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**Agenda Item:** 5.1

<b>Site:</b>	Land off Forest Road, Burton upon Trent,
<b>Proposal:</b>	Application under Section 73 of the Town and Country Planning Act 1990 for a Minor Material Amendment for the demolition of existing garages to facilitate the erection of 83 dwellings including access, associated infrastructure and attenuation pond without complying with Condition 2 of planning permission ref: P/2014/01304 relating to substitution of house types for 43 dwellings and amendment to layout on western part of the site

### Report of Head of Service (Section 151 Officer)

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

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#### [Hyperlink to Application Details](#)

<b>Application Number:</b>	P/2019/00297	
<b>Planning Officer:</b>	Kerry Challoner	
<b>Type of Application:</b>	Planning Condition (Minor Material Amendment)	
<b>Applicant:</b>	Mr T Broster	
<b>Ward:</b>	Branston	
<b>Ward Member (s):</b>	Councillor A Clarke Councillor Mrs P L Ackroyd Councillor R G W Grosvenor Councillor Mrs S McKiernan Councillor P Walker	
<b>Date Registered:</b>	03 April 2019	
<b>Date Expires:</b>	27 June 2019. An extension of time has been agreed with the agent.	
<b>Reason for being on Agenda</b>	The scheme seeks to alter a consent that was previously granted for residential development on the site by Planning Committee.	
<b>Officer Recommendation</b>	<b>Approval</b> subject to a Deed of Variation and conditions	

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## 1. Executive Summary

- 1.1 The application site, of some 4.1 hectares, comprises of undulating agricultural land to the North of Forest Road in Burton Upon Trent. The site is bounded by existing traditional terraced dwellings to the South, and open fields on its other boundaries. The application site is outside of settlement boundaries as defined in the Local Plan.
- 1.2 This application under Section 73 seeks a minor material amendment to a full planning permission previously granted for the erection of 83 dwellings including access, associated infrastructure and attenuation pond (application reference: P/2014/01304). The permission was subject to a Section 106 Agreement which provides for commuted sum payments for education, refuse containers, open space maintenance, a transport strategy and travel plan and off-site affordable housing provision. The Agreement also included the provision of 12 No. affordable housing units on the site itself.
- 1.3 This previous permission (under application reference: P/2014/01304) remains extant as all the relevant pre commencement conditions have been discharged and a material start to the development has been made on the site in relation to the construction of the vehicular access.
- 1.4 This minor material amendment to the approved development is in respect of the substitution of 43 No. of the dwellings. The scheme largely relates to the Western section of the approved scheme where it is proposed to substitute 41 approved dwellings with 39 revised house types. It is further proposed to substitute 2 approved detached dwellings with 4 semi-detached house types on the northern boundary of the site. As such the scheme would continue to deliver 83 No. dwellings in line with the original consent. The scheme also retains the 12 No. affordable housing units.
- 1.5 The approved access and layout of the site would remain as previously approved. Landscaping, drainage and ecological details have been updated to reflect the revised housetypes.
- 1.6 No objections have been raised by internal or external consultees on technical grounds. Shobnall Parish Council have raised objections on the grounds of the highway impacts of the scheme on Forest Road, and six responses were received from neighbouring occupiers/ local residents raising objections on principle, highway, drainage and ecology grounds. No response was received from Outwoods Parish Council. Neighbouring occupiers have been re-notified of the latest proposed plans, one further objection was received reiterating the objections raised previously.
- 1.7 The principle of the proposal is established under the existing extant planning permission. The overall design approach, layout and massing remains parallel to the approved scheme. The proposed amendments are considered to be acceptable in visual and residential amenity terms and the County Highway Authority have raised no objections. The relevant financial contributions of the sealed S106 agreement (attached to the 2014 application) will be secured through a Deed of Variation to ensure that all required planning obligations continue to be met.



- 2.4 The majority of the site is within Outwoods Parish, although a small section in the North Eastern area is within Shobnall Parish (as is identified on the map above for clarity).
- 2.5 The site lies outside of the settlement boundary as defined in the Local Plan for Burton upon Trent. The site is not allocated for residential development in the Local Plan or either the Shobnall or Outwoods Neighbourhood Plans.

### 3. Planning history

- 3.1 18 February 2016 - **Application ref: P/2014/01304**- Demolition of existing garages to facilitate the erection of 83 dwellings including access, associated infrastructure and attenuation pond- Approved subject to a S106 Agreement.
- 3.2 31 January 2018 - **Application ref: P/2017/01522**- Discharge of conditions 5,6,8,9,10,11,13,14 and 16 of planning permission P/2014/01304 relating to the demolition of existing garages to facilitate the erection of 83 dwellings including access associated infrastructure and attenuation pond- Approved.
- 3.3 31 January 2018 - **Application ref: P/2017/01597**- Discharge of conditions 3,4,7,12 and 22 of planning permission P/2014/01304 relating to the demolition of existing garages to facilitate the erection of 83 dwellings including access associated infrastructure and attenuation pond- Approved.
- 3.4 03 April 2019 - **Application Ref: P/2019/00320**- Erection of 64 affordable dwellings on eastern part of the site and construction of vehicular access and associated works - this scheme also relates to the application site and will be reported to Planning Committee in due course.

### 4. The proposal

- 4.1 This application seeks a minor material amendment to a planning permission previously granted for the erection of 83 dwellings including access, associated infrastructure and attenuation pond. The previous application remains extant as a material start to the development has been made on the site with the undertaking of highway access works.
- 4.2 This minor material amendment in respect of 43 No. dwellings largely relates to the Western area of the approved scheme where it is proposed to substitute 41 approved dwellings with 39 revised house types. It is further proposed to substitute 2 approved detached dwellings with 4 semi-detached house types on the northern boundary of the site. As such the scheme would continue to deliver 83 No. dwellings in line with the original consent.
- 4.3 The changes to the house types on the scheme are summarised in the table below:-

Bedrooms	Original Approval	Current S73
1 bed	6	0
2 Bed	10	15
3 Bed	38	41
4 Bed	29	27
TOTAL	83	83

4.4 Whilst the layout of the access roads within the site would remain the same, minor alterations are proposed to the positioning of the dwelling houses. This application includes public open space, the SUD's balancing feature and a shared private road to serve as a rear access to dwellings in Forest Road.

List of supporting documentation

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

- Application forms
- Planning Statement
- Design and Access Statement
- Affordable Housing Statement
- Location Plan
- Proposed Site Layout
- Proposed Surfaces Layout
- Proposed Boundary Treatment Layout
- Proposed Landscape Scheme
- Landscape Management Plan
- Ecology Mitigation Plan
- Proposed 'Repton' Housetype layout and elevations (revised)
- Proposed 'Wymeswold' Housetype layout and elevations
- Proposed 'Willesley' Housetype layout and elevations
- Proposed 'Tissington' Housetype layout and elevations
- Proposed 'Rempstone' Housetype layout and elevations
- Proposed 'Milton' Housetype layout and elevations
- Proposed 'Foston' Housetype layout and elevations
- Proposed 'Broadway' Housetype layout and elevations
- Proposed 'Bradgate' Housetype layout and elevations
- Proposed 'Rosliston' Housetype layout and elevations
- Proposed single garage detail
- Proposed double garage detail
- Proposed twin garage detail
- Proposed 1.8m high wall detail
- Proposed 1.8m high fence detail

4.6 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	Outwoods Parish Council	No response was received.
5.3	Shobnall Parish Council	Shobnall Parish Council objects to the application on the grounds that it would adversely affect Forest Road - this is a narrow road which is already at capacity as referred to in the Shobnall Neighbourhood Plan Para 7.1.
5.4	SCC Highways	No objection subject to conditions and the details previously discharged.
5.5	SCC Education	No objections subject to the appropriate financial contribution being carried over from the previous consent.
5.6	Environment Agency	No objections were raised.
5.7	Severn Trent Water	No objections raised subject to drainage details recently approved.
5.8	The National Forest	No objections were raised as the scheme accommodates sufficient planting on site to satisfy the requirements of Local Plan Policy SP26. Concerns were, however, highlighted that the National Forest Planting does not appear well integrated into the development, with limited access or dwellings fronting onto the planting area.
5.9	Lead Local Flood Authority	No objections were raised.
5.10	SCC Historic Environment	No comments to make on this application.
5.11	Architectural Liaison Officer	No objections were raised although it was recommended that the access way to the rear of Forest Road properties is gated.
5.12	Natural England	No comment to make on this application.

Internal Consultees		Response
5.13	Environmental Health	No objections were raised subject to a condition relating to land contamination.
5.14	Open Spaces	No objections were raised.

## 6. Neighbour responses

6.1 Site and Press notices were posted, and notification letters were sent to adjacent properties to the site. 6 responses were received raising

objections to the proposal, along with 1 response in relation to the latest revised plans which are summarised below:

<b>Neighbour responses</b>	
Principle	<ul style="list-style-type: none"> <li>• Planning permission should never have been granted</li> </ul>
Impacts on Amenity	<ul style="list-style-type: none"> <li>• Loss of privacy</li> </ul>
Highways Impacts	<ul style="list-style-type: none"> <li>• Concerns were raised regarding the increased traffic and the impacts on Forest Road which is already congested and used too much by HGV's</li> <li>• Proposals should include appropriate wheel wash facilities</li> <li>• Lack of pedestrian crossings on Forest Road- this is a hazard</li> <li>• Rear access to Forest Road properties should be retained as part of the proposals as per the original consent</li> </ul>
Flood and drainage impacts	<ul style="list-style-type: none"> <li>• Concerns raised regarding the drainage and flooding implications of 83 dwellings located on current fields.</li> </ul>
Biodiversity	<ul style="list-style-type: none"> <li>• Concerns raised regarding the impact on flora and fauna</li> </ul>
Ward Member	No responses were received from a Ward Member.

## 7. Policy Framework

### National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

### Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- NP1: Role of Neighbourhood Plans
- SP3: Provision of Homes and Jobs 2012-2031
- SP4 Distribution of Housing Growth 2012 – 2031
- SP8 Development outside of Settlement Boundaries
- SP16 Meeting Housing Needs
- SP17 Affordable Housing
- SP23 Green Infrastructure

- SP24 High Quality Design
- SP25 Historic Environment
- SP26 National Forest
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP30 Locally Significant Landscape
- SP32 Outdoor Sports and Open Space
- SP33 Indoor Sports
- SP34 Health and Wellbeing
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP3 Design of New Residential Development, Extensions and Curtilage Buildings
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP7 Pollution and Contamination
- DP8 Tree Protection

### 'Made' Neighbourhood Plans

#### Outwoods

- TA2 – Roads and Streets
- TA3 – Parking
- TA5 – Public Transport
- RD1 – Design
- RD2 – Public and Private Space
- RD3 – Type and Tenure
- LR2- Play for All
- LR3 – Green Space Strategy
- LR4 – Landscape and Drainage

#### Shobnall

- T1-Transport Assessment
- T2- Highways Design
- T3- Travel Planning
- T5- Parking
- HD2- Housing Design
- HD3- Housing Mix
- GN1- Local Green Spaces and the Natural Environment
- GN3-Open Space

#### Supplementary Planning Documents

- Car Parking Standards SPD
- Separation Distances and Amenity SPD

- Housing Choice SPD
- East Staffordshire Design Guide SPD

## **8. The scope of the consideration of the case under Section 73 of the Town and Country Planning Act/Principle of the Development**

8.1 Section 73 of the Town and Country Planning Act 1990 concerns ‘*Determination of application to develop land without compliance with conditions previously attached*’. Section 73 applications also necessarily involve consideration of conditions subject to which planning permission should be granted. Where an application under Section 73 is granted, the effect is the issue of a fresh grant of planning permission and the notice should list all conditions pertaining to it. The application cannot be used to vary the time limit for implementation.

8.2 It is important to note that when assessing a Section 73 application, the previously granted consent is a significant material consideration. If the original application has been implemented, or if the permission has not yet expired, the applicant may go ahead and complete the original scheme if they wish. In this case, all of the pre commencement conditions have been discharged and material works to implement the permission have been undertaken on the site. As such given that the development of the site has been established (and that the applicants have a ‘fall back’ position) it is possible to conclude that the current application scheme under Section 73 is acceptable in principle having regard to national and local planning policies in relation to the location of sustainable development.

8.3 Alterations to Planning Policy and other material considerations since the original grant of planning permission are nevertheless relevant and need to be considered. However, they again must be considered in light of applicant’s ability to complete the originally approved development. These matters are addressed in this report under the following issues:

- The impact on visual amenities
- The impact on the existing residential amenity of neighbouring occupiers
- Sustainability of the built form
- The Highways impacts of the proposals
- Historic Environment
- The Drainage/ Flooding impacts of the proposals
- Affordable Housing/Housing Mix
- National Forest
- Biodiversity
- Open Space
- The implications for the Sealed S106 agreement

## **9. Impact on Visual Amenities**

9.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for

development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 9.2 Strategic Policies 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.
- 9.3 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.
- 9.4 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.
- 9.5 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.
- 9.6 Strategic Policy 30 states that development proposals will be expected to demonstrate that they have taken into account the Landscape Character Assessment for Staffordshire and consist of a scheme which reflects the landscape character and where possible enhances the landscape quality. Detailed Policy DP8 relates to the protection of trees, both protected and non protected.
- 9.7 Policy RD1 'Design' of the Outwoods Neighbourhood Plan states that new residential development should consider carefully the interface with the wider landscape ensuring that a new, high quality urban edge is created, avoiding rear gardens backing onto the landscape. Policy RD2 'Public and Private Space' requires sufficient private amenity area to be provided to

serve new dwellings along with a clear definition of public and private space through the inclusion of front boundaries and safe and secure rear boundaries. Outwoods Neighbourhood Plan Policy TA1 'Public Realm' requires all new development to deliver the very highest quality in public realm design.

- 9.8 Turning to the Shobnall Neighbourhood Plan, Policy HD2 sets out the requirements to achieve a high standard of design in new housing development
- 9.9 Consent is sought for the substitution of 43 of the permitted dwellings; predominately on the western area of the site where it is proposed to substitute 41 approved dwellings with 39 revised house types. Details of the dwellings have been provided which reflect the house types used by the developer taking on the site. The general layout and form of the development remains as previously approved with a mix of two storey detached and semi-detached houses surrounding a cul de sac layout on the Western side of the wider development site. In the northern area 4 No. semi-detached houses would replace 2 previously approved detached dwellings on a similar alignment.
- 9.10 The development would, through the encroachment of built development into the countryside, impact upon the character of the local landscape. However, it is viewed in the context of existing built development to the South, and the Red House Farm development to the North of the site at the top of the hill. It is considered that in time the development will be viewed against the backdrop of the existing settlement from more distant vantage points. The retention of hedgerows around the boundary of the site and substantial National Forest Planting alongside the open space will help to assimilate the proposals into its landscape context.
- 9.11 The proposed house types are a mix of 2, 3 and 4 bedroom dwellings with traditional proportions and brick elevations. The proposed house types are considered to be appropriate to their setting and repetitiveness within the street scene would be avoided through the carefully designed layout accommodating the nine house types proposed.
- 9.12 The proposed landscaping scheme will be central to softening the development and provide appropriate areas of green infrastructure. Existing hedges will be retained as part of the proposals. The landscaping can be secured through an appropriately worded condition and will ensure that the development sits comfortably on the rural edge of Burton.
- 9.13 Based on the above assessment, it is considered that the design and landscaping of this revised scheme is acceptable and suitably reflects the approach taken in the original scheme. The development will result in a high quality development which complies with the relevant local plan policies, East Staffordshire Design Guide, the Outwoods and Shobnall Neighbourhood Plan Policies and the National Planning Policy Framework.

## **10. Impacts on Residential Amenity**

- 10.1 The National Planning Policy Framework and 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.

- 10.2 The Councils recently adopted Separation Distances and Amenity SPD sets out overall spacing standards for new residential development to ensure that existing and future occupiers have a good level of amenity and privacy to enjoy the place where they live.
- 10.3 Policy RD2 'Public and Private Space' of the Outwoods Neighbourhood Plan requires new residential dwellings to have sufficient garden space within their private curtilage to meet the functional domestic needs of the occupants.
- 10.4 With regard to the relationship with existing properties in Forest Road to the South of the site, Officers are satisfied that distances and levels between the existing and proposed dwellings remain acceptable to ensure that residential amenity is protected in compliance with the Separation Distances and Amenity SPD. The private amenity spaces afforded to each property are considered to be commensurate with the size of the dwellings and in line with the Separation Distances and Amenity SPD.
- 10.5 In summary, the proposed layout shows that the dwellings can be accommodated on the site without compromising the reasonable amenities of their future occupiers, and allowing for sufficient outdoor private amenity space. Whilst objections have been raised on the basis of the impact on privacy, Officers consider that the proposed development integrates satisfactorily with the adjoining built form, in compliance with the provisions of Local Plan Policies DP1 and DP3.
- 10.6 The proposed layout shows each new dwelling is sufficiently distant from both existing residential properties and proposed residential properties to avoid causing them an unacceptable loss of light or privacy or any overbearing impacts. The scheme is therefore compliant with the provisions of Local Plan Policies SP1, SP24, DP1 and DP3, the East Staffordshire Design Guide, the Separation Distances and Amenity SPD, the Outwoods Neighbourhood Plan and the NPPF.

## **11. Sustainability (energy efficiency and low carbon)**

- 11.1 DP2 of the Local Plan sets out expectations for development which ensure the design and delivery of low carbon buildings and energy improvements to existing buildings. Considerations include where relevant:
- follow the energy hierarchy of designing out energy demand from the outset, incorporating energy efficiency measures and introducing low carbon energy supply;
  - incorporate the best environmental practice and construction techniques in line with the Governments zero carbon buildings policy ;
  - use appropriate materials, form, orientation and layout of buildings to maximise the benefits of passive solar heating, cooling, lighting and natural ventilation;
  - incorporate facilities to minimise the use of water and the creation of waste, and which maximise opportunities for recycling;

- incorporate ecologically sensitive design and features for biodiversity early on within a development scheme, following guidance in ‘Biodiversity by Design’ or future revisions;
- where appropriate prepare Site Waste Management Plans to ensure that at least 25% of the total minerals used derive from recycled and reused content;
- aim to reduce predicted carbon emissions through the generation of decentralised and renewable or low carbon energy generation where practicable;
- where on site renewable or low carbon energy generation is not practical, a contribution towards an off-site renewable energy or carbon reduction scheme will be acceptable.

11.2 Policy RD1 ‘Design’ of the Outwoods Neighbourhood Plan states that designs which seek to offer low carbon / carbon neutral buildings through either innovative design or the use of renewable technologies will be supported subject to ensuring that they contribute to a unified street scene and do not appear incongruous or visually prominent within the wider landscape.

11.3 Whilst the proposal does not propose to incorporate any renewable energy sources or specific green construction techniques, the dwellings would be constructed using modern and efficient methods resulting in buildings that are well insulated and energy efficient. It is therefore considered that the proposals would accord with the aims of Policy DP2 of the Local Plan and Policy RD1 of the Outwoods Neighbourhood Plan.

## 12. Highway Matters

12.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should consider ensure development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all people and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

12.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.

12.3 The Council’s parking standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses.

12.4 Outwoods Neighbourhood Plan Policy TA2 ‘Roads and Streets’ sets out highway considerations which should be incorporated into new

development such as promoting a street hierarchy and maximising pedestrian access. All highways should be designed to accommodate traffic which may be reasonably expected to utilise the proposed development. Vehicles should be able to manoeuvre safely within the development and to enter and exit streets in forward gear. In terms of residential development, highways must be able to accommodate a variety of vehicle types, including, but not restricted to, grocery delivery vehicles, street cleaning vehicles and waste disposable vehicles. Policy TA5 'Public Transport' of the Outwoods Neighbourhood Plan requires all residential schemes on proposed allocations and committed sites to be located within reasonable walking distance of a bus stop and serviceable route and/or any other public transport provision.

- 12.5 In terms of the Shobnall Neighbourhood Plan, Policy T1 requires new development to mitigate its own traffic generation and impact. Policy T2 relates to Highway Design and requires new development to achieve a high quality in Highway Design. Policy T3 'Travel Planning' seeks to encourage the use of sustainable transport.
- 12.6 The Outwoods and Shobnall Neighbourhood Plans in policies TA3 and T5 respectively set out parking requirements. The required level of parking in new developments in both plans is:
- For dwellings of 3 bedrooms or fewer – a minimum of 2 spaces
  - For dwellings of 4 bedrooms or more – a minimum of 3 spaces
- 12.7 The access point to the development off Forest Road would remain the same as approved, and the internal road layout also remains unaffected by the revised proposals. The original application was supported by a Transport Assessment which stated that the development could be assimilated into the existing transport network, the County Highway Authority raised no objections to this. The requested conditions by Highways (some of which have been discharged through discharge of condition applications) have been refreshed and remain relevant to this application.
- 12.8 The car parking provision set out to serve the revised dwelling types would meet with the requirements of the Car Parking Standards SPD and the Outwoods Neighbourhood Plan with three spaces being provided for each 4 bed dwelling and 2 spaces for proposed 2 and 3 bed properties.
- 12.9 The financial contributions attached to the original planning consent to secure monies towards the monitoring of a green travel plan and towards the East Staffordshire Integrated Transport Strategy are dealt with in Section 20 below.
- 12.10 Subject to continued compliance with conditions and details approved under the previous consents (secured under appropriately worded conditions), this proposal would remain acceptable in Highway Safety Terms. It is not considered that the scheme would prejudice the safe or efficient use of the existing highway network and the objectives of Local Plan Policies SP1 and SP35 along with Policies TA2, TA3 and TA5 of the Outwoods Neighbourhood Plan, Policies T1, T2, T3 and T5 of the Shobnall Neighbourhood Plan and the NPPF are all complied with.

### **13. Historic Environment**

- 13.1 Paragraph 126 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 13.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 13.3 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.
- 13.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes.
- 13.5 Detailed Policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology. Detailed policy 6 aims to protect other heritage assets which are not necessarily covered by listed building or conservation area status, such as shopfronts and the setting of important historic landscapes.
- 13.6 There are no heritage assets - Conservation Areas or Listed Buildings - within the immediate vicinity of the site. It is not considered that the proposal will have any impacts on views into, or out of any designated areas, or affect the setting of any Listed Buildings. The statutory duties under Section 66(1) and 72 are not therefore engaged by this proposal.

### **14. Flood Risk and Drainage**

- 14.1 Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land

according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.

- 14.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.
- 14.3 Policy LR4 - Landscape and Drainage - of the Outwoods Neighbourhood Plan requires all new development to introduce Sustainable Urban Drainage Systems to ensure that it reflects the existing runoff rate or better. This should be carefully designed to complement the landscape design for the scheme. Drainage swales, balancing ponds and ditches should be designed as part of wider landscape and habitat creation proposals.
- 14.4 The site lies within flood zone 1 and as per the original consent, the application has been considered by all relevant consultees in relation to flood risk and drainage. The Environment Agency and the Lead Local Flood Authority have raised no objections and Severn Trent have confirmed that all issues in relation to foul and surface water drainage can be adequately covered by a suitably worded condition.
- 14.5 The requirements of Local Plan Policy 27, Outwoods Neighbourhood Plan Policy LR4 and the objectives of the National Planning Policy Framework are met through this proposed minor material amendment to the original scheme.

## **15. Affordable Housing and Housing Mix**

- 15.1 The NPPF states that Local planning authorities should have a clear understanding of housing needs in their area. Local Authorities should address the need for all types of housing, including affordable housing and the needs of different groups in the community. Strategic Policies 16 and 17 along with the guidance set out in the Housing Choice SPD responds to this requirement.
- 15.2 Strategic Policy 17 states that housing-led residential development that will provide 4 or more dwellings or on a site of 0.14 hectares or more shall provide appropriate levels of affordable housing. The policy states that on greenfield sites within and on the edge of Burton and Uttoxeter 33% of the development should provide affordable housing.
- 15.3 Outwoods Neighbourhood Plan Policy RD3 'Type and Tenure' states that planning permission will be granted for residential development which delivers an appropriate mix to meet locally assessed needs for open market dwellings.
- 15.4 Shobnall Neighbourhood Plan policy HD3 'Housing Mix' sets out Shobnalls particular housing needs and reinforces the requirements of Local Plan Policies SP16 and SP17 of the Local Plan and the Housing Choice SPD.

15.5 The proposal continues to provide for 12 No. properties which would be affordable housing and located within the site in line with the original consent. With the changes in house types now being proposed on the overall site there would be 15 No. 2 bed dwellings, 41 No.3 bed dwellings and 27.No 4 bed dwellings varying in design, layout and scale. The proposed housing mix as originally approved on the overall site was for 6 No. 1 bed, 10 No.2 bed, 38 No.3 bed and 29 No.4 bed properties. The proposed housing mix and affordable housing provision is considered to be sufficiently in line with the parameters set by the extant planning consent so as to continue to meet with the objectives of the Local Plan in respect of Policies SP16 and SP17, Outwoods Neighbourhood Plan Policy RD3, Shobnall Neighbourhood Plan Policy HD3 and the NPPF.

## **16. National Forest**

16.1 The National Planning Practice Guidance is clear that green infrastructure is important to the delivery of high quality sustainable development, alongside other forms of infrastructure such as transport, energy, waste and water. Green infrastructure provides multiple benefits, notably ecosystem services, at a range of scales, derived from natural systems and processes, for the individual, for society, the economy and the environment. To ensure that these benefits are delivered, green infrastructure must be well-planned, designed and maintained. Green infrastructure should, therefore, be a key consideration planning decisions where relevant.

16.2 Strategic Policy 26 supports the National Forest Strategy expects developments within the National Forest to contribute towards the creating of the Forest by providing on-site or nearby landscaping that meets the National Forest planting guidelines. Policy GN3 'Open Space in New Development' of the Shobnall Neighbourhood Plan also requires new development to support the objectives of the National Forest.

16.3 The proposals include National Forest Planting which has been agreed through the original permission and the conditions discharged. The planting would remain in line with these details, and essentially would all be provided on site largely in an area adjacent to the Public Open Space. On this basis, which would be secured by condition, the proposal would comply with the objectives of Policy SP26 of the Local Plan and GN3 of Shobnall Neighbourhood Plan.

## **17. Biodiversity**

17.1 Paragraph 118 within Section 11 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.

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

17.3 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.

- 17.4 The scheme of ecological enhancement has been updated as part of this proposal to revise the house types on the Western section of the site. The measures include the provision of bird and bat boxes in specific areas across the site, with some being located within the open space areas. The revised mitigation scheme can be conditioned as part of these proposals, the proposal would continue to meet with the objectives of Local Plan Policy SP29.

## **18. Open space**

- 18.1 The NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area.
- 18.2 SP32 and SP33 set out the requirements of open space provision across the Borough.
- 18.3 The Borough Council will seek to deliver new provision and protect and enhance existing outdoor open space and sport facilities by safeguarding sites for the benefit of local communities and applying the standards set out in the Local Plan.
- 18.4 Outwoods Neighbourhood Plan Policy LR2 ‘Play for All’ sets out the requirement that all new residential development is required to provide a mixture of children’s play facilities, of an appropriate scale to meet need, as set out in the East Staffordshire Borough Council ‘Open Space’ guidance. In addition to the provision of play equipment for children and infants, facilities must be provided for teenagers and adults. Play provision must be suitably located, accessible to people with disabilities, dispersed throughout the proposed development and located away from busy roads and benefit from natural surveillance.
- 18.5 Policy LR3 of the Outwoods Neighbourhood Plan sets out requirements in terms of Green and Blue Infrastructure. All new development proposals should attempt to create additional green space of value to, and accessible to the public and preserve and enhance existing trees, hedgerows and other woodland cover. Schemes which remove mature trees, hedgerows and ponds (regardless of their age or quality) will not be supported unless suitable, high quality mitigation is proposed within the application site in order to maintain the current landscape quality.
- 18.6 In terms of the Shobnall Neighbourhood Plan, Policy GN1 ‘Local Green Spaces and the Natural Environment’ provides support for development that provides new public open space, subject to compliance with other policies. Policy GN3 ‘Open Space in New Development’ sets out the

requirements for the maintenance of open space within residential developments.

18.7 The overall site is 4.1 hectares in size. A total area of 1.08 hectares of Public Open Space is proposed incorporating a children’s play area, broader Open Space and National Forest planting. In addition, there is attenuation pond feature. Full details of landscaping have been provided in this application which accords with details approved under discharge of conditions applications relating to the original consent. The provision of open space is consistent with the extant consent, and includes suitable access points for residents.

18.8 In terms of open space, the provision remains in line with the parameters set by the original consent, with the details being accordance with those previously approved. The objectives of the relevant Local and Neighbourhood Plan Policies and the NPPF are therefore met by this proposal.

## 19. Section 106 Contributions

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

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

19.2 The contributions listed below were agreed with the developer in respect of the Section 106 agreement for the original scheme. As these contributions in principle would continue to apply with the substitution of dwellings proposed by this application these can still be secured through a deed of variation to the original Section 106 (with any adjustments being undertaken pro rata), in order to ensure that the development in its entirety remains compliant in terms of financial contributions.

<b>Contribution</b>	<b>Previous S106-83 dwellings</b>
Education	£604,000 (£308, 000 to be allocated to primary school provision, £296,000 for secondary and sixth form places)
Affordable Housing	12 No. dwellings on site along with a commuted sum of £143,657 for off-site provision
Open Space Maintenance	£80,815
Refuse containers	£6,225

Highways-transport strategy	£35, 000
Highways-travel plan	£6,300

## 20. Other Matters

20.1 The NPPF states that consideration should be given to ground conditions in the determination of planning applications. These should include issues arising from natural hazards, or former activities such as mining and pollution arising from a previous use. Policy DP7 of the Local Plan relates to pollution and contamination and states that planning permission will only be granted where development does not give rise to, or suffer from unacceptable levels of pollution in respect of noise or light, or contamination of ground, air or water.

20.2 The original consent identified a strategy for further ground investigations which was considered to be acceptable. The implementation of this strategy can be secured through an appropriately worded condition, as per the original consent. The Environmental Health Officer has raised no objections to the proposed revisions to the original scheme. It is therefore considered that this proposal would meet with Local Plan Policy DP7 and the requirements of the NPPF.

## 21. Conclusions

21.1 The principle of this proposal has been established by the extant consent P/2014/01304 and the housing mix is considered to remain in line with the aims of the original approval.

21.2 The proposed changes to substitute 43 No. of the originally approved dwellings for 43 No. dwellings of a revised design are considered to be acceptable. Overall, the design, layout and massing of the proposed development remains in accordance with the development previously granted consent and there are no technical issues which cannot be overcome by appropriately worded conditions. The proposal would result in no detriment to the residential amenities of neighbouring occupiers and mitigation measures would safeguard and enhance habitats of protected species.

21.3 In highway safety terms the proposal remains acceptable and sufficient parking provision has been demonstrated through the revised plot and house designs in accordance with the Car Parking Standards SPD and the policies set out in the Outwoods and Shobnall Neighbourhood Plans.

21.4 Taking into consideration the environmental, social and economic impacts of this minor material amendment to an approved scheme it is considered that the proposal is acceptable and would be in accordance with relevant policies within the Local Plan, the Outwoods Neighbourhood Plan, the Shobnall Neighbourhood Plan and the NPPF.

## 21.5 RECOMMENDATION

21.6 **Permit**, subject to the following conditions and the completion of a Deed of Variation to the S106 Agreement attached to planning reference: P/2014/01304:

1. Compliance with the approved plans (subject to other conditions) (00002).
2. Samples and Details of Materials to be provided (bespoke)
3. Compliance with drainage details submitted (bespoke)
4. Compliance with Surface Water Management details approved under P/2017/01597
5. Compliance with Suds Maintenance details approved under P/2017/01522
6. Compliance with Ecological Enhancement Measures (bespoke)
7. Details of Slab Levels to be provided (bespoke)
8. Compliance with archaeology investigation details approved under P/2017/01522
9. Compliance with Construction Management Plan approved under P/2017/01597
10. Compliance with National Forest Planting details approved under P/2017/01522
11. Compliance with Access Road and Gate Details approved under P/2017/01522
12. Compliance with Archaeology Investigation details approved under P/2017/01522
13. Access to be completed to base level (bespoke)
14. Provision of Parking Court for existing residents to be provided in line with details to be provided (bespoke)
15. Limitations to hours of construction (bespoke)
16. Provision of visibility splays in accordance with approved plans
17. Parking and turning areas to be provided prior to occupation of each dwelling (bespoke)
18. Landscaping Implementation (standard)
19. Wall and Fence Implementation (standard)
20. Tree Protection (bespoke)
21. Windows to be set back by 50mm (standard)
22. Where private accesses fall towards the public highway they shall be provided with a water interceptor.
23. All driveways to have a minimum depth of 5.5m (bespoke)
24. Compliance with Phase 1 Site Investigation Strategy (bespoke)
25. Compliance with Flood Risk Assessment (bespoke)
26. Compliance with Ecological Appraisal and mitigation measures (bespoke)
27. Garages to be retained for the Parking of vehicles (bespoke)

### Informatives

1. Standard engagement informative (003a)
2. Applicant to act upon the necessary comments of the Police Liaison Architectural Officer and the Environment Agency (bespoke)
3. Wildlife Responsibilities (bespoke)

## **22. Background papers**

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

- Papers on Planning Application file ref: P/2014/01304
- The Local and National Planning Policies outlined in the report above.
- The Outwoods Neighbourhood Plan
- The Shobnall Neighbourhood Plan

## **23. Human Rights Act 1998**

23.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

## **24. Crime and Disorder Implications**

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

## **25. Equalities Act 2010**

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

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