

<b>Agenda Item:</b>	5.3
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<b>Site:</b>	Land at Manor Farm, Main Street, Branston, Staffordshire, DE14 3EY
<b>Proposal:</b>	Demolition of existing buildings to facilitate the erection of eight dwellings (four detached dwellings and two pairs of semi-detached dwellings).

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

This report has been checked on behalf of Legal Services by Penelope James

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

<b>Application Number:</b>	P/2023/00496	
<b>Planning Officer:</b>	Barbara Toy	
<b>Type of Application:</b>	Detailed Planning Application	
<b>Applicant:</b>	Adam Cooper Homes Ltd	
<b>Ward:</b>	Branston	
<b>Ward Member (s):</b>	Councillor Clarke Councillor Afsar Councillor Huckerby	
<b>Date Registered:</b>	28/07/2023	
<b>Date Expires:</b>	22-09-2023 A time extension has been agreed until 26-04-2024 to allow the application to be reported to Planning Committee.	
<b>Reason for being on Agenda</b>	Significant Community Interest.	

## 1. Executive Summary

- 1.1 The site is a former farmyard most recently used as a contractors yard, surrounded by existing residential development. The site sits within the Parish of Branston within the settlement boundary of Burton Upon Trent where the principle of residential development is considered to be acceptable in-principle.
- 1.2 Full planning permission is sought for the demolition of the existing buildings and erection of 8 dwellings (4 x 3 bed semis and 4 x 4 bed detached) with access off Thorntree Lane (private road) forming Branston Leas Phase 1.

- 1.3 Following the reduction in the number of units, the design and layout of the scheme is considered to be appropriate, would meet the requirements of the Separation Distance and Amenity SPD and there would result in no significant adverse impact on occupiers of neighbouring dwellings in terms of overlooking or loss of privacy.
- 1.5 The Highway Authority have raised no objections, they have recognised that the site is accessed off a private road. The development would utilise an existing vehicle access and the off street parking proposed would meet the requirements of the Parking Standards SPD.
- 1.6 Whilst a small area of the site sits within Flood Zone 3, the majority of the site sits within Flood Zones 1 and 2, the site meets the sequential and exception tests within the NPPF.
- 1.7 Whilst a bat roost has been identified within one of the buildings to be demolished and a European Protected Species Low Impact Licence will be required from Natural England, appropriate mitigation measures have been identified and agreed by the County Ecologist.
- 1.8 The proposals would have no adverse impact on biodiversity and would result in a net gain in providing 8 garden areas. The 10% net gain statutory requirement does not apply to this scheme given the application was made prior to 2<sup>nd</sup> April 2024.
- 1.9 Statutory consultees have raised no technical objections that cannot be overcome by way of planning conditions.
- 1.10 There have been objections from 17 addresses, from local residents with the main grounds of objection being the additional increase in vehicular movements, the private access road and general highway safety matters.
- 1.11 Accordingly, it is considered that the scheme complies with the aims and criteria of the relevant policies from the Local Plan, the policies of the Branston Neighbourhood Plan, the Borough Council's Supplementary Planning Documents (SPDs) and the National Planning Policy Framework.
- 1.12 In light of the above conclusions on the planning merits of the case the application is recommended for approval subject to the necessary conditions.

**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 the site**2. Site and Surroundings**

- 2.1 The site is located to the north of Manor Farm, a residential property located on the northern side of Main Street, in Branston.
- 2.2 The site comprises a former farm yard, with a series of outbuildings, most recently used as a contractors yard. The vehicle access to the site is via Thorntree Lane, an unadopted private road that comprises Phase 1 of Branston Leas residential development comprising 64 dwellings. The vehicle (gated) access to the north of the application site was retained as part of the residential development.
- 2.3 The site is immediately adjoined by existing residential development. The new local centre that forms part of the Branston Leas development sits to the south of the junction of Thorntree Lane and Main Street.
- 2.4 The majority of the site is located within Flood Zones 1 & 2 with a minor section to the south-west corner falling within Flood Zone 3.
- 2.5 The site sits within the Parish of Branston, within the settlement boundary of Burton Upon Trent.

### 3. Planning History

#### Application site

**OU/21387/002** - Outline to develop land by the erection of light industrial units, including tree planting and construction of new vehicular access – Withdrawn – 27/10/1999.

**PA/21387/003** - Outline application for light industrial development including details of the access road – Withdrawn – 17/03/2005.

#### Adjoining Site

**P/2013/00432** – outline application for a mixed use development comprising demolition of existing buildings and structures up to provide 660 dwellings, up to 71,533sqm of employment floorspace, a local centre providing up to 600sqm of floorspace together with associated access from Main Street and the A38 including link road, car parking, servicing, landscaping, public realm works and works to the highway, public open space, sports and recreation facilities, structural landscaping, profiling of the River Trent and Tatenhill Brook and provision of drainage ponds and flood alleviation works, with all matters reserved except means of access. GSC and S106 Agreement 17-07-2013 (St Modwen –Branston Leas)

**P/2014/00550** – Reserved matters application for the erection of 64 dwellings (Phase 1 Branston Leas) including details of appearance, landscaping, layout and scale. GSC 13-08-2014

### 4. The Proposal

- 4.1 Full planning permission is sought for the erection of 8 no. dwellings with associated garaging and parking with access off Thorntree Lane (private road).
- 4.2 The scheme proposes 4 no. detached 4 bed roomed properties and 2 no. pairs of semi-detached 3 bed roomed properties, to create a total of 8 dwellings. Amended plans were received during the course of the application to reduce the number of units from 9 to 8 dwellings and re-consultation undertaken.
- 4.3 The amended scheme comprises:-
  - Plot 1 a two-storey 4 bed detached dwelling, with an integral garage and 3 no. side of plot parking spaces;
  - Plots 2 & 3 a pair of 3 bed semi-detached two storey dwellings with f 2 no. side of plot parking spaces;
  - Plots 4, 5 and 6 4 bed two storey detached dwellings with an integral garage with Plots 4 and 5 with side of plot parking and Plot 6 with parking immediately opposite the site; and
  - Plots 7 and 8 a pair of 3 bed semi-detached two storey dwellings with front of plot parking and double garage space to serve Plot 8.
- 4.4 The houses would be constructed from brickwork, tiled roof with chimneys with front gable feature and single storey front canopy roof to the detached houses and canopy feature over the front door on the semi detached houses. Each house would have the facilities for electric vehicle charging.

- 4.5 Vehicular access is proposed from the north of the site, via the existing vehicle access from Thorntree Lane.
- 4.6 Plot 8 includes a detached double garage which is proposed to have a bat loft within the roof space with a condition recommended to secure this.
- 4.7 List of supporting documentation

The documents listed below were provided as part of the final application submissions; with those originally submitted having been revised/updated and supplemented – and others superseded – during the application process reflecting the amendments to the scheme and the need to respond to the requirements of statutory consultees and officers of the Local Planning Authority.

- A Flood Risk Assessment;
- A Geoenvironmental Report;
- A Bat Activity Report;
- A Bat Scoping and Bird Nesting Report;
- Location Plan;
- Topographical Survey;
- Existing and Proposed Block Plans; and
- Floor Plans and Elevations.

## 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	Branston Parish Council	<p>Object on the following grounds:-</p> <ol style="list-style-type: none"> <li>1. Lack of community involvement prior to submission</li> <li>2. Failure to re-use existing historic assets</li> <li>3. Housing mix – failing to cater for the ageing population</li> <li>4. Ecology – an ecological survey should be carried out</li> <li>5. Traffic – another 40- 50 - car movements per day; full traffic impact assessment required</li> </ol> <p>The Parish Council also propose that a planning agreement is in place should this application be approved, that the developer funds costs for Thorntree Lane Highway to be reinstated to the same standard as originally built by St Modwen's contractors, with no properties allowed for sale until this condition is met.</p> <p>Photos submitted of traffic congestion in Main Street</p>
5.3	SCC Highways	No objection subject to condition to ensure that all parking

		areas are suitably hardsurfaced and drained and note to applicant/informative
5.4	SCC Flood Risk Team	No comments.
5.5	SCC Ecology	No objection, subject to conditions.
5.6	Environment Agency	Refers to 'Standing Advice'.
5.7	The National Forest	No objection.
5.8	Architectural Liaison Officer	Design and security advise provided and forwarded to the applicant

Internal Consultees		Response
5.9	Environmental Health	No objection, subject to conditions re contaminated land and noise mitigation.

## 6. Neighbour responses

6.1 Objections have been received from 18 addresses on the original consultation and objections received from 8 addresses following the re-consultation on the amended scheme. Some of the objections received included photos of the site and surrounding roads. The comments/objections are summarised below:-

Neighbour responses	
Principle	<ul style="list-style-type: none"> <li>• Too many houses in Branston already</li> <li>• The application does not cater for an aging population and the housing mix proposed is more suitable for families</li> <li>• Failure to re-use existing historic assets</li> <li>• Contrary to Neighbourhood planning policies.</li> </ul>
Sustainability	<ul style="list-style-type: none"> <li>• No consideration has been given to future proofing for climate change - no electric charging points for cars in the plan; no solar panels are proposed for the houses and flats, no consideration for air or ground source heat pumps, all things that could help to meet our climate change targets.</li> </ul>
Impacts on Amenity	<ul style="list-style-type: none"> <li>• The proposal does not adhere to the Separation Distances SPD</li> <li>• Overlooking, loss of privacy, loss of light</li> <li>• Increase in noise</li> <li>• What measures will be put in place to safeguard the children that play in Thorntree Lane?</li> </ul>
Highways Impacts	<ul style="list-style-type: none"> <li>• The only access is a private road and not a public road</li> <li>• Existing residents pay towards this road to a management company and were not expecting further construction traffic to use this road - Will the new owners contribute? Will the construction company</li> </ul>

	<p>contribute?</p> <ul style="list-style-type: none"> <li>• Access width is insufficient for two cars to pass</li> <li>• Thorntree Lane is already congested and this will add to this considerably</li> <li>• Dangerous bend and no traffic calming measures</li> <li>• Serious risk to health and safety from accidents/injuries/ fatalities to the residents or public as I have made it perfectly clear that the risks would have been raised to a dangerous level.</li> <li>• Will there be a road sweepers to clean up the debris from the trucks, during construction?</li> <li>• Where is the construction parking?</li> <li>• Already a number of vehicle movement around Thorntree Lane/Acacia Lane and Main Street.</li> <li>• Extent of traffic on Main Street a danger to pedestrians using local facilities particularly at school times</li> <li>• Impacts of heavy construction lorries together with safety risk, noise and mess</li> <li>• Will there be any compensation to residents as we are anticipating dirt, and dust to our windows, garden and cars for a number of months?</li> <li>• A full traffic impact assessment is required</li> <li>• The tracking for vehicles that has been considered has only reflected a bin lorry and not large delivery vehicles or emergency vehicles, which appear to have to reverse over a greater distance and do not consider the safety impacts of this.</li> <li>• It is important to verify the legality of any right of access claimed by the developer or owners of the new properties</li> </ul>
Wildlife	<ul style="list-style-type: none"> <li>• No mitigation has been outlined</li> <li>• Declaration on the application is wrong as there are two trees on site;</li> <li>• Dramatic increase in birds especially since the conifer trees were taken down read for the application to be submitted</li> </ul>
Other	<ul style="list-style-type: none"> <li>• Amended plans do not change previous concerns</li> <li>• Lack of community involvement prior to submission</li> <li>• Impact on local amenities - Doctors surgery and school must be full, Post office is needed instead of more housing</li> <li>• Can you guarantee that any of the buildings demolished do not contain asbestos?</li> <li>• Additional run off water will be created by additional hard surfaces and given the close proximity</li> <li>• The development appears to have commenced with the siting of a container labeled canteen and toilet</li> <li>• Condition should be placed to continue our boundary</li> </ul>

	<p>as exists and making good of the new end wall is satisfactory.</p> <ul style="list-style-type: none"> <li>• Concerns about asbestos in the buildings to be demolished</li> <li>• Doctors and schools in the area already full</li> </ul>
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## 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
- SP3: Provision of Homes and Jobs 2012-2031
- SP4: Distribution of Housing Growth 2012 – 2031
- SP6: Managing the Release of Housing and Employment Growth 2012 – 2031
- SP16: Meeting Housing Needs
- SP24: High Quality Design
- SP25: Historic Environment
- SP26: National Forest
- SP27: Climate Change, Water Body Management and Flooding
- SP29: Biodiversity and Geodiversity
- 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

### Branston Neighbourhood Plan

- B1 Integrating New development with Existing Communities
- B2 Design
- B3 Protection of Local Heritage Assets
- B10 Safer Roads and Streets
- B11 Car Parking

### Supplementary Planning Documents

- Car Parking Standards SPD
- Climate Change SPD
- East Staffordshire Design Guide SPD
- Separation Distances and Amenity SPD



## Assessment

It is considered that the key issues relevant to the determination of this application are as follows:-

- Principle of the Development and Non-Designated Heritage Asset
- Design and Impact on the Character and Appearance of the Area;
- Residential Amenities;
- Highway Matters;
- Flood Risk and Drainage; and
- Ecology and Biodiversity.

## 8. Principle of Development

- 8.1 The site sits within the Parish of Branston, within the settlement boundary of Burton Upon Trent.
- 8.2 The Local Plan sets out in Strategic Policies 2 and 4 a development strategy directing growth to the most sustainable places. Burton upon Trent and Uttoxeter are identified as the main settlements to take housing development mostly in the form of sustainable urban extensions with some limited growth in the rural area, principally within settlement boundaries.
- 8.3 The site is a previously developed parcel of land within the settlement boundary of Burton upon Trent. The site is not designated for any specific land use in the Local or Branston Neighbourhood Plans and the surrounding area is predominately residential in character.
- 8.4 Accordingly, in principle, residential development of the site is considered acceptable and in compliance with Policies SP1, SP2 and SP4 of the Local Plan and the NPPF.
- 8.5 The Branston Neighbourhood Plan identifies 'Manor Farm, 79a Main Steet' as a non-designated heritage asset.
- 8.6 Policy B3 of the Branston Neighbourhood Plan requires that proposals requiring consent which affect Local Heritage Assets as identified on Map 4 and listed in paragraph 5.22 must demonstrate how they protect or enhance the heritage asset. Development which affects a Local Heritage Asset should take account of its individual significance and seek to promote the conservation and enhancement of the Asset and its setting.
- 8.7 Strategic Policy 25 of the Local Plan states that development proposals should protect, conserve and enhance heritage assets and their settings, taking account of their significance, as well as the distinctive character of the Boroughs townscapes and landscapes. Such heritage assets may consist of undesignated and designated assets.
- 8.8 Paragraph 209 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required

having regard to the scale of any harm or loss and the significance of the heritage asset.

- 8.9 Given the lack of an accurate plan within the Neighbourhood Plan for Manor Farm, 79a Main Steet it is not clear whether the Neighbourhood Plan intended to include the entire site or just the frontage Manor Farm (house). Nevertheless the assessment below is on the basis that the site does fall within the designation and therefore a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 8.10 In terms of the significance, there are a mixture of buildings contained on site. Some are of a traditional brick and tile construction, whilst others are of a modern construction. Whilst the traditional buildings would make a positive contribution to the significance they are set back behind all surrounding buildings and are not visually prominent from any elevation and the modern buildings detract from the significance.
- 8.11 In terms of the scale or harm or loss, on the assumption that the entire Manor Farm falls within the designation, then only part (the application site) is being proposed for re-development with the frontage part of the site, including 'Manor Farm (Farmhouse) and other buildings to be retained. Accordingly, the scheme would result in the partial loss of the non-designated heritage asset.
- 8.12 Some of the buildings on site are of a modern construction and given the siting of the buildings located to the rear of Main Street and Thorntree Lane, the site is not visually prominent from the surrounding area and the site does not provide any prominence or contribution to the streetscene or character of the area. The buildings that do contribute, are those to the sites frontage on Main Street and those are to remain unaffected by the proposals.
- 8.13 Accordingly, whilst the scheme would result in the loss of part of a non-designated heritage asset, having regard to the sites overall lack of significance, and the other public benefits to the scheme, on balance it is not considered that a reason for refusal could be substantiated on these grounds, in this case.

## **9. Design and Impact on the Character and Appearance of the Area**

- 9.1 The area is characterised by two storey semi-detached and terraces properties immediately to the north, east and south of the site, as well as detached properties to the south and south-west. The scheme proposes a mixture of semi-detached and detached two storey properties, to reflect the character of the area. The housing mix of 3 and 4 bed houses is considered appropriate for the location. As a small residential development there is no requirement for affordable housing. The applicant had agreed that the four 3 bed houses within the development will be constructed to meet the requirements of M4(2), ensuring that the properties would be suitable for older people, a condition is recommended in this regard.
- 9.2 During the course of the application, amended plans have been received to reduce the number of units from nine to eight, ensuring that the scheme does not appear over developed, for parking to be better related to each plot and overall reduce the level of parking dominance across the site. Following the

submission of amended plans, the overall layout is considered to be acceptable.

- 9.3 The design of the dwellings incorporates facing brickwork with tiled roofs, front canopy details, front gable feature and chimneys. Overall, the design and fenestration result in an acceptable design. The final material palette, together with landscaping and boundary treatments can be secured by way of planning conditions.
- 9.4. Therefore subject to the imposition of conditions the scheme is considered to comply with Policies SP1, SP24 and DP1 of the Local Plan and the objectives of the East Staffordshire Design Guide, Policies B1 and B2 of the Branston Neighbourhood Plan and the NPPF.

## **10. Residential Amenity**

- 10.1 Plots 1 and 8's side elevations are both located at 12 metres away from the rear walls of neighbouring properties to the north on Thorntree Lane to comply with the separation distance within the Council's Separation Distances and Amenity SPD. Consideration has been given to the short garden depths of the neighbouring dwellings by the design of Plots 1 and 8 ensuring that they have a side-to-rear relationship and no habitable first floor windows, and the plots designed with garages or parking spaces between. There are no windows in the side elevations, ensuring no direct overlooking.
- 10.2 Whilst there would be a degree of overlooking from the existing properties on Thorntree Lane upon the rear amenity spaces of the proposed plots, the future occupiers of these new properties would be aware of this relationship before choosing to purchase and reside there.
- 10.3 Plot 6 is also located 12 metres away from the rear walls of neighbouring properties to the east of Thorntree Lane (No's 9 and 11) to comply with the separation distance within the Council's SPD and there are no first-floor habitable windows in the side wall of Plot 6, ensuring no direct overlooking.
- 10.4 Whilst there would be first floor habitable rear windows in Plots 4, 5 and 6, this is not considered to result in direct overlooking upon No's 5 and 7 Thorntree Lane and would not result in significant overlooking to the detriment of their privacy, upon the occupiers of the dwellings on Main Street, given their substantial length of gardens.
- 10.5 Existing residential properties to the south of the site on Main Street have long, linear rear gardens and the required 21 metre separation distance between the rear wall of the neighbouring properties and rear wall of Plots 4, 5 and 6 can be achieved.
- 10.6 All other neighbouring properties are considered to be at sufficient distances away not to be significantly impacted upon as a result of the scheme.
- 10.7 The garden area for the houses would range from 80sqm to 179sqm, exceeding the requirements of the Separation Distance and Amenity SPD. These are larger gardens than those for the properties within Thorntree Lane

- 10.8 In relation to land contamination, the Council's Environmental Health Team have reviewed the submitted A Phase 1 Geoenvironmental Contaminated Assessment and confirm that based upon its findings a condition be imposed requiring detailed site investigation and risk assessment to be undertaken together with a written report of the findings.
- 10.9 In respect of noise, the Council's Environmental Health Team recommend that a condition be imposed requiring a scheme of noise mitigation to protect the new properties from noise from the A38 carriageway and Branston Interchange.
- 10.10 In response to objections raised by neighbouring properties, any construction related noise and disturbance would be a temporary manifestation of the development project.
- 10.11 It is therefore considered that, subject to the imposition of conditions the proposal would result in no significant overlooking, loss of privacy or overbearing impact on the occupiers of the neighbouring dwellings or the proposed dwellings, noise or contamination issues and is therefore in compliance with Policies SP24, SP34, DP1, DP3 and DP7 of the Local Plan and Policies B1 and B1 of the Branson Neighbourhood Plan, the Separation Distances and Amenity SPD and the NPPF.

## **11. Highway Matters**

- 11.1 The scheme has been assessed by the Local Highway Authority (LHA) who confirm that the access from Thorntree Lane is a private road and whilst the layout is broadly in accordance with adoptable standards, it will not be adopted as it does not connect to highway maintainable at public expense. Accordingly, the LHA has no further comments to make with regards to access and highway safety.
- 11.2 In respect of the internal elements of the scheme, the LHA recommend conditions relating to hard surfacing and drainage and a note to the applicant.
- 11.3 During the course of the application, amended plans have been received to reduce the number of units and to ensure that off street parking is better related to each plot and reduce the level of parking dominance across the site. All 3 bedroomed semi-detached dwellings have 2 no. car parking spaces each, with Plot 8 also having an additional double garage and all 4 bedroomed detached properties have one integral garage space and 3 no. additional on plot parking spaces, with Plot 6's immediately opposite the dwelling, to comply with the Parking Standards SPD.
- 11.4 The Parish Council and objectors have referred to the importance of verifying the legality of any right of access claimed by the developer or owners of the new properties, as well as a proposing a planning agreement is put in place should this application be approved, that the developer funds costs for Thorntree Lane highway to be reinstated to the same standard as originally built by St Modwen's contractors, with no properties allowed for sale until this condition is met.
- 11.5 Access rights are not material planning considerations, however the applicant has provided details of the legal agreement from when the land was sold for the

St Modwen's development, which indicates the retention of vehicle access rights. Thorntree Lane is a private road and the requests by the Parish Council for the reinstatement of the road would not meet the necessary tests set out in the NPPF. St Modwens have confirmed that Thorntree Lane will remain private and will be maintained in the future by the Branston Leas Estate Management Company through a service charge paid by residents and discussions are taking place to include the future occupiers of the 8 new dwellings within the service charge arrangement.

- 11.6 Subject to the aforementioned conditions, it is considered that the proposal is acceptable in relation to highway safety and is therefore in compliance with Policies SP1 and SP35 of the Local Plan and Policies B10 and B11 of the Neighbourhood Plan and the NPPF.

## **12. Flood Risk and Drainage**

- 12.1 The site lies within Flood Zones 1 (low risk) and 2 (medium risk) with a minor section in the south western corner of the site within Flood Zone 3, with risk of flooding from the Tatenhill Brook, as defined on the Environment Agency's Surface Water Flood Maps.
- 12.2 Policy SP27 of the Local Plan identifies that much of the built-up area of Burton-upon Trent lies within areas at risk of flooding limiting new development to areas not at risk severely curtails the options for growth of Burton on Trent town and similarly for Uttoxeter. Both existing and proposed development is heavily reliant on the continued upgrade and maintenance of flood defences.
- 12.3 The Flood Authority have made no comments on the application and The Environment Agency have referred to their 'Standing Advice'.
- 12.4 During the course of the application, a Flood Risk Assessment (FRA) has been submitted which indicates that natural high ground occupies areas adjacent to the watercourses at this location. The Environment Agency's Surface Water Flooding Map indicates that across the site there is a very low surface water flooding risk (i.e. chance of flooding less than 1 in 1000 years).
- 12.5 The FRA states that Environment Agency flood data from the River Trent and Tatenhill Brook Flood Modelling Study indicates that the site (and adjacent roads) would not be affected by flooding during an overtopping and breach event during the climate change 1 in 100 year event.
- 12.6 The FRA states, however, that when considering the combined climate change 1 in 20 year event in Tatenhill Brook and climate change 1 in 100 year event in the Trent, the flood level at the site would be 47.695m AOD and therefore in order to account for model uncertainty, a freeboard allowance of 600mm above the flood level has been applied when considering floor levels. Accordingly, floor levels will be set at 48.30m AOD which will be secured by way of planning condition.
- 12.7 The Strategic Flood Risk Assessment (SFRA) acknowledges that the strategy encourages development of brownfield sites and other suitable and available sites within the existing urban areas.

- 12.8 In terms of the sequential test, the development would result in the reuse of a vacant brownfield site that has existing outbuildings and hardstanding. The SFRA demonstrated that there were insufficient sites which could be considered as reasonably available and appropriate for housing development in areas with a lower risk of flooding. The latest SHLAA 2021 and the Annual Monitoring Report show insufficient sites which could be considered as reasonably available and appropriate for housing development in areas with a lower risk of flooding which would enable delivery of the adopted sustainable development strategy.
- 12.9 The NPPF states that the application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the Exception Test it should be demonstrated that:
- a) The development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and , where possible will reduce flood risk overall.
- 12.10 It is considered that the site, being located within the settlement boundary of Burton Upon Trent where the Local Plan identifies new development to be delivered and the specific site characteristics and flood mitigation proposals ensure that the exception test is satisfied.
- 12.11 It is concluded that the application would pass both the sequential test and the exception tests as set out in the NPPF.
- 12.10 Subject to the imposition of the aforementioned condition, it is considered that the proposal is in compliance with Policy SP27 of the Local Plan and the NPPF.

### **13. Ecology and Biodiversity**

- 13.1 The application has been accompanied by a Bat Scoping Survey Report and Bat Activity Survey which have been reviewed by the County Ecologist, who has confirmed the presence of nesting swallows in the buildings and recommends installation of swallow cups, which can be secured by way of condition.
- 13.2 The Bat Activity report identifies a Brown Eared Bat and Common Pipistrelle bat day roost within one of the existing buildings which is to be demolished resulting in the loss of the roost. A European Protected Species Low Impact Licence will therefore be required from Natural England to permit any works to the building. A bat loft is proposed in the roof space of the proposed detached double garage at Plot 8, which will need to include a separate roof space, means of access for bats, which can be secured by conditions as well as additional bat bricks.
- 13.3 The site currently has large areas of hardstanding with just a small number of trees/shrubs currently in the north of the site which will be lost, but with no significant loss of habitat. The development will result in the creation of 8

gardens with lawns, trees and soft landscaping to be secured through condition, resulting in a net gain in biodiversity across the site.

13.4 Objectors have referred to the removal of 2 no. trees prior to the submission of the application. As there are no protected trees on site, by either a Tree Preservation Order or by virtue of being located in a Conservation Area, then no consent is required from the Planning Authority to remove any trees.

13.5 Subject to the imposition of conditions, it is therefore considered that the proposal complies with the requirements of Local Plan Policy SP29 and the NPPF.

#### **14. Conclusions**

14.1 In conclusion, the principle of residential development within the settlement boundary of Burton upon Trent is considered to be acceptable.

14.2 Following the reduction in the number of units, the design and layout of the scheme is considered to be appropriate, would meet the requirements of the Separation Distance and Amenity SPD and would result in no significant adverse impact on occupiers of neighbouring dwellings in terms of overlooking or loss of privacy.

14.3 The impact upon trees, flooding and biodiversity has been assessed and there is considered to be no significant adverse impact, subject to the imposition of conditions.

14.4 The Highway Authority have raised no objections, the development would utilise an existing vehicle access and the off street parking would meet the requirements of the Parking Standards SPD.

14.5 Having regard to the Planning Balance, therefore, the proposed scheme is considered to be in line with the overall aims of the policies in the East Staffordshire Local Plan, the associated supplementary planning documents and the National Planning Policy Framework.

#### **15. RECOMMENDATION: Grant Permission Subject to Conditions**

Recommended Conditions:

##### **Grant planning permission subject to the following conditions**

##### **1. Time Limit**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To conform with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

##### **2. Approved Plans**

The development hereby permitted shall be carried out in accordance with the following approved plans and documents subject to compliance with other conditions of this permission:

Location Plan 1a dated as received on 04.05.2023;

Topographical Survey dated as received on 27.04.2023;  
Block Plan 1b Showing Buildings to be Demolished dated as received on 04.05.2023;  
Amended Block Plan Sheet 15 dated as received on 10.01.2024;  
Amended Landscaping Plan Sheet 10 dated as received on 10.01.2024;  
Plots 2 and 3 Plans & Elevations Sheet 4a dated as received on 10.01.2024;  
Plots 2 and 3 Plans & Elevations Sheet 4a(2) dated as received on 10.01.2024;  
Plots 7 and 8 Rear Elevation Sheet 5a(2) dated as received on 10.01.2024;  
Plots 7 and 8 Plans & Elevations Sheet 5a dated as received on 10.01.2024;  
Plots 1, 4 and 5 Plans & Elevations Sheet 6a dated as received on 10.01.2024;  
Plot 6 Plans & Elevations Sheet 17 dated as received on 10.01.2024;  
Plot 8 Garage Plan & Elevations Sheet 8 dated as received on 10-01-2024  
Flood Risk Assessment by Evans Rivers and Coastal dated October 2023 Ref 3310/RE/10-23/01 dated as received on 18.10.2023;  
Bat Activity Report dated as received on 28.07.2023;  
Bat Scoping and Bird Nesting dated as received on 27.04.2023; and  
Geo Environmental Report and Appendices by Geoinvestigations Ltd dated June 2023 dated as received on 18.10.2023.

Reason: For the avoidance of doubt to ensure the development will not adversely affect the appearance of the locality, the amenities of neighbouring properties, the safe and efficient use of the adjoining highway, ecology and flood risk in accordance with East Staffordshire Local Plan Policies Principle 1, SP1, SP2, SP3, SP4, SP6, SP24, SP25, SP26, SP27, SP29, SP34, SP35, DP1, DP2, DP3, DP5, DP7 and Branton Neighbourhood Plan Policies B1, B2, B3, B10 and B11 East Staffordshire Design Guide, Separation Distances and Amenity Supplementary Planning Document, the Car Parking Standards Supplementary Planning Document and the National Planning Policy Framework.

### **3. Materials**

No development (except for demolition) shall take place until details and/or samples of all the materials to be used externally on the dwellings and hereby approved, ensuring the product name and manufacturer have been submitted to and approved in writing by the Local Planning Authority and the development shall only be carried out in accordance with the approved details.

Reason: To safeguard the character and appearance of the buildings and their surroundings in accordance with East Staffordshire Local Plan Policies SP1, SP24, DP1 and DP3, Branston Neighbourhood Plan Policies B1 and B2, the East Staffordshire Design Guide and the National Planning Policy Framework.

### **4. Levels**

Notwithstanding the submitted details, no development (except for demolition) shall take place until details of existing and finished ground levels and the proposed floor levels of the units in relation to an existing datum point off the site has first been submitted to and approved in writing by the Local Planning Authority. Finished Floor Levels are to be set at least 48.30m in accordance with Condition 15 of this permission. The development shall then be carried out in accordance with the approved details.



Reason: To ensure the development takes the form envisaged by the Local Planning Authority and to reduce the risk of creating or exacerbating a flooding problem in accordance with East Staffordshire Local Plan Policies SP1, SP24, SP27, DP1 and DP3, Branston Neighbourhood Plan Policies B1 and B2, the East Staffordshire Design Guide and the National Planning Policy Framework.

### **5. Details of Landscaping and Boundary Treatments**

Notwithstanding the submitted details including the Garden Wall Detail, no development (except for demolition) shall take place until a scheme of detailed landscaping and boundary treatments (i.e. hedgerows, fencing and walling) including any proposed making good of boundary treatments following demolition of the buildings, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure that a landscaping scheme to enhance the development is provided in accordance with East Staffordshire Local Plan Policy SP24, the East Staffordshire Design Guide and the National Planning Policy Framework.

### **6. Implementation of Landscaping**

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure that an approved landscaping scheme is implemented in a speedy and diligent way and that initial plant losses are overcome in the interests of the visual amenities of the locality and occupiers of adjacent buildings, and in accordance with East Staffordshire Local Plan Policies SP24 and SP29, the East Staffordshire Design Guide and the National Planning Policy Framework.

### **7. Implementation of Walling and Fencing**

Any scheme of walling and fencing approved as part of the landscaping scheme required by Condition 5 above shall be completed prior to the development first being brought into use.

Reason: To safeguard the visual amenities of the area and the amenities of occupiers of adjoining properties in accordance with East Staffordshire Local Plan Policies SP24 and DP3 and the National Planning Policy Framework.

### **8. Ecology**

No development (except for demolition) shall commence on site until such time as;-

- a) details of type and location of biodiversity enhancement measures including 3 no swallow cups on north or east elevations of the existing or new buildings with a sheltered overhang; and

- b) details of type and location of biodiversity enhancement measures including at least 3 no bat bricks to be incorporated into south or west elevations of the new buildings.
- c) Details of the separate roof space and bat access to the double garage bat loft at plot 8.
- d) The roof of the bat loft or any roof spaces available to bats must be lined internally with 1F traditional hessian-backed bitumen felt which complies with BS8747:2007 and BS 5250:2011.

shall first be submitted to and approved in writing by the Local Planning Authority

The approved measures shall be incorporated into the scheme and be fully constructed prior to occupation of the approved dwellings and retained as such thereafter.

Reason: To safeguard protected species and their habitats in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

### **9. Lighting Scheme**

No development (except for demolition) shall commence until an external lighting scheme, designed in accordance with Bat Conservation Trust / Institution of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK shall first be submitted to and approved in writing by the Local Planning Authority. The scheme shall include a lighting contour plan that demonstrates there will be minimal impact on receptor habitats such as trees, bat access points, and bat boxes. The approved measures shall be incorporated into the scheme and be fully constructed prior to occupation of the approved dwellings and retained as such thereafter.

Reason: To safeguard protected species and their habitats in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

### **10. Refuse Collection Points**

Notwithstanding the submitted details, prior to the first occupation of any dwelling hereby approved, a scheme for bin and waste collection area(s) shall first be submitted to and be approved by the Local Planning Authority. The approved scheme shall be implemented and retained as such thereafter.

Reason: To ensure the provision of appropriate waste storage facilities in accordance with East Staffordshire Local Plan Policy SP34, the East Staffordshire Waste Storage and Collection Guidance for New Developments and the National Planning Policy Framework.

### **11. Highways - Parking**

Prior to the first occupation of any dwelling hereby approved, the respective dwelling shall be provided with car parking as laid out in Layout Block Plan 3d and Layout Block Plan 3e dated as received on 14.12.2023 and approved under Condition 2 above. The parking shall be laid out, hard surfaced and drained and once the dwelling is occupied, maintained as such thereafter.

Reason: As recommended by the Highway Authority In the interests of highway safety in accordance with East Staffordshire Local Plan Policies SP1 and SP35,

Branston Neighbourhood Plan Policy B11 and the Parking Standards Supplementary Planning Document and the National Planning Policy Framework.

### **12. Highways - Access for each plot**

Prior to the first occupation of any dwelling hereby approved, each dwelling shall be provided with a clean, hard surfaced access to at least base course level.

Reason: As recommended by the Highway Authority in the interests of highway safety in accordance with East Staffordshire Local Plan Policies SP1 and SP35 and the National Planning Policy Framework.

### **13. Noise Mitigation**

Prior to the first occupation of any dwelling hereby approved, a scheme of noise mitigation measures shall first be submitted to and agreed by the Local Planning Authority. The Scheme shall ensure that internal noise levels comply with BS8233 Guidance on sound insulation and noise reduction for buildings 2014 (or latest edition). A noise assessment will need to be undertaken to demonstrate that the proposed level of mitigation is sufficient. The approved mitigation measures shall be installed prior to the first occupation of each dwelling.

Reason: To safeguard the amenity of occupiers of residential properties in accordance with East Staffordshire Local Plan Policies SP1 and DP7 and the National Planning Policy Framework.

### **14. Land Contamination**

- a) Where an unacceptable risk as identified in the Phase 1 Risk Assessment Report (Ref: 662-R-01) a scheme for detailed site investigation must be submitted to and approved in writing by the Local Planning Authority prior to any work being undertaken. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.
- b) Detailed site investigation and risk assessment must be undertaken and a written report of the findings produced. This report must be approved by the Local Planning Authority prior to any development taking place. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with the Environment Agency's "Land Contamination: Risk Management" guidance.
- c) Where identified as necessary a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority in advance of undertaking. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- d) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.

- e) Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings.
- f) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with East Staffordshire Local Plan Policy DP7 and the National Planning Policy Framework.

#### **15. Compliance with Flood Risk Assessment**

The development shall be carried out in accordance with the Flood Risk Assessment by Evans Rivers and Coastal Ltd dated as received on 18.10.2023 and approved under Condition 2 above .

Reason: To ensure adequate drainage facilities are provided to serve the development to reduce the risk of creating or exacerbating a flooding problem in accordance with East Staffordshire Local Plan Policy SP27 and the National Planning Policy Framework.

#### **16. Compliance with Bat Activity Survey**

All site demolition and clearance works must comply with the method statements set out on pages 9 (swallows) and pages 10-11 (bats) of the Bat Activity Survey (Leigh Ecology, July 2023) approved under Condition 2 above.

Reason: To safeguard protected species and their habitats in accordance with East Staffordshire Local Plan Policy SP29 and the National Planning Policy Framework.

#### **17. Removal of PD Rights (Gates, walls)**

Notwithstanding the provisions of Part 2 (Class A) of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) no gates, walls, fences or other means of enclosure (except for those approved by this consent) shall be erected within the curtilage of the dwellings unless planning permission has first been granted by the Local Planning Authority.

Reason: To safeguard the character and appearance of the buildings and their surroundings and the amenities of occupiers of the adjoining dwellings in accordance with East Staffordshire Local Plan Policies SP24 and DP3, the East Staffordshire Design Guidance and the National Planning Policy Framework.

**18. Removal of PD Rights (Extensions, alterations etc)**

Notwithstanding the provisions of Part 1 (Classes A-H) of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) the dwellings hereby permitted shall not be enlarged, improved or altered, nor shall any building, enclosure, swimming or other pool, hard surface, plant or structure required for a purpose incidental to the enjoyment of the dwellinghouse be erected or installed unless planning permission has first been granted by the Local Planning Authority.

Reason: To safeguard the character and appearance of the buildings and their surroundings and the amenities of occupiers of the adjoining dwellings in accordance with East Staffordshire Local Plan Policies SP24 and DP3, the East Staffordshire Design Guidance and the National Planning Policy Framework.

**19. Construction Management Plan**

No development shall take place (including demolition) until a Construction Management Plan, which shall specify the routing of demolition and construction vehicles to and from the site, parking of vehicles of site personnel, operatives and visitors, loading and unloading of plant and materials, storage area of plant and materials and temporary buildings/compounds used during the construction of the development, appropriate wheel wash facilities and measures to prevent the deposition of deleterious material on the public highway, along with noise, vibration and dust mitigation measures and details of days/hours of construction (including the timing(s) of HGV deliveries), has been submitted and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be implemented and adhered to throughout the construction period unless otherwise first agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenity of occupiers of residential properties in accordance with East Staffordshire Local Plan Policies SP1 and DP7 and the National Planning Policy Framework.

**20. M4(2)**

Each of the four x 3 bed houses within the development hereby approved shall be constructed to meet Building Regulation M4(2) standard unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that homes are appropriate to meet the needs of the occupiers in accordance with Local Plan Policy SP16.

**Informatives****1: Engagement (Proactive)**

During the course of consideration of this proposal the Local Planning Authority has negotiated with the applicant to ensure the development complies with relevant development plan policies and material planning considerations including the National Planning Policy Framework. It is therefore considered that the Local Planning Authority has worked proactively with the applicant to secure a development that improves the economic, social and environmental conditions of the area in accordance with the requirements of paragraph 38 of the National Planning Policy Framework.

**2: Pre-commencement Conditions**

The conditions identified below require details to be approved before commencement of the development.

Condition No's. 3, 4, 5, 8, 9, 14 and 19

This means that a lawful commencement of the approved development cannot be made until the particular requirements of these conditions have been met.

The fee chargeable by the authority is £145 per request. The fee must be paid when the request is made. Any number of conditions can be included for each request. Payment can be made by cheque or card only. Please telephone 01283 508606.

Although we will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows the Local Planning Authority a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.

**3: During development conditions**

The conditions identified below require details to be approved during the development/works.

Condition No's 10 & 13.

This means that a development may not be lawful unless the particular requirements of these conditions have been met.

Confirmation of compliance with planning conditions requires a payment of a fee to the Local Planning Authority. The fee chargeable by the authority is £145 per request. The fee must be paid when the request is made. Any number of conditions can be included for each request.

Payment can be made by cheque or card only. Please telephone 01283 508606.

Although we will endeavour to discharge all conditions within 21 days of receipt of your written request, legislation allows the Local Planning Authority a period of 8 weeks, and therefore this timescale should be borne in mind when programming development.

**4: Highways**

The applicant is reminded of their legal obligations in relation to private nature of Thorntree Lane and that the new road is to be private and the future residents should be advised that they may be taking on the responsibilities and liabilities of the highway authority with regards to maintenance, snow clearance etc and advised to take advice on public liability insurance against claims associated with those responsibilities.

**5: Ecology**

The applicant is reminded that, A European Protected Species Low Impact Licence will be required from Natural England and under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb, injure or kill great crested newts; damage or destroy a breeding or resting place; deliberately obstruct access to a resting or sheltering place. Planning approval for a development does not provide a defence against prosecution under these acts.

Should great crested newts be found at any stage of the development works, then all works should cease, and Natural England should be contacted for advice.

## **16. Background papers**

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

- The Local and National Planning Policies, Neighbourhood Plan and Supplementary Planning Documents, as outlined in the report above.

## **17. Human Rights Act 1998**

17.1 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.

## **18. Crime and Disorder Implications**

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

## **19. Equalities Act 2010**

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

For further information contact: Barbara Toy

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