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## Appeal Decision

Hearing held on 5 August 2025

Site visits made on 4 and 5 August 2025

**by Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 September 2025

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**Appeal Ref: APP/K3415/W/25/3359731**

**Land off Horner Avenue, Fradley, Lichfield, Staffordshire, WS13 8TR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Daniel Wright (Vistry Homes Ltd and Greenlight Developments Ltd) against the decision of Lichfield District Council.
  - The application Ref is 22/00106/FULM.
  - The development proposed is a residential development with associated works and public open space, and access from Horner Avenue and Ward Close.
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### Decision

1. The appeal is allowed and planning permission is granted for a residential development with associated works and public open space, and access from Horner Avenue and Ward Close at Land off Horner Avenue, Lichfield, WS13 8TR in accordance with the terms of the application, Ref 22/00106/FULM, subject to the conditions in the Annex A.

### Applications for costs

2. An application for costs was made by Mr Daniel Wright (Vistry Homes Ltd and Greenlight Developments Ltd) against Lichfield District Council. This application is the subject of a separate Decision.

### Procedural Matter

3. A few weeks before the hearing the appellant submitted a revised External Works Layout Plan (FRAD-02-003 Rev K) showing 3 allotments at 150sqm each rather than 3 allotments which totalled 150sqm, as in drafting the section106 agreement it had been noted that the level of provision was erroneous. This change also required the Planning Layout Plan FRAD-02-002 to be revised. Whilst this amendment slightly reduced the amount of amenity greenspace being provided on site, it was confirmed that the amount provided was still greater than the minimum requirements. Parties had an opportunity to comment on this at the hearing and given the minor nature of the change I have accepted these revised plans in determining the appeal.
4. Third parties have raised concerns with the way the Council handled the appeal and the hearing session. These are matters they have taken up with the Council. In determining the appeal, I have only had regard to the planning merits of the case.

## Main Issues

5. The main issues in the appeal are:

- Whether or not the proposal would be provided with a suitable access; and
- The effect of the proposal on the living conditions of nearby residents with particular regard to noise and disturbance.

## Reasons

### *Suitable access*

6. The appeal site lies between a residential area to the north and an industrial area to the south. The road network in the residential area comprises a residential spine road (Worthington Road) with a number of lower order roads coming off it. The road network is typical of a suburban residential estate being two way single carriageways with street lighting and footways to either both or one side of the road. The speed limit is 20mph and the roads incorporate various features designed to reduce speeds and to prevent HGVs from the industrial area coming through the residential area. Nonetheless the road network is capable of being used by buses, refuse vehicles and other service vehicles.
7. The proposed development would be for 109 dwellings comprising 97 houses and 12 flats. The primary access would be from Horner Avenue with a secondary emergency access from Ward Close. The road layout at the existing turning head adjacent to No 52 would be amended to form a priority T-junction with the access extending into the site. The proposal includes the repositioning of the drive associated with No 52 and some minor works to the raised table at the T-junction within Horner Avenue.
8. Subject to this and various conditions the Highways Authority have no objection to the scheme and its proposed use of Horner Avenue to access the site both during the construction period and afterwards. Nor do they consider that any improvements are necessary to facilitate its use by the development. However, a number of concerns have been raised by local residents and the Parish Council.
9. Horner Avenue is a 20mph road with a 5m wide carriageway and a 1.3m wide footway at times to one side, and at others to both sides of the road. Notwithstanding the fact that people may currently stand and talk, and children may play, in the road, it is not a shared use pedestrian/vehicle surface as vehicular and pedestrian areas are clearly delineated.
10. There has been considerable debate as to whether the road constitutes a 'Minor Residential Access Road' or a 'Minor Access Way' as set out in the *Staffordshire Residential Design Guide - Supplementary Planning Guidance on Design Quality in Residential Areas (adopted 2000)* (SPG). From the evidence before me and what I saw Horner Avenue does not fit neatly into either one or the other. However, as noted by the Inspector on the previous appeal<sup>1</sup> on the site, whilst the SPG indicates the likely maximum number of dwellings that can be served by the various different types of road there is nothing in the guidance that precludes them from serving larger developments. Thus, the proposal needs to be considered on

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<sup>1</sup> Appeal Reference APP/K3415/W/22/3294728

its specific circumstances and does not set a precedent for how the SPG is used in other schemes.

11. It was highlighted that the Lichfield District Design Code Supplementary Planning Document (adopted December 2024) provides a different street hierarchy. However, this relates to how a hierarchy of streets should be designed in new developments rather than providing a classification that can be applied to existing roads. Nor does it provide guidance on the number of houses that might be appropriately served from the different streets. As such, it does not provide any guidance as to whether Horner Avenue would provide a suitable access.
12. The previous Inspector's concerns regarding the manoeuvring of vehicles associated with No 52 have been addressed by the proposed repositioning of the driveway associated with the property. At the hearing it was stated that Nos 17-23 also use the current turning head when reversing from their drives. I note that the previous Inspector did not raise any concerns with the positions of these drives and the new access, which is the same as in the previous appeal. Nor has it been raised as an issue by the Highways Authority or in the Level 1 Road Safety Audit that has been carried out on the scheme.
13. From my own observations there appeared to be adequate space for vehicles to turn utilising their own land, and/or either within the shared area utilised by Nos 15-19 for those properties and/or the part of the turning head adjacent to Nos 15, 21 & 23 for the others. Whilst these manoeuvres may not be quite as straight forward as reversing into the other part of the turning head, they would not in my view require excessive amounts of manoeuvring. As such, I consider the position of these drives would not give rise to highway safety concerns and the appellant stated this would in any case be assessed again in the further two stages of the Road Safety Audit that would be carried out as part of the development.
14. The proposed change of the ramps on the raised table from block paving to tarmac, which the Highways Authority confirmed was for maintenance reasons, would have no impact on the parking arrangements for No 5 Horner Avenue. Unlike No 52, the parking arrangement for this property was not raised as a highway safety concern by the previous Inspector. Nor has the Highways Authority raised any concerns in this regard. Without any substantive evidence to the contrary, I see no reason to conclude differently.
15. At 5m wide the road is a sufficient width to enable two cars to pass each other. Whilst parked cars can affect this, the level of parking I observed during my site visits and recorded in the parking surveys carried out by the appellant are not such that the need to wait or possibly reverse for other vehicles would give rise to highway safety concerns.
16. Temporary Traffic Regulation Orders (TTRO) would be used on Horner Avenue and Shaw Drive during the construction period to ensure that construction traffic would be able to access both the site and the proposed holding area on Shaw Drive. This would prevent on-street parking on parts of Shaw Drive and Horner Avenue during construction hours, with a temporary parking area being created on the site for residents to use during this time. Given the levels of on street parking I observed I consider that the size of this parking area would be sufficient and with the TTROs in place, I am satisfied that construction vehicles would be able to reach the site.

17. Whilst temporary TROs only last 18 months, the Highways Authority confirmed that it is not unusual for a new temporary TRO to be applied for towards the end of the 18 month period and so, if necessary, this can be extended to cover the entire construction period. Conditions can ensure that the development cannot commence until the TROs are made.
18. Given that construction traffic would need to use residential roads to access the site a detailed Construction Management Plan (CMP) has been agreed with the Highways Authority. This indicates that construction vehicles will be limited to 10m x 2.5m, as well as a range of other measures. It was confirmed by the appellant that all materials could be delivered on vehicles of this size.
19. Swept path diagrams show that vehicles of this size, which is smaller than a standard refuse vehicle, would be able to access the site. Although these show that at points the construction vehicles would have to go over the centre line, this is the same for the other commercial/service vehicles which already utilise the estate roads. Accident data shows that this is not currently creating highway safety issues. The Highways Authority also confirmed at the hearing that such manoeuvres would not give rise to highways safety issues and the design of Horner Avenue is suitable for larger vehicles.
20. The CMP also sets out other controls on deliveries including pre-arranged delivery slots, and the use of a holding area on Shaw Drive for vehicles that arrive outside of their allocated slot. This area is within a few minutes' drive of the site and so would not be too inconvenient or inefficient to make its use ineffective. The appellant confirmed that the site on Shaw Drive is not subject to any restrictions that would prevent its use.
21. The Highways Authority also confirmed that despite the nearby bends, visibility at both the Horner Avenue/Worthington Road and Shaw Drive/Common Lane junctions is more than adequate for 20mph roads.
22. The raised table and T-shaped nature of Horner Avenue already controls the speed of traffic on Horner Avenue and vehicles exiting the site would have to stop at the T-junction when leaving the site which would also limit their speed. The CMP indicates that construction vehicles would be walked through Horner Avenue to the site by a banksman. As such they would be travelling at slow speeds.
23. Bringing these points together, I am satisfied that Horner Avenue would be a suitable access for the proposed development. Accordingly, there would be no conflict with the National Planning Policy Framework that requires developments to ensure a safe and suitable access can be provided.

### *Living Conditions*

24. The application was accompanied by a Transport Assessment which used data from the TRICS database. This assessment indicates that the development would generate 52 two-way movements in the weekday morning peak period (8-9am) and 49 two-way movements in the weekday afternoon peak (5-6pm). It can be expected that movements during the rest of the day, the evenings and weekends would be less than this. The Council have not disputed these figures, nor have I been provided with any evidence to counter that provided in the assessment. At peak times this equates to around 1 extra vehicle a minute utilising Horner Avenue.

25. Even at peak times this level of traffic movement would not create a continuous flow of traffic and so there would not be constant traffic noise for residents. Furthermore, the additional traffic would not generate noise and disturbance associated with the opening and closing of car doors in the vicinity of the existing houses on Horner Avenue. Whilst cars may at times be required to wait to pass a parked car should a vehicle be coming in the opposite direction, such delays would be momentary and would not cause any undue noise and disturbance.
26. As previously mentioned, the size of the construction lorries would be limited, and they would be walked through Horner Avenue to the site by a banksman. As such they would be travelling at slow speeds. Generally, it is estimated that there would be around 4 delivery vehicles a day, with a maximum of 8 vehicles a day. At worst this equates to one delivery lorry arriving and leaving an hour. Whilst even moving at slow speeds, vehicular noise may be heard by residents, this noise would be short lived and with it consisting at worst of one vehicle arriving and leaving an hour, this would not create an unacceptable level of noise and disturbance for existing residents.
27. The appellant submitted a further Noise Assessment at appeal stage that considered noise levels and associated impacts from the use of Horner Avenue as the route to the site both during the construction phase and afterwards. Even though some houses only have a limited set back from the road, this concluded that the road traffic noise associated with the proposed development would be well below the significant adverse impact threshold. Post construction, noise levels at most receptors would not materially change.
28. The Council have not disputed the methodology or the findings of this assessment nor have I been provided with any evidence to counter its findings. I consider that the approach and methodology used in the study are appropriate and have been rigorously applied. Consequently, I have no reason to doubt the conclusions of the assessment.
29. I acknowledge that some residents may be more sensitive to noise by reason of disability or perhaps age and I am aware of at least one resident who is neurodivergent which amongst other things results in both noise and light sensitivity. However, even allowing for the fact that disabled and/or older people may be more alert to any increases in noise, the evidence indicates the increases would not be so significant to cause unacceptable harm to living conditions.
30. In addition, the application was accompanied by an Air Quality Assessment. This considered both the construction phase, where the most important consideration was considered to be dust, and the operational phase where changes in vehicle emissions were the most important consideration. The report sets out various mitigation measures that would ensure the risk of adverse effects from dust during the construction phase would be reduced to a level categorised as 'not significant'. These mitigation measures can be secured by condition. In addition, the assessment concluded that when fully operational, taking into account the changes in pollutant concentrations and absolute levels, the impact on existing residents is predicted to be 'negligible'. Thus, the operational air quality effects would not be significant.
31. The Council have not disputed the methodology or findings of this assessment, nor have I been provided with any evidence to counter its findings. I consider that the

approach and methodology used in the study are appropriate and have been rigorously applied. Consequently, I have no reason to doubt the conclusions of the assessment. I acknowledge that some residents with certain health conditions, or perhaps due to their age are likely to be sensitive to changes in air quality and I am aware that at least one local resident has a health condition that makes them particularly sensitive to vehicle emissions and dust. Nonetheless, even allowing for this, the evidence shows that the proposal would not cause unacceptable harm to living conditions in this regard.

32. In common with any development there would be some disruption caused during the construction phase and this disruption may be felt more by persons who are disabled and/or very young or old. But there is nothing to suggest this would be any different in scale to other construction sites across the country, many of which are located close to existing residential properties. This disruption would be temporary, and conditions would be able to control matters such as operational hours, dust mitigation, vibration and lighting and so would minimise the impacts of any disruption. Subject to this and other measures in the CMP, Environmental Health have not raised concerns that the construction phase would unacceptably harm living conditions for existing residents. In the absence of any substantive evidence to the contrary, I see no reason to come to a different conclusion. Even allowing for the fact that some residents may be more sensitive to this disruption, it would not cause unacceptable harm to living conditions.
33. I appreciate that the TTRO will prevent some residents from parking on the street outside their properties during construction hours. However, the dwellings on Horner Avenue are provided with some form of off-street parking, so at least one car would still be able to park near to the house, providing safe and convenient parking for people with any form of mobility issue. Whilst utilising the displacement parking area, which would be accessed via the main site access and located close to the start of the site, might not be as convenient as parking on the street outside the dwelling, it would not be so far away as to result in unacceptable living conditions.
34. Moreover, it was confirmed at the hearing that the TTRO would only restrict on-street parking during construction hours. Consequently, during the evenings, most of the weekend and on bank holidays residents would still be able to park on the road near their house if necessary.
35. Given Horner Avenue has a pavement to one side there is no reason why residents would be unable to stand and to talk to one another when meeting each other in the street and there is no firm evidence to show that the proposal would be detrimental to the community spirit that has been established.
36. All in all, I consider that the proposal would not have an unacceptable impact on the living conditions of nearby residents with particular regard to noise and disturbance. Therefore, it would not conflict with Policy BE1 of the *Lichfield Local Plan Strategy 2008 – 2029 (adopted February 2015)* (LLPS) which, amongst other things, requires that developments avoid causing disturbance through unreasonable traffic generation, noise, light, dust, fumes or other disturbance.

## Other Matters

### *Principle of Development*

37. The site is located adjacent to the settlement boundary as defined in the *Fradley Neighbourhood Plan (made February 2019)* (FNP). The site forms part of a larger employment allocation covered by Policy EMP1 of the *Lichfield District Local Plan Allocations 2008 – 2029 (adopted July 2019)* (LLPA). However, as the only way the site can be accessed is via Horner Avenue and Ward Close, its development for employment purposes would cause site specific environmental problems. As a result, the Statement of Common Ground confirms that the development of the site for housing would accord with Policy EMP1 and be acceptable in principle. This is a conclusion with which I agree.

### *Cannock Chase Special Area of Conservation (SAC)*

38. The site lies within 15km of Cannock Chase SAC which is designated for its dry heathland habitat. Policy NR7 of the LLPS requires that before development is permitted it must demonstrate that alone, or in combination with other development, it will not have an adverse effect, either direct or indirect, upon the integrity of the SAC. The evidence shows that any development that increases the human population within 15km may have a significant impact on the SAC, unless satisfactory avoidance and /or mitigation measures have been secured.
39. The Council is part of a SAC Partnership that works together to prevent damage to the SAC. The Partnership has a Memorandum of Understanding which requires housing developments within 15km to make a financial contribution to the Partnership for a programme of mitigation works. Subject to this, which as outlined below can be secured by the S106 agreement and Community Infrastructure Levy (CIL) payments, I am satisfied that acceptable mitigation measures can be secured and so the proposal would not result in adverse effects on the integrity of the SAC.

### *Ecology and trees*

40. The proposal was accompanied by a Preliminary Ecological Appraisal. This concluded that, subject to various mitigation measures which would be secured by condition, the proposal would not have an unacceptable impact on wildlife or protected species and habitats. The evidence indicates that biodiversity enhancements achieved on the site would be 20%.
41. The site includes a number of protected trees as well as other trees and hedges. An Arboricultural Survey and Tree Protection Plan were submitted as part of the proposal. Subject to conditions, these show that the development would not be detrimental to protected trees. Existing trees and hedges would largely be retained and new trees and hedgerows around, and within, the site form part of the landscaping proposals. These would more than compensate for any trees and hedges that would be lost.

### *Open Space*

42. There is no public access to the site at present and the trees and bunds along the edge of the site closest to the existing housing means that the majority of the site is largely screened from view. The proposal would provide a centrally located play space, amenity greenspace along the northern and eastern boundaries of the site

and 3 allotments. The amount of provision on site either meets or exceeds the minimum requirements for open space set out in Policy HSC1 of the LLPS and the *Developer Contributions Supplementary Planning Document (adopted 2016)*. The provision of this open space would benefit not only future occupiers but existing residents in the area.

#### *Living Conditions – future occupiers*

43. The appellant's noise assessment considered the potential for noise disturbance for future occupiers from both the adjacent industrial estate and the A38. This was reviewed by the Council who have confirmed that subject to the recommendations and mitigation measures outlined within it, which can be secured by condition, the proposal would provide future occupiers with satisfactory living conditions. I see no reason to disagree with this conclusion.

#### *Local Infrastructure*

44. Local residents have raised concerns regarding the potential impact of the proposal on services such as local medical and educational facilities. As outlined below the planning obligation would provide a financial contribution to mitigate the impact of the proposal with regard to both healthcare services and education provision.

#### *Property Value*

45. Although it has been argued that the scheme would result in a loss of property prices the Planning Practice Guidance states that "[the courts] have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations<sup>2</sup>."

#### **Planning Obligation**

46. A signed and completed Section 106 agreement has been submitted. This secures the provision of 28% (31 units) affordable housing, as well as the type and occupancy of the units. It also secures the provision of the open space and allotments on the site and the long term management of these areas. In addition, it makes provision for financial contributions to increase the capacity of nearby primary and secondary schools and health care facilities. These would reflect the extra demand the development would create for these services.
47. The submission of a Travel Plan and the appointment of a Travel Plan Co-ordinator along with a financial contribution to enable the monitoring of the Travel Plan would also be secured. A financial contribution for SAC mitigation measures for the affordable housing element of the proposal would also be secured though the agreement, as unlike the open market housing, this cannot be secured through CIL payments.
48. The CIL Compliance Statement and supporting evidence requested at the hearing produced by the Council, together with the responses from the School Organisation Team at the County Council and Staffordshire and Stoke-on-Trent Integrated Care Board set out how the S106 agreement would meet the relevant

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<sup>2</sup> Paragraph Reference ID 21b-008-20140306

tests contained in Regulation 122 of the CIL Regulations 2010 (as amended) and in paragraph 58 of the Framework.

49. In the light of this evidence, I am satisfied that all of the obligations in the S106 agreement are necessary, directly related to the development and fairly related in scale and kind. As such, they accord with the statutory tests.

### **Conclusion**

50. Overall, I consider that the proposal would accord with the development plan, particularly in regard to having a suitable access and providing satisfactory living conditions for existing residents. I have had due regard to the Public Sector Equality Duty (PSED) set out under s149 of the Equality Act 2010 and I am aware that disability, subject of representations, is a protected characteristic. I recognise that existing residents with disabilities may notice some change to their living conditions both during the construction phase and when the development is built and occupied, but I consider that the level of harm would not be unacceptable. Therefore, the only way to avoid unlawful discrimination is to grant planning permission in line with planning policy. It would not foster equality of opportunity or foster good relations to dismiss the appeal when the development is acceptable on its merits.
51. Consequently, I conclude the appeal should be allowed.

### **Conditions**

52. The Council and the appellant agreed a set of conditions that were discussed at the hearing. I have considered these in the light of paragraph 57 of the Framework and have revised a number of them as discussed at the Inquiry.
53. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord and to specify the number of dwellings being permitted (Conditions 1-3). Condition 4 is required in the interests of the character and appearance of the area.
54. For highway safety and to accord with policies CP5 and ST1 of the LLPS conditions 5-8 and 17 are necessary. For the same reason, and to protect the living conditions of local residents, condition 9 is required. Also for highway safety reasons but to comply with policies CP5 and ST2 of the LLPS condition 18 is required. Conditions 5-7 and 9 need to be pre-commencement conditions as they relate to works necessary to make sure the construction phase is undertaken in a safe manner. For highways safety and to ensure sufficient parking is provided in accordance with LLPS policies CP5 and ST2 condition 26 is needed.
55. To ensure the site is satisfactorily drained and to comply with policy CP3 of the LLPS condition 10 is necessary. This needs to be a pre-commencement condition as it relates to work that needs to be done before and during the construction phase. To protect and record any potential archaeological remains on the site and in accordance with LLPS policy CP14 and LLPA policy BE2, condition 11 is necessary. It needs to be a pre-commencement condition as it relates to work that needs to be done before any construction work commences.
56. In the interest of the character and appearance of the area and to comply with policy NR4 of the LLPS and FNP policies FRANP6 and FRANP8 condition 12 is needed. It needs to be a pre-commencement condition as it relates to works that

need to be in place before construction starts to ensure the protection of existing trees and hedges. For the same reason and to comply with LLPS policies CP3 and BE1 and FNP policies FRANP6 and FRANP8 condition 25 is needed.

57. In the interests of ecology and to accord with policy NR3 of the LLPS conditions 13 and 19 are necessary. The former needs to be a pre-commencement condition as it relates to work that needs to take place as part of the construction phase. For the same reason and to comply with LLPS policies CP3, CP13, BE1 and NR3 and FNP policy FRANP8 condition 16 is required.
58. Condition 14 is required to ensure adequate provision is made for waste disposal and to comply with policies CP3 and BE1 of the LLPS and policy FRANP6 of the FNP. It needs to be a pre-commencement condition as it relates to the layout of the scheme.
59. To protect the living conditions of existing residents and in accordance with policy CP3 of the LLPS condition 15 is required and needs to be a pre-commencement condition as it relates to how the construction phase is carried out. To protect the living conditions of future occupiers, and to comply with policy CP3 of the LLPS conditions 21-23 are needed.
60. To accord with policies CP4, CP10 and HSC1 of the LLPS and policy FRANP5 of the FNP, condition 20 is necessary. Conditions 24 and 28 are required in the interests of promoting sustainable travel and to comply with LLPS policies CP5 and ST2. Due to the sensitive nature of the end use, to prevent unacceptable risks to health and pollution and to comply with policy CP3 of the LLPS condition 27 is required.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

|                |                                  |
|----------------|----------------------------------|
| Satnam Choongh | Counsel                          |
| Philip Rawle   | Director PDR Planning            |
| Gary King      | Director Sharps Redmore          |
| David Frisby   | Director Mode Transport Planning |

### FOR THE LOCAL PLANNING AUTHORITY:

|            |                                             |
|------------|---------------------------------------------|
| Ian Long   | LWM Planning (Managing Planning Consultant) |
| Mark Evans | Staffordshire County Council Highways       |

### INTERESTED PARTIES:

|                 |                                     |
|-----------------|-------------------------------------|
| Mr Glen Brown   | On behalf of Fradley Parish Council |
| Cllr Hugh Aston | Lichfield District Council          |

## DOCUMENTS SUBMITTED AT THE HEARING:

1. Costs Rebuttal submitted by the local planning authority.
2. Lichfield District Design Code Supplementary Planning Document submitted by the local planning authority.
3. Highways Statement of Common Ground submitted by the appellant and the local planning authority.

## **Annex A**

### **Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans, except insofar as may be otherwise required by other conditions to which this permission is subject:
  - FRAD-01-001 Rev A Site Location Plan
  - FRAD-02-002 Rev M Planning Layout
  - FRAD-02-02AF Rev D Affordable Housing Layout
  - FRAD-02-003 Rev K External Works Layout
  - FRAD-02-004 Rev B Materials Layout
  - FRAD-02-009 Rev C Street Scenes
  - FRAD-02-010 Rev B Construction Management Plan
  - FRAD-02-033 Bin Drag Drawing
  - FRAD-02-034 Driveway Parking Dimensions Layout
  - FRAD-02-035 Rev A Hold Down Construction Detail
  - FRAD-02-0XX Rev 01 Site Sections
  - FRAD-02-0XX Rev 02 Site Sections
  - XN413 Rev A The Chestnut
  - XN415 The Alder
  - XN416/1 The Maple
  - XN416/2 The Maple
  - XN414 Rev B The Aspen
  - XN308 Rev A The Cypress
  - XN307 Rev A The Spruce
  - XN305 Rev C The Hazel
  - M205 Rev C 2 Bed Dwelling
  - S241-INF Rev C 2 Bed Dwelling
  - S351-INF 3 Bed House
  - Bov Gar1 Rev A Single and Shared Garage Bays Floor Plans
  - Bov Gar2 Rev B Single and Shared Garages – Elevation
  - Bov Gar3 Rev A Double Garage (Single Ownership) Floor Plans & Elevations
  - SF01(1)FP-INF 1b2p Flats (Elevations)
  - SF01(2)ELE-INF 1b2p Flats
  - SF01(1)FP-INF 1b2p Flats
  - SF02(1)FP-INF 2b3p Flats
  - SF02(2)ELE-INF Rev A 2b3p Flats
  - SF02(3)ELE-INF Rev A 2b3p Flats
  - FRAD-VIS-S-EX-D2-A-FC-207 2 Cycle Timber Storage Shed Detail
  - FRAD-VIS-S-EX-D2-A-FC-208 Cycle Storage Apartments
  - JSL3588-RPS-XX-EX-DR-L-9001 Rev P11 Detailed Soft Landscape Proposals 01/05
  - JSL3588-RPS-XX-EX-DR-L-9002 Rev P12 Detailed Soft Landscape Proposals 02/05
  - JSL3588-RPS-XX-EX-DR-L-9003 Rev P11 Detailed Soft Landscape Proposals 03/05
  - JSL3588-RPS-XX-EX-DR-L-9004 Rev P11 Detailed Soft Landscape Proposals 04/05

JSL3588-RPS-XX-EX-DR-L-9005 Rev P11 Detailed Soft Landscape  
Proposals 05/05

JSL3588-RPS-XX-EX-DR-L-9006 Rev P11 Detailed Soft Landscape  
Proposals Plant Schedule and Specification

Play Concept Plans

FR.01.02 Play Area Layout

FR.02.02 Play Area Location

FR.03.01 Play Area Components

FR.04.02 Play Area Components

FR.05.01 Play Area Components

FR.06.01 Play Area Components

TIP 03 Tree Impacts Pan

1122 Rev A Topographical Survey

20052/101 G External Levels & Features

20052/102 G External Levels & Features

20052/103 G External Levels & Features

20052/104 G External Levels & Features

20052-301 Adoptable Highway Construction Details

J32-6254-PS-002 Rev A Internal Junction Visibility Splays

J32-6254-PS-003 Rev A Internal Junction Visibility Splays

J32-6254-PS-015 Rev D Proposed Site Access Arrangements

J32-6254-PS-018 Rev B 52 Horner Avenue Vehicle Tracking

J32-6254-PS-023 Rev A 5 Horner Raised Table

TR20-3396\_EMB V1 Acoustic Bund Sections

- 3) The development shall relate to the provision of no more than 109 dwellings.
- 4) Notwithstanding the submitted information, no development above ground level shall take place until details of the form, colour and finish of the materials to be used externally on the walls and roofs have been submitted to, and approved in writing by, the local planning authority. The development shall then be carried out in accordance with the approved details.
- 5) The development hereby permitted shall not commence until written confirmation has been secured from Staffordshire County Council (as the local highway authority) and submitted in writing to the local planning authority that the Temporary Traffic Regulation Order covering Horner Avenue from its junction with Worthington Road to the site access adjacent to No.52 Horner Avenue has been approved. The Temporary Traffic Regulation Order shall thereafter be implemented before any construction vehicles access the site.
- 6) The development hereby permitted shall not commence until written confirmation has been secured from Staffordshire County Council (as the local highway authority) and submitted in writing to the local planning authority that the Temporary Traffic Regulation Order covering Shaw Drive from its junction with Common Lane to the vehicle holding area access has been approved. The Temporary Traffic Regulation Order shall thereafter be implemented before any construction vehicles access the vehicle holding area.
- 7) Prior to the commencement of construction, the raised table improvements as illustrated on Drawing No. J32-6254-PS-023 Rev A shall be implemented

- and shall be retained and maintained for the duration of the construction period.
- 8) No construction traffic is to utilise the field access onto the A38 Trunk Road.
  - 9) Notwithstanding the submitted information, no development hereby permitted shall take place until an updated Construction Traffic Management Plan has been submitted to, and agreed in writing by, the local planning authority. The approved plan shall be adhered to throughout the construction period.
  - 10) No development hereby permitted shall take place until a scheme for the disposal of foul and surface water flows has been submitted to, and approved in writing by, the local planning authority. The development shall be completed in accordance with the approved details prior to first occupation.
  - 11)
    - a) No development hereby permitted shall take place until a written scheme of archaeological investigation (WSI) has been submitted to, and approved in writing by, the local planning authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate publication.
    - b) Following approval of the WSI referred to in part a, and prior to the commencement of development (other than in accordance with the agreed WSI), the archaeological site work shall thereafter be implemented in full accordance with the WSI.
    - c) No dwelling hereby permitted shall be occupied until the site investigation and post-excavation assessment has been completed in accordance with the WSI approved under part a, and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.
  - 12) All existing trees and hedges shown as being retained on the detailed soft landscaping plans approved under condition 2 shall be protected in line with the Tree Protection Barrier recommendations contained on TIP 03 Tree Impacts Plan and figure 7.2 of the British Standard 5837 (2012) 'Trees in relation to construction'. Such fencing shall be erected before the development commences and shall be retained as such whilst construction works are taking place.
  - 13) No development hereby permitted shall take place until a Habitat Creation and Landscape Management Plan has been submitted to, and agreed in writing by, the local planning authority. The plan shall detail in full the future habitat creation works, timescales for implementation and sustained good management thereof. The development shall be carried out in accordance with the approved details and timescales and shall thereafter be maintained and managed in accordance with the approved details.
  - 14) Notwithstanding any details shown on the approved plans, no development hereby permitted shall take place until revised details indicating the following have been submitted to, and approved in writing by, the local planning authority:
    - The bin collection point adjacent to Plot 9 shall be moved close to the public highway to provide a maximum drag distance of 10m to aid refuse collection.

- Details of a bin collection point to serve Plots 96 to 99. The collection point shall be a maximum of 10m away from the public highway to aid refuse collection.

The bin collection points shall thereafter be provided in accordance with the approved details and be completed prior to first use and shall thereafter be retained as such for the lifetime of the development.

- 15) No development hereby permitted shall take place until a scheme of dust mitigation has been submitted to, and agreed in writing by, the local planning authority. The scheme shall mitigate to the level of dust risk classified in the submitted Air Quality Assessment Version 2 by RPS (Ref JAR2036 dated 1 November 2021) and the development shall be carried out in accordance with the agreed details.
- 16) Before installation on site, an external lighting strategy shall be submitted to, and approved in writing by, the local planning authority. All external lighting shall be installed in accordance with the specifications and locations set out in the approved details and shall be maintained thereafter in accordance with these details. The approved details for each plot shall be implemented as approved prior to the first occupation of the dwelling which is sited within the respective plot.
- 17) No dwelling hereby permitted shall be occupied until the vehicular access from Horner Avenue and revised parking arrangements to No.52 Horner Avenue, including revised footway provision and improved road markings have been provided in accordance with Drawing No. J32-6254-PS-015, Rev D (Proposed Site Access Arrangements) and shall be retained as such thereafter.
- 18) No dwelling hereby permitted shall be occupied until the parking and turning areas associated with each respective property, has been provided in a bound material and sustainably drained. The parking and turning areas shall thereafter be retained for their designated purposes.
- 19) No dwelling hereby permitted shall be occupied until a scheme of ecological enhancement measures to include the location of 10 No. Bird Boxes and 10 No. Bat Boxes in accordance with the mitigation measures outlined in the Ecological Assessment by Ecology Solutions (Ref 8004.EcoAss.vf1 dated December 2021) has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented in accordance with timescales to be agreed within the submitted scheme.
- 20) The play equipment shall be installed within the play area defined on drawing number FRAD-02-003 Rev K – External Works Layout in accordance with the approved details shown on drawings numbered FR.01.02 – FR.06.01 prior to the occupation of the 76th dwelling and retained as such thereafter.
- 21) The proposed acoustic fencing and bunds as shown on Drawing No FRAD-02-003 Rev K External Works Layout shall be implemented before any of the relevant dwellings are first occupied and retained as such in perpetuity.
- 22) No dwelling hereby permitted shall be occupied until the proposed noise mitigation recommendations set out in the AEC Noise Statement (Reference: P3771/R03a/PJK dated 5 November 2021) with respect to glazing and

- ventilation for the dwellings, have been implemented for that respective dwelling.
- 23) The boundary treatments shown on Drawing No FRAD-02-003 Rev K External Works Layout shall be installed to each plot before the first occupation of the dwelling, which is sited within the respective plot.
  - 24) The cycle storage relating to each dwelling which does not have access to a garage as indicated on Drawing No. FRAD-02-003 Rev K External Works Layout shall be provided in accordance with Drawing Nos FRAD-VIS-S-EX-D2-A-FC-207 and FRADVIS-S-EX-D2-A-FC-208 before the respective dwelling is occupied. This cycle storage shall thereafter be retained in accordance with the approved details.
  - 25) All planting, seeding or turfing shown on the detailed soft landscaping plans approved in condition 2, shall be carried out in accordance with an implementation programme which shall have been previously agreed in writing with the local planning authority prior to the first occupation of any dwelling hereby permitted. Any trees or plants which within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
  - 26) The garages indicated on submitted Drawing No FRAD-02-003 Rev K External Works Layout shall at no time be converted to living accommodation without the prior express permission of the local planning authority.
  - 27) In the event contamination is found at any time when carrying out the approved development that was not previously identified in the Geoenvironmental Assessment by Georisk Management Limited (Ref 18337/1 dated May 2019) it must be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended until an investigation and risk assessment has been undertaken in accordance with the requirements agreed in writing with the local planning authority. Where unacceptable risks are found, the relevant phase of development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to, and approved in writing by, the local planning authority.
  - 28) The Travel Plan (Version 3 by Mode Transport Planning dated 29 April 2022) shall be implemented and monitored according to the targets contained therein, for a minimum period of 5 years post full build-out of the development hereby permitted. The Residential Travel Plan Coordinator will be appointed/identified to the Local Planning Authority within one month of construction commencing.



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## Costs Decision

Hearing held on 5 August 2025

Site visits made on 4 and 5 August 2025

**by Alison Partington BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 September 2025

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### **Costs application in relation to Appeal Ref: APP/K3415/W/25/3359731**

#### **Land off Horner Avenue, Fradley, Lichfield, Staffordshire, WS13 8TR**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Mr Daniel Wright (Vistry Homes Ltd and Greenlight Developments Ltd) for a full award of costs against Lichfield District Council.
  - The appeal was against the refusal of planning permission for a residential development with associated works and public open space, and access from Horner Avenue and Ward Close.
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### **Decision**

1. The application for an award of costs is allowed in the terms set out below.

### **Reasons**

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The application for an award of costs is made on substantive grounds. It is highlighted that the Committee of the Council determining the application decided not to accept the recommendations of its Officers to grant permission. It is argued that the Council has prevented or delayed development which should have been permitted having regard to the development plan, national policy and other material considerations, has failed to substantiate the reasons for refusal on appeal and has relied on vague, generalised or inaccurate assertions about a proposal's impacts which are unsupported by objective evidence. It is also claimed that the Council has persisted in objections to a scheme or elements of a scheme which an Inspector has previously indicated to be acceptable and have not determined similar cases in a consistent manner. The PPG indicates that, in all such circumstances, costs may be awarded against a Council.
4. Whilst the Committee of the Council responsible for determining planning applications is not required to accept the recommendations of its Officers, in circumstances where the professional advice of Officers is not followed, it is reasonable to expect the Council to be able to produce relevant evidence on appeal to support the decision.
5. The application had two reasons for refusal. Both of the reasons for refusal set out the development plan policies and other documents to which it was considered the proposal was contrary.

6. The first reason for refusal related to the principle of the development and whether this complied with the development plan. Whilst this was withdrawn by the Council early in the appeal process, due to a change in the Council's 5 year housing land supply position, nonetheless the appellant had to address this in their appeal submission.
7. The appeal site was the subject of a previous similar application for a slightly larger number of dwellings which was subject of an appeal<sup>1</sup> in 2023. Within the Statement of Common Ground for this previous appeal it was agreed that the development of the site was in accordance with Policy EMP1 of the *Lichfield Local Plan Allocations (adopted July 2019)*, and that, in principle, the development of the site for housing was supported by the development plan, notwithstanding the fact that the site was outside the settlement boundary established in the *Fradley Neighbourhood Plan (made February 2019)*. This was a conclusion which the previous Inspector agreed with.
8. Since that appeal there have been no changes in the development plan. So, irrespective of the housing land supply position, on this basis it is unreasonable for the Council not to determine similar proposals in a consistent manner.
9. The second reason for refusal related to whether Horner Avenue was suitable for the quantum of development proposed and whether its use would unacceptably harm the living conditions of residents both during the construction phase and afterwards.
10. The suitability of Horner Avenue was something that was addressed in the previous appeal. Whilst that appeal was dismissed, the Inspector concluded that even if Horner Avenue is a 'minor access way' as set out in the Staffordshire Residential Design Guide, there was nothing in the guidance to preclude its use for larger developments and that the capacity of the local estate roads had not been raised as a concern. The Inspector's concerns in dismissing the appeal related solely to safety issues related to the drive at No 52 and the lack of a detailed Construction Management Plan (CMP).
11. Following discussions with the appellant, amendments to the scheme and the production of a detailed CMP, the Highways Authority raised no objection to the use of Horner Avenue as the access to the site for this appeal scheme during either the construction phase or when occupied. Moreover, it was confirmed at the hearing that nothing had changed in the nature or characteristics of the road since the previous appeal.
12. In the light of this, and the fact that the current appeal scheme is for a slightly smaller number of houses (109), it is unreasonable for the Council to have persisted in objections to an element of the scheme which an Inspector has previously indicated to be acceptable, particularly when the Highways Authority have also accepted that the access is acceptable.
13. Moreover, at the hearing the Council provided no substantive evidence to support the assertions in their hearing statement that the use of Horner Avenue for both construction traffic and the development would be unsafe or that it would have a severe impact. Whilst it was stated at the hearing that it was due to the characteristics of the road, no such characteristics were identified.

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<sup>1</sup> Appeal Reference APP/ K3415/W/22/3294728

14. The potential for traffic associated with the development to cause unacceptable noise and disturbance for existing residents did not form any part of the reasons for refusal on the previous application on the site. So, it is inconsistent not to consider similar proposals in a consistent manner, particularly when this proposal is for slightly fewer houses.
15. The application was accompanied by a Transport Assessment that provided the traffic flows the proposal would be likely to generate. In the light of this Environmental Health Officers had raised no concerns that this level of traffic would cause unacceptable living conditions for existing residents.
16. The Council provided no evidence either in their written statement or at the hearing to substantiate the claim that noise and disturbance from the development would be such that it would create unacceptable living conditions. Nor did they provide any evidence, to counter that from the appellant, that the scheme would not have an unacceptable impact in this regard.
17. Noise is a technical and complex issue which requires technical assessments to show that living conditions would be significantly affected. This has not been provided by the Council who simply relied on vague and generalised assertions that were not supported by any objective evidence. Nor did they provide any other evidence to show that in any other way the living conditions of existing residents would be unacceptably harmed by the proposed development.
18. Overall, I consider that the Council has not produced relevant evidence at appeal stage to support their decision to refuse planning permission but has relied on vague and generalised assertions that are not supported by any objective or substantive evidence. It has also persisted in objections to elements of a scheme which an Inspector has previously found acceptable and has been inconsistent in its decision making. I therefore consider that the Council's approach does represent unreasonable behaviour, and this has resulted directly in the need for this appeal.
19. Consequently, I find that unreasonable behaviour resulting in unnecessary and wasted expense, as described in the PPG, has been demonstrated, and a full award of costs is justified.

### **Costs Order**

20. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Lichfield District Council shall pay to Mr Daniel Wright (Vistry Homes Ltd and Greenlight Developments Ltd), the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.
21. The applicant is now invited to submit to Lichfield District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

*Alison Partington*

INSPECTOR