Matters</b>	<ul style="list-style-type: none"> <li>• There appears to be no street lighting proposed</li> <li>• It is questioned whether storage and positioning of waste and recycling bins been considered</li> <li>• It is questioned where are jobs for the new residents are coming from</li> <li>• The High Street is full of the empty premises</li> <li>• If the applicant wishes to leave a legacy then the views of current residents about the impact of the proposals need to be taken account of.</li> <li>• The sheer number of houses shows greed rather than concern over the town.</li> </ul>
<b>Ward Members</b>	No representations received.

## 7. Policy Framework

7.1 The relevant national and local planning policies are listed in order below. Policy NP1 of the Local Plan sets out the role of Neighbourhood Plans and in the case of this report the policies of the ‘made’ Uttoxeter Neighbourhood Plan are specifically addressed in Section 21 below; albeit it is recognised there is some overlap with the assessment of Local Plan policies which proceeds it from Section 8 onwards.

### National Policy

- National Planning Policy Framework (as revised July 2018)
- National Planning Policy Guidance

### Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- NP1: Role of Neighbourhood Plans
- SP4 Distribution of Housing Growth 2012 – 2031
- SP9 Infrastructure Delivery and Implementation
- 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
- SP32 Outdoor Sports and Open Space
- SP34 Health and Wellbeing
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP3 Design of New Residential Development.

- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP6 Protecting the Historic Environment: Other Heritage Assets
- DP7 Pollution and Contamination
- DP8 Tree Protection

#### 'Made' Uttoxeter Neighbourhood Plan

- Policy D1 - Residential Design
- Policy D3 - Space between buildings
- Policy T1 - Sustainable Transport
- Policy T2 - Links to the Town Centre
- Policy T3 - Parking Standards
- Policy T4 - Traffic and Town Centre
- Policy T5 - Railway Station
- Policy L2 - Local Green Spaces
- Policy L3 - Public Open Space
- Policy E1 - Uttoxeter's Network of Green Infrastructure
- Policy E2 - Landscape and Setting
- Policy E3 - Green Links
- Policy H2 - Housing Mix and Standards
- Policy C2 - Health Provision
- Policy C3 - Education and Childcare Provision

#### Supplementary Planning Documents/Guidance

- Housing Choice SPD (2016)
- East Staffordshire Design Guide
- Revised Parking Standards (Updated 2017)
- Waste Storage and Collection Guidance for New Developments

## **8. Principle of Development**

8.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 11 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with an up to date development plan without delay; and
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
- the application of policies in the Framework that protect areas of assets of particular importance provides a clear reasons for refusing the development proposed; or  
any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;

8.2 Annex 1 of the NPPF states that 'existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework (July 2018). Due weight should be given to them, according their degree of consistency with the NPPF. The closer the policies in the plan to policies in the framework, the greater the weight that may be given'.

## 9. 5 Year land Supply

9.1 The most recent calculation uses figures as at 30th September 2018 and concludes there is 6.19 years of supply. Therefore the policies in the plan can be considered up to date.

## 10. Local Plan

10.1 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. As set out in Principle 1: Presumption in Favour of Sustainable Development the policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government's presumption in favour of sustainable development.

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

- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
- it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
- retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
- re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
- integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
- designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
- high quality design which incorporates energy efficient considerations and renewable energy technologies;
- developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
- does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
- creates well designed and located publicly accessible open space;

- would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;
- would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
- uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is appropriate), sustainable waste management practices and minimises construction waste;
- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future; and
- would result in the removal of contamination and other environmental problems associated with the site.

10.3 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

10.4 The development of this site, which is allocated for residential use in the adopted Local Plan, is wholly in line with national and local policies for the sustainable location of new residential development.

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

11.1 The NPPF expects the creation of high quality buildings and places, which are fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps to make development acceptable to communities. 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, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision maker as a valid reason to object to development.

11.2 Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. The policy 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.

- 11.3 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.
- 11.4 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.
- 11.5 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.
- 11.6 Detailed Policy 2 of the Local Plan aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible.
- 11.7 This submission is in an outline form with all matters reserved except access arrangements, however, having regard to the illustrative plans it is concluded that the site could physically accommodate up to 148 No. dwellings in a form that would complement the established urban pattern and built fabric of the town centre. Energy efficiency techniques would be necessarily secured in a detailed scheme proposed at any reserved matters stage. Similarly, the provision of associated domestic infrastructure such as space for bin and cycle storage would be addressed in any reserved matters submissions.

## **12. Residential Amenity**

- 12.1 The NPPF (particularly at paragraph 127) and Policies 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.

- 12.2 Concerns have been raised in representations that the scale of the proposals could impact negatively on residential amenities, however, the submissions provided with the application are for illustrative purposes only as the scheme is an outline submission with the exception of the detailed access arrangements. The precise layout, scale and design of the dwellings therefore will necessarily follow at any reserved matters stage. It is, however, possible to conclude at this stage that the site is of sufficient size to accommodate up to 148 No. dwellings without giving rise to negative impacts on existing and future residential amenities.
- 12.3 In terms of noise and disturbance it is considered that the activities generated by the occupation of the proposed development, including traffic movements, would not be sufficiently detrimental to surrounding existing residents in this town centre environment. Conditions of any approval could provide for noise and dust mitigation and controls on hours of operation during the construction phase(s).
- 12.4 With regard to the future occupants of the dwellings on the application site, Network Rail point out that given the proximity to the operational railway there could potentially be trains running all hours of the day and there is associated noise from the operation of the nearby crossings such as alarms.
- 12.5 The Borough Councils Environmental Protection section are satisfied that the development of the scheme would not give rise to any significant concerns provided necessary noise mitigation measures are put in place in terms of acoustic glazing installation. These provisions will - as they were proposed in relation to the previous scheme - be secured by way of condition to any outline approval. These would similarly mitigate any impact of existing background noise generated by vehicular traffic on surrounding roads. The degree of physical separation from the industrial units on the Bridge Street Industrial Estate and the Waitrose store - with its associated car parking area - is such that these uses are unlikely to generate noise and activity that would be to the significant detriment of future residents of dwellings on the application site.

### **13. Highway Matters (including Railway Crossing Safety implications)**

- 13.1 The NPPF in section 9 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, ensure safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 13.2 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.

- 13.3 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.
- 13.4 The concerns raised by local residents have been recognised and scheme has been subject to revision during the application in order to address the requirements of the County Council as the Highway Authority. The Highway Authority are now satisfied that the access arrangements to serve the development are acceptable in highway safety terms and that adequate car parking provision can be accommodated to serve dwellings within the site. Within the site itself a condition of any approval will require a 'Master Plan' submission to include a street layout and character details including measures to restrain vehicle speeds to 20mph; a parking strategy including the provision of secure cycle parking facilities for each dwelling unit along with pedestrian connectivity (especially to public transport). As per the previous approval provision could be made by condition to secure continued access to the rear of existing dwellings on Balance Street during the construction and occupation stages.
- 13.5 The application scheme will also necessarily provide for a number of off-site measures to be secured by Section 106 (see Section 22 below); including traffic calming on Pinfold Street; a Toucan crossing on Hockley Road; a Yellow box junction on Hockley Road; and the pedestrianisation of the southern section of Pinfold Street (with all these works to be completed ahead of the completion of the 50th dwelling). Financial contributions are also required in relation to off-site works for a pedestrian footway between the former Coalyard site (Zone 2) and existing pedestrian crossing on Old Knotty Way and in respect of a monitoring fee for an agreed Residential Travel Plan.
- 13.6 Network Rail in their submissions indicated that the continued safe use of the railway crossing was of paramount importance, in particular in relation to reducing the likelihood of traffic 'blocking back' over the Hockley Road level crossing during both the construction and occupation phases. In relation to this issue, Network Rail considered that whilst traffic turning left out of the site (on 'Zone 1') onto Hockley Road would not raise any safety issues, their "optimum solution" in relation to the issue of traffic approaching the site from the Old Knotty Way over the crossing would be to have a right turn ban on Hockley Road. Consequently, and as Network Rail themselves acknowledge, traffic would therefore need to be directed through the town centre.
- 13.7 The County Highway Authority have in turn given consideration to these comments of Network Rail and advise that in relation to construction traffic to the site along Hockley Road that this can be controlled (within reason) by the Construction Vehicle Management Plan (CVMP), which has already been requested by the Highway Authority as a condition of any approval. An informative on any approval decision notice could

specifically draw the attention of the applicants to this issue to inform their preparation of the details of the Construction Vehicle Management Plan.

- 13.8 On the issue of the any right turn ban on Hockley Road, the County Highway Authority Officer comments that it was their understanding *“that the previous 2013 outline consent for the larger site identified a similar access point from Hockley Road for residential development with all movements permitted.”* The Highway Officer also comments that *“the current application was supported by a Transport Assessment, carried out by SCP (on behalf of the applicants), which compared the proposed development to the same area of development from the 2013 outline permission. It was accepted that the current application would not have any greater impact on Hockley Road than the previously approved development.”*
- 13.9 Separately from Network Rail, the County Highway Authority confirm that in their interrogation of the application submissions that they had due regard to the proximity of the level crossing and the applicants were requested to provide a yellow box junction at the point of access onto Hockley Road to prohibit vehicles travelling south- west from blocking the access to the site and thus allowing right turns. This yellow box junction provision would be a requirement of condition and/or Section 106 Agreement clause in respect of any grant of planning permission (as per paragraph 13.5 above). The requirement was therefore an integral factor in the Highway Authority raising no objections to the development as a whole.
- 13.10 Accordingly, in terms of Policies SP1 and SP35 of the Local Plan the scheme is considered to be acceptable in relation to highway safety.

#### **14. Historic Environment**

- 14.1 Paragraph 184 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, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
- 14.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 14.3 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.

- 14.4 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.
- 14.5 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.
- 14.6 The northern side of the application site (at Zone 1) adjoins and is partly within the conservation area; albeit only in terms of small parcels of land. The site is also within the setting of Grade II listed buildings on Balance Street notably Nos. 23, 25, 53 and 55 Balance Street and the Roman Catholic Church of St Mary. There are views towards the site from the former police station on Pinfold Street; which is also Grade II listed building. Therefore, Section 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged by this scheme.
- 14.7 The application site was previously developed as part of a JCB factory complex with large scale industrial buildings. This has since been cleared as a result of demolition work and the land now forms a vacant brownfield site. As such the application site does not make a positive contribution to the setting of the Conservation Area nor the nearby listed buildings which greatly derive their significance of setting from the urban character and the historic development of the town.
- 14.8 The area of the application site immediately adjacent to the Conservation Area (Zone 1) is likely to have the greatest physical impact due to the proximity and extent of development proposed in this zone. The application submissions indicate that the proposed development towards the north of the site will follow the finer grain found in this part of the area before opening out to the town park to the south and that materials and form will be sympathetic to the character of Balance Street with a variance across the site of two and three storey buildings.
- 14.9 The applicants submitted Conservation Area Statement notes that views into Balance Street up Pinfold Lane are interesting in townscape terms and are satisfactorily 'closed off' by the Grade II listed Police Station. The Statement further notes that Balance Street is important in the character of the town centre because of the extent in the survival of its historic and distinctive form.

- 14.10 The proposed development around Zone 1 would include the west of Pinfold Street as it ascends into the Conservation Area. It is considered that there is potential to be derived from the development scheme for enhancement in the approaches to the Conservation Area through the sensitive and sympathetic development of the area including reinforcing the building line along the peripheral streets that lead into the Conservation Area. It is considered that the view along the street to the police station could to be respected.
- 14.11 The current application is nevertheless only outline in form (with details of access) therefore whilst an illustrative sketch scheme has been submitted this is only indicative and all details such as layout, design, materials and scale etc would be reserved for any later detailed consideration. Therefore, at this stage any assessment is being made in principle as to whether the development is acceptable in heritage asset terms whilst also having due regard to the fact that a previous permission has been granted for the re-development of the site.
- 14.12 In overall terms, therefore, the existing site, particularly Zone 1, does not in its present form as vacant cleared industrial site make a positive contribution to the character of the Conservation Area or the setting of the listed buildings. There is therefore an opportunity to enhance the setting of heritage assets and the approach into the Conservation Area by reinforcing building lines and providing a more coherent streetscape.
- 14.13 Whilst it is recognised that ultimately the success of this scheme will depend on any reserved matters submissions (over which the Council will clearly have necessary control in due course if outline approval is forthcoming), considering the limited contribution that the existing site makes to the setting of heritage assets there is at this outline stage considered to be sufficient potential scope for positive development to come forward to conclude that the scheme will preserve or enhance the Conservation Area and the setting of the nearby listed buildings. Section 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are satisfied accordingly.
- 14.14 In relation to archaeological matters, the County Archaeologist comments that the levelling which has occurred across the development site would in all likelihood have removed any archaeological remains which may have survived associated with the medieval backplots and as such no archaeological recording condition would be relevant in this case.

## 15. Flood Risk and Drainage

- 15.1 Section 14 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 risk 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.

- 15.2 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.
- 15.3 The application site being bisected by the Picknall Brook means that it is partly situated within flood zone 2 and partly within flood zone 3. There have been objections and concerns raised in relation to the proposal by the owner and one of the tenants of the Bridge Street Industrial Estate.
- 15.4 During the application process, the owner of the Industrial Units submitted a detailed report in support of their concerns over flooding risks which in turn was the subject of a rebuttal submission on behalf of the applicant. These respective reports, along with the original flood risk submissions of the applicants, have all been subject of a detailed review by both the Environment Agency and the County Council as the Local Lead Flood Authority, both of whom concluded that there are technical solutions to mitigate any flood risk concerns that may arise as result of the development which could be successfully addressed by conditions of any grant of outline planning permission.
- 15.5 The County Council as the Local Lead Flood Authority and Severn Trent raise no objections in principle in terms of foul and surface water drainage which would also be subject to conditions of any outline approval.

## 16. Affordable Housing and Housing Mix

- 16.1 Section 5 of the NPPF expects Local Authorities to 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 responds to this requirement.
- 16.2 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.
- 16.3 The Housing Choice SPD in respect of development in Uttoxeter expects the following housing mix:

	Uttoxeter
1-bedroom homes (flats, houses or bungalows)	3%
2-bedroom homes (flats, houses or bungalows)	20%
<b>Housing for Older People**</b>	10%
2-bedroom houses	8%
3-bedroom houses	30%
4-bedroom houses	20%
5-bedroom houses	9%

- 16.4 Strategic Policy 16 states that all dwellings providing ground floor accommodation should meet Building Regulations 2010 Standard M4(3) 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.
- 16.5 Strategic Policy 17 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. The policy states the following percentages:
- On previously developed land within the built up areas of Burton and Uttoxeter; 25%
  - On greenfield sites within and on the edge of Burton and Uttoxeter; 33%
  - On other land; 40%
- 16.6 Strategic Policy 17 states that affordable housing provision should be delivered across the site and not in clusters of more than 8 dwellings.
- 16.7 The Housing Choice SPD provides guidance on the expected affordable housing mix of sites.
- 16.8 As far as the housing mix is concerned given the scheme is in outline form without a detailed breakdown on the housing mix the issue would necessarily be addressed at any future reserved matters stage.
- 16.9 With regard to the guidance providing that ground floor accommodation should meet Building Regulations 2010 Standard M4(2) on 10% of major applications, it is considered that this provision on a future reserved matters application could be secured by a condition of any outline approval at this stage.
- 16.10 Insofar as affordable housing provision is concerned, Policy SP17 of the Local Plan requires that 25% of dwellings shall be Affordable Housing and that 13% (of the overall total of properties) must be provided on site; with the remaining 'difference' of 12% to be provided as an affordable housing financial contribution sum (calculated at £40,000 per dwelling). As such the Affordable Housing provision in respect of this scheme ought to be the equivalent of 37 No. dwellings; being 20 No. units provided on site along with a commuted sum of £680,000 (to be payable to the Borough Council to be paid in four equal instalments as per the Housing Choice SPD 2016).
- 16.11 With regard to the Affordable Housing Mix, based on the adopted SPD of 2016 (Table 2, Page 25) the following mix should be delivered by the application:-

<b>Affordable Dwellings Size/Type</b>	<b>SPD Requirement</b>	<b>No of Dwellings Required</b>
1-bedroom 2-person rented flats or houses	20%	4
2-bedroom 4-person rented houses	30%	6
3-bedroom 6-person rented houses	10%	2
4-bedroom 4-person owner-occupied houses	5%	1
2-bedroom 4-person owner-occupied houses	10%	2
1 or 2-bedroom owner-occupied flats or houses	25%	5
<b>TOTAL</b>	<b>100%</b>	<b>20</b>

16.12 The level of affordable housing provision has been the subject to review during the application process in the light of the applicants viability submissions and this matter is addressed fully in Section 22 of this report below as any affordable housing provision would be secured by Section 106 Agreement (see Section 22 below).

16.13 The issue of the provision of any affordable housing provision not being in a cluster of more than 8 dwellings on any street to meet with the aims of the Housing Choice SPD would be a matter for any reserved matters stage (should the scheme be approved).

## 17. Green Infrastructure

17.1 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 planning decisions where relevant.

17.2 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 green infrastructure it is expected to meet which provide for the enhancement of any environs and for wider benefits than just those of the occupiers of any site.

17.3 This development proposal provides for the creation of the 'town park' (within the whole of Zone 3) along with an open area in the southern part of residential Zone which will deliver some 2.0 ha of open space alongside

the Picknall Brook which as well as serving the residents of the development would provide for green corridor link between Hockley Road and Bridge Street. This provision would clearly also enhance this urban environment as part of a rejuvenation of a brownfield site and thus accord with Strategic Policy 23 of the Local Plan and guidance of the NPPF.

## **18. Biodiversity**

- 18.1 Paragraph 175 of the NPPF 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.
- 18.2 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.
- 18.3 Strategic Policy 29 lists 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. Policy DP8 seeks that protection is provided for tree on development schemes.
- 18.4 The Picknall Brook is an integral part of the development lands and scheme proposes re-naturalisation works to the watercourse which are considered to be visually beneficial to the townscape.
- 18.5 The updated ecological surveys provided with the application indicated there was no evidence of protected species being present on the land areas of the site but points out that the Picknall Brook provides a habitat for various fish species and that beyond its canalised form in this location supports otters and water voles. As such conditions of any approval would provide for a detailed scheme of ecological protection and enhancement. The mitigation would also provide for the removal of Japanese Knotweed and Indian Balsam which are in evidence on the site. The protection of existing trees to be retained as part of the development could be secured by a condition.
- 18.6 Along with the provision of necessary landscaping, which would also be secured by any condition, it is considered that the submissions would meet the aims of national and local planning policies in terms of biodiversity and ecological enhancements.

## **19. Open space**

- 19.1 The NPPF states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area.

- 19.2 Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.
- 19.3 Policies SP32 and SP33 set out the requirements of open space provision across the Borough.
- 19.4 The Borough Council will seek to deliver new provision and protect and enhance existing outdoor open space and sport facilities by safeguarding sites for the benefit of local communities and applying the standards set out in the Local Plan.
- 19.5 Developers should provide open space to the local standard identified for the area. Local Standards are identified in the Local Plan Supplementary Planning Document
- 19.6 As set out in Section 17 above the application scheme will provide some 2.0 ha of open space alongside the Picknall Brook. This provision is substantially above that which would be the overall minimum requirement for the development of this scale; this being some 0.72 ha.
- 19.7 In terms of the breakdown of the elements of the required open space, it would be expected that this would comprise 0.1 ha of equipped play; 0.48 ha of parks and gardens; 0.10 ha hectares of semi/natural green space; 0.05 hectares of amenity greenspace and 0.08 hectares of allotments. In this instance given the visual contribution of the town park and its open space linkage role, it is considered that the scheme would not necessarily lend itself to allotment provision. Precise details of the laying out of the 'town park' and other open spaces would be secured by way of condition.
- 19.8 A management regime for the maintenance of the public park is proposed by the applicants and would be secured as part of any Section 106 Agreement; as would any public realm installations (see Section 22 below). As such the scheme would meet with the aim of the open space provision needs of the relevant policies.

## 20. Education

- 20.1 There is a need for education facility provision in East Staffordshire, particularly at Burton Upon Trent and there is 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.
- 20.2 The Education Authority identify that that the application scheme - as proposal for up to 148 No. dwellings - could add to the education roll in the locality 32 No. spaces for primary school aged children, 17 No. spaces for middle school aged children, 13 No. spaces for high school aged child and 4 No. spaces for sixth form aged children.
- 20.3 The Education Authority comments that the Thomas Alleyne's High School could accommodate the likely demand for high school and sixth form places but commuted sums for Picknalls First School of £352,992

and Oldfields Hall Middle school of £138,270 are required for new school places respectively. These could be secured by any Section 106 Agreement in line with Policy SP10 of the Local Plan (see also Section 22 below).

## 21. Made Uttoxeter Neighbourhood Plan

21.1 As set out in paragraph 7.1 above, Local Plan Policy NP1 sets out the role of Neighbourhood Plans and this section provides an assessment of the proposal against the relevant policies in the Made Uttoxeter Neighbourhood Plan of 2017; albeit it recognised that there is some repetition given in some instances the overlapping requirements of the Local Plan policies.

21.2 Policy D1 - Residential Design sets out the following criteria for what schemes should seek to do:

- 1) Deliver a strong network of green and blue infrastructure, improving biodiversity and appropriate public and private spaces
- 2) Reinforce character and identity through locally distinctive design and architecture
- 3) Establish a gateway to the site and, where appropriate, to the town itself
- 4) Establish a clear hierarchy of streets and spaces including pedestrian priority routes and integrated existing footpaths
- 5) Deliver a scale, mass and density commensurate with the surrounding townscape (particularly for apartment proposals)
- 6) Establish a sensitive transition with the wider landscape where a new settlement edge is created
- 7) Use sustainable drainage systems and water management, through water catchments and green spaces to avoid increasing surface water run-off into watercourses to alleviate flooding and improve water quality.

21.3 Where appropriate developers should demonstrate how they have addressed their criteria through the use of masterplans, design coding and design briefs for specific sites. In appropriate circumstances planning conditions may be placed on planning applications to ensure that any design codes and planning briefs are respected as part of the development concerned.

21.4 Policy D3 aims to see quality public realm between developments and the relevant part of Policy D3 to this application indicates that appropriate contributions will be sought from developments to establish a high quality environment within streets and public spaces. Applications which offer high standards of public realm design as part of residential, and town centre developments – specifically on the key sites identified in Policy TC2 - will be strongly supported, subject to meeting the other policies of this Plan and the Local Plan. Schemes should ensure routes and spaces are well lit and subject to passive surveillance. Applications must provide a materials palette consistent with that found in the Uttoxeter vernacular.

21.5 The requirements of Policies D1 and D3 are broadly consistent with the Local Plan Design policy. The scheme is in an outline form at this stage, however, it is possible to conclude that the application proposal offers the clear potential for a scheme to be developed at any reserved matters

stage that respects its environs. Any scheme would aim to utilise a sustainable drainage system and would provide for planting/landscaping.

- 21.6 Policy T1 – Sustainable Transport states that all applications, regardless of scale, should consider their wider impact on traffic and road safety. It also states that all new developments, excluding householder applications should seek to encourage a modal shift (or transition) by integrating into existing walking/cycling links and bus routes and provision of bike storage.
- 21.7 Policy T2 states that new development, where appropriate, should contribute towards the provision and enhancement (including servicing and lighting) of pedestrian and cycle links to the wider town and to routes identified under Policy E3 (Green Links). Policy T2 and Policy E3 seek improvements and enhancements to existing key walking and cycling routes, including from development sites to the town centre and passing through the town centre.
- 21.8 The proposal incorporates a number of footway links that will both serve residents of the proposed residential units (on Zones 1 and 2) as well benefiting wider pedestrian linkages between the town centre and residential areas to the south of Knotty Way as well towards the railway station. In retaining and enhancing on the site the ‘proposed green links’ of the ‘made’ Neighbourhood Plan along Pinfold Street and into Balance Hill (in Zone 1) and alongside the northern bank of the Picknall Brook (in Zone 3) respectively the scheme would meet the specific objectives of Policy E3.
- 21.9 These linkages could be further enhanced by off-site works – to be secured either by conditions or a Section 106 Agreement attached to any outline approval - that would necessarily in relation to this development scheme include traffic calming on Pinfold Street; a Toucan crossing on Hockley Road; the pedestrianisation of the southern section of Pinfold Street and financial contributions for the provision a pedestrian footway between the former Coalyard site (Zone 2) and existing pedestrian crossing on Old Knotty Way. Any outline approval could also set the parameters to ensure sufficient space is provided within garages or within residential plots for the storage of cycles.
- 21.10 Having taken all relevant transport related matters raised by the proposal into account, it is considered that the proposal meets the policy requirements.
- 21.11 The Neighbourhood Plan includes a specific policy (T3) on parking standards and the level of provision within the site is appropriate for the development being proposed and meets the standard set out in the recently updated District Council’s Parking SPD.
- 21.12 Policy T4, Traffic and the Town Centre requires the following:
- “All major applications should take account of the consequent traffic impact on the town centre. Where appropriate major planning applications should be designed to reduce and manage journeys and reduce environmental and road safety impacts.*

*Applications that are likely to generate heavy commercial vehicle movements will only be supported if they commit to a routing strategy that avoids the town centre. Applications that through their location or design are able to help reduce the number of heavy commercial vehicles through the town centre will also be supported.”*

- 21.13 In relation to this outline application, precise details of parking provision will necessarily follow at the reserved matters stage. As also set out in this report the County Highway Authority has no objections to this scheme and in coming to that conclusion has necessarily taken account of the consequent traffic impact on the town centre and the need to provide linkages to public transport facilities. Conditions and a Section 106 Agreement to be attached to any approval would be designed to reduce and manage journeys and reduce environmental and road safety impacts.
- 21.14 Policy L3 requires the provision of new public open space as part of large residential developments. The public open spaces should be new allotments, parks and play spaces and playing pitches. Other recreational facilities such as trim trails and other forms of social space will also be supported. For developments over 11 dwellings, public open space should be provided on site in line with the Open Space SPD.
- 21.15 The proposals for open space are set out in Section 19 of this report and the proposal largely addresses this neighbourhood plan policy (albeit that allotments would not necessarily form an integral part of the scheme as set out in paragraph 19.6).
- 21.16 Policy E1 seeks to establish a network of green infrastructure, including existing trees, hedgerows, historic field patterns, the Strategic Green Gap and other such assets across the town linking the landscape setting with the urban area. Applications which retain and enhance such features and take the opportunity to re-introduce them into key sites, will be supported. Schemes which seek to establish lines of trees or hedgerows to contribute to this network within the urban street scene will also be supported.
- 21.17 The proposals for green infrastructure are set out elsewhere in this report (in Section 17) and include a variety of different types of space and features. The proposal meets this neighbourhood plan policy.
- 21.18 Policy E2 states that new development should protect and where appropriate enhance the landscape setting of the town, and with a particular emphasis on the Picknall, Tean and Dove valleys. Planning applications that would result in the loss or fragmentation of this setting will not be supported. Planning applications that sensitively manage flood risk issues will be supported. All planning applications should demonstrate the extent to which they have respected and reinforced historic landscapes in general, and field patterns in particular. Policy T5 (Railway Station) of the Neighbourhood Plan advises inter alia that proposals for enhancements to Uttoxeter railway station will be supported.
- 21.19 Flooding and landscape considerations are set out elsewhere in this report (see Sections 11, 14, 15, and 17), however it is considered that any flood risks will be sensitively managed through the use of conditions and the layout of the scheme has in principle at this outline stage been designed to provide for appropriate levels of landscaping and greenspace.

The scheme is considered to be likely to enhance the wider environs of the railway station.

21.20 Policy H2 states that in order to secure a sustainable and mixed community, outside the town centre, each development site of greater than ten houses should provide a mix of dwelling types, including bungalows, executive housing and starter homes, and a range of tenures. Affordable housing should be in accordance with the East Staffordshire Local Plan policy. All new residential development should demonstrate how it will be suitable, flexible and accessible for all users and occupants.

21.21 Having regard to the fact this is an outline scheme the potential exists at the reserved matters stage for a suitable housing mix to be provided. The affordable housing provision could be secured by a Section 106 Agreement to any approval; and the position in relation to this issue is dealt with in detail below in Sections 22 and 23.

21.22 Policy C2 relates to health provision and states that where appropriate, contributions for primary healthcare infrastructure will be sought to meet housing and employment growth. The Neighbourhood Plan will support applications for development which demonstrably seek to improve health through play and sports space, high quality and attractive walking and cycle links suitable for all users, subject to compliance with other Plan policies.

21.23 The application could deliver (as required by any conditions) a quantity and type of open space and green infrastructure that will offer opportunities for health and wellbeing. The scheme as designed also ensures pedestrian linkages could be provided to children's play space/open spaces and the wider footway/footpath network. Any outline approval would also in the associated Section 106 agreement provide for a contribution towards primary healthcare infrastructure (as is set out again in Section 22 below).

21.24 Policy C3 relates to Education and Childcare Provision and seeks to ensure the provision of education and childcare facilities. Any Section 106 would secure the provision of an overall commuted sum of £491,192 for primary and middle school places in line with the requirements of the Education Authority (see Section 22 below).

21.25 Taking the above into account, it is considered that the proposal could comply with the overall aims of the relevant policies in the Neighbourhood Plan.

## **22. Section 106 Contributions**

22.1 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.

22.2 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. The contributions do not take the pooling threshold above 5.

22.3 Having regard to the matters addressed in the Assessment section above the following contributions/requirements are sought by the local planning authority as set out below:

Item	Planning Obligation	Cost (where applicable)
Education	Commutated sums for new school places at Picknalls First School of £352,992 and Oldfields Hall Middle school of £138,270.	<b>£491,192.</b>
Refuse Containers	Contribution to provide refuse storage containers at £75 per dwelling	<b>£11,100 (if 148 No. dwellings but pro rata)</b>
Primary Care	Request a commuted sum of £62,160 towards health care provision in Uttoxeter.	<b>£62,160</b>
Open space	Provision of a maintenance regime for the public open space (inc. proposed 'Town Park' along Picknall Brook).	-
Affordable Housing	Affordable Housing provision of 37 dwellings; with 20 No. to be provided along with commuted some of £680,000 ( <u>NB These figures are the full level of provision required by Local Plan policies/Housing Choice SPD</u> ).	(see comments further in paras 22.4 - 22.20 and 23.8 - 23.11 below)
Public Realm improvements	Public Art installation to be provided by the applicants in the new town park area.	-
Travel plan monitoring	Residential Travel Plan Monitoring fee	<b>£6,760</b>
Off site highway works (Financial)	Funding for pedestrian footway between the Coalyard site and existing pedestrian crossing on Old Knotty Way.	<b>£28,500</b>
Off-site Highways Works (Physical Works)	<ul style="list-style-type: none"> <li>• Toucan crossing on Hockley Road;</li> <li>• Yellow box junction on Hockley Road;</li> <li>• Pedestrianisation of the southern section of Pinfold Street; and</li> <li>• Traffic calming scheme on Pinfold Street</li> </ul> (with the works to be completed prior to completion of the 50th dwelling).	

- 22.4 With regard to these contributions/requirements, the applicants have confirmed that they are agreeable to a Section 106 Agreement to provide for - on a pro rata basis where relevant - all the obligations set out in the table with exception of affordable housing.
- 22.5 In respect of the issue of affordable housing provision - and as outlined in Section 4 above - the applicants were requested by officers to provide affordable housing viability submissions in line with the requirements of Local Plan policies and the Housing Choice SPD (2016). This process was initiated by officers in January 2018 and resulted in series of submissions from the applicants up to 10<sup>th</sup> January 2019 which were all been reviewed and assessed by an external consultancy (CPV).
- 22.6 The applicants initially submitted a detailed report with associated financial costings in July 2018. The submissions were based on a 'high density' scheme. Upon the review of these submissions CPV concluded (in August 2018) that the affordable housing allocation on the 'high density scheme' should be one of an (at least) 8.7% onsite provision - of 12 No. dwelling units - plus an offsite financial contribution of £680,000. This allocation was above that initially offered at 5% by the applicants (in line with the 2013 approval); albeit it recognised that the re-development of the application site would be unlikely to bring forward the full provision as per the Local Policies and Housing Choice SPD.
- 22.7 In September 2018 the applicants submitted a revised/second viability appraisal which in addition to challenging some financial elements of the CPV report (of August 2018) was; (1) now based on a 'low density' scheme of 138 No. dwellings (to be compliant with the 2016 Housing Choice SPD); and (2) introduced a new cost to be taken into account in the form of 'abnormal' construction costs (with this being related to a more complex foundation system being required on a number of plots on this 'brownfield site').
- 22.8 In support of this revised/second report - which concluded with an offer of a 2% affordable housing provision level on a 'low density' scheme - the applicants submitted an associated document prepared by a Quantity Surveyor; which in turn meant that the Council instructed CPV to also use (a different) Quantity Surveyor to inform the review of the applicants September 2018 submissions.
- 22.9 In November 2018, the completed CPV review of the revised/second report based on the 'low density' scheme' with 'abnormal' construction costs concluded that :-
- They were not persuaded to adjust their basic construction costs in the viability assessment.
  - That it is appropriate in principle to make some level of allowance for enhanced foundations as an abnormal cost.
  - The Quantity Surveyor instructed by CPV found potential savings which could be made and therefore an exact figure for enhanced foundations would not be known until a detailed scheme is assessed. It is nevertheless, pointed out that at the current time a 'worst case' allowance of £577,376 (based on the

applicants Quantity Surveyors estimate of the properties concerned) would still provide an affordable housing provision above 5%; whereby in comparison with the ‘high density’ scheme (previously assessed) there would be a reduction in the *“bulk of the off-site affordable housing commuted sum or if the off-site commuted sum is retained, the on-site provision would need to be reduced to 12 No. units (8.70%).”*

22.10 As their final comment, CPV raised the issue of prematurity in relation to the second/revised viability assessment in stating that :-

*“we would raise the issue of prematurity in relation to the viability assessment. At the current stage this is an outline application for up to 148 dwellings. We note the applicant has only allowed up to 138 dwellings in their viability testing, based on a high-level initial masterplan. It is conceivable that, at a later date, a higher number of dwellings could be incorporated into the scheme, which would impact on the viability (and potentially offset the increased costs now identified with regard to the enhanced foundations). If the affordable provision is adjusted now, before the detailed scheme is agreed, there is a risk of the viability being overly downplayed unduly impacting on the affordable housing provision. Given the uncertainties that have been identified over a number of areas of the appraisal we would stress that, for this particular scheme, it would be more appropriate to make a final determination of viability at the reserved matters stage (or whenever a full, detailed scheme was put forward).”*

22.11 This is a position the applicants had in turn in a series of correspondences from November 2018 - January (10<sup>th</sup>) 2019 indicated that they do not accept as they believed that a proposed 2% affordable housing provision level had been ‘robustly’ demonstrated in the light of their the revised/second report submissions and therefore *“that the level of affordable housing for the policy compliant scheme (Local Plan/ Housing Choice SPD policies) can and should be determined at this stage of the planning process.”*

22.12 The applicant’s summary position on the matter as of 10<sup>th</sup> January 2019 was included in an Appendix in the officer report to the January 22 2019 Committee (and is again attached at Appendix A to this report). In relation to the issue of housing density the applicants agent pointed out that :-

*“JCB have undertaken extensive market testing and had a number of discussions with development partners/developers in relation to this site. The result of those lengthy discussions is that JCB consider it is highly unlikely that the higher density scheme originally proposed for the site will come forward and that a scheme based on the Council’s policy compliant dwelling mix is far more likely to come forward. (Therefore) JCB’s proposal for affordable housing in the Section.106 (Agreement) is:-*

*(a) to fix the affordable housing at 2% for a policy compliant scheme; or*

*(b) if the higher density scheme does come forward rather than the policy compliant scheme, to offer a re-appraisal of viability at the reserved matters stage to establish the level of affordable housing for that scheme.”*

- 22.13 It was also indicated by the applicants agent that JCB were willing to offer as part of the section 106 heads of terms, an obligation that if a scheme comes forward for more than 138 dwellings, the viability appraisal for affordable housing provision would be re-run (which would address any concern of the LPA of up to a further 10 No. dwellings coming forward to bring the total up to 148 No. properties).
- 22.14 No supporting evidence was produced by JCB of the “*extensive market testing*” referred to in their agent’s letter of 10<sup>th</sup> January 2019 (as recorded in the officer report to the Committee of 22 January 2019). In respect of the applicants *19th January 2019 documentation*, which included the site marketing statement prepared by Savills (as per Appendix D of the report), CPV comments that;
- (i) “*(there is reference) to a marketing campaign which ran from May 2016 to 2018. If there was no interest during this period why did the applicant’s viability appraisal still refer to a higher density scheme as late as Summer 2018. It was only Nov 2018 when they (the applicants) indicated that a higher density scheme couldn’t be delivered. If they truly believed this was the case then they would have known by then (particularly if the marketing and been ongoing for over 2 years).*”
  - (ii) *The Council still have no firm details of what the marketing campaign actually entailed (in terms of who was approached, how the scheme was marketed, what the feedback was).”*
- 22.15 CPV thus conclude that “*the 19<sup>th</sup> January 2019 documentation*” submissions are not sufficiently material to affect their previous conclusions on matters relating to viability.
- 22.16 Insofar as the principle of the offer made by the applicants of 10<sup>th</sup> January 2019 to provide a clause in a Section 106 Agreement to give the Council an opportunity to seek a review of the affordable housing levels at the reserved matters stage should a higher density/higher housing number scheme materialise, CPV commented that they cannot advise that the Council should accept a lower affordable housing level now and then potentially look to inflate this at reserved matters stage as from experience, negotiating this way round is likely to prove almost impossible for the Authority, as the land value will have been inflated to reflect the low(er) affordable housing level, which means any house builder would be likely to fight hard to retain any agreed provision at the outline stage.
- 22.17 With regard to the offer of the applicants in ‘*the 19<sup>th</sup> January documentation*, to accept a condition of any approval restricting the development to being one up to 138 No. dwellings, this would not necessarily be in the best interests of the Authority in terms of affordable housing delivery given the number of market houses would be reduced. In any event, such a condition request is contradictory to the applicants previously stated willingness to re-open negotiations on the Section 106 Agreement at the reserved matters stage should a higher density scheme of (up to) 148 No. dwellings be proposed. There clearly would be no scope at all for later renegotiation as there would a condition in place on

the outline approval capping the development to a maximum of 138 No. dwellings.

- 22.18 Accordingly, the extensive viability review process undertaken prior to the January 2019 Committee report preparation - and in turn the further assessment work in the light of the applicants follow up ‘*19<sup>th</sup> January 2019 documentation*’ submissions - has therefore got to the position whereby there remains a fundamental difference of opinion with the applicants in terms of whether the Authority should fix the affordable housing levels now (at the outline stage) and thus put the risk on the Council, or ‘defer’ the decision (until the reserved matters stage).
- 22.19 The Council’s external consultants CPV have given clear advice on this matter; namely that the reserved matters stage remains the appropriate time in the project process in relation to the development of this particular site and the circumstances that prevail whereby only then will the final housing density, house types/mix and construction costs (including abnormal costs) be available and where appropriate market testing could have taken place with there being an extant outline approval in place. Further, the Council has sought its own legal advice that indicates that such an approach is lawful.
- 22.20 In the light of the above, therefore, and having regard to the applicant’s stance that an affordable housing provision should be accepted at this outline stage, this application is being recommended for refusal as being contrary to the requirements of Local Plan Policy SP17 and Policy H2 of the ‘made’ Uttoxeter Neighbourhood Plan. Specifically, it is concluded that the applicants are not in a position at this outline stage in this instance to demonstrate that the provision of a 2% or 5% affordable housing allocation is an appropriate and commensurate level of provision for the development of this application site.

### **23. Conclusions**

- 23.1 In overall locational terms, the scheme is considered to represent a sustainable residential development that would fully meet the housing delivery strategies set out in national and local planning policies.
- 23.2 There are no objections from the County Highway Authority in relation to the detailed access arrangements shown at this outline stage. The Highway Authority also conclude that the proposed off-site highway works will ensure that the development will not comprise the safe use of the railway crossings over the adjoining Stoke on Trent to Derby railway line.
- 23.3 There are also no other technical issues, for example in relation to matters such as drainage, land contamination or other pollution issues, which could not be dealt with successfully by way of a condition of any outline approval or a clause of a Section 106 Agreement.
- 23.4 It is also considered that the scheme would provide for the improvement of the visual amenities of this urban locality and could be accommodated without giving rise to any detrimental impact on residential amenities. The scheme would also be able to address biodiversity and ecological aims and in its provision of open space could provide much needed additional

green space in this town centre environment. The re-naturalisation works to the Picknall Brook could also represent a visual enhancement to the locality as well as having ecological benefits. The scheme would not give rise to increased flood risks subject to technical mitigations.

- 23.5 The scheme could also afford an opportunity to enhance the character and appearance and setting Conservation Area - as well as the wider townscape - and to enhance the setting of listed buildings. The statutory duties under Section 66 (1) and 72 would therefore be successfully addressed.
- 23.6 In order to allow any such scheme to proceed, however, it would also be necessary to deliver associated provisions and wider off-site mitigation/infrastructure contributions as part of the developer's obligations under a Section 106 Agreement. In this respect the applicants have indicated that they are agreeable to the clauses of such an Agreement (as set out in the table in Section 22) in all respects other than affordable housing provision.
- 23.7 On this issue alone, therefore, there is a matter of disagreement with the applicants. Specifically, the issue relates to the point in development process at which an accurate calculation can be made of the level of the provision of affordable housing.
- 23.8 As set out in this report the applicants maintained that having regard to the conclusion of their "robust" viability assessment submissions that this can be determined at this outline stage - with a 2% affordable housing allocation (of 3 No. dwellings) - as part of a 'low density' policy compliant scheme (i.e. Local Plan/SPD Housing Choice SPD dwelling composition policies). The applicants have nevertheless subsequently offered a 'without prejudice' 5% affordable housing provision; which would provide 7 or 8 No. units (depending respectively whether the scheme was for 138 No. or 148 No dwellings)
- 23.9 The external consultants (CPV) appointed by the Local Planning Authority), however, conclude that in this particular case the Council should defer viability testing until the scheme is fully designed - and thus until the reserved matters stage - because the applicants in changing their design approach from one of a high density scheme to a lower density scheme during the viability assessment process have essentially demonstrated that a higher density scheme can generate a higher level of affordable housing when compared to a lower density scheme. In addition to finalising density, the reserved matters submission will also mean that dwelling mixes/types will be available, that construction costs will be better known and that any abnormal costs (such as foundation construction requirements) can be more readily understood.
- 23.10 In the light of the above, and whilst the benefits of the scheme are clearly recognised in terms of bringing forward sustainable new housing and open space in the centre of Uttoxeter on a brownfield site (as set out in this report), on balance this application is being **recommended for refusal** solely as being contrary to the requirements of Local Plan Policy SP17 and Policy H2 of the 'made' Uttoxeter Neighbourhood Plan. Specifically, it is concluded in this instance that the applicants are not in a

position at this outline stage to demonstrate that the allocation of a 2% or 5% level of affordable housing is an appropriate and commensurate level of provision in relation to the development of this site.

23.11 Notwithstanding the above recommendation, the applicants have been advised that if they agree to change their stance and accept a clause in a Section 106 at this outline stage to defer the agreement on affordable housing levels to the reserved matters stage then the officer recommendation would be one of conditional approval. Officers have most recently re-iterated this offer further to the receipt of the legal opinion confirming that that any refusal recommendation was lawful. Members are also advised that officers have furnished the applicants with a draft list of conditions for their comment that would be attached to any grant of outline planning permission.

**23.12 RECOMMENDATION - THAT OUTLINE PLANNING PERMISSION BE REFUSED FOR A SCHEME WITH A PROPOSED PROVISION OF AFFORDABLE HOUSING AT A LEVEL OF 2% OR 5% FOR THE DEVELOPMENT OF THE SITE FOR THE FOLLOWING REASON :-**

The National Planning Policy Framework (in Section 5) expects Local Planning Authorities to address the need for all types of housing, including affordable housing. Strategic Policy 17 (Policy SP17) of the East Staffordshire Local Plan, Policy H2 of the 'made' Uttoxeter Neighbourhood Plan along with the guidance set out in the adopted Housing Choice Supplementary Planning Document (2016) all respond to this requirement in seeking that affordable housing provision is made at an appropriate and commensurate level on any application scheme for residential development in Uttoxeter.

In respect of the current application scheme, and further to a review of the affordable housing viability submissions of the applicants, it is concluded that the applicants are not in a position at this outline stage for this particular site to demonstrate that the provision of 2% or 5% affordable housing on the site is an appropriate and commensurate level of provision for the development of the application site. As such the determination of this outline application with a 2% or 5% affordable housing provision is considered to be contrary to Policy SP17 of the East Staffordshire Local Plan, Policy H2 of the 'made' Uttoxeter Neighbourhood Plan and the guidance set out in the adopted Housing Choice Supplementary Planning Document (2016).

## **24. Background papers**

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

- The Local and National Planning policies outlined above in Section 7
- Papers on the Planning Application file reference P/2017/01307
- Papers on the Planning Application file reference P/2014/00969 and the associated discharge of condition application files.
- Papers on the Planning Application file reference OU/05254/018

**25. Human Rights Act 1998**

25.1 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.

**26. Crime and Disorder Implications**

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

**27. Equalities Act 2010**

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

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