

**SOUTH STAFFORDSHIRE COUNCIL**

**CABINET – 16.05. 2017**

**REPORT FOR IMPORTANT ACTION**

**PLANNING OFFICER : Sarah Plant**

**LEAD CABINET MEMBER – Cllr Bob McCardle**

**PART A – SUMMARY REPORT**

**1. SUMMARY OF PROPOSALS**

1.1 The Planning Committee is asked to approve an extension of time for the completion of the Section 106 Agreements to allow the following planning application to be approved:

- 16/00487/OUT - Hobnock Road, Essington

1.2 This report is brought to the Committee of 16<sup>th</sup> May 2017 as important business with the approval of the Chairman of Planning Committee, in accordance with the Council's Constitution Part 4 Section 1 Rule 24 (c), in order to avoid the application being refused automatically which without Committee approval would need to happen.

**2. RECOMMENDATIONS**

- 2.1 Delegate APPROVAL to the Team Leader of Major Applications and Appeals to issue the decision on completion of a satisfactory Section 106 agreement. Should this not be completed by 20th June 2017, the application will be refused.
- 2.2 Proposed recommendation (extension of time): If the Section 106 Agreement is not completed by 20/06/17, then refuse the application on grounds of affordable housing, open space and education contribution.

**3. SUMMARY IMPACT ASSESSMENT**

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	No	
	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Not applicable
SCRUTINY POWERS APPLICABLE	Not applicable	
KEY DECISION	To allow a further extension of time agreement for completion of legal document	
TARGET COMPLETION/ DELIVERY DATE	20/06/2017	
FINANCIAL IMPACT	No	No financial implications on this Council.

LEGAL ISSUES	Yes	Completion of Section 106 Agreement
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	All matters relative to risk have been considered and no risks to the Council arise from the recommendations in this report.
IMPACT ON SPECIFIC WARDS	No	

## PART B – ADDITIONAL INFORMATION

### 4. INFORMATION

4.1 The planning applications were reported to Planning Committee on 21<sup>st</sup> March 2017. The committee resolved to approve the applications subject to the completion of a Section 106 Agreement to provide:

- educational contribution
- open spaces contribution
- 40% affordable housing
- play facilities contribution

The deadline set for completion was: 16<sup>th</sup> May 2017.

4.2 The Section 106 Agreement has gone beyond its original date for various reasons.

4.3 The applicants have requested that an additional 5 weeks (to 16<sup>th</sup> May) to complete the Section 106 Agreement and allow the application to be approved. One of County Councils solicitors have recently left the authority therefore the extension of time will allow for another officer (in their absence) to work through the agreement. To refuse the application at this stage will mean that the applicant will either have to resubmit the application and go through the application process again, or appeal the decision, which will result in further work and time to all parties.

4.4 The Council has an open extension of time agreement in place with the applicant that runs until the Section 106 Agreement is signed and completed. Therefore, by granting this request it would not impact upon our performance.

4.5 It is therefore requested that the period for the completion of the Section 106 Agreement on this application is extended until the 20/06/17, to allow the Agreement to be completed and the application to be approved.

4.6 The Council could refuse the application and the implications of this are set out in paragraph 3.3 above. This alternative is not recommended.

### 5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

5.1 Not applicable

### 6. PREVIOUS MINUTES

6.1 Not applicable

### 7. BACKGROUND PAPERS

7.1 16/00487/OUT– application details, comments received officer report and recommendation.

Report prepared by: Sarah Plant  
Team Leader (Major applications and appeals)

## **APPENDIX A**

16/00487/OUT

Mr Spencer Claye

Cllr D Clift & Cllr P Lever  
ESSINGTON

### **Land On The South East Side Of Hobnock Road Essington South Staffordshire**

**The erection of approximately 210 dwellings with ancillary parking and private amenity space; a convenience store to serve existing and future residents; additional parking to serve St John's Primary School; Allotments for use by the wider community; site infrastructure and landscaping.**

#### 1. SITE DESCRIPTION AND PLANNING HISTORY

##### 1.1 Site Description

1.1.1 The site extends to some 9 hectares and is an area of land designated as Safeguarded Land in the adopted Core Strategy. Currently the land is used for the grazing of animals. There is residential development to the south and west, with St John's Church of England Primary School and Essington Community Centre to the west and the M54 to the north. A small children's play area is adjacent to the north-western corner of the site.

1.1.2 The topography of the site gently rises towards the south-eastern corner of the site, continuing towards a grassed mound which conceals the M54 further east.

1.1.3 There are two Public Footpath's [No's 7 and 8 Essington] which run within the application site and No 9 which runs just outside the northern edge of the site.

1.1.4 The boundaries of the site comprises of hedgerows with intermittent trees and woodland planting to the south eastern boundary which separates the site from the existing housing off Ferndale Road and Rowan Drive.

##### 1.2 Planning History

1.2.1 There is no planning history for the application site.

##### 1.3 Pre-application Advice

1.3.1 No formal pre-application has been submitted; however informal discussions have taken place with the Local Plans Team.

#### 2. APPLICATION DETAILS

##### 2.1 The Proposal

2.1.1 The application is in outline form with all matters reserved except for access. The proposal is for approximately 210 dwellings with ancillary parking and private amenity space; a convenience store to serve existing and future residents; additional parking to serve St John's Primary School; Allotments for use by the wider community; site infrastructure and landscaping. A new singular vehicle access will be created onto Hobnock Road to serve the development.

2.1.2 An indicative layout appraisal (110 C) has been provided which demonstrates how such a proposal could work. It should be noted that as the application is in outline with access only, this plan showing the layout of the scheme can be subject to change in any future Reserved Matters application. Therefore, the amount of dwellings may change or the layout, proposed landscaping etc.

## 2.2 Agents Submission

The application is accompanied by:

- Planning Statement
- Design and Access Statement
- Phase 1 Ecological Appraisal
- Flood Risk Assessment
- Utilities Report
- Transport Assessment
- Residential Travel Plan
- Noise Assessment
- Air Quality Assessment
- Landscape Appraisal
- Topographical Survey
- Site Waste Management Plan
- Affordable Housing Statement
- Lifetime Home Standard Report
- Public Consultation Statement
- Head of Terms Section 106 Obligations

## 2.3 Environmental Impact Assessment

2.3.1 A scoping opinion has been submitted to the Council and it was concluded that an EIA assessment was not required for the application.

## 3. POLICY CONTEXT

3.1 The site has safeguarded land status as defined in the Council's Core Strategy (2012).

### 3.2 Core Strategy

National Policy 1 - The Presumption in Favour of Sustainable Development  
Core Policy 1 - The Spatial Strategy for South Staffordshire  
Core Policy 2 - Protecting and Enhancing the Natural and Historic Environment  
Core Policy 6 - Housing Delivery  
Policy GB2 - Land Safeguarded for Longer Term Needs  
Policy EQ1 - Protecting, Enhancing and Expanding Natural Assets  
Policy EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape  
Policy EQ9 - Protecting Residential Amenity  
Policy EQ13 - Development Contributions  
Policy H2 - Provision of Affordable Housing  
Policy H4 - Delivering Affordable Housing  
Policy EV11 - Sustainable Travel  
Policy EV12 - Parking Provision  
Appendix 6: Space about Dwelling Standards

### 3.3 National Planning Policy Framework

### 3.4 Emerging Site Allocations Document

### 3.5 Local Plan 1996

## 4. CONSULTATION RESPONSES

### 4.1 Comments received

4.1.1 Councillor Clift: Request for call in if the application is recommended for approval [received on the 13/06/16]

4.1.2 Parish Council: Objections contrary to South Staffs Council planning policy 2012-2028 [received on the 06/07/16]

4.1.3 School Organisation Team: In response to the above planning application the School Organisation team has the following comments:

This development falls within the catchments of St. John's CE9VC) Primary School, Essington and Cheslyn Hay Sport and Community High.

The development is scheduled to provide 210 dwellings. A development of this size could add 44 Primary School, 32 High School and 6 6th Form aged pupils.

The education contribution for a development of this size would be as follows;

44 Primary School places (44 x £11,031 = £485,364), 32 High School places (32 x £16,622 = £531,904) and 6 Sixth Form places (6 x £18,027 = £108,162). This gives a total Request of £1,125,430 for up to 210 dwellings.

The above comments are based on a development providing 210 dwellings. If the number of houses or total dwellings changes, or if a number of RSL properties are included, a revised contribution will be necessary.

The above contribution is based on the 2008/09 cost multipliers which are subject to change.

The above is based on current demographics; we would wish to be consulted on any further applications for this site [received on the 22/07/16].

4.1.4 Highways England: Recommend that conditions should be attached to any planning permission that may be granted -

Condition - Acoustic testing and provision of an effective mitigation strategy to bring noise impact from the adjacent motorway in compliance with statutory thresholds is required to be approved by the local planning authority in conjunction with Highways England in accordance with the requirements of DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development.

Reason - In the interests of the amenity of the development [received on the 25/07/16].

4.1.5 County Highways: There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:-

1. The development hereby permitted shall not be brought into use until the access to the site within the limits of the public highway has been completed.

2. The development hereby permitted shall not be brought into use until the visibility splays shown on drawing No.J32-2513-PS-003 have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

3. The development hereby permitted shall not be commenced until details of the following off-site highway works have been submitted to and approved in writing by the Local Planning Authority;

- Signalisation of Hobnock Road/Burnsips Road and associated works.
- New Pedestrian crossing and traffic calming measures.
- Revision of single yellow lines waiting order in Hobnock Road.

The off-site highway works shall thereafter be constructed in accordance with the approved details prior to the development being first brought into use.

4. The development hereby permitted shall not be commenced until an off-site traffic management scheme comprising of;

- Routing of Construction vehicles.
- Wheel washing facilities.
- Measures to remove any mud or other deleterious material deposited on the highway.
- Car parking facilities for staff and visitors.
- Timetable for implementation.

has been submitted to and approved in writing by the Local Planning Authority. The approved traffic management scheme shall thereafter be implemented prior to any works commencing on site.

Reasons.

1 - 4. In the interest of highway safety.

To comply with the principles set out in the National Planning Policy Framework.

Informatives for Decision Notice.

i). The condition requiring off-site highway works shall require a Major Works Agreement with Staffordshire County Council and the applicant is therefore requested to contact Staffordshire County Council in respect of securing the Agreement. The link below provides a further link to a Major Works Information Pack and an application Form for the Major Works Agreement. Please complete and send to the address indicated on the application Form which is Staffordshire County Council, Network Management Unit, Staffordshire Place 2, Tipping Street, Stafford. ST16 2DH (or email to [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk))  
<http://www.staffordshire.gov.uk/transport/staffshighways/licences/>

ii). This Form X is issued on the assumption that the developer enters into a Section 106 Agreement to secure the following:

- A Travel Plan monitoring fee of £6,430 [06/12/16]

4.1.6 Coal Authority: The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to ensure the safety and stability of the proposed development, this should also be conditioned to

ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

A condition should therefore require prior to the submission of the reserved matters:

- The submission of a scheme of intrusive site investigations for approval;
- The undertaking of the intrusive site investigations;
- As part of the reserved matters application the submission of a report of findings arising from the intrusive site investigations;
- As part of the reserved matters application the submission of a layout plan which identifies the location of the high wall if found to be present on the site;
- As part of the reserved matters application the submission of a scheme of remedial works for the shallow coal workings for approval; and

A condition should also require prior to the commencement of development:

- Implementation of those remedial works.

The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of a condition or conditions to secure the above [received on the 11/07/16].

4.1.7 Public Rights of Way Officer: The application documents recognise the existence of Public Footpath No's 7 and 8 Essington Parish which run within the application site and No 9 which runs just outside the northern edge of the site.

The attention of the developer should be drawn to the existence of the paths and 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. If either path does need diverting as part of these proposals the developer would need to apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence. The County Council will need to be formally consulted on the proposal to divert this footpath(s). The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the right of way or its closure or diversion. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09).

It is important that users of the path(s) are still able to exercise their public rights safely and that the path(s) is reinstated if any damage to the surface occurs as a result of the proposed development. We would ask that trees are not planted within 3 metres of the footpath unless the developer and any subsequent landowners are informed that the maintenance of the trees is their responsibility.

Please note that Rights of Way Circular 1/09 (section 7.8) recommends 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".

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 [received on the 12/07/16].

4.1.8 Historic Environment: I have reviewed the information available on the Staffordshire Historic Environment Record and can confirm that the site lies within an area of low archaeological potential. A review of the aerial photographs and historic

mapping, whilst also taking into account the potential impacts on the site from the construction of the adjacent M54, suggest that significant archaeological features are unlikely to be present within the development site. Consequently, I can confirm that I would raise no further archaeological concerns [received on the 29/06/16].

4.1.9 Police: Standard Advice for Secured by Design [received on the 06/07/16]

4.1.10 Fire: VEHICLE ACCESS - Appropriate supplies of water for fire fighting and vehicle access should be provided at the site, as indicated in Approved Document B Volume 1 requirement B5, section 11. I would remind you that the roads and drives upon which appliances would have to travel in order to proceed to within 45 metres of any point within the property, should be capable of withstanding the weight of a Staffordshire firefighting appliance (G.V.W. of 17800 Kg).

AUTOMATIC WATER SUPPRESSION SYSTEMS (SPRINKLERS) - I wish to draw to your attention Staffordshire Fire and Rescue Service's stance regarding sprinklers.

DOMESTIC SPRINKLERS - In the interest of preventing deaths and injuries from fires within domestic dwellings Staffordshire Fire and Rescue Service strongly recommend the provision of a sprinkler system to a relevant standard. Early consultation with the Fire Service when designing buildings which incorporate sprinklers may have a significant impact on reducing fire deaths and injuries in domestic premises and financial implications for all stakeholders [received on the 16/06/16].

4.1.11 Development and Waste Management Team: No comments received [expired 06/07/16]

4.1.12 Badger Group: Thank you for providing us with a copy of the ecological survey for this application, we are happy with the findings and recommendations and have no further comments to make [received on the 15/07/16]

4.1.13 Conservation Officer: Comments: Essington Community Centre which is Locally Listed is situated near to this site, approximately 25-30m away from its boundary.

While the setting of this non-designated heritage asset will be changed by this development this only has to be taken into account in the wider planning balance as per paragraph 135 of the NPPF.

The public benefits from the provision of this many dwellings and associated infrastructure would, in my opinion, outweigh any minor harm to the setting of the locally listed building [received on the 05/07/16].

4.1.14 Campaign to Protect Rural England: No comments received [expired 06/07/16]

4.1.15 Environment Agency: Having reviewed the information submitted, the Environment Agency has assessed this as having low environmental risk. Therefore, we have no comments to make [received on the 15/06/16].

4.1.16 Flood Risk Team: Thank you for consulting us on this planning application, our response is as follows:

Advice to LPA

The Flood Risk Assessment (Job No. MID4259 Report No. R.001, 12/04/2016), Drainage Strategy (Drawing No. MID4259-004 Rev B, Oct 2016) and information subsequently submitted to the LPA demonstrate that an acceptable drainage design could be achieved within the proposed development.

The detailed drainage design should be in accordance with the drainage strategy and design parameters established in the submitted documents.

Some additional work will be required at the detailed design stage prior to final approval. Specifically no discharge should be permitted to the south of the site unless it can be demonstrated that the proposed route of discharge to the south has sufficient capacity, condition and connectivity to convey the flows without increasing the flood risk to others. If this proves not to be feasible then the consultant working on behalf of the applicant has confirmed that the whole site could drain to the northern outfall with the provision of additional attenuation.

Potential for surface water flooding on Hobnock Road at the site entrance should be further investigated. Potential improvements and emergency access should be investigated and provided where necessary.

The detailed SuDS design will need to be developed alongside the site layout and in accordance with the CIRIA SuDS Manual and Staffordshire County Council SuDS Handbook.

We would therefore recommend that the condition below should be attached to any planning permission.

We ask to be consulted on the details submitted for approval to your Authority to discharge this condition and on any subsequent amendments/alterations. Please also consult us again on any future major changes to the proposed development or drainage scheme.

#### Staffordshire County Council Flood Risk Management position

The proposed development will only be acceptable if the following measures are incorporated in an acceptable surface water drainage scheme, to be secured by way of a planning condition on any planning permission.

#### Condition

No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority.

The scheme must be based on the design parameters and proposed strategy set out in the Flood Risk Assessment (Job No. MID4259 Report No. R.001, 12/04/2016), Drainage Strategy (Drawing No. MID4259-004 Rev B, Oct 2016) and information subsequently submitted to the LPA.

The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- o Surface water drainage system(s) designed in accordance with the Non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).
- o No discharge should be permitted to the south of the site unless it can be demonstrated that the proposed route of discharge to the south has sufficient capacity, condition and connectivity to convey the flows without increasing the flood risk to others.
- o SuDS management train to provide adequate water quality treatment in accordance with the Simple Index Approach (CIRIA SuDS Manual).
- o Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to 15.8l/s at the north outfall, and 5.0l/s to the south outfall (if applicable).
- o Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. 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.
- o Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.

- o Potential for surface water flooding on Hobnock Road at the site entrance to be further investigated. Potential improvements and emergency access should be investigated and provided where necessary.
- o Provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development. This should include a schedule of required maintenance activities and frequencies, and contact details for the organisation responsible for carrying out these duties.
- o Finished floor levels to be set at a minimum of 150mm above existing ground levels.

Reason

To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site [14/12/16]

4.1.17 Environmental Health: No comments received [expired on the 06/07/16]

4.1.18 Arboricultural Officer: No comments received [expired on the 06/07/16]

4.1.19 Staffordshire Wildlife: No comments received [expired on the 06/07/16]

4.1.20 Natural England: No objections [received on the 29/07/16]

4.1.21 National Grid: No comments received [expired on the 06/07/16]

4.1.22 Network Rail: Network rail has no comments [received on the 15/06/16]

4.1.23 Open Spaces Society: No comments received [expired on the 06/07/16]

4.1.24 Ramblers Association: There are two public rights of way which bisect the site, both are footpaths no 7 and no 8 of Essington parish. Should this application receive planning permission from the district council then I need to have assurances from the applicant on how exactly these rights of way will be accommodated within the development. It is most important that the footpaths are respected and retained for continued use by the public with appropriate landscaping [received on the 04/07/16]

4.1.25 Severn Trent Water: No objections subject to conditions

1. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority.
2. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.
3. We do advise that there may be a public sewer located within the application site and encourage the applicant to investigate this. Please note that public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. If there are sewers which will come into close proximity of the works, the applicant is advised to contact Severn Trent Water to discuss the proposals and we will seek to assist with obtaining a solution which protects both the public sewer and the building.
4. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. In many cases under

the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval [received 23/06/16]

4.1.26 Local Plans: The application is in outline for the redevelopment of land adjoining Essington Development boundary. All matters are reserved except for access; however in addition to an indicative capacity of 210 dwellings, site infrastructure and landscaping, reference is also made to a convenience store, parking, and allotments.

The site is 9.04 ha in extent and is an area of land designated as Safeguarded Land in the adopted Local Plan (Core Strategy). There is residential development to the south and east, with St John's Church of England Primary School and Essington Community Centre to the west and the M54 to the north.

Essington is classified as a Local Service Village in the settlement hierarchy in Core Policy 1 of the Core Strategy and is one of 7 villages identified for limited growth up to 2028.

#### NPPF and PPG

The National Planning Policy Framework (NPPF) is based on a presumption in favour of sustainable development when assessing and determining proposals. One of the aims of NPPF is 'to boost significantly the supply of housing' in a sustainable way and to 'encourage and not act as an impediment to sustainable growth'.

To achieve this, paragraph 47 of the NPPF requires the Council to "identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements...". It is also clear that the Core Strategy must meet "the full objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework...".

Further guidance as to how this operates is offered in paragraph 30 of the Planning Practice Guidance's (PPG) 'Housing land and economic availability assessment' section. This indicates that up-to-date plan targets should be the starting point for measuring five year supply, but that "evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs". Furthermore, it indicates that if Local Plan housing requirements are out-dated, "information provided in the latest full assessment of housing needs should be considered", albeit that the weight given to these should reflect their untested and unmoderated nature.

#### The Council's 5 Year Housing Land Supply

The Council's adopted Core Strategy is based upon a housing requirement of 175 dwellings per annum, which derives from the West Midlands Regional Spatial Strategy (WMRSS) Phase Two Revision Panel Report. As indicated by the PPG section quoted above, this may well not adequately reflect current needs. Furthermore, paragraph 19 of Solihull v. Gallagher case quoted by the applicants at paragraph 5.18 of their Planning Statement indicates that the Court of Appeal did not consider a housing requirement deriving from the WMRSS Phase 2 Revision to be an OAN for the purposes of the NPPF. Consequentially, Whilst 5 years' worth of housing supply can be demonstrated against the Core Strategy housing requirement, and as at 31st March 2016 the Council had oversupplied its target by 700 dwellings, this requirement figure is not based upon an assessment of the full objectively assessed needs of the housing market area, as required by NPPF paragraph 47. Therefore, with regard to the PPG and NPPF, it cannot be considered an up-to-date housing requirement for the purposes of measuring housing supply. As a result, the Council is unable to robustly demonstrate a 5 year supply of housing land to meet the requirements of paragraph 47 of the NPPF.

#### Safeguarded Land

The site is designated in the adopted Core Strategy as Safeguarded Land and para 85 of NPPF is clear that:

'... safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following a Local Plan review which proposes the development'.

This site was part of a larger site removed from the Green Belt under policy GB4/5 in the 1996 South Staffordshire Local Plan as safeguarded land (formerly 'White Land') to meet longer term development needs post 2001, prior to the adoption of the settlement hierarchy in the Core Strategy. It has remained as safeguarded land since that time and a new Policy GB2: Land Safeguarded for Longer Term Needs in the adopted Core Strategy confirms that the land would be considered for future development in the Council's Site Allocations document. In line with the NPPF, Policy GB2 (c) of the CS is clear that development prior to allocation in the SAD will be regarded as a departure from the plan.

As the Council is unable to robustly demonstrate a 5 year supply of housing land to meet the requirements of paragraph 47 of the NPPF, paragraph 49 of the NPPF indicates that relevant policies for the supply of housing should not be considered up-to-date when considering housing applications, and that such applications should be considered in the context of the presumption in favour of sustainable development. The lack of a 5 year housing supply immediately engages paragraph 14 of the NPPF as a consequence. Paragraph 14 of NPPF is the golden thread of sustainable development that runs through the NPPF. In the case of this application for 210 dwellings in Essington, it is necessary to show whether any adverse impacts of granting planning permission would 'significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole or, specific policies in the Framework indicate development should be restricted' [NPPF Para 14]. Furthermore, an out-of-date Core Strategy policy should not be automatically disregarded given its statutory status of the as part of the Development Plan. Therefore, bearing in mind that the NPPF is an important material consideration, the statutory requirements of the Development Plan must be balanced against other material considerations to arrive at a balance for or against the grant of planning permission.

As clarified by a recent Court of Appeal judgement , this implies that any relevant Core Strategy policies affecting the supply of housing by restricting the locations where new housing may be developed are likely to be "not up-to-date". In the view of the Local Plans team this includes Policy GB2 and the apportionment of housing numbers and scale of planned housing growth contained in CP1 and CP6 of the Core Strategy, the purpose of which is to restrict development in certain villages and on safeguarded land until a review of the Local Plan. However, as indicated above, this does not imply that Policy GB2, CP1 or CP6 should be disregarded in determining the application in question, and it is up to the decision maker to decide how much weight can be given to the policy in the planning balance of this specific application.

#### South Staffordshire Local Plan

The South Staffordshire Core Strategy has a clear spatial strategy which includes the fundamental aims of protecting the Green Belt, delivering sustainable development to meet local needs and recognising the balance of rural/urban regeneration. Apportionment of housing numbers in CP6 is based on a 90:10 ratio (Main/Local Service Villages). Essington has a housing target in Policy CP6 Housing Delivery, of a minimum of 23 dwellings up to 2028. The total housing delivery proposed through CP6 for all Local Service Villages is 172 dwellings.

The settlement hierarchy set out in Policy CP1 of the Core Strategy identifies Essington as a Local Service Village where limited development is supported where it meets local needs. This is based upon a strategy of locating growth at the most sustainable and

accessible locations within the District. The settlement hierarchy also informs the housing numbers contained in CP6. The scale of housing development proposed of 210 dwellings exceeds that required in Policy CP6 for Essington by over 800%, and amounts to almost the entire allocation for Locality 3 of 226 dwellings. This is contrary to the spatial strategy set out in the adopted Core Strategy and risks distorting the spatial strategy for sustainable development, resulting in a disproportionate amount of growth being located in a Local Service Village with a more limited range of essential community facilities. It is also 18% higher than the entire allocation for all Local Service villages districtwide.

Whilst the relevant parts of policies CP1 and CP6 are not up-to-date due to the lack of a 5 year housing land supply, they should not be disregarded in the planning balance. One of the purposes of policies CP1 and CP6 is to ensure that the scale of housing growth in a village should be proportionate to how sustainable and accessible it is as a location. It is the view of Local Plans that this underpinning purpose should still carry weight in the planning balance, particularly given the application's degree of divergence from the spatial strategy.

Emerging Site Allocations Document (SAD)

The Council is preparing its SAD which will identify sites to meet the housing targets in the villages set out in Policy H6. Three public consultations were held in 2014 on the Issues and Options of those sites with housing potential which accorded with the spatial strategy. In 2014 permission was allowed on appeal for a small area of safeguarded land in Essington, adjacent to the application site, for 28 dwellings. The Inspector considered that the scale of the development would not prejudice the emerging SAD. It is considered therefore that the housing requirement for Essington has been exceeded/met. This approach was consulted on at the Council's Site Allocations document (SAD) Issues and Options stage in 2014 and agreed by Members. There were two residents in support of safeguarding the land to a future review of the plan; and one from First City proposing the site be allocated through the SAD. At Preferred Options stage, which stated that there was no requirement for an allocation at Essington in the SAD, there were no representations from residents or the site promoters.

The Publication SAD will identify Safeguarded Land for the next plan period in line with the specific requirements in the Core Strategy. As the application site is not proposed to be allocated for development in this plan period, it forms an important component of the Safeguard Land needed to meet the CS requirement. If development is permitted now, in advance of a review of the plan, an additional 10ha of Green Belt land elsewhere in the District would need to be identified to make up the deficit.

It is anticipated a Publication SAD will be consulted on in January 2017 with submission following in mid-2017.

The Council does not consider the Site Allocations Document to be the appropriate point at which to revise the housing target established in the Core Strategy. The Site Allocations Document is seeking to deliver the Core Strategy and Policy SAD1: Local Plan Review offers certainty that this matter will be addressed when the Core Strategy is reviewed. Therefore, it would be inappropriate to revise the District's housing target within the Site Allocations Document, the scope of which is simply to give effect to the existing adopted policies in the Core Strategy.

Housing Mix and Tenure

Core Strategy policy H1 requires a wide choice of new homes and an appropriate mix of tenure and types of dwellings to meet the demographic needs of the District. Policy H2 of the adopted Core Strategy seeks the provision of affordable housing and a greenfield site of this size would be required to provide 40% on site affordable housing, split 50:50 between social rented and shared ownership.

As this is an outline application the final housing mix and tenure will be considered as part of a future reserved matters permission; however it is considered that a commitment to 40% affordable housing onsite should be secured by a Section 106 Agreement.

#### Supporting Information - Planning Statement/Affordable Housing Statement

Whilst the application is in outline with all matters reserved save for access, the applicant relies heavily on detailed information as part of the planning and affordable housing statements in support of the application.

At paragraph 3.2 it is stated that a pre-application development meeting took place with Planning Officers and at paragraph 3.3 that there was 'support shown by the Council of the development of the whole site in accordance with this proposal'. This is not the case. A meeting took place with Local Plans officers to discuss promotion of the site through the Site Allocations work where the applicants were advised that the site was not proposed to be taken forward through the SAD.

There are various references to the scheme providing 2, 3, and 4 bedroom dwellings, including market and affordable housing. However, this is an outline application, with housing mix and tenure to be agreed through a reserved matters permission. In the applicant's Affordable Housing Statement at paragraph 3.5 the applicant states that 'the eventual developer may choose to design their own layout and use their own house types to carry out the scheme'. Equally, paragraph 4.7 stating that the affordable housing dwelling mix 'will include both 2 and 4 bedroom properties' will not be secured through an outline application.

The assertion at paragraph 6.27 of the planning statement that the proposed development is 'in accordance with the housing related policies set out in the Core Strategy' is at odds with paragraph 6.25 which states that the target of 40% affordable housing is 'hoped' for. Also paragraph 2.14 of the Affordable Housing Statement which says that the 'quantity, scale, design, type and tenure ... will be determined at reserved matters stage'.

It would appear that great reliance is placed up matters of detail which do not form part of this outline application and the weight accorded to them should be limited.

In principle, the provision of open space, allotments, school parking and a convenience store on a site of this size would be supported. Again, this detail will only be fully considered at reserved matters stage.

#### LOCAL PLANS TEAM CONCLUSION

The application is in outline with all matters reserved except access. In principle, a mixed use development to provide public open space, allotments, convenience store, and school car parking would be supported on a site of this size.

However, the scale of the proposal would have a significant impact on the adopted spatial strategy for South Staffordshire and is contrary to CP1, GB2, and CP6. It is considered that the housing allocation for Essington has already been met on land adjacent to the proposed site and which was allowed on appeal. This proposal is of a significant scale, some 800% greater than the requirement for Essington in CP6; and greater than the sum of the requirements for all Local Service Villages across the District. Therefore, this application risks a disproportionate amount of housing growth being located in a Local Service Village with a more limited range of essential community facilities.

It is not considered that a Local Service village is an appropriate location to meet part any emerging wider HMA shortfall; given that the scale and nature of South Staffordshire's contribution to the shortfall has yet to be determined or agreed. Indeed, the demographic need for new housing (and shortfalls) identified in a HMA Strategic Housing Need Study is being recalculated in light of more up to date information. Whilst the council can demonstrate a 5 year supply against the Core Strategy target of 175 dwellings per annum, and has exceeded that target by 700 dwellings to date, it is not able to demonstrate a 5 year housing land supply to meet the requirements of the NPPF/PPG.

The reliance by the applicants on detailed housing mix/tenure in support of the application should be given limited weight as this will form part of a subsequent reserved matters permission [received on the 28/10/16].

4.1.27 Housing Team: Affordable Housing - Policy H2 requires that developments of 5 or more dwellings in Local Service Villages provide an affordable housing contribution. On sites of 10 or more dwellings, this will be equivalent to 40% on greenfield land. The applicant has merely stated that an "apportionment" of affordable housing will be provided. In order to comply with Policy H2, this proposal must provide a minimum of 40%, and this will be secured through a Section 106 agreement.

Housing Mix- As the application is in outline, no detailed information has been provided on housing mix. Policy H1 encourages the provision of more 2 and 3 bedroom homes across all market areas of the district in order to produce a better balanced housing market. Mix should also be informed by local need. In terms of market housing, the current Housing Market Assessment indicates a shortfall in Essington of 2, 3 and 4+ bedroom homes, followed by a small need for 1 bedroom properties. In relation to affordable homes, the main need is for 3 bedroom units. A new Housing Market Assessment is currently being carried out however, which will refresh information on local housing need. The housing mix detailed at reserved matters stage will need to reflect the findings of this assessment in order to comply with Policy H1 and demonstrate that the development will make a contribution to meeting local need [received on the 27/07/16].

4.1.28 Ecology: The National Planning Policy Framework s.109 states: "The planning system should contribute to and enhance the natural and local environment ...by minimising impacts on biodiversity and providing net gains in biodiversity where possible. s.118 states that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle: if significant harm 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, then planning permission should be refused.

In accordance with this, the South Staffordshire adopted Local Plan Core Strategy policy EQ1: Protecting, Enhancing and Expanding Natural Assets states that permission will be granted for development that would not cause significant harm to species that are protected or under threat and that wherever possible, development proposals should build in biodiversity by incorporating ecologically sensitive design and features for biodiversity within the development scheme. The site is of low existing ecological value while the Appraisal Layout Plan provides potential for biodiversity enhancement through habitat creation.

The Conservation of Habitats and Species Regulations 2010 and the Wildlife and Countryside Act 1981 (as amended); along with the Protection of Badgers Act 1992, provide the main legislative framework for protection of species. In addition to planning policy requirements, the LPA needs to be assured that this legislation will not be contravened due to planning consent. In addition to these provisions, section 40 of the Natural Environment and Rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the

purpose of conserving biodiversity. Section 41 refers to a list of habitats and species of principal importance to which this duty applies. There are no important habitat or species issues, providing standard protective measures are applied.

Natural England Standing Advice which has the same status as a statutory planning response states that survey reports and mitigation plans are required for development projects that could affect protected species, as part of obtaining planning permission. Unless removal of mature trees is proposed no further surveys are needed.

#### - Assessment of Submitted Documents and Plans

The Preliminary Ecological Appraisal identifies the hedgerows and associated trees as the key ecological features on the site. Not all of these appear to be shown on the survey plan though they are described in report text. The hedgerow with trees along Hobnock Road that will be affected by the proposed access is not shown on the plan, nor are the boundary trees and shrubs on the south-east side of the site.

The Preliminary Ecological Appraisal appears sound and shows that the site does not support important habitats and that interest for species is likely to be restricted to hedgerows and trees. Therefore impacts of this proposed development on ecology are considered to be minor, provided that recommended mitigation found in s.6.0 are included in the scheme. This can be achieved by condition.

Removal of the central hedgerow is shown on the appraisal layout drawing though layout would allow retention of most of this. Retention is recommended. Should hedgerow removal be proposed mitigation in the form of replacement planting would be required. As hedgerows that become residential property boundaries are no longer subject to Hedgerows Regulations protection, replacement planting for such lengths would also be required.

The Appraisal Layout Drawing 110 Rev C shows a good greenspace infrastructure. Allowance of space for mature trees as avenue type planting is welcomed as many new residential developments do not allow space for large trees.

There should be potential for habitat creation within the eastern buffer to the motorway, such as broad-leaved woodland and wildflower meadow and for wildlife friendly attenuation basin design. Complementary small scale drainage features are recommended, as suggested in section 6.0 of the Flood Risk Assessment, to provide capacity complementary to the proposed attenuation basin.

#### - Recommendations

Development should take place in accordance with the recommendations in s.6.0 of the Preliminary Ecological Appraisal August 2015. A condition is recommended requiring reserved matters applications to be in accordance with these recommendations. Should tree or hedgerow removal be proposed replacement planting should be included in the scheme.

A condition is recommended requiring development layout to be in accordance with the Appraisal Layout Plan Drawing 110 Rev C.

Inclusion of wildlife habitat planting is recommended within the eastern greenspace to include wildlife-friendly design of the proposed SuDS basin. Broad-leaved woodland fringed by wildflower meadow would be appropriate for this site.

A condition is recommended requiring survey for bats should felling of any mature trees be proposed.

Overall, should these conditions be applied and implemented, there is potential for this proposed development to deliver ecological enhancement [07/07/16]

4.1.29 Neighbours: 40 letters have been received which have commented on the following:

- Contrary to Local Plan/Essington Housing Development Policy/ Quota already met/Overdevelopment
- Impact on local infrastructure - roads/schools/doctors/drainage etc.
- Increase in traffic and pollution
- Density of the proposal
- Loss of natural environment / impact on local wildlife
- Impact on Rights of Way
- Loss of privacy, loss of light and overlooking / change in outlook / loss of views/ light and noise pollution
- No need for further allotments / Spare allotments already available within village
- Extra parking spaces for the school are already available on Willenhall Rugby Club on Bognop Road [comments received between July and August 2016]

4.1.30 A total of 6 site notices was posted on the 15th of June [one in each adjoining street and along Hobnock Road] and expired on the 6th of July 2016.

4.1.31 An advert was published on the 21st of June and expired on the 12th of July 2016.

## 5. APPRAISAL

5.1 The application has been referred to planning committee due to a director call in.

### 5.2 Key Issues

- Principle of development
- Material Considerations
  - 5 Year Housing Supply and Objectively Assessed Need [OAN]
  - Greater Birmingham Housing Market Area (GBHMA)
  - Sustainability
  - Economic and Social Benefits
- Planning Obligations
- Housing Mix
- Landscape
- Flood Risk
- Ecology
- Impact on neighbours
- Coal Mining
- Impact on the Cannock Chase SAC
- Highways/access
- Representations/Other Matters

### 5.3 Principle of development

5.3.1 Core Policy 1 of the Local Plan classifies Essington as a local service village where limited development will be supported where it meets local needs, whilst recognising the constraints that impact upon the district.

5.3.2 In the current plan period the allocation for Essington [23 houses] has been met through the development of Bellway [land off Elmwood Avenue] which saw the development of 28 houses and associated development which was allowed on appeal [11/00929/FUL].

5.3.3 The land subject to this application was taken out from the Green Belt and designated as White Land in the 1996 adopted plan. The area of land has been set aside for housing development to meet future housing needs within South Staffordshire. The

land is still safeguarded under Local Plan Policy GB2 of the adopted Core Strategy. Under this policy any development into this land would be considered to be premature as it is safeguarded until such time as it is allocated through the plan led process, in this case forthcoming the Site Allocations DPD.

5.3.4 For the development to be considered for approval material planning considerations need to exist to justify the departure from policy GB2 of the adopted Core Strategy which carries significant weight in the planning balance.

#### 5.4 Material Considerations

5.4.1 The agent's main case rests around the Council's 5 Year Housing supply/Objectively Assessed Need [OAN], the Black Country's Housing Shortfall [GBHMA] and the sustainability of the site.

- 5 Year Housing Supply and Objectively Assessed Need [OAN]

5.4.2 The Council's adopted Core Strategy is based upon a housing requirement of 175 dwellings per annum, which derives from the West Midlands Regional Spatial Strategy (WMRSS) Phase Two Revision Panel Report. The WMRSS fundamental aim was to stem out-migration from the Major Urban Areas (MUAs) of the West Midlands. Essington is a village that is situated close to the boundary of the Black Country MUA and accordingly housing policies in the subsequently adopted CS for South Staffordshire sought to restrict the growth of the village of Essington. The RSS has now been abandoned as a policy document and is not material to the determination of planning applications today and the National Planning Policy Guidance [NPPG] indicates that housing numbers derived from an RSS base may well not adequately reflect current needs. Whilst 5 years' worth of housing supply can be demonstrated against the Core Strategy housing requirement this requirement figure is not based upon an assessment of the full objectively assessed needs of the housing market area, as required by NPPF paragraph 47. Therefore, with regard to the NPPG and NPPF, this cannot be considered an up-to-date housing requirement for the purposes of measuring housing supply. As a result, the Council is unable to robustly demonstrate a 5 year supply of housing land to meet the requirements of paragraph 47 of the NPPF.

5.4.3 In these circumstances the lack of a 5 year housing supply immediately engages paragraph 49 of the NPPF which indicates policies for the supply of housing cannot be considered as up-to-date when considering housing applications. Paragraph 14 of the Framework advises that planning permission should be granted unless any adverse impact of so doing would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted.

5.4.3 Whilst the Core Strategy housing supply policy is considered to be 'out of date' it should not be automatically disregarded given its statutory status as part of the Development Plan. Therefore, bearing in mind that the NPPF is an important material consideration, the statutory requirements of the Development Plan must be balanced against other material considerations to arrive at a balance for or against the grant of planning permission.

- Greater Birmingham Housing Market Area (GBHMA)

5.4.4 There is a primary Housing Market Area (HMA) comprising Birmingham, the Black Country and nine neighbouring local authorities as defined in the Peter Brett Strategic Housing Needs Study (SHNS) - commissioned by the Greater Birmingham & Solihull LEP and the four Black Country Authorities. South Staffordshire Council is one of the nine local authorities within the HMA - together with Cannock Chase, Lichfield, Tamworth, North Warwickshire, Stratford-on-Avon, Solihull, Bromsgrove and Redditch.

5.4.5 The SHNS by Peter Brett Associates (PBA) [Stage 3 Report - September 2015] identified a demographic need of 207,100 additional homes across the GBHMA between 2011 and 2031 with a shortfall in supply of 37,572 homes (18% of total need). The GBHMA shortfall is being recalculated in the light of more up to date information. For this reason, the distribution of the unmet housing need across the HMA is yet to be agreed.

5.4.6 In his Final Report the Inspector who has examined the Birmingham Plan 2011-2031 requires Birmingham City Council (BCC) to monitor the progress of neighbouring authorities across the GBHMA - in delivering new homes through their emerging local plans. In this regard the 14 authorities across the HAM are working towards a Memorandum of Understanding (MoU). In May 2016 the Government issues a Holding Direction that prevented Birmingham City Council from adopting their emerging Local Plan. However, the holding Direction was lifted by the Housing & Planning Minister Gavin Barwell MP on 24 November 2016. The Minister concluded that 'after careful consideration of the concerns raised [local MP concerned regarding removal of land from the Green Belt] we are satisfied that Birmingham City Council should be able to take further steps in connection with the adoption of the Plan and the Holding Direction is hereby withdrawn.' It is understood that Birmingham City Council now intend to adopt the Plan in January 2017.

- Sustainability

5.4.7 The NPPF is based on a presumption in favour of sustainable development when assessing and determining proposals. One of the aims of NPPF is 'to boost significantly the supply of housing' in a sustainable way and to 'encourage and not act as an impediment to sustainable growth'.

5.4.8 Essington is a Local Service Village within the Hierarchy of Settlements set out in Core Policy 1 (Spatial Strategy for South Staffordshire). The quantum of new housing development proposed in this application, 210 dwellings, is significantly larger than the numbers apportioned to Local Service Villages by Policy H6 (Housing Delivery) of the Core Strategy. The housing targets set out in the adopted Core Strategy are a minimum. Core Strategy Policy H6 does accept that higher numbers could be acceptable 'where there is a proven need for community facilities and where such housing proposals are supported by local communities'.

5.4.9 In this instance it is considered that the site is within a reasonably sustainable location as it is adjacent to the development boundary where community facilities are already established including public transport links.

- Economic and Social Benefits

5.4.10 Along with the housing development [both market and affordable] which will inevitably contribute to the Councils housing supply, the proposal also offers other community and social benefits. The applicant proposes; a convenience store, community allotments, additional parking for the Primary School, a £10,000 contribution to the nearby play facilities and dedication of 'The Knoll' to Essington Parish Council. The additional parking area for the users of St John's School would be a noteworthy benefit to the local community alleviating the nuisance and disturbance issues arising from a lack of off street parking in the local area, along with the provision of another convenience store and additional allotments.

5.4.11 Although this application is outline with all matters reserved except for access; it is possible to calculate the financial benefit that the development would create. Based on the estimate of 210 houses it is likely that the Council could expect £1.755 million from the New Homes Bonus Scheme [over a 6 year period] and an additional £21,000 each year in Council Tax.

5.4.12 This added together with the general economic benefits which result from large housing developments such as; the construction and fitting out of dwellings creating employment and general demand for materials with an increase in the spending power of the local economy, adds some weight in favour of the proposal.

## 5.5 Planning Obligations

5.5.1 Policy EQ13 states that contributions will be sought from developers where necessary to achieve sustainable development. Although the application is in outline form with all details reserved save for access, it is common practice to try and get the particulars that would require entering into a Section 106 Agreement secured at this stage. A heads of terms agreement has been provided which agrees to deliver the following:

- 40% of the development delivering affordable housing in accordance with Policy H2.
- An education contribution based on 126 Market Dwellings of £674,732 in line with the education team comments
- Allotments
- 300sqm convenience store
- School car park [no less than 30 spaces]
- £10,000 towards the provision of enhanced play facilities
- The village high point (The Knoll) located in the South Eastern corner of the site will be dedicated to Essington Parish Council

5.5.2 Trigger points have been included within the draft head of terms to ensure that the community benefits will be delivered on the site. In line with the County Highways request a travel plan monitoring fee of £6,430 will be added to any agreement. Discussions with regards to the management of the open space and the SUDS pond (within the site) are on-going, this is to ensure these areas are to be maintained appropriately.

## 5.6 Housing Mix

5.6.1 As the application is in outline, no detailed information has been provided on housing mix. Policy H1 encourages the provision of more 2 and 3 bedroom homes across all market areas of the district in order to produce a better balanced housing market. Mix should also be informed by local need. In terms of market housing, the current Housing Market Assessment indicates a shortfall in Essington of 2, 3 and 4+ bedroom homes, followed by a small need for 1 bedroom properties. In relation to affordable homes, the main need is for 3 bedroom units. Whilst securing an appropriate mix will be dealt with at the reserved matters stage, the applicant has initially confirmed the intention for a mix in accordance with policy H1.

## 5.7 Landscape

5.7.1 Policy EQ4 states that the rural character and local distinctiveness of the landscape should be maintained and where possible enhanced.

5.7.2 The application site is currently used for animal grazing and is predominately bound by mature hedgerows and trees. Relinquishing this land for development would alter its character from greenfield to residential. It therefore needs to be established whether the loss of the site would detrimentally impact upon the rural character and local distinctiveness of the area.

5.7.3 The application is accompanied by a landscape appraisal and an indicative masterplan which shows the existing boundary treatments being retained and reinforced with the two public rights of way through the site remaining unchanged.

5.7.4 The piece of land is situated between a housing development and the M6. The submitted document identifies the landscape character of the site in a poor condition, and that its value in terms of amenity and ecological value is low. Based on the indicative masterplan the document offers the following conclusions:

- The proposed landscape structure planting would be of an enormous benefit both to the amenity of the area and the environment. This landscape would more than compensate for the loss of poor grassland presently used for grazing.
- All of the existing Public Rights of Way are maintained and enhanced by the creation of green corridors thus allowing greater public and recreational benefit to both the existing and new residents.
- Once the structure planting is established there will be very little of the proposed development visible and the existence of the motorways will ensure that the Green Belt will remain protected from future development sprawl.

5.7.5 It is important to note that layout appraisal provided is for indicative purposes only and therefore the layout and design may change at the reserved matters stage. However based on the document provided I am satisfied that the site is capable of being developed without having an adverse impact on the landscape.

## 5.8 Flood Risk

5.8.1 The Environment Agency has confirmed that the site is of a low risk for flooding. The Flood Risk Assessment and Drainage Strategy demonstrate that an acceptable drainage design could be achieved within the proposed development.

5.8.2 A Flood Risk Assessment has been submitted and reviewed by the County Councils Flood Risk Team who raises no objections subject to a condition being included on any approval.

## 5.9 Ecology

5.9.1 The NPPF seeks to minimise impacts and provide gains in biodiversity. This is echoed within Policy EQ1 which states that permission will be granted for development that does not cause significant harm to sites or habitats of nature conservation.

5.9.2 As part of the application a Phase 1 Protected Species Survey has been submitted and reviewed by the principal Ecologist at Staffordshire County Council. The Ecologist has confirmed that the Preliminary Ecological Appraisal appears sound and shows that the site does not support important habitats and that interest for species is likely to be restricted to hedgerows and trees. Therefore impacts of this proposed development on ecology are considered to be minor subject to certain conditions being adhered to.

5.9.3 Whilst the ecologist has recommended that it is preferable for the layout to be conditioned as shown, given the potential land stability [coal mining risk] which has yet to be explored the layout may need to be changed at a later date, it is therefore not practicable to condition the layout at this stage given the nature of the proposal -outline application and the further work/surveys that would need to be carried out on site which would inform the final layout.

## 5.10 Impact on neighbours / future occupants

5.10.1 Policy EQ9 seeks to protect the amenity of nearby residents. As the details for layout and scale have not yet been provided it will be difficult to ascertain the impact of the proposal upon residential amenity in terms of loss of privacy, loss of light or overbearing impact; this will be looked at further at the Reserved Matters stage. I am

however comfortable that there is scope to provide approximately 210 dwellings on the site in compliance with the Councils recommended Space about dwelling Standards.

5.10.2 The principle of residential development adjacent to an established residential locale is an appropriate form of development as it would be a 'friendly neighbour'. Any noise or disturbance emitted is what one would expect from residential uses.

5.10.3 With regard to future occupants, the noise assessment accompanying the planning application includes a baseline survey and analysis of noise impact from the adjacent motorway. This concludes that noise thresholds will be exceeded for daytime external amenity areas over the majority of the site and night-time internal areas for part of the site closest to the motorway. Highways England has confirmed that mitigation will be required and have suggested the following condition:

'Acoustic testing and provision of an effective mitigation strategy to bring noise impact from the adjacent motorway in compliance with statutory thresholds is required to be approved by the local planning authority in conjunction with Highways England in accordance with the requirements of DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development'.

## 5.11 Coal Mining

5.11.1 A Coal Mining Risk Assessment Report has been submitted with the application which provides that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. Conditions have been recommended by the Coal Authority.

## 5.12 Impact on the Cannock Chase SAC

5.12.1 The application site lies outside of the 8km Zone of Influence for the Cannock Chase SAC where monetary contributions are required. As a result no developer contribution is required for the proposed development and significant effects upon the Cannock Chase SAC can be screened out.

## 5.13 Highways/access

5.13.1 Highways England are satisfied after the production of additional information that the developments impact on Junction 1 of the M54 is not considered to be significant and is unlikely to have a material effect on the operation of the Strategic Road Network.

5.13.2 Concerning the impact on the local road network, a revised transport impact assessment has been provided to the satisfaction of the highways department. The application proposes to upgrade the existing mini roundabout on Burnsips Road and Hobnock Road with a signalised junction. No concerns have been expressed by the highways officer subject to conditions being included on any approval which includes a traffic management scheme, new pedestrian crossing and traffic calming measures.

## 5.14 Representations/Other Matters

5.14.1 The majority of the comments raised by interested parties have been addressed in the main body of the report. The capacity at St John's Primary School has been assessed by the County Councils School Organisation Team and no objection to the application has been raised subject to a monetary mitigation payment. The comments received over loss of views from residential properties are not a material planning consideration.

## 6. CONCLUSIONS

6.1.1 Planning Legislation requires decision-takers to determine planning applications in accordance with the development plan unless material planning considerations indicate otherwise.

6.1.2 The Council is unable to demonstrate a 5 Year Supply of Housing Land. Accordingly, the policies in our adopted Core Strategy are now considered to be out-of-date. Therefore, our adopted policies that 'restrict' the supply of new housing will carry less weight in deciding the 'planning balance' in this application. The presumption in favour of sustainable development is the 'golden thread' that runs through the NPPF - and is expressed in Paragraph 14 of the document. Planning permission should be granted unless 'any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or, specific policies in this Framework indicate development should be restricted.'

6.1.3 Essington is a Local Service Village within the Hierarchy of Settlements set out in Core Policy 1 (Spatial Strategy for South Staffordshire). The quantum of new housing development proposed in this application, 210 dwellings, is significantly larger than the numbers apportioned to Local Service Villages by Policy H6 (Housing Delivery) of the Core Strategy. The housing targets set out in the adopted Core Strategy are a minimum. Core Strategy Policy H6 does accept that higher numbers could be acceptable 'where there is a proven need for community facilities and where such housing proposals are supported by local communities'. This application does propose new community facilities - a convenience store to serve existing and future residents, additional parking to serve St. Johns Primary School and allotments for use by the wider community. CS Policy GB 2 seeks to 'safeguard' land for longer term needs and will 'retain safeguarded land designation until a review of the Local Plan proposes development of those areas in whole or in part. Planning applications for permanent development prior to allocation in the Local Plan will be regarded as departures from the Local Plan.'

6.1.4 These adopted CS policies, set out above, now carry less weight in the 'planning balance' because of the lack of 5 Year Housing Land Supply in South Staffordshire (NPPF Paragraphs 47 & 49).

6.1.5 The Council's emerging Site Allocations Document (SAD) is at an early stage of preparation. It has yet to be submitted to the Secretary of State. Policy SAD 3 identifies 'safeguarded land' for longer term needs. The areas of 'safeguarded land' identified in the emerging SAD includes land at Hobnock Road, Essington (9ha). Little weight can be attached to the SAD in the determination of this planning application because the document has yet to be submitted to the Secretary of State.

6.1.6 The application site adjoins the village boundary of the Local Service Village of Essington. The land was removed from the Green Belt 20 years ago within the former South Staffordshire Local Plan 1996. Since then, the Regional Spatial Strategy (RSS), was a key policy document - whose fundamental aim was to stem out-migration from the Major Urban Areas (MUAs) of the West Midlands. Essington is a village that is situated close to the boundary of the Black Country MUA and accordingly housing policies in the subsequently adopted CS for South Staffordshire sought to restrict the growth of the village of Essington. The RSS has now been abandoned as a policy document and is not material to the determination of planning applications today. Essington is a sustainable location for new development.

6.1.7 Sustainable development is made up of social, economic and environmental factors (NPPF Para 14). Taking the NPPF as a whole, there are strong policies that support the delivery of new housing in sustainable locations. There is a key policy drive to 'boost significantly' the supply of housing (NPPF Para 47). This carries significant weight in the 'planning balance' of this application. Further weight is added because South Staffordshire is located in a Housing Market Area (HMA) that has an evidenced shortfall

in housing needs. A 2015 Strategic Housing Needs Study has identified a shortfall of 37,572 dwellings across the Greater Birmingham HMA for the period 2011-2031 - this geography includes South Staffordshire, the Black Country, Birmingham and 9 Shire Districts across Staffordshire, Warwickshire and Worcestershire.

6.1.8 Economic factors also add some weight in favour of the proposed development. The construction and fitting out of the dwellings would create employment and generate demand for materials. The increase in the population of Essington will boost the spending power of the local economy to some extent. There is also a convenience shop proposed as part of this application. Local financial considerations can be material planning consideration. The New Homes bonus as a result of this development is estimated at £1.755 million and this could be used by the Council on local services and facilities. All of these economic factors, when taken together, add some weight in favour of the development.

6.1.9 There are positive benefits in terms of environmental factors also. A well designed landscaping scheme of green infrastructure, together with allotments, can add to the character and appearance of the site, In addition, car parking for St Johns Primary School will relieve the nuisance and disturbance issues arising from lack of off street parking in the local area.

6.1.10 In the absence of significant harm to demonstrably outweigh the benefits highlighted in this conclusion above, planning permission should be granted for this sustainable development proposal.

## 7. RECOMMENDATION      APPROVE Subject to Section 106 Agreement

Delegate APPROVAL to the Team Leader of Major Applications and Appeals to issue the decision on completion of a satisfactory Section 106 agreement. Should this not be completed by 31st of March 2017, the application will be refused.

Subject to the following condition(s):

1. The development which this permission relates must be begun not later than whichever is the later of the following dates:
  - a. The expiration of three years from the date on which this permission is granted;
  - b. The expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. Before the development commences, and within 3 years of the date of this permission, full details of the following reserved matters shall be submitted to the Local Planning Authority:
  - a. The Layout - The way in which buildings, routes and open spaces are to be provided within the development and their relationship to buildings and spaces in the vicinity of the site;
  - b. The Scale - The height, width, length and overall appearance of each of the proposed buildings, including the proposed facing materials, and how they relate to their surroundings;
  - c. The Appearance - The aspects of a building or place which determine the visual impression it makes;
  - d. The Landscaping - The treatment of private and public space and the impact upon the site's amenity through the introduction of hard and soft landscaping.

3. The development shall be carried out in accordance with the approved drawings: GAL0154.03 and 110 Rev C.

4. This permission does not grant or imply consent to the details shown on the approved plan except for access, (because the details which were shown on the plan were for illustrative purposes only).

5. Acoustic testing and provision of an effective mitigation strategy to bring noise impact from the adjacent motorway in compliance with statutory thresholds is required to be approved by the local planning authority in conjunction with Highways England in accordance with the requirements of DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development.

6. The development hereby permitted shall not be brought into use until the access to the site within the limits of the public highway has been completed.

7. The development hereby permitted shall not be brought into use until the visibility splays shown on drawing No.J32-2513-PS-003 have been provided. The visibility splays shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

8. The development hereby permitted shall not be commenced until details of the following off-site highway works have been submitted to and approved in writing by the Local Planning Authority;

- Signalisation of Hobnock Road/Burnsips Road and associated works.
- New Pedestrian crossing and traffic calming measures.
- Revision of single yellow lines waiting order in Hobnock Road.

The off-site highway works shall thereafter be constructed in accordance with the approved details prior to the development being first brought into use.

9. The development hereby permitted shall not be commenced until an off-site traffic management scheme comprising of;

- Routing of Construction vehicles.
- Wheel washing facilities.
- Measures to remove any mud or other deleterious material deposited on the highway.
- Car parking facilities for staff and visitors.
- Timetable for implementation.

has been submitted to and approved in writing by the Local Planning Authority. The approved traffic management scheme shall thereafter be implemented prior to any works commencing on site.

10. Prior to the submission of a reserved matters application, the following details shall be submitted to the Local Planning Authority for approval:

- The submission for a scheme of intrusive site investigations for approval; and
- The undertaking of the intrusive site investigations

11. The reserved matters application shall include the submission of the following details for approval:

- A report of the findings arising from the intrusive site investigations;
- A layout plan which identifies the location of the high wall if found to be present on the site; and

- A scheme of remedial works for the shallow coal workings for approval

The implementation of any remedial works shall take place prior to the commencement of the development

12. The development shall take place in accordance with the recommendations in s.60 of the Preliminary Ecological Appraisal August 2015.

13. The development shall include the provision of a wildlife habitat planting which includes a wildlife friendly design of the proposed SUDS basin.

14. If any mature trees are to be felled within the development, a bat survey should be submitted to the Local Planning Authority for approval.

15. No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme must be based on the design parameters and proposed strategy set out in the Flood Risk Assessment (Job No. MID4259 Report No. R.001, 12/04/2016), Drainage Strategy (Drawing No. MID4259-004 Rev B, Oct 2016) and information subsequently submitted to the LPA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:

- Surface water drainage system(s) designed in accordance with the Non-statutory technical standards for sustainable drainage systems (DEFRA, March 2015).
- No discharge should be permitted to the south of the site unless it can be demonstrated that the proposed route of discharge to the south has sufficient capacity and connectivity to convey the flows without increasing the flood risk to others.
- SuDS management train to provide adequate water quality treatment in accordance with the Simple Index Approach (CIRIA SuDS Manual).
- Limiting the discharge rate generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to 15.8l/s at the north outfall, and 5.0l/s to the south outfall (if applicable).
- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. 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.
- Potential for surface water flooding on Hobnock Road at the site entrance to be further investigated. Potential improvements and emergency access should be investigated and provided where necessary.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure continued performance of the system for the lifetime of the development. This should include a schedule of required maintenance activities and frequencies, and contact details for the organisation responsible for carrying out these duties.
- Finished floor levels to be set at a minimum of 150mm above existing ground levels.

#### Reasons

1. The reason for the imposition of these time limits is to comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
2. This application is outline with some matters reserved
3. In order to define the permission and to avoid doubt.

4. In order to define the permission and to avoid doubt.
5. In the interests of the amenity of the development
6. In the interest of highway safety
7. In the interest in highway safety
8. In the interest of highway safety
9. In the interest of Highway safety
10. To ensure the safety and stability of the proposed development
11. To ensure the safety and stability of the proposed development
12. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
13. In order to deliver wildlife enhancement.
14. In order to protect any protected species on the site in accordance with EQ1 of the adopted Core Strategy.
15. To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
16. Informatives

#### 1. County Highways

i) The condition requiring off-site highway works shall require a Major Works Agreement with Staffordshire County Council and the applicant is therefore requested to contact Staffordshire County Council in respect of securing the Agreement. The link below provides a further link to a Major Works Information Pack and an application Form for the Major Works Agreement. Please complete and send to the address indicated on the application Form which is Staffordshire County Council, Network Management Unit, Staffordshire Place 2, Tipping Street, Stafford. ST16 2DH (or email to [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk))<http://www.staffordshire.gov.uk/transport/staffshighways/licences/>

#### 2. County Council Footpath Officer

The application documents recognise the existence of Public Footpath No's 7 and 8 Essington Parish which run within the application site and No 9 which runs just outside the northern edge of the site.

The attention of the developer should be drawn to the existence of the paths and 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. If either path does need diverting as part of these proposals the developer would need to apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence. The County Council will need to be formally consulted on the proposal to divert this footpath(s). The applicants should be reminded that the granting of planning permission does not constitute authority for interference with the right of way or its closure or diversion. For further information the applicant should be advised to read section 7 of DEFRA's Rights of Way Circular (1/09).

It is important that users of the path(s) are still able to exercise their public rights safely and that the path(s) is reinstated if any damage to the surface occurs as a result of the proposed development. We would ask that trees are not planted within 3 metres of the footpath unless the developer and any subsequent landowners are informed that the maintenance of the trees is their responsibility.

Please note that Rights of Way Circular 1/09 (section 7.8) recommends 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".

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