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## Appeal Decision

Inquiry held on 7 – 10 October, 3 November and 8 December 2014.

Site visits made on 7 October and 3 November 2014

**by Anthony Lyman BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 May 2015**

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**Appeal Ref: APP/Y3425/A/13/2203362**

**Land south of Nicholls Lane and east of Airdale Spinney, Stone, Staffordshire.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Seddon Homes Limited against the decision of Stafford Borough Council.
  - The application Ref 12/17800/OUT, dated 12 October 2012, was refused by notice dated 19 March 2013 (Decision date 12 March 2013).
  - The development proposed is residential development of up to 34 dwellings including creation of a new access, provision of open space, car parking and ancillary landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Inquiry sat on six days: 7-10 October, 3 November and 8 December 2014. Accompanied visits to the site and surrounding areas were made on the 7 October and 3 November 2014. Further unaccompanied visits to the area were made the day before the Inquiry opened, during the evenings of 8 and 9 October, and on the morning of the 8 December 2014.
3. The application was made in outline with all matters other than access reserved for future determination.
4. The description of the development given above is taken from the application form. However, at the Inquiry it was agreed that the 'provision of open space, car parking and ancillary landscaping' were not matters before me and should be deleted from the description. The application was also made originally for up to 35 dwellings. However, during the application process the red line boundary of the site was amended and the number of proposed dwellings reduced to a maximum of 34. I have determined the appeal on that basis.
5. Shortly before the Inquiry opened, the appellants submitted by letter dated Friday 3 October, three rebuttal proofs of evidence relating to planning, heritage and landscape matters. At the opening of the Inquiry both the Council and the Rule 6 party sought an adjournment to allow sufficient time for these recently submitted documents to be considered. Having heard a response from

the appellants, I determined that the Inquiry would not sit on the afternoon of 7 October. In order to make best use of Inquiry time, the first accompanied site visit was undertaken on that afternoon. Subsequently, the appellants withdrew the rebuttal proofs relating to landscape and heritage matters and did not call their landscape witness, Xanthe Quayle to give oral evidence.

6. A completed Unilateral Undertaking pursuant of s106 of the Town and Country Planning Act 1990 and dated 26 November 2013 had been submitted by the appellants. Subsequently, a signed s106 Agreement dated 24 October 2014, between the appellants, the Council and Staffordshire County Council was submitted to the Inquiry. This makes provision for affordable housing and contributions towards, education facilities, public open spaces and play equipment. This Agreement also includes a clause whereby the Council and the County Council confirm that the 'owner' is released and discharged from the Unilateral Undertaking dated 26 November 2013. I will refer to this Agreement later in my Decision.
7. In June 2014 the Council adopted the Plan for Stafford Borough 2011-2031 (PSB) which replaced the Stafford Borough Local Plan 2001 (the Local Plan). Subsequently, on the 6 August 2014, the Planning Committee resolved to delete the reference to saved Policies E&D18 and E&D23 (a) and (c) of the Local Plan in the reason for refusal of the appeal application, as they were no longer relevant, and to rely instead on Policies N8 and N9 of the PSB. The Council's new resolution also deleted the reference to a shortfall in housing land supply contained in the reason for refusal.
8. At the start of the Inquiry the appellants clarified that the plan on which the appeal was based was the Further Refined Parameters Plan CL/B100. Subsequently, in a letter dated 28 October 2014, the appellants confirmed that the scale bars on that plan and the illustrative Landscape Master Plan CL/B101 were incorrect and, therefore, submitted Revision A of both plans. As only the scale bars had been adjusted to concur with the stated drawing scale, and no-one's interests would be prejudiced, I have had regard to these revised plans in determining this appeal.
9. In March 2015 English Heritage published three new Historic Environment Good Practice Advice Notes. Note 3 – *The Setting of Heritage Assets* supersedes the previous English Heritage publication with the same title. However, the particular parts of the guidance referred to in this Decision are similar in both versions.
10. In April 2015, English Heritage separated into two new organisations with planning related functions now under the remit of Historic England. However, for the purposes of this Decision, I have retained the term English Heritage as the documents to which I refer, including the new *The Setting of Heritage Assets*, are currently published under that heading.

### **Main Issues**

11. The main issues are, i) the effects of the proposed development on the significance of heritage assets, ii) the effect of other considerations including, housing land supply and sustainability on the planning balance.

## Reasons

### *Background*

12. The appeal site is a sloping grass field of approximately 1.9 hectares on the north-east outskirts of Stone. The proposal seeks outline permission for residential development of up to 34 dwellings, including affordable homes, with details of the proposed access submitted for determination at this stage. The narrow western edge of the red lined area of the site abuts the boundaries of two properties which form part of a development of detached dwellings on Airdale Spinney, built by the appellants in the late C20th. The proposed access to the site would run between these two properties making use of an existing 'stub' end on Airdale Spinney. There is little inter-visibility between the site and these properties and the new access would require the felling of shrubs and trees some of which are covered by Tree Preservation Orders (TPO).
13. Beyond the approximate northern and north-eastern boundaries of the appeal site there is a relatively narrow belt of woodland in the appellants' ownership. This was specifically planted after the appellants' parent company purchased the appeal site in 1988, in order to help screen any future development from Nicholls Lane and the designated Green Belt immediately beyond to the north, and from a small cluster of buildings including the Grade II listed Hayes Mill to the north-east, also in the Green Belt. A public right of way runs through part of this woodland from Airdale Spinney to Nicholls Lane. The proposal includes provision for a link from the development to the footpath. The lengthy southern boundary of the site abuts a privately owned, steeply sloping woodland known as Coppice Wood, which is part of the Moddershall Valley Conservation Area (MVCA). Coppice Mill and its associated flint kiln in the western part of Coppice Wood are also Grade II listed buildings.
14. The Council's reason for refusal related to the impact of the development on the setting of the conservation area and the listed Hayes Mill. Although the reason also referred to the effect on the character and appearance of the site and surroundings, the Council confirmed that they were not pursuing a landscape case.

### *Policy approach to development*

15. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest. Section 72(1) of the Act sets out that, with regard to conservation areas, special attention shall be paid to preserving or enhancing their character or appearance.
16. The development plan for the area is the PSB which was adopted by the Council in June 2014. This supersedes the former Local Plan and all policies contained within it. Policies N8 and N9 are the main policies of relevance in considering the potential effect of development on heritage assets. Policy N8 relates to landscape character and requires development proposals to be informed by and be sympathetic to, landscape character and quality. Development should demonstrate that proposals with landscape or visual implications should protect, conserve and where appropriate enhance, amongst

other things, i) the elements of landscape that contribute to the local distinctiveness of the area, including heritage assets, ii) historic elements of the present day landscape and iii) the setting and views of and from heritage assets, including conservation areas and listed buildings. Policy N9 relates to the historic environment and states, amongst other things, that proposals will be expected to sustain and, where appropriate enhance the significance of heritage assets and their setting. This Policy then sets out a number of criteria to be taken into account to justify potential loss or harm to the significance of a heritage asset, including its setting.

17. With the adoption of the PSB, all settlement development boundaries designated in the Local Plan ceased to exist. Policy SP7 of the PSB and its supporting text advises that new settlement boundaries will be established in a Site Allocation Development Plan Document (DPD) in accordance with a number of criteria set out in the Policy. The DPD is not yet available, and Policy SP7 confirms that in the meantime, the acceptability of individual proposals will be assessed against the same criteria. Criterion (f) requires development not to adversely impact on the special character of the area, including all designated heritage assets. The Statement of Common Ground (SoCG) confirms that both main parties agree that if the proposal meets the requirements of Policies N8 and N9, then Policy SP7 is *the determinative policy in this appeal*.
18. The National Planning Policy Framework (the Framework) advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Significance is defined as *'the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence but also from its setting'*. However, the setting itself is not a heritage asset.
19. Paragraph 132 of the Framework 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. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Substantial harm to or loss of a Grade II listed building should be exceptional.
20. Planning Practice Guidance (PPG) confirms that what matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset, and that, in general terms, substantial harm is a high test and may not arise in many cases. Works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.
21. The heritage assets relating to this appeal are the MVCA and the Grade II listed Hayes Mill, as agreed in the SoCG. The Council argue that the setting and significance of both of these heritage assets would be harmed by the proposed development. I will consider the effect of the proposal on the significance of each of these heritage assets. It is considered that development would not impact on the significance of the listed Coppice Mill buildings, due to their distance from the appeal site boundary.

### *The Moddershall Valley Conservation Area*

22. The MVCA is linear in form and comprises the narrow valley of the Scotch Brook extending from Stone to the upper reaches of the Moddershall Valley and also incorporates the village of Moddershall. The valley played an important part in the growth and development of the Staffordshire pottery industry. Several watermills along the Scotch Brook ground flint and bone which was used to improve the whiteness and quality of the pottery products. A statement prepared at the time of designation of the MVCA describes the Scotch Brook as one of the most intensively exploited water courses in Staffordshire<sup>1</sup>. It states that the area is of particular note *for the remarkable state of preservation of the mills and their machinery without equal elsewhere in the country*. The Moddershall Valley is described as an area of outstanding interest, due to the historical and industrial archaeological significance of the surviving mills and their attractive setting.
23. The MVCA covers six surviving flint mills, their watercourses, mill ponds, weirs, sluices and associated workings. The conservation area boundary also encompasses open fields and areas of ancient woodland on the steep valley sides which contribute to the 'dramatic scenery' of the valley recognised in the designation statement.
24. I was advised that interest in the history of the pottery industry is growing nationally and that the historic character and appearance of the Moddershall Valley is of more than local interest. Given the recent safeguarding of the Wedgwood Collection, referred to at the Inquiry, I have no reason to disagree with this view. The historic importance of the valley is further enhanced as it is the home of the first purpose-built wet grinding flint mill which survives in good condition today. The importance of such examples of technological innovation is recognised by English Heritage in its document 'Conservation Principles - Policies and Guidance'.
25. The character of the Moddershall Valley is distinctly rural, despite its industrial past. The mills, each with a small cluster of buildings, are strung out along the valley and, when operational, formed isolated hubs of locally noisy activity. Today, of course, the mills are silent as they were at the time the conservation area was designated, and the over-riding character of the valley is one of tranquillity and unspoilt rural isolation, apart from the noise of the traffic on Longton Road, which runs through the valley. The MVCA designation statement states that *'while it is for its mills that the Moddershall Valley is most renowned, these are mostly concealed in local woodlands, and it is the scenery which first impresses'*.
26. At the request of local residents, I visited the area late one evening after nightfall and experienced for myself the distinctive features of the all pervasive darkness, remoteness and peaceful solitude along Nicholls Lane adjacent to the appeal site and in the vicinity of Hayes Mill. The designation statement, whilst acknowledging the noise generated by the traffic on Longton Road, recognises *the sense of solitude that must once have surrounded these mills*. I take this to refer to when the mills were operational, and therefore, I am not persuaded by the appellants' assertion that solitude and tranquillity are not characteristics of the significance of the heritage assets. With regard to English Heritage's

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<sup>1</sup> Moddershall Valley Conservation Area – Staffordshire County Council Designation No.76 (CD 4.11)

guidance<sup>2</sup> on evaluating significance, I consider that the MVCA is of particularly high significance based on evidential, historical and aesthetic values.

27. The lengthy southern boundary of the appeal site immediately abuts the MVCA and the privately owned Coppice Wood within it. In 1997, the Inspector's report on the Local Plan considered that the appeal site formed part of the setting of the MVCA and I see no reason to disagree given that little has changed physically in the intervening period other than the growth of the woodland belt planted by the appellants. The land in Coppice Wood slopes steeply down from the appeal site to Scotch Brook and the Longton Road beyond. The mill race to Coppice Mill and other associated engineering features are clearly visible through this part of the historic wood. At the narrowest part of the wood, the mill race is approximately 16m from the appeal site boundary.
28. Coppice Wood, which is a County Wildlife Site and a Site of Biological Interest (SBI), provides a degree of screening of the appeal site from the Longton Road and from the adjacent pedestrian footpath. Nevertheless, on my formal site visit in October, it was possible to see areas of the appeal field from the highway through gaps in the woodland. Furthermore, the woodland is largely deciduous, and as I saw on my visit to the area in December 2014, the loss of leaves opened up views of the appeal site which would be evident for several months of the year. At the time of that visit, houses in Airdale Spinney, previously largely concealed, could be seen high above the wooded slopes of Coppice Wood, despite their own boundary treatments. And yet these buildings are roughly twice as far from the Longton Road as some of the proposed dwellings. The fact that a building may be visible is not in itself necessarily harmful. However, views of an urban housing estate within the immediate setting of the MVCA characterised by isolated small clusters of buildings, would not preserve the character of the MVCA or the significance of this heritage asset.
29. Although the woodland trees are protected by the conservation area status, many of them are mature and the density of the woodland may well change over time. Furthermore, a tree report commissioned by the owner of Coppice Wood advises that the development would be likely to lead to pressure from future occupants to crown reduce some trees in Coppice Wood to reduce potential overshadowing and branch fall on safety grounds. If this were to happen, further harm to the woodland and the contribution it makes to the significance of the MVCA could occur.
30. To enhance the screening, the appellants' Further Refined Parameters Plan, indicates a belt of structure planting along the length of the boundary with the MVCA. However, given the elevated position of the appeal site, I am not convinced that the proposed structure planting would effectively screen the development, particularly the upper parts of the houses and their roofs. English Heritage<sup>3</sup> advises that, within the setting of heritage assets, screening ought never to be regarded as a substitute for a well designed development and that seasonal and diurnal effects, such as changes to foliage, need to be considered, as well as the permanence and longevity of screening in relation to the effect on the setting.

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<sup>2</sup> Conservation Principles, Policies and Guidance (2008)

<sup>3</sup> The Setting of Heritage Assets

31. The County Council's Historic Environment Character Assessment<sup>4</sup> describes the Moddershall Valley as of particular interest with reference to the ancient woodlands and the historic mills area. It identifies the area, including in the vicinity of the appeal site, as being highly sensitive to housing expansion and infrastructure development which would impact on the well preserved historic landscape character of ancient woodlands and the setting of individual listed buildings.
32. The appellants consider that the appeal site does not have a rural character or appearance, and describe the area as suburban. I am not persuaded by these arguments nor the claim that the development would be a logical extension to Stone both on plan and on the ground. Airdale Spinney itself appears on plan as an urban extension protruding into the countryside with the wooded Moddershall Valley on one side, the rolling appeal field on another and, with the exception of a few intervening houses, the Green Belt on the third side. The proposed development would have only a narrow link to the existing estate and would appear as an intrusive and incongruous urban projection into the open setting of the conservation area with all the associated noise, disturbance, garden paraphernalia and lighting pollution from 34 dwellings close to the MVCA boundary. Although the appellants suggested that a condition could restrict external lighting, this would do little to curb general domestic lighting, car headlights and street lights, all of which would harm the character and significance of the conservation area. I am not convinced that the proposed structural planting would adequately overcome these impacts.
33. The Framework defines the setting of a heritage asset as the surroundings in which the heritage asset is experienced. Paragraph 132 of the Framework advises that the significance of a heritage asset can be harmed or lost through development within its setting, and confirms that great weight should be given to the asset's conservation. I conclude that the proposed development would harm the significance of the designated heritage asset, although that harm would be less than substantial.
34. The Framework advises that less than substantial harm should be weighed against the public benefits of the proposal. These would include the provision of a mix of market and affordable housing in a sustainable location, and substantial investment in the local economy both during construction and in the ongoing support for local businesses by future residents. The provision of public open space and enhanced tree planting throughout the development would be further benefits. Nevertheless, I attach considerable weight and importance to the harm that would be caused to the setting, and thereby the significance of this heritage asset, which would not be outweighed by these benefits. By not preserving the character of the MVCA the proposal would fail to accord with the objectives of Policies N8 and N9 of the PSB, and the provisions of the Framework.

#### *Hayes Mill*

35. Hayes Mill was listed in 1979 after its industrial use had ceased. According to the Council the mill dates from around 1750 and was used until the 1970's. The disused building was converted to residential use in the mid 1980s. As I saw on my site visit, both the internal and external restoration and conversion have been undertaken most sympathetically and sensitively with much of the

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<sup>4</sup> Historic Environment Character Assessment for the Stone Environs (July 2009)

- internal historic plant and machinery retained in situ within the residential accommodation. External features such as the mill wheel and kiln chimney are also still in existence.
36. The appellants argue that, due to the residential conversion, the mill has lost its industrial appearance and character since its listing, and that its historic value and significance has been diminished. I am not persuaded by this argument as the building can be clearly read today as an historic former mill complex in a rural setting. Although the adjacent C19th Hayes Cottage and Millbank Cottages are not listed, I have no reason to dispute the evidence presented at the Inquiry that these buildings were historically associated with the operation of the mill. This seems to me to be entirely logical given their location. In terms of evidential, historic and aesthetic values, Hayes Mill scores highly in terms of significance.
37. Prior to the planting of the tree belts by the appellants referred to above, the then open field of which the appeal site forms part, extended to Nicholls Lane directly opposite the mill complex. Photographic evidence demonstrated a clear inter-visibility between the field and the buildings at that time. Although it was argued that there was an historic link between the mill and the field, which was said to have been used agriculturally to support the mill workers, the evidence is not conclusive and I attach limited weight to this argument.
38. Nevertheless, English Heritage advises<sup>5</sup> that the setting of a heritage asset which closely resembles the setting in which the asset was constructed is likely to contribute to the asset's significance. This is the position with Hayes Mill where, except for the relatively recent tree planting, the appeal site forms part of the C18th/C19th field pattern contemporary with the mill. The field remains an important part of the wider setting of this designated heritage asset, emphasising the mill's rural and isolated location, characteristic of most of the mills in the MVCA.
39. Wider views of the mill complex are limited. Nevertheless, in elevated views from Church Lane, the proposed residential development would be visible in the context of Hayes Mill and its cottages, thereby impacting adversely on its rural, isolated setting. The impact of the proposed development would be particularly harmful after nightfall, when the light pollution would invade the characteristic ambiance of the mill and its setting.
40. I conclude that the development of a suburban, albeit landscaped, residential estate in such close proximity to the Hayes Mill complex, would be harmful to the setting, and the contribution that the setting makes to the significance of the designated heritage asset, although that harm would be less than substantial. Nevertheless, having regard to s66 of the Act and the various court judgements and appeal decisions referred to by the parties, including those identified below<sup>6</sup>, I attach considerable importance and weight to this harmful impact, which would not be outweighed by the public benefits set out above. By failing to sustain the significance of Hayes Mill, and by not conserving the local distinctiveness of the area's heritage assets, the proposed

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<sup>5</sup> The Setting of Heritage Assets

<sup>6</sup> i) Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council and others (EWCA Civ 137);  
ii) R. (on the application of the Forge Fields Society) v Sevenoaks DC [2014] EWHC 1985 (Admin);  
iii) APP/L2630/A/13/2196884; iv) APP/L2630/A/13/2207755



development would not accord with the objectives of Policies N8 and N9 of the PSB, the Framework and section 66(1) of the Act.

*Other considerations – Housing land supply*

41. Shortly before the Inquiry opened, the Council provided an updated housing land supply (HLS) position as at 31 August 2014, which rolled forward all components of the HLS situation by five months compared to the HLS statement at 31 March 2014. The appellants disputed the Council's claim in the revised statement that a five year supply of deliverable housing land could be demonstrated.
42. In his final report, published on the 11 June 2014, the Local Plan Inspector stated, *'Although SBC cannot currently demonstrate a 5 year supply of housing land, this will be rectified when the plan is adopted, particularly with the allocation of the SDLs (strategic development locations) as confirmed in the latest housing trajectory (MM104); regular updating of the housing trajectory and 5 year land supply will help to ensure that the Plan is effective'*. The PSB was adopted by the Council in June 2014, only months before this Inquiry opened.
43. PPG advises that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual applications or appeals. The Court of Appeal Judgement relating to *Hunston Properties Limited*<sup>7</sup> similarly found that, *"It is not for an Inspector on a Section 78 appeal to seek to carry out some sort of local plan process as part of determining an appeal, so as to arrive at a constrained housing requirement figure. An Inspector in that situation is not in a position to carry out such an exercise in a proper fashion, since it is impossible for any rounded assessment similar to the local plan process to be done. That process is an elaborate one involving many parties who are not present at or involved in the Section 78 appeal."*
44. With regard to the advice in PPG and the Hunston Judgement above, it is not for me to carry out a forensic analysis of the housing statistics. Nevertheless, I will address the broader issues relating to the Council's housing land supply considering first the housing requirement.

*Housing requirement*

45. The objectively assessed housing need (OAN), as set out in the recently adopted PSB, identifies an annual requirement for 500 dwellings. Although I was advised at the Inquiry that the PSB was the subject of a challenge by another developer, both parties agreed that the requirement for 500 dwellings per year should form the basis of the HLS calculations for the purposes of this appeal. Subsequently, in submissions regarding the 2012-Based Household Projections for England (2012-2037), both the Council and the appellants confirmed that that High Court challenge had failed and that the Council's OAN of 500 dwellings per annum was sound. The Council acknowledged that there has been a persistent under-delivery of houses in previous years and that the backlog should be accounted for using the Sedgfield method. The application of a 20% buffer of land brought forward from later years in the plan to provide

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<sup>7</sup> *St Albans City and District Council v Hunston Properties Ltd and Secretary of State for Communities and Local Government*, [2013] EWCA Civ 1610.

for choice, in accordance with paragraph 47 of the Framework, was agreed between the parties. I have no reason to disagree with this approach.

46. The parties disagreed however, as to how the 20% buffer should be applied. The appellants argued that the application of the buffer should include the backlog. The Council stated that it has never been their practice to apply the buffer to the backlog and that that was the basis of their submissions on housing to the examination of the PSB which was accepted by that Inspector. The appellants made reference to the Decision of the Secretary of State relating to two proposals in Wychavon<sup>8</sup> where the Inspector's conclusion, that the 20% buffer should be applied to the five year requirement including the backlog, was endorsed. In closing however, the appellants acknowledged that this was the first time that this approach had been endorsed.
47. Neither the Framework nor the PPG provide guidance on the approach to be taken. The shortfall identified in the latest update of the HLS to 31 August 2014 is 448 dwellings. This equates to a backlog of 90 dwellings per year to be added to the annual OAN of 500 dwellings from 2014 to 2019. Applying the 20% buffer to this sum of 590 dwellings, in accordance with the appellants' methodology, would result in an annual figure of 708 dwellings, compared to the 690 if the buffer was applied to the OAN before the backlog was included.

#### *Supply of housing land*

48. The updated HLS statement advises that sufficient sites exist for the delivery of 3,790 houses between 1 September 2014 and 31 August 2019, giving a supply of 5.5 years based on 690 dwellings per year. The appellants, in their rebuttal proof, considered that using their annualised figure of 708 dwellings and by reassessing site delivery, the deliverable supply was only 2,900 dwellings, representing a supply of 4.1 years, although in closing, a slightly revised supply of 3,062 dwellings was suggested, giving a 4.3 year supply.
49. The Council's housing land supply calculations rely on three categories of site, - small sites for less than 10 dwellings with planning permission, large sites with planning permission for 10 or more dwellings, and Strategic Development Locations (SDLs). The key areas of disagreement between the Council and the appellants related to the projected delivery from the large sites with planning permission and the SDLs.
50. The Council confirmed that, with regard to the large sites, their revised calculations were based on developers' latest estimates of the number of houses to be delivered on their sites in the five years to 31 August 2019. Where no information was forthcoming, a 10% slippage had been applied by the Council to the original estimates for those sites. The Council's re-analysis of the likely contribution from the large sites resulted in the output from some sites being reduced, a number of sites with planning permission being removed from the five year calculation, and the delivery from other sites increased.
51. This approach suggests to me that the Council's re-assessment of the supply from large sites had been a realistic exercise to refine the analysis using, amongst other things, best available information directly from the developers themselves. I consider that this approach is preferable to applying a blanket 10% lapse rate even to developers' own figures. I acknowledge that the PSB

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<sup>8</sup> APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426

Inspector applied a 10% slippage to all large sites. However, I agree with the Council that such a broad brush approach was more appropriate at that time when considering a twenty year plan period.

52. I have no reason to doubt the information on delivery of dwellings supplied by developers. The appellants described the email evidence as 'poor'. However, in response to a specific question from me at the Inquiry, the appellants could not suggest why any developer would exaggerate their anticipated delivery of dwellings from their own sites, which might justify a slippage rate being applied. Furthermore, it is reasonable to assume that those individual developers/promoters working closely with the Council over a long period of time would have a better, in depth understanding of their own sites and their ability to finance and deliver houses than the appellants, despite their undoubted expertise.
53. With regard to one specific large site, Yarnfield, the appellants argued that an email from Barratt Homes stating that the whole site would be delivered in the five year period should not have been accepted by the Council, given the fact that the site was in different ownerships, and that a lower delivery had previously been indicated. Nevertheless, the Council confirmed at the Inquiry that, following further discussions with the developer, there was confidence that the 241 units included in the latest HLS assessment could be delivered in the next five years, instead of the 136 relied on by the appellants.
54. With regard to the delivery from the SDLs, the Council is dependent on them to provide the majority of the housing supply in future years. Some of these allocations have yet to be granted planning permission and I acknowledge that there are often difficulties and delays associated with bringing forward such large sites/urban extensions, including infrastructure, master plans and environmental impact assessments. The appellants have not disputed the projected housing delivery rates once the SDLs are up and running, but in their calculations have pushed back the start date of the delivery from those sites.
55. The Council, in the latest HLS assessment, considered that the SDLs will deliver 1,994 dwellings by 31 August 2019, whereas the appellants argued that only 1,525 will realistically be delivered. The appellants considered that, the increased contribution from the SDLs attributed by the Council, is the result of rolling forward the five year period to include delivery in the first five months of the 2019/20 monitoring year, and increasing the contribution from those sites in that year. However, this does not seem to me to be an unreasonable approach. The appellants' expert witness stated, '*I estimate that the additional contribution these sites (SDLs) will make in the first five months of 2019/20 will be a maximum of 192 dwellings.*' As stated, this is one person's estimate of something that may happen in five years time. I acknowledge that the Council's HLS is also a projection of supply in the future, but it is one to which I attach greater weight given the Council's stated regular contact and informed discussions with developers.

### *Conclusion on HLS*

56. I have considered the detailed submissions on HLS, the subsequent comments on the 2012 based housing projections and the discussions at the Inquiry round table session. I have also had regard to the conclusions of the PSB Inspector, following his far more comprehensive examination of the housing

situation in Stafford Borough, as adopted in the PSB only a few months before this Inquiry opened.

57. Assessing a five year housing land supply is, by its nature, an entirely predictive exercise in a constantly changing scenario. It is likely that some assumptions made by both the Council and the appellants may be flawed or disproven in time. Nevertheless, it seems to me that, on the evidence before me, the Council's approach has been realistic, thorough and yet cautious, and that on the balance of probability, it is likely that a five year supply of deliverable housing land exists, irrespective of whether the annual figure of 690 or 708 referred to above is applied. The Council's assessment has made no allowance for supply from windfall sites and, although I have no evidence before me on past rates of delivery from windfalls, it is entirely reasonable to assume that delivery of housing from such sites will contribute to and strengthen the HLS position over the next five years.

*Other considerations – sustainable development*

58. The appeal site is sustainably located on the edge of Stone with all the services and facilities the town has to offer, although at the Inquiry it was stated by local residents that public transport serving the area was limited.
59. The Framework confirms that to achieve sustainable development for which there is a presumption in favour, economic, social and environmental gains should be sought jointly and simultaneously. Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people's quality of life.
60. I have already referred to the economic and social gains that the development would generate. With regard to the environmental dimension, local residents argued that the introduction of this urban development, with associated light pollution, noise and disturbance and the loss of the open field would result in the reduction of foraging grounds for bats, birds and other wildlife and would harm the Coppice Wood SBI. However, the appellants pointed out that the SBI was designated for its botanical interest as the citation does not mention any faunal species, and that the appeal site comprises an area of semi-improved grassland which is not species diverse.
61. I note the representations of the Staffordshire Wildlife Trust and I acknowledge the concerns of residents, particularly those living in the vicinity of Hayes Mill and at Coppice Mill and their eloquent descriptions of the local area and its wildlife. However, given the amount of additional tree and hedge planting that the appellants propose, and the landscaped public open space, I am not convinced that, on balance, the scheme would be significantly detrimental to local biodiversity. Nevertheless, the Framework defines an environmental role as, amongst other things, protecting and enhancing the historic environment. Given my earlier findings regarding the harm to the significance of the designated heritage assets, I conclude that the environmental dimension would not be satisfied and that therefore, the proposal would not represent sustainable development.

*Other matters*

62. The Rule 6 Party, known as Nicholls Lane Field Action Group, and many local residents argued that the development would reduce the gap between Stone

and the village of Oulton to less than a third of a kilometre. Although coalescence of these two quite different communities would be undesirable, the presence of the Green Belt immediately north of Nicholls Lane should ensure that Oulton retains its distinctiveness and separate village identity.

63. The potential for the development to cause increased flooding and drainage problems was another matter raised by local residents. Surface water would be dealt with by a sustainable drainage system and discharged at an attenuated rate via an existing outfall serving the adjoining development. Foul water would be pumped to the main sewer in Airdale Spinney. The Environment Agency raised no objection to the surface water proposals of the scheme subject to the imposition of conditions. Provided that conditions relating to the foul drainage scheme for the site were also imposed if the appeal were to succeed, I have no reason to conclude that any flooding and drainage issues would be exacerbated by the proposal.
64. Nicholls Lane is very narrow, unlit and has no pedestrian footpath immediately alongside. Subject to the permanent closure of an existing gated access to the field from Nicholls Lane, which the appellants have agreed to, the highway authority raised no objections to the development or the proposed access on highway safety grounds. In these circumstances, I have no compelling evidence to persuade me that highway safety would be compromised.

#### **Planning Balance and Conclusion**

65. Given my conclusions on HLS and sustainable development, paragraphs 49 and 14 of the Framework are not engaged, and relevant Council policies for the supply of housing are not out-of-date. The proposal would conflict with the objectives of Policies N8 and N9 of the PSB, and would not satisfy the objectives of Policy SP7 - criterion 1f, to justify development of this greenfield, albeit edge of settlement site.
66. The harm to the significance of the heritage assets, arising from the proposed development within the setting of the conservation area and the listed Hayes Mill, would be less than substantial. Nevertheless, I attach considerable importance and weight to that harmful impact which would not be outweighed by the identified public benefits. The development would not accord with one of the core planning principles of the Framework which seeks to conserve heritage assets in a manner appropriate to their significance so that they may be enjoyed for their contribution to the quality of life of this and future generations.
67. Therefore, for the reasons given and having had regard to all other matters raised, including various appeal decisions and court judgements referred to me, the appeal is dismissed. The submitted s106 agreement was designed to mitigate the impact of the proposal. However, in view of my conclusion, there is no need for me to consider the contents of the submitted s106 agreement further.

*Anthony Lyman*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Jack Smyth of Counsel  
He called

|                  |                         |
|------------------|-------------------------|
| Penny McKnight   | Conservation Officer    |
| Sarah Poxon      | Planning Officer        |
| Melissa Kurihara | Senior Planning Officer |

### FOR THE APPELLANT:

Paul Tucker, Queens Counsel  
He called

|                  |                     |
|------------------|---------------------|
| Sarah Wozencroft | Indigo Planning Ltd |
| Maggie Gatland   | Indigo Planning Ltd |

### FOR NICHOLLS LANE FIELD ACTION GROUP – RULE 6 PARTY

Anne Williams of Counsel  
She called

|                   |                            |
|-------------------|----------------------------|
| Tony Bonser       | Local Resident             |
| Gill Stanford     | Local Resident             |
| John Sayer        | Local Resident             |
| Jane Bonser       | Local Resident             |
| Charmain Hawkins  | Beacon Planning Ltd        |
| Peter Weatherhead | Peter Weatherhead Planning |

### INTERESTED PERSONS:

(In order of appearance)

|                                 |  |
|---------------------------------|--|
| Councillor Joyce Farnham        | Stafford Borough Council                       |
| Councillor Phillip Leason       | Stafford Borough Council                       |
| Councillor Lynne Bakker-Collier | Stafford Borough Council                       |
| Dr Barry Job                    | Midland Mills Group                            |
| Sophie Jordan                   | Local Resident & Moddershall Valley Trout Farm |
| David Scrivens                  | Parish Councillor – Oulton Village             |
| Dr D Hitchings                  | Local Resident                                 |
| Miles Kitchener                 | Local Resident                                 |
| Councillor Geoff Collier        | Stafford Borough Council                       |
| Richard Sidley                  | Resident – Splashy Mill                        |
| Jen Fearn                       | Local Resident                                 |
| Christopher Brown               | Local Resident                                 |
| Martin Robinson                 | Local Resident                                 |
| Peter Warman                    | Local Resident                                 |
| Sir William Cash                | Member of Parliament                           |
| Jolyon Guy                      | Local Resident                                 |

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

1. Opening on behalf of the Nicholls Lane Field Action Group (Rule 6 Party)
2. Opening submissions on behalf of the Appellant
3. Appeal Decision - APP/L2630/A/13/2196884 (Wymondham)
4. Statement of Common Ground signed and dated 10 October 2014
5. Council's response to appellants' rebuttal proof on HLS
6. Copy of letter from appellants to the Council dated 8 October 2014 re trees in Coppice Wood
7. Copy of letter from Mr Bonser to the Council dated 11 October 2014 in response to appellants' letter above
8. Letter from appellants, dated 13 October 2014 enclosing copy of draft s106 Agreement and CIL Compliance Note
9. Appeal Decision - APP/B3030/A/12/2183042 (Hawton)
10. Extract from English Heritage letter dated 12 July 2013 re screening by vegetation
11. Full copy of the above letter from English Heritage
12. Decision Notice re farm manager's dwelling at Moddershall Valley Trout Farm
13. Extract from Encyclopedia of Planning Law re Forge Fields Society judgement
14. Extract from Recording Britain Vol. III, re Coppice Mill.
15. Extract from Wychavon case re application of the 20% buffer
16. Copy of emails from Bovis Homes and Barratt Homes to the Council dated 19 & 20 February 2014
17. Copy of completed s106 Agreement dated 24 October 2014
18. Letter from Staffordshire County Council dated 30 October 2014 to Mr Bonser
19. Appeal Decision APP/Y3425/A/14/2217183 (North Road, Stone)
20. Appeal Decision APP/Y3425/A/14/2210911 (Gnosall)
21. Appeal Decision APP/L2630/A/13/2207755 (Hempnall)
22. Appeal Decision APP/B3030/A/13/2208417 (Southwell)
23. Appeal Decision APP/Y3425/A/14/2217578 (Ashflats Lane, Stafford)
24. Opinion by Paul Tucker QC dated 7 December 2014, re the above appeal Decision at Ashflats Lane, Stafford
25. Web article by Bob Gibbens
26. Letter from Barbara Palmer dated 5 October 2014
27. Letter from Ron Glover dated 5 October 2014
28. Letter from Jim Elton dated 5 October 2014
29. Bus timetables
30. Submission by Councillor Joan Farnham
31. Submission by Councillor Phillip Leason
32. Submission by Dr Barry Job
33. Submission by Sophie Jordan
34. Submission by David Scrivens
35. Submission by Dr D Hitchings
36. Submission by Miles Kitchener
37. Submission by Richard Sidley
38. Submission by Jen Fearn
39. Submission by Christopher Brown
40. Submission by Martin Robinson
41. Submission by Jolyon Guy
42. Suggested itinerary for informal visit around the area by Inspector
43. Itinerary for 3 November site visit
44. Letter from Mrs J Fearn dated 26 November 2014
45. Closing submissions on behalf of Nicholls Lane Field Action Group
46. Closing submissions on behalf of the Council
47. Closing submissions on behalf of the appellants
48. CIL Compliance Note