

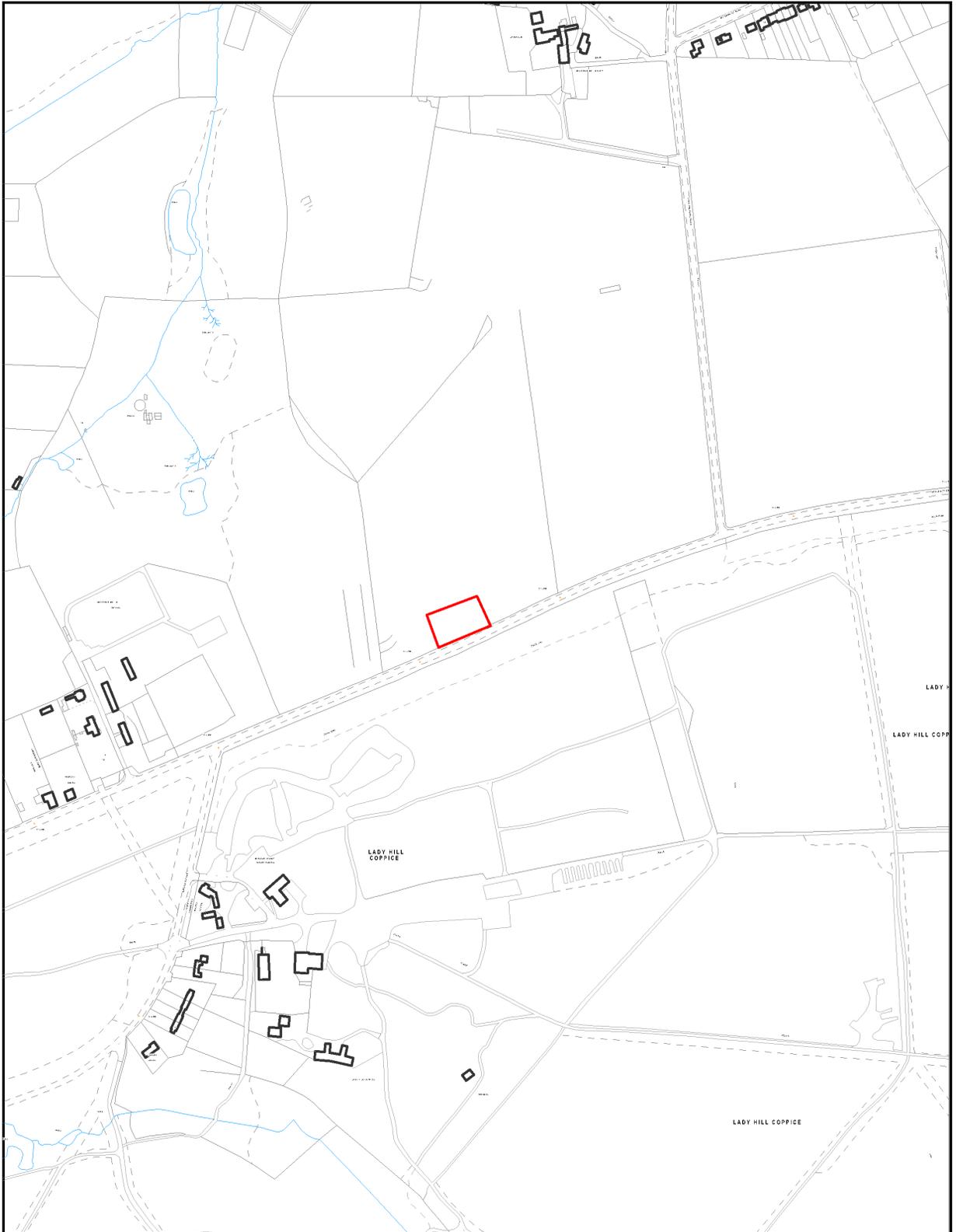


CH/17/056

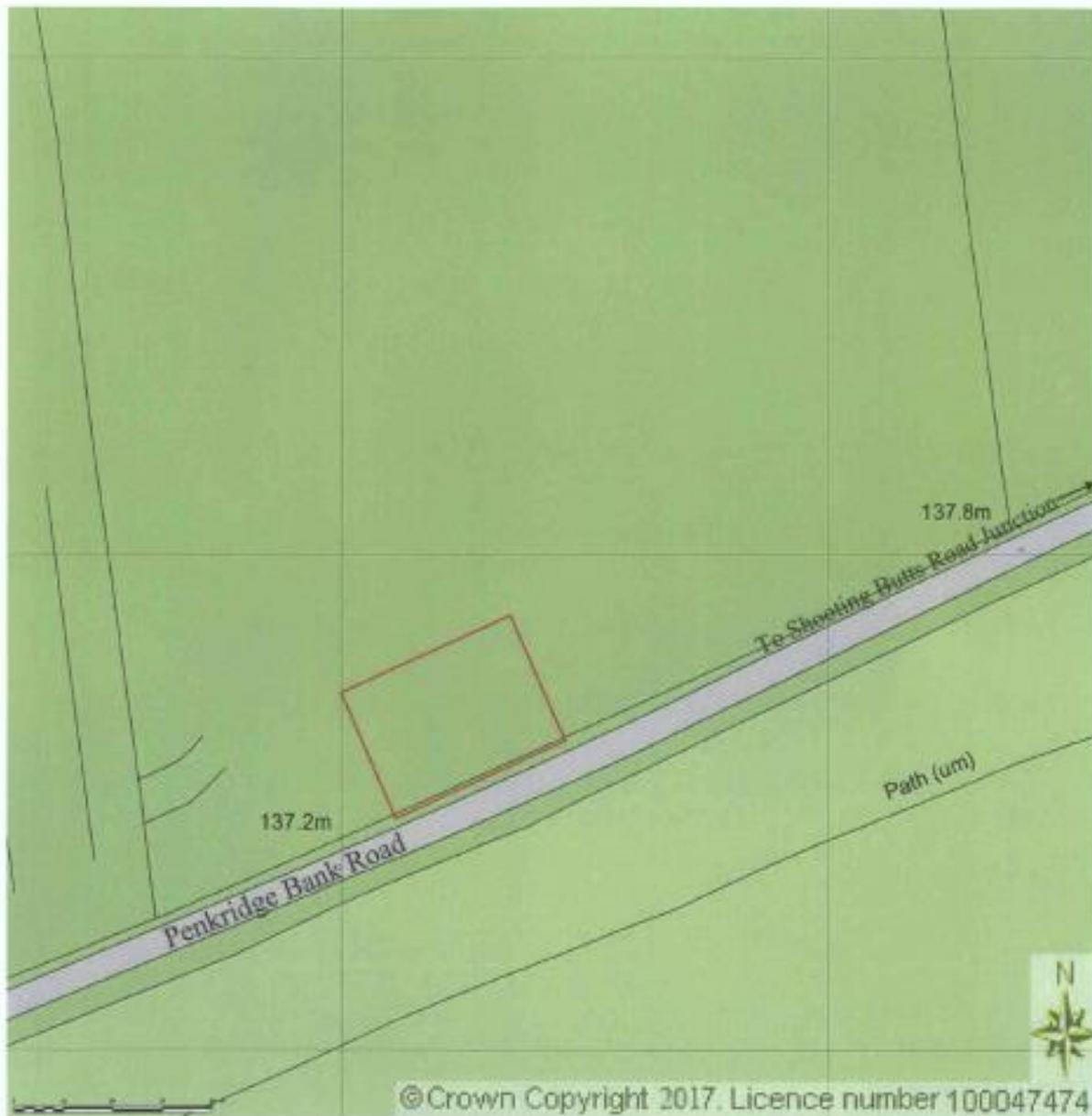
Land north of Penkridge Bank Road and west of Shooting Butts Road

Widening of existing vehicular access and associated works

1 objection received



# Location Plan



# Block Plan

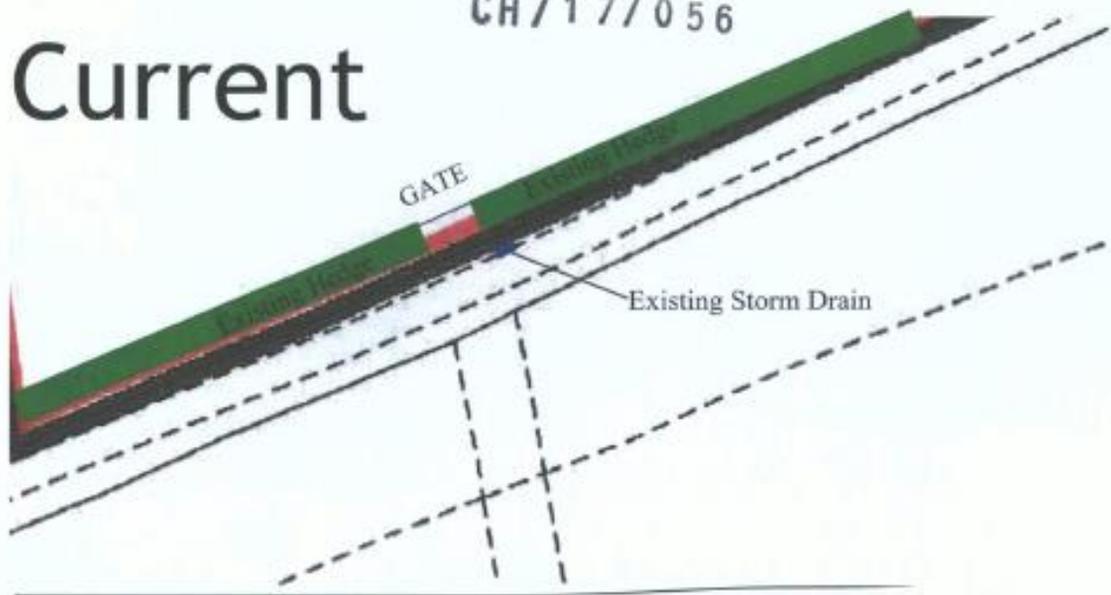


**Photograph of Site  
Supplied by Applicant Showing The Previous Gate In Situ**

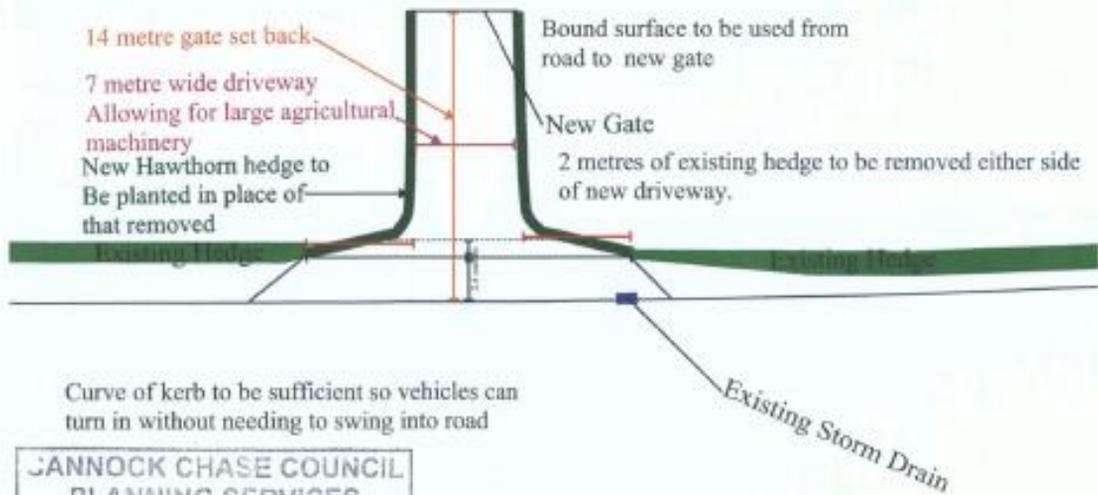


CH/17/056

# Current



# Proposed Scheme 1



JANNOCK CHASE COUNCIL PLANNING SERVICES
9 FEB 2017
REF NO

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**Application No: CH/17/056**

**Received: 15 February 2017**

**Location: Land north of Penkridge Bank Road and west of Shooting Butts Road**

**Parish: Brindley Heath**

**Ward: Etchinghill and the Heath Ward**

**Description: Widening of existing vehicular access and associated works**

**Application Type: Full planning Application**

**Recommendation: Approve Subject to Conditions**

**Reason for Grant of Permission**

**In accordance with paragraphs (186-187) of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:  
Proposed Scheme 1  
Location Plan

Reason

For the avoidance of doubt and in the interests of proper planning.

3. The hedgerow shown on Drawing 'Proposed Scheme 1' shall be planted within the first planting season following the erection of the gate hereby approved or within 12 months from the commencement of the development, whichever is the sooner.

Reason

In the interests of protecting the character and form of the Cannock Chase Area of Outstanding Natural Beauty in accordance with Policies CP3 and CP14 of the Cannock Chase Local Plan and paragraph 115 of the National Planning Policy Framework.

Note

This permission shall relate to 'Proposed Scheme 1' only and does not relate to 'Proposed Scheme 2'.

**Reason for Committee Decision:** The parish council has objected and the recommendation is to approve.

**EXTERNAL CONSULTATIONS**

**Staffordshire County Council Highways:** -

The submitted application fails to provide adequate information for the Highway Authority to determine the planning application from a highway safety perspective for the following reason:

- (i) the applicant has not demonstrated suitable visibility splays for the proposed improved vehicular access off Penkridge Bank Road.

Reason for recommendation

To comply with para.32 of the NPPF and in the interest of highway safety  
The above recommendation of refusal will not prejudice the consideration of additional information addressing the above areas of concern.

Notes to Planning Officer

- (i) It is considered that the proposed improvements to the access will lead to an intensification of use and therefore significant improvements in visibility are required for vehicles exiting the site to maintain highway safety at this location.
- (ii) Should the application be permitted please add the following advice note to the Decision Notice:

Please note that prior to the commencement of work within the public highway to improve the vehicle access the applicant will need to obtain a Permit to Dig from Staffordshire County Council Network Management Unit. Please complete and send to the address indicated on the application form which is Staffordshire County Council at Network Management Unit, 2 Staffordshire Place, Tipping Street, Stafford, ST16 2DH or email [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk) [www.staffordshire.gov.uk/transport/staffshighways/licences](http://www.staffordshire.gov.uk/transport/staffshighways/licences)

**AONB Unit:** -

No comments received.

**Brindley Heath Parish Council:** -

The Parish Council is very concerned about this proposal for the following reasons: -

Although evidence shows there was an existing vehicular access to the field, Members of the Council cannot recall this ever being used-over a thirty year period at least. The field has always been accessed from an entrance off Shooting Butts Road. The gate posts which are now visible behind the hedge line are new and have been recently installed along with removal of a section of hedgerow and bushes.

Traffic movement have increased significantly since the time this access would have been last in use. Penkridge Bank Road is a very fast road (with a 60mph limit) and the ingress and egress of vehicles would create road safety risks that are avoidable. Staffordshire County Highways should be consulted for its views on the proposal.

The reason for wanting to install a vehicular access along this boundary of the field has not been given nor an explanation of how the land will be used.

Removal of hedging, installation of a gate and a hard ground surface will have an adverse impact on the landscape character and scenic beauty of this protected AONB environment. The Conservation Officer at Cannock Chase Council should be consulted for her advice.

Extensive loss of hedging will remove a habitat for wildlife.

For the above reasons the Parish Council wish to object to the proposal.

#### INTERNAL COMMENTS

Development Plans: -  
No comments received.

#### Neighbour/ Third Party Comments

The application was advertised by site notice resulting in 1 letter of objection raising the following issues: -

- The proposed use of the entrance would be a death trap on such a fast road.
- The gate has been unused for at least 50 years according to older local residents.
- The proposal has the appearance of being the entrance to a caravan site or a riding establishment, certainly not any form of farming. No use is stated.
- There is a perfectly good entrance off Shooting Butts Road which has been regularly used over the years and is far safer.

#### PLANNING HISTORY

CH/89/0561: - Proposed Barn. Granted

CH/88/814: - Temporary Caravan. Granted.

CH/88/673: - Proposed equestrian centre and dwellinghouse. Granted.

#### 1. SITE AND SURROUNDINGS

1.1 The application site is part of a wider field system running along the north side of Penkrige Bank Road. The field boundary here is comprised of a hawthorn hedge with a thick undergrowth of bracken. Along the south side of Penkrige Bank Road is a forestry plantation. Approximately 150m to the north east there is the junction of Shooting Butts Lane. A similar distance to the south west and across the highway is the junction with Birches Valley Road.

1.2 Penkrige Bank Road at this point is notably straight and although there is a 40mph restriction in place due to the potential with deer collisions speeds are likely to be in excess of the restriction.

1.3 The site is located within the West Midlands Green Belt and the Cannock Chase Area of Outstanding Natural Beauty.

## 2. PROPOSAL

2.1 The application seeks planning permission for the widening of an existing entrance to 7m and setting back the gates 14 metres into the site from the road. The new driveway would include a bound surface. The plans are accompanied with two plans showing different visibility splays depending on highway requirements and the need to protect the character of the AONB.

## 3. PLANNING POLICY

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014)

3.3 Other material considerations relevant to assessing current planning applications include the National Planning Policy Framework (NPPF) and Supplementary Planning Guidance/Documents.

### 3.4 Cannock Chase Local Plan (2014)

3.5 CP1 - Strategy – the Strategic Approach  
Development proposals at locations within the Green Belt will be assessed against the NPPF and Policy CP14.

3.6 CP3 - Chase Shaping – Design  
High quality design will be a requirement of all development. This policy states that all new development should be well-related within the development and to existing buildings and their surroundings. Development should also successfully integrate with existing trees and landscape features and protect the amenity

enjoyed by existing properties. The Policy also seeks how proposals form appropriate development within the Green Belt to a design in keeping within its surroundings. It also seeks new development to preserve and enhance the landscape, scenic beauty and character of the AONB and its setting through the careful design of new development.

3.7 CP14- Landscape Character and Cannock Chase Area of Outstanding Natural Beauty (AONB)

The District's landscape character will be protected, conserved and enhanced. Appropriate developments within the Green Belt and AONB must be sensitive to the distinctive landscape character and ensure they do not have an adverse impact upon their setting through design, layout and intensity.

3.8 National Planning Policy Framework

3.9 The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "presumption in favour of sustainable development".

3.10 The NPPF confirms that a plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise. In particular the following NPPF references are considered to be appropriate.

3.11 7. Requiring good design

3.12 Paragraph 56 attaches great importance to the design of the built environment and states good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

3.13 Paragraph 57 states it is important to plan positively for the achievement of high quality and inclusive design.

3.14 Paragraph 58 states planning policies and decisions should aim to ensure that development meets specified criteria, including that it should:-

- Function well and add to the overall quality of the area.
- Establish a strong sense of place.
- Respond to local character and history and reflect the identity of local surroundings and materials.
- Are visually attractive as a result of good architecture and appropriate landscaping.

3.15 Paragraph 61 considers planning decisions should address connections between people and places and the integration of new development into the natural, built and historic environment.

3.16 Paragraph 64 states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

3.17 Protecting Green Belt land

3.18 Paragraph 79 Green Belt policy is to prevent urban sprawl by keeping land permanently open.

3.19 Paragraph 80 identifies the five purposes of Green Belts which are:

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

3.20 Paragraph 81 states local planning authorities should plan positively to enhance the beneficial use of the Green Belt and to retain and enhance landscapes and visual amenity.

3.21 Paragraph 87 states “Inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances”.

3.22 Paragraph 88 states

“When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt..... ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.”

3.23 Paragraph 90 states

“Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:

- mineral extraction;
- engineering operations;

- local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- the re-use of buildings provided that the buildings are of permanent and substantial construction; and
- development brought forward under a Community Right to Build Order.”

3.24 11. Conserving and Enhancing the Natural Environment

3.25 Paragraph 115 states

“Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.”

4.0 Determining Issues

The determining issues for the proposed development include:-

1. Principle of Development in the Green Belt
2. Landscape and Visual Impacts
3. Impacts on Highway Safety

Principle of the Development

4.1. The site is located within the West Midland Green Belt, wherein there is a presumption against inappropriate development, which should only be approved in ‘very special circumstances’. Paragraph 79 of the NPPF states that the Government attaches great importance to Green Belts, adding that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. As such the essential characteristics of Green Belts are their openness and permanence.

4.2 The stages in taking decisions on applications within the Green Belt are as follows.

- (a) In the first instance a decision has to be taken as to whether the proposal constitutes appropriate or inappropriate development.
- (b) If the proposal constitutes inappropriate development then it should not be allowed unless the applicant has demonstrated that ‘very special circumstances’ exist which would justify approval.

- (c) If the proposal is determined to constitute appropriate development then it should be approved unless it results in significant harm to acknowledged interests.
- 4.3 Local Plan Policy CP1 & CP3 require that development proposals at locations within the Green Belt must be considered against the NPPF and Local Plan Policy CP14. Local Plan Policy CP14 relates to landscape character rather than to whether a proposal constitutes appropriate or inappropriate development.
- 4.3 Whether a proposal constitutes inappropriate development is set out in Paragraphs 89 and 90 of the NPPF. Paragraph 89 relates to new buildings and Paragraph 90 to other forms of development. The lists contained within these paragraphs are closed and therefore are fixed.
- 4.4 In this respect it is noted that the proposal is substantively for an engineering operation. The setting back of the gate and the realignment of the existing hedgerow (whatever that may entail) would not conflict with the openness of the Green Belt or with the five purposes of including land within it.
- 4.5 As such the proposal would not constitute inappropriate development within the Green Belt and therefore is acceptable in principle. The proposal therefore should be approved unless there is conflict with other national and local policies or harm to other acknowledged interests.
- 4.6 Impact on the Cannock Chase Area of Outstanding Natural Beauty (AONB)
- 4.7 Paragraph 115 of the NPPF sets out that great weight should be given to conserving the landscape and scenic beauty of an AONB. This is continued in Local Plan Policy CP14 which states:
- “Development proposals including those for appropriate development within the Green Belt ... must be sensitive to the distinctive landscape character and ensure they do not have an adverse impact on their setting through design, layout or intensity.”
- 4.8 The setting back of the gate into the field in itself would not impact on the character and form of this rural location and it is not uncommon to find gates set into fields to allow tractors and other agricultural machinery the ability to pull off the highway whilst the gate is opened.
- 4.9 The main issue is the realignment of the hedgerow so that it forms an appropriate stock proof boundary to the field and this would be dependent on the visibility splay required. The formation of a wide visibility splay would require a substantial length of hedgerow to be uprooted and either replanted along a new line or a new hedgerow planted in the new position. This would result in

unacceptable harm to the character and form of this part of the AONB, which given the direction of paragraph 115, should be given great weight.

4.10 However, should no significant visibility splays be required, the proposal would not result in any significant harm to the character of the area. Indeed it would include the planting of two small rows of hedgerow to be planted either side of the entrance. In such a case the proposal would not be contrary to Policies CP3 and CP14 of the Cannock Chase Local Plan. The implications of the highway requirements will be assessed in the next section.

4.11 Impact on Highway Safety

4.12 In respect to the impact on highway safety the comments of local residents and the Highway Officer are noted. Having had regard to the comments made it is considered that the main considerations in the assessment of the highway implications are

- (a) Was there an access at this location?
- (b) Has the access been abandoned?
- (c) What is the harm to highway safety arising from the proposed alterations over and above that which currently exists?

4.13 In support of the application the applicant has submitted photograph which clearly shows the remains of a substantial metal field gate of a type that is commonly found serving field accesses in rural areas. On the basis of this evidence it is clear that a vehicle access, at least, had existed at this location.

4.14 It has been suggested by local residents that the access has not been used for some time. However, that does not necessarily mean that the use of the access has been abandoned. In the first instance the use of such accesses for agricultural purposes is normally sporadic and may only occur several times a year and therefore may be easily missed by the casual observer, particularly in a location like this where the access is not overlooked by any other property. It is noted that the photographs on Google Maps show that the access is normally obscured by tall bracken such that in the summer months it would be entirely obscured and hence not readily noticeable.

4.15 The photograph submitted by the applicant shows that the vehicle access had been closed by the erection of a 3 bar wooden fence enforced by barbed wire which supports that in more recent times the access had not been used. However, this does not necessarily prove that its use has been abandoned. This may simply be a stop gap measure to ensure that the hole created by the collapse of the metal gate was made stock proof, which would be a sensible precaution given that it leads onto a fast busy road. The situation is analogous to a person boarding up the doors and windows of a dwelling when it is not in use to prevent vandalism and theft. In neither instance does the action prove abandonment of the property.

4.16 Given the above it is considered that there is no substantive evidence to demonstrate that the use of the access has been abandoned and as such it must be concluded that the access is lawful and can be brought back into use at any time as long as they are using the access for purposes incidental, or ancillary to the lawful use of the field. The granting of the proposed altered access would not in any way confer a new use of the field that it would serve. As such although use of the access may increase from that occurring at present this would not constitute a material intensification of the use of the access for planning purposes.

4.17 Turning now to the harm resulting from the proposal it should be acknowledged that the owner/ tenant of the field can lawfully use the access as it stands. The setting back of the gate into the field would allow an agricultural or other vehicle, the opportunity to pull off of the highway whilst the gate is being opened or closed. This is a major benefit to highway safety. The issue in relation to the inadequate sight lines on leaving the site currently exists and the proposal would not exacerbate this situation over and above that which currently exists. As such insistence on the provision of sight lines to rectify the situation in respect of egressing the would effectively be attempting to rectify an existing problem rather than mitigating harm directly arising from the proposal that is for determination.

4.18 As such the proposal would not result in any material harm to highway safety over and above that which currently exists and the proposal would not be contrary to Paragraph 32(3) of the NPPF.

4.19 Other Issuers Raised by The Objectors

4.20 The assertion that the proposal has the appearance of being the entrance to a caravan site or a riding establishment and that no use is stated is not material to the determination of this application. The grant of planning permission for the access would have not alter the existing use which is stated in the application form to be agriculture and grazing land. As such any suggested use by objectors is conjecture and should a material change of use be applied for at a later stage that application should be judged on its own merits.

4.21 The assertion that there is another entrance off Shooting Butts Road which has been regularly used over the years and is far safer is not material to the determination of this application which has to be determined on its own merits. As such no weight should be attributed to this issue.

5.0 HUMAN RIGHTS ACT

The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to refuse accords with the policies of the adopted Local Plan and the applicant has the right of appeal against this decision.

6. CONCLUSION

- 6.1 The National Planning Policy Framework attaches great weight to the importance of Green Belts. In this instance, the proposed development would not constitute inappropriate development and would not have any material impact on openness or conflict with the purposes of including land within it.
- 6.2 In addition given that the proposal is for the alteration of an existing lawful access it is considered that there would not be any significant impact on highway safety over and above that currently exists. As such there is no need to require substantial sight lines to be created, which would harm the character of the AONB.
- 6.3 The National Planning Policy Framework attaches great weight to the protection and enhancement of the AONB. However, the proposed development would not, by virtue of its nature, be detrimental to the character and appearance of the AONB.
- 6.4 For the reasons above, it is concluded that the proposed development would not conflict with Policies CP1, CP3 and CP14 of Cannock Chase Local Plan and the NPPF. It is therefore recommended that the application be approved subject to the attached conditions.