

# ADDENDUM REPORT

## STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL PLANNING APPLICATIONS COMMITTEE

**Date: 22 October 2020**

<b>Application No:</b>	SMD/2017/0252 and SMD/2017/0253	
<b>Location</b>	Caverswall Castle	
<b>Proposal</b>	Change of Use of Grade 1 listed castle to permit C1 hotel use; meeting/lecture venue; demolition of swimming pool building; creation of a car park and alteration and extension of the existing outbuilding to provide covered parking and an estate workshop with stores in connection with the proposed use Listed Building consent for removal of existing swimming pool and alterations and extension to outbuilding	
<b>Applicant</b>	Mr Robin MacDonald	
<b>Agent</b>	Astill Planning Consultants Ltd.	
<b>Parish/ward</b>	Caverswall	<b>Date registered</b> 12/05/17
<b>If you have a question about this report please contact:</b> Ben Haywood <a href="mailto:ben.haywood@staffsmoorlands.gov.uk">ben.haywood@staffsmoorlands.gov.uk</a> . 01538 395400 Ext 4924		

### **BACKGROUND**

1. Members considered this application in December 2017. A copy of the original report the Committee is attached at Appendix 1.
2. After a full debate it was resolved to approve the application subject to the prior completion of a satisfactory planning obligation to ensure that an element of the profit from the business was used to repair this important heritage asset. This was put forward in the application as the primary reason for the hotel / meeting venue business and in resolving to approve the application was accepted by Members as a key benefit of the scheme, outweighing the harm to the Green Belt and setting of the Listed building. The legal agreement would also control the nature and scale of the use in the terms set out in the application in the interests of residential amenity.
3. Although a satisfactory Unilateral Undertaking was subsequently agreed with the applicant, unfortunately it remains unsigned. The Council's solicitor has confirmed that receivers were appointed for the owner, Robin McDonald, who are now required to be a party to the Unilateral Undertaking. The latest correspondence on file from August 2019 returned a revised draft to the receivers solicitor removing two of the chargees (a third had already gone into possession of the site), but adding in an obligation for the owner to ensure that prior to commencement of development anyone with an interest in the land entered into a s106 agreement to comply with the Unilateral Undertaking. The Council's solicitor has confirmed that there has been no correspondence since then.

4. This has resulted in an impasse because in the absence of a completed and signed Unilateral Undertaking planning permission cannot be issued. All those with an interest in land affected by a planning obligation are required to be party to the agreement because a planning permission runs with the land and the Council needs to ensure that a planning obligation which controls the planning permission also binds successors in title who implement or continue to implement the permission.

5. Options are very limited because, as Members will know, a positively worded condition cannot be used to require the payment of money or require the applicant to enter into a Planning obligation. Whilst it may be possible in certain circumstances to use a negatively worded condition to prohibit development authorised by a planning permission until a specified action has been taken, the Planning Practice Guidance on the use of conditions confirms that this is unlikely to be appropriate in the majority of cases, limited to those more complex and strategic cases (Ref ID 21a-010-20140306). It goes on to say that ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed in a timely manner and that it is important in the interests of maintaining transparency.

6. In this case the Unilateral provides the mechanism for an element of the profit from the business to be used to repair this Grade 1 Listed building and thus secure the future of this important heritage asset in the public interest. Furthermore it contains a number of covenants to control the scale and nature of the use in terms set out in the application, its management and the monitoring thereof in the interests of residential amenity. It would not be appropriate to secure these matters through conditions because of lack of precision, certainty, transparency and enforceability. Conditions are not therefore recommended as an alternative. The only way to that these matters can be adequately secured is through a Planning obligation. In the absence of such an obligation, regrettably the recommendation for SMD/2017/0252 is changed to one of refusal. Listed building consent was also sought for alterations and extension to the outbuilding. There is no objection to this (see assessment in attached report). It is not subject to a Planning obligation and there is thus no change to the recommendation for approval.

7. Since the previous report was presented to Members in 2017 a new version of the NPPF has been adopted by Government and the Council has adopted its new Local Plan. However, as with the previous Core Strategy, the new local plan places considerable weight in Policy SS10 on preserving the openness of the Green Belt and requires compliance with national Green Belt policy as set out in the NPPF. Similarly, Local Plan Policies DC1 and DC2, like their Core Strategy predecessors require (inter alia) new development to:

- protect the amenity of the area, including creation of healthy active environments and residential amenity, in terms of satisfactory daylight, visual impact, sunlight, outlook, privacy, soft landscaping as well as noise, odour and light pollution conserve and where possible enhance heritage assets, including
- their setting in a manner appropriate to their significance.
- give protection to designated heritage assets and their settings and non-designated heritage assets as set out in the NPPF.

8. The new NPPF continues to attach great importance to Green Belts. Like previous Green Belt policy it states that “*inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.*” It goes on to explain that certain forms of development are not inappropriate in the Green Belt. These include engineering operations provided they preserve its openness and do not conflict with the purposes of including land within it.

9. Furthermore, like its predecessor it also places considerable weight on the protection of designated heritage assets. The Framework clearly states that:

*“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*

*Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.*

*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

10. Consequently, it is not considered that there have been any material changes in policy which would lead to a different conclusion or recommendation on the applications.

### **RECOMMENDATION 1 (Application SMD/2017/0252)**

**That planning permission be refused for the following reasons:-**

**1. Caverswall Castle is a Grade 1 Listed building which is situated within the Green Belt. The Framework confirms at para 146 that the re use of buildings can be appropriate development provided that the buildings are of permanent and substantial construction. That is the case there is no objection in principle to this aspect of the application. However an integral part of the proposal is the provision of a car park to serve the new uses. The formation of a car park for this commercial use represents inappropriate development as undoubtedly it would have some impact both on the openness of the Green Belt and on the purposes of including land in the Green Belt (para 146). The onus is on the applicant therefore to demonstrate that very special circumstances exist to justify inappropriate development.**

**One of the key functions of the proposal as set out in the application is to secure a sustainable use for the Castle in order to generate an income stream for the applicant, part of which would contribute towards the repair of this Grade 1 Listed Building. Whilst this could amount to very special circumstances, sufficient to outweigh the harm to the Green Belt, no**

mechanism is in place to secure this funding link and thus there is no guarantee of repairs being carried out to sustain this important Grade I Listed building. Very special circumstances do not therefore exist.

The Framework confirms that LPA's should give 'substantial weight 'to any harm to the Green Belt and that the government attaches great importance to Green Belts, the essential characteristics of which are their openness and their permanence. In this particular case, in addition to harm by reason of inappropriateness, there is also harm to openness arising from the proposed new car park and the parking of vehicles. The proposal also conflicts with one of the main purposes of including land within the Green Belt namely that of safeguarding the countryside from encroachment. In the absence of very special circumstances, the harm to the Green Belt attracts substantial weight and is overriding. As such there is conflict with Policy SS10 of the Staffordshire Moorlands Local Plan and National policy in the NPPF, including but not restricted to Chapter 9.

2. Policy DC2 states that the Council will safeguard and where possible enhance the historic environment by resisting development which would harm or be detrimental to Listed buildings and promoting development which sustains such historic assets. The creation of a large area of hardstanding on which vehicles will be parked, for weeks at a time, would impinge into the principle aspect of the Castle, both in views from and towards the castle from the south and would, conflict with Policy DC2 since the proposal could not be said to be enhancing the historic environment nor safeguarding it and the case for sustaining this Listed building is not made. In terms of the Framework it is accepted that the degree of harm is less than substantial and in such circumstances the Framework requires that the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. As discussed above, there is no mechanism in place to ensure that the public benefits of the scheme, in terms of contribution towards the repair of this important Grade 1 Listed building would be secured. As such there is conflict with Policy DC2 of the Staffordshire Moorlands Local Plan and the NPPF in particular Chapter 16.

3. Given the close relationship between the application site and existing residential properties and particularly East Lodge it is considered that there is potential for harm (from noise and disturbance and loss of privacy) from vehicles and the movement of guests associated with the use. Whilst the specific nature of the use as detailed in the application i.e. boutique hotel and meeting venue could be acceptable, in the absence of any mechanism to strictly control the nature and scale of the use in order to protect residential amenity, there is conflict with Policy DC1 of the adopted Staffordshire Moorlands Local Plan and national policy in the NPPF which requires planning always to seek a good standard of amenity for all existing occupants of land and buildings.

## **RECOMMENDATION 2 (Application no SMD/2017/0253)**

**That Listed building consent be granted for the extension/alterations to the existing outbuilding subject to the following conditions:-**

**1.The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Not later than 3 days after development/works first begin on site written notice shall be given to the Local Planning Authority of the date on which development/works first commenced.**

**Reason:- To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and to ensure the Local Planning Authority is informed of the commencement of the first works on the site.**

**2. The development hereby permitted shall be carried out in accordance with the following approved plans: To be confirmed**

**Reason:- For the avoidance of doubt and in the interests of proper planning.**

**3.No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority in respect of the garage building, referred to as cart shed on Drawing 10:-**

**a) samples of all external facing and roofing materials**

**b) detailed plans and sections of the proposed windows and doors at a scale of 1:20. Details should include: the recess depth of frame within the aperture; moulded timber sections; finish; opening mechanism; and glazing bar subdivision.**

**c) eaves and verge detail**

**d) Plinth detail**

**e) existing and proposed levels**

**The development shall be carried out strictly in accordance with the approved details**

**Reason:- To ensure an acceptable external finish in the interests of the character and integrity of the Conservation Area and setting of the Listed building**

## **RECOMMENDATION 3**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.**