

Agenda Item: 5.2

Site:	Land at Roycroft Farm, Bramshall Road, Uttoxeter ('Barley Fields')
Proposal:	Application under Section 73 of the Town and Country Planning Act 1990 relating to outline planning permission granted on appeal ref: P/2013/01287 to include means of access for up to 140 dwellings (Use Class C3), the extension of Bramshall Road Park and the demolition of the Dutch barn and rear stable building to Roycroft Farm without complying with Condition 14 for off-site highways works

Report of Head of Service (Section 151 Officer)

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

[Hyperlink to Application Details](#)

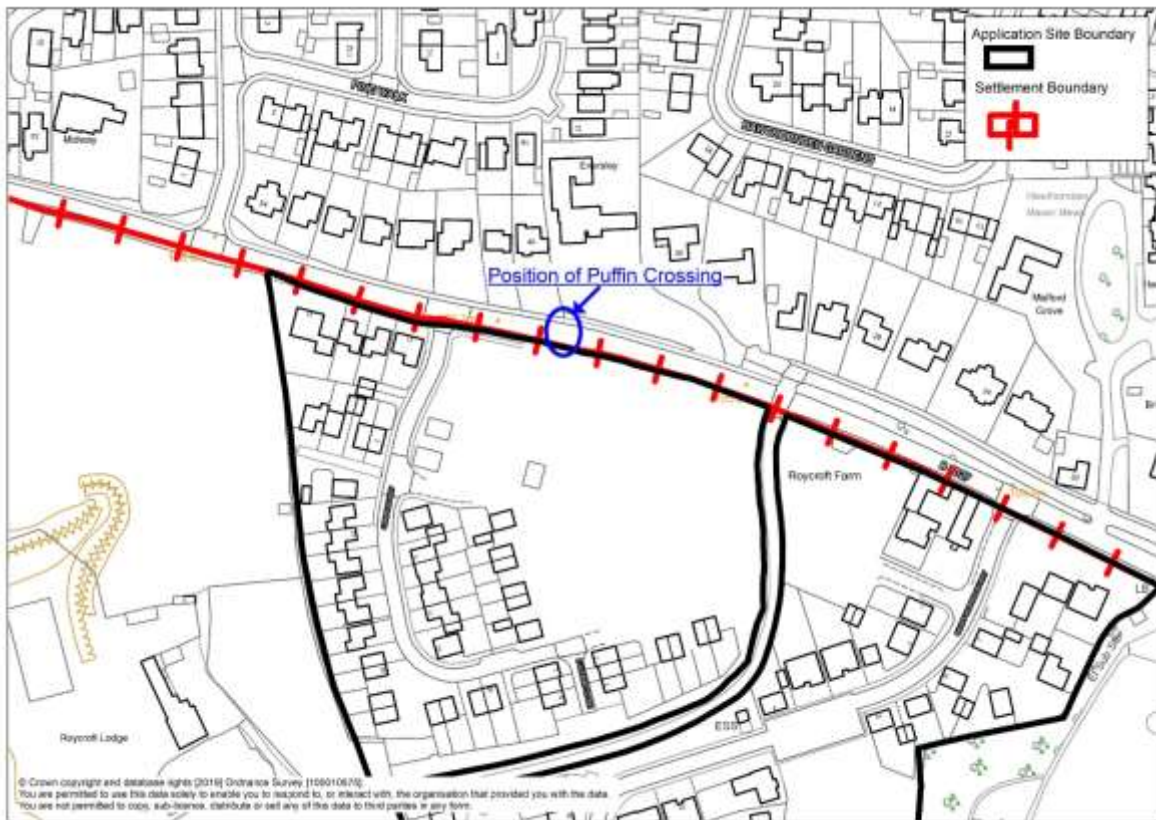
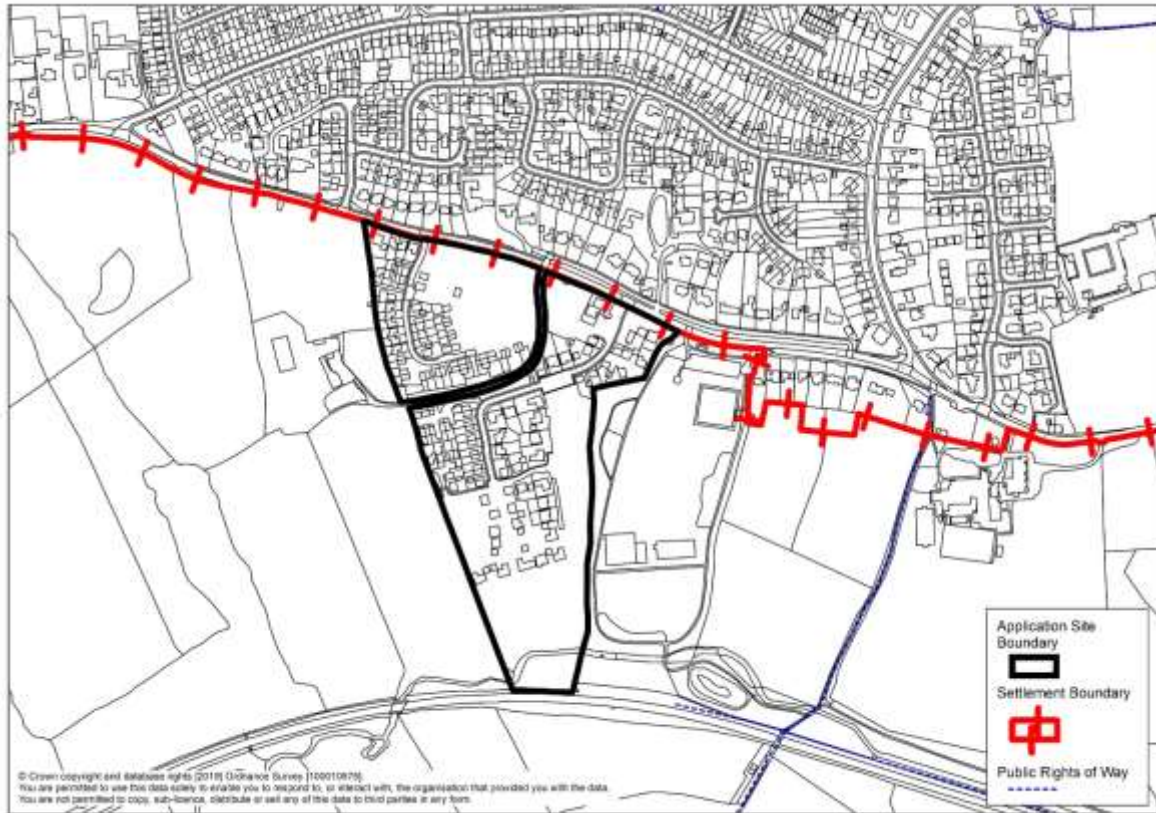
Application Number:	P/2018/01453	
Planning Officer:	Alan Harvey	
Type of Application:	Full	
Applicant:	Lioncourt Homes Ltd	
Ward:	Heath	
Ward Member:	Councillor G A Allen Councillor Ms L Shelton	
Date Registered:	29 November 2018	
Date Expires:	14 February 2019 - extension of time agreed until 22 February 2019 by the applicants to resolve technical issues and to progress the application to Committee.	

1. Executive Summary

- 1.1 The 'Barley Fields' development of 140 No. dwellings is being undertaken by Lioncourt Homes, on some 8 hectares of land located to the southern side of Bramshall Road, at the western periphery of Uttoxeter. There are now some 90 No. dwellings units occupied on the site.
- 1.2 The site is adjoined to the west by Roycroft Lodge; the vehicular access to which bisects the new residential scheme. A public park lies to the east, with agricultural lands to the west and south. Established residential properties lie opposite the site on the northern side of Bramshall Road. The site is located outside the settlement boundary as defined in the adopted Local Plan.

- 1.3 The 'Barley Fields' residential scheme was originally allowed on appeal in January 2015 in outline form; with later reserved matters and full application approvals providing for the detailed layout, landscaping and dwelling types. Condition 14 of the outline approval provided for off-site highway works which included the provision of a pedestrian (zebra) crossing and traffic islands on Bramshall Road. The new crossing was shown to be positioned outside the common boundary between Nos. 38/40 Bramshall Road. Condition 14 also required that these off-site works be completed prior to the first occupation of any of the dwellings on the development site.
- 1.4 Further to the County Highway Authority undertaking a safety audit under the Highways Acts on the (appeal) approved scheme it came to light that the works could not be executed without the removal of a number of mature trees situated alongside the northern side of Bramshall Road as a consequence of necessary carriageway widening. The scheme was therefore re-designed by the applicants in conjunction with the Highway Authority to provide a puffin (controlled) crossing along with associated surface treatments and road markings. The scheme also entails the provision of replacement street lighting on Bramshall Road and areas of hedgerow removal and replacement planting.
- 1.5 The County Highway Authority consider that the new puffin controlled crossing and associated works will improve pedestrian connectivity and also aid speed reduction on Bramshall Road and request that the scheme should be implemented as soon as possible. Uttoxeter Town Council have no comments.
- 1.6 Neighbours have been notified of the application and a site notice posted. Three No. representations raise objections to the loss of hedgerows; some of which has already occurred; in connection with the proposed provision of the crossing. Local residents have also questioned the likely impacts of the new street lighting on residential amenities and on mature trees. It has also been suggested that the crossing would be better sited elsewhere; for example closer to the park; where it would be used by more pedestrians.
- 1.7 It is considered that the proposed revised scheme will provide the level of pedestrian safety and connectivity envisaged by the original proposals allowed on appeal. It is also considered that the revised scheme should be completed within six months (from the date of approval) given the advanced stage in the progress of the residential development on the 'Barley Fields' site.
- 1.8 The proposal would not be likely to adversely affect the amenities of occupiers of existing or proposed nearby dwellings. The proposal will not have an unacceptably adverse impact on highway safety or on the wider existing highway network and would not impact on any heritage assets. The scheme would also provide necessary mitigation in relation to biodiversity and would not give rise to any long term environmental concerns.
- 1.9 **Members are advised that the above is a brief summary of the 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.**

Maps of site: Showing the Location of the Barley Fields Site and the Proposed New Puffin Crossing



2. The site description

- 2.1 The Barley Fields development of 140 No. dwellings is being undertaken by Lioncourt Homes, on a land area of some 8 hectares located on the southern side of Bramshall Road. The site is adjoined to the west by Roycroft Lodge; the vehicular access to which bisects the new residential scheme. The public park lies to the east, with other lands to the west and south being in agricultural use. Established residential properties lie opposite the site on the northern side of Bramshall Road. Established residential properties are located opposite 'Barley Fields' on the northern side of Bramshall Road.
- 2.2 The former Roycroft Farmhouse and associated outbuilding lie in the western area of the site, at the junction of Bramshall Road and Geoff Morrison Way. Roycroft Farmhouse is in separate ownership (from the 'Barley Fields' scheme) and approval was recently given for its demolition and re-development with two detached dwellings (as set out at paragraph 3.8 below). The farmhouse remains in situ.
- 2.3 The 'Barley Fields' scheme is outside the settlement boundary of Uttoxeter as defined on the policies map of the adopted Local Plan.

3. Planning history

'Barley Fields' Site (presently being developed by Lioncourt Homes)

- 3.1 **Application ref: P/2013/01287** - Outline application for residential development for up to 140 dwellings and means of access, extension of Bramshall Road Park including demolition of Dutch barn and rear stable building (with all other matters reserved). The application was allowed on Appeal in January 2016 subject to a Section 106 Agreement and a number of conditions, including Condition 14 relating to the provision of off-site highway works.
- 3.2 The detailed off-site works under condition 14 included the provision of a pedestrian (zebra) crossing, with traffic islands to the east and west of the crossing; the implementation of which would necessitate the widening of the carriageway on its northern side. Condition 14 also required that the works be completed in accordance with the approved details prior to the first occupation of any of the dwellings.
- 3.3 **Application ref: P/2015/001283** - Reserved matters approval scheme of Lioncourt Homes (in respect of outline approval ref: P/2013/01287) in relation to the proposed erection of 138 dwellings including details of layout, scale, appearance and landscaping. The application was approved in April 2016.
- 3.4 **Application ref: P/2016/00260** - Discharge of Conditions 8, 10, 11, 13, 15, 16, 17, 18 and 19 of outline planning permission ref: P/2013/01287. Approved.
- 3.5 **Application ref: P/2016/00503** - Erection of one pair of semi-detached dwellings (now 'Plots 108 and 109') on the 'Barley Fields' site. The effect of this approval was to give a total of 140 No. dwellings on the Lioncourt Homes scheme as envisaged by the outline approval. Approved in December 2016.

- 3.6 **Application ref: P/2018/00265** - Non-material amendments in relation to various minor changes to the 138 No. dwelling scheme approved under Application ref: P/2015/01283 - Approved in March 2018.
- 3.7 As of the beginning of January 2019 some 90 No. dwellings had been completed on the 'Barley Fields' scheme.

Roycroft Farmhouse (in separate ownership to the 'Barley Fields' site)

- 3.8 **Application ref: P/2018/00505** - Full planning application for the erection of 2 No. dwellings following the demolition of Roycroft Farmhouse and outbuildings. The application was approved by the Planning Committee in December 2018 subject to a Section 106 agreement for the provision of an off-site affordable housing sum. The final approval decision has now been issued with the completion of the legal documentation. As Roycroft Farmhouse is not in the ownership of Lioncourt Homes, the development is not connected to the delivery of the traffic calming works the subject of this current application.

4. Proposed development

- 4.1 This application is made under Section 73 of the Town and Country Planning Act 1990 relating to the outline planning permission granted on appeal P/2013/01287 to provide for the progressing of the development without complying with Condition 14 for off-site highways works. Essentially, the scheme provides for an alternative scheme of off-site works along Bramshall Road in lieu of the previously proposed zebra crossing and traffic islands.
- 4.2 The proposed works comprise the following :-
- The provision of a Puffin Crossing to the front of Nos. 38/40 Bramshall Road (as per the position shown on the outline approval layout).
 - The provision of road markings and alternative surface treatments on Bramshall Road on the approach to the new crossing.
 - The installation of replacement street lighting on Bramshall Road on the approaches to the new crossing.
- 4.3 The associated works also include the removal of sections of hedgerow along the street frontage of the Barley Fields site to provide for improved pedestrian visibility along Bramshall Road from the southern entry point onto the Puffin crossing. A scheme of landscaping is also provided including compensatory replacement hedgerow planting.
- 4.4 The applicants in the supporting correspondence (of November 2018) have set out the background as to the need for submission of the revised off-site highway scheme as follows :-

"...we initially submitted details in relation to off-site highway works to discharge this condition (No. 14) in 2016, under reference P/2016/00260. However, it became apparent that the Highway Authority would not grant approval under the Highways Act for these works, despite them previously receiving planning approval, due to the number of trees that would need to be removed to facilitate the works. It was therefore agreed with the LPA that

condition 14 would not be discharged under P/2016/00260 and we would instead submit a Section 73 planning application to substitute the plans for an off-site highway works scheme that the Highway Authority would be happy to grant Highways Act approval for.

Unfortunately, this process has taken longer than anticipated, and (housing construction) works on site have already commenced and first occupations have already occurred. However, we believe the scheme will now receive Highways Act approval and therefore now submit details for planning approval as well. Because condition 14 refers to specific drawings, this can only be achieved through a Section 73 application. If the Highway Authority require us to make further amendments to the drawings before issuing Highways Act approval, we will provide the same updated drawings to you before the planning application is determined. The latest indications from the Highway Authority is that we are likely to be able to commence work on the off-site highway works in April 2019.”

- 4.5 During the application process (in early January 2019) it was brought to the Council’s attention by local residents that works undertaken on Bramshall Road had resulted in the removal of the section of hedgerow next to the proposed puffin crossing and in response the applicants Planning and Land Manager stated that :-

“Please accept my abject apologies that this work has commenced in advance of the planning permission being issued...(as) an error has occurred in our tendering processand the sub-contractor clearly was not made aware that some elements of the work should not commence yet”

- 4.6 The applicants Planning and Land Manager continues in stating that

“I would ask you to take into consideration that hedge clearance for visibility splays would have been required even under the original planning application, and this particular stretch of hedge was flagged as needing removal by the Road Safety Audit in conjunction with the upcoming crossing works and was explicitly required to be included in the proposals by the County Council’s Highway Authority. I realise this does not excuse carrying out the works before the permission has been granted, but I would ask that you consider this when determining the expediency of taking this matter any further.”

List of supporting documentation

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

- Site Location Plan
- Approved Site Layout Plan (for Barley Fields)
- General Layout Plan for the proposed scheme for off-site works on Bramshall Road
- Detailed plans for the controlled puffin crossing and other associated highway works.
- Street lighting scheme
- Landscaping plan
- Highway Statement

- 4.8 During the application process the applicants were requested by officers to provide ‘a plain English’ version of the proposals as the main documentation was predominantly in the form of engineering drawings. This document has been subject to re-consultation with local residents and the Town Council along with a revised street lighting scheme. The revised scheme responds to concerns about potential impacts on protected trees at the Eversley Care Home by instead re-locating one of the new streetlights to the southern side of Bramshall Road (outside the ‘Barley Fields’ scheme).
- 4.9 Detailed landscaping drawings have also been provided by the applicants to enable the scheme to be progressed expediently upon the issuing of any approval.
- 4.10 The findings of all the relevant reports are dealt with in section 8 onwards below.

5. Consultation responses and representations

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

Statutory and non-statutory consultee		Response
5.2	Uttoxeter Town Council	Stated in relation to the original submissions that they “ <i>had no comment to make at this stage.</i> ” Any further response received further to the re-consultation exercise (as referred to at paragraph 4.8 above) will be reported to Committee on the update sheet.
5.3	SCC Highways	No objections to the scheme in stating that ;- <i>“This proposal is to amend the condition securing off-site highway improvements that was attached to a planning consent granted at appeal. The approved scheme would have resulted in an unacceptable loss of several trees adjacent the highway, as a result the applicant has produced an alternative design which will deliver similar outcomes to the ‘original’ scheme. The process of achieving an acceptable design has led to the original condition not been implemented within the prescribed timescales. The new proposal is for a controlled crossing which will improve pedestrian connectivity and also aid speed reduction along this part of the highway. This submitted (revised) scheme is acceptable to the highway authority and should be implemented as soon as possible.”</i>

6. Neighbour responses

6.1 Neighbours have been notified and a site notice posted. 3 No. letters of representation were received from local residents raising concerns/objections in respect of the application proposals as summarised below:

Neighbour responses	
Principle	<ul style="list-style-type: none"> It is questioned as to who is going to use the crossing in its proposed position as it is not best located in terms of local resident/pedestrian movements. Whilst some sort of traffic calming is welcomed it is considered that the crossing could be sited in a better place - for example at Bramshall Road Park - to serve the wider community without the need to remove established hedges. This alternative suggested location would be of better use to pedestrians/local residents heading towards the park, existing schools and the town centre and provide a greater degree of safety in terms of the choice of paths to use. It is requested that a further study takes place to establish the best place for the crossing that serves the community.
Visual Amenities	<ul style="list-style-type: none"> A large part of the existing hedge has been removed on the frontage of the Barley Fields development which it was believed was to remain other than a gap for the pedestrian crossing. The developers should be made to replace the hedge. The scheme is clearly proposing the removal of sections of hedgerow in addition to that which has already been done It is questioned as to whether the new street lighting scheme will impact negatively on the trees at the Eversley Care Home which are protected by a Tree Preservation Order.
Residential Amenities	<ul style="list-style-type: none"> It is questioned as to whether the new lighting scheme will be likely to cause additional light pollution to neighbouring houses. It is considered that the relative differences in the specifications of the existing and proposed lighting are needed to inform the likely impacts on residents.
Biodiversity	<ul style="list-style-type: none"> The removal of the hedgerows is damaging to wildlife habitats.
Other Matters	<ul style="list-style-type: none"> The application scheme looks like 'planning creep' with it being an underhanded way of removing the hedge on the back of the crossing proposal. The later addition of the new lighting scheme/lampposts to the plan submission is another example of 'planning creep' The applicants appear to be seeking to circumvent any local objection by making lots of small changes that do not appear to be fully communicated to residents.

	<ul style="list-style-type: none"> • The developers in undertaking the removal of some 100 metres of hedgerow along Bramshall Road have already demonstrated that do not ‘recognise’ the Councils’ statutory planning role, including the role of the Planning Committee, or the considerations of local residents. • There are concerns the application details are in a professional jargon and at such a technical level that makes it difficult for local residents to understand and fully appreciate the impacts of the scheme.
Ward Members	No comments received

6.2 Local residents have been re-consulted on the additional submissions (as per paragraph 4.8 above) and any further comments received will be summarised and reported to Committee by way the update sheet.

7. Policy Framework

7.1 The relevant national and local planning policies are set out below. Policy NP1 of the Local Plan sets out the role of Neighbourhood Plans and where relevant the policies of the made Uttoxeter Neighbourhood Plan are addressed alongside Local Plan policies in the assessment of the proposal in Section 8 onwards.

National Policy

- National Planning Policy Framework 2018
- National Planning Policy Guidance

Local Plan

- SP1: East Staffordshire Approach to Sustainable Development
- NP1 Role of Neighbourhood Plans
- SP24 High Quality Design
- SP25 Historic Environment
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP7 Pollution
- DP8 Tree Protection

Uttoxeter Neighbourhood Plan

- Policy T1 - Sustainable Transport
- Policy T2 - Links to the Town Centre
- Policy E1 - Uttoxeter’s Network of Green Infrastructure
- Policy E2 - Landscape and Setting
- Policy D2 - Non-residential development
- Policy D4 - Heritage Assets

Supplementary Planning Documents/Guidance

- East Staffordshire Design Guide

8. Assessment

8.1 The National Planning Policy Framework (of July 2018) states that at the heart of the NPPF 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; or

8.2 A scheme of off-street highway works, including the position of the crossing itself outside of Nos. 38/40 Bramshall Road, has already been agreed in principle as part of the outline approval for the residential scheme for 'Barley Fields' allowed on appeal. The key issues in relation to this revised scheme therefore relate to detailed highway safety matters (including pedestrian safety), the impact on the character and appearance of the area, impacts on residential amenity (including noise and pollution), impacts on heritage assets, biodiversity/protected species impacts and other matters.

9. Highway Safety Matters (including pedestrian safety)

9.1 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.

9.2 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.

- 9.3 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.
- 9.4 Policy T1 (Sustainable Transport) of the Neighbourhood Plan 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. 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). The policy also seeks improvements to existing key walking and cycling routes, including from development sites to the town centre.
- 9.5 The County Highway Authority consider that the revised proposals for the controlled crossing, and associated works, will improve pedestrian connectivity and also aid speed reduction on Bramshall Road. As such the scheme would meet the relevant Local and Neighbourhood plan policies in terms of vehicular and pedestrian safety. It is also considered that the revised scheme should be completed within a period of six months (from the date of approval) given the ongoing progress of the residential development on the 'Barley Fields' site; albeit a proviso will be put in place to allow if necessary an extension of time in conjunction with the County Highway Authority. This proviso would cover any issues that may arise in the delivery of the scheme under the Highway Acts.

10. Impact on the character and appearance of the area

- 10.1 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. 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.
- 10.2 Policy DP1 of the Local Plan re-iterates the design principles set by Policy 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.
- 10.3 Policy E2 of the Uttoxeter Neighbourhood Plan 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. The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context

- 10.4 The proposed highway works themselves, including the new crossing structures, are considered to be of a minor nature which would have no significant material impacts on the visual amenities of the locality. The new street lighting will also be unlikely to have any significant impacts given it is essentially a replacement scheme.
- 10.5 In relation to the associated works, the loss of the hedgerow on the Bramshall Road frontage of the development site will in the short term be to the detriment of the locality. This loss, which in any event would have been necessary to meet the appeal scheme road safety requirements, will nevertheless be mitigated by replacement hedgerow planting. It is, however, clear that any short term loss of hedgerow on the southern side of Bramshall Road is better than the loss of the mature trees that would have necessarily occurred on the northern side of the carriageway had the approved appeal scheme be progressed by Lioncourt Homes (upon their purchase of the site). The scheme would not impact negatively on the wider landscape setting of the town or the Picknall valley.
- 10.6 It is therefore considered the scheme meets the requirements of the design related policies of the development plan.

11. Residential Amenity (including noise and pollution)

- 11.1 Policy DP1 of the Local Plan seeks to ensure new development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing. Policy DP7 of the Local Plan seeks to ensure that the development of any site does not give rise to pollution concerns and in respect of the application scheme no material pollution issues arise.
- 11.2 The proposed works associated with the development would have no significant overshadowing or overbearing impacts on residential amenities and would not give rise to any overlooking impacts.
- 11.3 In relation to activity, it is considered that the use of the crossing, including the use of brakes on vehicles coming to a stop or in terms of engine noise with vehicles moving off, will not be so significant so as to cause unacceptable levels of noise, disturbance or pollution impacts to the residents of nearby properties.
- 11.4 It is noted that concerns have been raised that the new lighting may be of increased brightness and thus has the potential to impact on residential amenities. However, given that properties on Bramshall Road are largely set some distance back from their front boundaries, and that the lighting units will be affixed so as to point downwards at the public highway, it is considered that the scheme is unlikely to give rise to levels of light pollution to the detriment of local residents so as to provide any grounds for a reason for refusal.
- 11.5 Therefore, with regards to neighbouring amenity it is considered that the scheme as proposed would not result in any significant adverse impact. The scheme will thus accord with Policies DP1 and DP7 of the Local Plan.

12. Historic Environment

- 12.1 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.
- 12.2 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 (Barnwell Manor Wind Energy Ltd) 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.
- 12.3 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.
- 12.4 Strategic Policy 25 of the Local Plan 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. Detailed Policy 5 states that alterations, extensions or development which adjoins a listed building must respect the context of the character and appearance of the heritage asset. Policy D4 (of the made Uttoxeter Neighbourhood Plan seeks to ensure developments do not detract from heritage assets.
- 12.5 There are no designated above ground heritage assets - conservation areas or listed buildings - within 1km of the application site. The Uttoxeter Town Centre Conservation Area is some 1.65 km distant to the east and the nearest listed buildings of Grange Farm and a milepost (both Grade II) are some 1.1km away to the west on Stone Road in Bramshall. Given these separation distances, it is not considered that the proposals will have any impact on views into, or those out of designated areas, or affect any listed building or its setting and that the statutory duties under Section 66 and under Section 72 are not therefore engaged.
- 12.6 With regard to archaeological value, the scheme would have no material impacts.

13. Biodiversity and Protected Species

- 13.1 Strategic Policy 27 expects all new development to address drainage issues. The scheme utilises existing highway drainage and will not therefore give rise

to any material flooding or surface water drainage issues having regard to Policy SP27 of the Local Plan.

- 13.2 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.
- 13.3 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.
- 13.4 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 of the Local Plan relates to tree protection.
- 13.5 The proposals will not directly impact on any protected species. With regard to the removal of hedgerow the short term the loss will be noticeable, however, the current application scheme proposes compensatory replacement planting and the re-wording of the outline approval conditions (see paragraph 15.1 below) will necessarily secure this. It is considered this loss whilst to some extent negative in itself would be outweighed by the wider benefits of the revised scheme as a whole will bring to this locality, in particular in providing for the retention of the mature trees on the northern side of Bramshall Road.
- 13.6 The application site lies more 15 km from Cannock Chase Special Area of Conservation (SAC) which is a European Designated Site which are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The site thus falls outwith the remit of any necessary SAC mitigation measures required by Policy DP11 of the Local Plan and the Cannock Chase Special Area of Conservation Guidance to Mitigate the Impact of New Residential Development (2018).
- 13.7 It is therefore concluded that scheme as whole would be in compliance with the biodiversity aims of Local and National planning policies.

14. Other Matters

- 14.1 The concerns raised by the local residents that the proposals represent 'planning creep' are noted, however, as set out in this report the works involving the removal of hedgerows and provision of street lighting are matters required to meet the requirements of the County Highway Authority in order that the works comply with the Highway Acts. Further, it is not considered the fact the hedgerow works were commenced ahead of any determination of the application should be weighed against the merits of the scheme itself. As members are aware all applications need to be judged on their own merits irrespective of whether they involve any retrospective element.
- 14.2 It is also recognised that in the representations received from local residents that it has been suggested that this application process should be used to assess as to whether the crossing would be better located in another position on Bramshall Road. Given, however, that the scheme merely represents works to facilitate a different type of crossing (a puffin crossing rather a zebra

crossing) in the place approved by the appeal inspector it is not considered such an approach would be reasonable in the circumstances that prevail.

- 14.3 The provision of the 'plain English' version of the application documentation is also considered to have addressed the concerns raised by local residents that the submissions were of an overly technical/jargon based nature (albeit the concern was not raised until more than six weeks after the original consultation letters were sent to local residents).

15. Section 106 Agreement/Deed of Variation/Revised Outline Approval Conditions

- 15.1 It is pointed out that any approval of an application under Section 73 of the 1990 Town and Country Planning Act necessitates the issuing of a new decision to update the original outline permission. Therefore, as well the re-wording of Condition 14 to reflect the revised highway works (should this current application be supported) it will also be necessary for officers to re-word the other conditions of the outline permission to take into account the other approvals since the appeal inspector's decision (along with some condition deletion where matters are no longer salient). As this is a technical exercise and relates to the already approved documentation - along with the landscaping plans mentioned in this report - these conditions are not detailed at the recommendation section of this report (at paragraph 16.4 below).
- 15.2 Furthermore, as the outline planning permission was subject to a Section 106 Agreement, it will be necessary for any favourable determination of this Section 73 application to be subject to a deed of variation. This is a legal process to be undertaken in conjunction with Borough Council's Solicitors to ensure that all the current Section 106 requirements continue to apply to any revised decision notice and is again reflected in the officer recommendation accordingly (at paragraph 16.4 below).

16. Conclusions

- 16.1 The revised scheme for off-site road works on Bramshall Road proposed by this application will be beneficial to vehicular and pedestrian safety in the locality of the site and improve pedestrian connectivity. The scheme has the support of the County Highway Authority who have completed a safety audit on the off-site works.
- 16.2 It is considered that the scheme as proposed would not result in any demonstrable long term harm on visual amenities of the locality or upon the character and significance of the historic environment. The scheme would not be significantly detrimental to residential amenities and would provide for appropriate mitigation measures in terms of biodiversity. The scheme also provides for the retention of the mature trees on the northern side of Bramshall Road which the appeal scheme would not have done so.
- 16.3 Accordingly, the proposed scheme is considered to be in compliance with the aims of the policies of the Local Plan and Neighbourhood Plan and the National Planning Policy Framework.
- 16.4 It also considered essential that the off-site works are undertaken expediently given that there are some 90 No. dwellings occupied on the Barley Fields

development. In this respect, it is considered that any approval should seek that the works be completed within six months of the issuing of any decision notice unless otherwise agreed in conjunction with the County Highway Authority.

16.5 RECOMMENDATION - That this Application under Section 73 of the 1990 Town and Country Planning Act BE APPROVED without complying with Condition 14 of appeal permission ref: P/2013/01283 (in respect of the provision of off-site highways works), subject to :

- (a) a deed of variation to the Section 106 Agreement (attached to the outline approval);
- (b) the re-wording of condition 14 of the outline approval to take into account the revised off-site works and to require their completion within 6 months of the relevant decision being issued (unless otherwise agreed in conjunction with the County Highway Authority); and
- (c) the re-wording - and where applicable deletion - of the other conditions of the outline approval to take into account the works approved under the reserved matters and discharge of condition approvals; as well as taking into account the provision of the revised landscaping scheme as part of this current application.

17. Background papers

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

17.2 The Local and National Planning Policies outlined in the report above.

17.3 The documentation from the following planning files.

- Papers on the Section 73 application file reference P/2018/01453
- Papers on the Full planning application file reference P/2018/00505
- Papers on the Non material amendment application file reference P/2018/00265
- Papers on the Full planning application file reference P/2016/00503
- Papers on the Reserved Matters Application file reference P/2015/01287
- Papers on the Outline Planning Application file reference: P/2013/01283 and associated Appeal decision and Section 106 Agreement

18. Human Rights Act 1998

18.1 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.

19. Crime and Disorder Implications

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

20. Equalities Act 2010

20.1 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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