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| Agenda Item: | 6.2 |
| Site: | Land off Hornton Road, Burton on Trent |
| Proposal: | Erection of 14 No. dwellings following the demolition of the existing building (Amended Plans) |

Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by John Kirkham

[Hyperlink to Application Details](#)

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| Application Number: | P/2017/00354 | |
| Planning Officer: | Alan Harvey | |
| Type of Application: | Full Application | |
| Applicant: | Mr Gurnam Rai | |
| Ward: | Horninglow | |
| Ward Member (s): | Councillor D Florence-Jukes | |
| Date Registered: | 26 May 2017 | |
| Date Expires: | 18 August 2017 - an extension of time has been agreed until 27 April 2018. | |

1. Executive Summary

- 1.1 The application site consists of some 0.38 hectares which is presently an area of grassland, including a derelict outbuilding, which lies to the north of the Grade II listed Chestnut Farmhouse and its former outbuildings (now in residential use). The proposed development is accessed from the southern side of Hornton Road.
- 1.2 The application is a full submission for the erection of 14 No. single storey two bedroom dwellings, together with associated drainage and highways infrastructure (including off-street parking). The scheme also provides for the demolition of the existing derelict outbuilding on the site.
- 1.3 Statutory consultees have raised no objections that cannot be overcome via planning conditions. The Parish Council raised no objections to the scheme but requests that financial contributions be secured by way of Section 106

Agreement for enhancement works to The Brook on Tutbury Road and in relation to upgrading works to the Tutbury Road/Calais Road junction.

- 1.4 Local residents were notified of the application - in its original and revised form - and a site notice posted. Three No. local residents/interested parties made representations in respect of the proposals.
- 1.5 It is considered that the scheme - and its necessary associated Section 106 Agreement (with an overall commuted sum provision of £106,500) - are in principle compliant with the provisions of the relevant development plan policies and the National Planning Policy Framework.
- 1.6 The proposal would not be likely to adversely affect the amenities of occupiers of existing nearby dwellings, and would provide an acceptable level of amenity for the occupiers of the new dwellings. The proposal will not have an unacceptably adverse impact on the wider existing highway network nor give rise to any environmental concerns. The scheme would also provide necessary mitigation in relation to biodiversity and is not considered to have any harmful impact on the significance of the setting of the listed building at Chestnut Farmhouse.
- 1.7 **Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

Map of site



2. The site description

- 2.1 The application site comprises some 0.38 hectares of land to the south of Hornton Road in Burton on Trent. The land, which has a gentle slope from west to east, is presently overgrown and contains one brick outbuilding which is in a state of disrepair and dilapidation. The application site boundary treatments comprise a mix of brick/painted blockwork walls, close boarding fencing and hedging.
- 2.2 The application site is adjoined to the east, north and west by the garden areas of existing residential properties on Farm Road, Hornton Road/Hornbrook Road and Farm Close respectively. To the south of the site is the Grade II listed Chestnut Farmhouse and its former outbuildings (now Chestnut Drive).
- 2.3 Chestnut Farmhouse itself fronts onto Horninglow Road North and is a three storey Georgian property with nineteenth Century two storey wings. The former outbuildings to the rear (north) of the farmhouse have been converted/re-built to form a group of dwellings; with those in the northern area - Blackthorne Barn, Rowans Barn and Hawthorne Barn - all sharing a common boundary with the application site. Blackthorne Barn, Rowans Barn and Hawthorne Barn are situated in close proximity to this common boundary and have first floor windows facing northwards over the application site.
- 2.4 The application site is within the settlement boundary for Burton upon Trent as defined in the adopted Local Plan.

3. Planning history

- 3.1 Application ref: OU/03402/006 - Outline application to develop the land for residential purposes and formation of an access. Approved Conditionally on 22 July 2003.
- 3.2 Application ref: OU/03402/011 - Application under Section 73 of the Town and Country Planning Act 1990 to develop the land for residential purposes and formation of an access by extending Condition 1 of OU/03402/006 relating to the submission of reserved matters for a further 2 years. Approved Conditionally on 10 October 2006.
- 3.3 Application ref: PA/03402/015 - Full application for the erection of 21 No. dwellings including associated means of access and car parking. Refused on 20 February 2008.
- 3.4 Application ref: PA/03402/018 - Reserved matters approval for the erection of 19 No. dwellings including associated means of access and car parking. Approved on 19 September 2008.

4. The proposal

- 4.1 The application is a full application submission for the erection of 14 No. single storey two No. bedroom dwellings together with associated drainage and highways infrastructure following the demolition of the existing derelict outbuilding on the site.
- 4.2 The proposed single storey dwellings are a mix of detached, semi-detached and terraced units. The proposed construction materials comprise facing brickwork with the roofs being of tiles. The roofs have a mix of gabled and hipped details.
- 4.3 The submissions show the dwellings grouped around a shared drive(s) with the provision of two No. parking spaces per dwelling; either within individual curtilages or within a small shared parking court area.
- 4.4 During the course of the application process revisions and additional submissions have been secured from the applicants in the light of the initial consultation responses of the County Highway Authority and the Lead Local Flood Authority and to seek to address concerns of officers in respect of the relationship with existing adjoining properties. The design and access statement was also necessarily amended to reflect the various revisions made to the scheme.
- 4.5 Also during the course of the application a viability assessment was submitted which has been reviewed independently (on behalf of the Council). The review concludes that for the scheme to remain viable a (maximum) total financial contribution of £106,500 - to be secured by way of a Section 106 Agreement - would be in order in the light of the requests of the Local Planning Authority for contributions towards affordable housing, education, open space and waste facilities.

- 4.6 However, given that the contributions for affordable housing, education, open space and waste facilities add up to a figure (at £240,881.50) higher than that for the scheme to remain viable (at £106,500) it would be necessary - if the application is supported - for the Committee to decide which (i.e. some or all) of the relevant requirements should be met and what percentage in each case should be allocated out of the overall contribution. This matter is thus appropriately addressed in the Assessment section of this report (at paragraphs 18.1 - 18.6 below).

List of supporting documentation

- 4.7 In addition to the viability submissions the following documents have been provided as part of the application:

- Location Plan
- Proposed Site Layout Plan
- Proposed Landscaping Plans
- Proposed Materials Plan
- Proposed Dwelling Type Drawings
- Streetscape Drawings
- Planning Statement
- Design and Access Statement (original and updated)
- Heritage Statement
- Drainage Layout and Strategy
- Arboricultural Submissions
- Ecological Submissions (including Protected Species survey)

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

5. Consultation responses and representations

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

| Statutory and non statutory consultee | | Response |
|--|------------------------------------|---|
| 5.2 | Horninglow and Eton Parish Council | Raises no objection to the development but requests that financial contributions be secured by way of a Section 106 Agreement for enhancement works to The Brook, Tutbury and for the upgrading of the Calais Road/Tutbury Road junction. |
| 5.3 | SCC Highways | Initially requested additional details in relation to turning facilities within the site. Further to the necessary submissions the Highway Authority raises no objections subject to conditions. |
| 5.4 | SCC Education | Advise that the development could add demand for 3 No. Primary School aged pupils and 2 No. High |

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| | | School aged pupils and requests a total sum of £92,831.50 in relation to education provision comprising £59,587.50 towards primary school facilities and £33,244 towards High School facilities. |
| 5.5 | Environment Agency | No objections |
| 5.6 | Severn Trent Water | No objections |
| 5.7 | Local Lead Flood Authority | No objections in principle. |
| 5.8 | Architectural Liaison Officer | Provided guidance on crime reduction. |

| Internal Consultees | | Response |
|---------------------|----------------------|---|
| 5.9 | Environmental Health | No objections in principle subject to land contamination mitigation. |
| 5.10 | Conservation Officer | <p>Comments that :-</p> <p><i>“The site is located to the north of the grade II listed farmhouse, The Chestnuts. (Its) Architectural and evidential interest is derived from the vernacular form and construction of the farmhouse being of red brick with tile roof. It is of T-plan form with later side extensions to the original 3 bay building. Historic interest is derived from the mid C18 origins of the building with later c1800 and 1870 alterations and additions. It is reflective of the early development of the area and its former agricultural character.</i></p> <p><i>Historic mapping indicates the building located within the nucleated settlement of Horninglow (OS map 1901) surrounded by some built form which fronts the highway and open fields to the north and south. Mapping suggests the immediate surrounding built form was associated outbuilding ranges reflecting the agricultural use. The setting has altered dramatically during the C20 with later modern estate development infilling plots and extending beyond the historic core which has had a negative impact on the more open agricultural setting. Therefore, the setting makes a limited contribution to the significance of the listed building, with this mostly now deriving from the immediate curtilage of the building and the surrounding outbuilding complex which makes a neutral contribution.</i></p> |

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| | | <p><i>The site lies to the north of the listed building and is currently open space. It is not rural or agricultural in character and is separated from the listed building by the existing built form and hard boundary treatments. It makes a neutral contribution to the setting of the listed building. The outbuilding on the site is of poor quality and in poor repair and there is no objection to its removal due to its state.</i></p> <p><i>The proposal looks to erect 14 bungalows in the plot with access from Hornton Road. The single storey scale of the proposed will limit their visibility and impact as well as their location behind the existing built form to the rear of The Chestnuts.</i></p> <p><i>Therefore, considering the lack of contribution that the setting of the building and the site makes to the significance the proposal is not considered to impact on the significance of the listed building and is in line with Local Plan Policies SP25 and DP5.”</i></p> |
| 5.11 | Environment Manager | Requires a commuted sum provision of £75 per dwelling towards the provision of bins (giving a total of £1,050 for 14 No. dwellings). |
| 5.12 | Planning Policy | Affordable Housing commuted sum requirement to be £140,000 (if all provision is to be off-site). The site area is below the threshold (0.5 ha) for National Forest planting provision on residential development sites. |
| 5.13 | Sports and Recreation | Requests £7,000 in relation to off-site open space provision in line with the Council’s standards. |

6. Neighbour responses

- 6.1 Neighbours were notified of the application in its original and revised form, a press notice published and a site notice posted. Comments were received from 3 No. local residents/interested parties in total (all in relation to the original submissions) raising the following issues summarised below:-

| Neighbour responses | |
|--|---|
| Character/Design/ Layout of the Development | <p>It is questioned whether the development will actually look like it is shown in the Design and Access Statement.</p> <p>The Design and Access Statement pays too much attention to the relationship with The Chestnuts and it is</p> |

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| | <p>pointed out that there are residential properties adjacent to all sides of the development.</p> <p>As the scheme merely seeks to utilise existing mixed boundary treatments there will be a lack of uniformity in terms of the visual amenities to be enjoyed by new residents.</p> |
| Drainage | The site presently gets waterlogged and it is questioned as to whether the proposed use of soakaways would worsen the situation. |
| Wildlife/Landscaping and Open space | <p>The scheme does not indicate as to how the Japanese Knotweed present on the site is to be eradicated.</p> <p>The trees proposed by the landscaping scheme would in time cause overshadowing and root damage to adjoining properties ultimately leading to increased home insurance costs.</p> |
| Highways/Transport | As there is no pedestrian access to the site to the adjoining supermarket it will be necessary for new residents to drive round thus increasing noise and pollution in the locality. |
| Impacts on residential amenities | <p>Properties adjacent to the site have first floor window units which will overlook the application site.</p> <p>There will be noise, disruption and increased traffic movements during the construction period.</p> |

7. Policy Framework

National Policy

- National Planning Policy Framework
- National Planning Policy Guidance

Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1: East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- SP10 Education Infrastructure
- SP16 Meeting Housing Needs
- SP17 Affordable Housing
- SP23 Green Infrastructure
- SP24 High Quality Design
- SP25 Historic Environment

- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP32 Outdoor Sports and Open Space
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP3 Design of New Residential Development, Extensions and Curtilage Buildings
- DP5 Protecting the Historic Environment: All Heritage Assets, Listed Buildings, Conservation Areas and archaeology
- DP7 Pollution and Contamination
- DP8 Tree Protection

Horninglow and Eton Neighbourhood Plan

- Policy HE5 - Parking Standards
- Policy HE7 - Highway Junctions and Traffic
- Policy HE11 - Local Built Heritages Assets

Supplementary Planning Documents/Guidance

- East Staffordshire Design Guide
- Parking Standards
- Waste Storage and Collection Guidance for New Developments
- Housing Choice

8. Principle of Development

- 8.1 The application site is located within the settlement boundary as defined in the Local Plan and as such its development for residential purposes would be compliant with the locational sustainable development aims of Policies SP1, SP2 and SP4 of the Local Plan. The development of the site for residential purposes has also been established by previous approvals for dwellings.

9. Design and Impact on the character and appearance of the area

- 9.1 The NPPF attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
- 9.2 Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. Policy SP24 lists a number of criteria developments are expected to achieve including creating a sense of place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction.
- 9.3 Policy DP1 of the Local Plan re-iterates the design principles set by SP24 stating that development must respond positively to the context of the

surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide. The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context will be important, as this can support local distinctiveness. The Guide allows for development which employs a more modern architectural style but in terms of its proportions and siting it should still complement its surroundings. Policy HE11 of the made Horninglow and Eton Neighbourhood Plan seeks that development is designed appropriately to its locality and is in line with the East Staffordshire Design Guide.

9.4 The East Staffordshire Design Guide is equally applicable to the policy aspirations of SP24. It states that:

- (a) Residential layouts should be designed with focus on the streets and spaces between dwellings rather than the individual buildings themselves;
- (b) The location of buildings in relation to streets should create interesting streetscapes including consciously arranged views and vistas within and out of the development;
- (c) Long straight and sweeping roads should be avoided with a preference for traffic calming inherent in the design of the development;
- (d) Repetitive house types should be avoided;
- (e) The cramming together of large numbers of detached properties should be avoided.
- (f) High proportions of frontage car parking will not be acceptable.

9.5 Detailed Policy 2 of the Local Plan aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible.

9.6 The layout of the development is one of dwellings all being served by way of the shared access road (extension) off Hornton Road. The properties on Plots 1 & 2, 5-7, 8-10 and 13 & 14 reflect the existing layout and alignment of dwellings on Hornton Road; whereas Plots 3 & 4 and 11 & 12 are situated on short spurs off the shared access adjacent to the eastern and western site boundaries respectively. It is considered that the scheme would make adequate provision for bin storage so that they would not be unsightly in the context of the streetscape of the new development.

9.7 The proposed scale of the development is single storey throughout, however, given the variation in design in terms of the facades and roofscape the development would create sufficient visual interest in the streetscape. Also in terms of the visual appearance of the streetscape there would be sufficient space provided between dwellings.

- 9.8 Parking is largely provided within the curtilage of properties, although the properties on Plots 8, 9 and 10 are served by a shared parking courtyard area. There is good surveillance of parking facilities.
- 9.9 The proposed common boundary treatments on individual plots are largely of 1.8 metre high close boarded fencing; with screen walls proposed to rear gardens where they are adjoining the access road(s)/parking area. The submissions also indicate that it is proposed to retain existing treatments to the common boundaries with existing properties which adjoin the site.
- 9.10 In conclusion, therefore, it is considered that the scheme in terms of its design and materials will sufficiently respect the character of the locality and having regard to the siting and scale of the proposed dwellings would be in line with the criteria of Policies DP1 and DP3.
- 9.11 The sustainability approach for this development is for the new housing to incorporate fabric energy efficiencies. This is achieved by utilising energy efficient construction methods and water efficiency measures. The proposed development is therefore in line with the aims of Policy DP2 of the Local Plan.

10. Residential Amenity

- 10.1 The National Planning Policy Framework and DP1 and DP3 of the Local Plan seek to ensure new residential development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing.
- 10.2 With regard to the relationship with existing dwellings there are separation distances of at least 12.5 metres between the elevations of the proposed single storey dwellings and the principal rear elevations of the existing dwellings to the north, east and west of the site. Accordingly, having regard to the distances of separation from existing dwellings, and the single storey scale of the development proposed, it is considered that the proposed dwellings on the application scheme would not have any overbearing and overshadowing impacts that would be significantly detrimental to the residential amenities of the existing dwellings.
- 10.3 With regard to the issue of overlooking, it is considered that existing or proposed boundary treatments would ensure that dwellings to the north, east and west of the site would not give rise to any significant overlooking impacts on the proposed dwellings or their garden areas. With regard to the relationship with the residential conversion scheme to the south of the site (at The Chestnuts), the alignment of the proposed dwellings and the fenestration treatments proposed will ensure that there will not be significant overlooking impacts between the existing and proposed dwellings. Specifically, there is a blank southern side elevation to the dwelling on Plot 7 and bathroom (with obscure glazing) and entrance door to the southern elevation of Plot 8.
- 10.4 The Borough Council's Design SPD sets out in paragraph 2.9 separation distances required. It concludes that there are no set standards specified in terms of separation distances between buildings. The performance of development will be considered in terms of its acceptability in design terms

with regard to overlooking. It is considered that the proposed layout shows each new dwelling is sufficiently distant from both existing residential properties and proposed residential properties to avoid causing them unacceptable loss of light or privacy. The scheme is therefore compliant with the provisions of Local Plan Policies DP1 and DP3.

- 10.5 Rear garden sizes start at 4.8 metres in depth (in the case of Plot 3), although most properties have garden depths of between 7-8 metres. As such, whilst the single storey nature of the scheme and the separation distances between dwellings throughout the development and on the adjoining lands are considered acceptable as proposed, it is considered that the removal of permitted development rights for the erection of extensions and garden structures to all the proposed dwellings would be justified in this instance to control future impacts on residential amenities.
- 10.6 In conclusion, therefore, the proposed layout shows that the 14 No. dwellings can be accommodated on the site without compromising the reasonable amenities of their future occupiers - as well as existing residents - and would allow for sufficient outdoor private amenity space. It is thus considered that the scheme integrates satisfactorily with the existing and proposed adjoining built form and therefore complies with the provisions of Local Plan Policy DP1 and DP3.
- 10.7 In relation to activity, the scheme will necessarily generate traffic along the new shared access road, however, given the overall number of dwellings involved (at 14 No.) it is considered that this vehicular activity would not unacceptably affect the amenities enjoyed by the occupiers of existing dwellings adjacent to the application site in terms of noise, pollution and disturbance.
- 10.8 In relation to potential impacts on local residents during the construction phase, dust relating to the proposed development is a matter that will be subject to controls under the Construction Management Plan to be agreed before the start of this development. In relation to the hours of operation given the proximity to existing dwellings it is recommended that a condition be attached to any approval restricting construction to be between the hours of 7.30 to 19.00 Monday to Friday, 8.00 to 14.00 on Saturdays and no working on Sundays and Bank Holidays.

11. Highway Matters

- 11.1 The NPPF in section 4 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should ensure development proposals have taken the opportunities for sustainable transport modes and to ensure safe and suitable access to the site to be achieved for all people. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 11.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should

not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.

- 11.3 Policy HE7 (Highway Junctions and Traffic Calming) of the Made Horninglow and Eton Neighbourhood Plan states that the Parish Council will require developer contributions for junction improvements, environmental enhancements and traffic calming from new development proposals in Horninglow and Eton, when these have traffic impacts on the area.
- 11.4 The Council's parking standards SPD adopted in October 2017 sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses. The parking standards SPD requires inter alia that new development must provide off street car parking provision of a minimum of 2 No. parking spaces for each residential unit up to and including 3 No. bedroom units. Policy HE5 of the Horninglow and Eton Neighbourhood Plan requires the same parking provision.
- 11.5 In relation to the wider impact of the scheme on the highway network, the County Highway Authority raise no objections to the proposal. Therefore, whilst it is recognised that the Parish Council request a financial contribution (by way of a Section 106 Agreement) for upgrading works to the Tutbury Road/Calais Road junction, this would be not be justified in the context of this development.
- 11.6 The County Highway Authority has no objections in principle to the layout proposed subject to the provision of a section of footpath to link through to Hornton Road and appropriate visibility splays to ensure no highway safety conflict with No. 8 Hornton Road. These will be necessarily secured by condition(s). There is adequate parking servicing each property with 2 No. spaces to each dwelling. Most properties enjoy parking within their curtilage and where there is courtyard parking - to serve the dwellings on Plots 8,9 and 11 - it is considered that it is sufficiently close to the properties concerned to facilitate easy access for residents. The parking requirements therefore conform to the Borough Council's updated parking standards and those of the made Neighbourhood Plan.
- 11.7 The Parking Standards SPD states that development proposals must consider the provision for electric charging infrastructure in new developments and that major developments should ensure that electric infrastructure is sufficient to enable the supply to be provided. As set out later in this report, viability is a key consideration in the determination of this application. Whilst charging points could be considered a cost which would be passed onto the purchasers of the properties there is nevertheless an upfront cost to installing the infrastructure to the developer. On balance, given that there is limited viability, it is not considered reasonable to request the provision of charging points. The proposals would not restrict occupiers from installing infrastructure at the properties in the future.

- 11.8 It is therefore considered that the proposal would not prejudice the safe or efficient use of the highway network or be likely to result in significant increases in on-street car parking in the locality.

12. Historic Environment

- 12.1 Paragraph 126 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.
- 12.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 12.3 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.
- 12.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough's townscapes and landscapes. Detailed Policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology. Policy HE11 (Local Built Heritage Assets) of the made Horninglow and Eton Neighbourhood Plan states *inter alia* that all development proposals will be required to take into account the character, context and setting of all Heritage Assets including important views towards and from the Assets.
- 12.5 The site is located some 23 metres to the north of the Grade II listed (former) farmhouse, The Chestnuts, for which the architectural and evidential interest is derived from its vernacular form and construction of red brick with tile roof. Historically the immediate surrounding built form was associated outbuilding ranges reflecting the agricultural use, however, this setting has altered dramatically with later modern estate development and residential infilling plots. Therefore, the setting makes a limited contribution to the significance of the listed building, with this mostly now deriving from the immediate curtilage

of the building and the surrounding outbuilding complex - itself now converted/rebuilt as residential units - which makes a neutral contribution.

- 12.6 The application site lies to the north of the listed building and is currently open space. It is not rural or agricultural in character and is separated from the listed building by the existing built form and hard boundary treatments. The site makes a neutral contribution to the setting of the listed building and the outbuilding on the site is of poor quality and in poor repair meaning that its demolition would not be detrimental to that setting. The single storey scale of the proposed development itself will limit their visibility and impact on the setting of the listed building as well as their location behind the existing built form to the rear of The Chestnuts. As such, the proposal is not considered to have a harmful impact on the significance of the listed building or its setting.
- 12.7 The nearest conservation area to the application site is the Trent and Mersey Canal Conservation Area some 0.65 km to the south-east and given the built up nature of the urban environment there is no inter-visibility with the application site.
- 12.8 Accordingly, having regard to the statutory duties under Section 66 and under Section 72 it is concluded that the scheme would not impact harmfully on the significance of heritage assets or their setting.

13. Flood Risk and Drainage/Contaminated Land

- 13.1 Section 10 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest probability of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.
- 13.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.
- 13.3 The application site is situated in Flood Zone 1 and the Environment Agency have not raised any objections in principle to the current scheme. A detailed foul and surface water strategy has been submitted and the Local Lead Flood Authority are satisfied that this is acceptable in principle. Severn Trent Water Ltd have raised no objections in principle. The Environment Agency have no comments to make on the submissions.
- 13.4 ESBC Environmental Protection raise no objections subject to land contamination mitigation being actioned during the construction phase and this will be secured by a condition.

14. Affordable Housing and Housing Mix

14.1 The NPPF states that Local planning authorities should have a clear understanding of housing needs in their area. Local Authorities should address the need for all types of housing, including affordable housing and the needs of different groups in the community. Strategic Policies 16 and 17 along with the guidance set out in the Housing Choice SPD respond to this requirement.

14.2 Strategic Policy 16 states that residential development in the main towns shall provide an appropriate dwelling or mix of dwellings given the mix required in that part of the Borough according to the Council's evidence base or other evidence.

14.3 The Housing Choice SPD expects the following housing mix:

| | Burton | | |
|---|---------------|------------|-------------|
| 1-bedroom homes (flats, houses or bungalows) | 3% | | |
| 2-bedroom homes (flats, houses or bungalows) | 2% | | |
| | Branston | Angelsey | Brizlincote |
| | Burton | Horninglow | Stapenhill |
| | Eton Park | Shobnall | Winshill |
| | Outwoods | Stretton | |
| <i>Housing for Older People</i> | 11% | 20% | 50% |
| 2-bedroom houses | 14% | 13% | 8% |
| 3-bedroom houses | 32% | 29% | 17% |
| 4-bedroom houses | 26% | 23% | 14% |
| 5-bedroom houses | 11% | 10% | 6% |

14.4 Strategic Policy 16 states that all dwellings providing ground floor accommodation should meet Building Regulations 2010 Standard M4(2) relating to accessible and adaptable dwellings. Further guidance has been prepared setting out how this policy will be applied. The guidance states that

the standard will be expected on 10% of major applications. The standard should be applied to a range of properties and not just those larger properties.

- 14.5 Strategic Policy 17 of the Local Plan states that housing-led residential development that will provide 4 or more dwellings or on a site of 0.14 hectares or more shall provide up to 25% of affordable housing (as previously developed land in Burton). Policy SP17 of the Local Plan also states that affordable housing provision should be delivered across any site and not in clusters of more than 8 dwellings and the Housing Choice Supplementary Planning Document (SPD) provides guidance on the expected affordable housing mix of sites.
- 14.6 In terms of the guidance set out in the Housing Choice SPD, an appropriate mix for a 14 No. dwelling development on a site in Burton Upon Trent would be 12 No. market properties - comprising: 2 x 2 No. bedroom units; 2 x bungalows/small properties to meet needs of older people; 4 x 3 No. bedroom units; 3 x 4 No. bedroom units and 1 x 5 No. bedroom units - along with 2 No. affordable properties on site and an off-site affordable housing contribution of £60,000.
- 14.7 The scheme proposed for this application site comprises of 14 No. two bedroom single storey dwellings (bungalows) and therefore does not comply with the housing mix set out in the SPD. However, given the physical constraints of the site and given the need for housing to meet the needs of older people in Burton and the Borough and the low number of this type of dwelling being permitted/completed since the adoption of the Local Plan, it is considered that the scheme being proposed in this instance would still in overall terms meet the aims of the Housing Choice SPD.
- 14.8 Insofar as the affordable housing provision is concerned, the applicants propose that this would be wholly secured off-site by way a commuted sum through a Section 106 Agreement (it is also the case that on-site provision has implications for the scheme in terms of viability - see also paragraph 18.5 below). In respect of off-site provision of all affordable housing requirements the relevant commuted sum would be £140,000. Given, however, that this issue is dependent on other potential Section 106 issues this matter is considered further below at paragraphs 18.1 - 18.6.
- 14.9 With regard to the guidance providing that ground floor accommodation should meet Building Regulations 2010 Standard M4(2) on 10% of major applications, this scheme will be compliant.

15. Green Infrastructure/Biodiversity/Impact on protected species

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

and maintained. Green infrastructure should, therefore, be a key consideration in planning decisions where relevant.

- 15.2 Strategic Policy 23 states that development should contribute towards the creation, enhancement or ongoing management of a series of local green infrastructure corridors. The policy lists 10 standards which green infrastructure is expected to meet.
- 15.3 Paragraph 118 within Section 11 of the National Planning Policy Framework states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.
- 15.4 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.
- 15.5 Strategic Policy 29 lists criteria including development needing to retain features of biological interest to produce a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits.
- 15.6 The scheme will result in the loss of a small number of existing trees; albeit it is acknowledged that the trees in question are of little or no amenity value to the locality. These losses in the short term will change the habitat for wildlife, however a condition of any approval will provide for new tree planting and other landscaping works.
- 15.7 With regard to the impact on habitats and protected species, the scheme would not give rise to any specific concerns. A condition of any approval will require the provision of 2 No. bird boxes in line with the recommendations of the applicant's ecological survey.
- 15.8 It is therefore concluded, that the issue of the impacts on protected species and biodiversity on the site have been appropriately addressed.
- 15.9 It is pointed out the eradication of Japanese Knotweed from the site falls outside the Planning Acts, although the matter will be drawn to the applicants by way of a note to applicant on any decision notice.

16. Open space

- 16.1 The NPPF states that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Policies SP32 and SP33 set out the requirements of open space provision across the Borough and developers should provide open space to the local standard identified for the area. Local Standards are identified in the Local Plan Supplementary Planning Document.
- 16.2 The scheme would not provide any on-site open space provision given that in viability terms this would allow the best use of the land available for

development purposes. Consequently it would be necessary to be secured off-site by way of commuted sum in relation to which the relevant commuted sum would be £7,000. The monies could be used for new or enhanced provision with the Parish. Nevertheless, given there are other competing Section 106 requirements (in terms of the overall financial viability of the scheme) this issue is dealt with in conjunction with other Section 106 matters below at paragraphs 18.1 - 18.6.

- 16.3 The Parish Council has requested that a financial contribution is given to the upkeep of The Brook, Tutbury Road which is listed in the Neighbourhood Plan. However, given that the site in question is not in the control of a public body or the applicant this would not be appropriate in terms of the CIL regulations.

17. Education

- 17.1 There is a need for education facility provision in East Staffordshire, particularly at Burton upon Trent. The need is for both primary and secondary education. Strategic Policy 10 identifies areas where new schools will be expected in Uttoxeter and Burton upon Trent. In addition, the policy describes how proposals for education facilities will be assessed. Applications will be required to demonstrate that the location is accessible for the need for which it is intended to meet.

- 17.2 The County Education Authority requests a total sum of £92,831.50 in relation to education provision comprising £59,587.50 towards primary school facilities and £33,244 towards High School facilities. Again given the viability issues of the scheme as a whole this issue is considered in conjunction with other relevant Section 106 matters below at paragraphs 18.1 - 18.6.

18. Section 106 and Viability

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

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

- 18.2 National Planning Practice Guidance states that when CIL is introduced (and nationally from April 2015), the regulations restrict the use of pooled contributions towards items that may be funded via the levy. At that point, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy. Paragraph 173 of the National Planning Policy Framework states that to ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, infrastructure

contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

18.3 As outlined in this report the following contributions would be relevant to a 14 No. dwelling scheme:

| Item | Planning Obligation | Cost (where applicable) |
|--------------------|---|----------------------------|
| Affordable Housing | The financial equivalent of 2 No. units on site (£80,000) along with normal (SPD) off-site provision of £60,000. | £140,000 |
| Education | A total sum of £92,831.50 in relation to education provision comprising £59,587.50 towards primary school facilities and £33,244 towards High School facilities | £92,831.50 |
| Open space | An off-site contribution | £7,000 |
| Refuse Containers | Contribution to provide refuse storage containers at £75 per dwelling. | £1,050 |
| | OVERALL TOTAL | £240,881.50 |

18.4 The Council's independent viability consultant concluded that a (maximum) total contribution of £106,500 could be made by the developer towards Section 106 matters whilst ensuring the viability of the scheme; this figure in turn being accepted by the applicant.

18.5 As set out in this report (and in the table above), however, a sum of £106,500 would not provide sufficient funds for all the commuted sum requirements to be met in terms of affordable housing, education, open space and waste facilities; with these totalling an overall figure of £240,881.50. It also pointed out that any provision of affordable housing on the site itself would reduce the viability of the scheme to a level such that the education contribution could not be secured in full (although open space and waste facility provisions could potentially be met).

18.6 Therefore, in the absence of any stated priorities for the individual provisions in such circumstances in the Council's adopted Development Plan and associated supplementary planning guidance it falls for the members of the Committee to decide - if the scheme is supported in principle (as per the officer recommendation) - which (i.e. some or all) of the relevant requirements should be met and then to decide what percentage of the monies are to be allocated accordingly. Nevertheless, taking into account the nature of the proposed development - with the single storey two bedroomed dwellings likely to be more attractive to households of a mature age or of smaller family groups - ,

the viability assessment and requested contributions, the following are recommended:

- £98,450 as an off site affordable housing contribution which is the equivalent of 2.46 homes
- £7,000 towards open space
- £1,050 for refuse storage containers for each properties

19. Conclusions

- 19.1 The proposed scheme, given its location within the Burton Upon Trent settlement boundary, accords with the sustainability planning policy context set out in the Local Plan and will contribute towards maintaining the Council's 5 year housing land supply.
- 19.2 The layout and design of scheme accords with the principles and provisions of the East Staffordshire Design Guide, and the proposals demonstrate that the site can provide a development scheme of 14 No. dwellings appropriate to its locality, without being detrimental to the residential amenities of existing and future residents.
- 19.3 The proposed access and parking arrangements to serve the development are considered to be suitable and there will be no significant negative impact on the wider road network. Off-street parking provision is also commensurate to the scale of the development being proposed.
- 19.4 A suitable drainage strategy will adequately address the drainage requirements and there would be no detrimental impacts in terms of biodiversity.
- 19.5 The proposed development by reason of its scale and form will not harm the setting or character or appearance of any listed buildings or conservation areas having regard to the requirements of Section 66 and Section 72.
- 19.6 Accordingly, it is considered that the proposal constitutes sustainable development which accords with the development plan policies the East Staffordshire Local Plan and the national guidance set out in the National Planning Policy Framework.
- 19.7 The application is therefore recommended for approval as set out below.

20. RECOMMENDATION

PERMIT, subject to a Section 106 Agreement and subject to the following conditions:-

1. Time limit for commencement (3 years) (000001a)
2. Compliance with the Approved plans (00002)
3. Submission and approval of samples and details of materials of construction (00002F)

4. Submission and approval of landscaping, fencing and walling (to include details of existing boundary treatments to be retained/altered) (Bespoke)
5. Submission, approval and implementation of slab levels and land regrading works (00016b)
6. Submission, approval and implementation of lighting plan (Bespoke)
7. Submission, approval and implementation of a contaminated land mitigation scheme (Bespoke).
8. Submission and approval of a construction management plan, including dust management plan (Bespoke)
9. Submission and approval of foul and surface water drainage scheme to conform with the approved Drainage Strategy (Bespoke)
10. Hours of Construction - to be restricted to between the hours of 7.30 to 19.00 Monday to Friday, 8.00 to 14.00 on Saturdays and no working on Sundays and Bank Holidays. (Bespoke)
11. Implementation of the works for the site access (off Hornton Road), visibility splay and pedestrian access/footway. Visibility splay to be retained once provided (Bespoke)
12. All parking spaces/areas and manoeuvring facilities shall be provided and thereafter shall be retained at all times for their designated purpose (Bespoke)
13. A minimum of two No. dwelling units hereby approved shall provide ground floor accommodation that meets Building Regulations 2010 Standard M4(2) (Bespoke)
14. Controls on importation of Soil (Bespoke)
15. Implementation of Landscaping (00003b)
16. Implementation of Fencing and Walling (00016b)
17. Provision of bird boxes (Bespoke)
18. The window unit to the southern side elevation of the dwelling on Plot 8 shall have obscure glazing to level 4 (Bespoke)
19. Removal of PD rights for future extensions and outbuildings for amenity reasons (00012a)

Notes to Applicant

1. Working together with applicants to secure amended plans.
2. Pre-commencement conditions requirements.

3. Samples of Materials to be provided as required by the relevant condition.
4. The comments of the Architectural Liaison Officer are drawn to the applicant's attention.
5. The comments of the County Highway Authority are drawn to the applicant's attention in respect of highway works required under the Highways Acts.
6. The applicant's attention is drawn to the need to eradicate Japanese Knotweed from the site.

21. Background papers

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

- The Local and National Planning policies outlined in the report above
- Papers on the Planning Application file reference: P/2017/00354

22. Human Rights Act 1998

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

23. Crime and Disorder Implications

23.1 It is considered that the proposal does not raise any crime and disorder implications. It is pointed out that the applicants have addressed the comments of the Police Architectural Liaison Officer in their most recent site layout.

24. Equalities Act 2010

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

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