

PLANNING COMMITTEE

6th July 2021

APPLICATION FOR CONSIDERATION

REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION



Application Number: 0004/2021

Development: Full planning permission for the construction of a flat roofed, 3 storey office building with a car park totalling 39 no. spaces (Re-submission of application 0115/2020)

Location: Land adjacent to Co-op Garage, Bonehill Road, TAMWORTH

1. **Introduction**

- 1.1 The application is being reported to Planning Committee based on the size and nature of the application. The application is considered a major application based on the total internal floor space exceeding 1000sqm.
- 1.2 The application is for the erection of a 3 storey purpose built office building incorporating a floor space of 674.6 sqm with associated off street parking for 39 spaces, cycle storage and landscaping. The proposed building will be constructed using modern materials including brick, cladding and large sections of glass. The site would be accessed from Bonehill Road with the creation of a new vehicle access point to the west of the site by using an existing dropped kerb area that currently accesses the open fields. The applicants wish to develop the site as a new bespoke contemporary head office for Owl Homes Limited and Owl Partnerships.
- 1.3 The proposal is accompanied by a Planning Statement, Design and Access Statement, Heritage Statement, Flood Risk Assessment, Ground Investigation Report, Tree Survey, Transport Report and an Ecology Report. In addition the agents have submitted a Sequential Test report and a legal opinion.
- 1.4 The application site is currently undeveloped land sat adjacent to open land which is included in the floodplain and residential developments of varying age and scale. Vehicular access to the site is proposed from a new access off Bonehill Road and an additional pedestrian access will be provided onto Bonehill Road to the east. The access then leads into a car parking area to the rear of the site that fronts onto the open floodplain area. Small areas of landscaping are included at points around the site and adjacent to the highway.
- 1.5 The site is subject to a number of constraints and has led to a number of additional reports and considerations to be made during the application process. The site is in close proximity to two listed buildings/structures in the form of the Grade I Listed Tamworth Castle and Lady Bridge. Other constraints include the potential flooding with the site sitting within Flood Zones 2 and 3. The site is also adjacent to mature trees that are located along the site boundary. Therefore consideration is required when shaping this development so that all constraints are factored in and no significant harm is generated as a result of the proposed development.
- 1.6 The central issue relating to this site is the principle of development for class E use (formerly B1 (a) use), on an allocated housing site (ref. 591). The site is an allocated housing site in the adopted Tamworth Local Plan, therefore there is an objection in principle to a proposal for development on the site that is not for residential development. There is also a policy requirement to demonstrate a sequential approach in the provision of offices outside the town centre. In addition to the principle of the development, there is still the need to assess the details in respect of the traffic, parking and highway safety, flooding, design and amenity issues as well as impacts on biodiversity and surrounding listed buildings and structures.

2. **Policies**

2.1 Local Plan Policies

SS1 - The Spatial Strategy for Tamworth
SS2 – Presumption in Favour of Sustainable Development
HG1 – Housing
EC1 – Hierarchy of Centres for Town Centre Uses
EN4 – Protecting and Enhancing Biodiversity
EN5 – Design and New Development
EN6 – Protecting the Historic Environment
SU1 - Sustainable Transport Network
SU2 – Delivering Sustainable Transport
SU4 - Flood Risk and Water Management
SU5 – Pollution, Ground Conditions and Minerals and Soils
IM1 – Infrastructure and Developer Contributions
Appendix A – Housing Trajectory
Appendix C – Car Parking Standard

2.2 National Policies

NPPF – National Planning Policy Framework 2019
NPPG - National Planning Practice Guidance

3. **Relevant Site History**

F	0275/2015	Mixed use development of 2 restaurants, business/information hub and 14 apartments REFUSED
F	0443/2016	Mixed use development of 2 restaurants, business/information hub and 14 apartments [resubmission of application 0275/2015] APPROVED
F	0067/2020	Demolition of existing buildings, construction of 35 no. apartments, associated parking and access – WITHDRAWN (Adjacent Co-op Garage site)
F	0115/2020	Construction of a flat roofed, 4 storey office building with a car park totalling 54no. spaces which utilises undercroft spaces - WITHDRAWN

3. **Consultation Responses**

3.1 The following consultation responses were received:

- Historic England – No objection
- Natural England – No objection
- Conservation Officer – No objection (subject to conditions)
- Environmental Health – No objection
- Severn Trent – No objection (subject to conditions)
- Highways – No objection (subject to conditions)
- Waste Services – No objection (standard advice)
- Tree Officer – No objection
- Fire Service – No objection
- Ecology – No objection (subject to conditions)
- Police – No objection
- Public Rights of Way – No objection
- County Archaeology – No objection
- Policy – Objection (concern surrounding the allocation of the site as well as a proposed Town Centre Use)
- Economic Regeneration – Objection
- EA – Objection (impacts of the development on the integrity of existing flood defences)
- LLFA – Objection (insufficient details submitted)
- Sequential Test Consultant – Objection (insufficient assessment of a number of alternative sites)

The consultation responses comments are précised if conditions are proposed these are included within the conditions at the end of the report unless stated otherwise. Whilst every effort has been

made to accurately summarise the responses received, full copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>

4. Additional Representations

- 4.1 As part of the consultation process adjacent residents were notified and a press notice and site notices were erected.
- 4.2 No objections were received from neighbouring properties.

5. Equality and Human Rights Implications

- 5.1 Due regard, where relevant, has been taken to the Tamworth Borough Council's equality duty as contained within the Equalities Act 2010. The authority has had due regard to the public sector equality duty (PSED). Under section 149 of the Equality Act 2010, a public authority must in the exercised of its functions, have due regard to the interests and needs of those sharing the protected characteristics under the Act, such as age, gender, disability and race. This proposal has no impact on such protected characteristics.
- 5.2 There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act, regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the determination of this application.

6. Planning Considerations

- 6.1 The key issues to be considered at this stage are

- Principle
- Character and Appearance
- Impact on residential amenity
- Parking and Highways
- Impact on Trees, Ecology and Biodiversity
- Flooding and Surface Drainage
- Conservation and Listed Buildings
- Other Material Considerations

6.2 *Principle*

- 6.2.1 Policy SS1 of the Tamworth Borough Council Local Plan 2006 - 2031 sets out the spatial strategy to provide development in the most accessible and sustainable locations to meet housing and employment needs, whilst safeguarding natural and built assets, and policy SS2 requires any proposals that are sustainable and in accordance with the Plan to be approved without delay.
- 6.2.2 The application site is shown on the Proposals Map accompanying the Plan as being allocated for residential development (site reference 591) as part of the requirement to provide **at least** 4,425 new dwellings for Tamworth by 2031 in accordance with policy HG1 (Housing). The land immediately to the east of the application site is also allocated for residential development (site reference 593), and the housing trajectory at appendix A of the Local Plan gives an estimated capacity across both sites of at least 22 dwellings. It is also worth noting that a current application is submitted and under consideration for 13 dwellings on the adjacent site (593).
- 6.2.3 The delivery of appropriate numbers of dwellings on the allocated sites is particularly important given that the adopted plan was unable to identify sufficient land to meet the identified housing need. Therefore allowing a non-residential development on an allocated housing site risks undermining the Council's ability to deliver the level of housing required to meet the identified need. On this basis, the principle of a non-residential development on an allocated housing site is not considered appropriate.

- 6.2.4 Notwithstanding the above, the proposal would also be a 'main town centre use' outside of an existing centre. Paragraph 86 of the NPPF sets out a requirement for local planning authorities to apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Although the Local Plan is now more than five years old, a review of the Plan carried out in 2020 found that the relevant policy in respect of this issue was still broadly compliant with national policy.
- 6.2.5 Policy EC1 (Hierarchy of Centres for Town Centre Uses) of the Local Plan therefore applies and for the proposal to be considered compliant with policy EC1, it would be required to demonstrate the four points (a-d) as set out in the policy:
- a) Compliance with the sequential test;
 - b) Good accessibility by walking, cycling and public transport;
 - c) There will be no adverse impact on the vitality and viability of other existing centres; and
 - d) It will not prejudice the delivery of other strategic objectives.
- 6.2.6 In relation to points b) and c) sustainable transport is considered later in this report and the issue of vitality and viability of existing centres is considered to be of little relevance to the proposal under consideration as this considers the impact of retail developments rather than office developments. In relation to point d) it is considered that the proposal could prejudice the delivery of other strategic objectives by preventing the delivery of housing on a site allocated for housing which, as set out above, risks undermining the Council's ability to deliver the level of housing required to meet the identified need.
- 6.2.7 In relation to point a), compliance with the sequential test, the application has been accompanied by a Planning Statement and a Sequential Test to provide justification for the use of the application site for E class (formerly B1 (a)) use. The applicant's Sequential Test identifies a total of 11 sites on the market at the time of submitting the application (January 2021). The Sequential Test evaluated each site in terms of the company requirements for a vacant site suitable for a new bespoke office building and associated car parking and concluded that none of the sites were both suitable and available. A review of the submitted Sequential Test was undertaken by independent consultants on behalf of the Council and concluded that at least one of the sites should be considered suitable and available and therefore compliance with the sequential test has not been demonstrated. As the application is for a main town centre use outside of an existing centre, is unable to demonstrate compliance with the sequential test, and could prejudice the delivery of other strategic objectives, it should therefore be considered contrary to Local Plan policy EC1.
- 6.2.8 The Economic Development and Regeneration Team do not support this application for offices in this location and state that:
- This use, the development of new offices, should be located in the Town Centre based on the clear ambition of the Council to support the wider mixed use regeneration of this area. This is supported by the recent consultation on Gungate masterplan that proposed mixed use development in the heart of the Town Centre. The Gungate site particularly, which is owned by the Council and therefore under its control represents an opportunity to develop offices in the Town Centre. The Town Centre is also a highly sustainable site for offices in relation to public transport infrastructure, with a two line railway station 5 minutes walk from the Centre, two bus hubs and numerous cycle links connecting the wider Town. Office development in the Town centre would also contribute significantly to wider economic benefits to the Town centre eco system including; new job creation; diversification of business uses; primary and secondary spend uplift in Town centre businesses; improved perception and marketing affect for other investors (developers and businesses).
- 6.2.9 This consultee therefore supports that the sequential test of the local plan has not been justified.
- 6.2.10 Based on the assessment of the proposal against Local Plan policies HG1 and EC1, it is considered that the proposal would not be in accordance with those policies and the principle of the proposal is therefore deemed to be unacceptable. In accordance with s70(2) of the Town and Country Planning Act 1990 (as amended) and s38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) planning applications should be determined in accordance with the policies of the Local Plan unless material considerations indicate otherwise. The other material considerations in relation to this application are considered later in this report.

6.3 *Character and Appearance*

- 6.3.1 The proposed development is for the erection of a 3 storey purpose built office block. The office block will occupy approximately half of the width of the site when viewed from the highway along Bonehill Road. The materials to be used within the buildings design consist of Staffordshire Blue brickwork up to the top of the second floor to the west and the top of the first floor to the east. The brick work will be broken up with large tinted glazed sections and areas of cladding panels in silver grey.
- 6.3.2 The site has car parking positioned to the western and northern side of the site. The car parking will be arranged in rows that face towards the floodplain and towards the Town Centre and the adjacent listed building and listed bridge. This is the boundary of the site that is highly visible across the floodplain from the Town Centre Conservation Area as well as from Lady Bridge and Tamworth Castle. It is essential that particular care is given to the frontages and boundary treatments on all peripheries of the site. The design of this scheme has now given care to the site boundary to the north of the site and as such resulted in a scheme that, as amended from the previous application, improves its relationship with the views into and from the site to the north across the floodplain. The proposal will have an acceptable impact on the way the highly visible site is viewed and experienced from the Town Centre.
- 6.3.3 The proposed building will be somewhat screened from the highway by the mature row of lime trees that are located along Bonehill Road, however large portions of the building will still be visible from the highway due to gaps between the trees as well as the fact that the building will be taller than the mature trees, but due to the open nature of the rear and the prominent setting of the site the building will be highly visible from across the floodplain and from the listed landmarks and the Town Centre Conservation Area.
- 6.3.4 The prominent and sensitive location just outside the Town Centre Conservation Area provides the opportunity for a gateway design that is in keeping with the traditional vernacular of the area. The proposed design is a contemporary modern design that needs to marry with its context. The site is visible from Lady Bridge and Lady Meadow (which contains a well-used public footpath) to the north and Bonehill Road to the south. The site is allocated within Policy HG1 for residential development, which encourages '*small scale conservation development*' for the site but this should not be seen as restricting the development of the site to a low scale heritage development especially as contemporary design is supported by Policy EN5 providing it remains sympathetic to the characteristics of an area. It is judged that although a contemporary design, it would not be unduly harmful to the overall setting however, and as such is on balance considered compliant with Policy HG5.
- 6.3.5 As such the proposed development in its reduced scale, will relate to its surroundings as the adjacent residential properties are generally low density 'modern' 2 and 3 storey apartment blocks as well as a mix of traditional and modern smaller terraced and semi-detached properties. Therefore a 3 storey office block constructed using modern and contrasting materials does not have a harmful impact on the style and scale of surrounding developments. The proposed development is therefore compliant with Policy EN5 of the Local Plan and is considered to be acceptable.
- 6.2.6 The proposed building is considered to be an appropriate design and scale and will not harm the townscape of Tamworth, or the character and appearance of the area and the street scene and is therefore compliant with the requirements of the NPPF, and LP Policy EN5.

6.3 *Impact on Residential Amenity*

- 6.3.1 The proposed development will not be likely to lead to significant impacts on the amenity of neighbouring properties associated with loss of privacy or loss of light.
- 6.3.2 The proposed location of the office building is on the opposing side of the road to the surrounding residential properties, however as the proposed office block is 3 storeys (which is typical of the scale of surrounding properties) it presents development that is of an acceptable scale and massing. The proposed block has been sited so that it would not lead to a significant sense of enclosure or be overbearing to the properties on the opposing side of Bonehill Road and as such will have no

significant impact on the amenity of surrounding properties and is therefore compliant with Policy EN5 of the Local Plan.

- 6.3.3 The proposed development will not lead to a significant impact associated with loss of light to the habitable rooms of adjacent properties. The orientation of the proposed office block in relation to the surrounding residential properties means that shadows will be cast onto the open spaces of the flood plain and car park and as such will not generate significant shadows onto the adjacent properties. Therefore the proposed development will not lead to a significant impact on the amenity of adjacent property associated with loss of light and in relation to this element it is policy compliant.
- 6.3.4 The proposed development will not lead to significant impacts associated with loss of privacy or overlooking. There are no private external amenity spaces that face onto the location of the proposed new office block and the office building is to be screened by trees along the boundary to block views from the windows of the office block. As such the proposed development will not lead to a significant impact associated with loss of privacy or overlooking. Therefore this element of the proposed development is deemed to be policy compliant.
- 6.3.5 The proposed development will not lead to significant impacts on the amenity of neighbouring properties associated with loss of privacy, overlooking or loss of light and so these elements are deemed to be compliant with Policy EN5 of the Local Plan.

6.4 *Parking and Highways*

- 6.4.1 The proposed development has been assessed by County Highways to consider the potential impact of the application on highway and pedestrian safety as well as the potential impact on the highway network along Bonehill Road and the roundabout and road network onto Ventura Park. The development site is on the eastbound side of Bonehill Road, an unclassified, restricted (30 mph) road that has the status of highway maintainable at the public's expense, that benefits from waiting restrictions, pedestrian facilities and street lighting. It is situated to the south of the Tamworth town centre, to the north of Ventura Retail Park. The existing use of the site is under agriculture. The existing access is a field gate access to the immediate west of the development site. The site benefited from Planning permission 0443/2016 for a mixed use development of two restaurants, business/information hub and 14 apartments. There was a similar previous Planning application at the site, 0115/2020, for the construction of a flat roofed, four storey office building with a car park of 54 car spaces which utilised undercroft spaces.
- 6.4.2 There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:-
provision of a surface water drainage interceptor, connected to a surface water outfall, has been provided across the access;
provision of secure cycle parking which shall be maintained and kept available for use;
parking and turning facilities have been implemented and maintained in perpetuity;
the access drive has been surfaced with tarmac, or similar hard bound material and so maintained in perpetuity,
a construction traffic management plan, has been submitted to and approved and any vehicular access gates, barriers, bollards, chains or other such obstructions that are erected to the proposed new access should be kept fully open at all times when the site is open to staff.
- 6.4.3 In addition the site is within a sustainable location within reasonable walking distance of the town centre and Ventura and accessible to bus services (300m to nearest bus stop) and public car parking facilities. The site is however, 1.6km from the train station.
- 6.4.4 Therefore the proposed layout will not lead to harm to pedestrian or highway safety compliant with Appendix C. The application is compliant with the objectives and policies contained within the NPPF, Para 109, contrary to Tamworth Borough Council's Local Plan 2006-2031 Adopted February 2016: Policy SU2 Delivering Sustainable Transport and contrary to the interests of highway safety.

6.5 *Impact on Ecology and Biodiversity*

- 6.5.1 The site has limited biodiversity contained internally as it is largely an area of open grass land. There are a row of mature Lime trees to the south of the site which will be considered within a later

section of this report, and there is a row of established conifer trees to the east of the site however these are located outside of the red boundary and only overhang the site slightly.

6.5.2 As part of the consultation process County Ecology and Natural England have both been consulted on the proposed development. Neither consultee expressed an objection to the proposed development. The reports have provided sufficient measures to prevent harm to the native plant species located to the north of the site as well as the presence of toads and newts within the site. The proposed inclusion of lighting within the site has also been deemed to be acceptable and will not lead to significant harm to biodiversity within and to the north of the site.

6.5.3 Conclusions and recommendations were that further information is required that evaluates biodiversity loss or gain on site. If net loss is expected, a planning agreement should be used to secure off-site mitigation.

If minded to approve, conditions are recommended:

1 Precautionary measures for avoidance of harm to wildlife set out in section 4.3b of the submitted Preliminary Ecological Appraisal (Dr S Bodnar, June 2020) must be followed in full.

2 An external lighting scheme should be installed, designed in accordance with Bat Conservation Trust / Institution of Lighting Professionals Guidance Note 08/18 Bats and artificial lighting in the UK. These should be submitted for approval prior to commencement, including lighting contour plans that demonstrate there will be minimal impact on receptor habitats such as landscaping, mature trees and neighbouring flood meadows and watercourses.

3 Tree protection in line with BS 5837, or as specified by the LPA arboricultural advisor.

4 Details to be submitted for approval of 6 (number) swift bricks or boxes to be installed on the north or east elevation of the new buildings towards to floodplain in groups of 3.

5 Submission of landscaping plan that includes native species, adds screening to the north boundary with the floodplain

6.5.4 Based on the information submitted with the application and the consultation response from County Ecology the proposed development will not lead to significant harm to the biodiversity within and surrounding the site and as such in relation to biodiversity the proposal is compliant with Policy EN4 of the Local Plan and is deemed to be acceptable.

6.6 *Trees*

6.6.1 TPO No. 5 2020 refers to 18 lime trees on Bonehill Road, of which 5 front the application site. As part of the consultation process the Tree Officer was consulted and initially expressed an objection to the proposed development; based on concerns that the building is placed directly adjacent to the limes trees along Bonehill Road and lead to conflict that will negatively impact both the trees and the development. The application has now been accompanied with a tree constraints plan clearly showing the correct location of the features along with RPA crown spread and the proposed development.

6.6.2 The Tree Officer now advises that as the building is positioned up to the edge of the crowns of T2 and T3, there is sufficient room within this plot to ensure that there is sufficient space between the trees and the property to ensure that there is no conflict during or post the development.

6.6.3 Therefore the proposed development will not lead to harm to the established and mature trees along Bonehill Road, which have a significant impact on the street scene and surrounding area. As such the proposed development is now compliant with Policy EN4 of the Local Plan.

6.7 *Flooding and Surface Drainage*

6.7.1 During the consultation period the Environment Agency (EA), Severn Trent and Local Lead Flood Authority (LLFA) have all been consulted in order to assess the potential risks associated with surface and fluvial flooding risks due to the site being located within Flood Zones 2 and 3. Severn Trent expressed no objections to the proposed development subject to conditions, however the EA and LLFA both objected to the application.

6.7.2 The Environment Agency objects to the proposed development on the following grounds:

Flood Risk

We object to the proposed development on flood risk grounds because the retaining wall for the proposed ground level raising on this site, tree planting and hedge planting on the northern boundary all fall within the 3m easement to the landward toe of the Environment Agency's flood defence embankment. The proposal as submitted could therefore result in damage to/structural failure of this flood defence asset which would put this site and adjacent land and properties at risk of inundation during a flood event. The submitted FRA does not therefore comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance and does not therefore adequately assess the flood risks posed to or by the development.

In particular, the FRA fails to demonstrate that an unobstructed easement of at least 3m from the landward toe of the flood defence has been provided. This easement must be free from buildings, storage facilities, fences, car parking and landscaping proposals, such as tree planting etc. This must be clearly demonstrated within the FRA and on all plans submitted.

Additionally, Tamworth Borough Council Level 2 Strategic Flood Risk Assessment (dated October 2014) states that the developer will be required to arrange a commuted sum with the Environment Agency and Tamworth Borough Council towards the ongoing maintenance of the flood defence system that provides benefits to the development site. Discussions should be held with the Environment Agency Asset Performance team and details clarified within the FRA.

Protection of the flood defence

The proposed development is likely to adversely affect the construction and stability of the flood defence embankment, both during construction and subsequently with the establishment of the proposed trees and hedge rows, which will compromise its function. The proposal will therefore increase the risk of flooding to the Bonehill Road, Bitterscote, and wider Ventura Park Road areas. Additionally, the flood defence must be preserved and should not be used as storage for materials, plant or machinery and plant should not damage the bank during construction and operation of the site. To overcome our objection, the applicant should submit a revised layout which addresses the points highlighted above and ensures there is a 3m easement from the development free of planting and development. If this cannot be achieved, we are likely to maintain our objection.

6.7.3 Following re-consultation the EA state:

We have reviewed Proposed Site Plan Ref No. 7770/155 revision J, and note that amendments have been made to the parking, fencing, and landscape.

Whilst we welcome the revised layout, this drawing does not demonstrate that the issues of concern raised in our objection in our previous response UT/2021/119049/01-L01 of 17 March 2021 have been addressed. The proposal as submitted could therefore result in damage to/structural failure of this flood defence asset which would put this site and adjacent land and properties at risk of inundation during a flood event.

In light of the above, we MAINTAIN AN OBJECTION to the proposals on the grounds that the submitted FRA does not therefore comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance and does not therefore adequately assess the flood risks posed to or by the development.

6.7.4 The objection from the LLFA was based on insufficient detail to demonstrate that an acceptable drainage strategy is proposed and that the risk of flooding has been properly considered. The proposed development may present risks of flooding on-site and/or offsite if surface water runoff is not effectively managed. The absence of an adequate drainage strategy is therefore sufficient reason in itself for a refusal of planning permission. Therefore the application as with the previous point is not compliant with Policy SU4 of the Local Plan, it is not possible to fully assess the potential risk of flooding posed by the proposed development. Therefore the development is not acceptable due to the potential for surface and fluvial flooding generated by the proposed development. As such the proposed FRA has not allowed the EA to adequately assess the potential flood risks associated with development proposed by this application and is not compliant with Policy SU4.

6.8 Conservation and Listed Buildings

6.8.1 In determining any planning application, special attention shall be paid to the desirability of preserving listed buildings and preserving or enhancing the character or appearance of conservation areas as set out in sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Regard should also be given the relevant parts of the National Planning Policy Framework 2019 (the Framework), in particular paragraphs 127 and 184-202.

6.8.2 The site is located outside, but nearby the boundary of the Town Centre Conservation Area. Bonehill leads onto one of the key thoroughfares and aspects into the town so the site would be experienced as part of the setting to the conservation area. Bonehill, leads onto the Lady Bridge, a Grade II listed structure which leads into the grounds and landscaped setting of the Tamworth Castle, a Grade I Listed building and Scheduled Monument. The castle and immediate environment is one of the most historically significant areas of Tamworth Town Centre which is surrounded by a number of historic assets such as the Grade II Holloway lodge and the historic boundary walls of the castle, the Lady Bridge, the rear of The Moat House (Grade II*), The Crown Bowling Club (Grade II and Scheduled Monument) amongst others. The Conservation Officer has stated that the scheme would be within the setting of these heritage assets. The development of the site has the potential to cause harm to the character and appearance of the conservation area and also the setting of the listed buildings.

6.8.3 Historic England Advice

The proposals comprise the construction of a flat-roofed, 3 storey office building with a 39 space car park. The application site is located c. 330m southwest of the Tamworth Castle scheduled monument and c. 260m south of the site of the town's scheduled early medieval defences.

The proposals would impact the setting of these designated heritage assets. The current design has reduced the negative impact. We have no objection to the application.

Historic England provided advice on the previous (withdrawn) scheme for this site.

Significance – The Settings of the Designated Heritage

Our comments below are primarily in respect to the two scheduled monuments. However these sites form part of a wider historic landscape and share their settings with Tamworth Town Conservation Area and the grade II listed Lady Bridge.

The site lies close to the historic southern route into Tamworth. This, and the river meadow areas surrounding it, forms part of the settings of the all designated assets noted above. Within this area it is possible to understand the historic experience of entering and leaving the town; crossing over and approaching these heritage assets. The relationship with how Tamworth Castle is experienced is of particular importance.

The application site forms part of the views across this area towards and away from the designated heritage assets. It sits within shared panoramas looking across the historic river meadows where the relationships between the assets and their historic surroundings can be appreciated and understood.

Most of the existing development in these views (on Bonehill Road) is softened and screened by mature vegetation. It is of a distance, scale and design that does not overly intrude, distract or draw attention.

Impact – The Design of the Proposed Development

The development would be located on the north side of Bonehill Road and western side of the application site. It is likely to protrude more into the historic panoramas across the river meadows than other development in this location. It would be closer to the heritage assets.

However, the design has been amended down to three storeys in height (minus the lift) and is therefore closer in scale to its built surroundings. The materials and fenestration have also been amended to include softer colours and less extensive glazing.

Whilst it may still have some visibility, the changes help blend the building into the existing streetscape and limit its intrusion when viewed from, or in connection with, the heritage assets. Good use of soft landscaping on the northern side (new planting and enhancing existing vegetation) would further help soften and screen the development.

Policy - The National Planning Policy Framework (NPPF)

We would highlight NPPF Paragraph 127 (developments to be sympathetic to local character, history, surrounding built environment and landscape setting); NPPF 192 (new

development making a positive contribution to local character and distinctiveness); and NPPF 200 (enhance or better reveal significance of designated heritage).

Historic England's Position

We do not object to the proposed development. The current scheme has taken account of previous comments. Its reduced height and amended design would help lessen visual intrusion and better blend the building into the existing streetscape.

The building would still change a largely positive part of the settings of the designated heritage – for example the views from Tamworth Castle or the experience of that historic southern route. However, providing appropriate soft landscaping is included on the northern boundaries, it is our view that the current design does enough to minimise the negative impacts and avoids harming the significance of the scheduled monuments.

Recommendation

Historic England has no objection to the current application. In determining this application the Council should be satisfied that the proposed design meets the requirements of NPPF 127, 192, 194 and 196. We would recommend you ensure visual impacts are minimised and that the proposals blend into their surroundings, as noted above.

We would recommend you seek the advice of your Senior Conservation Officer, and also clarify the scope of any required archaeological works with Staffordshire County Council

6.8.4 Conservation Officer

6.8.5 The Conservation Officer had expressed concerns that the scheme has been developed in isolation of its surrounding context as there is little relationship to existing built form and the current open aspect. Whilst there are three storey apartment developments on the opposite side of the road, this side of the road where the proposal site is located on a grassed field with no development surrounding other than the cooperative garage adjacent, which is a rather low scale building.

6.8.6 He comments as follows:

The proposal site is experienced within the open and green setting of the castle and the Lady Bridge thoroughfare and the open fields beyond which are significant and frame the setting of many of the fore-mentioned heritage assets from a historic environment perspective. The Conservation Officers consultation response has stated that whilst the site may be suitable for development, vegetation should still be allowed to dominate, with very little opportunity for greenspace in this development which is completely dominated by built form and hard standing. Whilst it is acknowledged that the applicant has stated this type of urbanised development is quite typical for office block developments, this ignores the context and seeks to place this site within Ventura Retail Park, however the Conservation Officer disagrees with this view and has stated that the site is set within the context of the adjacent historic buildings.

The proposed building has been reduced in height from the previous (withdrawn) submission and is now broadly comparable in height to those existing buildings located immediately to the south of the site. A section drawing across the river showing the relative heights of the Grade I listed Tamworth Castle (Also a Scheduled Monument), the proposed building and the existing buildings to its south, is very helpful in illustrating the relative heights and distances to allow comparison of the proposal against the existing situation.

The proposal has the potential to impact on nearby heritage assets, as mentioned in my comments on the withdrawn application the most relevant are Tamworth Castle and The Lady Bridge. The proposal is also visible from the boundaries of the Tamworth Conservation Area, however I am of the view that the key views to the south of the conservation area haven much in common with the key views and setting of the castle and bridge which sit towards the southern side of the conservation area. Ultimately a proposal which does not harm the settings of the bridge and castle is likely not to harm the setting of the conservation area either.

As mentioned in previous comments on the 2020 (0115/2020) submission the application site is sensitive as when viewed from the Grade I listed Castle site it sits in the view above and behind the grade II listed Lady Bridge. Whilst that bridge is effectively a late 18th century rebuild, widened in the mid-19th century the bridge preserves the crossing point of the medieval bridge which was destroyed by flooding in the 1790's. The castle would have

had many functions but amongst them would have been a defensive role where surveillance of the surrounding landscape and key points such as river crossings would have been important, but castles were also centres of administration from which river traffic and traffic entering the town via the bridge would have been monitored, partly for ensuring taxes were collected on any goods being brought in. As such the view of the bridge from the castle is significant and anything rising up behind which might attract attention has the potential to impact on significance. The view is well illustrated in reverse via Plate 7 in the heritage statement which shows the castle sitting immediately above the bridge in views back towards the town from the application site.

My initial reaction is that it is unfortunate that the rooftop lift over-run structure is on the north side of the building nearest the castle site, however having given this some thought I am of the view that it would still be reasonably prominent as a structure projecting above the roof when viewed from the castle regardless of where it is placed on the roof of the proposed building, from closer vantage points the heavy overhanging parapet level projections would limit views as well as adding an architectural feature at the wall head, often a neglected area on flat roofed contemporary buildings. The lift overhang is a relatively small component of the building overall.

Whilst, as with the previous proposal, the building will be visible from the castle and in context with the bridge it would now effectively replace existing views of the buildings to its south, the comparable height of this new proposal with those neighbouring buildings means that any additional impact comes only from the closer proximity to the castle, which as can be appreciated from the section drawing mentioned above is a relatively modest proportional change (the proposed building would be c. 94% of the distance away as the existing buildings beyond).

In my view the degree to which the proposal impacts upon the settings of the bridge and castle is now relatively minor, and arguably the superior architectural character in comparison with the existing buildings to the south of the site means that views of relatively mundane buildings are replaced with slightly nearer views of a building of superior architectural quality. Overall this likely represents a neutral impact upon the setting of the castle and bridge, even when considering the inter-relationship which adds to the significance of the two assets.

I would encourage conditions relating to facing and roofing materials to ensure that the finish of the building achieves a high quality, and conditions covering any proposed external illumination, including of the car park area as well as the hard surfacing/landscaping of the parking area. I suspect that many of these would likely have been conditions on design grounds anyway.

- 6.8.6 In conclusion in relation to heritage matters, subject to conditions indicated therefore the proposal would 'preserve' the significance of listed buildings, including significance derived from their settings, as is described as a desirable objective within section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the setting of the conservation area as a 'heritage asset' under the NPPF (the duty under section 72 in respect of conservation areas would only apply if the proposal was itself within the boundary of a conservation area). The scheme also complies with policy EN6 of the Tamworth Local Plan.

6.9. *Other material considerations*

- 6.9.1 The historic application 0443/2016 is a material consideration as it relates to the same site and proposed a mixture of commercial residential units. It sought permission for the erection of a single building accommodating two restaurant units, a smaller information hub and 14 apartments which was granted on 23 February 2017. The applicants consider that as commercial development was accepted then, that it should also be acceptable now and that use of allocated housing sites need not be confined solely to use for housing.
- 6.9.2 In that instance, whilst the preferred location for any new restaurant floor space is the town centre, as a result of a detailed assessment of the suitability and availability of sites within the town centre there were not considered to be any available suitable sequentially preferable sites that could

accommodate the proposal (as a whole) at that point in time. The sequential test was undertaken on the specifics of the use proposed at that time and there were found to be no sequentially preferable sites. Owl homes have responded to this and conclude that there is nothing within policy HG1 which precludes the development of the site for a non-residential use, and as such, policy HG1 could not reasonably be cited as being in conflict with the proposal, nor relied upon to sustain a reason for refusal. The granting of planning permission 0443/2016 demonstrates that TBC have accepted that the principle of non-residential development on the Site is acceptable in planning policy terms.

- 6.9.3 However, the current application proposes a wholly different use this was a mainly residential led scheme offering 14 apartments, which again, significantly differs from the current proposal. The residential was a significant and predominant element of the proposal that did not compromise the housing allocation of the site. This is why is the current proposal has to be accompanied by an up-to-date sequential assessment based on the specific use/development sought.
- 6.9.4 The sequential test was undertaken on the specifics of the use proposed at that time and there were found to be no sequentially preferable sites. The current application proposes a wholly different use, solely for offices, therefore, on these grounds weight can be reduced. Furthermore, this was a residential led scheme, which again, significantly differs from the current proposal. In addition, in relation to flooding and as the EA maintains its objection, the application site is located within Flood Zone 3, which represents an area with a greater than 1% chance of annually flooding. Although the site does benefit from existing flood defences to its boundary with the functional floodplain, that development proposed less vulnerable uses (the restaurants and information hub) on the ground floor, and with the residential units located on a significantly higher level than the 1 in 1000 year flood event levels lead to the conclusion that there would be no unacceptable flood risk impacts as a result of the development. Finally this application has now lapsed and so weight can also be reduced on these grounds.
- 6.9.5 The applicant states that the site will create employment opportunities of some 60 jobs. However, the site is proposed as a HQ office for existing companies that will relocate to this site. There would be no new jobs created as a result of the development, only relocation from existing sites.
- 6.9.6 In respect of the Sequential Test, the application of the sequential site assessment needs to be attached significant weight in assessing the acceptability of the proposal. This approach to site selection seeks to focus new development within existing town centres, where only if sites within or on the edge of the centre are not suitable or available will an out of centre site be appropriate. The application site, located on Bonehill Road, is an out of centre site, which is why the application of the sequential assessment to site selection is necessary.
- 6.9.7 The supporting documents considered 4 sites within the town centre against the requirements of the Sequential test. The Council agreed that these represented the only potential sites for the development located in sequentially superior locations to the current proposal. The applicants have challenged this approach and sought advice and state that.

In the context of a current sufficient supply of housing land there is nothing within Policy HG1 which could reasonably be relied upon to prevent the release of part of one allocated site for office development. Furthermore, as noted above, Policy HG1 should not be afforded full weight in any event.

- 6.9.8 In response our position is that the enhanced presumption in favour of development, as set out in paragraph 11 of the NPPF does not apply as our plan is up-to-date as the policies most important for determining the application are up-to-date (the strategic housing policies and the thrust of the retail policies). Therefore, for this application, S.38 of the Planning and Compulsory Purchase Act 2004 (as amended) would be the starting point.
- 6.9.9 In paragraph 47 of the NPPF – Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.9.10 Chapter 5 of the NPPF – Delivering a sufficient supply of homes, seeks to boost significantly the supply of homes. Numbers are always a minimum, and over-delivery would be a positive. The whole chapter assesses supply against local housing need. In terms of deliverability there are no ‘technical’ reasons why the site would not be deliverable.

- 6.9.11 Chapter 7 – Ensuring the Vitality of Town Centres is relevant and advises the following:
- Paragraph 85 – Planning policies and decisions should support the role that the town centre is at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
 - Paragraph 86 – LPA's should apply a sequential test to planning application for main town centre uses which are neither in an existing centre, nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
 - Paragraph 87 - Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
 - Paragraph 90 - Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
- 6.9.12 The proposal has been considered in accordance with the economic, social and environmental strands of the NPPF and there have been no overriding benefits asserted with developing this site for the proposed use, over and above those associated with it being developed for its allocated use. To the contrary, harm has been identified and this would be factored into the overall planning balance.

7 Conclusion

- 7.1 This proposal is for a main town centre use (offices) on an allocated housing site. The Local plan, or the policies most important in the consideration of this proposal are not considered out of date, therefore the Local Plan is the starting point. By virtue of the allocation, the 'in principal' acceptability of the proposed use is not acceptable. In addition, the applicant has not yet demonstrated that the sequential test has been achieved, which would result in a further policy conflict. Other material considerations have been taken into account, these include the NPPF and the historic planning consent. There are considered to be no benefits in terms of the developments overall suitability that would override the identified policy harm and the weight that can be attributed to the historic consent is considered to be limited, so this too would not override the policy harm. It is therefore clear that the proposal would not be in accordance with the Local Plan and should therefore be refused.
- 7.2 The proposed development is for a scheme that is considered in keeping with the surrounding context in terms of design, materials and scale and as such will not harm the character and appearance of the street scene and will relate well to the surrounding properties and the Town Centre Conservation Area. The proposed development will lead to less than substantial harm to the Town Centre Conservation Area and the adjacent listed buildings and scheduled Ancient Monument. The scheme has been developed in isolation but as amended and reduced in scale and position has appropriately considered the heritage assets and the sites context. This has resulted in no objection from both the Conservation Officer and Historic England and as such will comply with Policy EN5 and EN6 of the Local Plan and section 16 of the NPPF.
- 7.3 County Highways, have considered the scheme in regard to the safety of pedestrians and the on the highway network as being acceptable subject to conditions. Therefore the proposed development is compliant with Policies SU2 of the Local Plan.
- 7.4 The County Ecologists accepts that any loss of biodiversity can be covered by conditions. The Tree Officer, expressing concerns of the proximity of the building to the row of TPO mature trees located along Bonehill Road, now concludes that there is sufficient room within this plot to ensure that there is sufficient space between the trees and the property to ensure that there is no conflict during or post the development. As such the proposed development is compliant with Policy EN4 of the Local Plan.
- 7.5 However, insufficient information has been submitted with the application as well as a range of concerns being raised by the EA and LLFA in response to the details contained within the proposed plans. As such objections have been received and maintained following further submissions from consultees over the potential for the development to increase the risk of flooding.

- 7.6 The significant issue associated with the proposed development is the principle of an office block within this location. The site is an allocated site and as such the erection of a building containing only office use is not compliant with Policy HG1 of the Local Plan and will result in the loss of an allocated housing site.
- 7.7 As the application is for a main town centre use outside of an existing centre, is unable to demonstrate compliance with the sequential test, and could prejudice the delivery of other strategic objectives, it should therefore be considered contrary to Local Plan policy EC1.
- 7.8 Therefore, due to all of the reasons outlined above, the proposed erection of an office block on this site is not compliant with Policies HG1 and EC1. As such the proposed development is not acceptable and is recommended for refusal.

8 Recommendation

1. Refuse

Reasons for refusal

1. The proposed development is for the erection of an office block on a site that is allocated for housing. The scheme does not propose any residential units. As such the proposed development has the potential to harm the borough's ability to deliver its housing need. The proposed development is not compliant with Policy HG1- Housing, as set out in the adopted Tamworth Local Plan 2006-2031.
2. The submitted Sequential Test required by policy EC1 – Hierarchy of Centres for Town Centre Uses, fails to demonstrate that there is no sequentially preferable site available for the proposal. Additionally, the proposal would prejudice the delivery of other strategic objectives. The proposed development is not compliant with Policy EC1 as set out in the adopted Tamworth Local Plan 2006-2031.
3. The application has not provided sufficient details within the Flood Risk Assessment or proposed plans for the EA and LLFA to adequately assess the potential risks associated with the site being within Flood Zones 2 and 3, or the potential for the proposed development of increasing the risk of surface flooding. It is therefore contrary to policy SU4 of the adopted Tamworth Local Plan 2006-2031.