



STAFFORDSHIRE
moorlands
DISTRICT COUNCIL

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THE STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PUBLIC FOOTPATH NUMBER 27 (PART) (PARISH OF CAVERSWALL) DIVERSION
ORDER 2021

Statement of Grounds on which it is considered the Order should be Confirmed

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Statement of Grounds

This order was made by Staffordshire Moorlands District Council (the Council) on the 19th September 2021, on application from the landowners. A copy of the application is shown at Appendix A. A copy of the order is attached at Appendix B.

Notice of making of the Order was published in the Leek Post and Times on the 22 September 2021, copy attached at Appendix C, it was also available on the Council's website, displayed in reception and was available at the customer services desk at Staffordshire Moorlands District Council offices. A copy of the notice, order and plan were posted on either end of the footpath to be diverted on 20th September 2021.

The Order is made by the Council under Section 257 of the Town and Country Planning Act 1990 because it was satisfied that it is necessary to divert the footpath to which the Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990, namely a housing development at Land East of Sandfields, Kingsley Road, Cellarhead under planning reference SMD/2019/0452 described as 'Proposed erection of 2no. detached dormer bungalows'. A copy of the planning consent is attached at Appendix D.

A copy of the approved proposed site layout, plan ref: 0887 AL(0)02E is attached at Appendix E. The existing path passes through the development site and would pass through one of the two properties that have planning consent (the south easterly of the two).

The diversion order proposes that the footpath be diverted from the Kingsley Road side, around the development site and re-joining the existing path at point C. The length of the existing footpath is approximately 50m and the length of the proposed diverted path would be approximately 68m.

The development is yet to commence. At present the existing path passes over a stile from the pavement at Kingsley Road pavement and crosses an open field to the south. The stile will remain. It is considered that the increase in length of the path over this short distance is negligible and just as convenient to members of the public who will use the path. The gradient of the new path will be equivalent to existing.

The existing footpath is grass surfaced, it does not have a boundary or set width as it crosses over the open field so is assumed to be the minimum width of 1.5m. The proposed path will be 2m in width and pass to the side and rear of the proposed property through which it would otherwise pass. It will be grassed.

The diversion will take the path between the boundaries of the existing property to the east, known as Pathways and one of the new proposed dwellings. The boundary to Pathways with the proposed diversion is partly hedged to the front part of the property; to the side of the property itself and the rear is a 2m high close boarded fence that would maintain the privacy of the occupiers of Pathways.

The boundary treatment of the new property can be controlled by planning condition (Condition No4, see Appendix D) so ensuring that the user experience between the 2 boundaries is not oppressive, but even if permitted development rights and planting in

gardens, which is difficult to control were exercised, this part of the diversion is only 40m long, 2m in width, straight and open to both ends. It is not considered that this would be unusual, unacceptable or create a danger to users. No objections were made to this effect by any of the statutory consultees, including the highways authority.

The proposed diversion would then follow the rear of the development site boundary until it meets the existing path at point C on the diversion order plan. To one side of the diverted path would be the rear boundary of the new properties, to the other would be the open field beyond and so that would maintain its open aspect to the south.

The necessity for diversion of the footpath was considered during the planning application process and while it is acknowledged that this was not the main focus of the report it was considered that diversion of the path was feasible and was not unacceptable to the Planning Applications Committee. See committee report and minute at Appendix F.

Following the grant of consent the application was made for the diversion and the application was considered further by way of delegated decision, see report at Appendix G. It was considered that the diversion was necessary in order to accommodate the consented development.

There was no formal pre-order consultation. A number of objections were received by residents following the making of the order.

Council Comments on the Objections received.

The council has received 14 objections to the proposed scheme. In summary the objections cover the following points:

- The path will be lengthened and less convenient to use
- The path will be unsafe;
- The path will be less enjoyable as it completely changes the character of the footpath;
- Creation of an alleyway between the houses will be uninviting to users and reduces quality and diversity of views;
- Creates easy access to the rear of properties which raises security concerns;
- Will be dark because the current street light will be removed to accommodate the proposed development;
- Future concerns regarding maintenance; the hedges and grassed footway will soon overgrow causing obstruction and hazard if not tended to;
- A new stile that has been erected is too high and not disabled friendly;
- where path 27 meets the A520 is presently overgrown and the stile is wobbly and unstable;
- The new route will create areas of the path which would be unseen on approach and would subject users to hidden potential dangers or hazards. For most of the new route users would be out of sight of the surrounding properties and main road.
- By incorporating a 90 degree turn at point B, walkers would be turning this corner blindly to any hidden potential dangers or hazards, either real or by concept, on the next part of the path;
- New path will need more regular maintenance due to nature of the path
- the diverted path will create areas where nuisance, anti-social behaviour and crime

could be encouraged;

- The new path creates areas that have potential for nuisance, anti-social behaviour and crime. This would be intimidating for path users and of grave concern to occupiers of adjoining property at Pathways, security of their home and garden;
- Point B on the plan, where the new route enters the adjacent field, gives an area where the rear of properties could easily be accessed for criminal activity;
- price and saleability of adjoining property Pathways will be detrimentally impacted by having a public footpath alongside;
- the footpath is close to a dangerous junction for walkers;
- path should not be downgraded in a climate emergency;
- The diversion would only be beneficial to the new property developer.
- Changing the existing footpath from being across an open field to one which runs between houses and behind them would be the wrong thing to do in view of the recent saddening and upsetting media reports of loss of life in public places;
- new route doesn't include any features to improve access for the mobility impaired user

The Council responds as follows:

- The new path will be 18m longer than existing and is not considered to be excessively longer.
- Although the nature of the path will change from a route across open land to that surrounded in parts by built development and in parts behind hedging and/or fences it is not considered to be unsuitable given the short length of the path overall and proposed width. It is noted that the sides of the new property and existing property at 'Pathways' coincide for some 10 meters, if there is any 'alleyway' type effect at all then it is considered it would be limited to this area only, which is very short. Boundary treatment of the proposed dwellings are controlled by planning conditions.
- The Highways Authority are responsible for the maintenance of public footpaths and the new route will be maintained together with all the other footpaths in the area.
- There is no reason to think that the new path will necessarily be unsafe, attract anti-social behaviour, nuisance or crime.
- In terms of access to the backs of the properties facing Kingsley Road it is noted that the current pathway has no boundary features between it and the rear of other properties along that side of Kingsley Road, if anything the new path will be more secure than existing –but at point B the user will once again be in an open field, so on balance the diversion is not considered to any better or worse from a crime perspective.
- The proposed route from point A to B will be visible from the road and from parts of the existing and proposed properties. While the route from point B to point C will not be visible from the road, that applies equally to the existing footpath where it passes through the hedge at point C and continues to the south, with no great visibility from the road or other public vantage point. Between B and C – and for some of the route beyond C – the path would be overlooked by the new dwellings (in addition to the existing neighbouring dwellings) and the path would not be wholly hidden but would have a sense of security due to being overlooked by the dwellings and being adjacent to their gardens. Many footpaths are located in remote areas where there is no or little visibility from public viewpoints; that is not true of this diverted path, but that does not render them unsafe, nor necessarily prone to anti-social behaviour.

- There is an existing street lamp which coincides with the approved vehicular entrance to the development. It stands at a point 17m north west along the road from point A of the route to be diverted. Condition 11 of the consent at Appendix D requires this lamp to be “re-located” rather than be removed altogether although at this stage it is not known if this would be further along to the north west or if it would be moved closer to point A (or indeed across the road).
- The stile and access point to the diverted path at point A would be the same as currently exists and not being diverted would be unaffected. At point B a squeeze gap stile would be needed as currently exists at point C. While the new route does not include any features to improve access for the mobility impaired user, any improvements could potentially only be made to the section of path to be diverted. The council welcomes opportunities to increase access to the countryside but schemes to improve access as are suggested have to be part of a coherent whole so that sections to be improved will marry with the paths beyond. At point C the path would resume on its original route across the field that includes stiles that would be inappropriate for some disabled users.
- While the footpath will pass closer to the property ‘Pathways’ than it does at present it is not considered that this would necessarily impact adversely on that property. The proposed footpath will run along well delineated boundary features, including a 2m fence to the side and rear of the property. Many properties have public footpaths running through the property itself that can affect property value but that is not the case here.
- Comments relating to the footpath being close to a dangerous junction for walkers are noted but the same situation exists for the current path. Nor is it considered that diversion of the path would contribute in any way to the climate emergency or to loss of life in public places;
- The council does not agree that the diversion would only be beneficial to the new property developer, there are clear public benefits that will flow from this development as set out above, the property has consent and this diversion is a minor diversion appropriate to the proposed development.

Conclusion

Any disadvantages likely to arise as a result of the diversion of the path to members of the public generally or to persons whose properties adjoin or are near the existing highway should be weighed against the advantages of the proposed order.

In this case an application was made for 2 dwellings which was considered by the Planning Applications Committee of the Council to accord with planning policy, the need for a diversion was a material consideration that was taken into account in determining the application. The Council is in need of new housing to provide homes in the district if it is to meet the targets in its local plan. The development itself will generate work during the construction phase and the occupants will bring income to the local area.

Without a planning application to modify the current consent there is no other route that can accommodate this diversion that would be as close to the existing route as that proposed. But even if such an application were to be made to accommodate the footpath through the centre of the new proposed dwellings or to the boundary with Sandfields, for example, this would still necessitate taking the path between residential properties in a similar manner. It would also require the built development to be relocated closer to the property known as Pathways and so may not be acceptable from a planning point of view

in any event. The proposed diversion is the only possible means of diversion that can accommodate the approved scheme and so is necessary.

While the diversion will be different in nature to the current route that passes over an open field the short length of the diversion will not cause the undue loss of enjoyment of use of the path overall and is considered to be equally commodious to use. In balance the public interest is in diverting the path as proposed as it is necessary in order to allow the development to proceed and the Council respectfully asks that the Order be confirmed.

22 December 2021



**APPLICATION FOR THE DIVERSION OF A PUBLIC RIGHT
OF WAY UNDER S.257 OF THE TOWN AND COUNTRY
PLANNING ACT 1990 (as amended)**

**PLEASE READ THE ACCOMPANYING GUIDANCE NOTES CAREFULLY BEFORE
COMPLETING THIS APPLICATION FORM**

IMPORTANT: No authority for the diversion of a footpath, bridleway or restricted byway is granted unless and until a Diversion Order has been confirmed, certified and brought into effect. Any obstruction of the existing route is an offence and may make it impossible to proceed with an application.

1 Applicant details: Mr. & Mrs. Ray and Yvonne Berrisford

Name and address of applicant:

Sandfields, Kingsley Road, Cellarhead, Staffordshire, ST9 9DJ

Daytime telephone number:

E-mail address:

2 Agent details (if applicable): Rob Duncan

Name and address of Agent to whom correspondence should be addressed:

Rob Duncan Planning Consultancy Ltd. 70 Ferndale Road, Lichfield, Staffordshire, WS13 7DL

Daytime telephone number: 07779 783521

E-mail address: rob78duncan@gmail.com

3 Particulars of public right of way to be diverted

- a) Footpath/Bridleway/Restricted Byway Number Caverswall 27
- b) Parish/Town: Caverswall / Cellarhead
- c) Length in metres of section to be diverted: 45.7
- d) Width: Undefined

- e) Description of length to be diverted. Describe the existing position, surfacing, any gradients, and any stiles, gates, bridges or steps (please continue on separate sheet if necessary)

The existing public footpath runs from the NE corner of the applicant's site, some X metres east of the junction of Kingsley Road (A52) with the Leek Road / Cellarhead Crossroads. The footpath is surfaced in grass as it crossed an existing field. The footpath traverses gently uphill in a SW direction where it meets an existing hedgerow towards the top of the slope. The footpath thereafter continues on in a SW direction eventually connecting with the Leek Road (A520). The footpath is accessed from the Kingsley Road (A52) via an existing stile.

4 Particulars of alternative route to be provided

- a) Length in metres: 60.7m
- b) Width: 2.8m
- c) Description of path to be provided. Describe the proposed position, surfacing, any gradients, and any gates, bridges or steps (please continue on separate sheet if necessary)

The application proposes to divert the public footpath so that it runs from the existing stile in the NE corner of the site, running southwards along the eastern site boundary, and then turning westwards to run along the back of the existing hedgerow towards the top of the slope. The footpath will have a similar gradient to the existing footpath and will be surfaced in grass as per the existing.

5 Interested parties

- a) Applicant's interest in the land over which the existing path runs (eg owner/tenant/occupier)
- Owner
- b) Applicant's interest in the land over which the alternative path runs (eg owner/tenant/occupier)
- Owner
- c) If any other person has an interest in either the land over which the existing path runs, or the land over which the alternative path runs please give details here:
NB Written consent or a joint application will be required if there is more than one owner as detailed in the guidance notes
- Not Applicable

6 s257 Town and Country Planning Act 1990

State how the proposed diversion satisfies s257 of the Town and Country Planning Act 1990, use separate sheets if necessary:

- a) Reference number of planning consent (no. beginning HPK): SMD/2019/0452
- b) Explain why the diversion is necessary, if required attach a plan:

The diversion of public footpath Caverswall 27 is required in order to enable the implementation of the approved housing scheme on the site, as approved under application SMD/2019/0452. The approved scheme is shown on the submitted footpath diversion plan for ease of reference.

- c) Has development begun, if so describe extent of development, if required attach a plan:

The development has not yet begun.

- d) Is the development substantially complete, if 'yes' you must make your application to Staffordshire County Council: No

- e) Explain if the diverted path has any advantages or disadvantages, improvements or otherwise over the current path:

The current public footpath is unenclosed with an undefined width. The diverted path will be more clearly delineated where it runs along the eastern boundary of the site, and will be enclosed by existing boundary hedgerow / fencing on its eastern side and a new fence on its western side. The centre of the footpath will be a minimum of 2m from the centre of the new hedgerow. Beyond the existing boundary hedgerow at the southern edge of the site, the public footpath will be unenclosed. The new arrangements are shown on the enclosed plan (00887 – Footpath Diversion Plan Rev.A).

- f) Explain the effect (if any) which the coming into operation of the Order would have as respects other land served by the existing public rights of way:

The diversion will not have any effects

- g) Explain the effect (if any) which the new public right of way would have as respects the land over which the right is created and any land held with it

The diversion will not have any effects other than the new route becoming publicly accessible (the proposed re-alignment of the diverted footpath is not currently accessible by the public)

Applicant's declaration and agreement

Note: Where reference is made to singular the declaration is deemed to include plural where it is made by more than one party or relates to more than one public footpath, bridleway or restricted byway

Declaration

- a) I understand that no authority for the diversion of a public footpath/bridleway/restricted byway is conferred unless and until an Order is made, confirmed and, if appropriate certified;
- b) I declare that the footpath/bridleway/restricted byway to be diverted is in no way obstructed and that it is fully available to the public. I undertake that it shall in no way be obstructed before the Order comes into effect;
- c) I have read and understand the guidance notes which accompany this application form;
- d) I confirm that to the best of my knowledge all the particulars given are true and accurate.

Agreement:

I hereby agree:

- a. to make up the new lengths of footpath/bridleway/restricted byway to such standard as is required by the Council or to meet the costs of the works;
- b. to give permission for consultees to inspect the proposed route(s) but they should contact Rob Duncan (Agent) on telephone number 07779 783521 in advance
- c. To reimburse the Council any expenses incurred by it in connection with the making of the Order, whether or not the Order is confirmed;
- d. To pay the cost of any works (including installation, removal or re-positioning of any roadside signposts, waymarks or statutory undertakers' apparatus in, or under the highways to be diverted) necessary in consequence of the Order coming into effect
- e. To the information supplied within and in support of this application being shared with other parties as necessary in the context of the application and/or in accordance with the law.

Signed (all applicants must sign) R. A. Berrisford Yvonne Berrisford

Full Name(s) Ray Berrisford..... Yvonne Berrisford

Position (if applicable) Owner.....

Date: 8th December 2020 8/12/2020



**PUBLIC PATH DIVERSION ORDER UNDER THE
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 257**

**THE STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PUBLIC FOOTPATH NUMBER 27 (PART) (PARISH OF CAVERSWALL)
DIVERSION ORDER 2021**

This Order is made by **STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL** under Section 257 of the Town and Country Planning Act 1990 because it is satisfied that it is necessary to divert the footpath to which this Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely a housing development at Land East of Sandfields, Kingsley Road, Cellarhead under planning reference SMD/2019/0452.

BY THIS ORDER:

1. The part of footpath number 27 over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this Order ("the Schedule") shall be diverted as provided below.
2. There shall be created to the reasonable satisfaction of the Staffordshire Moorlands District Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the date on which Staffordshire Moorlands District Council certify that the terms of Article 2 above have been complied with.
4. The following works shall be carried out in relation to the highway described in Part 2 of the Schedule - the alternative footpath shall be grassed and have a width of 2.0 metres.
5. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

PART 1

Description of Site of Existing Path or Way

A section of footpath, approximately 50m in length and 1.5m in width, commencing from its junction with Kingsley Road, Cellarhead at point A as shown on the attached map and running in a generally south-westerly direction to point C as shown on the attached map being a point on the field boundary some 28m north west from the rear (south west) garden boundary of the property known as Pathways, Kingsley Road, Cellarhead, Staffordshire ST9 0DJ.

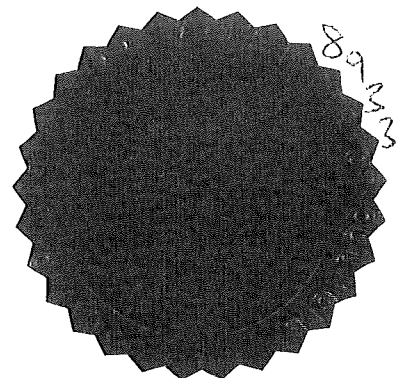
PART 2

Description of Site of Alternative Highway

The new section of footpath to be created shall be 2m in width and run from point A as shown on the attached map first in a generally south south-westerly direction for 40m alongside the field boundary with the adjacent property known as Pathways, Kingsley Road, Cellarhead, Staffordshire ST9 0DJ to a point B as shown on the attached map then enter the adjacent field to the south west and turn through 90 degrees to re-join the original route at point C on the attached map, a point some 28m generally north west from the rear (south west) garden boundary with Pathways, Kingsley Road, Cellarhead, Staffordshire ST9 0DJ.

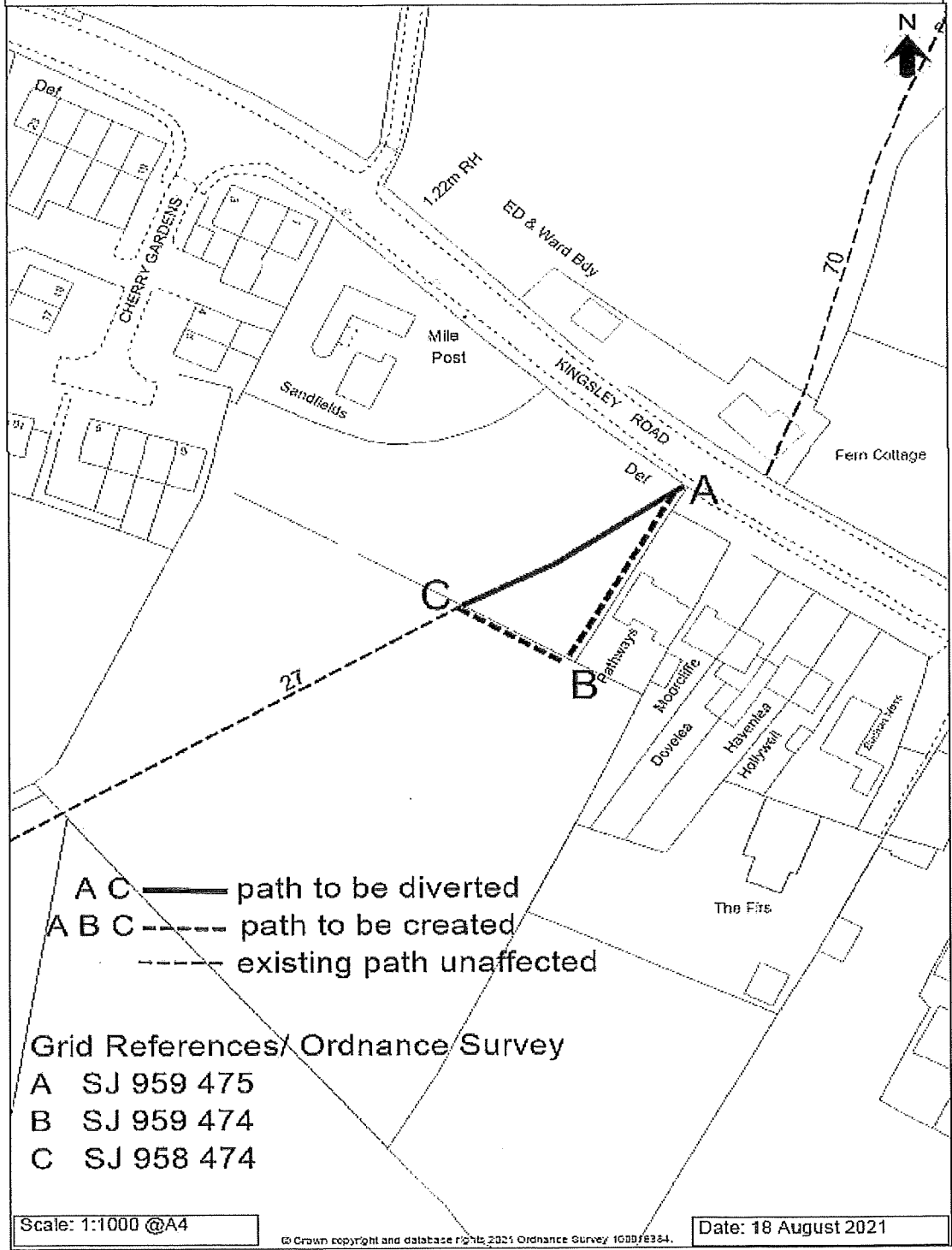
The Common Seal of **THE STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL** was hereunto affixed on the day of the ¹⁹ **SEPTEMBER** 2021 in the presence of:-

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 **CHIEF EXECUTIVE**

Plan for fp 27 Caverswall TCPA Diversion



NOTICE

TOWN & COUNTRY PLANNING ACT 1990 s257 and PARAGRAPH 1 OF
SCHEDULE 14

THE STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PUBLIC FOOTPATH NUMBER 27 (PART) (PARISH OF CAVERSWALL) DIVERSION
ORDER 2021

The above order was made on 19th September 2021. The effect of the order will be to divert part of Public Footpath 27 (part) running from point A through to point C and to create an alternative footpath instead from point A through point B to point C as shown on the order plan.

A copy of the order and plans may be seen free of charge at the Council Offices Moorlands House, Stockwell St, Leek during office opening hours or by request in writing to Legal Services, Moorlands House, Stockwell St, Leek ST13 6HQ. Copies of the order may also be obtained by request from nicoladb@highpeak.go.uk. Alternatively see the following link to the Council's website.

<https://www.staffsmoorlands.gov.uk/article/3833/Footpath-Diversion-Orders>

Any representation about or objection to the order may be sent in writing to the Head of Development Services, Moorlands House, Stockwell St, Leek ST13 6HQ not later than Friday 22 October 2021. Please state the grounds on which it is made.

If no such representations or objections are duly made, or if any so made are withdrawn, Staffordshire Moorlands District Council may confirm the order as an unopposed order. If the order is sent to the Secretary of State for confirmation any representations or objections which have not been withdrawn will be sent with the order.



Simon W. Baker B.Ed MBA MIMSPA
Chief Executive

Mr Rob Duncan
Rob Duncan Planning
70 Ferndale Road
Lichfield
Staffordshire
WS13 7DL

Mr and Mrs Berrisford
C/o Agent

Application no: SMD/2019/0452

Determined on: 15th November 2019

**Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2015
(as Amended)**

FULL PERMISSION FOR DEVELOPMENT

This permission does not carry any approval or consent which may be required under any enactment, bylaw, order or regulation (e.g. in relation to Building Regulations or the Diversion of Footpaths etc) other than Section 57 of the Town and Country Planning Act, 1990.

Location of Development:

Land East Of Sandfields Kingsley Road Cellarhead Staffordshire

Description of Development:

Proposed erection of 2no. detached dormer bungalows

In pursuance of their power under the above mentioned Act, Staffordshire Moorlands District Council Planning Authority, **HEREBY GRANTS PLANNING PERMISSION** for the development described above subject to the following condition(s):

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

Reason: To comply with the provisions of Section 51 of the Town and Country Planning, Planning and Compulsory Purchase Act, 2004.

2. The development hereby approved shall be carried out in accordance with the details as submitted in the application form and submitted specifications including site levels and as shown in drawings:

00887 AL(0)01C
00887 AL(0)02E
00887 AL(0)03C
00887 AL(0)04

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

3. Notwithstanding the submitted details and condition 2 above prior to construction above damp proof course level details including types and colours along with samples if requested of all roofing materials, facing materials and hard surfaces shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the details as subsequently approved.

Reason: To enable the Local Planning Authority to control the development and ensure that the works are in keeping with adjacent development and the character of the area.

4. Prior to the first occupation of the development details of all boundary treatments and hard landscaping shall be submitted to and approved in writing by the Local Planning Authority and prior to the first occupation of any part of the development shall be completed in accordance with the design details as subsequently approved.

Reason: In the interests of the visual appearance of the development and the amenities of the area.

5. By the end of the first full available planting season November to March following the first coming into use of any part of the development the details of a landscape planting scheme shall have been submitted to and approved in writing by the Local Planning Authority and shall have been carried out and completed in accordance with: the layout; schedules and specifications, including plant species, numbers and planting size, and protection from grazing livestock and wild mammals, as subsequently approved. Any plants which die or are lost in the first five years following the completion of the planting shall be replaced with plants of the form and size as originally planted. The planting shall thereafter be allowed to grow and be maintained for the lifetime of the development.

Reason: In the interests of the appearance of the completed development in the landscape.

6. The existing established native species hedgerow along the south westerly edge of the site shall be protected from any risk of damage as a result of site work during the development and shall be retained for the life of the development.

Reason: In the interests of the appearance of the completed development in the landscape.

7. All noisy activities shall be restricted to the following times of operations:

- 08:00 - 18:00 hours (Monday to Friday);
- 08:00 - 13:00 hours (Saturday)
- **No working is permitted on Sundays or Bank Holidays.**

In this instance a noisy activity is defined as any activity (for instance, but not restricted to, building construction/demolition operations, refurbishing and landscaping) which generates noise that is audible at the site boundary.

Reason: To avoid the risk of disturbance to neighbouring dwellings from noise during anti social hours.

8. The development hereby permitted shall not be brought into use until full details of the proposed vehicle access crossing, including dimensions, have been submitted to and approved in writing by, the Local Planning Authority. The access crossing shall thereafter be completed in accordance with the approved details and prior to the first use of development.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety. To provide and maintain visibility

9. No work to form any new access to the site shall be commenced until details of the 2.4m x 67m visibility splay to the west has been submitted to and approved in writing by the Local Planning Authority. The visibility splay shall thereafter for the life of the development be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level and be provided in accordance with the approved plan prior to the development being brought into use.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety. To provide and maintain visibility

10. The development hereby permitted shall not be brought into use until the visibility splay of 2.4 m x105m to the east shown on plan ref. no 00887 AL(0)02 E has been provided. The visibility splay shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level for the life of the development.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety.

11. No works to construct the access shall be commenced until details of the following highway works have been submitted to and approved in writing by the Local Planning Authority - relocation of the existing streetlight away from the proposed access point; the highway works shall thereafter be constructed in accordance with the approved details prior to the development being first brought into use.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety. To safeguard highway features

12. The development hereby permitted shall not be brought into use until details of the following off-site highway works have been submitted to and approved in writing by the Local Planning Authority: - replacement, relocation, raising and/or reconfiguration of the Advance Direction Sign currently in the visibility splay to the west of the access on replacement posts; The off-site highway works shall thereafter be constructed in accordance with the approved details prior to the development being first brought into use.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety. To provide and maintain visibility

13. The hedge on the frontage of the existing dwelling, Sandfields, (where it is not removed to provide visibility splay) shall be maintained in line with the rear of the footway such that it does not grow over the footway.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety.

14. The development hereby permitted shall not be brought into use until the parking and turning areas have been provided in accordance with the approved plans. The parking and turning areas shall thereafter be retained unobstructed as parking and turning areas for the life of the development.

Reason: To comply with NPPF Paragraph 108; to comply with SMDC Core Strategy Policy DC1; in the interests of highway safety. To comply with SMDC Core Strategy policy T1 and T2; to improve conditions for pedestrians.

15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that order with or without modification), no development as specified in Part 1 Classes A; B; C; D; E; F and G and/or Part 2 Classes A; B and C, other than those expressly authorised by this permission, shall be carried out without express planning permission first being obtained from the Local Planning Authority.

Reason: To enable the Local Planning Authority to control the development and so safeguard the character and visual amenities of the area and the Green Belt.

Informatives

1. A public footpath right of way passes through the site and this must not be obstructed at any time during the development and must remain available for public use on foot at all times both during development and on completion. A formal public footpath diversion order will need to be obtained before the easterly of the two dwellings can be constructed. Should temporary closure or temporary diversion be necessary to allow works to proceed then application should be made to the Staffordshire County Council Public Rights of Way officer. Contact: Rights of Way, Staffordshire County Council, 2 Staffordshire Place, Tipping Street, Stafford ST16 2DH. Email: rightsofway@staffordshire.gov.uk
Tel: (01785) 277244 or 277247
2. All wild birds including their nests and eggs are protected by law. It is an offence, with certain exceptions, to kill, injure or take wild birds or to take, damage, or destroy their nests or take or destroy their eggs. Site clearance, building alterations and/or demolition cannot therefore take place where there are birds nesting. Typically this will be in the period mid February to mid August. As this development involves vegetation clearance and/or demolition and/or other activities which would be damaging to any nesting birds present the work should avoid the bird nesting season so far as possible. If such work is to take place in the nesting season an ecologist experienced in bird nesting habits should first be engaged to advise on and ensure that the intended work can legally take place.
3. Attention is drawn to the roadside mile post to the immediate NW of the NW corner of the application site boundary having statutory protection as a Grade II Listed Building.
4. Severn Trent Water advise that there may be a public sewer located within the application site. Although the statutory sewer records do not show any public sewers within the development site area specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it

transpires diversionary works need to be carried out by Severn Trent.

5. The dropped crossing to the site shall be constructed in accordance with the submitted drawing and SCC requirements. Please note that prior to the access being constructed you require Section 184 Notice of Approval from Staffordshire County Council. The link below provides a link to 'vehicle dropped crossings' which includes a 'vehicle dropped crossing information pack' and an application form for a dropped crossing. Please complete and send to the address indicated on the application form which is Staffordshire County Council at Network Management Unit, Staffordshire Place 1, Wedgwood Building, Tipping Street, STAFFORD, Staffordshire, ST16 2DH. (or email to: nmu@staffordshire.gov.uk)<http://www.staffordshire.gov.uk/transport/staffshighways/licences/>

6. The condition requiring alterations to the Advance Direction Sign shall require a Highway Works Agreement with Staffordshire County Council. The applicant is requested to contact Staffordshire County Council in order to secure the Agreement. The link below is to the Highway Works Information Pack including an application form. Please complete and send to the address indicated on the application form or email to (nmu@staffordshire.gov.uk). The applicant is advised to begin this process well in advance of any works taking place in order to meet any potential timescales.
<https://www.staffordshire.gov.uk/transport/staffshighways/highwayscontrol/HighwaysWorkAgreements.aspx>

7. The lighting column in the access will need to be relocated by SCC PFI contractor Eon. It may be that adjacent columns will also need to be relocated to provide adequate street lighting coverage. This will be at the developers expense and extent of works should be established at an early stage. Works must be carried out by SCC PFI contractor Eon. Please contact lightingforstaffordshire@eonenergy.com

8. The proposed development is judged to be of suitable design and meets the tests of sustainability in planning. There are not judged to be any adverse implications for neighbours or wider public amenity and street scene. As the application was considered acceptable there was no need for any negotiation or amendment as would otherwise be advocated within the National Planning Policy Framework paragraph 38.

X *B.J. Haywood*

Signed by: Ben Haywood

On behalf of Staffordshire Moorlands District Council

NOTES

1. Approval under the Building Regulations may also be required. Advice in this respect can be obtained by contacting the Councils Building Control Section at BCControl@staffsmoorlands.gov.uk
2. Where a vehicle is often driven across a grass verge or kerbed footway to and from premises adjoining a highway, the occupier of the premises may, be required to pay the cost of construction of a crossing, and/or may be required to comply with conditions, imposed by the Authority. You should contact the Highway Authority at Staffordshire County Council.
3. This consent is granted subject to conditions and it is the owner(s) and the person(s) responsible for the implementation of the development who will be fully responsible for their compliance throughout the development and beyond. An application will need to be made to discharge conditions and a fee is payable with the application. For more details please refer to our web site: www.staffsmoorlands.gov.uk If there is a condition that requires work to be carried out or details to be approved prior to the commencement of the development this is called a "condition precedent". The following should be noted with regards to conditions precedent:
 - (a) If a condition precedent is not complied with, the whole of the development will be unauthorised and you may be liable to enforcement action.
 - (b) Where a condition precedent is breached and the development is unauthorised, the only way to rectify the development is the submission of a new application.
4. Other conditions on this permission must also be complied with. Failure to comply with any condition may render the owner(s) and the person(s) responsible for the implementation of the development liable to enforcement action.
5. The permission is granted in strict accordance with the approved plans. It should be noted however that:
 - (a) Any variation from the approved plans following commencement of the development irrespective of the degree of variation will constitute unauthorised development and may be liable to enforcement action.
 - (b) Variation to the approved plans will require the submission of a new planning application.
6. If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
7. If the decision to refuse planning permission is for a householder application, and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
8. If this is a decision to refuse planning permission for a minor commercial application, and you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.
9. If this is a decision to refuse express consent for the display of an advertisement, if you want

to appeal against your local planning authority's decision then you must do so within 8 weeks of the date of receipt of this notice.

10. If you want to appeal against your local planning authority's decision for any other type of development, including listed building consents then you must do so within 6 months of the date of this notice Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at <https://acp.planninginspectorate.gov.uk>
11. The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
12. If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

**STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE**

14th November 2019

Application No:	SMD/2019/0452	
Location	Land east of Sandfields, Kingsley Road, Cellarhead	
Proposal	Erection of 2 detached dormer bungalows	
Applicant	Mr and Mrs Berrisford	
Agent	Rob Duncan Planning Consultancy Ltd	
Parish/ward	Caverswall / Caverswall	Date registered 22 nd July 2019
If you have a question about this report please contact: Arne Swithenbank tel: 01538 395578 or e-mail arne.swithenbank@staffsmoorlands.gov.uk		

REFERRAL

The application is referred to the Committee at the request of Cllr Paul Roberts in order for committee to consider in particular the Green Belt and specifically whether the location is within a village.

SUMMARY OF RECOMMENDATION

REFUSE

1. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

1.1 The site is within the Green Belt on the south west side of the A52 Kingsley Road at a point some 150m east of the Cellarhead cross roads. The site comprises a c.50m width of roadside field with dry-stone wall along the rear of the roadside pavement and native species hedgerow towards the Sandfields end. The depth of the site from the road is c.45m and the site area is c.0.23ha. The rear (SW) boundary is a well maintained native species hedgerow with further farm fields beyond. The application red edge overlaps slightly with land used as garden and parking to Sandfields to the north west which is in the same ownership.

1.2 The detached dwelling of Sandfields is a modernised and extended property but appears to have at least 19th C origins with a building corresponding to the extant two storey house present on the 1887 OS map. Parking and gardens to Sandfields are somewhat loosely separated from the fields.

1.3 Bordering the site to the south east is Pathways, a detached dwelling fronting the road and the first in a row with two pairs of semis beyond and then a further detached house.

1.4 Opposite the site, across the road to the north east, is a garden plot and parking to serve Fern Cottage with essentially field countryside surrounding.

1.5 A public footpath right of way enters the application site from the public road in the corner boundary with Pathways. A stone squeeze style about midway along the site rear (SW) boundary takes the path onwards into fields beyond.

2. DESCRIPTION OF THE PROPOSAL

2.1 This application seeks full consent for two detached three bedroom dormer bungalows of 198m² gross internal floor area. Materials would comprise a red/orange brick and grey roof tiles to match the area. The agent has confirmed that a pre-commencement condition to require more specific details would be accepted.

2.2 The dwellings would be tall with a roof ridge of 7.8m and generous in layout. The properties would have a high eaves at the front of 4.0m with a middle section dropped lower to form a canopy over the door. They would be set back c.18m from the road edge, slightly closer but a similar distance to the 20m of Pathways. Sandfields is c.10 back from the road.

2.3 The dwellings would have an extended footprint with tall double garages attached. The two are only narrowly separated by a gap of 1.2m but their side-on alignment is staggered so that the more north westerly of the pair is set 4m forward of the other.

2.4 There would be a gap between the side wall of the south easterly of the two dwellings to Pathways of c.4m within which it is proposed to divert the route of the public footpath. No side elevation windows are included in the proposals.

2.5 Detailed landscaping is submitted on dwg 00887 AL(0)03 rev. C. A single drive entrance would serve the two dwellings necessitating a linking drive in parallel to the main road in front of the north westerly of the two. A walled boundary rear of the visibility splay is proposed along c.35m the frontage similar in amount to the current wall length.

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

<http://publicaccess.staffs Moorlands.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=130206>

3. RELEVANT PLANNING HISTORY

3.1 79/06834/OLDDC – site for two detached dwellings – refused

- 3.2 83/11940/OLDDC – site for dwelling – “closed”
- 3.3 88/01079/OLD – adj to Sandfields Farm Kingsley Road Cellarhead Caverswall – site for one dwelling – refused
- 3.4 At Sandfields: 04/00075/FUL – pitched roof over existing garage – approved
- 3.5 At Pathways: 99/00283/OLD – first floor extension – approved

4. PLANNING POLICIES RELEVANT TO THE DECISION

- 4.1 The development plan comprises the adopted Staffordshire Moorlands Core Strategy Development Plan Document (26th March 2014) and supporting evidence documents.

Core Strategy Development Plan (Adopted 26th March 2014),

S01	Spatial Objectives
SS1	Development Principles
SS1a	Presumption in Favour of Sustainable Development
SS6c	Other Rural Areas Area Strategy
DC1	Design Considerations
DC3	Landscape and Settlement Setting
R1	Rural Diversification
R2	Rural Housing
NE1	Biodiversity
T1	Development and Sustainable Transport

Adopted Supplementary Planning Documents/Guidance (SPD/G):

- Space About Dwellings SPG
- Design Principles SPG

Core Strategy Supporting Evidence Documents:

- Landscape and Settlement Character Assessment (2008)

National Planning Policy Framework (NPPF) July 2018

Paragraphs	1 – 14
Section 4	Decision making
Section 12	Achieving well designed places
Section 13	Protecting Green Belt Land
Section 15	Conserving and enhancing the natural environment

Local Plan Submission Version (February 2018)

SS1	Development Principles
SS1a	Presumption in Favour of Sustainable Development
SS8	Larger Villages Area Strategy
SS10	Other Rural Areas Area Strategy
DC1	Design Considerations
DC3	Landscape and Settlement Setting

H1	New Housing Development
NE1	Biodiversity and Geological Resources
T1	Development and Sustainable Transport

4.2 Local Plan process

The Council agreed to publish the Local Plan Submission Version for representations in February 2018. At this point, the Council agreed that the Local Plan was “sound”. Formal representations were then invited from residents, businesses and other stakeholders to provide them with the opportunity to support or challenge the soundness or legal compliance of the Local Plan. This stage in the process followed three previous public consultations since 2015 which had informed the preparation of the Local Plan alongside a comprehensive evidence base.

In June 2018, the Council subsequently agreed to submit the Local Plan Submission Version to the Secretary of State for examination. An examination in public is ongoing in order to determine whether the Local Plan is sound and legally compliant. Hearing sessions were conducted in October 2018 and the Inspector issued his initial post-hearing advice in January 2019 which set out some actions for the Council and a range of modifications that would be necessary to make the plan sound. The full schedule of modifications was the subject of public consultation between 18th September 2019 and 31st October 2019. The schedule consisted of modifications that the Inspector has so far deemed necessary to make the Local Plan sound. Following the consultation, the Inspector is expected to consider the responses before issuing his final report. Depending on the recommendations in the report, the Council may then be in a position to adopt the Local Plan.

In this context, the Council’s position on the weight to be given to the policies contained in the Local Plan Submission Version in terms of the three criteria set out in Paragraph 48 of the NPPF is as follows:

- The stage of preparation: the Local Plan is now at an advanced stage of preparation as the Council has submitted it to the SoS for examination;
- The extent to which there are unresolved objections to relevant policies: this varies depending on the policy in question. Where reference is made in this report to any emerging policies the level of outstanding objections to each policy will be noted and recommendation made as to the amount of weight to be given to the policies at this stage in the process;
- The degree of consistency of policies with the NPPF: given that the Council has submitted a Local Plan that it considers to be sound, all policies are deemed to be consistent with the NPPF.

5. CONSULTATIONS CARRIED OUT

Site Notice	Consultation period expired: 3 rd September 2019
Neighbour Notification	Consultation period expired: 19 th August 2019

Public Comments:

Three letters of objection have been received stating:

- The site is on green belt with a public footpath and if allowed will set a very dangerous precedent allowing anyone to build on green belt area.
- The access is opposite a neighbour dwelling but is not shown on the plans.
- In the last 5 years the Council has allowed 2 developments which has increased the properties 3 fold on the traffic situation. It's a 50 mph area and used as racetrack to Alton Towers and within the last 12 months JCB have just built a new car park for a 1000 cars and a new lorry park of which 95% use Kingsley road as their route to work.
- Kingsley road Cellarhead crossroads is one of the most polluted area in staffs moorlands we have queuing traffic at busy times stretching for 1/2 a mile with standing traffic and this development would add an estimated 10 more.
- There is a proposed access to the rear field is this for more development?
- There is no mention of having to remove a lamp post, road signs etc.
- Cellarhead does not need any more new houses. Our current infrastructure cannot harbour further development.
- Our infrastructure already cannot cope with the population.

Parish Council

Caverswall Parish Council – No objections to this application subject to neighbours' approval.

Severn Trent Water

Minimal impact on the public sewerage network therefore no objection and no requirement for a drainage condition. Advisory notes re possibility of public sewers within the site.

Staffordshire County Council Highways

No objection subject to conditions. Technical note includes details of radar speed survey, giving a snapshot of speeds on Friday 14th June 2019, times not stated.

The purpose of the requested speed survey was to determine if there was adequate frontage to provide a safe visibility splay, not to calculate it to the minimum splay based on a snapshot radar survey, which can itself affect driver behaviour. Speed limit of A52 at the access point is national (60mph). The speed survey does demonstrate that there is adequate frontage to provide a 67m visibility splay to the west. The extent of the blue line is not clear, but the hedge on the frontage of the existing Sandfields is included in the 67m. This will also improve visibility for users of the existing access and vehicles using the A52.

There is an existing streetlight at the access point. This will need to be replaced and relocated by Eon. Relocation to the apex of the entrance wall to the east of the proposed access is most likely, but this should be discussed with Eon at an early stage. There is an existing Advanced Direction Sign on the frontage of the site which obstructs the required visibility splay. This will need to be relocated or raised or the sign face redesigned and raised (all on new posts) to incorporate the additional sign below the main face. Highway works agreement should be commenced at the earliest opportunity to ensure developers timescales are more likely to be met. This ADS does not need to be illuminated.

Submitted drawing shows a wide access but no details of how wide the dropped kerb will be at the carriageway edge. Condition above seeks clarification of this.

AES Waste Services

No issues with this application.

6 POLICY AND MATERIAL CONSIDERATIONS / PLANNING BALANCE

Policy Context

6.1 The Local Planning Authority is required to determine planning applications in accordance with the development plan, unless there are material circumstances which indicate otherwise and in determining these applications, it shall have regard to the provisions of the Development Plan, in so far as material to the application and to any other material considerations.

6.2 Paragraph 11 of the National Planning Policy Framework (February 2019) states that plans and decisions should apply a presumption in favour of sustainable development. For decision-takers this means: "(c) approving development proposals that accord with an up-to-date development plan without delay; or (d) where there are no relevant development plan policies, or the policies, which are most important for determining the application are out-of-date, granting planning permission unless: (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole". NPPF para 8 identifies the three dimensions to

sustainable development as economic, social and environmental. The National Planning Policy Framework is a material consideration in planning decisions.

6.3 Policy SS1 of The Staffordshire Moorlands Core Strategy identifies that development should contribute positively to the social, economic and environmental improvement of the Staffordshire Moorlands. Core Strategy policy SS1a establishes a 'Presumption in Favour of Development' in line with National Planning Policy

6.4 The Development Plan for the Staffordshire Moorlands District Council consists of the Adopted Staffordshire Moorlands Core Strategy Development Plan Document (March 2014) with regard also being given to the provisions of the National Planning Policy Framework (NPPF); the Council's adopted Supplementary Planning Guidance documents: 'Space About Dwellings' and 'Design Principles' and the Council's Core Strategy Supporting Evidence Document: Landscape and Settlement Character Assessment (2008). Development boundary mapping remains for the present time as approved under the Staffordshire Moorlands Local Plan (September 1998).

Principle of Development and Main Issues

6.5 The site lies within the green belt , whereby in accordance with Policy SS6c, strict control will continue to be exercised over inappropriate development within the Green Belt allowing only for exceptions as defined by Government Policy.

6.7 The NPPF states at paragraph 144 that: "When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt."

6.7 The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. The Government identifies five purposes of the Green Belt:

- To prevent the unrestricted sprawl of large built up areas;
- To prevent neighbouring towns from merging into one another;
- To assist in safeguarding the countryside from encroachment;
- To preserve the setting and special character of historic market towns
- To assist in urban regeneration by encouraging the recycling of derelict and other urban land.

6.8 Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances (NPPF 143). '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 (NPPF 144).

6.9 NPPF paragraphs 145 and 146 set out specific exceptions by which certain forms of development can be considered as being not inappropriate in the Green Belt. One of these exceptions is at 145 (e): "limited infilling in villages". There are no planning definitions to this term.

- 6.10 The proposed development site is bounded by development to either side – Sandfields to the north west and the row beginning with Pathways to the south east. On this basis the site can reasonably be considered ‘infill’ as it would fill a gap between existing development.
- 6.11 However, the built elevation frontage in this proposal would extend to 40m including the 1m space between the two dwellings in a site of width c.46m. Although the proposal is for just two dwellings which can reasonably be regarded as being ‘limited’ in number the actual plot width could accommodate more dwellings. The adjacent detached property called Pathways and the two pairs of semis alongside occupy in total a similar (slightly lesser) width of c.44m for example. A development of five dwellings would not be regarded as limited infilling.
- 6.12 As well as being limited and infill the proposal site must be within a village to meet the test of paragraph 145 (e) of the NPPF. A combined larger village under the name, ‘Werrington and Cellarhead’ is defined with a development boundary in the adopted local plan. No change to this boundary is proposed in the emerging Local Plan. This development boundary is contained to the west of Leek Road and north of Cellarhead Road. All land east of the cross roads is within the Green Belt including land to both sides of Kingsley Road. The application site begins at a point c.140m east of the Cellarhead cross roads and as such is not within the settlement boundary. That however is not necessarily determinative in terms of consideration of whether for the purposes of interpretation of NPPF policy the site is within a village. The former Bowling Green Inn – now a physio centre – stands on the north side of Kingsley Road at the cross roads and is washed over by Green Belt. There is then a gap of c.100m to Fern Cottage which stands opposite the application site. After Fern Cottage there is then a further gap of c.100m to New Homestead Farm.
- 6.13 On the south side of Kingsley Road at the cross roads is a group of buildings which include a dwelling (formerly a store) on the corner and the former Hope and Anchor pub. Between these buildings and Sandfields is the SMD/2013/0976 approved and completed development of 22 dwellings known as Cherry Gardens. All is washed over by Green Belt. On this basis on balance it is perhaps appropriate to give the benefit of the doubt and accept that the village of Cellarhead extends to the west of the cross roads, and that the two former pubs and other adjacent buildings at the cross roads either side of Kingsley Road would be included.
- 6.14 With the post 2013 development of 22 dwellings forming Cherry Gardens being immediately adjacent to the rear of the former Hope and Anchor the “village” could now be reasonably expected to include this development. Although, it should be noted that, approval for Cherry Gardens was based on it being a rural exceptions site enabling an affordable housing scheme on the edge of or within a village in a rural area that would not otherwise normally be released for housing. In turn, given that the dwelling known as Sandfields (present at least since the late 19thC) is next adjacent, it may be logical to regard this as also

being within the modern day village. That said there is some sense of a disconnect between the Cherry Gardens development and Sandfields and notably the 30mph speed restriction – often a tell-tale of where built-up development such as a village is perceived to begin – is positioned at the juncture of Cherry Gardens and does not include Sandfields.

- 6.15 Further development east along Kingsley Road takes the characteristic form of sporadic ribbon development. On the south side of the road the application site marks the first break from the built-up zone as it has now become. Infilling this gap would effectively extend the built up zone again at least as far as the dwelling known as Buchan Ness the most easterly in the row of two pairs of semis and two detached dwellings adjoining the application site. On the north side of Kingsley Road development is altogether more sparse with a 100m gap from immediately rear of the former Bowling Green Inn at the Cross Roads to Fern Cottage and a similar gap to Homestead Farm. It is acknowledged that there is a recently constructed cul-de-sac development further to the east on the site of the former haulage yard but this again was only allowed as an exception to Green Belt policy as it constituted the redevelopment of a brownfield site and is physically somewhat divorced from the settlement.

Design and visual impact

- 6.19 Policy DC1 of the Core Strategy requires that all developments shall be well-designed and reinforce local distinctiveness by positively contributing to, and complementing the character and heritage of, an area. Development should be of a high quality, adding to the value of a local area, be designed to respect the site and its surroundings and promote a positive sense of place and identity through its scale, density, layout, siting, landscape, character and appearance.
- 6.20 In design terms, the two dwellings comprise two detached chalet style bungalows that have wide frontages with limited space in between. The design per se, does not raise any concerns. However the combination of the width and height of the dwellings and garages combined, and the limited spacing between the buildings would result in development which extend across virtually the entire width of the site. This would be out of keeping with the scale of development found elsewhere in the immediate vicinity and harmful the visual character of the area. It is proposed to construct the dwelling with brick and tile and in the event of approval it would be appropriate to require traditional tile form.
- 6.21 The site currently is attractive and well maintained with a mixture of stone wall and good native species hedgerows. An attractive stone squeeze stile conveys the public footpath through the rear hedgerow into the countryside beyond. The site is seen in full from the public road and from the public footpath approach from the SW. There would be a significant loss to the current sense of openness at this point. The characteristic of Kingsley Road is one of intermittent openness to which this site contributes significantly. Its development would result in a significantly extended un-broken run of developed road front in the approach to Cellarhead or from Cellarhead and delaying the sense of release into the rural landscape. Accordingly, the

proposed dwellings would have a suburban impact on an otherwise open and rural character of the land.

Impact on residential amenity

- 6.22 The closest residential properties are Pathways to the east and Fern Cottage on the opposite side of the road. Adequate amenity space and separation distances for privacy are achieved for both existing and future residents. Accordingly it is considered that the relationship to surrounding residents is not a constraint to development of the site.

Ecology

- 6.23 No ecology survey has been submitted but this is not a protected site and the field grassland is the main habitat present and it is evidently agriculturally improved with an absence of species diversity. There would be a loss of frontage hedgerow and in the event of approval the bird nesting legal informative would be required. Other conditions recommended would include soft and hard landscaping provision.

Highways

- 6.24 The NPPF and Core Strategy policies DC1 and T1 require that all development proposals secure safe and suitable access to a site whilst making a contribution towards meeting parking requirements and ensuring that all new development can be satisfactorily accommodated within the highway network. Off-road parking space is provided within the proposed garages along with driveway parking. Access will be provided from a single point along Kingsley Road with shared turning and manoeuvring facilities.
- 6.25 The concerns of local residents are noted, however, the Highways Authority is satisfied that sufficient visibility can be achieved allowing for the 60mph zone at this point. In event of approval conditions would be needed to require appropriate re-positioning of street furniture, a point raised in the representations received. For the avoidance of doubt there are no issues as to the sustainability of this location with bus routes active on all roads converging at the cross roads. Overall the proposed access would not harm highway safety and would not have an adverse impact on the operation of the surrounding road network.

Other Matters

- 6.26 There would no doubt at some level be a loss of public amenity in terms of the quality and enjoyability of the access to the rural surroundings by way of the public footpath across the site, as raised in the representations. It would though be feasible to retain an access route as the plans show. A diversion order would need to be applied for by separate process under TCPA(1990) s.257.

6.27 A Grade II Listed Milepost close to the existing entrance to Sandfields is positioned just outside the submitted application boundary and would not be affected. Strict considerations apply in respect of heritage. For nearby Listed Buildings there is a statutory duty placed on the Local Planning Authority, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the impact of the proposal on the special architectural and historic interest of the Listed Buildings affected, and their settings. An LPA can only discharge its duty if it has carried out a proper assessment of the impact on a Conservation Area and/or a Listed Building, is conscious of the duty and has demonstrably applied it in assessing the proposal. This assessment extends to setting – the surroundings in which a heritage asset is experienced. NPPF paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, “great weight should be given to the asset’s conservation”. Despite the development, the mile post would remain in its existing position at the edge of the roadside hedgerow and its significance historically as a marker of direction and distance for users of the public road would not be altered. The hedgerow backdrop to the mile post in turn would or could be retained at this point by condition.

7. Conclusion and Planning Balance

7.1 The site lies within an area of Green Belt. Therefore, the main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- The effect of the proposal on the landscape character of the area;
- If the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

7.2 In order not to be inappropriate development it is necessary to be satisfied that Cellarhead can be considered a village. As discussed in the report this is not obviously clear cut but on balance the assessment is that it may reasonably be so considered.

7.3 There is no doubt that the proposed site represents a gap between existing development. However it is not only necessary to find that Cherry Gardens and Sandfields are within the village but also that the further away row of dwellings (two pairs of semis and two detached dwellings) which the gap falls between are also in the village. The conclusion reached is that Sandfields (the one-time farm house) has only become a part of the village as a result of the village expanding to adjoin it. The further row is judged to represent an example of

classic sporadic roadside ribbon development recognisably beyond the village limits. On this basis the gap cannot represent infilling in a village but in fact would amount to further peripheral expansion of the village along the south side of Kingsley Road resulting in the “joining up” of sporadic developments in a ribbon form .

- 7.4 Some doubt is also raised as to whether the infilling is in fact truly ‘limited’ as the length of gap could accommodate significantly more than the two large dwellings proposed.
- 7.5 In terms of openness and the purposes of the green belt the development would clearly reduce openness and would be in conflict with at least two of the green belt purposes – to check unrestricted sprawl of large built up areas and to assist in safeguarding the countryside from encroachment. The development would be contiguous with the large post war estate at Moorside High School and in turn with Werrington and ultimately the City of Stoke-on-Trent. As such it is arguable that the site has a front line role in terms of maintaining the Green Belt.
- 7.6 As discussed elsewhere in the report the development would have a harmful impact on the character and appearance of the area.
- 7.7 No very special circumstances have been advanced in support of the scheme and none are identified.
- 7.8 Notwithstanding the current undersupply of housing it should be noted that NPPF paragraph 11 stipulates that Green Belt policies (footnote 6) shall continue to apply.

8 RECOMMENDATION

A. Refuse for the following reasons:

1. The proposed residential development does not fall under the criteria of development that can be exceptionally allowed in the Green Belt listed under paragraphs 145 or 146 of the National Planning Policy Framework (NPPF) and therefore the proposal is deemed to be inappropriate development in the Green Belt which by definition, in paragraph 143, is harmful to the Green Belt and should not be approved except in very special circumstances. The Council considers that no very special circumstances have been demonstrated in the application that could be considered to outweigh the harm to the Green Belt or outweigh the operation of Green Belt policy. Furthermore the proposal is found harmful to openness and countryside character and quality. The proposal is therefore contrary to policies SS1, SS1a, SS6c and R1 of the Cores Strategy and the National Planning Policy Framework.
2. The proposed width, height and scale of the dwellings, including garages and the limited spacing between the buildings would result in a development which

would extend across virtually the entire width of the site. This would be out of keeping with the scale of development found elsewhere in the immediate vicinity. Accordingly it is considered that the development would have an unacceptable suburban impact on the visual and open character of the area, contrary to Policies DC1,DC3, and R1 of the Core Strategy and the National Planning Policy Framework.

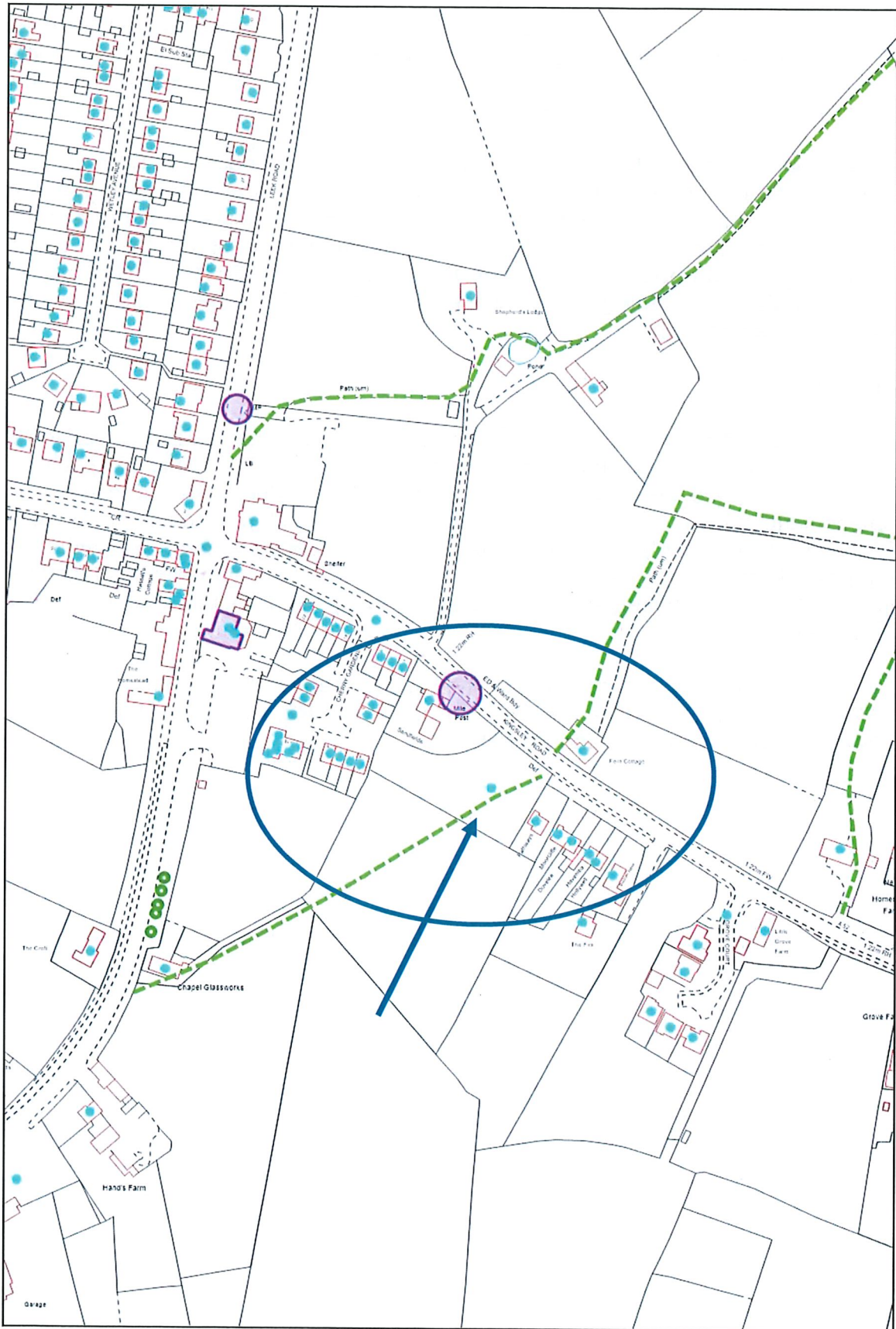
B In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Services has delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes do not exceed the substantive nature of the Committee's decision

Informatives

1. Assessed as a whole the proposal would not improve the economic, social and environmental conditions of the area nor does it comply with the development plan and therefore does not comprise sustainable development. There were no amendments to the scheme, or conditions which could reasonably have been imposed, which could have made the development acceptable and it was therefore not possible to approve the application. The Local Planning Authority has therefore implemented the requirement in Paragraphs 38 of the National Planning Policy Framework.

2. The application has been determined in accordance with Policies: SS1; SS1a; SS2; SS4; SS6c; SD1; SD4; H1; DC1; DC3; C1; R1; R2; NE1 and T1 of the Core Strategy Development Plan and the NPPF.

Land adjacent to Sandfields, Kingsley Road, Cellarhead – location plan



STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL
PLANNING APPLICATIONS COMMITTEE MEETING

Minutes

THURSDAY, 14 NOVEMBER 2019

PRESENT: Councillor P Roberts (Chair)

Councillors B Cawley, S Coleman, J Davies, B Emery, K Flunder,
M Gledhill, T Holmes, K Hoptroff, A Hulme, L D Lea, T Riley,
I Whitehouse and P Wilkinson

IN ATTENDANCE:	P Trafford	Member & Community Services Officer
	B Haywood	Head of Development Services
	R Simpkin	Senior Planning Officer
	A Swithenbank	Planning Officer
	Z Walker	Legal Advisor, Freeths LLP

61 **CHAIR'S ANNOUNCEMENTS**

- a) The Chair confirmed that the meeting was being broadcast live to the internet and was capable of repeated viewing. The images and sound recording could be used for training purposes within the Council. The Chair had the discretion to terminate or suspend filming if it was his opinion that continuing to do so would prejudice the proceedings of the meeting. It was likely that recording cameras would capture the image of persons seated in the public gallery and that image would become part of the broadcast. Any views expressed by any speaker in the meeting were the speaker's own and did not necessarily reflect the views of Staffordshire Moorlands District Council.
- b) Members of the Committee and Officers present were introduced by the Chair.
- c) The Chair requested that mobile phones be switched off or to silent.

62 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED – That the public minutes of the meeting of the Planning Applications Committee held on 17 October 2019 be **APPROVED** as a correct record and signed by the Chair.

63 **URGENT ITEMS, IF ANY.**

There were no urgent items.

64 **DECLARATIONS OF INTEREST**

Planning Applications Committee - 14 November 2019

The following declarations were made at this point, unless stated otherwise:-

Agenda Item	Member Declaring Interest	Nature of Interest
Agenda Item 6 – SMD/2018/0180 – Land to the east of Froghall Road & north of Ayr Road & Cheltenham Avenue, Cheadle	Cllr. Whitehouse	“Other” – Ward Cllr.
Agenda Item 7 – SMD/2019/0452 – Land East of Sandfields, Kingsley Road, Cellarhead	Cllr. Roberts	“Other” – Ward Cllr.
	Cllr. Wilkinson	Lobbied – No response given
Agenda Item 8 – SMD/2019/0566 – 32 Tittesworth Avenue, Leek	Cllrs. Cawley, Coleman, Davies, Emery, Flunder, Gledhill, Holmes, Hoptroff, Hulme, Lea, Riley, Roberts, Whitehouse & Wilkinson. Also all Officers present	“Other” – Next door neighbour was Council’s Refreshments Assistant
	Cllrs. Cawley, Coleman, Davies, Emery, Flunder, Gledhill, Holmes, Hoptroff, Hulme, Lea, Riley, Roberts, Whitehouse & Wilkinson.	“Other” – Speaker was fellow District Cllr.

65 **SMD/2018/0180 - LAND TO THE EAST OF FROGHALL ROAD & NORTH OF AYR ROAD & CHELTENHAM AVENUE, CHEADLE**

HYBRID PLANNING APPLICATION ON LAND EAST OF FROGHALL ROAD AND NORTH OF AYR ROAD / CHELTENHAM AVENUE, CHEADLE SEEKING: 1) FULL PERMISSION FOR 125 DWELLINGS AND ACCESS TO PROPOSED PRIMARY SCHOOL AND 2) OUTLINE PERMISSION FOR UP TO 135 DWELLINGS AND PRIMARY SCHOOL WITH ALL MATTERS RESERVED FOR PERSIMMON HOMES (NORTH WEST) LTD.

(Report recommended Approval)

(Councillor Whitehouse had declared an “other” interest and left the room, taking no part in the discussion or vote.)

RECEIVED – Representations from the undermentioned speakers:-

Against the application:

Mr. Richard Alcock - Objector

For the application:

Planning Applications Committee - 14 November 2019

Mr. Sean McBride - Applicant

- NOTED -
1. LRR contained:-
 - Comment from Applicant confirming that there was no intention to deliver allotments within phase 2;
 - Revised recommendation;
 - Revised conditions in full.
 2. Members expressed concerns regarding:-
 - Flooding – was the attenuation pond big enough? This was subject to a condition and would be set at the details stage;
 - Transport contributions could go towards the cost of a By-Pass. Members were referred to the 'District Integrated Transport Strategy' which outlined all highways improvements in Cheadle;
 - When would the new school be provided? A s.106 Agreement for this site would secure the transfer of the land to Staffs County Council together with a contribution towards education and contributions from other sites. The County Council would then decide when the school would be built;
 - Lack of reference to climate change implications or provisions in the report;
 - Access / egress should be via Froghall Road, not off the existing estates;
 - Playing Pitch provision should be in the vicinity of the site, not elsewhere. This would be discussed with members when monies were received;
 - Request made that the climate change condition wording be reviewed by officers and that Phase 2 construction traffic must access via Donkey Lane;
 - Members noted that they would like to see some bungalows on Phase 2 and asked that this was added as an informative.

RESOLVED – 1. That the application be **APPROVED** subject to the conditions contained in the Late Representations Report and the conditions and informative referred to above and the completion of a S106 planning obligation securing matters of 33% onsite affordable housing provision, education contributions / 1.13ha site area for the primary school with pitch, onsite LEAP, off site play / playing field contributions and highway contributions.

2. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval / refusal), prior to the decision being issued the Head of Development Services had delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes did not exceed the substantive nature of the Committee's decision.

(Proposed by Councillor Cawley and seconded by Councillor Emery.)

Planning Applications Committee - 14 November 2019

CELLARHEAD

ERECTION OF 2 DETACHED DORMER BUNGALOWS FOR MR & MRS BERRISFORD.

(Report recommended Refusal)

(Councillor Roberts had declared an "other" interest, Councillor Wilkinson had declared a lobbying interest.)

RECEIVED – Representations from the undermentioned speakers:-

For the application:

- Mr. Rob Duncan - Applicant's Agent
- Mr. Ray Berrisford - Applicant
- Cllr. Mike Worthington - On behalf of Ward Cllr.

- NOTED - 1. The 3 key subjective questions were:-
- Was the site within a village? On balance, members felt that it was;
 - Did the proposal qualify as 'infil'? Members felt that it did;
 - If it was 'infil', was it 'limited'? Members felt that it was.

RESOLVED – 1. That, contrary to officer recommendation the application be **APPROVED** for the reasons / policies stated below:-

Reasons / policies:

- The site is within the village boundary and qualifies as 'limited infil', therefore appropriate development in the Green Belt.

2. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval / refusal), prior to the decision being issued the Head of Development Services had delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes did not exceed the substantive nature of the Committee's decision.

(Proposed by Councillor Davies and seconded by Councillor Holmes.)

67 **SMD/2019/0566 - 32 TITTESWORTH AVENUE, LEEK**

PROPOSED REPLACEMENT GARAGE WITH ADDITIONAL BEDROOM AND EN-SUITE OVER FOR MR. & MRS. ARROWSMITH.

(Report recommended Refusal)

(All Councillors had declared "other" interests.)

RECEIVED – Representations from the undermentioned speakers:-

Against the application:

- Cllr. Lytton Page - Ward Councillor

Planning Applications Committee - 14 November 2019

For the application:

Mr. Phil Plant

- Applicant's Agent

NOTED - 1. LRR contained Highways officer comment – no objections..

RESOLVED – 1. That the application be **REFUSED** for the reasons and based on the policies contained in the report.

2. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval / refusal), prior to the decision being issued the Head of Development Services had delegated authority to do so in consultation with the Chairman of the Planning Applications Committee, provided that the changes did not exceed the substantive nature of the Committee's decision.

(Proposed by Councillor Gledhill and seconded by Councillor Cawley.)

68 **EXCLUSION OF THE PRESS AND PUBLIC**

That pursuant to Section 100A (2) and (4) of the Local Government Act, 1972, the public be excluded from the meeting in view of the nature of the business to be transacted or nature of the proceedings whereby it is likely that exempt information as defined in Section 100A (3) of the Act would be disclosed to the public in breach of the obligation of confidence or exempt information as defined in Section 100I (1) of Part 1 of Schedule 12A of the Act would be disclosed to the public by virtue of the paragraphs indicated.

69 **PERFORMANCE ON PLANNING ENFORCEMENT**

The Head of Development Services presented a report to members outlining the procedures in place in dealing with enforcement-related complaints received, together with enforcement action taken over the 6 month period between April and October 2019.

The meeting closed at 4.00 pm

_____ Chairman _____ Date

SMDC Planning reference SFP/2020/0003
– proposed footpath diversion order
TCPA s.257
PUBLIC FOOTPATH (NUMBER 27) (PARISH OF CAVERSWALL) ORDER 2021

Request for delegated authority

To: Neil Rodgers – Executive Director (Place)
cc. Nicola de Bruin – Principal Legal Officer

Background

Planning Application SMD/2019/0452 “proposed erection of 2no. detached dormer bungalows” on land east of Sandfields, Kingsley Road, Cellarhead was approved by the SMDC Planning Applications Committee at its meeting on 14th November 2019.

The report noted at paragraph 2.4:

“There would be a gap between the side wall of the south easterly of the two dwellings to Pathways [an adjacent existing dwelling] of c.4m within which it is proposed to divert the route of the public footpath.”

The footpath was considered at paragraph 6.26 which stated:

“There would no doubt at some level be a loss of public amenity in terms of the quality and enjoyability of the access to the rural surroundings by way of the public footpath across the site, as raised in the representations. It would though be feasible to retain an access route as the plans show. A diversion order would need to be applied for by separate process under TCPA(1990) s.257.”

The proposed outline development was approved. Although the application had been recommended for refusal this was for Green Belt reasons and not matters related to the public footpath in relation to which the report found the application acceptable in planning terms.

Applicant(s)

The applicants are Mr Ray and Mrs Yvonne Berrisford stated in the application to be the land owners.

Location

The attached plan shows the proposed diversion.

Principle

TCPA(1990) s.257 makes provision for a competent authority to make a public right of way diversion “if they are satisfied that it is necessary to do so in order to enable development to be carried out – in accordance with planning permission granted”.

In this case planning permission granted (15th November 2019) under SMD/2019/0452 for two dwellings places the more easterly of the two over the route of the footpath so that the right of way, if not diverted would pass diagonally through the building layout. For this reason the district council (as a competent authority) can be satisfied that the diversion order applied for is necessary in order for the approved development to be carried out.

The diversion would not re-position the path any more than needed to place it outside of the approved dwelling curtilage.

Accordingly the application for diversion meets the statutory criteria under s.257.

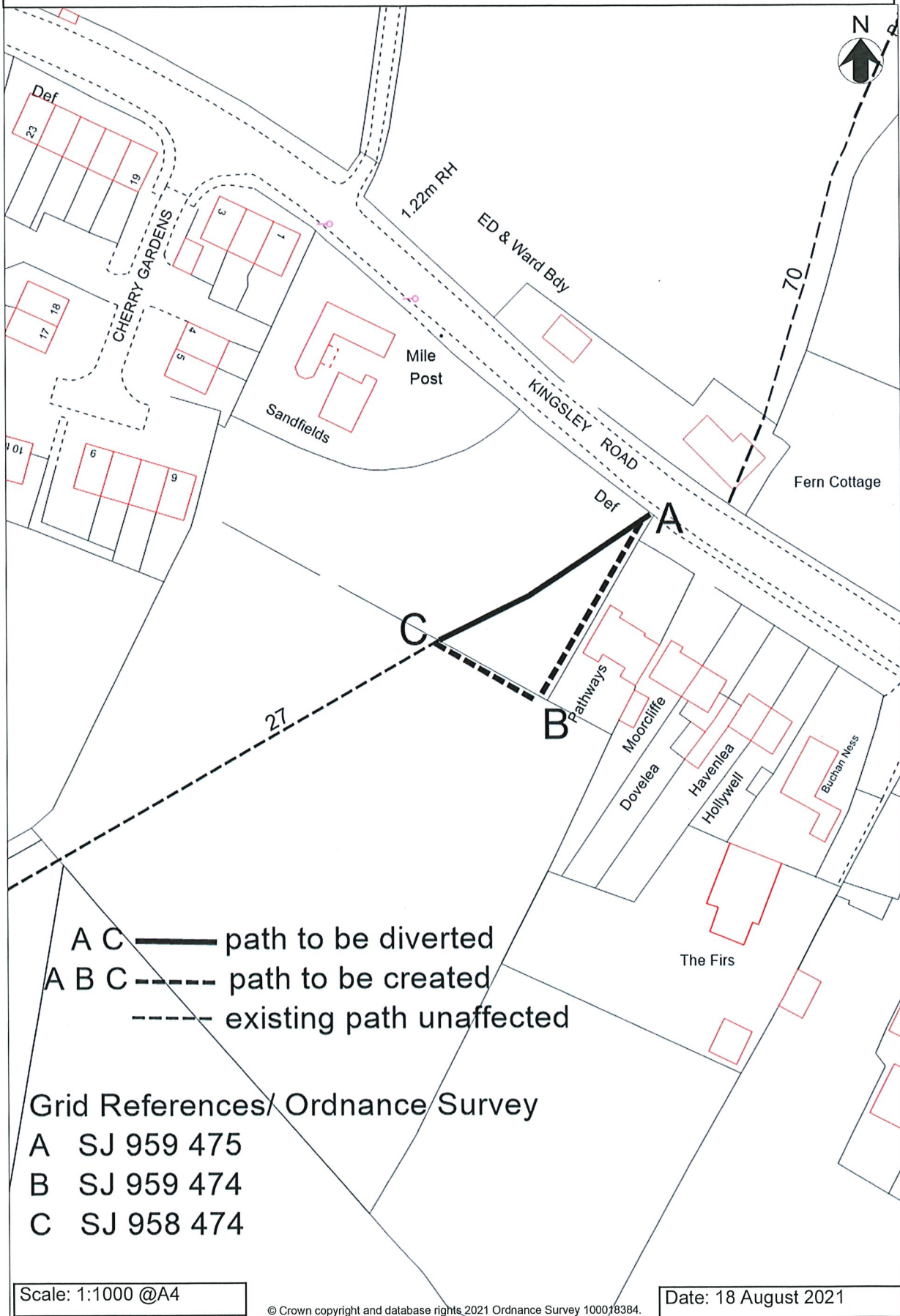
Recommendation

That authority be granted to make the TCPA(1990)s.257 order for the diversion of part of footpath 27 in the Parish of Caverswall, Staffordshire Moorlands in accordance with the attached plan subject to any minor variation in the details shown if requested by Staffordshire County Council as Highways Authority with responsibility for the Definitive Public Right of Way Map.

Case officer: Arne Swithenbank

Date: 19th August 2021

Plan for fp 27 Caverswall TCPA Diversion



Plan for fp 27 Caverswall TCPA Diversion

