

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

9th March 2023

Application No:	SMD/2021/0456	
Location	Land to the east of Froghall Road and north of, Ayr Road and Cheltenham Avenue, Cheadle, Staffordshire.	
Proposal	Variation of condition 2 (retrospective) relating to planning permission ref. SMD/2018/0180 seeking minor amendment to Phase 1 Planning Layout Rev Z3 (ref: ARCH/PL/PH1 Rev Z3) and 'Site Location Plan' (ref: ARC/LP/01 Rev B) for reconfiguration of approved SuDS pond, addition of retaining walls to plots 60-67 and 70, resiting of garage serving plots 66/67 and resiting of plots 1-5, including correction of redline ownership adjoining The Gables boundary.	
Applicant	Persimmon Homes (Northwest) Ltd	
Agent	N/A	
Parish/ward	Cheadle	Date registered 12/08/21
If you have a question about this report please contact: Ben Haywood tel: 01538 395400 ex 4924 ben.haywood@staffsmoorlands.gov.uk		

REFERRAL

The planning application has been referred to Planning Applications Committee because it is locally contentious.

1. SUMMARY OF RECOMMENDATION

APPROVE subject to recommended planning conditions.

2. SITE DESCRIPTION & ITS SURROUNDINGS

2.1 The 12.55 ha (hectare) part greenfield application site is located c.1km northeast of Cheadle town centre with construction well underway and some plots occupied in relation to residential Phase 1 of hybrid planning permission ref. SMD/2018/0180. The former grazing land was broadly divided into four field parcels defined by hedgerows along field boundaries. The field boundary Ash tree located within the central area of the site is subject to a TPO (Tree Preservation Order) (SM182T00). For Phase 1, the site is broadly level, however, land levels fall more appreciably from Broad Heyes Holiday Park (north) in the direction of the Cecily Brook (south) from 167m AOD to 162m AOD in relation to Phase 2 and land reserved for the school.

2.2 The Cecily Brook defines the southeast boundary of the site, which further adjoins open countryside and together with its vegetated corridor falls within

Environment Agency Flood Zones 2 and 3. Outside of these zones, the remainder of the application site is confined to Flood Zone 1. The north-eastern field boundary also adjoins open countryside accommodating a Grade II listed farmhouse known as 'Broad Haye' further to the north.

2.3 Nearby development is predominantly residential, other than a transport depot on the northeast (opposing) side of Froghall Road. There is an established enclave of residential development and a playground to the north of Donkey Lane. Of note, the southern 'rear' boundary of The Gables property, enclosed by established conifer hedging protrudes into the fields to the south of Donkey Lane. Single-storey sheltered housing accommodation on Weaver Close leads to the Broad Heyes Holiday Park bordering the north and northeast edges of the wider site. Backing onto the site's south and southeastern boundary are the rear gardens of properties belonging to Ayr Road, Ness Grove, Wetherby Close, Cheltenham Avenue and Sandringham Close, which is a fairly modern residential estate consisting of mostly two-storey properties.

2.4 A PROW (Public Right of Way) (Cheadle 38) crosses the site in a southwest direction from Donkey Lane, then travels along the rear garden boundaries to the south of the site and crosses the Cecily Brook towards Woodhead Hall Farm further along to the east. A further PROW (Cheadle 40) travels from Froghall Road along Hammersley Hayes Road, but bypasses the northern tip of the site to Broad Haye across to Thornbury Hall to the northeast.

2.5 The application site is affected by two disused mining shafts. These are located within the proposed area of public open space (Phase 1) and school site (Phase 2).

2.6 The proximity of local services within a 2km pedestrian catchment area of the application site includes: The Alton Arms Public House, Iceland, Boots Pharmacy, Morrisons, Cheadle Police Station, ASDA, Cheadle Methodist Church and the Post Office. There are also bus stops close to the site linking to Cheadle town centre, Leek, Uttoxeter and Hanley.

2.7 The application site falls within LP (Local Plan) Policy DSC1 "Cheadle North Strategic Development Area (CH001 & CH132)" of the Adopted Local Plan 2020. It further falls within the minerals safeguarding area, Radon Zones 1 to 3 and the Cheadle Composite Signals Organisation Station.

3. DETAILS OF PROPOSAL

3.1 An application has been made under section 73 of the Town and Country Planning Act 1990 to vary condition 2 (Approved Plans) relating to planning permission ref. SMD/2018/0180 "*Hybrid planning application on land east of Froghall Road and north of Ayr Road/Cheltenham Avenue, Cheadle seeking 1) full permission for 125 dwellings and access to proposed primary school and 2) outline permission for up to 135 dwellings and primary school with all matters reserved*" for proposed retrospective layout and site location redline amendments in relation to the Phase 1 full permission element for 125 homes as follows:-

- a) Reconfiguration of approved SuDS (Sustainable Urban Drainage System) pond,

- b) Addition of retaining walls to plots 60-67 and 70,
- c) Resiting garage serving plots 66/67, and,
- d) Resiting of plots 1-5, including correction of redline ownership adjoining The Gables boundary.

3.2 For the avoidance of doubt, the revised scheme consists of the following documents and plan drawings:

- 'Site Location Plan' (Ref: ARC/LP/01 Rev C)
- 'Phase 1 Planning Layout Rev Z3' (Ref: ARCH/PL/PH1 Rev Z18)

3.3 In terms of background, a number of pre-commencement planning conditions remain outstanding (ref. DOC/2020/0001) in relation to the implementation of Phase 1 despite the advanced stage of construction and occupation of some plots. In these circumstances, the developer has been clearly and repeatedly advised that he does so at his own risk.

3.4 Of relevance to the retrospective retaining wall amendments sought, the levels condition (24) of the approved scheme has been subject to detailed discussions with the developer and additional information has been sought to allow officers to assess notable level changes within plots 60-67, to the west and southern boundaries of the application site, which adjoin the relevant rear gardens of existing dwellings on both Froghall and Ness Grove.

4. RELEVANT PLANNING HISTORY

SMD/2018/0180 Hybrid planning application on land east of Froghall Road and north of Ayr Road/Cheltenham Avenue, Cheadle seeking 1) full permission for 125 dwellings and access to proposed primary school and 2) outline permission for up to 135 dwellings and primary school with all matters reserved. Approved with planning conditions and s106 agreement(s). 1st December 2020.

SMD/2021/0455 Reconfiguration of a SUDs pond approved as part of planning permission reference SMD/2018/0180. Withdrawn and amendment incorporated into SMD/2021/0456.

SMD/2021/0780 Reserved Matters application (access, layout, scale, appearance and landscaping) for residential development comprising 135 dwellings, with associated access, public open space and infrastructure. Pending consideration of revised plans.

5. RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Adopted Staffordshire Moorlands Local Plan 2020

5.1 The following policies are considered to be relevant to this application:

- SS1 Development Principles

- SS2 Settlement Hierarchy
- SS3 Future Provision and Distribution of Development
- SS4 Strategic Housing and Employment Land Supply
- SS7 Cheadle Area Strategy
- SS12 Planning Obligations and Community Infrastructure Levy
- SD1 Sustainable Use of Resources
- SD2 Renewable / Low Carbon Energy
- SD3 Sustainability Measures in Development
- SD4 Pollution and Water Quality
- SD5 Flood Risk
- H1 New Housing Development
- H2 Housing Allocations
- H3 Affordable Housing
- DC1 Design Considerations
- DC2 The Historic Environment
- DC3 Landscape and Settlement Setting
- C2 Sport, Recreation and Open Space
- C3 Green Infrastructure
- NE1 Biodiversity and Geological Resources
- NE2 Trees, Woodland & Hedgerows
- T1 Development and Sustainable Transport
- T2 Other Sustainable Transport Measures
- DSC1 Cheadle North Strategic Development Area (CH001 & CH132)

Supplementary Planning Guidance (SPG)

- Landscape & Settlement Character Assessment 2008
- Space about Dwellings 1998
- Design Guide 2018

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (NPPG)

6. CONSULTATIONS CARRIED OUT

Site Notice Posted: Expired
 Press Notice Published: Expired.
 Neighbour Notifications: Expired.

Consultee	Response
Cheadle Town Council	07.09.22: Cheadle Town Council Object to the proposal for the following reasons: Cross Section Drawings A to J have been submitted in Aug 2022 for the new development in relation to the existing properties on Froghall Road and Ness Grove.

	<p>A number of sections including A and B appear to show the ridge of the existing properties as running left to right inferring that the measured distance runs from an end wall to the new development when in fact it is a rear to rear dimension. i.e. The old Property drawing should show the Gable end. Regarding Sections A and B (Including No 116 Ness grove, and noting No 118 is likely similar).</p> <p>SMDC 'Space about dwellings standards' indicate a minimum distance of 22 Metres between Rear Elevations of 3 or more bedroom properties. Greater if either property has less than 3 bedrooms. Section A-A of ARCH/PS-03 details only 19.54 Metres for Section A-A and 20.88 For Section B-B.</p> <p>In addition, the ground level of the new properties backing onto Ness Grove and Froghall Road has also been elevated significantly. Drawing ARCH/PS03 shows an elevation of 2.3 Metres on section A-A (116 Ness grove) and 2.35 Metres on section B-B. For elevations, best practice allows an additional 2 Metres for each 1M elevation suggesting an additional 4.6 Metres should be applied to the level ground distance.</p> <p>We feel there should be a distance of at least 26.6 Metres where there is only 19.54 Metres according to the drawing.</p> <p>Regarding Section C (Including 100 Froghall Road). SMDC 'Space about dwellings standards' indicate a minimum distance between a rear elevation and flank or corner wall of 14 Metres. No Section drawing shows the distance between Plot 66 and 100 Froghall Road. Residents have measured the distance as 9 Metres.</p> <p>In addition the ground level of the new properties backing onto Froghall road has been elevated by 2.4 Metres and therefore an additional allowance should be made of 4.8 Metres.</p> <p>We feel there should be a distance of over 18.8 Metres where there is only 9 Metres according to residents at 100 Froghall Road.</p> <p>All other sections should be checked to ensure adequate distances.</p>
<p>Peak & Northern Footpath Society</p>	<p>06.09.22:</p> <p>Further to our previous comments. It has been noted that the PROW Cheadle 39 is obstructed by works taking place. We cannot find any Temporary Restriction Order, Extinguishment Order or Diversion Order which would facilitate this obstruction.</p> <p>18.08.22:</p>

	<p>We note that the PROW Cheadle 39 is close to or within the proposed site. We would expect that DEFRA ROW circular (1/09) paragraph 7.4 be taken into account at the design stage. Use of the PROW, and the safety of users must not be affected by the development, nor during the work taking place. This comment is made on behalf of Peak and Northern Footpaths Society, a registered charity which exists to protect and improve public rights of way for use by walkers. Nothing in this response should be taken to imply the Society's support for the development.</p>
<p>Staffordshire County Highways</p>	<p>03.10.22:</p> <p>Consultation on revised details has been received. Following previous response, details of the changes have now been provided.</p> <p>From the original application, retaining walls have been added to plots 60-67 and 70, plots 1-5 have been resited, garage serving plots 66/67 and approved SUDs pond has been reconfigured and minor amendment to Site Location Plan (Ref: ARC/LP/01 Rev B).</p> <p>On this basis, the proposal will not have a severe effect on the highway and highways raise no objection.</p> <p>The developer should ensure that any alterations to drainage are reflected in their S7 technical approval prior to adoption under S38.</p>
<p>Staffordshire County Flood Risk</p>	<p>21.03.22:</p> <p>We have made an assessment of the changes to the drainage strategy drawing and compared these to the approved drainage strategy under DOC/2021/0001. The proposals do not on the surface, appear to affect any of the proposed drainage infrastructure. Therefore, we do not have any comments on the proposed changes to the site layout.</p> <p>If there have been any changes to the drainage infrastructure permitted under DOC/2021/0001 proposed as part of this application, please reconsult us.</p> <p>We ask to be consulted on any subsequent amendments/alterations to the planning permission. Please also consult us again on any future major changes to the proposed development or drainage scheme.</p> <p>15.09.21 (SMD/2021/0455):</p> <p>We have reviewed the submitted information, and the proposed amendments to the pond location are acceptable.</p>

<p>SMDC Arboricultural Officer</p>	<p>20.01.23:</p> <p>With regard to my previous comments as noted/highlighted on the condition tracker document:</p> <p>The LEMP as included in the 'Wetransfer 18.01.23 PLANNING CONDITIONS' folder does not appear to have been updated, and is still the same Version 1.0 dated 27.10.2020.</p> <p>Therefore:</p> <p>There is still erroneous reference at Sections 1.11 and 1.12 of the LEMP to Condition 23 of the hybrid planning permission SMD/2018/0180. This should have read Condition 26, but even this may now need further updating given the current revisions to Phase 1 now sought under SMD/2021/0456? But ultimately perhaps a minor administrative point rather than a critical matter of operational detail.</p> <p>Appendices A and B of the LEMP, as listed in the document contents, have not been correctly appended, although may well anyway be comprised in the landscape documents (as revised) submitted separately in the Cond 7 and Cond 26 folders.</p> <p>S.3.11 and 3.12 of the LEMP still refer to weed free mulched areas being maintained around trees of up to 3m in height, but with the individual trees included in the planting schedule all being already greater than 3m at time of planting they would not, under the present wording of 3.11 and 3.12, receive any weed control maintenance from the outset which is not acceptable. Again I would request that these sections be amended to provide that weed-free mulched areas will be maintained around all new trees of whatever size for the first 3 years following planting.</p> <p>Within Sections 3.28 to 3.37 of the LEMP, dealing with new hedgerows, there remains no reference to the potential for hedgelaying (which is a distinct likelihood within the 25 year timeframe of the LEMP); there is also no reference to any consideration of management of existing retained hedgerows.</p> <p>There remains no reference to meadow grassland management (only amenity grass).</p> <p>These points simply reiterate my previous comments dated 30/04/2021 and 28/07/2022 provided in the context of DOC/2021/0001, and again as previously I would otherwise defer to the more expert comments of Staffordshire Wildlife Trust in respect of the detail of management issues covered in the LEMP.</p>
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	<p>28.07.22:</p> <p>I have no objection and no detailed comments in relation to this application. Landscaping proposals for the area around The Gables are included within the landscaping scheme for Phase 1 submitted under application DOC/2021/0001. I will comment separately on that application.</p> <p>(SMD/2021/0455):</p> <p>I have no objection and no detailed comments in relation to this application. Landscaping proposals for the area around the SUDS pond are included in part within the landscaping scheme for Phase 1 submitted under application DOC/2021/0001 and in more detail within the comprehensive landscaping scheme submitted as part of the Phase 2 reserved matters application SMD/2021/0780. I will comment separately on those applications.</p>
<p>Staffordshire Wildlife Trust</p>	<p>28.07.22:</p> <p>30. The development shall be carried out in accordance with the approved Flood Risk Assessment, Rev 03, ref. 881287-R1(03)-FRA dated February 2019 undertaken by RSK Ltd and letter ref. 881287_L01_K dated 29 August 2019 and the following mitigation measures it details:</p> <p>All development shall be located outside of the flood plain, and, There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank of watercourses. These mitigation measures shall be fully implemented prior to first occupation and subsequently in accordance with the scheme's timing / phasing arrangements in accordance with Condition 23. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.</p> <p>Reason:- To reduce the risk of flooding to the proposed development and future occupants. To maintain access to the watercourse for maintenance or improvements to provide for overland flood flows and to avoid adverse impact on flood storage.</p> <p>The SuDs ponds which was previously within the flood plain has been moved. However, a pipe and outfall is proposed onto the brook banks, which will be within 8 metres of the top of the bank; this is below ground so would not impact on flood risk. It appears this condition may be discharged.</p>

Neighbours

Neither:

116 & 188 Ness Grove

22nd August 2022

“Our properties adjoin the southern edge of the development, bordering plots 66-64. Having looked at the proposed amendments we would like to have an on-site meeting/discussion with a Persimmon representative to seek clarification regarding the proposed split level gardens for plots 66-64, as we are concerned about the height of the properties in relation to ours now that building has commenced on plot 64.

While we have no issue with the split level gardens in principle, we are concerned about the accuracy/clarity of the site boundary adjoining our properties, and what walls/fencing will be put in place as security to define the final boundary, as this is not clear on the plans.

Our other concern is that this corner of the development has always been prone to flooding in heavy rainfall, so we would like some reassurance that steps are being taken to minimise this risk in future, as at the onset of site excavations earlier this year water pumps had to be deployed to reduce the level of flood water behind our properties”.

The Gables

Four representations have been received dated the 22nd August and 6th 8th and 11th September 2022 and are summarised as follows:

- Adverse neighbour amenity impacts in relation to the construction of Phase 1, which has not been mitigated against by the implementation of the acoustic fence in relation to dust, noise and pollution matters.
- The retention of the acoustic fence to the outer boundary of The Gables would be essential to try and safeguard some amenity levels within the rear garden which backs onto the scheme’s main road, which also forms the primary access to the school.
- Loss of privacy in relation to the trimming of the boundary conifer hedge by the applicant.
- Potential damage of trees as a result of the construction of the pavement.
- The applicant has agreed to the acoustic fence to the outside of the hedges, however, indicated that the footpath would be removed with dropped kerbs at either side of our property to facilitate landscaping.
- Layout Rev Z10 shows the footpath as retained although the application is to remove it.
- The drawing also shows a peach colour chevron indicating tree/hedge removal which was not previously agreed to.
- A condition should be added that I be present to agree the siting of the new fence, so that the hedges are not damaged.

- The original drawing number ARCH/PL/PH1 Rev Z shows planting around The Gables, which should remain for privacy and protection against pollution and noise.
- Also there were hedges planted alongside Donkey Lane to the rear of plots 1-5 which is no longer on the revised drawing.
- These should remain as a lot of hedgerows have been destroyed and the wildlife of the area require more planting.

Objections:

100 Froghall Road

18th August 2022

“We would like to make the following comments and objections to the proposed amendments, relating principally to Plot 66 and associated detached garage which directly impact on our property at 100 Froghall Road.

Ref Section CD. (18/08/22)

The drawing from Section CD is taken from the left hand side (non living side) of our property to Plot 67, which is 25m away. Our concern is not Plot 67 but Plot 66 which is only nine metres a way from our kitchen/dining area. This therefore has a 2.4m height difference in ground floor levels compared to our property and when this is calculated from our kitchen /dining window the 25 degree angle intersects Plot 66 two metres above their floor level. Therefore there is a further five metre minimum building height above the 25 degree intersection. This additional height impacts hugely on our privacy, as Plot 66's upstairs window is directly visible and looks onto our private garden area and the rear of our property. This Plot is too close and too high to our property.

Not only is our privacy effected but also our access to daylight has been negatively impacted. Furthermore there has been a noticeable increase in noise levels which the new development's height advantage has allowed.

A further concern is that of the ground level being elevated to such a degree, our concern is that no provision to our knowledge has been made for drainage on our side of the boundary. We are concerned that surface water will form and flood as the retaining wall is acting like a 'dam' as it is so high.

The proposed amendments of reducing boundary walls and ground levels would accentuate further the difference between height levels and will have a detrimental effect. Our main objection of the proximity and height of Plot 66 has NOT been addressed in any way. This remains unacceptable to us as existing property owners.

The fundamentals of our original objection, which were initially raised in October 21, have not been addressed in any way :-

Height differential of 2.4m floor level between our property and Plot 66.

The reality of living in close proximity to what is a three storey development and the negative impact this has on our privacy, access to sunlight, raised noise levels and our well being.

The fact that our property is now dominated by a new house will impact negatively on its value and resale desirability”.

5th March 2022

“The closest property - 2.4m higher in floor level to my house.

The closest property is 13 m on the angle - I thought the minimum was a 14m distance

The properties in real terms are three storey properties due to the floor level being so different to the floor level of my property

My property is 6m (dormer bungalow)to the ridge. The new houses will be 7.1 m plus the height difference of 2.4m in floor levels = 9.5m high, making the difference in height approximately 3m. This makes it overwhelming and impacting hugely on my privacy and natural day light.

With the closest property being placed on the angle the developers have avoided the 22m rule - but at 13m from my property- it feels like the closest house is like a tower block overlooking our property.

The reality is that the adjacent development is being constructed on a gradient of over 15 degrees higher than my floor level with the site being built on made ground. I feel this has been done for entirely their ease and financial economy. No consideration has been given to existing properties.

There is massive short sightedness in not reducing the formation levels in order to be considerate to existing properties at the boundary of the development.

No elevation drawings to date- which I find difficult to believe since the site is under construction.

Could you please attend the site and carry out formal measurements and checks on levels and heights and please consider the above raised points”.

22nd February 2022

“The development properties are three storey in relationship to my house now when perceived the development would only be two storey’s if they had not made the ground levels up.

My property now feels overwhelmed via the height of the development been only approximately 9 m away and a retaining wall and the fence placed on top of that resulting in a 3.0m Boundary put my permit at my perimeter”.

116 & 118 Ness Grove

“Further to SMDC letter dated 18/8/22, we would like to make the following observations and objections to the proposed amendments, relating principally to plots 66, 65 and 64 which directly impact on our properties 118 and 116 Ness Grove.

Ref. Section AB

- Plots 66, 65 and 64 have been built too close to existing properties on Ness Grove in relation to their height above finished floor level, thereby impacting on our privacy. As the FFL of these 3 plots is at least 2 metres higher than the FFL of existing properties 118 and 116 Ness Grove, these plots should have been built at least 4 metres further away.*
- On the Section A-A drawing the slope and distance shown from plot 65 to the 0.9 metre Brick Retaining Wall and Bowtop railings is incorrect, as this wall has been built closer to the proposed dwelling at the end of a level flagged patio. The made-up ground in front of the steps is not at ground level as shown on the plan, but will be held back by gravel boards. The fence will then be placed on these gravel boards, but we believe this will not be sufficient to hold back the weight of the made-up ground. The fencing being installed today (30/8/22) will not be high enough to give us the privacy we demand*
- On Section A-A the existing site boundary is shown to the LEFT of the existing retained hedge - this is incorrect. The boundary should be the RIGHT of the hedge as said hedge is part of the existing properties on Ness Grove.*
- We object to the proposed planting of additional trees/hedging alongside the existing retained hedge as a method of screening between plots 66-64 and our properties. Such planting would need to be maintained over the years, but there is no indication as to who would be responsible for this. For precisely this reason the section of hedge behind 118 Ness Grove was removed more than 12 years ago and we do not want it replaced with more trees/hedges.*
- We believe a better solution to the screening between the properties would be to extend the brick wall and fencing already built behind plot 66 to incorporate plots 65 and 64.*
- Currently the wall and fence at plot 66 affords more privacy to our properties when viewed from our FFL as it completely screens the ground floor windows and doors of plot 66. We would like to see this wall and fencing extended and applied to plots 65 and 64 at a similar height to plot 66, so that their ground floor windows and doors are completely screened too. This will maintain a certain degree of privacy for our properties which has otherwise been lost by the incorrect siting of these plots.*
- The siting of plots 66-64 has not only impacted on our privacy, but by being too close and too high in relation to our properties has undoubtedly reduced the resale value of our 2 properties.*

We would welcome a visit from a representative from SMDC Planning Department to view and discuss our concerns first hand”.

39 Dane Grove

“I am objecting to this application on the basis of the height of the proposed houses in relation to the existing properties. This has an impact which relates to the material planning consideration of the houses being overlooked and a loss of

privacy and visual amenity. The properties affected by the houses being built at such a height will mean a reduction in benefit enjoyed from physical external space in this instance the existing residents back garden”.

6 Sandown Close

“The elevations of the proposed houses are of extreme concern as the development continues through as the levels at the lower end of the plot decrease rapidly on the existing houses but remain level through the site. This would mean that the houses at the bottom end would be significantly higher than existing houses and not only create a lack of privacy within the gardens of those properties but also create a possible direct line of sight in to residents bedrooms due to the higher vantage thus creating extreme privacy and safeguarding concerns that need to be addressed.

Also with the increased elevation the balancing pool would be above the levels of the existing gardens thus increasing the possibility and worry of flooding existing properties close to the pool boundary”.

22 Wetherby Close

“I am objecting to the increased land height, the acoustic fencing and the undersized balancing pool, lack of subsidiary balancing pools and the absence of brook clearance and the effect on our bungalow.

We originally complained in development SMD/2018/0180 regarding the loss of light and privacy from the then potential three story buildings and these were reduced to two. However, with the raising of the ground level, which can already be seen, which is much higher than mine and my neighbours boundary walls, the height of a two story property would again be similar to that of three story properties previously proposed and will again, overshadow our bungalow, block our light and remove our privacy.

The acoustic fencing is incredibly unsightly and not appropriate in this area.

Although previously advised by yourselves that there would be no flooding issues, please advise how water from the raised levels will not impact existing properties? I am equally concerned that the proposed balancing pool is not large enough or that it has any overflow pools and as far as I can see, the brook has not been cleared or made wider to accommodate more water? Please advise where the water will go?

I'd like to suggest like for like properties, e.g. bungalow backing onto bungalow, two story home on to two story, would be a sensible approach. However, by raising the land level so significantly makes this suggestion difficult.

Also, I request that the decision be made by elected members at committee in a named vote and detailing their wards”.

24 Wetherby Close

"I like my neighbours, am also objecting to the increased land height behind my property, I feel that it will severely impact on my privacy and also will impact on light to my back garden and house (overshadowing my garden). I would also agree that acoustic fencing is not appropriate to the area. I would also be concerned if the land height is increased, that any properties already in situ would be affected by the possibility of excess water / flooding".

The Gables Donkey Lane

11.09.22:

"I am writing to you concerning the proposed removal of the footpath and the installation of the acoustic fence behind our house.

I have already made comments on the planning application form but in our recent telephone conversation you suggested sending photos and I was unable to put them on the form.

In the first photo you can see the positioning of our patio. It is in the south east corner and 2 metres from new main road making it very unpleasant to sit out because of the heavy traffic from plant and articulated lorries. In our conversation you said that the hedges were plenty thick enough to keep our privacy but as you can see in the second photo, taken in the corner, they keep hacking away at our hedges so that they have more room to walk past and so taking all privacy away and also making a pollution issue which will never end even when the site is finished with it being the main road into the estate. The fence is already installed in the south west side of the garden and you can see in the photo it is of no detriment to anyone.

Lastly I would just like to add that if the pavement does go ahead it is very likely that the trees in the corner will be permanently destroyed and this will be an illegal act, either criminal damage or aggravated damage. Surely the council cannot condone this".

06.09.21:

"I live at The Gables on Donkey Lane and so the amendments are of concern to me.

The application requests an acoustic fence around our property, removing part of our hedge. Since the development began, and a lot of the hedgerows have been chopped down, the amount of birds that we have living in our garden is enormous. There are literally hundreds living in the hedges. This is one reason that I feel our hedges should be left alone. The damage that has been done to the wildlife for the sake of more houses is, in my opinion, disgusting. Secondly the developers were allowed to keep the road so close to our patio that our privacy has been invaded so I feel that they should be told to put the fencing outside of our hedges without touching them.

The next point that I would like to raise is the outside of the hedges. On the original planting drawing there were shrubs and hedges planted all around the

property. If these were to remain the fencing would be protected as we will be unable to access it if it got damaged by footballs etc.

Lastly there were originally hedges planted down Donkey Lane on the original drawing which have now been removed. I have spoken to all of my neighbours, and they feel exactly the same, that these should still be planted for the sake of the wildlife and also they would be a lot more attractive to look at than ugly stark fencing.

I would welcome someone from planning to visit my house to discuss the points raised”.

7. OFFICER COMMENTS

Principle of Development

7.1 The determination of a planning application should be made pursuant to section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990.

7.2 Section 38(6) requires the Local Planning Authority to determine planning applications in accordance with the development plan, unless there are material considerations which 'indicate otherwise'. Section 70(2) provides that in determining applications the Adopted Local Planning Authority "shall have regard to the provisions of the Development Plan, so far as material to the application and to any other material considerations". The Development Plan for the borough consists of the Adopted Staffordshire Moorlands Local Plan 2020

7.3 Achieving sustainable development sits at the heart of the NPPF. Paragraph 8 of the NPPF outlines that achieving sustainable development requires the consideration of three overarching and mutually dependant objectives being: economic, social and environmental where they are to be applied to local circumstances of character, need and opportunity of each area. These objectives are interdependent and should be pursued in mutually supportive ways and comprise;

- a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of the present and future generations; and by fostering well designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well being; and,
- c) an environmental objective – to protect and enhance our natural, built and historic environment; including making the effective use of land, improving

biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

7.4 Section 5 of the Framework relates to delivering a sufficient supply of homes. Paragraph 60 identifies that to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.

7.5 Paragraph 11 of the NPPF (National Planning Policy Framework) requires decision makers to apply a presumption in favour of sustainable development. For decision makers this means that when considering development proposals which accord with the development plan they should be approved without delay or where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless:-

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) 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.

7.6 The Council is no longer in a position to demonstrate a 5 year deliverable supply of housing land. The most up to date figure shows a 3.71 year supply. As such policies which are most important for determining the application are out-of-date. In these circumstances the tilted balance as it is known applies. In other words planning permission should be granted unless 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.

7.7 The applicant has submitted a section 73 application to seek a number of proposed 'minor' material amendments, specifically in relation to the 'full' aspect of the hybrid planning permission ref. SMD/2018/0180 for 125 homes, which is under construction with some plots now occupied. Development plan and material considerations, under section 38(6) of the 2004 Act, and conditions attached to the existing permission are of relevance in the assessment of the scheme changes in relation to any significant changes since the original grant of permission.

7.8 Any permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. There is no statutory definition of a 'minor material amendment'. However it is likely to include any amendment where its scale and / or nature results in a development which is not substantially different from the one which has been approved.

7.9 A section 73 application is considered to be a new application for planning permission purposes under the 2017 EIA (Environmental Impact Assessment) Regulations. The Council's screening opinion confirms that the application scheme falls within the scope of EIA exclusion thresholds and criteria in relation to Schedule 2 (b) (ii) as the amended development includes more than 150 dwellings in totality. As before, the screening opinion confirms there would be unlikely to be any significant effects on the environment as a result of the amended screen to warrant the submission of an EIA in these circumstances.

7.10 In addition, the original permission was subject to a planning obligation. However, the s.73 scheme does not need to be the subject of a deed of variation given clause 2.22 of the extant original s106 agreement, which states "... references in the Agreement to the Application and the Planning Permission shall be deemed to include any such subsequent planning applications and planning permissions as aforesaid ... and shall henceforth take effect and be read and construed accordingly".

7.11 The principle of both residential and educational development on the application site has been established by extant planning permission ref. SMD/2018/0180 "*Hybrid planning application on land east of Froghall Road and north of Ayr Road/Cheltenham Avenue, Cheadle seeking 1) full permission for 125 dwellings and access to proposed primary school and 2) outline permission for up to 135 dwellings and primary school with all matters reserved*" dated 1st December 2020.

7.12 The application site is further considered as a key strategic mixed use development site in the Adopted Local Plan 2020 for residential development and a new primary school to serve the northern part of the town within Policy DSC1 Cheadle North Strategic Development Area (CH001 & CH132) following the approval of planning permission ref. SMD/2018/0180.

Main Issues

7.13 Accordingly, the main issues in the consideration of the proposed minor amendments to Phase 1 are impacts to flood risk, residential amenity, character and appearance and will be dealt with under each relevant subheading below:-

a) *Reconfiguration of approved SUDs pond (retrospective) with proposed minor amendment to 'Phase 1 Planning Layout Rev Z3' (Ref: ARCH/PL/PH1 Rev Z3) and 'Site Location Plan' (Ref: ARC/LP/01 Rev B).*

7.14 LP Policy SD5 'Flood Risk' states that "*all applicable development must be subject to a site-specific flood risk assessment which demonstrates that the development has been designed to be flood resilient and resistant and safe for its users for the lifetime of the development; in accordance with NPPF Policy*".

7.15 The SuDS pond forms part of the detailed element of hybrid planning permission ref. SMD/2018/0180 for 125 dwellings as shown on approved planning layout ref. ARCH/PL/PH1 Rev Z3. It has been designed for the storage and attenuation of surface water initially from Phase 1, but with capacity for Phase 2 development in the future. The applicant sets out that it is necessary to reconfigure the siting of the SuDS pond following discussions with Severn Trent

Water who have requested bypass pipework around the pond. These actions, however, would encroach into the flood plain and also interfere with the route of the existing public right of way 'Cheadle 39'. As a consequence, the proposed minor amendment seeks to regularise the reconfigured pond through a modest repositioning westwards, to avoid the PROW and flood plain.

7.16 There are no objections to the proposed reconfiguration of the pond as it would not have a material impact on the approved drainage strategy for the site nor those details submitted to discharge relevant planning conditions as confirmed by the County Flood Risk Officer to achieve compliance with LP Policy SD5 'Flood Risk' and the NPPF. As a consequence, there are no concerns regarding the SuDs pond leading to flooding of neighbour properties.

7.17 In relation to ecology matters, Staffordshire Wildlife Trust raise no objection to the amended SuDS pond relocation and note adverse matters of flood risk should not arise in relation to the scheme effectively managing surface water risk as confirmed by the Flood Risk Assessment. Wider matters of flood risk, including detailed drainage matters have not been objected to by the LLFA (Lead Local Flood Authority). Neither are any objections raised by the Council's Aboricultural Officer given that landscaping proposals for the area around the SuDS pond are included within the detailed landscaping scheme for Phase 1 are subject to planning condition discharge but are outstanding in relation to planning permission ref. SMD/2018/0180. In addition, the submission of a comprehensive landscaping scheme is further secured by the reserved matters element of planning permission ref. SMD/2018/0180 for Phase 2. In these regards, the scheme amendments would also achieve compliance with LP Policy DC1 'Design Considerations' and the NPPF. Accordingly, officers raise no objections to the proposed minor amendment seeking approval of the reconfiguration of the approved SUDs pond (retrospective) subject to the imposition of a planning condition securing approval of detailed landscape matters.

b) Addition of retaining walls (retrospective) to plots 60-67 and 70 with proposed minor amendment to Phase 1 Planning Layout Rev Z3 (Ref: ARCH/PL/PH1 Rev Z3).

7.18 The applicant seeks retrospective planning permission for the elevated patio gardens, bounded by brick retaining walling, topped by black bow top railings with steps leading to the lower tier garden areas, in relation to scheme plots 60 to 66. The terrace retaining walling has been constructed of brick to broadly match scheme dwellings. Both tree and hedgerow planting is shown within the lower tier garden areas of plots 60 to 66 as per the latest detailed landscaping scheme for Phase 1. For these plots, a c.1.8 metre close boarded fence has been constructed to the site's southwest common boundary. However, is positioned on higher retained ground in-plot in relation to the lower tier garden area. Behind and below the scheme's close boarded fence sits gravel board / concrete post and timber panel fencing, which faces the rear of existing neighbouring properties at 108 to 118 Ness Grove and 5 Ayr Road. In some limited instances, a further concrete retaining base has been built, but appearing within neighbouring gardens. As a consequence, the applicant has commissioned as an built survey to clarify boundary matters and an update will be provided within the Late Representations Sheet. For plots 66, 67 and 70, the applicant further seeks to regularise the brick built retaining wall (varying between 1.0 to 1.7 metres in

height), which is set in, but lies in close proximity to the boundary with 100 and 106 Froghall Road as well as 118 Ness Grove. This retaining walling is further topped by a 1.8 metre close boarded fence.

7.19 LP Policy SS1 'Development Principles' states that "the Council will expect the development and use of land to contribute positively to the social, economic and environmental improvements of the Staffordshire Moorlands" including "development which maintains the locally distinctive character of the Staffordshire Moorlands, its individual towns and villages and their settings ...".

7.20 LP Policy DC1 'Design Considerations' states (inter alia) that "All development shall be well designed and reinforce local distinctiveness by positively contributing to and complementing the special character and heritage of the area in line with the Council's Design Guide SPD. In particular, new development should:

1. be of a high quality and add value to the local area, incorporating creativity, detailing and materials appropriate to the character of the area;
2. be designed to respect the site and its surroundings and promote a positive sense of place and identity through its scale, height, density, layout, siting, landscaping, character and appearance;
3. create, where appropriate, attractive, active, functional, accessible and safe public and private environments which incorporate public spaces, green infrastructure including making provision for networks of multi-functional new and existing green space (both public and private), landscaping, public art, 'designing out crime' initiatives and the principles of Active Design;
4. incorporate sustainable construction techniques and design concepts for buildings and their layouts to reduce the impact of the development;
5. 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 ..." etc.

7.21 The applicant's approach to proposed site levels has been somewhat surprising given the more limited contour range within Phase 1 whereby site wide levels were found to be appropriate for the detailed site layout approved in relation to planning permission ref. SMD/2018/0180 subject to a detailed 'levels' pre-commencement planning condition. Scheme plots 60 to 70, however, have been built noticeably higher than neighbouring existing dwellings backing onto the site's southwest boundary particularly in relation to 100 and 106 Froghall Road as well as 108 to 118 Ness Grove.

7.22 The recent submission of further detailed levels and section information has now allowed for an informed officer assessment of the amenity relationship between plots 59 to 70 and those neighbouring properties opposite, which are most affected within the context of local plan amenity guidance as set out below. Given the retrospective nature of the submission, the impact of the development and how it responds to levels on site and in the wider area can be readily experienced. For the purposes of this assessment the following submitted information has been examined:

- Phase 1 Planning Layout (Ref: ARCH/PL/PH1 Rev Z18) rec. 25.02.23
- External Works Sheet 1 of 2 P9 (Ref: 40-06-01 P9) 18.01.23
- External Works Sheet 2 of 2 P5 (Ref: 40-06-02 P5) 18.01.23
- Pond Details P5 (Ref. 40-19) 28.02.23
- Proposed Sections A-A & B-B (Ref: ARCH/PS-03) rec. 23.02.23
- Proposed Sections C-C & D-D (Ref: ARCH/PS-03) rec. 23.02.23
- Proposed Sections E-E & F-F (Ref: ARCH/PS-03) rec. 23.02.23
- Proposed Sections G-G & H-H (Ref: ARCH/PS-03) rec. 23.02.23
- Proposed Sections I-I & J-J (Ref: ARCH/PS-03) rec. 23.02.23
- Proposed Sections K-K & L-L (Ref: ARCH/PS-03) rec. 23.02.23

7.23 The Council's Adopted 'Space About Dwellings' SPG (Supplementary Planning Guidance) 1996 notes its objective is to achieve privacy for existing and proposed residents and to protect their amenities to enable the reasonable enjoyment of their home and garden with a degree of freedom from unwanted social contact. It considers resident privacy is not only achieved by space between dwellings, but by their inter-relationship, property design, including window sizes and positions.

7.24 Regarding privacy standards, the guidance advises a minimum of 22.0m is required between rear elevations containing facing principal windows within a 3-bedroom plus dwelling whereby this distance can be reduced to 21.3m if permitted development rights have been removed from one and two bedroomed dwellings. Of note, Condition 06 'Removal of Permitted Development Rights (Full - Phase 1)' for planning permission ref. SMD/2018/0180 applies to all scheme units. In addition, a distance of 21.0 metres between habitable room windows of adjacent properties will provide an acceptable level of amenity as per the SMDC Space About Dwellings SPD. In these circumstances, whilst some scheme dwellings exceed 2 bedrooms, all relevant plots achieve the required 21.0m separation distance to neighbouring dwellings with principal windows. The rear of 100 Froghall Road containing principal windows opposes the west corner of plot 66 and therefore would not be expected to achieve such privacy standards given this offset relationship, which prevents any direct overlooking between relevant properties assisted by mature hedgerow planting.

7.25 In addition, the distance required between the principal window on the rear elevation of a dwelling and a flank wall of a neighbouring dwelling, where the flank wall has no principal windows or has obscurely glazed / high level windows should be at least 14.0m as per 'Space About Dwellings' guidance. This standard is achieved in respect of scheme plot 70 to 106 Froghall Road. Whilst plot 58 to 6 Ayr Road and plot 59 to 5 Ayr Road is a gable end to gable end relationship without principal windows and therefore requires no privacy separation.

7.26 For sloping sites or sites with other unusual characteristics, a greater distance may be required than the recommended minimum standards as noted by the Council's amenity guidance, although no specific standards are set.

7.27 Some LPA's require where changes in levels on site are evident, or where taller buildings are present, that these distances should increase by 1 metre for every 0.5 metre difference in height between the smaller to the taller building.

Strict application of these standards can however restrict a creative response to site layout and frustrate designers. Therefore even Council's which apply a specific additional separate distance on sloping sites are open to applicants with a more flexible approach based upon design principles rather than standards.

7.28 Based on this principle, an estimated recommended separation distance has been calculated taking into account the height difference and has been compared to the actual separation distance as expressed in the table below.

Table: "Privacy Standards"

Plot to Neighbour	Height Difference	Recommended Separation – as used by other LPA's	Actual Separation exc. s/s rear extension *	Shortfall	Complies Yes / No
59 (gable end) to 5 Ayr Rd (gable end)	1.25	16.5	14.62	n/a	n/a
60 to rear garden 1, 3, 5 Ayr Rd	1.6	n/a	n/a	n/a	n/a
61 to 108 Ness Grove	1.74	24.48	23.6	-0.88	No
62 to 110 Ness Grove	1.97	24.94	23.4*	-0.88	No
63 to 112 Ness Grove	2.02	25.04	22.6*	-1.54	No
64 to 114 Ness Grove	2.59	26.18	22.0	-4.18	No
65 to 116 Ness Grove	2.31	25.62	21.7	-4.02	No
66 to 118 Ness Grove	2.36	25.72	21.4	-4.34	No
66 (west corner) to 100 Froghall Rd	2.36	25.72	14.4	n/a	n/a
66/67 (s/s garage)	2.21	25.42	n/a	n/a	n/a
67 to 102 Froghall Rd	2.36	25.72	45.73	+20.01	Yes
70 (gable end)	2.09	18.18	21.0	+2.82	Yes

7.29 It is important to note that as these standards are not SMDC policy they cannot be rigidly applied. However, they do provide a useful starting point for assessment.

7.30 From the table above and excluding any plot dwellings with a gable end, which are considered to be broadly acceptable, only the rear of 102 Froghall Road opposing plot 67 with a principal window to principal window relationship would more than comfortably achieve the required separation distance when factoring in an increase by 1 metre for every 0.5 metre difference in height.

7.31 However, neighbouring properties 108 and 110 Ness Grove when assessed against scheme plots 61 and 62 show only a modest privacy distance deficit of minus 0.88 metre and therefore are considered to be acceptable in the round. Similarly, for 112 Ness Grove there would be a privacy distance deficit of minus 1.54 metres when assessed against scheme plot 63. However, if ground levels were lowered by 0.77 metre to meet with recommended levels guidance, there would still be considered to be an element of overlooking particularly between upper bedroom windows. Accordingly, the level of privacy experienced is considered to be acceptable not to warrant scheme amendments in these regards.

7.32 With regard to the wider site edge adjoining existing dwellings, scheme plots 48 to 50 opposing neighbouring dwellings 88 to 102 Ayr Road would meet with privacy amenity standards when a level factor is introduced. Although the following opposing properties show a modest privacy distance deficit as follows: plot 42 to 24 Wetherby Close deficit 0.27m, plot 46 to 32 Wetherby Close deficit 0.78m and plot 47 to 34 Wetherby Close deficit 0.98m but are considered to fall within an acceptable tolerance range when considering level changes between properties. Neighbouring dwellings 104 and 106 Ayr Road oppose the rear garden of plot 58 at broadly the same level and therefore no increase in separation to account for level change is required.

7.33 Whilst a degree of overlooking is to be expected amongst immediate neighbouring dwellings, the applicant has substantially increased land levels in close proximity to 114, 116 and 118 Ness Grove causing some loss of privacy by means of overlooking to result in material harm to such existing occupiers. To a lesser degree, the boundary fencing combined with hedgerow / tree planting within the lower tier scheme gardens of plots 61 to 66 would assist in mitigating some loss of privacy between ground floor windows and gardens belonging to Ness Grove. Notwithstanding this, there is some conflict with LP Policy DC1, which seeks to deliver a high standard of amenity for future residents through good design, amongst other things. Overall privacy levels experienced from the rear of properties at 108 to 118 Ness Grove and 100 Froghall Road are impacted to a lesser degree although this does still weigh against the application.

7.34 For adequate daylight in relation to facing extensions / new buildings, the SMDC guidance states: "Extensions or new buildings that are to be sited facing the principal windows of existing properties must be designed so there is no obstruction to daylight beyond a vertical angle of 25 degrees measured from the mid-point of the nearest window(s) of any adjacent property".

7.35 Section drawings provided by the applicant have demonstrated that all scheme properties meet with this standard, other than for 100 Froghall Road, whereby section B-B shows a minor interruption of the upper roofline of plot 66. This relationship is considered to be acceptable given the southeast orientation

of 100 Froghall Road and impacts to loss of daylight are considered to be minimal.

7.36 In terms of visual impact, the common boundary treatment consisting of gravel boarding / concrete post and timber panel fencing, awkwardly sitting below the plot fencing faces the rear of existing neighbouring properties at 108 to 118 Ness Grove is considered to constitute poor design. Whilst there are concerns relating to the visual incongruous nature of the common boundary treatment when viewed from those rear gardens of Ness Grove, it could be subject to a suitably worded planning condition securing a replacement good quality brick retaining wall with a single close boarded fence above should Members support the amended s.73 scheme.

7.37 Notwithstanding this, FFLs of plots 63 to 66 in particular have been raised to an artificially high level above existing site contours with scheme properties appearing more dominant and visually incongruous from the rear of properties at 108 to 118 Ness Grove, but more so from the rear of 100 Froghall Road given the property separation of 14.4 metres to the west corner of plot 66. This creates an more overbearing and poorer outlook for affected neighbouring residents than would have been the case had ground levels not been increased. No. 100 Froghall Road, however, does have mature hedgerow planting along its rear boundary, which currently restricts outlook beyond its garden and from within the house, noting only part of the rear of the dwelling directly opposes the west corner of plot 66. Furthermore, the spacing between neighbouring dwellings 108 to 118 Ness Grove further allows for some limited views of raised properties to the detriment of the street scene. In these regards, the scheme fails to deliver a such high standard of amenity for future residents as the original approval and is a poorer design causing friction with LP Policy DC1. Overall the visual impact and outlook from the rear of properties at 108 to 118 Ness Grove and 100 Froghall Road is more finely balanced and this does weigh against the application.

7.38 In summary:

- the scheme complies with the separation distances set out in the SMDC Space About Dwellings Guidance for level sites
- the Guidance recommends increased separation distances to account for sloping sites but does not set a rigid standard.
- Applying an increase by 1 metre for every 0.5 metre difference in height used by some Council's, a number of plots would fail to comply, although the shortfalls are, for the most part, not considered to be significant, with only 3 plots being more than 1.54m short of the standard.
- However, whilst this is a useful "rule of thumb" Members should exercise caution in applying this standard as it is not SMDC adopted policy and even those Council's which have adopted it apply it flexibly based on site circumstances.
- Therefore a judgement needs to be made based on the specifics of the case and assessment and consideration on the site visit.
- With the exception of one plot, the scheme meets the Council's 25 degree standard with regard to daylight.
- There is concern regarding the visual impact of the common boundary treatment but this could be addressed through the use of conditions.

- The raising of the levels has also had some minor adverse impact on the street scene in Ness Grove when viewed between existing properties.

3.39 Overall, there is found to be some conflict with LP Policy DC1 'Design Considerations', which seeks to protect residential amenity, in terms of loss of privacy, visual impact and outlook but, although finely balanced, for the reasons summarised above officers consider that a refusal on amenity grounds could not be sustained.

b) Resiting (retrospective), garage serving plots 66/67 with proposed minor amendment to Phase 1 Planning Layout Rev Z3 (Ref: ARCH/PL/PH1 Rev Z3).

7.40 There are no objections to this aspect of the s.73 planning application, which seeks a modest resiting (retrospective) of the single storey double garage serving plots 66/67 to the northeast and therefore is sited further away from the common boundary with no. 100 Froghall Road. With particular regard to matters of neighbour amenity and highway safety, the scheme amendments would achieve compliance with LP Policies DC1 'Design Considerations' and T1 'Development and Sustainable Transport' as well as the NPPF.

c) Resiting of plots 1-5 (retrospective) including correction of redline ownership adjoining The Gables boundary with minor amendment to Phase 1 Planning Layout Rev Z3 (Ref: ARCH/PL/PH1 Rev Z3) and 'Site Location Plan' (ref: ARC/LP/01 Rev B).

7.41 Furthermore, there are no objections to this aspect of the s.73 planning application, which seeks a modest resiting (retrospective) of plots 1-5 west 'side' to allow for the correction of the redline ownership boundary adjoining The Gables' side and rear boundaries. County Highways raises no scheme concerns, subject to any alterations to drainage are reflected in their S7 technical approval prior to adoption under the S38 technical approval and this matter would be dealt with by means of an appropriately worded informative should Members support the scheme.

7.42 Neither are any objections raised by the Council's Arboricultural Officer given that landscaping proposals are included within the detailed landscaping scheme for Phase 1, but are subject to planning condition discharge and is outstanding. Clearly, the separation distance from the rear of The Gables to plots 85 and 86 remains fixed given only the redline has changed. No approval has been sought for the unauthorised close boarded acoustic fence erected by the developer to The Gables boundary, which is deemed to be unnecessary particular given established conifer hedging as well being detrimental to the character and appearance of the street scene. This issue, however, is a separate enforcement matter and boundary details are subject to planning condition discharge but are outstanding in relation to planning permission ref. SMD/2018/0180.

7.43 With particular regard to matters of neighbour amenity and highway safety, the scheme amendments would achieve compliance with LP Policies DC1 'Design Considerations' and T1 'Development and Sustainable Transport' as well as the NPPF.

Other matters

7.44 Matters of loss of property valuation as a result of the scheme would constitute a private planning interest and therefore would not be considered as a valid material consideration. Privacy objections raised by 39 Dane Grove appear to relate to the Phase 2 of the wider development in relation to submitted reserved matters ref. SMD/2021/0780.

Conditions

7.45 The guidance in the Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. All conditions have been reimposed, particularly given that they relate to the wider outline scheme and delegated authority therefore is sought to deal with those matters, which are now considered to be satisfactory for Phase 1, in the form of positively worded planning conditions whilst amending those planning conditions, which apply to retrospective details prior to the issue of the planning permission, should Members decide to support the amended planning application sought.

8. CONCLUSION & PLANNING BALANCE

8.1 The starting point for the determination of any planning application is section 38(6) of the Planning and Compulsory Purchase Act 2004, which is to be read in conjunction with section 70(2) of the Town and Country Planning Act 1990. Section 38(6) states planning applications should be determined in accordance with the development plan, unless there are material considerations which indicate otherwise.

8.2 Overall, scheme amendments sought are considered to be broadly acceptable in relation to the reconfiguration of the approved SuDS pond, resiting of garage serving plots 66/67 as well as the resiting of plots 1-5, including the correction of the redline ownership boundary in relation to The Gables.

8.3 The addition of retaining walls to plots 60-67 and 70, however, has facilitated significantly raised FFLs (First Floor Levels) alongside those identified neighbouring properties on Froghall Road and Ness Grove. The Council's Space about Dwellings' SPG sets out minimum separation distances of 22.0m between principal windows and 14.0m between a principal window and a flank elevation. The minimum distances in the Council's SPG are based on a flat site, but with the potential requirement for a greater distance on a sloping site. No guidance, however, is provided as to how much the distance should be increased by as a result of proposed level changes between opposing dwellings.

8.4 Applying amenity standards utilised by other local planning authorities, a greater separation would be expected as a result of level changes between opposing plots and is considered to be an important consideration when developing sites closing to existing buildings. The amended scheme, particularly plots 60 to 66 therefore fail such privacy standards by when a 'level' factor is introduced whilst appearing overbearing in nature to opposing neighbouring dwellings below in view of notable higher scheme FFLs within this aspect of the site. However, whilst this is a useful "rule of thumb" Members should exercise

caution in applying this standard as it is not SMDC adopted policy and even those Council's which have adopted it apply it flexibly based on site circumstances. Therefore ultimately, a balanced judgement needs to be made based on the specifics of the case and assessment and consideration on the site visit. The revised landscaping scheme proposes boundary native hedgerow and tree planting within the lower tier gardens of plots 60 to 66 in an attempt to improve privacy standards particularly in relation to neighbouring dwellings by assisting in screening views between opposing principal windows.

8.5 Further objections are raised to the implemented 'layered' boundary treatment between plots 60 to 66, when viewed from neighbouring dwellings, which is considered to constitute poor design. Although a suitably worded planning condition could address this issue whereby officers have advised the applicant of the expectation for the continuation of a matching brick retaining wall with a close boarded fence above from scheme plots 65 to 60.

8.6 Notwithstanding the proposal's compliance with the Council's SPG daylight '25 degree rule', notable level differences between scheme plots and identified neighbouring properties on Froghall Road and Ness Grove have caused a degree of friction with LP Policy DC1 'Design Considerations', which seeks to protect residential amenity, particularly with regard to matters of loss of privacy, visual impact and outlook.

8.7 Weighing this objection into the planning balance, noting some mitigation could be achieved in respect of an appropriate common boundary treatment and landscaping screening between impacted neighbouring properties / scheme plots – the conclusion is this aspect of the amended scheme is acceptable in terms of LP Policy DC1, albeit such matters are considered to be finely balanced regarding an officer recommendation of approval.

8.8 Members will note for any permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission therefore sits alongside the original permission, which remains intact and unamended. The scheme amendments are considered to be 'minor material amendment' whereby its scale and / or nature results in a development which is not substantially different from the one which has been approved.

8.9 In conclusion, the amended scheme, on balance, would be a sustainable form of development as it would accord with the development plan and the NPPF when taken as a whole, and as there are no other material considerations that indicate planning permission should not be granted. In addition, the scheme could be made acceptable through the imposition of reasonable planning conditions.

8.10 Accordingly, the scheme is recommended for approval.

9. RECOMMENDATION

A. APPROVE subject to the following conditions:

FULL – PHASE 1:

Approved Plans (Full - Phase 1)

1. The development hereby approved for Phase 1 shall be carried out in accordance with the details as submitted in the application form and submitted specifications and as shown in drawings:

Location Plan	ARC/LP/01 Rev C
Phase 1 Planning Layout Rev Z3	ARCH/PL/PH1 Rev Z18
Proposed Site Access Arrangement	2002-F01 Rev A
Site Access Arrangement off Ayr Road	2002-F02
Site Access Arrangement off Cheltenham Avenue	2002-F03 Rev A
Single/Double Garage Plans and Elevations	SGD-01 Rev B
Alnmouth Housetype Plans and Elevations	AM-WD10
Alnmouth Housetype Plans and Elevations (Render)	AM-WD10
Danbury Housetype Plans and Elevations	DY-WD10
Danbury Housetype Plans and Elevations (Render)	DY-WD10
Danbury+ Housetype Plans and Elevations (Additional Window)	DY-WD12
Danbury+ Housetype Plans and Elevations	DY+-WD10
Danbury+ Housetype Plans and Elevations Plot 91	DY-WD13
Danbury+ Housetype Plans and Elevations (Render)	DY+-WD15
Chedworth Housetype Plans and Elevations	CD-WD10
Chedworth Housetype Plans and Elevations Additional Window, Render and Chimney)	CD-WD12
Chedworth Bay Housetype Plans and Elevations (Render and Chimney)	CD-WD13
Clayton Corner Housetype Plans and Elevations (Render)	CCA-WD11 Rev K
Clayton Corner Housetype Plans and Elevations (Render and Chimney)	CCA-WD12 Rev 0
Clayton Housetype Plan and Elevations	CA-WD10

Clayton Housetype Plans and Elevations (Chimney)	CA-WD10
Hatfield Corner Housetype Plans and Elevations	HTC-WD13 Rev 0
Hatfield Corner Housetype Plans and Elevations (Render and Chimney)	HTC-WD13 Rev 0
Hatfield Corner Housetype Plans and Elevations (Chimney)	CHT-WD10 Rev 0
Hatfield Housetype Plans and Elevations (Additional Window and Chimney)	HT-WD12
Hatfield Housetype Plans and Elevations (Additional Window)	HT-WD11
Hatfield Housetype Plans and Elevations	HT-WD10
Kendal Housetype Plans and Elevations	KL-WD10 Rev G
Kendal Housetype Plans and Elevations (Additional Window)	KL-WD10 Rev G
Kendal Housetype Plans and Elevations (Chimney)	KL-WD11 Rev 01
Longthorpe Additional Window Housetype Plans and Elevations	LG-WD10 Rev D
Longthorpe Housetype Plans and Elevations	LG-WD10 Rev D
Longthorpe Housetype Plans and Elevations (Render)	LG-WD11 Rev D
Stafford Housetype Plans and Elevations (Additional Window and Chimney)	SF-WD10 Rev G
Stafford Housetype Plans and Elevations (Chimney)	SF-WD10 Rev G

Reason:- To ensure that the development is carried out in accordance with the submitted details and approved plans, in the interests of good planning, for clarity and the avoidance of doubt.

House Type Details (Full - Phase 1)

2. Prior to any works taking place above damp proof course level on Phase 1, details of facing materials to be used in the construction of external walls and roofs of the dwellings, garages and chimneys, eaves, verges, windows (including head and sill details), doors (including garage) and hard surfacing (including shared surfaces) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason:- In the interests of the character and appearance of the area.

Boundary Treatment (Full - Phase 1)

3. No development hereby permitted shall commence on site for Phase 1, with the exception of site remediation works until details of the design, external appearance and decorative finish of all railings, fences, gates, walls, bollards and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling to which they relate to. Any other enclosure shall be carried out in accordance with the approved details prior to the proposed development being brought into first use. The approved scheme shall be maintained for those purposes at all times thereafter for that phase.

Reason:- In the interests of the character and appearance of the area, provision of private amenity space and Designing out Crime.

Retaining Walls & Steps (Full – Phase 1)

4. No development hereby permitted shall commence on site for Phase 1, with the exception of site remediation works until a scheme of all retaining walls and steps including details of the brick facing wall material / steps and their future maintenance and management, which shall be submitted to and approved in writing by the Local Planning Authority. The retaining walls and steps shall be implemented in accordance with the approved scheme prior to the first occupation of the dwelling to which they relate and shall be maintained for those purposes at all times thereafter for that phase.

Reason:- In the interests of the character and appearance of the area, provision of private amenity space and Designing out Crime.

Refuse Storage (Full - Phase 1)

5. No development hereby permitted shall commence on site for Phase 1, with the exception of site remediation works until details of the storage of refuse (collection points and in-plot), including details of location, size, means of enclosure and materials have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved refuse storage scheme for that dwelling has been completed and made available for use in accordance with the approved details. The approved scheme shall be maintained for those purposes at all times thereafter for that phase.

Reason:- In the interests of the character and appearance of the area and highway safety.

Removal of Permitted Development Rights (Full - Phase 1)

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification):-
 - a) No development for Phase 1 as specified in Part 1 Class(es) A, AA, B, C, D and E other than those expressly authorised by this permission, shall be carried out on any plot without express planning permission first being obtained from the Local Planning Authority.
 - b) No development for Phase 1 as specified in Part 1 Class F other than those

expressly authorised by this permission, shall be carried out on any plot without the express planning permission first being obtained from the Local Planning Authority, and,

c) No development as specified for Phase 1 in Part 2 Class A other than those expressly authorised by this permission, shall be carried out on any plot without the express planning permission first being obtained from the Local Planning Authority.

Reason:- In the interests of the character and appearance of the area and maintaining good amenity standards.

Landscaping (Full – Phase 1)

7. No development hereby permitted shall commence on site for Phase 1, with the exception of site remediation works, until a comprehensive landscaping scheme providing for the landscape treatment of all plots and areas of open space within Phase 1 has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include full details of all new trees, shrubs and any other planting, giving specification for species, positions, planting sizes and numbers/densities of all new planting. The scheme shall also include the retention of the hedgerow trees along the eastern boundary of the open space with public footpath IR/2575 as well as those hedgerows alongside the southern boundary of Phase 1. The landscaping scheme so approved shall be fully implemented before the end of the first available dormant season (November to February inclusive) prior to the first occupation of Phase 1 hereby approved. The trees and shrubs etc to be planted in accordance with the approved landscaping scheme shall be properly maintained for a period of 5 years following planting or other such period as specified by the Landscape and Ecological Management Plan for areas of open space. Any plants which within this period are damaged, become diseased, die, are removed or otherwise fail to establish shall be replaced during the next suitable planting season for this phase.

Reason:- To protect existing trees and hedgerows and in the interests of the character and appearance of the area.

Highways (Full – Phase 1)

8. No development hereby permitted shall commence on site for Phase 1, with the exception of site remediation works, until full details indicating a revised, reduced length bus stop in its existing location have been submitted to and approved in writing by the Local Planning Authority. The revised bus stop scheme shall thereafter be provided in accordance with the approved details prior to Phase 1 of the proposed development being brought into first use.

Reason:- In the interests of highway safety.

9. Before Phase 1 of the proposed development is brought into first use, full technical details of the proposed access off the A521 Froghall Road shall be submitted to and approved in writing by the Local Planning Authority. The access shall thereafter be provided in accordance with the approved details prior to Phase 1 being brought into first use.

Reason:- In the interests of highway safety.

10. The development hereby permitted for Phase 1 shall not be brought into first use until the access, parking, servicing and turning areas have been provided in

accordance with the approved plans. The parking, turning and servicing areas shall thereafter be retained unobstructed as parking, turning and servicing areas for the lifetime of the development.

Reason:- In the interests of highway safety.

11. The development hereby permitted for Phase 1 shall not be brought into first use until a surface water drainage interceptor, connected to a surface water outfall has been provided across the access immediately to the rear of the highway boundary for any driveway which falls towards an adoptable highway.

Reason:- In the interests of highway safety.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and / or re-enacting that Order) the garage / car parking spaces hereby permitted shall be retained as such and shall not be used for any purpose other than the garaging / parking of private motor vehicles associated with the residential occupation of the property concerned without the grant of further specific planning permission from the Local Planning Authority.

Reason:- In the interests of highway safety.

Coal Authority (Full – Phase 1)

13. No development hereby permitted for Phase 1 shall commence until a scheme of remedial measures for mine entry 104344-004, together with implementation timescales of those remedial works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and implemented in accordance with the details and timescales so approved.

Reason:- The application site can be made safe and stable for the proposed development.

Air Quality (Full – Phase 1)

14. No development hereby permitted for Phase 1 shall be commenced with the exception of site remediation works until an air quality mitigation strategy, detailing all possible mitigation measures to improve air quality at the locations identified in the report AQ105750R2 to be impacted by the proposed development in 2022 (Receptors: R4, R24, R25) has been submitted to and approved in writing by the Local Planning Authority. The full scope of the mitigation plan shall be first agreed in writing with the Local Planning Authority and shall be so designed to quantify the source contributions (e.g. HGVs, buses, taxis, cars etc.) responsible for the exceedance of the relevant objective in 2022 and detail possible mitigation measures to improve air quality. These shall include the best practice off-setting techniques that will be implemented by the applicant. The development of Phase 1 shall thereafter be carried out strictly in accordance with the best practice off-setting techniques as identified in the approved mitigation strategy and the measures relating to Phase 1 shall be completed prior to Phase 1 being brought into first use.

Reason:- In the interests of achieving appropriate environmental standards.

OUTLINE PHASE 2A & 2B

Time Limits (Outline – Phases 2a & 2b)

15. No part of the development hereby permitted shall be commenced on Phase 2a or 2b (as referred to in Condition 23) until full details of the access, layout, scale, appearance and landscaping for that phase (hereinafter called “the reserved matters”) have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out otherwise than in accordance with the approved details.

Reason:- To comply with Section 51 of the Planning and Compulsory Purchase Act 2004 and Articles 4 and 5 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

16. Application for approval of the reserved matters for the first phase of the development hereby permitted (as approved under Condition 23) shall be made to the Local Planning Authority no later than the expiration of 3 years from the date of this permission and the last application for reserved matters approval shall be made no later than 7 years beginning on the date of this permission.

17. The development hereby permitted for Phases 2a and 2b (as approved under Condition 23) shall be begun not later than 2 years from the date of approval of the last of the reserved matters to be approved for that phase. The development shall not be carried out otherwise than in accordance with the approved details.

Reason:- To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

18. The development for Phases 2a and 2b hereby approved shall not be carried out except in accordance with the following submitted plans:

- Location Plan ref. ARC/LP/01 Rev B;
- The access points as shown on Illustrative Masterplan ref. 8060-L-07 Rev M with such other access points to be provided in accordance with the agreed phasing plan;
- The ecological / landscaping areas as shown on Illustrative Masterplan ref. 8060-L-07 Rev M, and,
- No more than 135 dwellings shall be built on the site.

Reason:- To define the permission and in the interests of proper planning.

Dwelling Type and Size (Outline - Phase 2a)

1. The reserved matters residential application(s) shall be based on the Nationally Described Space Standards (NDSS) Technical Housing Standards.

Reason:- To ensure dwellings of adequate size in line with national policy.

1. The type / mix of units at the reserved matters stage shall reflect the Council’s Strategic Housing Market Assessment (SMHA).

Reason:- To ensure an appropriate mix of units in line with national policy.

Coal Authority (Outline - Phases 2a & 2b)

1. As part of the submission of first reserved matters, no development hereby permitted shall commence for Phases 2a and 2b until the submission of a layout plan which identifies an appropriate zone of influence for mine entry 104344-003

on site and the definition of a suitable 'no-build' zone for the mine entry, together with a scheme of remedial measures for the mine entry and implementation timescales of those remedial works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and implemented in accordance with the details and timescales so approved.

Reason:- The Coal Authority considers that the application site can be made safe and stable for the proposed development.

Air Quality (Outline - Phases 2a & 2b)

21. As part of the submission of any application for reserved matters in respect of Phases of 2a and / or 2b, an updated AQ (Air Quality) Assessment shall be submitted to the Local Planning Authority. If the updated AQ Assessment indicates a breach in AQ objectives then no development shall commence on Phases 2a and 2b until an Air Quality Mitigation Plan detailing all possible mitigation measures to improve air quality at the locations identified in the assessment to be impacted by the proposal has been submitted to and approved in writing by the Local Planning Authority. The full scope of the AQ Mitigation Plan shall be first agreed in writing by with the Local Planning Authority prior to any such commencement of development on Phases 2a and 2b and shall include the best practice off-setting techniques to be implemented. The development shall thereafter be carried out strictly in accordance with best practice off-setting techniques identified in the approved AQ Mitigation Plan and prior to each relevant phase being brought into first use.

Reason:- In the interests of achieving appropriate environmental standards.

(FULL & OUTLINE ALL PHASES 1, 2A & 2B):

Phasing Plan (All Phases)

23. No phase of development hereby permitted shall commence until a Phasing Programme has been submitted to and approved in writing by the Local Planning Authority. The Programme shall provide details of the phasing of the development including the extent and composition of the phases and the overall likely programme for the development. The development shall only be carried out in accordance with the approved Phasing Programme and implemented in accordance with the details and timescales so approved.

Reason:- To define the permission and in the interests of proper planning.

Levels (All Phases)

24. No phase of the development hereby permitted shall commence, with the exception of site remediation works, until detailed plans and sections showing both existing and proposed site levels for that phase, together with the proposed relationship with adjacent phase(s) have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be carried out in accordance with the approved details.

Reason:- To define the permission and in the interests of proper planning.

Trees / Hedgerows (All Phases)

25.No phase of the development hereby permitted shall commence (including any site clearance, site stripping, site establishment, formation of new access, installation of any drainage infrastructure or groundworks) until temporary tree protection barriers and advisory notices for that phase have been erected for the protection of the existing trees to be retained, in accordance with guidance in British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations' and this shall be retained in position for the duration of the period that development takes place for each phase. Within the fenced areas there shall be no excavation, changes in ground levels, installation of underground services, provision of hard surfacing, passage of vehicles, storage of materials, equipment or site huts, tipping of chemicals, waste or cement, or lighting of fires for that phase.

Reason:- To protect existing trees and hedgerows during construction in the interests of the character and appearance of the area.

Biodiversity / Ecology (All Phases)

26.No phase of the development hereby permitted shall commence (including any site clearance, site stripping, site establishment, formation of new access, installation of any drainage infrastructure or groundworks) until a LEMP (Landscape and Ecological Management Plan) for that phase, together with the proposed relationship with adjacent phase(s), has been submitted to and approved in writing by the Local Planning Authority, giving details of the proposed creation, maintenance, management and development, including timescales and delivery mechanisms, for all landscaping and wildlife habitats and associated structures / features within the various public open spaces, ecological areas and structural landscape buffer strips for that phase. This shall include full and accurate locations of existing and any proposed new habitats; technical specifications, timescales and phasing for the creation of any new habitats; 5-year establishment and aftercare management prescriptions for any newly created habitats and a minimum 20-year maintenance and management operations for all habitats throughout the phase to be monitored and reviewed every 5 years for each phase. Following approval of such a management plan, the scheme for each phase shall be fully implemented in accordance with the details and timescales so approved.

Reason:- In the interests of nature conservation.

27.No phase of development shall commence (including any site clearance, site stripping, site establishment, formation of new access, installation of any drainage infrastructure or groundworks) until a CEMP (Construction Environmental Management Plan) for that phase, together with the proposed relationship with adjacent phase(s) has been submitted to and approved in writing by the Local Planning Authority. This must include:

- Risk assessments of potentially damaging construction activities;
- Identification of biodiversity protection zones;
- Practical measures during construction to avoid or reduce impacts during construction (may be provided by method statements);
- The location and timing of sensitive works to avoid harm to biodiversity;
- No trees, shrubs or hedgerows shall be removed other than those whose removal is directly required to accommodate the approved development;
- Confirmation that there will be no clearance of trees, shrubs, tall ruderal or

brambles between 31st March and 31st August inclusive unless a competent ecologist has undertaken a careful detailed check of vegetation for active birds nests, immediately before vegetation removal, and provided written confirmation that no birds will be harmed and / or appropriate methods are in place to protect nesting bird interests on site. Any such written confirmation required shall be submitted and approved in writing by Local Planning Authority before any clearance of trees, shrubs, tall ruderal or brambles is undertaken;

- Suitable methodology for the removal of Japanese Rose before any work is undertaken on the hedgerows;
- Lighting used during construction to minimise impacts on wildlife;
- Open excavations or pipes to be sealed at night. Ramps / planking to be installed to permit wildlife to escape being trapped in structures during construction;
- The role and responsibilities of an ecological clerk of works or similar competent person;
- Disposal of waste material on site; and,
- Use of protective fences, exclusion barriers and warning signs.

The CEMP shall be implemented and adhered to throughout the construction period strictly in accordance with the approved details for that phase.

Reason:- In the interests of protected species and habitats during construction.

28. No phase of development shall commence, with the exception of site remediation works, until details of a lighting scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The design and location of lighting shall not impact on foraging or commuting bats and shall minimise disturbance to other wildlife avoiding retained and enhanced habitat areas. The scheme shall be implemented in accordance with the approved details and timescales as specified for that phase.

Reason:- In the interests of nature conservation.

29. Any mature tree to be removed or to have substantial crown pruning operations carried out shall first be carefully inspected for the potential to provide bat roosting opportunities. Any tree which has such potential (which could include cavities, splits, decay pockets, hollow stems or branches, areas of loose bark, dense ivy cover or dense epicormic shoots) shall be subject to a further detailed and if necessary climbing inspection by a licensed bat worker immediately prior to felling or pruning, and all felling or pruning of such trees shall take place in the presence of the bat worker who can then immediately advise on appropriate measures if bats are encountered during dismantling, felling or pruning operations.

Reason:- In the interests of nature conservation.

Drainage / Flood Risk (All Phases)

30. The development shall be carried out in accordance with the approved Flood Risk Assessment, Rev 03, ref. 881287-R1(03)-FRA dated February 2019 undertaken by RSK Ltd and letter ref. 881287_L01_K dated 29 August 2019 and the following mitigation measures it details:

- All development shall be located outside of the flood plain, and,
- There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of any bank of watercourses.

These mitigation measures shall be fully implemented prior to first occupation and subsequently in accordance with the scheme's timing / phasing arrangements in accordance with Condition 23. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason:- To reduce the risk of flooding to the proposed development and future occupants. To maintain access to the watercourse for maintenance or improvements to provide for overland flood flows and to avoid adverse impact on flood storage.

31.No phase of the development hereby permitted shall be commenced, with the exception of site remediation works, until drainage plans for the disposal of foul and surface water flows for that phase have been submitted to and approved by the Local Planning Authority. The development shall subsequently be implemented in accordance with the approved details before the development is first brought into use for that phase.

Reason:- This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

32.No phase of development hereby permitted shall be commenced, with the exception of site remediation works, until a scheme for detailed surface water drainage works (based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development) for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:-

- The results of ground investigation and percolation tests to determine the viability of Soakaways;
- Surface water drainage system(s) designed in accordance with the Non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015);
- Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to existing greenfield rates;
- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus climate change return periods;
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system, and,
- Provision of a management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development.

All works within a phase of development shall be carried out in accordance with the approved details.

Reason:- To prevent flooding by ensuring the satisfactory storage of / disposal of surface water from the site.

Construction / Demolition (All Phases)

33.No phase of the development hereby permitted shall be commenced (including any site clearance, site stripping, site establishment, formation of new access,

installation of any drainage infrastructure or groundworks) until a Demolition, Construction and Environmental Method Statement for that phase has been submitted to and approved in writing by the Local Planning Authority and shall include the following details:-

- i. the hours of work, which shall not exceed the following: Construction and associated deliveries to and from the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday;
- ii. the arrangements for prior notification to the occupiers of potentially affected properties;
- iii. the responsible person (e.g. site manager / office) who could be contacted in the event of complaint;
- iv. a scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The approved dust suppression measures shall be maintained in a fully functional condition for the duration of the construction phase;
- v. a scheme for recycling/disposal of waste resulting from the construction works;
- vi. A site compound with associated temporary buildings;
- vii. the parking of vehicles of site operatives and visitors;
- viii. the loading and unloading of plant and materials;
- ix. the storage of plant and materials to be used in constructing the development;
- x. Routing of vehicles to and from the site;
- xi. Wheel wash facilities;
- xii. Road sweepers;
- xiii. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; and,
- xiv. details of measures to protect the public footpaths and amenity of users of the public footpaths crossing the site during the construction works.

All works within a phase of development shall be carried out in accordance with the approved details.

Reason:- To protect the amenities of the area, including in the interests of highway safety.

34. No mud or other deleterious material shall be deposited on the highway and any that is shall be immediately removed.

Reason:- To protect the amenities of the area, including in the interests of highway safety.

Contamination (All Phases)

35. No phase of development hereby permitted shall be commenced until such time as a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, property (existing or proposed including buildings, crops, livestock, pets, woodland, service lines, pipes and buildings), adjoining land and ground and surface waters for that phase has been submitted to and approved in writing by the Local Planning Authority. The scheme must include:

- a) A site investigation scheme, based on the information already provided to support a detailed assessment of risks to all receptors that may be affected, including those off site,

- b) The results of the site investigation and the detailed risk assessment referred to in (a) and, based on these, an options appraisal and a remediation strategy giving full details of remediation objectives and remediation criteria, and,
- c) A validation plan providing details of the data that will be collected in order to demonstrate that the all works set out in (b) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- d) The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

All works within a phase of development shall be carried out in accordance with the approved scheme.

36. Prior to bringing any phase of the development into first use, a validation report for that phase demonstrating completion of the works as set out in the approved remediation strategy and the effectiveness of the remediation for that phase shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved validation plan to demonstrate that the site remediation criteria for each phase have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the validation plan and for the reporting of such monitoring to the Local Planning Authority for that phase.

37. In the event that contamination is found at any time when carrying out the approved development for any phase it must be reported immediately in writing to the Local Planning Authority. Development shall not commence any further for that phase until an initial investigation and risk assessment has been completed in accordance with a scheme to be first submitted to and agreed in writing by the Local Planning Authority, which shall assess the nature and extent of any contamination for that phase. If the initial site risk assessment indicates that potential risks exists to any identified receptors, development for that phase shall not commence further until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment for that phase has been prepared and shall be subject to the prior written approval of the Local Planning Authority. All works within a phase of development shall be carried out in accordance with the approved scheme.

38. No topsoil / fill material shall be imported to the site for any phase of development until it has been tested for contamination and assessed for its suitability for the proposed development for that phase. A suitable methodology for testing this material shall be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site for each phase. The methodology shall include: the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall be carried out and the validity evidence shall thereafter be submitted to and approved in writing by the Local Planning Authority prior to any importation of such material onsite for that phase. All works within a phase of development shall be carried out in accordance with the approved scheme.

Reasons (35 to 38):- To ensure that the proposed development meets the requirements of the National Planning Policy Framework in that all potential risks to human health, controlled waters and wider environment are known and where necessary dealt with via remediation and or management of those risks.

Noise Impacts (All Phases)

39. The machinery, plant or equipment including installed or operated in connection with the carrying out of the development hereby approved shall be so enclosed and / or attenuated that the noise generated by the operation of the machinery shall not increase the background noise levels during day time expressed as LA90 [1hour] (day time 07:00-23:00 hours) and/or (b) LA90 [15 mins] during night time (night time 23:00-07:00 hours) at any adjoining noise sensitive locations or premises in separate occupation above that prevailing when the machinery is not operating. Noise measurements for the purpose of this condition shall be pursuant to BS 4142:2014.

Reason:- To protect the amenities of the area.

40. No phase of the development hereby permitted shall commence, with the exception of site remediation works, until a site specific scheme for protecting the proposed residential units from noise has been submitted to and approved in writing by the Local Planning Authority for that phase. The submitted scheme shall have due regard to British Standard BS8233:2014 Guidance on Sound Insulation for Buildings and shall be so designed to achieve noise levels of less than 35 dB LAeq in bedrooms, less than 40 dB LAeq in living areas and 55dB LAeq in outside living areas for that phase. A report containing all raw data and showing how calculations have been made shall be submitted to and approved in writing by the Local Planning Authority for each residential phase. All works within a phase of development shall be carried out in accordance with the approved scheme prior to any building or dwelling brought into first use for that phase and shall be maintained for those purposes at all times thereafter.

Reason:- To protect the amenities of the area.

Archaeology (All Phases)

41. No phase of the development hereby permitted shall commence until a written scheme of archaeological investigation for that phase has been submitted to and approved in writing by the Local Planning Authority and until any pre-start element has been completed in accordance with the approved scheme. The scheme shall include an assessment of significance and research questions and the following information:

- a) The programme and methodology of site investigation and recording;
- b) The programme for post-investigation assessment;
- c) Provision to be made for analysis of the site investigation and recording;
- d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
- e) Provision to be made for archive deposition of the analysis and records of the site investigation, and,
- f) Nomination of a competent person or persons / organisation to undertake the works.

No dwelling or building shall be occupied in a phase until the site investigation and post investigation assessment for that phase has been implemented in

accordance with the approved written scheme of investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition have been secured.

Reason:- In the interests of archaeological and heritage interests.

Informative(s)

1. The Local Planning Authority (LPA), in reaching this decision, has followed the guidance in paragraph 38 of the National Planning Policy Framework. The Framework advises that the LPA should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.
2. This approval should be read in conjunction with the Planning Obligation entered into under S106 of the Town and Country Planning Act 1990 (as amended) which accompanies it.

Staffordshire County Council Highways & Rights of Way

1. *This consent will require approval under Section 7 of the Staffordshire Act 1983 and will require a Section 38 of the Highways Act 1980. Please contact Staffordshire County Council to ensure that approvals and agreements are secured before commencement of works.*
2. *The alteration to the bus stop and construction of the bellmouth shall require a Highway Works Agreement with Staffordshire County Council. The applicant is requested to contact Staffordshire County Council in order to secure the Agreement. The link below is to the Highway Works Information Pack including an application form. Please complete and send to the address indicated on the application form or email to (nmu@staffordshire.gov.uk). The applicant is advised to begin this process well in advance of any works taking place in order to meet any potential timescales.*
3. *The attention of the developer should be drawn to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path network. The path will need diverting as part of these proposals therefore the developer will need to apply to Staffordshire Moorlands District Council under section 257 of the Town and Country Planning Act 1990 to divert the rights of way to allow the development to commence. The County Council will need to be formally consulted on any proposal to divert the right of way.*
4. *The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the rights of way or their closure or diversion. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09), in particular the recommendation that: "In considering potential revisions to an existing right of way that are necessary to accommodate planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular*

traffic".

5. *It is important that users of the path network are still able to exercise their public rights safely and that the paths are reinstated if any damage to the surface occurs as a result of the proposed development.*
6. *We would ask that trees are not planted within 3 metres of the public right of way unless the developer and any subsequent landowners are informed that the maintenance of the trees is their responsibility. It is also unlikely that any new "linking" footways created through this development will be included on the Definitive Map of Public Rights of Way. Alternative arrangements will need to be made to ensure their maintenance in the future either by the developer or subsequent landowners. It may be possible for these footways to be adopted under Section 38 Highways Act 1980 but this will be the responsibility of the developer.*
7. *The County Council has not received any application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.*

B. 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.

10. APPENDICES TO THE REPORT

10.1 The link below to the Council's website is where the detail of this application can be viewed.

<http://publicaccess.staffs Moorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=150606>

Site Plan (Proposed)

