

# **PLANNING COMMITTEE**

**5th June 2024**

## **APPLICATION FOR CONSIDERATION**

**REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION**

**Application Reference** 0061/2024

**Proposal** Installation of a stoned access track, manoeuvring area to front of agricultural building and timber restroom (retrospective), installation of solar panels to rear roof slope.

**Site Address** Land Off Moor Lane, Bolehall, Tamworth

**Case Officer** Andrew Davies

**Recommendation** Refusal

## 1. Introduction

1.1 This application is for operational development including the installation of a stoned access track, manoeuvring area to front of agricultural building and timber restroom (retrospective) and installation of solar panels to rear roof slope of an existing agricultural building at a site on land off Moor Lane, Bolehall. It was called in to the Planning Committee by Cllr Carol Dean on 23 March 2024.

1.2 Cllr C Dean provided the following reasons for call in of the application:

*Impact on the amenity of neighbours*

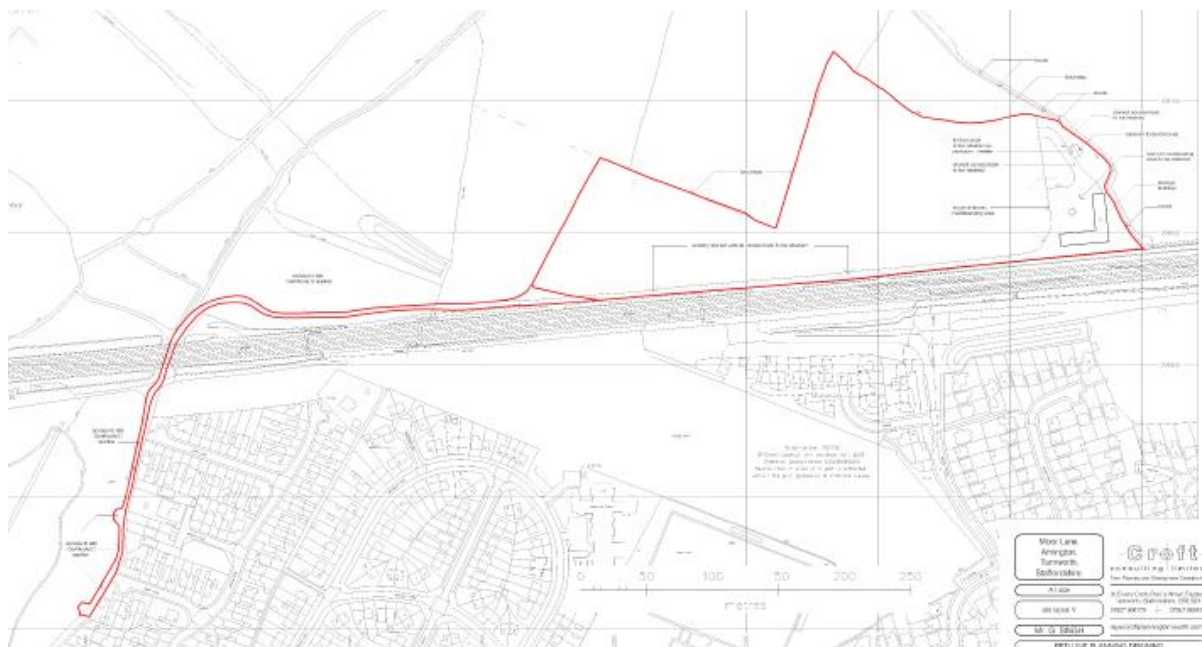
*Impact on surrounding area*

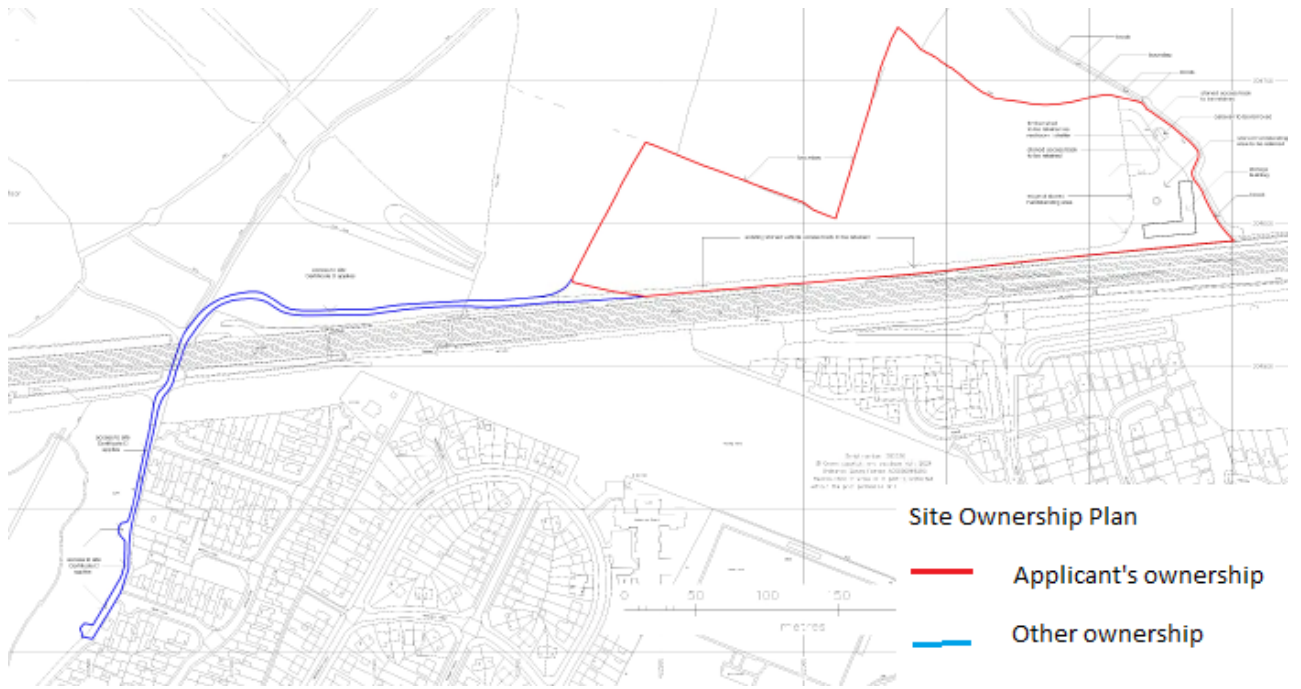
*Character of area and design*

*Impacts upon trees*

## 1.3 SITE PROPOSALS

### Location and Site Plans





## 2. **Policies**

### 2.1 **Local Plan Policies**

SS1	The Spatial Strategy for Tamworth
SS2	Presumption in Favour of Sustainable Development
EN1	Landscape Character
EN4	Protecting and Enhancing Biodiversity
EN5	Design and New Development
SU2	Delivering Sustainable Transport

### 2.2 Supplementary Planning Documents

#### **Design SPD**

### 2.3 National Planning Policy

**National Planning Policy Framework 2023**  
**National Design Guide 2021**  
**National Planning Practice Guidance 2014-**

## 3. **Relevant Site History**

<b>Reference</b>	<b>Description</b>	<b>Decision</b>	<b>Date</b>
0460/2022	Prior Approval Notification for Erection of agricultural building for storage	Prior approval not required	05/01/2023

## 3. **Consultation Responses**

3.1 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>

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.

### **Tamworth Borough Council Consultees**

- 3.2.1 Tamworth Borough Council Development Plans – no strategic objections
- 3.2.2 Tamworth Borough Council Environmental Protection – no objections.

### **Staffordshire County Council Consultees**

- 3.3.1 Staffordshire County Council Ecology – no response at time of writing report.
- 3.3.2 Staffordshire County Council Highways – no objections subject to conditions relating to construction and use solely for agricultural purposes.
- 3.3.3 Staffordshire County Council Public Rights of Way – no objection, but advice provided regarding legal requirements for use of public footways and bridleways.

### **Other Consultees**

- 3.4.1 Network Rail – no objection
- 3.4.2 Staffordshire Police – no objection

3.4.3 Staffordshire Wildlife Trust – no response at time of writing report.

#### **4. Additional Representations**

- 4.1 As part of the consultation process; site notices were erected on Wednesday 20 March 2024 at five locations on the western boundary of the site and along the proposed access route on to and including at Moor Lane. Whilst every effort has been made to accurately summarise the responses received, copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>.
- 4.2 Letters of objection were received from 37 different objectors, writing as individuals or as couples. A number of those objectors wrote multiple letters. A petition with 252 signatures against the development was received on 5<sup>th</sup> April 2024. A summary of their objections is listed below.

Material planning related objections:

- Ecological impact
- Impact on safe public use of public bridleway and footpaths
- Traffic concerns on Moor Lane
- Appearance of the development

Other non-material reasons for objection were also raised relating to previous activity at the site and on the access track utilised by the applicant. Concerns were also raised about impacts upon common land in the area and rights of access.

#### **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**

The key issues to be considered at this stage are:

- Principle
- Character and Appearance
- Landscape Impacts
- Highway Safety
- Ecology
- Amenity

## 6.1 Principle

- 6.1.1 The Tamworth Local Plan 2006-2031 (LP) was adopted in February 2016. As well as the local plan there is guidance within the National Planning Policy Framework (NPPF) and the accompanying Planning Practice Guidance (PPG). The starting point in determining the acceptability of development proposals is the Local Plan, where the policies are considered consistent with the NPPF. Policy SS1 The Spatial Strategy for Tamworth is to provide development in the most accessible and sustainable locations and SS2 Presumption in Favour of Sustainable Development, states that proposals that accord with the local plan are sustainable and will be approved without delay.
- 6.1.2 The majority of the site is not allocated for any specific purpose in the Local Plan, however a small section of the access track leading to the site falls within the designated Site of County Biological Importance (SBI) at Warwickshire Moor.
- 6.1.3 The proposal is part retrospective part proposed for the installation of a stoned access track, manoeuvring area to front of agricultural building and timber restroom (retrospective) and installation of solar panels to the rear roof slope of the existing agricultural building.
- 6.1.4 This application has been submitted following planning enforcement action against alleged breaches of planning law. As a result, a retrospective application was requested for the unauthorised development that had occurred which did not benefit from permitted development rights.
- 6.1.5 Separate to this planning application, an enforcement notice was issued by Tamworth Borough Council on 28 March 2024 which took effect on 13 May 2024 to remove the access track and timber building and restore the land to its condition prior to development. An appeal against the Enforcement Notice has been submitted by the applicant and it is not possible to pursue any further formal enforcement action until the appeal has been decided, the timeline for which is unknown at this time.
- 6.1.5 The agricultural building was described in the 2022 permitted development prior notification as being for the storing of vehicles, machinery and produce in connection with market gardening. It is located on land to the north of Moor Lane, Bolehall, Tamworth and is of an "L" shape with two arms totalling 36m in length, 12m in width, an eaves height of 6m and a ridge height of 7m. The building is externally clad in green painted profiled steel.
- 6.1.6 It was determined in December 2022 in assessment of permitted development prior notification application 0460/2022 that the development of the agricultural building at land to the north of Moor Lane, Bolehall, Tamworth met the criteria set out in Part 6 Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as Amended) and could be considered as permitted development. Part 6 Class A of The Order imposes conditions upon compliant development which require that the development be carried out within 5 years of the date of the decision, that the development shall be carried out in accordance with the details submitted and that the agricultural building shall be used for the sole purpose of agricultural use only.
- 6.1.7 The retrospective part of the application relates to unauthorised development further to the construction of the agricultural building, of a stoned access track, manoeuvring area to the front of the agricultural building and a building described as a timber restroom. The proposed installation of solar panels to the rear roof slope of the agricultural building would be new development, however that development would most likely fall under the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 6.1.8 The proposed development due to the site location being in an area of open space, on land that has previously been used historically for agricultural purposes prior to falling into disuse, is not intrinsically contrary to the policies of the Local Plan, but must demonstrate full compliance with relevant elements of the Local Plan to be considered acceptable development.

## 6.2 Character and Appearance

- 6.2.1 The appearance of a development is a material planning consideration and in general terms the design of a proposal should not adversely impact on the character and appearance of the wider street scene.

- 6.2.2 Policy EN5 Design and New Development states that developments should be of a scale, layout form and massing which conserves or enhances the setting of development and utilize materials and overall detailed design which conserves or enhances the context of the development. Proposals should respect and where appropriate reflect existing local architectural and historic characteristics but without ruling out innovative or contemporary design which is still sympathetic to the valued characteristics of an area.
- 6.2.3 The appreciation of character and appearance is a significant part of recent planning reform and, with the introduction of the National Design Guide, remains a very important consideration of planning applications.
- 6.2.1 The site is located to the north of the West Coast Main Line railway line, east of the Warwickshire Moor and west of the Anker Valley sports complex within Bolehall Ward. The site has been used for agricultural purposes in the past which ceased before it was acquired by the current owner with the intention of bringing it back into agricultural use. The site had been left to naturally develop as a scrub landscape and has since its acquisition by the current owner been largely cleared of vegetation.
- 6.2.2 The existing development subject to this application is the provision of an access track leading to and hardstanding serving the agricultural building developed in 2023 under permitted development rights and a timber building located some 28m to the north of the nearest part of the agricultural building. The application also includes a proposal to solar panels to the southern roofslope of the agricultural building. The character and appearance of the elements described above will be considered individually.
- 6.2.3 The access track and hardstanding in the vicinity of the agricultural building has been constructed predominantly of planings type material which has been dropped and rolled onto the surface of the ground. The track width is typically in the order of 2.5m and is relatively uniform within the area belonging to the applicant. Where the track extends into ownership other than that of the applicant, it has been made up sporadically, only in areas where vehicle use had damaged the unhardened surface. In those areas it would appear that demolition rubble had been used to fill depressions and to harden the surface. That surface strengthening had predominantly been composed of broken bricks and rubble but also included other recovered materials, such as small pieces of metal.
- 6.2.4 It is apparent that the ground level of the track has been built up slightly relative to the adjacent agricultural land on the area within the Applicant's control adjacent to the railway line. The surface layer of planings appearing to have been deposited over demolition rubble. To the edges of the track the underlying material is exposed in places.
- 6.2.5 The hardstanding area in front of the vehicle doors of the agricultural building (of which there are a total of four all facing onto the hardstanding as result of the "L" shape of the agricultural building is approximately 32m by 31m and is considered to be of a scale that is generous for the size of vehicles and access requirements that the agricultural building is intended to serve. Furthermore, the surfaced area has been extended to the northwest by some 50m at a width of around 6m giving hardened access to the unauthorised timber building and slightly beyond it.
- 6.2.6 Whilst the appearance of the surfaced areas is perhaps not unusual for an agricultural holding, it is considered to be excessive in its extent and to have not taken the existing character of the site into account, giving the track a harsh appearance that is not in keeping with the surrounding land.
- 6.2.7 The timber building that the application seeks the retention of, is described in the application as a "restroom". It is not clear what the purpose of the "restroom" is as it would appear to have no windows, have a low roof height and be constructed of materials that would most likely make it unsuitable for occupation in either low or high ambient temperatures.
- 6.2.8 As can be seen from the plan below, the timber building has been constructed around a mobile home type caravan of approximately 9m length and 3m width. The applicant has stated that the caravan will be removed however, it was still present at the site during a site visit conducted on 8 May 2024.

- 6.2.9 The appearance of the timber building is such that it has clearly been designed to be incorporated with the caravan and without the caravan in situ would be of a design that does not have an obvious use. The materials are shiplap timber walls with a felted monopitch roof which slopes down towards the front entrance away from the rear where it slightly extends over the caravan. There is no fenestration to the building on any elevation and it is not in keeping with the appearance of the agricultural building. It is considered that the design of the building is poor, it is designed around a feature that the applicant has stated will be removed and is not in keeping with the modern agricultural style of the permitted building. Consequently, it is considered that the character and appearance of the timber building is inappropriate and is contrary to Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031.
- 6.2.10 Furthermore, the timber building is located within 5m of a brook that forms the eastern boundary of the site, Due to the presence of that brook and the River Anker to the north of the site, the site including the permitted agricultural building lies within an area designated by the Environment Agency as Flood Zone 3. No flood risk assessment or flood safety plan has been provided by the applicant to support the retention of the timber building, which if used for restroom purposes would be expected to be used by agricultural workers. Further information is required to determine the acceptability of retention of that building in respect of flood safety.
- 6.2.6 The proposal for solar panels to the southern elevation has not been supported by the provision of drawings of such an installation, so it is not possible to consider in detail that element of the application. The proposed siting of solar panels has been considered by Network Rail in relation to rail safety and based upon additional information supplied by the applicant in respect of reflectivity potential of the intended installation, has advised that it would have no objection to such an installation. It is likely that the installation of such panels, as contended by the applicant in the description provided on the application form would fall under the terms of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) Schedule 2, Part 14, Class J – Installation or alteration etc of solar equipment on non-domestic premises. Provided that the essential criteria of that legislation are met and its conditions complied with, such development would fall outside of the scope of this planning application. It has not been possible to confirm that however as no details of the proposed solar panel installation have been provided.
- 6.2.9 The character and appearance of the proposed development is considered therefore contrary to Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031, the National Planning Policy Framework and National Design Guide.

### 6.3 Landscape Character

- 6.3.1 Tamworth Borough Council Local Plan Policy EN1 Landscape Character states that development and activities outside the urban area should be informed by landscape character assessments and contribute to the enhancement, restoration or regeneration of the landscape affected, as appropriate.
- 6.3.2 The site is located within what is described as a lowland village farmlands landscape which has been acknowledged as being at risk of rapid loss of character. Local Plan Policy EN1 Landscape Character further states that landscape restoration using surviving character and landscape elements as a guide, will include hedgerow maintenance, habitat creation and tree/woodland planting.
- 6.3.3 Historic aerial photography indicates that the site had been unmanaged between the early 2000s and 2020 with a self-seeded scrub landscape across the bulk of it. Throughout that time there was no obvious track across the site.
- 6.3.4 The proposal has not been supported by an assessment however on review of the proposals, the track in particular introduces a scale and appearance largely different to the natural appearance of this landscape which is considered to not contribute to this enhancement, instead being harmful to this character. As a result of this this part of the proposal is therefore not in compliance with policy EN1 of the Tamworth Local Plan 2006-31 and the NPPF.



### 6.3 Highway Safety

- 6.3.1 Tamworth Local Plan policy EN5h) states that new developments will be expected to pay particular regard to highway safety and servicing requirements, the capacity of the local road network and the adopted parking standards set out in Appendix C. In addition, policy SU2 also states planning permission should only be granted where development would ensure adequate highway safety, suitable access for all people and where feasible reduce the impact of travel up on the environment. Planning permission will be refused where travel to and from the development would be likely to cause harmful levels of pollution, highway safety or capacity impacts.
- 6.3.2 Vehicular access is currently from the northern end of Moor Lane which becomes designated as a Byway Open to All Traffic up to the point at which that route is crossed by the railway line. For a distance of approximately 40m north of the railway line the access route follows the alignment of a Bridleway before branching off that to follow an undesignated track which curves back towards the northern boundary of the railway line. That route then continues east towards the gated entrance of the applicant's site.
- 6.3.2 Staffordshire County Council Highways (SCCH) was consulted upon the proposal and concluded that the proposal is acceptable in highway safety terms, provided that conditions are imposed upon any approval to include traffic management measures during construction of the solar panel installation and the timber building being used only for its intended purpose ancillary to the agricultural building. Furthermore, SCCH advised that rights to use the track should be confirmed with the Staffordshire County Council Public Rights of Way team.
- 6.3.3 The development would therefore comply with SU2 of the Tamworth Local Plan and the NPPF.

### 6.4 Rights of Way

- 6.4.1 SCCH also advised that "as the access track forms part of a public right of way the applicant will need to speak to Staffordshire County Council Public Rights of Way Team regarding this proposal."
- 6.4.2 Staffordshire County Council Public Rights of Way were consulted separately on the proposal and their response stated that:

*"The Definitive Map of Public Rights of Way for Staffordshire shows a public right of way crossing the application site and public rights of way running along the access route. The following should be brought to the attention of the applicant: Public Footpath No.105 Tamworth runs across the application site, crossing the proposed vehicular access track to the site, and west of the proposed development.*

*Public Bridleway No. 14 Tamworth Parish runs from the end of Moor Lane, under the railway and crosses the proposed vehicular access track to the site, before heading north east. Public BOAT No.14 Tamworth Parish runs along Moor Lane.*

*The granting of planning permission does not constitute authority for any interference with the public rights of way and associated items - or obstruction (temporary or permanent).*

*The term obstruction, in this context, also applies to items such as gates or stiles which are regarded as licenced obstructions which must be sanctioned by the highways authority.*

*Users of the rights of way must be able to exercise their public rights safely and at all times and the rights of way be reinstated if any damage to the surface occurs as a result of the proposed development.*

*If any public right of way needs diverting as part of these proposals the developer must apply to your council under section 257 of the Town and Country Planning Act 1990 to divert the public rights of way to allow the development to commence. For further information the applicant must read [section 7 of DEFRA's Rights of Way Circular \(1/09\)](#). It is also strongly suggested, in order to avoid unwanted complications, that guidance should be sought from Staffordshire County Council as Highways Authority, regarding the exact position of the Public Right of Way shown on the Definitive Map.*

*Should this planning application be approved and any right of way require a temporary diversion, please see the County Council website for [guidance and an application form](#).*

*Where private rights exist that allow the use of vehicles along a public right of way, drivers of vehicles must give way to: pedestrians, cyclists and horse riders in the case of bridleways, and pedestrians in the case of footpaths.*

*In the absence of private rights, driving a vehicle on a public right of way is a criminal offence. Any works that affect the surface of the rights of way require discussions with the County Council Rights of Way Team.*

*Staffordshire County Council has not received any application to add to or modify the Definitive Map of Public Rights of Way in that vicinity.*

*The possibility of the existence of a currently unrecognised public right of way, makes it advisable that the applicant pursue further enquiries and seek legal advice regarding any visible route affecting the land, or the apparent exercise of a right of way by members of the public.*

- 6.4.3 Following the advice from Staffordshire County Council Public Rights of Way it is imperative that private rights of way to the site are established by the applicant to ensure that access is legal under legislation outside of the planning system. To date no definitive statement of a private right of way has been received from the applicant, however that is not a material consideration in respect of this application.

## 6.5 Ecology

- 6.5.1 Policy EN4 – Protecting and Enhancing Biodiversity states development will be required to demonstrate appropriate mitigation to ensure no negative impact. In addition, development will be supported that preserves designated biodiversity maintains the favourable conservation status of populations of protected species and incorporates existing landscape features. Development should not result in a net loss of biodiversity by ensuring that where harm to biodiversity is unavoidable and it has been demonstrated that no alternative sites are suit able, development is adequately mitigated or as a last resort, compensated for; otherwise planning permission should be refused.
- 6.5.2 The proposal has been referred to Staffordshire County Council Ecology due to par to the access route to the site being within an area designated as Site of County Biological Importance.
- 6.5.3 At the time of writing this report a response has not been received from the Staffordshire County Council Ecology team. Notwithstanding this, there is unlikely to be a negative impact of a hard standing and the other developments submitted with this application due to their respective locations. As a result, the development would accord with policy EN4 of the Tamworth Local Plan 2006-31 and the National Planning Policy Framework.

## 6.6 Amenity

- 6.6.1 Policy EN5 – Design and New Development states that developments will be expected to minimise or mitigate environmental impacts for the benefit of existing and prospective occupants of neighbouring land. Such impacts may include loss of light, privacy or security or unacceptable noise, pollution, flooding or sense of enclosure. NPPF paragraph 130 f) also states that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
- 6.6.2 The nearest neighbours to the principal part of the site where the agricultural and timber buildings are positioned, are located south of the railway line on Selker Drive at a distance of approximately 90m from the site separated from it by the railway line and Brindley Drive. At that distance with levels changes in between and the noise generated by rail operations and road traffic it is unlikely that there would be any direct bearing upon neighbour amenity from the site.
- 6.6.3 The development is visible from the football fields at the Tamworth Borough Council operated Anker Valley Sports Complex. It should be noted though that users of the complex are not resident and would not be significantly impacted by viewing the proposed development.

- 6.6.4 The amenity of residents more generally within the Bolehall area is impacted by vehicle activity accessing the site using the Byway Open to All Traffic (BOAT), Bridleway and non-designated track all to the north of the northern end of Moor Lane. The development has introduced vehicle activity to those features that was not previously present and means that pedestrians on those routes do come into contact with vehicles using them. It should be noted that use of the BOAT by vehicles is legally acceptable, however legal vehicular use of the bridleway and non-designated track is subject to the existence of private rights of way which are not a material planning matter. The non-designated part of the access route is not a public footpath, nor is it on common land, but it is used by walkers to access the railway footbridge and the public footpath that crosses the bridge. The amenity issue in this context is the general interaction between vehicles and pedestrians brought about by the development.
- 6.6.6 There is unlikely to be a direct impact upon neighbour amenity from the proposal due to the distance of the site from neighbours. It is recognised that there are traffic and public safety implications of the proposal in respect of the vehicular use of the proposed access route, however that is not a matter material to the application. From an amenity perspective therefore, the proposal is considered to be in accordance with the amenity aspects of Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031.

## **7 Conclusion**

- 7.1 The proposal for the installation of a stoned access track, manoeuvring area to front of agricultural building and timber restroom (retrospective), installation of solar panels to rear roof slope has been considered in respect of its principle, character and appearance, highway safety and ecology terms.
- 7.2 The assessments have considered how the various parts of the proposal relate to the permitted to the site including the permitted agricultural building and to the surrounding areas. In particular the assessment has considered the design characteristics of the elements of the application. It has been noted that the proposed installation of solar panels would most likely fall within the scope of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and subject to provision of adequate information would therefore not be covered by this application. The remaining elements of the track and hard standing and retention of the timber building have been found to be contrary to the design and landscape requirements of the Tamworth Local Plan.

## **8 Recommendation**

Refusal

### **Reasons for Refusal**

1. The proposed retention of the structure described as a timber restroom is unacceptable due to its design which is (a) not in keeping with the design of the agricultural storage building (b) designed around the presence of a caravan which whilst it was still present on the 8<sup>th</sup> May 2024, the Applicant has stated will be removed and (c) is of poor design and materials that are harmful to the character and appearance of the site. The proposed retention of the timber restroom is therefore not in compliance with Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031.
2. The access track by virtue of the materials used in construction are deemed to be inappropriate for the setting and out of character with the site as a whole and therefore not in accordance with Policy EN5 Design of New Development of the Tamworth Local Plan 2006-2031.

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