

# NH Planning

Planning Department  
Lichfield District Council  
Frog Lane  
Lichfield  
Staffordshire

16<sup>th</sup> August 2021

Dear Sir

**Erection of two detached three bedroom dwellings on land lawfully occupied as a builders storage yard at land at Pine Tree Cottage, Camp Road, Sutton Coldfield B75 5QX**

Further to the withdrawal of a previous planning application please find attached a revised and enhanced proposal in respect of the above. In that regard I attached plans and elevations of the proposed dwellings together with suitable block and location plans.

In addition I also attach a suitable arboricultural survey, a preliminary ecological appraisal and an Ecological Enhancement & Habitat Restoration Plan.

The relevant fee of £924 is also attached.

**The Site and its Surroundings**

The application site currently provides for an open area of land accessed via a private driveway leading to Camp Road. The site is situated on the edge of existing Heritage asset notably the designated ancient woodland which partially screens open views from the public highway.

The site comprises an area of approximately 2280sq.m and is located within the Staffordshire Green Belt approximately 1.2 KM due north of the urban conurbation of Sutton Coldfield.

The site has been used for almost 30 years as an established builder's yard incorporating numerous long standing built structures together with the unrestricted storage of the full spectrum of building materials. Given the commercial nature of the use it continues to attract significant unrestricted comings and goings of delivery and other such vehicles serving the

site. The use recently formed the subject of a Certificate of Lawful Development under application number 19/01213/CLE which approved the unrestricted use of the site for the storage of building materials within Use Class B8.

### **Details of the proposal**

This application seeks to replace the existing builders yard and associated traffic generation with two modest three bedroom dwellings which will continue to be sited amongst existing ancient woodland which itself will be supplemented and enhanced with additional indigenous tree planting. An Ecological Enhancement And Habitat Restoration Plan demonstrates how this will be achieved thereby protecting and enhancing this Historic Asset in the long term.

The dwellings themselves will comprise traditional brick and tile construction and will be fitted out with appropriate rainwater harvesting systems, solar panels and individual electric power points in response to the Governments announcements to shift away from the traditional combustion engine in favour of electric vehicles.

In addition the two dwellings will share a suitable geothermal heating system which when taken with other such systems referred to above should eradicate reliance upon traditional energy sources

Through necessity the site will also benefit from full internet access in order to maximise efficiency and reduce the potential need to travel

## Relevant Planning Policy

### Lichfield District Local Plan Strategy 2015

Core policy 1 confirms inter alia that "The District Council will direct **the majority** of future development to the following locations.." accepting therefore that not all development will be directed in that fashion.

In addition CP1 also confirms that "**Opportunities to enhance the beneficial use of the Green Belt will be supported in line with the National Planning Policy Framework and local Policy NR2: Development in the Green Belt**". Since this proposal will clearly result in an overall visual enhancement, improved openness and ecological and arboricultural gain there is a clear enhancement of the beneficial use of the site. Core Policy 1 therefore is complied with

Core Policy 3: states that in "Delivering Sustainable Development The Council will require development to contribute to the creation and maintenance of sustainable communities, **mitigate and adapt to the adverse effects of climate change, make prudent use of natural resources, reduce carbon emissions, enable opportunities for renewable energy** and help minimise any environmental impacts.

To achieve this, development should address the following key issues:

- protect and enhance the character and distinctiveness of Lichfield District and its settlements;
  - protect the amenity of our residents and seek to improve their overall quality of life through the provision of appropriate infrastructure, services and facilities;
  - promote social cohesion and inclusion and reduce inequalities, and ensure access for all sectors of the community to employment opportunities (including safeguarding local jobs through local employment provision), adequate and affordable housing and a range of services and facilities, in both our urban and rural areas;
  - assist in the regeneration and evolution of towns and villages and surrounding areas in meeting the changing needs of their population over
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- time and maintain the vitality, viability and vibrancy of local communities;
  - be of a scale and nature appropriate to its locality;
  - **encourage the re-use of previously developed land in the most sustainable locations**, and encouraging the reuse of buildings as a sustainable option;
  - **ensure that development on brownfield sites affected by contamination is remediated and that any ground instability arising from mining legacy or former land uses is addressed;**
  - **reduce the overall need to travel**, (including the reduction in the intensification of vehicular movement – my emphasis) whilst optimising choice of sustainable modes of travel, particularly walking, cycling and public transport; use our natural resources prudently **and conserve, enhance and expand natural, built and heritage assets and improve our understanding of them wherever possible;**
  - minimise and manage water, waste and pollution in a sustainable way, particularly through reduction, re-use and recycling measures in both the construction and use of buildings in line with the requirements of the Code for Sustainable Homes and BREEAM assessments, or their successors, and including incorporating adequate space provision within buildings/layouts for appropriate storage or sorting of materials for recycling;
  - give priority to utilising ground infiltration drainage techniques and **including sustainable drainage techniques and incorporate other sustainable techniques for managing surface water run-off** such as green roofs in new development and in retro-fitting where historic flooding events have been identified;
  - guide development away from known areas of flood risk as identified in the Strategic Flood Risk Assessment (Level 1) and Surface Water Management Plan. Where development is proposed in flood risk areas a site-specific flood risk assessment must be undertaken in line with the National Planning Policy Framework;
  - avoid sterilisation of mineral resources; minimise levels of pollution or contamination to air, land, soil or water, including noise and light
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- pollution and avoid unacceptable uses within source protection zone 1 areas to safeguard water resources and ensure water quality;
- ensure that all new development and conversion schemes are located and **designed to maximise energy efficiency and utilise sustainable design and construction techniques appropriate to the size and type of development**, using local and sustainable sources of building materials wherever possible;
- maximise opportunities to protect and enhance biodiversity, geodiversity and green infrastructure and utilise opportunities to facilitate urban cooling; and **facilitate energy conservation through energy efficiency measures as a priority and the utilisation of renewable energy resources wherever possible, in line with the energy hierarchy”**

Policy NR2 states that “Development in the Green Belt within the Lichfield District portion of the West Midlands Green Belt, as defined on the policies map, **opportunities to enhance the beneficial use of the Green Belt will be supported. This may include opportunities to provide access, for outdoor sport and recreation, to retain and enhance landscapes, visual amenity and biodiversity, or to improve damaged and derelict land.**

All development within the Green Belt must retain its character and openness. **Inappropriate development is, by definition, harmful to the Green Belt and will not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. ..**

The construction of new buildings is regarded as inappropriate in the Green Belt, unless it is for one of the exceptions listed in the National Planning Policy Framework. In addition, limited infilling within Green Belt villages will be allowed, with appropriate 'infill' boundaries being determined through the Local Plan Allocations document, which may, where appropriate, be informed by local community-led plans”

## National Planning Policy Framework

Paragraph 79 recognises that ordinarily “Planning policies and decisions should avoid the development of isolated homes in the countryside unless...

**b) “the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of Heritage assets..”** and that it would

**c)...“significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area”**

In consideration of the same the ancient woodland status of part of the site and the surrounding land is relevant since it comprises "An ..., area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest." in accordance with the definition of "Heritage Asset" contained in Annex 2 of the NPPF.

Given that the arboricultural and ecological appraisals and the Ecological Enhancement & Habitat Restoration Plan all recognise the relative ecological and arboricultural gain to this Heritage Asset as a form of enabling development it follows that paragraph 79 is complied with and as such this represents a significant advantage when weighed with other factors against the relatively limited harm arising.

Paragraph 141 of the NPPF states that “Once Green Belts have been defined, **local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities** provide access; to provide opportunities for outdoor sport and recreation; **to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.”**

This is one such site where such opportunities can and should be delivered.

Paragraph 144 states that “ When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. **‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.”**

Paragraph 145 states that “A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are: ...

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development; or – not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

For clarification purposes it is clear that that numerous permanent structures are distributed around the site and due to their size, weight and presence over 10s of years they can reasonably be described as permanent structures. As such the site falls clearly within the definition of "previously developed land" and "Brownfield land" as defined in the NPPF Appendix 2. For the avoidance of doubt that includes "**land which is or was occupied by a permanent structure, including the curtilage of the development land...**" It follows

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therefore that the proposed development complies with paragraph 145(g) above and is therefore an appropriate form of development in the Green Belt. Notwithstanding I submit that very special circumstances are so demonstrated

Paragraph 149 states that “ Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, **water supply, biodiversity and landscapes,** and the **risk of overheating from rising temperatures.** Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.”

Paragraph 154 states that “**When determining planning applications for renewable and low carbon development, local planning authorities should...**

- a) **not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and...**

### **Relevant Case Law**

Numerous cases feature the interpretation of Green Belt policy and in particular the interpretation of the term “very special circumstances.” whilst some of those cases were considered at the time of the previous PPG2 the principles that those cases established remain in place in the more up to date context of the National Planning Policy Framework

In the case of Vision Engineering verses the Secretary of State and Guildford Borough Council and the updated Houghton Case Lord Donaldson made clear the proper approach to be taken when assessing whether or not very special circumstances exist. In that regard he advocated that it was necessary to balance the harm to the interests of the Green Belt against the extent of the advantages to be derived from the development and that these would vary from case to case such that in circumstances where only limited harm would occur then only

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limited advantages would need to be demonstrated sufficient to outweigh that harm. In particular he stated

“In my judgment the effect is that if a proposed development is in the Green Belt and is of a nature which is inappropriate, it is by definition one which would cause demonstrable harm to interests of acknowledged importance. **This is not determinative of the application, but it becomes incumbent upon the applicant to show the advantages of the particular development, in the particular circumstances, are such as to outweigh this harm to such interest. This is a balancing exercise since the extent of the harm to the Green Belt interest and the extent of the advantages to be derived from the development can both vary from case to case** but in the unlikely event of equilibrium being reached, the application should be refused”

In *Basildon District Council, R (on the application of) -v- Temple* [2004] EWHC 2759 (Admin) Sullivan J stated that in planning, as in ordinary life, a number of ordinary factors, none of them “very special”, may when, combined together, amount to ‘very special circumstances’.

In *Carnworth L J, in the Court of Appeal judgement in Wychavon District Council -v- Secretary of State for the DCLG and Other* [2008] agreed with the approach of Sullivan outlined above but also stated that the words “very special” should not be interpreted as meaning the converse of “common place”. Rarity may also provide for the special quality of a particular factor, but what is required is a qualitative judgement as to the weight to be afforded to a particular factor for planning purposes. It is erroneous to look for the unusual or uncommon place in weighing other considerations as a pre-requisite for finding that “very special circumstances” exist.

### **Relevant Planning Considerations**

The principal issue for consideration is the extent to which the proposed development complies with the limitations of Green Belt Policy. In that regard it is accepted that development of this nature is ordinarily considered as

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inappropriate development within the Green Belt unless it falls within one of the exceptions identified within NPPF or where very special circumstances can be demonstrated such as to outweigh the harm to the interests of the Green Belt.

In this respect it is clear that the existing site represents an undesirable brownfield site which would benefit from redevelopment in accordance with the provisions of paragraph 145 (g) of the NPPF not least given the overall improvements to the landscape and general openness of the site when compared to the lawful unrestricted activity of a builders yard of this nature. In such circumstances therefore I submit that the proposal represents the “**redevelopment of previously developed land, whether redundant or in continuing use...**” ... which would: – **not have a greater impact on the openness of the Green Belt than the existing development;** or – **not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land**”

Accordingly the proposed development constitutes appropriate development in the Green Belt and should be supported.

In the unlikely event that the LPA disagrees with this interpretation it then becomes necessary to demonstrate the very special circumstances necessary to outweigh the any harm to the interests of the openness of the Green Belt. In undertaking that exercise it is necessary to have regard to the relevant case law referred to above and in so doing balance any harm arising against all of the advantages, such that when one outweighs the other then that becomes determinative of the application.

### **Extent of the harm**

Inappropriateness is by definition harmful to the interests of the Green Belt but in addition it is clear that the extent and physical manifestation of the proposed two dwellings will in themselves represent a degree of harm since built development by its nature will compromise the openness of the Green Belt per se.

That said, the access route to and through the site already exist and its upgrading and resultant visual improvement will not add additional harm to the

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development of the site.

### **Extent of the advantages**

Before considering the overall advantages of redeveloping the site it is important to set out the precise nature of its current lawful use. In that regard it is clear that the site has been operated as a builder's yard for over thirty years albeit for the purposes of its lawfulness it was only necessary to prove a 10 year use in order to secure the recent certificate to that effect.

In all that time the site has benefitted from numerous long standing built structures distributed across the site together with the unrestricted storage of building materials

As such the site can appear incongruous within the rural landscape (particularly in winter months) which in turn results in a conspicuous impact on the otherwise openness of this part of the Green Belt.

As such the removal of this unrestricted activity in favour of two modest dwellings will significantly reduce the visual impact of the site and as such enhance the openness of the surrounding Green Belt overall.

In addition to the above the site is continually frequented by large vehicles delivering and collecting building materials which access the site via modest country lanes adding to congestion and acting against the general principles of sustainability. This is further compounded by other workmen's vehicles collecting other necessary building materials on a daily basis

The removal of this lawful activity in favour of two modest dwellings will result in considerable reduction in traffic generation visiting the site which will improve the overall safety of the adjoining highway network whilst improving the sustainable nature of the site generally.

The introduction of a suitable water harvesting system, and the use of solar power and ground source heating system will further contribute to the sustainable aspirations of the development as too will the provision of a private vehicle electricity point for each dwelling.

The additional provision of indigenous woodland planting and the implementation of the Ecological Enhancement & Habitat Restoration Plan will significantly help to further screen the development whilst protecting and enhancing this ancient woodland as an important Heritage Asset in compliance with paragraph 79 of the NPPF.

### **The Balancing Exercise.**

Having regard to the above I am firmly of the opinion that when all of the advantages are weighed against the limited harm to the interests of the GreenBelt, then the balance falls firmly in favour of the development. Accordingly very special circumstances are so demonstrated and as such planning permission should be granted.

### **Conclusion**

Having regard to the above I respectfully request that in these particular circumstances planning permission should be granted.

Yours Sincerely

Nick Hood Dip TP, MRTPI, DMS

