

Agenda Item: 6.1

Site:	Fiveland's Allotments, Stanton Road, Stapenhill, Burton upon Trent
Proposal:	Outline application for the construction of up to 49 dwellings including details of access

Report of Head of Service (Section 151 Officer)

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

Hyperlink to Application Detail

Application Number:	P/2018/01451	
Planning Officer:	Sachin Parmar	
Application Type:	Outline with Some Matters Reserved	
Applicant:	Prestbury Land Ltd	
Ward:	Stapenhill	
Ward Member:	Councillor M Fitzpatrick Councillor A Legg Councillor B Brady	
Date Registered:	06 February 2019	
Date Expires:	<i>Extension of time to 31 May 2019 agreed in writing with the planning agent.</i>	

1. Executive Summary

- 1.1 The application site is within the Burton settlement boundary and is surrounded by established residential properties. The site is not allocated or earmarked for any purposes within either the Proposals Map of the Local Plan or the Proposals Map of the Stapenhill Neighbourhood Plan and nor is there any relevant recent planning history.
- 1.2 As the site is within the main town the location is highly sustainable and windfall houses can play a part in meeting local housing needs. There are a small number of allotments on site. Whilst there is sufficient allotment provision in the wider area any loss resulting from the proposed development would be replaced by equivalent provision in the adjacent allotment site to the south. It is therefore considered that the principle of residential development at the site is acceptable.
- 1.3 The indicative layout plan helps to demonstrate that the site is capable of accommodating the level of housing being proposed. However, all layout details are reserved and would be dealt with under a later application. As part

of this outline application a 'Parameters Plan' has been negotiated which highlights the potential developable area whilst defining the wildlife areas which would remain protected and the public footpath which would be resurfaced and upgraded.

- 1.4 Full details of the access has been provided and the access is considered to be acceptable by the County Highway Authority.
- 1.5 Statutory consultees and relevant Council departments who have been consulted have all raised no objections to the application. Specialist consultees which include the County Ecologist and County Archaeologist have also been commissioned to provide technical responses on the scheme and both have provided no objections. At this stage all technical matters in relation to highways, flood risk, contamination, ecology and archaeology can be covered by suitably worded pre-commencement conditions attached to any outline permission.
- 1.6 Overall, it is desirable to see windfall housing on a largely vacant and featureless site where efficient use of the land can optimise the potential to bring forward new homes within the settlement boundary. In addition to the appropriateness of the scheme some weight should also be given to the Section 106 Agreement where fair and reasonably related contributions have been negotiated following viability testing. Accordingly, it is considered that the scheme complies with the aims and criteria of relevant policies from the Local Plan, the Council's Supplementary Planning Documents (SPDs), the Made Neighbourhood Plan and the National Planning Policy Framework 2019.
- 1.7 **Members are advised that the above is a summary of the proposal and the report below provides full details of all consultation responses and the Officer 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 is mostly featureless scrubland covering 1.6 hectares that is landlocked by established built form. There is a brick wall approximately 1.5 - 2 metres in height in parts along the west boundary beyond which are residential properties at Five Lands Road, Convent Close and Rosliston Road. Beyond the north boundary there are the gardens of properties which front Holly Street. Beyond the east boundary are properties accessed from Stanton Road. To the south an allotments site provides separation distance to properties along Saxon Street.
- 2.2 The experience of the site is mainly overgrown scrubland and the topography is the main physical feature where the land has a steep incline upwards from west to east. This helps the site feel isolated from built form especially to the east and from the allotments to the south as the land here changes to a significantly elevated level beyond the site boundary. Wooded areas around the perimeter further help the site feel secluded from surroundings.
- 2.3 Close to the west boundary there is a flatter section of land where there are 6 allotment plots. This use is only evident in this section of the site. In terms of accessibility there is a footpath which provides a route through the site and creates a link from the northwest corner near Main Street to Stanton Road to the east. This footpath cuts through vegetation and appears to be heavily used although it is unlit, winding and narrow.
- 2.4 Apart from the perimeter woodland there are no notable trees centrally within the site. Oak trees are visible to the north however these are located just outside the application site boundary on a strip of unregistered land. There are no obvious remnants of any previous use or buildings on the land as there is no fixed surface structures. It is assumed that over the process of time the site has become greenfield and the topography makes areas feel inaccessible. There is also no evidence of any part of the land being used as community open space other than allotments and the footpath. Overall, the site can be characterised as vacant scrubland with no significant visual landscape value.
- 2.5 The national definition of 'greenfield' is land usually farmland, that has not previously been developed. The NPPF provides a definition for 'Previously Developed Land' and this specifically excludes land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time. Taking into account the experience of the site as scrubland the site can reasonably be categorised as greenfield.

3. Planning History

- 3.1 There is no relevant recent planning history for the application site.

4. The Proposal

- 4.1 Outline planning permission is sought for a residential scheme of up to 49 dwellings at the site. The application also seeks to approve details of the proposed access point.

4.2 All matters in relation to ‘appearance’, ‘landscaping’, ‘layout’ and ‘scale’ are reserved and would therefore be dealt with under a later application.

List of supporting documentation

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

- Site Location Plan
- Indicative Site Layout
- Survey of Existing
- Adopted Highway Plan
- Drainage Strategy
- Vehicle Tracking Plan
- Developable Parameters Plan
- Arboricultural Survey

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

5. Consultation Responses and Representations

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

Statutory and non-statutory consultee		Response
5.2	County Archaeologist	Raise no objections and confirmed that the conclusions of the submitted Archeology Assessment are supported. Recommended condition which should be attached to any decision notice
5.3	County Ecologist	Raise no objections and confirmed agreement with the recommendations of submitted ecological and wildlife reports. Recommended conditions which should be attached to any decision notice
5.4	County Education Authority	Requested total contribution of £84,515 based on 49 dwellings. This would be split between £66,488 for 4 High School places and £18,027 for 1 Sixth Form place
5.5	County Highway Authority	Raise no objections subject to conditions
5.6	County Lead Local Flood Authority (LLFA)	Raise no objections subject to condition
5.7	County Rights of Way Officer	Comments made that the Definitive Map of Public Rights of Way shows that no public rights of way cross the site
5.8	The Environment Agency	Raise no objections

5.9	Natural England	Raise no objections
5.10	Severn Trent Water Ltd	Raise no objections subject to drainage related pre-commencement condition
5.11	The National Forest Company	Comments made that 20% National Forest planting should be met either on-site or by financial contributions
5.12	The Ramblers Association	Comments that there is no record of a definitive right of way traversing the site although there does appear to be pedestrian entries which should be retained subject to other planning constraints.

Internal Consultees		Response
5.13	Environmental Health Department	No objections subject to conditions
5.14	Environment Manager	Request that the developer provides adequate storage containers for refuse and recycling collection
5.15	Open Space Manager	Requested off-site contribution of £34,750 which would be spent at Heath Road Park
5.16	Tree Officer	Raise no objections
5.17	Council's appointed Viability Expert	Confirmed that following sensitivity testing there is justification for the offer of capital contributions and on-site contributions. This is based on the minimum price that a hypothetical reasonably minded landowner would be willing to accept to release the site for housing development and reasonable build costs.

6. Neighbour Responses

- 6.1 One letter in support has been received from the occupiers of a neighbouring property.
- 6.2 33 objection letters were received. The concerns raised within objections are summarised below:

Neighbour Responses	
Principle	<ul style="list-style-type: none"> Proposal does not comply with the Neighborhood Plan as the site is not allocated for housing and is excluded from development There is a shortage of allotment spaces

	<ul style="list-style-type: none"> • Other land in Burton such as brownfield sites are more suitable • There is too much housing in Burton
Impacts upon Residential Amenity	<ul style="list-style-type: none"> • Loss of privacy • Increased noise pollution • Additional exhaust fumes will contribute to poor air quality
Visual Amenities	<ul style="list-style-type: none"> • Loss of important green space • Loss of recreational area • Loss of open character
Highways Impacts	<ul style="list-style-type: none"> • Traffic congestion - local road network cannot cope with this level of additional development • Parking problems • Highways safety concerns for pedestrians, cyclists and children • Visibility concerns at the junction • Increased road surface damage
Other Matters Raised	<ul style="list-style-type: none"> • Proposal will have major adverse effect on local wildlife area including the variety of birds and numerous insect species • Loss of habitats and biodiversity • Impact on heritage assets – loss of historic wall • Loss of views • Loss of cultural significance • Potential loss of a Saxon Burial Site • Existing facilities in the area are already stretched to maximum capacity • Lack of any affordable housing units provided or other developer contributions • Schools are already at capacity • Impact upon property values
Ward Members	No formal comments received in writing

7. Policy Framework

National Policy

- National Planning Policy Framework 2019
- National Planning Policy Guidance

Local Plan

- Principle 1 Presumption in Favour of Sustainable Development
- SP1 East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy

- 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 Open Space Policy
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP3 Design of New Residential Development, Extensions and Curtilage Buildings
- DP5 & DP6 Heritage Assets
- DP8 Tree Protection

Stapenhill Neighbourhood Plan

- Policy SH1 – Housing for All
- Policy SH3 – High Quality Design
- Policy ST1 – Access for All
- Policy ST2 – Parking and Servicing
- Policy SC1 – Heritage Assets
- Policy SC2 – Local Heritage Assets
- Policy SC4 – Nature Conservation

Supplementary Guidance

- Housing Choices SPD
- Design Guide SPD
- Revised Car Parking Standards SPD

8. Principle of Development

8.1 The NPPF states that at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. 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 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. Due weight should be given to them, according to 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'.
- 8.3 Although the Council can currently demonstrate a 5 year land housing supply there is a general context nationally for significantly boosting housing. The application site lies within the settlement boundary of the main town close to the Local Centre of Main Street, Stapenhill, and is therefore in a sustainable location where windfall new houses can play a part in meeting local housing needs.

Historically the site is understood to have been allotments however currently there are only 6 used plots. Over the process of time all other allotment use of the site has ceased and the land has become vacant scrubland. Therefore, in order to create and establish further allotment provision money would first need to be spent to clear land. Notwithstanding the current site characteristics, within the vicinity there is formal allotment provision beyond the south boundary where land is elevated to the same level as properties along Saxon Street. This allotment site is easily accessible from Saxon Street and there is space available for expansion. This allotments site and the application site are both owned by the Allotment Association and there is an agreement in place to relocate existing plot holders requiring relocation from the development site onto the retained land. Within the local area approximately 500 metres to the south along Rosliston Road there is another formal allotments site which is also allocated as Local Green Space within the Stapenhill Neighbourhood Plan. It is difficult to assess the catchment areas of allotments due to their nature and usage however taking into account the level of established provision within proximity to the site it would be unreasonable to suggest that residential development is unsuitable purely based on loss of allotment land. Further assessment of the loss of the allotments is set out in paragraph 18 below.

- 8.4 There are no reasonable prospects for the site being bought into use for allotments as it is not entirely capable due to the topography of the site whilst any loss resulting from the proposed development would be replaced by equivalent provision in a suitable location. The site is not allocated or earmarked for any purposes within both the Proposals Map of the Local Plan or the Proposals Map of Stapenhill Neighbourhood Plan and nor is there any relevant recent planning history. With the above points to mind it is considered that the principle of windfall new houses at this site is therefore acceptable.

9. Local Plan

- 9.1 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. The policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government's presumption in favour of sustainable development.
- 9.2 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. Under Policy SP2 development will be directed towards the most

sustainable locations in accordance with the settlement hierarchy. The application site is within the settlement boundary of Burton upon Trent where new development should be concentrated.

- 9.3 The site has no formal allocations and is therefore land within the settlement boundary which could accommodate development. There is desirability for optimising vacant land within the main town and the delivery of windfall housing would play a part in meeting the boroughs housing requirements and achieving sustainable growth. It is considered that the indicative layout plan helps to satisfy that the site is capable of accommodating the level of housing being proposed. The general principles for sustainable development can be integrated and are discussed further in the assessment below.

10. Design and 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. 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.
- 10.2 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.
- 10.3 Policy DP1 of the Local Plan re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide.
- 10.4 The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context will be important, as this can support local distinctiveness. The Guide allows for development which employs a more modern architectural style but in terms of its proportions and siting it should still complement its surroundings.
- 10.5 The East Staffordshire Design Guide is equally applicable to the policy aspirations of SP24. It states that:
- (a) Residential layouts should be designed with focus on the streets and spaces between dwellings rather than the individual buildings themselves;
 - (b) The location of buildings in relation to streets should create interesting streetscapes including consciously arranged views and vistas within and out of the development;

- (c) Long straight and sweeping roads should be avoided with a preference for traffic calming inherent in the design of the development;
 - (d) Repetitive house types should be avoided;
 - (e) The cramming together of large numbers of detached properties should be avoided.
 - (f) High proportions of frontage car parking will not be acceptable.
- 10.6 Policy SH3 from the Neighbourhood Plan requires that all new development should exhibit high quality design and should respond creatively to the function and identity of Stapenhill Parish. High quality design will be expected of both buildings and spaces. Where affordable housing is delivered it should be indistinguishable from other dwellings. Where appropriate, schemes should seek to ensure that they deliver development which minimises the potential for anti-social behaviour and crime.
- 10.7 The application site features significant ground level changes however most of the land is still developable although there would likely be a requirement for split level properties and retaining walls. Although the site is surrounded by built form it does feel detached from Stanton Road to the east and Saxon Street to the south which sit at a significantly elevated level. The existing highway Five Lands Road would be the only access point into the site where the adopted highway would likely be extended to create an extension to the street scene. Within the site a new build estate would help to establish residential character where the residing community would be supported by facilities at the nearby Local Centre on Main Street. The development does not raise fundamental design or visual impact concerns at this initial outline stage as the site in large parts is featureless overgrowing scrubland which feels inaccessible and does not contribute to the local economy where in comparison a residential scheme would help to improve the appearance of the area.
- 10.8 The indicative layout plan helps to satisfy that the site is capable of accommodating the level of housing being proposed in addition to the potential for community open space on-site. As part of this outline application a 'Parameters Plan' has been negotiated which highlights the potential developable area whilst priority is given to a wildlife area which would remain protected and creation of new wildlife corridors. The public footpath would also be resurfaced and upgraded. Although this footpath is not a definitive right of way as advised by the County Rights of Way Officer it is a popular pedestrian route which allows connectivity between Main Street to the west and Stanton Road to the east. It has therefore been ensured that the Parameters Plan clarifies the retention and upgrade of this important link which would also feel safer for users due to passive surveillance from new properties. The finer details for lighting and the fixed surface structure of the footpath can be resolved during a later reserved matters stage.
- 10.9 A separate site visit was conducted alongside the Council's Tree Officer to assess each tree at the site and make an informed decision as to whether any are worthy of protection by way of a formal Tree Preservation Order (TPO). If there are trees that should be TPO'd then this should be considered at outline stage in order to then guide the future layout. In the technical opinion of the Tree Officer there is nothing of noteworthy value at the site except for the Oak

trees near the north boundary. Subsequently these Oak trees are shown to be retained on the Parameters Plan. There are also wooded areas around the perimeter to the south and east which would also likely be retained due to the land level changes. In any case these trees provide screening but do not hold any special amenity value. The screening by boundary treatments, the planting of new trees, hedges, shrubs or grass, the laying out or provision of gardens and other amenity features would all be considered under the 'landscaping' reserved matter in a later application. At this stage it is considered that there are no noteworthy trees at the site which should be protected and therefore the developable area on the Parameters Plan is acceptable and the proposal complies with the aims of Policy DP8 from the Local Plan.

10.10 Overall, at this initial outline stage it is considered that there are insufficient grounds to refuse the application based on the number of dwellings being too intensive resulting in over-development. Full details in terms of layout, positioning of dwellings and plot sizes would be assessed at the reserved matters stage. Any outline application would also be granted in accordance with the terms of the Parameters Plan which helps to ensure that future reserved matters details are guided by the defined developable area, wildlife areas and footpath location.

11. Residential Amenity

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

11.2 Due to land levels any scheme of houses at the site would sit on much lower ground than existing built form beyond the east boundary at Stanton Road and beyond the south boundary at Saxon Street. The gardens of properties along Holly Street are also elevated beyond the north boundary. In terms of any relationship to the west boundary it is likely that a layout would have reliance on back-to-back gardens to ensure sufficient separation distances. However, the relationships to neighbours would largely depend upon the design, massing and positioning of houses which would be assessed as part of the determination of reserved matters in relation to 'scale', 'appearance' and 'layout'.

11.3 At this initial outline stage it is considered that a residential scheme could be developed which achieves a neighbourly relationship to surrounding properties and does not significantly impact the level of private amenity that neighbours can reasonably expect to continue to enjoy.

12. Highway Matters

12.1 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.

- 12.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.
- 12.3 The Council's Parking Standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses. Policy ST1 from the Neighbourhood Plan states that the provision of new and improved pedestrian routes will be supported. Policy ST2 states that all new development should proactively address and manage its parking provision. New housing will normally be expected to deliver on-site provision of 1 space for dwellings of up to 2 bedrooms, 2 spaces for development of 3 bedrooms and 3 spaces for development of 4 or more.
- 12.4 From a parking point of view it is considered that the site has sufficient area to accommodate the level of housing proposed and each plot could be designed with appropriate off-street parking spaces in accordance with the Council's Parking Standards guidance and Policy ST2 from the Neighbourhood Plan. These internal details would be fully assessed as part of the 'layout' reserved matter in a later application.
- 12.5 As part of this application details for the access point have been submitted. The 'access' reserved matter deals with accessibility to and within the site for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding network. The site would have a single vehicular access point from Five Lands Road which would link to new internal roads. The proposed internal road network would be assessed as part of the 'layout' reserved matter. Generally, as long as internal roads are of adoptable standard this would allow emergency vehicles or the Council's fleet of refuse vehicles to safely service each new plot. In terms of walkability through the site the existing footpath connection within the site linking Main Street to the west with Stanton Road to the east would be retained in addition to a pedestrian access from Rosliston Road.
- 12.6 The County Highway Authority has raised no objections to the proposed access point and is satisfied with the submitted details for junction improvements at Fivelands Road. With this technical view to mind it is considered that a residential scheme at the site would not prejudice the safe or efficient use of the highway and there are insufficient grounds to refuse the application at outline stage based on highway safety concerns, traffic generation or parking problems.
- 12.7 By working with the developer consideration has been given to making sure that the scheme considers provision for electric vehicle charging points for which the demand is expected to increase in the future. This can also help with the future marketing of properties. The developer has agreed for 10% of the plots to include an electric vehicle charging point in a convenient location. A

suitably worded condition can be added to any outline permission to ensure that some level of electric vehicle charging points is provided however the wording should be flexible so that the exact level can be agreed as the layout evolves and comes forward under reserved matters details.

13. Historic Environment

- 13.1 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.
- 13.2 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 (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.
- 13.3 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes.
- 13.4 The housing development would be over 250 metres away from the nearest Conservation Area within the Borough which is Burton Town. There is no inter-visibility between the application site and any Conservation Areas as the site is landlocked by established urban built form. As a result it is considered that there would not be no demonstrable harm upon the characterful aspects and appearance of any Conservation Areas or their setting.
- 13.5 The nearest Listed Building to the site is The Old Farm, 13 Holly Street which is a 16th century Grade II Listed Building. The house sits within its own setting over 120 metres away to the north and is also separated from the site by existing built form along the opposing side of Holly Street. These properties are on an elevated level in comparison to the site. The proposed development would not therefore affect the experience or route past any Listed Buildings and there are no Listed Buildings in close proximity to the application site. Therefore, it is considered that the character, significance and setting of heritage assets within Stapenhill would not be harmed and the proposal would not conflict with Policies SP25, DP5 and DP6 from the Local Plan and Policies SC1 and SC2 from the Neighbourhood Plan.
- 13.6 It is considered that the statutory duties under Section 66 and under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 have been considered as part of this application and are not engaged by it.

14. Flood Risk and Drainage

- 14.1 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.
- 14.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.
- 14.3 The site falls within Flood Zone 1 and therefore The Environment Agency has raised no objections in terms of fluvial flood risk. The Agency has also not notified the Council of any critical drainage issues in this area.
- 14.4 A Drainage Strategy and Flood Risk Assessment has been submitted which provides an overall strategy for how a housing scheme would be designed to be appropriately flood resilient in terms of surface water run-off. The technical view of the County Lead Local Flood Authority (LLFA) is that the drainage engineering which would be put into place would be acceptable. The initial drainage strategy is therefore acceptable however this could evolve under the reserved matters details for which the LLFA would be consulted again for their technical view.
- 14.5 Severn Trent Water Company has also been consulted on the application and raised no objections. Pre-commencement conditions are requested to be attached in relation to the disposal of foul and surface water flows. It is considered that these conditions are unreasonable to attach as the site is within Flood Zone 1 and the finer details for connection to drains underground is a matter for Building Regulations.
- 14.6 Overall, taking into account the technical opinion of the LLFA and The Environment Agency it is considered that the proposed scheme would be appropriately flood resilient, flood risk would not increase elsewhere and surface water flows can be suitably managed by giving priority to a sustainable drainage system. The scheme would achieve compliance with Policy SP27 from the Local Plan. A suitably worded pre-commencement condition can be attached to any outline permission which requires compliance with the drainage strategy as requested by the LLFA.

15. Housing Mix

- 15.1 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.

- 15.2 Strategic Policy 16 states that residential development in the main towns and Strategic Villages shall provide an appropriate dwelling or mix of dwellings given the mix required in that part of the Borough according to the Council's evidence base or other evidence.
- 15.3 Policy SH1 from the Neighbourhood Plan states that new residential development will be particularly supported if, where appropriate, it is focused on the delivery of smaller residential dwellings of two bedrooms or less. These properties should be suitable for families, first time buyers or elderly persons wishing to move to more suitable housing.
- 15.4 The Housing Choice SPD expects the market housing mix for Burton as shown below in the table. An indicative housing mix has been included on the Proposed Parameters Plan. This includes 'Lifetime Homes' which the developer has confirmed would likely be 3 bed houses. A column has been included which shows how the proposed scheme compares:
- 2 x bungalow
 - 4 x one bed houses
 - 9 x two bed houses
 - 27 x three bed houses
 - 7 x four bed houses

	Burton	<i>Proposed Outline Scheme</i>
1-bedroom homes (flats, houses or bungalows)	3%	8%
2-bedroom homes (flats, houses or bungalows) and Housing for Older People	27%	22%
3-bedroom houses	32%	55%
4-bedroom houses	26%	14%
5-bedroom houses	11%	0%

- 15.5 The scheme would bring forward a range of housing from smaller units, bungalows and family homes. It is considered that the scheme in outline form would provide a reasonable mix of tenures and housetypes which in turn can provide the opportunity to support a sustainable neighbourhood and foster community cohesion. A condition would be added to any outline permission which requires the housing mix to accord with the details as stated on the Parameters Plan. It would be reasonable to include a proviso within this condition that the housing mix could be changed by agreement in writing with the Council and also as the scheme evolves and comes forward under reserved matters details.

15.6 Local Plan Strategic Policy 16 states that all dwellings providing ground floor accommodation should meet Building Regulations 2010 Standard M4(2) relating to accessible and adaptable dwellings. Further guidance has been prepared setting out how this policy will be applied. The guidance states that the standard will be expected on 10% of major applications and the standard should be applied to a range of properties. The developer has confirmed that the 16 'Lifetime Homes' within the housing mix would be designed to meet the Building Regulations M4(2) standard meaning that they may be more easily accessed and adaptable should the need arise in future. This is 32% of the overall houses and ensures compliance with Policy SP16. A condition would be added to any outline permission which requires the M4(2) compliant units to be delivered. It would be reasonable to include a proviso within this condition that the number of units achieving M4(2) could be changed by agreement in writing with the Council taking into account that the housing level overall may be reduced as the scheme comes forward under reserved matters details.

16. Affordable Housing

16.1 Policy SP17 states that affordable housing provision should be delivered across the site and not in clusters of more than 8 dwellings. The Housing Choice SPD provides guidance on the expected affordable housing mix of sites.

16.2 Following viability sensitivity testing agreement has been reached that the scheme can reasonably provide capital and on-site contributions. As part of this 7 affordable housing units would be delivered on-site. These 7 units would be taken out of the calculation for the market housing mix discussed above. The exact tenure, type, design and location of affordable units within the layout would be assessed during a future reserved matters application however the intention is there will be 4 social rented units and 3 shared ownership units. This affordable housing requirement would be legally binding on the developer via a Section 106 Agreement.

17. Biodiversity

17.1 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.

17.2 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.

17.3 Strategic Policy 29 lists criteria including development retains features of biological interest produces a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits.

17.4 Policy SC4 from the Neighbourhood Plan states where practicable all developments, regardless of size and location, will be required to demonstrate how they will support and protect wildlife and enhance biodiversity both on and off the site. This may include, amongst other options, the retention of existing natural features within the design of a site, the use of native planting within a

landscape proposal, or alternatively delivering new green infrastructure as part of public realm proposals.

- 17.5 Within representations received concerns have been raised about the impact upon wildlife. A number of ecological and wildlife reports have been submitted as part of the application. In order to fully assess these reports the County Ecologist was commissioned to provide professional opinion. The scope of this work was to advise whether the submitted ecology reports are sufficiently robust and whether the proposed wildlife area and wildlife corridors on the Parameters Plans are satisfactory as mitigation/protection for wildlife. The County Ecologist has raised no objections to the scheme and confirmed agreement with the recommendations of submitted ecological and wildlife reports. Natural England has also raised no objections to the proposal.
- 17.6 With the technical view of the County Ecologist to mind it is considered that the proposal does provide opportunities for protecting habitats in compliance with Policy SP29 from the Local Plan and Policy SC4 from the Neighbourhood Plan, and pre-commencement conditions should be attached to any outline permission to ensure an Ecological Management Plan is submitted prior to clearance works and installation of bird boxes and gaps in boundary treatments to allow movement of hedgehogs.

18. Open Space

- 18.1 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.
- 18.2 SP32 and SP33 set out the requirements of open space provision across the Borough.
- 18.3 Policy SP32 states that open space and recreation land should not be built upon unless an assessment has been undertaken which has clearly shown that the open space or land is surplus to requirements and the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quality in a suitable location.
- 18.4 For Burton East, which includes Stapenhill, the average amount of allotments is 0.46 hectares per 1,000 population which is the highest level of provision in East Staffordshire. The National Society of Allotment and Leisure Gardeners (NSALG) suggests a national standard of 20 allotments per 1,000 households (20 per 2,000 people based on two people per house or one per 100 people). This equates to 0.25 hectares per 1,000 populations based on an average plot-size of 250 square metres.
- 18.5 Whilst the above information has been considered an assessment has also been made for the level of allotment provision within Stapenhill. Within the vicinity of the site there is formal allotment provision beyond the south boundary. This allotment site is easily accessible from Saxon Street and there is space available for expansion. Within the local area approximately 500 metres to the south along Rosliston Road there is another formal allotments site which is also allocated as Local Green Space within the Stapenhill Neighbourhood Plan. As a result it is considered that whilst there are a small number of allotments on the site the loss resulting from the development would

be replaced by equivalent provision in the adjacent allotment site to the south. There is also the overriding context that there is a good level of existing allotment space already within Stapenhill and the loss of provision within the site would not result in the level of provision falling below the standards recommended by The National Society of Allotment and Leisure Gardeners. Therefore, it is considered that the criteria of Policy SP32 has been satisfied.

- 18.6 The Council's Open Spaces SPD states that sustainable urban drainage systems (SUDS), which are considered to take large areas of land, could also be counted against open space typologies where an appropriate dual use, such as water storage and informal recreation is suitable, so long as SUDs are designed safely and it is made clear who would be the maintaining authority would be.
- 18.7 The Indicative Site Plan outlines that there could be community open space within the site. However, at this initial outline stage the exact area of open space cannot be confirmed. The site would include the wildlife area and wildlife corridors as outlined on the Parameters Plan. Based on the site area and number of overall housing units it is reasonable to assume that there will be some additional open space and likely SuDS features, which can be secured through the S106 agreement. Following conclusion of viability matters it has been negotiated that a Management Company would look after any open space and SUDS at the site in perpetuity and this would be legally binding on the developer through the Section 106 Agreement.

19. Archaeology

- 19.1 Within representations received concerns have been raised that the site is a Saxon burial area. An archaeological report has been submitted to support the application. In order to fully assess this report the County Archaeologist was commissioned to provide professional opinion. The scope of this work was to advise whether the findings of the report are acceptable.
- 19.2 The County Archaeologist has undertaken this work and confirmed no objections to the proposal whilst also confirming that the conclusions of the submitted comprehensive Archaeology Assessment are supported. As a result it is considered that there are insufficient grounds for a refusal of the scheme at outline stage based on harm to archaeology and a pre-commencement condition can be attached to any decision which requires a programme of archaeological evaluation.

20. Superfast Internet

- 20.1 The Council is keen to ensure that new developments are designed to accommodate the latest infrastructure. The developer has confirmed that the site is close to an existing BT Openreach cabinet and it is likely that all new dwellings would benefit from the latest Fibre to the Home connection.

21. Section 106 Contributions

- 21.1 Paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

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

21.2 The table below outlines the full level of contributions required from the proposed scheme:

Policy Compliant Contributions Requested	
Affordable Housing	<i>33% of units to be affordable housing as site is Greenfield within Burton – this equates to 16 houses.</i>
Education Authority	<i>Requested total contribution of £84,515 based on 49 dwellings</i>
Open Space	<i>Requested off-site contribution of £34,750 which would be spent at Heath Road Park</i>
National Forest Planting	<i>20% National Forest planting should be met either on-site or by financial contributions</i>
Bins	<i>£75 per plot for appropriate external storage containers for refuse and recycling collection</i>

21.3 The developer is unable to agree the full level of contributions outlined above. A viability report has been submitted to demonstrate that the level of contributions being sought would make the scheme unviable and undeliverable.

21.4 By working collaboratively with the developer and the Council's appointed Viability Expert matters of viability have been concluded and it has been agreed that whilst the proposal cannot afford all usual contributions, the scheme can provide capital and on-site contributions which can help to benefit the local community.

21.5 The developer has put forward an obligation offer following rigorous viability testing. The Officer recommendation is that this offer is acceptable and discussions have been held with Ward Members to use their local knowledge for how the community could be supported and where contributions should be prioritised. It is understood that there is a need for affordable houses to support members of the local community. Therefore, it has been negotiated that the scheme delivers 7 affordable units (14%).

21.6 In addition to the on-site provision of affordable houses a further sum of £84,515 is available and has been offered by the developer. Following further discussions with Ward Members the Officer recommendation is that there is pressure on local schools in the area and it is high priority to support education needs. Therefore, a significant part of this contribution can be used towards the

level requested by the Education Authority which ensures compliance with Policy SP10 from the Local Plan. The remaining money from the developers offer can be used within the local area at Heath Road Park which is a public open space. The Councils Open Spaces Manager has confirmed that the money would be used towards improving equipment at the park which would further ensure compliance with Policy SP23.

21.7 The Officer opinion is that the developer contribution has been split fairly and reasonably so as to benefit the local community. Members of Planning Committee should be aware that there is flexibility to change where the £84,515 is spent if there is a feeling that other areas are higher priority such as supporting a local project or a sum to support National Forest planting. In line with national guidance planning obligations can also be pooled into funding 'pots' intended to support common types of infrastructure for the wider area however it should be ensured that no more than 5 obligations are pooled towards a single project.

21.8 The following planning obligation has been negotiated and the Planning Officer's recommendation is that the developer's offer has been reasonably split for priority areas that can benefit the local community:

- **7 Affordable Units delivered on-site.** The affordable houses would be split between 4 social rented units and 3 shared ownership units. Trigger agreed with developer and included in Section 106 Agreement:

7 affordable housing units to be substantially completed at the site either:

- a) prior to the first occupation of ten market houses; or
- b) within 24 months of the commencement of the development,

whichever is the sooner.

- **Education Authority contribution of £49,765.** The money would be pooled towards providing accommodation and/or associated ancillary infrastructure for an additional ½ form entry of provision at Paulet High School.
- **Open Space contribution of £34,750** which would be spent on new equipment at Heath Road Park, Stapenhill
- **£75 per plot** for appropriate external storage containers for refuse and recycling collection (not included in overall contributions figure)
- **Management Company** appointed to look after all open space including wildlife areas and SuDS on-site in perpetuity

21.9 Overall, given the site context, surroundings and local knowledge from Ward Members it is considered acceptable that the developers planning obligation prioritises delivery of on-site Affordable Housing, Education Authority contribution and Local Open Space contribution to support the community.

22. Conclusions

- 22.1 The site has no formal allocations and is therefore land within the settlement boundary which could accommodate development. There is desirability for optimising vacant land within the main town and the delivery of windfall housing would play a part in meeting the boroughs housing requirements and achieving sustainable growth.
- 22.2 It is considered that the site is capable of accommodating the level of housing being proposed and statutory consultees and relevant Council departments who have been consulted have all raised no objections to the application. Full details of the access reserved matter has been provided and the access is considered to be acceptable by the County Highway Authority. Specialist consultees which include the County Ecologist and County Archaeologist have also been commissioned to provide technical response on the scheme and both have provided no objections. At this stage all technical matters in relation to highways, flood risk, contamination, ecology and archaeology can be covered by suitably worded pre-commencement conditions attached to any outline permission.
- 22.3 Overall, it is desirable to see windfall housing on a largely vacant and featureless site where efficient use of the land can optimise the potential to bring forward new homes within the settlement boundary. In addition to the appropriateness of the scheme some weight should also be given to the Section 106 Agreement where fair and reasonably related contributions have been negotiated following viability testing.
- 22.4 It is considered that the scheme as proposed would not result in any demonstrable harm upon the character and significance of the historic environment and there are no other material considerations which should be added to the planning balance.
- 22.5 Accordingly, it is considered that the scheme complies with the aims and criteria of relevant policies from the Local Plan, the Council's SPD's, the Made Neighbourhood Plan and the National Planning Policy Framework 2019.

22.6 RECOMMENDATION

22.7 **The Planning Committee is asked to resolve to GRANT outline planning permission for the development subject to a SECTION 106 AGREEMENT and subject to the following conditions:**

1. The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last reserved matter(s) to be approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. No development shall take place until details of the following reserved matters have been submitted to and approved in writing by the Local Planning Authority:
 - a - Appearance
 - b - Landscaping
 - c - Layout

d - Scale

4. The development hereby permitted relates to the following plans subject to compliance with other conditions of this permission:

Site Location Plan Drawing No: 2017_491_00A received on 31/01/19

Proposed Parameters Plan Drawing No: 2016_491_16 received on 03/05/19

Proposed S278 Highways Improvements Plan Drawing No: MA10571-600 received on 07/03/19

5. Prior to the first occupation of any dwelling the junction improvements on Five Lands Road shall be completed in accordance with the approved plan Drawing No: MA10571-600 Rev B unless other details are first approved in writing by the Local Planning Authority in consultation with the County Highway Authority.
6. As agreed in writing with the planning agent on 09 May 2019 10% of the plots shall include electric vehicle charging points unless other details are first agreed in writing with the Local Planning Authority. The approved electric vehicle charging points shall thereafter be installed prior to first occupation in respective plots and be retained as such for the life of the development.
7. As agreed with the agent in writing on 09 May 2019 the 16 Lifetime Homes within the housing mix as specified on the approved Parameters Plan Drawing No: 2016_491_16 shall be constructed to meet the internal Building Regulations M4(2) standard unless a different number of homes meeting this standard is otherwise agreed in writing with the Local Planning Authority.
8. The housing mix shall be as specified on the approved Parameters Plan Drawing No: 2016_491_16 unless a different housing mix is first agreed in writing with the Local Planning Authority.
9. Following completion of measures identified in the approved remediation scheme as detailed within the GRM Phase II Site Appraisal Ref: P8335 April 2018, a verification report that demonstrates the effectiveness of the remediation carried out shall be produced and submitted to and approved in writing by the Local Planning Authority.
10. In the event that previously unidentified contamination is found at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be carried out and where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of any measures identified in the approved remediation scheme a verification report must be prepared and approved in writing by the Local Planning Authority prior to bringing the development into first use.
11. The development hereby permitted shall be carried out in accordance with the approved Drainage Strategy by Millward Integrated Engineering Consultants Document Ref: MA10810-FRA-R02 August 2018 unless a different strategy is otherwise first agreed in writing with the Local Planning Authority in consultation with the County Lead Local Flood Authority (LLFA). The final design for the drainage strategy shall include:
- Limiting the surface water run-off generated by the 100 year + 40% climate change critical storm so that it will not exceed a 5.0 l/s (5.0l/s recommended to reduce the risk of blockage) and not increase the risk of flooding off-site.
 - Provision of adequate attenuation flood storage on the site to a 100 year + 40% climate change
 - Proposed finished floor levels to be set 150mm above surrounding ground levels with overland flow routes demonstrated in the event of blockage or exceedance of the drainage network.
 - Provision of Groundwater Flooding risk mitigation measures as outlined in section 8.2.1 of the above-mentioned FRA.

- Provision of permeable paving in line with CIRIA C753 as part of a SUDS treatment train as outlined in section 8.2.2 of the above-mentioned FRA
 - Confirmation for which responsible body will maintain the surface water system over the lifetime of the development according to an acceptable maintenance schedule that is achievable.
12. No development shall commence until details for the protection of hedgehog movements has been provided which shall include a plan of plots where the base of boundary treatments includes minimum 13 x 13 cm gaps and shall be submitted to and approved in writing by the Local Planning Authority in consultation with the County Ecologist. Thereafter, the approved boundary treatments which allow hedgehog movement shall be erected prior to first occupation within respective plots unless otherwise agreed by the Local Planning Authority.
13. No development shall commence until details of the number, type, design and exact siting of all bat and bird boxes to be installed on buildings and trees and the proposed times for installation has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Ecologist. Thereafter, the bird and bat boxes shall be installed in accordance with those details and at those times as approved under this condition unless otherwise agreed by the Local Planning Authority.
14. No works, including site clearance, shall take place until a Construction Environmental Management Plan (Ecology) that covers all aspects of species protection measures has been submitted to and approved in writing by the Local Planning Authority in consultation with the County Ecologist. Thereafter, the works shall adhere to the approved Environmental Management Plan during construction phase unless otherwise agreed by the Local Planning Authority.
15. No vegetation clearance shall take place during the bird nesting season (March to end August) unless otherwise agreed by the Local Planning Authority in consultation with the County Ecologist.
16. No development shall commence until details of external lighting have been submitted to and approved in writing by the Local Planning Authority in consultation with the County Ecologist. Such details shall include the location, height, type and direction of light sources and intensity of illumination. Thereafter, the external lighting shall be installed in accordance with the details approved under this condition and shall be retained/repared as such for the lifetime of the development unless otherwise agreed by the Local Planning Authority.
17. (a) No development shall commence until a written scheme of archaeological investigation ('the Scheme') is submitted to and approved in writing by the Local Planning Authority in consultation with the County Archaeologist. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-fieldwork reporting and appropriate publication.
- (b) The archaeological site work shall thereafter be implemented in full in accordance with the written scheme of archaeological investigation approved under part (a) of this condition.
- (c) Prior to the first occupation of any dwelling the site investigation and post-fieldwork assessment shall be completed in accordance with the written scheme of archaeological investigation approved under part (a) of this condition and provision shall be made for analysis, publication and dissemination of the results and archive deposition shall be secured.

Informatives

1. Standard Engagement informative
2. Highways Informative

23. Background Papers

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

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

23.3 Papers on the planning application file ref: P/2018/01451

24. Human Rights Act 1998

24.1 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.

25. Crime and Disorder Implications

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

26. Equalities Act 2010

26.1 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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