

To: The Deputy Leader and Members of the Planning and Development Board

Councillors Simpson, Bell, T Clews, Dirveiks, Gosling, Hancocks, Hayfield, D Humphreys, Jarvis, Jordan, Morson, Moss, Parsons, H Phillips, Reilly and Rose.

For the information of other Members of the Council

For general enquiries please contact the Democratic Services Team on 01827 719237 via e-mail – democraticservices@northwarks.gov.uk

For enquiries about specific reports please contact the officer named in the reports.

The agenda and reports are available in large print and electronic accessible formats if requested.

PLANNING AND DEVELOPMENT BOARD AGENDA

6 MARCH 2023

The Planning and Development Board will meet on Monday, 6 March 2023 at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

The meeting can also be viewed on the Council's YouTube channel at [NorthWarks - YouTube](#).

AGENDA

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

REGISTERING TO SPEAK AT THE MEETING

Anyone wishing to speak at the meeting, in respect of a Planning Application, must register their intention to do so by 1pm on the day of the meeting, either by email to democraticservices@northwarks.gov.uk or by telephoning 01827 719237 / 719221.

Once registered to speak, the person asking the question has the option to either:

- (a) attend the meeting in person at the Council Chamber; or
- (b) attend remotely via Teams.

If attending in person, precautions will be in place in the Council Chamber to protect those who are present however this will limit the number of people who can be accommodated so it may be more convenient to attend remotely.

If attending remotely an invitation will be sent to join the Teams video conferencing for this meeting. Those registered to speak should join the meeting via Teams or dial the telephone number (provided on their invitation) when joining the meeting and whilst waiting they will be able to hear what is being said at the meeting. They will also be able to view the meeting using the YouTube link provided (if so, they may need to mute the sound on YouTube when they speak on the phone to prevent feedback). The Chairman of the Board will invite a registered speaker to begin once the application they are registered for is being considered.

- 4 **Minutes of the meeting of the Board held on 6 February 2023** – copy herewith, to be approved and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

- 5 **Planning Enforcement Plan-** Report of the Head of Development Control

Summary

A review has taken place of the Council's existing Planning Enforcement Plan and the Board is being recommended to adopt the new version and as a consequence, to recommend that the Council approves amendments to the Council's Constitution in respect of related delegated powers.

The Contact Officer for this report is Jeff Brown (719310).

6 **Planning Applications - Report of the Head of Development Control**

Summary

Town and Country Planning Act 1990 – applications presented for determination.

6a Application No: CON/2023/0004 - Hartshill Sewage Works, Woodford Lane, Hartshill, Nuneaton, Warwickshire, CV10 0SA

Installation of 6 Kiosks (TSR MCC Kiosk, TSR Magnetite Kiosk, TSR Poly Kiosk, Main MCC Kiosk, Centrifuge Poly Kiosk and a SAS Poly Kiosk)

6b Application No: CON/2023/0003 - Land on the corner of Merevale Lane, Atherstone

To carry out the development permitted by planning permission reference NWB/17CM001 at the Anaerobic Digestion Plant, The Former Shale Tip on land on the corner of Merevale Lane, Atherstone, Warwickshire without complying with Condition 12 of that permission to allow empty delivery vehicles to leave the site between 06:00-07:00

6c Application No: PAP/2022/0206 - 81, Main Road, Austrey, Atherstone, CV9 3EG

Outline application for residential development of one dwelling (with all matters reserved)

6d Application No: PAP/2021/0395 - Land At The Southern End Of, Willow Close, Chapel End

Outline application with all matters reserved except for the proposed access off Willow Close for up to 29 dwellings with associated landscaping, open space, sustainable drainage system and service infrastructure. (Affecting footpaths N7 and N9). (Land abuts to Willow Close/Alders Lane/Lilleburne Drive and Chancery Lane.) Cross boundary with NBBC 038144

6e Application No: PAP/2022/0228 - Durnos Nurseries, Old Holly Lane, Atherstone, CV9 2HD

Variation of condition no: 2 of planning permission PAP/2014/0540 dated 18/11/2021 relating to revisions to house types and changes to road and footpath design, in respect of Demolition of Virginia House and nursery buildings and erection of 123 dwellings with public open space and associated infrastructure

6f Application No: PAP/2021/0238 - Polesworth Working Mens Club, High Street, Polesworth, B78 1DX

Change of use of existing function room to provide bed and breakfast accommodation (25 bedrooms), including an additional mezzanine floor and elevation changes

The Contact Officer for this report is Jeff Brown (719310).

7 Tree Preservation Order - Land at the Wheatsheaf Inn, Station Road, Coleshill – Report of the Head of Development Control

Summary

A Tree Preservation Order has been placed on a Lime tree and an Oak tree located at the Wheatsheaf Inn in Coleshill. It came into force on 15 December 2022 and lasts six months (until 15 June 2023). This report seeks to make the Order permanent.

The Contact Officer for this report is Andrew Collinson (719228).

8 Tree Preservation Order - Dog Inn, Marsh Lane, Water Orton – Report of the Head of Development Control

Summary

A Tree Preservation Order has been placed on a eucalyptus tree located at the Dog Inn, Marsh Lane, Water Orton. It came into force on 3 October and lasts for 6 months (until 3 April 2023). This report seeks to make the Order permanent.

The Contact Officer for this report is Andrew Collinson (719228).

9 Appeal Update - Report of the Head of Development Control

Summary

The report brings Members up to date on recent appeal decisions.

The Contact Officer for this report is Jeff Brown (719310).

10 Exclusion of the Public and Press

To consider, in accordance with Section 100A(4) of the Local Government Act 1972, whether it is in the public interest that the public and press be excluded from the meeting for the following items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.

- 11 **Confidential Extract of the minutes of the Planning and Development Board held on 6 February 2023** – copy herewith to be approved as a correct record and signed by the Chairman.

STEVE MAXEY
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

6 February 2023

Present: Councillor Simpson in the Chair

Councillors Bell, Chambers, D Clews, Dirveiks, Gosling, Hancocks, Hayfield, D Humphreys, Jordan, Morson, H Phillips, Reilly and S Smith.

Apologies for absence were received from Councillors T Clews (Substitute S Smith), Jarvis (Substitute D Clews), Moss and Parsons (Substitute Chambers).

70 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

Note: Due to the number of members of the public who had attended in relation to Application No PAP/2020/0295 (item 77d below) the Chairman proposed and the Board agreed to consider that item first.

71 **Minutes**

The minutes of the meeting of the Planning and Development Board held on 9 January 2023, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

72 **Water Orton Conservation Area Amended Boundary Extension**

The Chief Executive sought the authority to consult newly impacted residents and reconsult those who previously made representations, on an amended extension to the boundary to the Water Orton Conservation Area and subject to no representations being made during the consultation process, ask that they be approved/confirmed.

Resolved:

- a That consultation on the proposed amended draft boundary extension to the Water Orton Conservation Area be commenced;**
- b That a Draft Appraisal for the purposes of this consultation be agreed by the Chairman, Opposition Spokesperson and local Ward Members;**
- c That, if in the event of there being no adverse representations, following public consultation, the extension to the Water Orton**

Conservation Area Boundary be approved, otherwise the matter will be referred back to the Board.

Note - The Chairman then proposed and the Board agreed to consider that Application No PAP/2022/0576 (item no 77c below) be considered.

73 General Fund Fees and Charges 2023/2024

The Director of Corporate Services and the Chief Executive reported on the fees and charges for 2022/2023 and the proposed fees and charges for 2023/24.

Resolved:

That the schedule of fees and charges for 2023/24, as set out in the report of the Director of Corporate Services and the Chief Executive, be accepted.

74 General Fund Revenue Estimates 2022/23

The Corporate Director – Resources detailed the revised budget for 2022/2023 and an estimate of expenditure for 2023/2024, together with forward commitments for 2024/25, 2025/2026 and 2026/2027.

Resolved:

a That the revised budget for 2022/2023 be accepted subject to reimbursement of the HS2 staff post being included in the 2023/24 figures.

Recommendation to Executive Board:

b That the Estimates of Expenditure for 2023/24, as submitted in the report of the Corporate Director – Resources, be accepted and included in the budget to be brought before the meeting of the Executive Board on 13 February 2023.

75 Revisions to the 2021 National Planning Policy Framework – Consultation – Report of the Chief Executive

As part of the Government's proposed planning reforms, it has published a consultation paper on consequential changes to the 2021 National Planning Policy Framework. This report outlines the proposed changes to enable the Board to respond if appropriate.

Resolved:

That the report be noted at this time and further reports are prepared as appropriate dealing with the introduction of the planning reforms.

76 Infrastructure Funding Statement

The Head of Development Control outlined the Council's Infrastructure Funding Statement for 2022.

Resolved:

- a That the Infrastructure Funding Statement for 2022 be published; and**
- b That a further report be brought to the Board in respect of the expenditure of contributions by other Agencies in respect of infrastructure delivery in the Borough.**

77 Planning Applications

The Head of Development Control submitted a report for the consideration of the Board.

Resolved:

- a That in respect of Application No CON/2023/0002 (Site 28B003, Weddington Road, Nuneaton) the Council object to the proposal for the reasons outlined in the report of the Head of Development Control;**
- b That Application No PAP/2022/0606 (22, Church Lane, Middleton, B78 2AW) be deferred for a site visit and further discussion with the Housing Division;**
- c**
 - i That in respect of Application No PAP/2022/0576 (Cattle Market Car Park, Station Street, Atherstone) the work proceeds as outlined in the report of the Head of Development Control; and**
 - ii That the Resources Board be recommended to ensure that the ecology of the Car park area is preserved as far as possible and that suitable replacement trees be planted in prominent locations in the town;**
- d That Application No PAP/2020/0295 (Land West Of Hams Hall Roundabout and south of, Marsh Lane, Curdworth) be refused for the reason set out in the report of the Head of Development Control;**
[Speakers Richard Habgood and Steve Harley]
- e That Application No PAP/2022/0204 (Land South Of Dairy House Farm, Spon Lane, Grendon) be granted, subject to the conditions set out in the report of the Head of Development Control;**
[Speaker Mark Jones]

78 **Appeal Update**

The Head of Development Control brought Members up to date on recent appeal decisions.

Resolved:

- a **That the report be noted in respect of Appeals (b) and (c) as recorded in the report.**

79 **Exclusion of the Public and Press**

Resolved:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by paragraphs 5 and 6 of Schedule 12A to the Act.

80 **Appeal Update**

The Head of Development Control brought Members up to date on appeal (a) as recorded in his report

Resolved:

- a **That the implications of the Kirby Glebe decision be taken into account in the Options and Issues Document reported to the LDF Sub-Committee for the forthcoming Gypsy and Traveller Site Allocations DPD; and**
- b **That the wider Corporate implications of the decisions be referred to Executive Board for further consideration.**

81 **Additional Appeal Update**

The Head of Development Control reported on a further appeal decision received after publication of the report.

Resolved:

That the Head of Legal Services, the Head of Development Control and Local Members meet to discuss a course of action regarding possible further action.

M Simpson
Chairman

Agenda Item No 5

Planning and Development Board

6 March 2023

**Report of the
Head of Development Control**

Planning Enforcement Plan

1 Summary

- 1.1 A review has taken place of the Council's existing Planning Enforcement Plan and the Board is being recommended to adopt the new version and as a consequence, to recommend that the Council approves amendments to the Council's Constitution in respect of related delegated powers.

Recommendation to the Board:

- a That the Planning Enforcement Plan attached to this report be adopted, and**
- b That a recommendation is made to Council to change the Council's Constitution so as to reflect the necessary amendments to the Scheme of Delegation.**

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Introduction

- 3.1 The Council last adopted its Planning Enforcement Plan in 2010. Since then, some legislation has changed, new legislation introduced, and the duties of officers have changed. It is thus time to review that Plan.

... 3.2 The proposed Plan is at Appendix A.

- 3.3 During the preparation of the proposed Plan, there has been cross-party Member consultation on its content and changes have been made to the proposed Plan as a consequence of this involvement.

4 Observations

- 4.1 Apart from bringing the factual content up to date, the opportunity has been taken to simplify the Plan and to clarify a number of matters. The main ones are brought to the attention of Members.

- 4.2 First, Members are asked to endorse the need to prioritise cases and thus to review the Priorities set out in Section 4 – paras 4.6 to 4.8.
- 4.3 Secondly, there are significant changes made to the decision-making process. Members will be familiar with the current system of officers seeking authorisation to commence formal enforcement proceedings from the Board except in cases where immediate or emergency action is needed. The Plan proposes a greater degree of delegation with only the most significant cases referred to the Board. This is set out in Section 10.
- 4.4 Members will be familiar with the referral system in the determination of planning applications, whereby affected Members receive an officer's report, setting out the planning background to a case leading to a recommendation. Members have the opportunity to request referral of the application to the full Board for determination. It is proposed to replicate this procedure in the case of seeking authorisation to commence enforcement proceedings. Para 10.4 outlines the process by which Members will be involved in this consultation. It should be noted that "any" of these Members can refer the case to the Board. It is considered that this "referral" system has worked well in the planning application process providing necessary Member scrutiny. It is thus proposed to repeat it in the enforcement process.
- 4.5 If the content of Section 10 is agreed by the Board, there will need to be consequential changes to the Council's Constitution in respect of delegation to officers. Appendix B contains the Scheme of Delegation currently in the Constitution which would need to be amended to incorporate the proposed arrangements in the Enforcement Plan'. Specifically, it is recommended that the Head of Development Control and the Head of Legal Services are delegated authority to take enforcement action in accordance with the Enforcement Plan. . If Board agree these amendments in principle, then it will be necessary to recommend that Council adopts them, since the Constitution provides that only Council, may adopt or change the Constitution.
- ...
- 4.6 Thirdly, one of the most difficult aspects of enforcement work is communication - particularly with those who report alleged breaches of planning control. As a consequence, Sections 5 to 8 of the Plan have been drawn up to make this more effective.
- 4.7 Fourthly, the other most difficult aspect of enforcement is that the content of the relevant legislation is very often not that which those who report matters to us, were expecting – i.e. it is not illegal to undertake development without the appropriate planning permission and thus any subsequent enforcement action is not mandatory. The Plan explains this in Sections 3 and 9, but explanations as to why action may not be taken, still often take up considerable time and it can lead to more time being spent on this, than the actual investigation itself.
- 4.8 Finally, Members often play an important role in liaising between officers and their constituents who report matters to the Council. This is recognised at Section 5.5. Advice and guidance are always available to Members. Additionally, although not contained in the Plan, it is proposed that all

Members will receive a schedule of cases – akin to the Weekly Planning application list – every quarter so that they can be kept abreast of those in their Wards.

5 Report Implications

5.1 Finance and Value for Money Implications

5.1.1 There are no implications as the procedures set out in the Plan are covered by existing budgets. Retrospective planning applications do attract planning fees.

5.2 Safer Communities Implications

5.2.1 The Plan makes it clear that sometimes planning enforcement action is not the most appropriate course of action and lists other relevant legislation. Often joint investigations will be needed with representatives from other Agencies. Referrals to other Agencies will be warranted when necessary, such as the Police.

5.3 Legal, Data Protection and Human Rights Implications

5.3.1 Whilst planning legislation does not make it illegal to carry out development without planning permission in every case, the Plan does identify those instances where such works will be a criminal offence and thus a different procedure has to be followed

5.3.2 The right to privacy of those reporting alleged breaches of planning control together with the need to keep their personal data secure, is recognised in the Plan. Advice will be sought from Legal Services where necessary in these cases.

5.3.3 The evidence gathering process in relation to formal enforcement proceedings and prosecution of any offences will comply with the appropriate legislation and advice will be sought from Legal Services where necessary in these cases. The Council's other policies relating to these matters will also be followed.

5.3.4 When assessing whether it is expedient to take enforcement action the impact on human rights and the health and well-being of individuals will be taken into account to the extent permitted by legislation and case law.

5.4 Environment, Sustainability and Health Implications

5.4.1 Breaches of planning control undermine the Council's planning policies as set out in its Development Plan as well as in the process of making planning decisions which are based on environmental, sustainability and health objectives.

5.5 Human Resources Implications

5.5.1 The investigation of breaches of planning control and following them through to formal Court proceedings where necessary, can involve the possibility of either the physical or verbal abuse of officers. Procedures are in place to reduce this occurrence.

5.6 Equalities Implications

5.6.1 There are times when personal circumstances can amount to a material planning consideration as the Council has Duty under the Equalities Act to take account of such matters where appropriate. In such a circumstance, it will be necessary to apportion a weight to those circumstances when an assessment is made as to whether it is expedient to take enforcement action.

5.7 Links to Council's Priorities

5.7.1 The protection of the Borough's rural character and environment is supported by appropriate enforcement processes in conjunction with the making of planning policy and the determination of planning applications.

The Contact Officer for this report is Jeff Brown (719310).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Equality Impact Assessment Summary Sheet

Please complete the following table summarised from the equality impact assessment form. This should be completed and attached to relevant Board reports.

Name of Policy Procedure/Service	Planning Enforcement Plan
Officer Responsible for assessment	Head of Development Control

Does this policy /procedure /service have any differential impact on the following equality groups /people

- (a) Is there a positive impact on any of the equality target groups or could it contribute to promoting equal opportunities and improve relations or:
- (b) could there be a negative impact on any of the equality target groups i.e. disadvantage them in any way

Equality Group	Positive impact	Negative impact	Reasons/Comments
Racial			Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals
Gender			Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals
Disabled people		X	Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals. However, in certain circumstances the human rights of a disabled person and the need to meet the Council's equalities Duties, may become a material planning consideration in the decision as to whether to take action.
Gay, Lesbian and Bisexual people			Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals
Older/Younger people		X	Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals. However, in certain circumstances the human rights of an older person and the need to meet the Council's equalities Duties, may become a material planning consideration in the decision as to whether to take action.

Religion and Beliefs		X	Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals. However, in certain circumstances the human rights of a person and the need to meet the Council's equalities Duties, may become a material planning consideration in the decision as to whether to take action
People having dependents caring responsibilities		X	Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals. However, in certain circumstances human rights and the need to meet the Council's equalities Duties, may become a material planning consideration in the decision as to whether to take action
People having an offending past			Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals
Transgender people			Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals
Armed Forces Covenant			Planning Enforcement action is based on the development of land and its impact on planning policies, not on individuals

If you have answered **No** to any of the above please give your reasons below

Please indicate if you believe that this document

Should proceed to further Impact assessment

Needs no further action



North Warwickshire Borough Council

Planning Enforcement Plan

****March 2023****

CONTENTS

- 1. Introduction**
- 2. Government guidance & Legislation**
- 3. What is Planning Enforcement?**
- 4. Enforcement Objectives & Priorities**
- 5. How to report a breach of planning control**
- 6. The Investigation Process**
- 7. Reporters – What to Expect**
- 8. Alleged Offenders – What to Expect**
- 9. Main Outcomes of investigation**
- 10. Decision Making**
- 11. Types of Formal Action**
- 12. Review & Comments**
- 13. Useful Contact Information**

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1 INTRODUCTION

1.1 This planning enforcement plan sets out in detail North Warwickshire Borough Council's approach on how suspected breaches of planning control are dealt with. This plan accords with current government guidance, the National Planning Policy Framework (NPPF) and with the Council's Corporate Enforcement Policy which seeks to promote compliance with all relevant legislation in the consideration of taking formal action.

1.2 Paragraph 59 of the NPPF states:

*“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is **discretionary**, and local planning authorities **should act proportionately** in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”*

1.3 North Warwickshire is committed to providing an effective planning enforcement service for its residents, businesses, and organisations within the Borough. It also has regard to the provisions set out in the [Governments Regulators Code](#) which although it does not expressly apply to planning enforcement, provides useful guidance on how policy on enforcement is formulated.

1.4 Importantly, the Council considers the disregard of planning regulations as a serious matter. The relevant permissions or consents should always be sought prior to undertaking any form of development, works to trees or display of advertisements. Appropriate action will be taken in accordance with this plan, where it is deemed reasonable and necessary to do so, as set out in paragraph 59 above. The objective of enforcement action is about compliance, not punishment.

1.5 This plan sets out how planning enforcement cases will be investigated, monitored, and managed at North Warwickshire Borough Council.

1.6 In particular:

- a) The standard of service our residents can expect from the reporting of a suspected breach of planning control, how the investigation will be processed through to the outcome.
- b) To define priorities for the cases received, in order that resources can be best utilised, corresponding with the nature of the reported breach.
- c) To ensure that our approach with all parties, continues to be courteous, consistent, fair, and transparent.
- d) To set timescales so that delivery of the service can be monitored, measured, and reviewed.
- e) To ensure continued compliance with relevant Government legislation and guidance.
- f) To provide an annual report to the Council's Planning and Development Board regarding cases logged, investigated and action taken.
- g) To monitor and review this policy to include consideration and re-evaluation of customer needs.

2 GOVERNMENT GUIDANCE & LEGISLATION

2.1 The planning enforcement function will be undertaken in accordance with current and emerging Government guidance and legislation. We will utilise and apply the most appropriate legislation, dependent upon the nature of the breach, to address the issue and to achieve both a satisfactory, timely and proportionate outcome.

2.2 Whilst the primary legislation used in planning enforcement is the [Town and Country Planning Act 1990](#), we also utilise other legislation and guidance where appropriate, including:

- [The Town & Country Planning \(General Permitted Development\) Order 2015, as amended](#)
- [The Town & Country Planning \(Use Classes\) Order 1987 \(as amended\)](#)
- [The Town and Country Planning \(Control of Advertisements\) Regulations 2007](#)
- [Planning \(Listed Building and Conservation Areas\) Act 1990](#)
- [National Planning Policy Framework \(NPPF\)](#)
- [Planning Practice Guidance](#)
- [Human Rights Act 1998](#)
- [Regulation of Investigatory Powers Act 2000 \(RIPA\)](#)
- [Anti-Social Behaviour Act 2003 \(high hedges\)](#)
- [Anti-Social Behaviour, Crime and Policing Act 2014 \(CPW/CPN\)](#)
- [Environmental Protection Act 1990](#)
- [Police and Criminal Evidence Act 1984](#)

2.3 In addition to the government guidance and legislation detailed above, any formal enforcement action will be led by policies within the Council's adopted [Local Plan](#) and where relevant, any [Neighbourhood Plans](#).

3 WHAT IS PLANNING ENFORCEMENT?

3.1 The planning enforcement function of the Council is led by a team of Officers within the wider Development Control service, under the supervision of the Development Control Manager and the Head of Development Control.

3.2 Section 171A of the Town & Country Planning Act 1990 (as amended) defines a breach of planning control as:

“Carrying out development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted.”

3.3 It’s important to know that there are time limits in which enforcement action can be taken and if these limits have been exceeded, any unauthorised development will be immune from enforcement action, regardless of whether permission would have been required for development or not.

3.4 Section 171B of the 1990 Act defines the time limit for enforcement action as follows:

- *“Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken **after the end of the period of four years** beginning with the date on which the operations were substantially completed.*
- *Where there has been a breach of planning control consisting in the **change of use of any building to use as a single dwellinghouse**, no enforcement action may be taken **after the end of the period of four years** beginning with the date of the breach.*
- *In the case of any other breach of planning control, no enforcement action may be taken **after the end of the period of ten years** beginning with the date of the breach.”*

3.5 Notably there are breaches of control, such as unauthorised works to a Listed Building or the demolition of an unlisted building in a Conservation Area that have no time limit immunity.

3.6 It is also important to detail what is **NOT** a breach of planning control. The Council can often receive reports regarding matters for which it has no legislative power to resolve or investigate.

3.7 Where a matter is reported for which the Council has no enforcement powers, whenever possible, the Council will signpost people to the relevant body where further assistance may be provided. A list of useful contacts can be found at the end of this plan. The most common non planning related reports are:

- **Land ownership/boundary disputes, trespass, breaches of covenants on title deeds, Party Wall concerns**

These matters are civil and should be pursued elsewhere, often involving seeking private legal advice if necessary.

- **Loss of property value, loss of view and business competition**

These are not planning considerations. The planning system protects the wider public interest and not the interests of individuals.

- **Building Regulations Matters or Dangerous Structures**

These matters are investigated by the shared [Central Building Control Service](#) phone: 0300 111 8035. The out of hours emergency number is (01527) 64252 extension 3316 and is manned by Redditch Borough Council.

- **Health and Safety Matters**

The Health and Safety Executive is responsible for enforcing H&S at various workplaces including factories, farms, **building sites**, schools and colleges, fairgrounds, etc.

You can find out more detail on Health and Safety issues that are not dealt with by the HSE through using the link below.

https://www.northwarks.gov.uk/info/20109/health_and_safety/1095/health_and_safety_advice

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4 ENFORCEMENT OBJECTIVES & PRIORITIES

4.1 North Warwickshire Borough Council currently receives on average 350 registerable planning enforcement complaints and 700 planning applications each year. Conditions which are attached to planning approvals also require monitoring and further action if they are not adhered to.

4.2 Unfortunately, it is not possible to investigate all complaints immediately. Each case will thus be prioritised, dependant on the nature of the alleged breach and the level of potential planning harm it creates.

4.3 Investigations can often be lengthy, technical, and legally complex, particularly if formal action is required. They can be reliant on relevant case-law as well as planning appeal decisions. Due to this workload and the limited resources available, it is necessary to prioritise cases and to target resources in the investigation of cases. The following objectives will be followed in all investigations:

- To communicate both verbally and in writing, in clear terms, and to avoid jargon wherever possible.
- To focus on remedying the breach of planning control without formal action, either by negotiating an alternative solution, for example through voluntary cessation of the breach, or by the submission of a retrospective planning application, where possible.
- To take timely and proportionate action where it is necessary to do so, and only when the negotiation process has failed, (where that is applicable and/or appropriate).
- To continue to develop joint working with both internal and external bodies.
- To ensure that all officers treat everyone involved in the process, in a respectful, equitable, impartial, fair, and transparent way.
- To update and inform complainants of the progress of their case including the outcome.

- To provide clear information regarding the enforcement function and processes on platforms which are easily accessible to a wider variety of people and organisations.
- Whenever possible, electronic methods of communication will be used to communicate with all parties, except where the relevant legislation states otherwise (e.g.- formal notices) or is not applicable to a party involved in the investigation.

4.4 When reports are received alleging unauthorised developments, they will be prioritised. However, a case may change priority as the investigation progresses depending on the nature of the breach.

4.5 All reports received with the requisite information as set out in Sections 5.3 and 5.6 will be **registered and acknowledged within 3 working days**. These will then be actioned in accordance with timescales dependent on the priority level as detailed 4.6 to 4.8.

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4.6 **Category 1 - High Priority**

This applies where the alleged breach is a serious threat to or where there is likely to be, a substantial detrimental effect in planning terms to the built or natural environment.

With high priority cases a member of the enforcement team will action¹ the case as soon as possible (usually within one working day) following its acknowledgement.

High priority cases will include reports referring to:

- Unauthorised works to Listed Buildings or impact on their setting.
- Unauthorised works to protected trees (protected by TPO or in Conservation Area).
- Demolition of non-listed building in a Conservation Area.
- Unauthorised large scale works within the Green Belt.
- Breaches of control approaching time limit immunity (that cause serious harm).
- Existing cases subject to a formal notice, appeal decision or court action.

4.7 **Category 2 - Medium Priority**

Cases where operational development or changes of use of land and/or buildings potentially cause harm to the amenity within the immediate or surrounding area of the site. These could include non-compliance with planning conditions.

With medium priority cases a member of the enforcement team will action¹ the case within 10 working days following its acknowledgement.

Medium priority cases will include reports referring to:

- Unauthorised developments contrary to Local Plan policies.
- Unauthorised developments with significant public interest and causing demonstrable harm to a residential area.

¹ Action means – review the relevant planning history, initiate first contact with interested parties (offending), make arrangements to visit the site or conduct a site visit (if necessary).

- Breach of planning conditions while the development is under construction/newly completed.
- Large scale illegal advertisement campaigns in Conservation Areas.

4.8 **Category 3 - Lower Priority**

Cases that are unlikely to cause any significant, immediate, or irreversible planning harm. These matters are likely to be technical breaches of planning control that could be resolved with the submission of a retrospective application to control the development with conditions, small modifications to bring the development in line with planning policy or voluntary remedial action by the relevant party.

With lower priority cases a member of the enforcement team will action¹ the case within 15 working days following its acknowledgement.

Lower priority cases will include reports referring to:

- Minor breaches of permitted development rights (GPDO 2015 as amended).
- Minor householder developments (extensions, outbuildings, fences).
- Illegal advertisements (not detailed in category 2).
- Untidy land (Section 215 matters).
- Any other breach not included in other priority categories.

5 HOW TO REPORT A BREACH OF PLANNING CONTROL

5.1 **Anonymous reports will not be accepted unless they refer to a High Priority breach or other exceptional circumstances apply.**

5.2 The Council will expect all reports to be made in writing so that it gives the reporter the opportunity to fully consider their concerns and detail how the alleged breach is impacting on them.

5.3 The preferred option will be via the report form on our website. This will guide the reporter through the process and encourage them to focus on the planning matters and not issues that the planning department have no control over.

5.4 The link to this reporting form is here -

5.5 Alternatively,

- Email the team at planningenforcement@northwarks.gov.uk
- By letter addressed to the Planning Enforcement Team at The Council House, South Street, Atherstone, CV9 1DE.
- By speaking to a Duty Officer (9am – 1pm) on (01827) 715341, however you will still need to follow this call up in writing by one of the above methods.
- Report via a Borough or Parish Councillor or the Clerk to your Parish Council. Details of your Councillors and Parish Council, can be found on the North Warwickshire Council website [Find My Councillor](#). However, later updates on the case may only be given to the councillor/parish council and not to the member of the public dependant on the circumstances of the case.

5.6 So that we can investigate your report, we require as much information as possible. If the following details are not provided, then we may not be able to register and deal with your report at all, or in a timely way.

- The name, address, telephone number and e-mail address of the reporter.
- The precise location/address of alleged breach.
- A description of the alleged breach
- What impact the alleged unauthorised development or use, is having on you and any difficulties the problem is causing.
- How long the use has been taking place/ or the development has been in situ.

5.7 All reporters contact details are kept confidential. Any data supplied to North Warwickshire Borough Council relating to any alleged breach, are held securely, in line with the UK GDPR's stringent requirements and protocols. These details will only be provided in response to a request made under the Freedom of Information Act to obtain them, if it is in the public interest to do so taking account of any potential harm to the data subject and any detriment to the ongoing investigation. The Council will also maintain the confidentiality of information provided by any reporter, which may be likely to reveal the identity of who made the complaint. However, we cannot stop an offending party from making their own assumptions as to who made the report.

5.8 However please note that should the matter progress to court proceedings, witness statements may be required from the original reporter depending on the nature of the breach and other evidence obtained. Legal advice will be taken on how this is progressed as it will depend on the circumstances of the individual case. The reporter will be kept informed in these situations.

6 THE INVESTIGATION PROCESS

- 6.1 Due to the nature and legal complexity of some of the reports received, the enforcement process can very often be a lengthy procedure. It is not always possible to give an accurate or average length of time from the receipt of a report to a resolution. As a guideline however, we will aim to update the reporter within six weeks of the date of acknowledgement as to how the case is progressing. This is of course, dependent upon the team's workload and other factors which may impact on officer's time. However, we recognise that communication with the reporters is important and we will endeavour to keep all interested parties updated of progress at key stages in the investigation.
- 6.2 It is important to note that formal action **is not taken against all** breaches of planning control. Such action is entirely at the discretion of the Council having taken all material planning considerations into account.
- 6.3 In some cases, it maybe that a party does not agree with the final decision reached as part of the investigation. However, there is no third-party right of appeal against this decision, other than with certain formal notices when an interested party served with a notice can appeal to the Planning Inspectorate.
- 6.4 The Council has a [formal complaint](#) procedure which you can use if you are dissatisfied about the enforcement service. This process will look at how the investigation has been undertaken and is not a process which has the purpose of changing the decision as to whether to take formal action or not.
- 6.5 **North Warwickshire Borough Council will not tolerate either physical or verbal abuse towards its Officers. Should it be necessary, the Council will use legal action to prevent and deal with such abuse.**

7 REPORTERS – What to expect

- 7.1 Once a valid report has been received it is logged with a unique case reference number. It is then allocated a priority level as detailed above and assigned to an enforcement officer for the investigation to commence.
- 7.2 The reporter will be sent an acknowledgment letter within three working days of receipt, detailing the case officer and their contact information.
- 7.3 The enforcement officer will first establish the facts relating to the alleged breach by investigating the planning and enforcement history, the relevant legislation, and any previous relevant correspondence. If necessary, the investigating officer will liaise with colleagues in other services within the Council and any external bodies.
- 7.4 A site visit is then usually made particularly if the initial desk top research shows that the issue reported does not have planning permission and may be unauthorised. Contact will be made with the site to arrange a site visit or if necessary, rights of entry can be utilised when we are unable to contact the relevant party, or where the nature of the allegation warrants it.
- 7.5 Following the site visit the enforcement officer will have a better understanding of the alleged breach and will then consider what action is required to remedy any associated planning harm. The reporter will be updated when a plan of action has been agreed with the relevant party.

8 ALLEGED OFFENDER(S) – What to expect

- 8.1 It can be a concerning time when in receipt of communication from the planning enforcement team, but it is important to remember that our primary goal is to remedy the planning harm caused by any such unauthorised development and not to punish the individual for breaching planning laws. Notwithstanding, certain offences, mainly as detailed as high priority case can be a criminal offence and the Council will pursue formal action when deliberate/repeated offences can be evidenced.
- 8.2 The best course of action after receiving a letter is to contact the relevant enforcement officer as soon as possible. Further detail can then be provided about the alleged breach and ways in which any breach could be remedied. In most cases the enforcement officer will be likely to need to arrange a site visit to verify the allegation and to collect the required evidence.
- 8.3 Site visits will usually be pre-arranged. During the visit photographs and measurements will be taken where necessary and further guidance can be given and options discussed about how to remedy the harm, firstly without needing to use formal action. Any guidance provided on site will be at an informal level and subject to change if further relevant information or evidence is obtained. However, following the initial site visit the enforcement officer will confirm in writing – usually with 10 working days of the visit –detailing various options to remedy the planning harm, as detailed below.
- 8.4 **PLEASE NOTE** – in the event of no response to requests for contact, the breakdown of communication or where the seriousness of the alleged offence warrants it, enforcement officers also have Powers of Entry as granted under the Town and Country Planning Act 1990, to enter land at any reasonable time, without a warrant. However, when it is required to enter a dwelling house (the building not the land) 24-hours prior notice is required.

9 MAIN OUTCOMES OF INVESTIGATION

9.1 The following list, whilst not exhaustive, are the most common outcomes in a planning enforcement investigation:

9.2 No breach of planning control

In cases where there is no breach of planning control, the case will be closed swiftly and parties informed.

The allegation may not be related to planning matters, but another service may be able to provide further assistance, in which case the reporter will be signposted to the most appropriate service.

9.3 Not expedient to take further action

Where a breach of control is identified, but it considered as a minor or technical breach with limited impacts. It will most likely be deemed not expedient to take any further action or to invite a retrospective planning application. These cases will be closed, and the reporter notified accordingly.

There is no third-party right of appeal against this decision. The Council will have reached this conclusion in accordance with the National Planning Policy Framework. As detailed above enforcement action is discretionary and so the Council will act proportionately in investigating breaches of planning control and in determining any appropriate action.

9.4 Cases that require additional monitoring

Sometimes, it is not possible to obtain the information regarding a breach of planning control by just one visit (e.g. – alleged commercial vehicle repairs from a residential property, breach of opening hours condition). Further information may need to be obtained from other sources, which may include the reporter. When further investigation has been completed, a decision will be taken either to close the case, due to insufficient information, or to take the matter further by way of formal action.

9.5 Retrospective Planning Application

If it is appropriate to so, and the development or use generally may accord with national and local planning policies, a retrospective planning application submission may be suggested within a specified deadline. If an application is not submitted by the deadline set, then enforcement action may need to be considered. However, formal action will not be taken if it is not expedient, or in the public interest or proportionate to do so.

If an invitation to submit a retrospective application is made, it **does not** guarantee that the application will be granted/approved, only that more formal consideration and public consultation is required. During the application process, alterations to the proposal may be required and appropriate conditions imposed to ensure any changes are made in a timely manner following an approval.

The enforcement investigation will usually go on hold whilst a retrospective application is being considered.

Depending on the nature of the breach, in the event of a refused retrospective application, more formal enforcement action is likely to take place.

9.6 Voluntary Remedial Action

If the unauthorised works are not considered acceptable, a time limited opportunity will be given to address the breach, by either the cessation of the unauthorised use or the removal of the unauthorised development. Failure to comply with this **one request** by the agreed deadline, may result in further action being taken in respect of the breach.

9.7 Formal Action

If the above options have been exhausted or do not apply, or the seriousness of the unauthorised development warrants it, formal action will be taken where it is expedient and in the public interest to do so.

In some cases, the Council may decide to take immediate formal action to stop the more serious breaches from continuing whilst it investigates the matter. This is normally through the serving of Temporary Stop Notice (which lasts for 28 days).

9.8 Prosecution Proceedings

Unauthorised works to a Listed Building, works to trees which are the subject of a Tree Preservation Order (TPO) or in a Conservation Area and the display of an unauthorised advertisement **are criminal offences**. Except for advertisements where the offender will be given the opportunity to remove the advert before prosecution proceedings are considered, the Council will need to consider prosecution proceedings in these cases.

Furthermore, and perhaps most importantly in enforcement proceedings, failure to comply with, or breaching a formal notice is also a criminal offence. **Breaching formal notices will not be tolerated and the Council will actively pursue prosecution in such matters, unless material circumstances indicate otherwise.**

10 DECISION MAKING

10.1 Decisions in respect of planning enforcement action will be taken by the Council's Planning and Development Board. However, the Board will only deal with the most significant cases and it has thus delegated decisions in the majority of matters to appropriate officer under the [Council's Constitution](#).

10.2 Consequently, those matters referred to the Board for a decision will only usually involve:

- Whether, subject to the view of the Head of Legal Services as to whether there is sufficient evidence and it being in the public interest to do so, the Council considers the issue of prosecution proceedings
- Taking Injunctive action
- Serving of a Stop Notice
- Commencement of direct action
- Serving of a Planning Enforcement Order
- Cases referred to it at the discretion of the Head of Development Control in consultation with the Chairman of the Board.

10.3 Initial Decisions

As indicated in the previous section, there are several decisions to be made within the enforcement process. Decisions involving whether a breach of planning control has occurred, the need for additional monitoring, issuing of a Planning Contravention Notice or Community Protection Warning Letter, advice on voluntary remedial action or submission of retrospective planning application will be taken by professional planning officers in consultation with the Head of Development Control and if appropriate, the Head of Legal Services.

10.4 Formal Action

Where a breach of planning control has been established, the expediency of subsequent planning enforcement action will be decided by those planning officers with advice taken from the Head of Legal Services, if appropriate. If it is found that it is not expedient to take formal enforcement action, then the reason for that will be set out in the case file. At this stage the matter may then be referred to another department or external agency, if warranted.

If it is found to be expedient, then the reasons will be set out in an officer's report which will conclude on the most appropriate action to be taken. This report will be circulated to the Chairman and Vice – Chairman of the Planning and Development Board together with the Planning Opposition Spokesperson and the local Ward Members for where the breach is located. If, **within five working days** following notification by officers, any of these Members wishes the case to be referred to the Board for consideration, giving reasons why delegated powers should not be used, then that case will be reported to the next available Board meeting. If there is no such request, the action recommended will then be followed through under delegated powers. This approach replicates the process in the adopted [Scheme of Delegation](#) for the determination of planning and relation applications.

As a consequence, the issue of a Breach of Conditions Notice, Temporary Stop Notice, Planning Contravention Notice, Enforcement Notice, Listed Building Enforcement Notice, Section 215 Notice, Discontinuance Notice (advertisements), Community Protection Notice or a High Hedge Remedial Notice will normally be served under delegated powers.

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11 TYPES OF FORMAL ACTION

Planning Legislation

11.1 Planning Contravention Notice

A planning contravention notice may be issued to allow the Council to require any information we need for enforcement purposes about any operations being carried out, any use of, or any activities being carried out on the land. They can be used to invite recipient(s) to respond constructively to the Council about how any suspected breach of planning control may be satisfactorily remedied.

11.2 Enforcement Notice/Listed Building Enforcement Notice

These are served where the Council is satisfied that a breach of planning control has occurred, and it is expedient to issue a notice because of the harm caused, considering the provisions of the Local Plan and any other material considerations.

Copies of the Notice are served on all persons with an interest in the land. The Notice takes 28 days before it comes into effect. It sets out the requirements needed to remedy the breach and a compliance period. During this 28-day period, before it comes into effect, recipients of the Notice can appeal to the Secretary of State. Details of how to appeal will accompany the notice, a valid appeal suspends the Notice requirements until the determination of that appeal. Non-compliance with an extant Notice is a criminal offence.

11.3 Breach of Condition Notice

This Notice can be served on the developer or occupier when they do not comply with conditions attached to a planning permission. There is no right of appeal to the Secretary of State against a breach of condition notice. The validity of a breach of condition notice, and the propriety of the local planning authority's decision to serve a breach of condition notice, may be challenged by application to the High Court for judicial review.

11.4 Temporary Stop Notice

A temporary stop notice is a powerful enforcement tool. This allows action to be taken very quickly to address confirmed breaches of planning control and can require

activities to cease **immediately**. A Temporary Stop Notice can be served independently of any other notice, unlike a Stop Notice. However, a Temporary Stop Notice can only last for a maximum of 28 days after it is displayed on site and can only be used once. It gives the Council time to investigate the suspected breach of planning control without further harm being caused. It is an offence not to comply with this Notice.

There is no right of appeal to the Secretary of State against the prohibitions in a temporary stop notice. The validity of a temporary stop notice and the propriety of the local planning authority's decision to issue a temporary stop notice, may be challenged by application to the High Court for judicial review.

11.5 **Stop Notice**

This Notice is served where very serious and irreparable harm is being caused by a breach of planning control. The notice can prohibit any or all the activities which comprise the alleged breaches specified in the related enforcement notice. A stop notice **cannot** be served independently of an enforcement notice. The Stop Notice comes into effect no less than 3 days or no later than 28 days after the date which the notice is served. There is no right of appeal to the Secretary of State against the prohibitions in a stop notice. The validity of a stop notice and the propriety of the local planning authority's decision to issue a notice, may be challenged by application to the High Court for judicial review. Even if an appeal is lodged against an enforcement notice, non-compliance with the Stop Notice is an offence. The issue of a Stop Notice carries the risk that the Council must pay compensation should the accompanying Enforcement Notice be quashed at appeal.

11.6 **Injunction**

Following legal advice, Injunctive proceedings will only be considered for the most serious breaches. An Injunction application is dealt with by the High Court or County Court. This is the only action that can be taken against an apprehended breach of planning control (i.e.- a breach that is likely to occur). However, proceedings for an injunction are the most serious enforcement action that a local planning authority can take because if a person fails to comply with an injunction they can be committed to prison for contempt of court. In these circumstances a local planning authority should generally only apply for an injunction as a last resort and only if there have been persistent breaches of planning control over long period and/or other enforcement

options have been, or would be, ineffective. The Court is likely to expect the local planning authority to explain its reasons on this issue.

11.7 Planning Enforcement Order

This form of action can be taken where a person deliberately conceals unauthorised development, where the time limits for acting upon a breach, have passed. An application for a planning enforcement order is made to the Magistrates Court and if granted, enforcement action can still be taken against the breach which has previously been concealed. Planning enforcement orders can only be made where the developer has deliberately concealed the unauthorised development. In these circumstances, evidence that the developer has taken positive steps to conceal the unauthorised development, rather than merely refraining from informing the local planning authority about it, will be required.

11.8 Default Action

Where an Enforcement Notice has not been complied with the Council can enter land to carry out the required works to secure compliance with the notice. There is no requirement to provide notice to the owners or occupiers of the land and anyone who wilfully obstructs the exercise of these powers is guilty of a criminal offence. Further, the Council will look to recover from the person who is then the owner of the land any expenses reasonably incurred by them in undertaking this work.

11.9 Section 215 Notice

This can be served when the condition of land or property is adversely affecting the amenity of the area. The Notice will require the owner/occupier to take necessary steps to remedy the condition of the land or property. Recipients of the Notice do have a right of appeal to a Magistrates Court. Non-compliance with the Notice is an offence. The Council may also use default powers to ensure the terms of the Notice are met.

11.10 Unauthorised Advertisements

The display of any unauthorised advertisements is a contravention of the Town and Country Planning (Control and Advertisements) (England) Regulations 2007 for which prosecution proceedings could be considered if it is in the interest of amenity to public safety. Where advertisements have been displayed with deemed consent,

the Council may still require its removal by issuing a Discontinuance Notice upon which there is a right of appeal. A Discontinuance Notice can only be issued when there is substantial loss of amenity or if there is a danger to members of the public. Other notices can be used to remove smaller breaches of advertisement control.

11.12 **Prosecution**

Failure to comply with any of the above statutory notices is a **criminal offence**. Prosecution is the most common form of initial legal action in these circumstances. The Council will always consider whether there is clear evidence to prosecute for failure to comply with such a notice and whether it is in the public interest to do so. Should it be in the public interest, further legal action will be actively pursued against those who appear to blatantly disregard the notice.

Anti-Social Behaviour & Crime and Policing Legislation

11.13 **Community Protection Notice**

The issue of this Notice can be considered in cases where the unauthorised activity is having an adverse effect on the quality of life of those in the locality; is persistent or continuing in nature, is unreasonable and causing nuisance or harm. This can be used for example where on street unauthorised vehicle repairs are taking place and is causing a detrimental effect on the wider community. It can also be used on cases where reports are received concerning untidy private land.

Prior to the service of a Community Protection Notice, it is necessary practice to issue a Community Protection Warning letter, advising of the problem behaviour or activity and that further action will be considered should the unauthorised activity continue. Both the notice and warning letter can include the requirement to stop doing specific things, a requirement to do specified things and/or a requirement to take reasonable steps to achieve specified results.

If the terms of the warning letter are not complied with, a Notice can be served having due regard to the Equalities Act 2010. If the Notice is not complied with then it is an offence, upon which there are fines. There is a right of appeal within 21 days of issue. There are other powers available relating to this legislation, should the Notice not be complied with, which include the issue of a fixed penalty notices,

remedial action by the Council, obtaining a forfeiture order through courts and seizure of items that have been used in committing the offence.

11.14 High Hedge Remedial Notice

A high hedge remedial notice can require a hedge owner to carry out works to lower the height of the hedge to a specified height and then maintain the hedge so that it does not exceed a specified height. A remedial notice **cannot** require the removal of a hedge or works that by may cause its death or destruction. It's an offence to fail to do what a remedial notice requires. Such an offence is punishable with a fine of up to £1,000. Also, the council can enter the land and carry out the required work.

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12 REVIEW & COMMENTS

- 12.1 The enforcement plan will be reviewed annually and updated when relevant changes in Local or National Planning Policy occurs.
- 12.2 An annual report, prepared by the Head of Development Control will be referred to the Planning and Development Board. This report will identify formal enforcement action taken in the preceding year both under delegated powers and decisions taken by the Board, together with its outcome or, where appropriate, the stage that has been reached in the process. The report will also summarise the performance of the enforcement service as set out in this Plan together with reviewing the need for any change.
- 12.3 North Warwickshire Borough Council is committed to provide a good quality of service in a fair, transparent, and consistent manner. However, it is likely that problems and difficulties may arise occasionally, and any issues relating to the enforcement service should be initially raised by contacting:

The Head of Development Control

Email: planningenforcement@northwarks.gov.uk

Writing: The Council House, South Street, Atherstone, CV9 1DE

13 USEFUL CONTACT INFORMATION

13.1 North Warwickshire Borough Council Services

- Environmental/Public Health
[Public health | North Warwickshire \(northwarks.gov.uk\)](http://northwarks.gov.uk)
- Anti-Social Behaviour
Including –, Graffiti, Litter, Fly tipping, Noise nuisance, Hoax calls, Animal related problems, Rowdy and nuisance behaviour, Abandoned cars, Begging, Intimidation or harassment, Sexual acts, Vandalism, Street drinking, Prostitution, Inappropriate vehicle use, Kerb crawling, Drug misuse/ dealing
[Anti social behaviour | Anti social behaviour | North Warwickshire \(northwarks.gov.uk\)](http://northwarks.gov.uk)

13.2 Warwickshire County Council

- Highways & Waste Transfer
[Report it – Warwickshire County Council](http://warwickshire.gov.uk)
- Trading Standards
[Trading Standards – Warwickshire County Council](http://warwickshire.gov.uk)

13.3 Other External Bodies

- Party Wall Act
[The Party Wall etc Act 1996: explanatory booklet - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- Land Registry (land ownership information)
[Search for land and property information - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- Citizens Advice (Boundary Disputes)
[If you disagree with your neighbour about a wall or fence - Citizens Advice](http://citizensadvice.org.uk)
- Building Control (Shared Service) – Dangerous Structures
[Dangerous structures - Central Building Control Partnership \(centralbc.org.uk\)](http://centralbc.org.uk)
- Health and Safety Executive
[Tell us about a health and safety issue - Contact HSE](http://hse.gov.uk)

13.4 Neighbouring Councils:

1. Tamworth Borough Council
2. Lichfield District Council
3. Birmingham City Council
4. Solihull Metropolitan Borough Council
5. Nuneaton & Bedworth
6. Coventry City Council

7. Hinckley & Bosworth Borough Council
8. North West Leicestershire District Council

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**North Warwickshire
Borough Council**



**Scheme of Delegation to the
Assistant Chief Executive and
Solicitor to the Council
in respect of the Determination
of Planning Applications**

November 2020

1. INTRODUCTION

- 1.1 This Scheme of Delegation enables the Assistant Chief Executive and Solicitor to the Council to undertake certain functions without reporting first to the Council's Planning and Development Board. The legal basis for this delegation from the Board is contained in Section 101 of the Local Government Act 1972, as amended.
- 1.2 In practice, delegation means the Assistant Chief Executive and Solicitor to the Council taking executive action on behalf of the Council. In the delivery of the planning control service, that means determining planning applications, and making decisions on related matters. The 'boundaries' for this delegation are outlined below by clearly stated and published rules.

2. THE PURPOSE OF DELEGATION

2.1 The purpose of delegation is to:

- ❖ leave the Board to focus its time and effort on the most significant matters that affect planning policy;
- ❖ help reduce the time taken for making the more straightforward decisions on planning applications, and related matters, when they are consistent with Council policy as set out in the Development Plan;
- ❖ help the Council to achieve a more flexible and responsive planning control service, so that it can speed up the process of decision making in line with Government guidance, any relevant Performance Indicators and Council objectives;
- ❖ simplify procedures so as to concentrate effort and resources where they are most needed; and
- ❖ release staff time so that it can be redirected to securing better quality development.

2.2 Hence this Scheme of Delegation, by operating within clear guidelines, will be able to deliver planning control decisions which are consistent with the Development Plan, routinely, and with greater speed than where little advantage is taken of delegation.

3. THE CONTEXT OF DELEGATION

- 3.1 This Scheme of Delegation takes into account the following matters which have provided the background against which it has been adopted.
- ❖ **The Development Plan:** The Planning legislation describes the concept of a "plan-led" decision making process, whereby planning decisions should be taken in accordance with the Development Plan. The Council's approach to

new development proposals is thus already laid out in this Plan, and decisions on individual planning applications can be made accordingly.

- ❖ **The Human Rights Act 1998:** This Act requires the Council to act in a way which is compatible with European Convention Rights. This Scheme of Delegation has been prepared in this knowledge.

3.2 The basis for delegation has generally been accepted by all Local Planning Authorities. It has worked successfully in achieving a more flexible service responding to the variety of calls placed upon an Authority's planning control function. The Scheme outlined below will take North Warwickshire Borough Council's planning control service forward with an improved service delivery.

4. THE SCHEME OF DELEGATION

A) Applications

4.1 The following applications that are submitted to North Warwickshire Borough Council for determination, will be decided by the Planning and Development Board, following consideration of a written report from the Assistant Chief Executive and Solicitor to the Council which will contain a written recommendation in all cases:

- a) All applications that constitute material departures from the Development Plan.
- b) All applications that are required to be accompanied by an Environmental Impact Statement.
- c) any application where a request has been made by either the Chair or Vice-Chair of the Planning and Development Board, or the local ward member(s), and when an approval would involve a legal agreement under planning legislation.
- d) All applications that are made wholly, jointly, or on behalf of North Warwickshire Borough Council, whether on Borough Council land or not, and any application that is made on Borough Council land.
- e) All major applications that are made by the County Council, or that are made jointly, or on behalf of Warwickshire County Council whether on its own land or not, within North Warwickshire.
- f) Any application that is submitted by or on behalf of any Member of the Council; a member of the family of a Member or a person with whom there is a close association, and any member of staff employed by the Council.
- g) Any application where a request based on material planning considerations is made in writing to the Assistant Chief Executive and

Solicitor to the Council by any Borough Councillor for referral of that application to the Board.

- h) Any application where the Assistant Chief Executive and Solicitor to the Council considers it appropriate to report to the Board for determination.
- i) Any application where a statutory consultee has submitted an objection in writing, but yet where a recommendation of approval is to be made by the Assistant Chief Executive and Solicitor to the Council.
- j) Any application where, following the receipt of representations that are contrary to the Assistant Chief Executive and Solicitor to the Council's recommendation, and where either the Chair or Vice Chairman of the Planning and Development Board, or the Local Ward Member(s), disagree with that recommendation.

4.2 In all other cases, the determination of applications is delegated to the Assistant Chief Executive and Solicitor to the Council. Each determination shall be accompanied by a written report outlining the reasoning for that determination.

4.3 For the purpose of the Scheme of Delegation, the terms "application" and "Statutory Consultee", are defined in Annexe 'A' to this Scheme.

B) Consultations

4.4 When an application is:

- ❖ submitted to the Warwickshire County Council as the Minerals Planning Authority, or the Waste Local Authority for determination, and North Warwickshire Borough Council has been consulted for its observations on that application, or
- ❖ when an application is submitted to a neighbouring Local Planning Authority for determination, and that Authority has consulted North Warwickshire Borough Council for its observations on that application, or
- ❖ when the Council is consulted by others on matters under legislation other than planning legislation, but where these matters are related to planning considerations, then

the principles outlined in paragraph 4.1 will apply as to whether the observations of the Council shall be made by the Assistant Chief Executive and Solicitor to the Council under delegated powers, or by the Planning and Development Board.

4.5 In all of the above cases, where the observations are forwarded by the Assistant Chief Executive and Solicitor to the Council under delegated powers, then:

- ❖ he will report to the Planning and Development Board on the observations made, and

- ❖ include on the file, the reasoning behind these observations.
- .6 For the purposes of this Scheme of Delegation, examples of the other legislation referred to in paragraph 4.4 is included in Annexe A to this Scheme.

5. MEMBER INVOLVEMENT

5.1 Members and officers work together to determine planning applications. This Scheme of Delegation recognises that there are good reasons for, and advantages in, delegating some decisions to the Assistant Chief Executive and Solicitor to the Council. However, given the high public profile of planning matters, it is inevitable that Members will often become involved in the planning control service during the passage of a planning application through the process. In order to ensure that there is a strong partnership of Members and Officers, but that their respective roles are identified and maintained, the following Best Practice guidelines will be followed:

- ❖ For the purposes of paragraph 4.1 (g) and (j) above, as soon as it becomes apparent that the recommendation of the Assistant Chief Executive and Solicitor to the Council will be contrary to the nature of representations received on any application, then the case officer will contact the Local Ward Member(s), together with the Chair and Vice Chairman of the Planning and Development Board. If no adverse comments are received within seven days, then the matter will be dealt with in line with the Assistant Chief Executive and Solicitor to the Council's recommendation under delegated powers. A record of this contact will be kept on the case file. Contact will be made as early as possible via e-mail, in order to ensure full Member involvement.
- ❖ Ward briefings, either individually or on a group basis, will be held with Members at their request so that they can be kept up to date with applications and their progress towards determination, and other significant 'ward' issues. Current applications and plans can be made available for discussion.
- ❖ All 'significant' applications to be reported to the Board and Ward Members, to enable site visits to be organised at an early stage.
- ❖ Issues and progress reports will be circulated to the Board and Ward Members either by notification or through a report on major and/or sensitive applications, prior to the determination report, so that the material considerations and key matters can be made explicit at an early stage.
- ❖ Regular post-decision site visits to be made to assess the quality of the decision, and to see the implementation of the scheme, so that there can be continuous monitoring of the quality of decision making.

5.2 The procedure outlined above in respect of Member involvement, will also apply to proposed amendments to development proposals.

6. REVIEW DATE

6.1 This Scheme of Delegation will be reviewed by November 2021.

ITEMS FOR CLARIFICATION

A) For the purposes of this Scheme, ‘application’ includes:

applications for:

All types of planning permission
Reserved matters

Discharge, non-compliance or variation of conditions and minor amendments
Advertisement Consent

Listed Building Consent
Conservation Area Consent

Works to Trees subject to Tree Preservation Orders
Hazardous Substances Consent

Hedgerow Removals

Certificates of Lawful Development

Prior Notifications and Determinations in respect of agricultural and telecommunications developments together

Proposed Amendments to previously approved developments.

A) For the purposes of this Scheme, ‘other legislation’ includes:

Forestry Act 1967 Electricity Act 1989 Land Compensation Act 1961 Local Government (Miscellaneous Provisions) Act 1982 Transport Act 1968	eg Felling Licences eg Overhead Lines eg Certificates of Alternative Development
eg Car Boot Sales Notices eg Goods Vehicle Licensing	

B) For the purposes of this scheme, “Consultee” means those organisations referred to in the table contained in Articles 18, 19 and 20, and Schedule 4 to the Town and Country Planning (Development Management Procedure) Order 2015, as amended.

Agenda Item No 6

Planning and Development Board

6 March 2023

Planning Applications

Report of the Head of Development Control

1 Subject

- 1.1 Town and Country Planning Act 1990 – applications presented for determination.

2 Purpose of Report

- 2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.
- 2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.
- 2.3 The proposals presented for decision are set out in the index at the front of the attached report.
- 2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications.

3 Implications

- 3.1 Should there be any implications in respect of:

Finance; Crime and Disorder; Sustainability; Human Rights Act; or other relevant legislation, associated with a particular application then that issue will be covered either in the body of the report, or if raised at the meeting, in discussion.

4 Site Visits

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.
- 4.2 Members are reminded of the "Planning Protocol for Members and Officers dealing with Planning Matters", in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 3 April 2023 at 6.30pm in the Council Chamber

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at:
https://www.northwarks.gov.uk/info/20117/meetings_and_minutes/1275/speaking_and_questions_at_meetings/3.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
6/a	CON/2023/0004	1	<p>Hartshill Sewage Works, Woodford Lane, Hartshill, Nuneaton, Warwickshire, CV10 0SA</p> <p>Installation of 6 Kiosks (TSR MCC Kiosk, TSR Magnetite Kiosk, TSR Poly Kiosk, Main MCC Kiosk, Centrifuge Poly Kiosk and a SAS Poly Kiosk)</p>	
6/b	CON/2023/0003	5	<p>Land on the corner of Merevale Lane, Atherstone</p> <p>To carry out the development permitted by planning permission reference NWB/17CM001 at the Anaerobic Digestion Plant, The Former Shale Tip on land on the corner of Merevale Lane, Atherstone, Warwickshire without complying with Condition 12 of that permission to allow empty delivery vehicles to leave the site between 06:00-07:00</p>	General
6/c	PAP/2022/0206	8	<p>81, Main Road, Austrey, Atherstone, CV9 3EG</p> <p>Outline application for residential development of one dwelling (with all matters reserved)</p>	

6/d	PAP/2021/0395	16	<p>Land At The Southern End Of, Willow Close, Chapel End</p> <p>Outline application with all matters reserved except for the proposed access off Willow Close for up to 29 dwellings with associated landscaping, open space, sustainable drainage system and service infrastructure. (Affecting footpaths N7 and N9).(Land abuts to Willow Close/Alders Lane/Lilleburne Drive and Chancery Lane.) Cross boundary with NBBC 038144</p>	
6/e	PAP/2022/0228	31	<p>Land at Durno's Nurseries. Old Holly Lane, Atherstone</p> <p>Variation of condition 2 of planning permission PAP/2014/0540 dated 18/11/21 relating to revisions to house types and changes to road and footpath design in respect of the demolition of Virginia House and nursery buildings and the erection of 123 dwellings with public open space and associated infrastructure</p>	
6/f	PAP/2021/0238	41	<p>Polesworth Working Men's Club, High Street, Polesworth</p> <p>Change of use of existing function room to provide bed and breakfast accommodation (25 bedrooms) including an additional mezzanine floor and elevation changes</p>	

General Development Applications

(6/a) Application No: CON/2023/0004

Hartshill Sewage Works, Woodford Lane, Hartshill, Nuneaton, Warwickshire, CV10 0SA

Installation of 6 Kiosks (TSR MCC Kiosk, TSR Magnetite Kiosk, TSR Poly Kiosk, Main MCC Kiosk, Centrifuge Poly Kiosk and a SAS Poly Kiosk), for

Warwickshire County Council

Introduction

This application has been submitted to the County Council and it has invited comments from this Council in order to inform its determination of the application.

The Site

These Works are immediately to the north of the West Coast Mainline where it crosses the junction of the Mancetter Road with Atherstone Road and Woodford Lane. The Dobbies Garden Centre is a little way to the west on the other side of Woodford Lane.

The site is illustrated on Appendix A.

The Proposals

These six kiosks would be spread throughout the current site and all are required, it is said, to upgrade the Works so as to improve the quality of the effluent to meet the conditions of a new Permit issued by the Environment Agency. They have different sizes, but all are effectively single storey structures with the same flat roof height of 3.2 metres. The largest would be 28 by 6 metres in footprint and the smallest 8 by 3 metres. All would be constructed in goose wing grey Glass Reinforced Plastic.

The designs and locations are illustrated at Appendices B and C.

Development Plan

North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP29 (Development Considerations) and LP30 (Built Form)

Hartshill Neighbourhood Plan 2017 – H5 (Infrastructure); H9 (Heritage Assets)

Warwickshire Waste Core Strategy 2013 -2028 – CS1 (Waste Management Capacity); CS2 (Spatial Waste Planning Strategy), DM1 (Protection and Enhancement of the Natural and Built Environment) and DM2 (Managing Impacts)

Other Material Planning Considerations

The National Planning Policy Framework

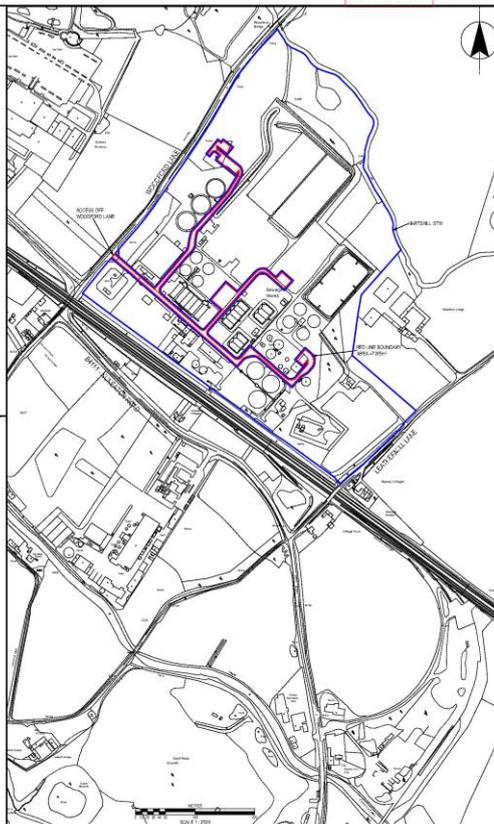
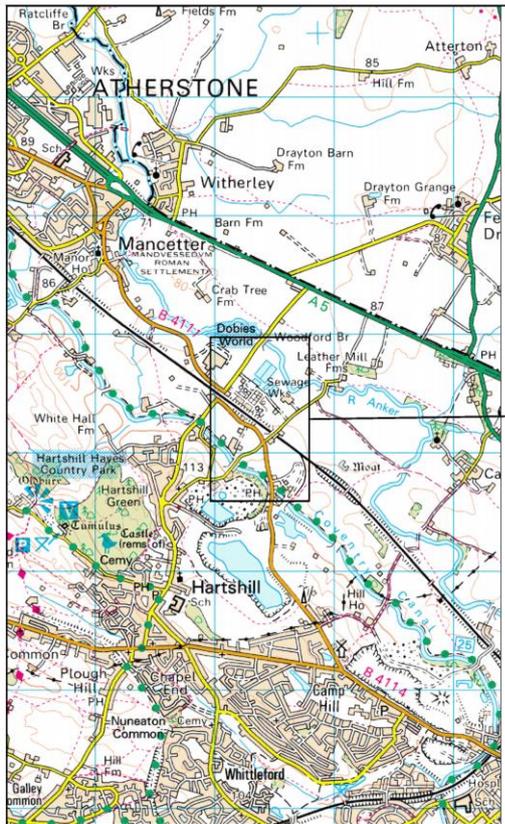
Observations

There is no objection in principle here given that they are operationally needed to provide for the overall benefit of improving the quality of the effluent from these works. The buildings are utilitarian in appearance, but given their location within the setting of a large treatment works; the railway embankment and nearby garden centre there are no material adverse impacts.

Recommendation

That the County Council be informed that there is no objection.

APPENDIX A



DO NOT SCALE
USE WRITTEN DIMENSIONS ONLY

IMPORTANT
HEALTH & SAFETY

THE INFORMATION CONTAINED IN THESE DRAWINGS HAS BEEN PREPARED FOR THE EXCLUSIVE USE OF THE CLIENT AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE CLIENT.

CLIENT: SEVERN TRENT WATER SERVICES LTD
DRAWING NUMBER: 10465
PROJECT: NUNEATON-HARTSHILL STW AMP7 Q WFD GROWTH AND P REMOVAL
DRAWING TITLE: PLANNING DRAWING SITE LOCATION PLAN

DATE: 12/2024
SCALE: 1:50
SHEET: 01 OF 01

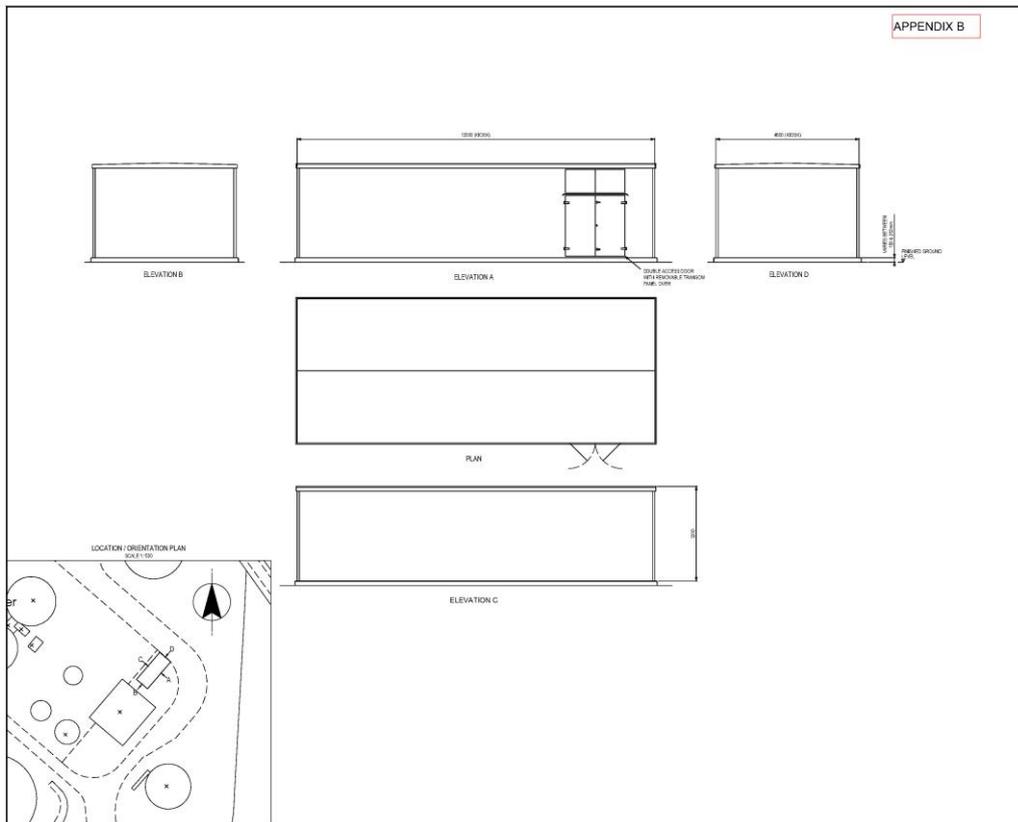
SEVERN TRENT
MWH TREATMENT

SEVERN
TRENT

SEVERN TRUNK 10465
PROJECT: NUNEATON-HARTSHILL STW AMP7 Q WFD GROWTH AND P REMOVAL
DRAWING TITLE: PLANNING DRAWING SITE LOCATION PLAN

AT/S-13396-MWH-ZZ-ZZ-DR-T-00001
SCALE: 1:50
SHEET: 01 OF 01

APPENDIX B



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CLIENT: SEVERN TRENT WATER SERVICES LTD
DRAWING NUMBER: 10465
PROJECT: NUNEATON-HARTSHILL STW AMP7 Q WFD GROWTH AND P REMOVAL
DRAWING TITLE: PLANNING DRAWING SAS POLY KIOSK

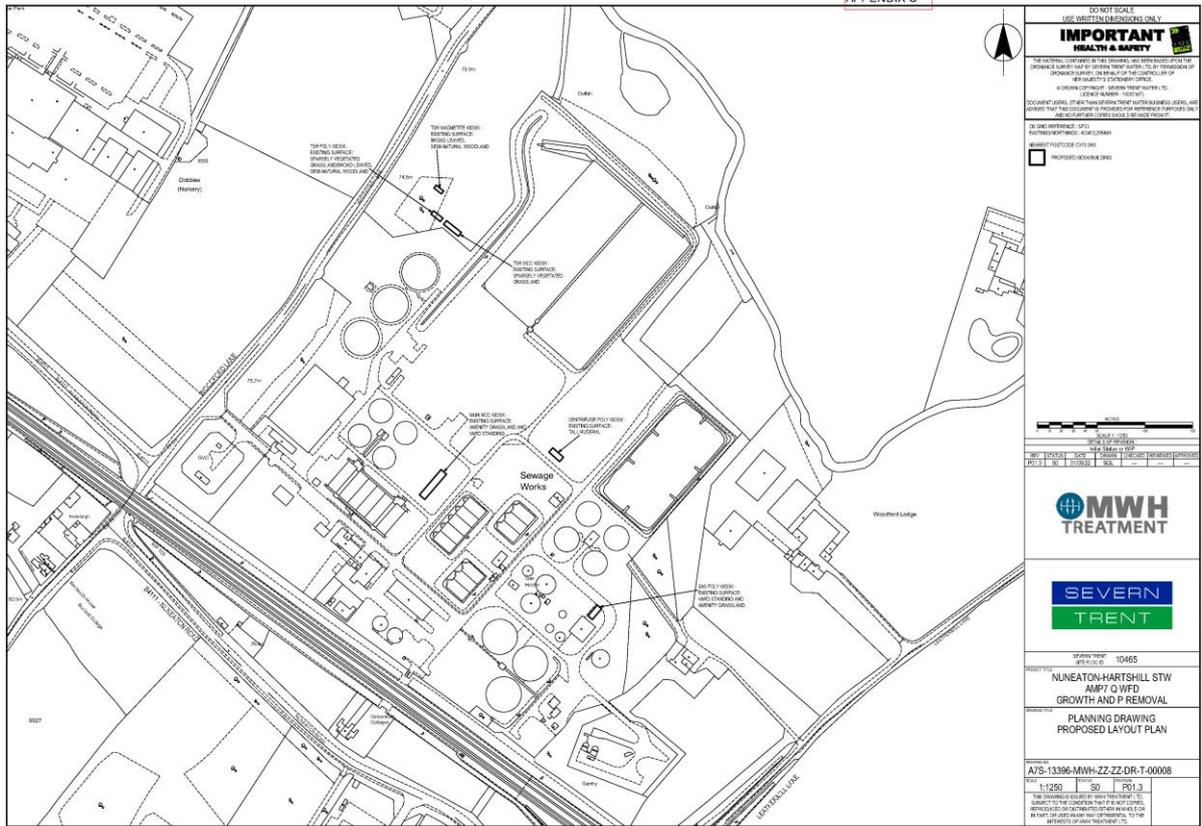
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SHEET: 01 OF 01

SEVERN TRENT
MWH TREATMENT

SEVERN
TRENT

SEVERN TRUNK 10465
PROJECT: NUNEATON-HARTSHILL STW AMP7 Q WFD GROWTH AND P REMOVAL
DRAWING TITLE: PLANNING DRAWING SAS POLY KIOSK

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SHEET: 01 OF 01



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THE INFORMATION CONTAINED IN THIS DRAWING IS THE PROPERTY OF MWH TREATMENT AND SHALL BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED IN THE DRAWING. ANY REUSE OF THIS INFORMATION FOR ANY OTHER PROJECT WITHOUT THE EXPRESS WRITTEN PERMISSION OF MWH TREATMENT IS STRICTLY PROHIBITED.

PROJECT NUMBER: 10465
DRAWING NUMBER: 10465-PP-001

DATE: 10/20/2010

SCALE: 1:1250

PROJECT: NUNEATON-HARTSHILL STW AMP7 Q WFD GROWTH AND P REMOVAL

DRAWING: PLANNING DRAWING PROPOSED LAYOUT PLAN

DATE: 10/20/2010

BY: [Signature]

CHECKED: [Signature]

APPROVED: [Signature]

DATE: 10/20/2010

PROJECT: NUNEATON-HARTSHILL STW AMP7 Q WFD GROWTH AND P REMOVAL

DRAWING: PLANNING DRAWING PROPOSED LAYOUT PLAN

DATE: 10/20/2010

BY: [Signature]

CHECKED: [Signature]

APPROVED: [Signature]

DATE: 10/20/2010

General Development Applications

(6/b) Application No: CON/2023/0003

Land on the corner of Merevale Lane, Atherstone,

To carry out the development permitted by planning permission reference NWB/17CM001 at the Anaerobic Digestion Plant, The Former Shale Tip on land on the corner of Merevale Lane, Atherstone, Warwickshire without complying with Condition 12 of that permission to allow empty delivery vehicles to leave the site between 06:00-07:00, for

Biogen (UK) Ltd

Introduction

This application has been submitted to the County Council and it has invited comments from this Council in order to inform its determination of the application.

The Site

This is the site of the former Baddesley colliery spoil heap on the corner of Merevale Lane and The Common, opposite the site of the former colliery. The site is now used for recycling materials including an anaerobic digester. All vehicular access is from Merevale Lane, as illustrated on the plan at Appendix A.

The Proposals

Planning permission was granted by the Secretary of State in 2010 for the site to be used for, “a sustainable resource recovery park” including recycling facilities as well as an Anaerobic Digester. The site is now in full operation. There have been a number of variations since 2010, and the current condition attached to the AD facility permission, limits the hours of deliveries to and the removal of materials from the site. These are 0700 to 1900 hours on weekdays and 0700 to 1300 hours on Saturdays. There are to be no deliveries to or export of material on Sundays or Christmas Day. However, on named Bank Holidays, between 0800 and 1600 hours there can be deliveries of full vehicles to the site, but only departures from the site of empty vehicles. This is because Bank Holidays are very busy peak periods in the production of food waste and thus there was a need to deliver the waste to the site at these peak times. However only empty vehicles could then leave the site on these named Bank Holidays – between 0800 and 1600.

The proposal is to enable the empty vehicles to leave the site between 0600 and 0800 on these named days.

The applicant is saying that at present, empty vehicles are stored on site overnight. In order that these can begin their collections earlier, it is proposed that they can leave the site earlier and thus return after 0800.

The number of vehicles involved is said to be 2 or 3 and these would be leaving the site in any event after 0800. There is no change proposed to the overall number of movements as these vehicles are already on site overnight and the HGV routing agreement would remain – ie. up and down Merevale Lane.

The applicant adds that the AD facility is enclosed and operates 24/7 and so there would be no “knock-on” effects in terms of production.

Development Plan

The North Warwickshire Local Plan 2021 – LP29 (Development Considerations)
The Warwickshire Waste Core Strategy 2013 to 2028 – DM2 (Managing Health, Economic and Amenity Impacts of Waste Development)

Other Material Planning Considerations

The National Planning Policy Framework

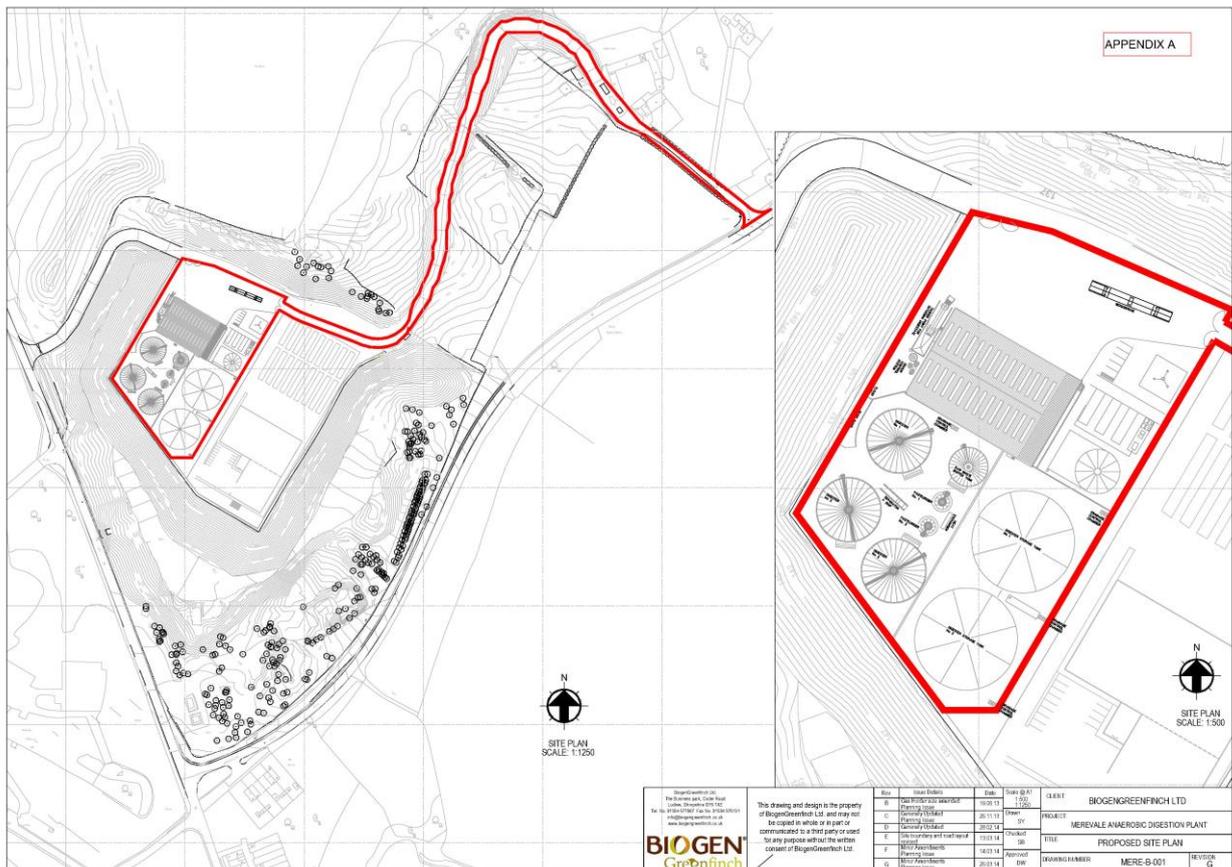
Observations

There are very few residential properties along this stretch of Merevale Lane and there would be no increase in HGV movements, just a limited number leaving the site earlier.

The Environmental Health Officer has been consulted separately and will forward comments directly to the County Council.

Recommendation

That the County Council be informed that there is no objection to the proposal subject to the agreement of the Council’s Environmental Health Officer.



SITE PLAN
SCALE: 1:500



SITE PLAN
SCALE: 1:500

<p>bioengreenfinch.co.uk The Greenfinch Group London SW18 2JG Tel: 020 8750 1234 www.bioengreenfinch.co.uk</p> <p>BIOGEN Greenfinch</p>	<p>This drawing and design is the property of Bioengreenfinch Ltd and may not be copied in whole or in part or communicated to a third party or used for any purpose without the written consent of Bioengreenfinch Ltd.</p>				<p>Rev</p>	<p>Issue Details</p>	<p>Date</p>	<p>Scale @ A1</p>	<p>CLIENT</p>
	<p>A</p>	<p>Issue Details</p>	<p>19/01/13</p>	<p>1:500</p>	<p>BIOENGREENFINCH LTD</p>				
<p>B</p>	<p>DATE PROPOSED/REVISED</p>	<p>26/03/14</p>	<p>1:500</p>	<p>PROJECT</p>					
<p>C</p>	<p>DATE OF ISSUE</p>	<p>26/03/14</p>	<p>1:500</p>	<p>MEREVALE ANAEROBIC DIGESTION PLANT</p>					
<p>D</p>	<p>DATE OF ISSUE</p>	<p>26/03/14</p>	<p>1:500</p>	<p>TITLE</p>					
<p>E</p>	<p>JOB NUMBER AND VERSION</p>	<p>1314_14</p>	<p>001</p>	<p>PROPOSED SITE PLAN</p>					
<p>F</p>	<p>DATE OF ISSUE</p>	<p>14/03/14</p>	<p>Approved</p>	<p>DRAWING NUMBER</p>					
<p>G</p>	<p>DATE OF ISSUE</p>	<p>26/03/14</p>	<p>DW</p>	<p>MERE-6-001</p>					
				<p>REVISION</p>					
				<p>G</p>					

General Development Applications

(6/c) Application No: PAP/2022/0206

81, Main Road, Austrey, Atherstone, CV9 3EG

Outline application for residential development of one dwelling (with all matters reserved), for

Mr Gareth Griffiths

This application is brought to the Board as the Borough Council has an interest in part of the land.

The Site

The site is situated between 53 and 81 Main Road Austrey, where currently there is gap between residential properties. A site location plan is at Appendix A, which includes an indicative siting of the dwelling.

The Proposals

The original submission was an outline application for two houses. That has been amended such that the application before the Board is just for the one house.

The proposal is thus an outline planning application for one dwelling on the piece of land. Plans have been submitted which provide an indication of its siting. As an outline application the layout, scale, access, appearance and landscaping would be formally considered as part of a later reserved matters application if this outline application were approved. Access however is a matter to be agreed at this stage.

Background

The site has no planning history.

Consultations

Warwickshire County Council as Highway Authority – No objection

Environmental Health Officer - No objection subject to conditions.

Warwickshire Tree Officer - No objection to the proposal subject to conditions

Warwickshire County Council Archaeology – No objection subject to conditions

Representations

Austrey Parish Council – It objected to the original application. In short it said that from a highway perspective two accesses on a blind bend would lead to highway danger. The applicant indicates 2.5 storey development, there is little detail to consider. There is no need for more 4 bedroomed properties in Austrey.

Three representations have been received raising the following comments:

- There are surface water drainage issues in the area.
- The height of the dwellings means it will have a dominant impact on 62-66 Main Road (even) detrimentally impacting on privacy.
- Highway safety concerns

The Parish Council and other objectors have been reconsulted on the latest plans for the one dwelling. The Board will be advised of the receipt of any responses at the meeting.

Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Quality of Development); LP2 (Settlement Hierarchy), LP7 (Housing Development), LP15 (Historic Environment), LP29 (Development Considerations), LP30 (Built Form) and LP34 (Parking)
Austrey Neighbourhood Plan 2017 - AP10 (Windfall Development)

Other Material Planning Considerations

The National Planning Policy Framework – (the “NPPF”)

Supplementary Planning Guidance: - The Council’s SPG – A Guide for the Design of Householder Developments – Adopted September 2003,

Air Quality SPD September 2019

Provision of Facilities for waste and recycling for new developments and property conversions SPD - Adopted January 2023

Observations

i) Principle

The site falls inside the development boundary for Austrey, a small village to the north of the Borough and which is identified as a category 4 settlement by Local Plan Policy LP2. This says that within category 1 to 4 settlements, development will be supported in principle, furthermore that category 4 settlements will cater for windfall developments of no more than 10 units. Therefore appropriate, sympathetic windfall development coming forward will meet the Council’s housing needs. As a windfall development of just a single unit within the confines of Austrey, the proposals can be considered appropriate in principle.

ii) Character of the area

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. One of the core planning principles contained within the NPPF seeks to ensure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Design is subjective and open to interpretation and is often quoted as the art of making places for people, a process that is reliant on a number of different but mutually reinforcing objectives. Successful places constitute more than good architecture. It is important to understand the function of a place over time as well as the connections and spaces between buildings will affect the way a place 'feels'.

Here the area in general is of a residential nature with a mix of traditional two storey properties on Main Road. There is an opportunity here to provide one dwelling in keeping with this general form and character and therefore the proposal is not out of character.

iii) Amenity

Local Plan Policy LP29 requires all development proposals to avoid and address *unacceptable* neighbouring amenity impacts. Paragraph 127(f) of the NPPF states that planning decisions should ensure that a high standard of amenity is provided for existing and future users.

The indicative siting of the dwelling indicates that the position of parking and manoeuvring space will not have a detrimental impact on neighbouring properties.

The indicative position of the dwelling also indicates that subject to siting it is not likely to have a detrimental impact on neighbouring properties. The siting of the dwelling is indicated being set back almost 20 metres from the back of the footpath and 45 metres away from the properties on the other side of Main Road. The intervening highway and distance would ensure that the property would not lead to privacy or overbearing issues.

The amenity space provided for the new dwelling is acceptable and it is considered that a good standard of amenity can be provided from the outset. The development, considered as a whole, would accord to policy LP29(9).

iv) Heritage

The Council is under a Statutory Duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This is reflected in Local Plan policy LP15.

The nearest Listed Building is 87 Main Road (The Limes) some 50m south-east of the application. The application site is not contiguous with the curtilage of the Listed Building and so the only impact that would be possible impacts upon its "setting". The NPPF at section 16 paragraph 199 states that *when considering the impact of the proposed development on the significance of the designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset,*

the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

The setting of The Limes is considered to comprise two elements – the “immediate” setting of the building and its “extended setting”. From Main Road, the immediate setting of the building is formed by its frontage with the road and the domestic land in which it sits. The extended setting is considered to be formed by the open area to the rear. Neither the immediate or extended settings are considered to make a particularly high contribution to the significance of the building. The application site is physically and visually separated from the heritage asset. The setting of the Listed Building is considered to be primarily related to Main Road to the east of the application site. The physical redevelopment of the application site, which is to the side of the Listed Building (and not related to its main setting) will, therefore, have a neutral impact on its setting. It is therefore concluded that the proposals represent a less than substantial harm on the listed building and that the impact from the proposals have a neutral impact upon its setting.

Comments have also been received from Warwickshire Archaeology indicating that they have no objection to the proposal subject to an appropriately worded condition.

v) Highway considerations

The development proposals should have particular regard to highway safety, service requirements and the capacity of the local road network and the adopted parking standards. The development is accessed off Main Road, and it is likely to have sufficient space for an access and visibility to meets standards. The car parking is likely to meet the parking standards set out in policy LP34 of the Local Plan, which requires two spaces per dwelling. Despite concerns from representations about visibility and turning, the Highways advice for the proposal indicates that the proposal is acceptable.

vi) Other Matters

It is considered that there are no other unacceptable harms caused. Concerns can be mitigated through planning conditions (see conditions 8 and 9 below).

Conclusion

Residential development within this area is considered to be acceptable in principle subject to conditions. The indicative siting of a property will be within the existing building line which is in keeping in this location and in accordance with the urban grain of the area. Accordingly, the development complies with Policies within the Development Plan and in the absence of any material considerations, the application is recommended for approval.

Recommendation

That planning permission be **GRANTED** subject to the following conditions:

Standard Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the Site Location Plan Revision 01-02 received by the local planning authority on 2nd February 2023.

REASON

To define the permission and for avoidance of doubt.

Pre-Commencement Conditions

- 5) No development shall commence until details of one electric vehicle charging point/bay and a boiler <40mg/kWh is submitted to and approved in writing by the local planning authority. Prior to first occupation of the dwelling hereby approved the electric charging point and boiler shall be installed in accordance with the approved details.

REASON

In the interests of facilitating sustainable travel and reducing air pollution. To achieve sustainable development by reducing emissions in line with Local and National Policy and as set out in the adopted 2019 Air Quality Planning Guidance.

- 6) No development shall commence on site until:

- a) a suitable and appropriate investigation of the site to determine the degree and extent of any contamination present shall be undertaken. This shall establish the impact that any identified contaminants will have on the proposed development and surrounding environs. An assessment of the investigation shall be undertaken by the applicant having regard to current prevailing standards and guidance on the development of contaminated sites. The assessment and investigation findings shall be submitted in a report to, and approved in writing by, the local planning authority prior to the development commencing.

- b) If the investigation and assessment carried out in accordance with section (a) of this condition identify that remedial work is required to facilitate the proposed development, a suitable and appropriate scheme of remediation shall be drawn up by the applicant and submitted to the local planning authority for approval prior to development commencing.

- c) Any proposed and approved scheme in consequence of section (b) of this condition shall be implemented prior to (or subject to the specific agreement of the local planning authority, during the course of) the development taking place. The applicant is required to take steps to ensure appropriate and competent monitoring and supervision of the execution of the approved remediation scheme. On completion a certificate (which shall include a report of the remediation measures implemented) shall be submitted to the local planning authority certifying the satisfactory execution of the approved remediation scheme. The development shall not be brought into use until the local planning authority has approved the submitted certificate and validation report. Any variation of the approved scheme shall only be permitted with the written consent of the local planning authority.

REASON

In order to ensure any necessary special measures or remedial work are satisfactorily carried out in the interest of the health and safety of future users of the land.

7) No development shall commence on site until:

- a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work has been submitted to and approved in writing by the Local Planning Authority.

- b) the programme of archaeological evaluative fieldwork and associated post-excavation analysis and report production detailed within the approved WSI has been undertaken. A report detailing the results of this fieldwork, and confirmation of the arrangements for the deposition of the archaeological archive, has been submitted to the planning authority.

- c) An Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) has been submitted to and approved in writing by the Local Planning Authority. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

REASON

In the interests of the heritage of the area

8) No development shall commence until a drainage plan for the disposal of surface water and foul sewage has been submitted to and approved by the Local Planning Authority. The scheme shall be carried out in conformity with the approved details prior to the first occupation of the dwelling.

REASON

To ensure adequate drainage is provided to the dwelling.

9)

10) No development shall commence until mitigation in respect of existing trees and hedges has been submitted and approved in writing to the Local Planning authority. Any mitigation shall generally be in accordance with the tree report received on the 23 January 2023.

REASON

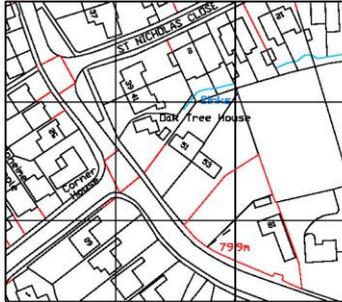
In the interests of the existing trees and hedgerows on the site.

Submission for reserved matters

10) Any reserved matters application shall include details of the finished floor levels of the building hereby approved which shall not exceed 0.15 metres above the existing ground levels, unless otherwise agreed in writing with the express permission of the Local Planning Authority.

REASON

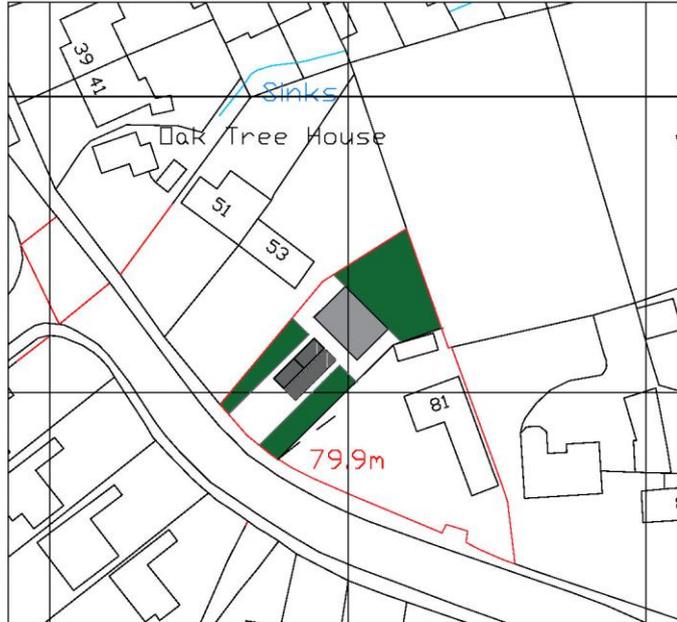
In the interests of the amenity of adjoining occupiers and the visual amenity of the area.



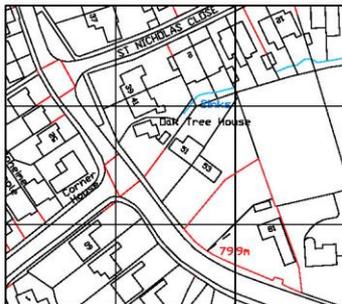
SITE LOCATION PLAN 1:1250

NORTH WARWICKSHIRE
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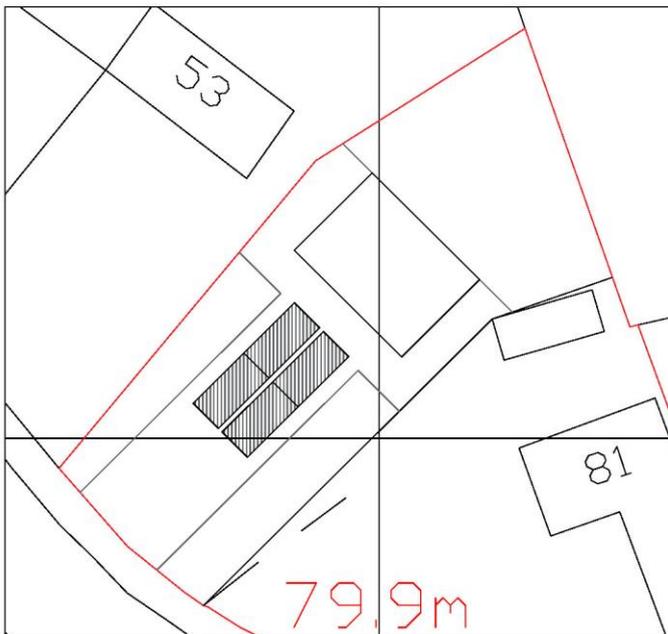


BLOCK PLAN 1:500



SITE LOCATION PLAN 1:1250

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ACCESS AND LAYOUT 1:200

General Development Applications

(6/d) Application No: PAP/2021/0395

Land At The Southern End Of, Willow Close, Chapel End,

Outline application with all matters reserved except for the proposed access off Willow Close for up to 29 dwellings with associated landscaping, open space, sustainable drainage system and service infrastructure. (Affecting footpaths N7 and N9).(Land abuts to Willow Close/Alders Lane/Lilleburne Drive and Chancery Lane.) Cross boundary with NBBC 038144, for

Rosconn Strategic Land

Introduction

An application for the above development has been submitted to the Nuneaton and Bedworth Borough Council – the site being in its area.

However, Members should be aware that an application has also been submitted to this Council because a very small section of land included in the above application is in fact within North Warwickshire. This abuts the Nuneaton site at the point of the proposed vehicular access into that site from Willow Close. It therefore comprises the “crossover” from the proposed cul-de-sac onto Willow Close.

The plan at Appendix A illustrates the two areas of land involved – the main site in Nuneaton and the “crossover” for the access into Willow Close in North Warwickshire. Willow Close is a road adopted by the County Council as Highway Authority. It serves a North Warwickshire Borough Council owned residential development of 29 bungalows occupied by elderly residents.

The Nuneaton and Bedworth Borough Council has recently resolved to grant planning permission for the application in its area subject to completion of a Section 106 Agreement involving wider off-site highway works at the Plough Hill Road/Coleshill Road junction.

As the proposal has cross boundary implications, the matter is referred to the Board.

The Main Site

This comprises 2.14 hectares of open rough pasture bounded on three sides by trees with existing residential development on its fourth at the rear of Lillebourne Close and Chancery Lane. It also backs onto Willow Close. The Bar Pool Brook runs along the southern and eastern boundaries and the land is low lying rising on all sides.

The Proposals

As indicated in the report description, this is an outline application for up to 29 dwellings with all matters reserved except for access which would be solely through the existing cul-de-sac of Willow Close onto the Plough Hill Road about 15 metres south of its junction with the Coleshill Road in Chapel End. It is said that 25% of the dwellings (7) would be affordable units.

An illustrative Master Plan indicates that the proposed housing would be located off a single extended cul-de-sac on the higher ground at the rear of Chancery Lane, with the area alongside the Bar Pool Brook being retained as open space but opened up for general public use. Existing footpath connections would be retained enabling pedestrian access to Alders Lane and to Salisbury Drive – the N8 and N7 paths.

This illustration is at Appendix B.

During the course of dealing with the application, the County Council as Highway Authority raised no objection subject to changes to parking arrangements in Willow Close and to resolution of a Section 106 Agreement affecting works to the Plough Hill Road/Coleshill Road junction.

At present, there are parking spaces along parts of Willow Close. These are shown at Appendix C. None of these are within adopted highway land.

In order to ensure the free flow of traffic through Willow Close into the proposed development the County Council recommended changes to the parking arrangements in Willow Close. These would involve:

- i) Retention of the six spaces between numbers 7 and 23
- ii) Replacement of the seven echelon parking spaces in the lay-by outside 23 with four parallel spaces including a disabled space
- iii) Addition of two spaces in the hammer head outside number 25 and
- iv) Additional spaces opposite number 29 within the main application site.

They are illustrated at Appendix D.

Consultations

Warwickshire County Council as Highway Authority – No objection subject to the parking alterations as set out above together with some road marking on Willow Close to confirm the through road into the main application site. Additionally, the response deals with off-site impacts particularly at the Plough Hill Road/Coleshill Road junction. In essence the response says that some kerb re-alignment at the junction would be adequate but that the preference is for wider improvements to the junction. These would almost certainly remove that kerb re-alignment. The recommendation is thus to make any grant of planning permission subject to completion of a Section 106 Agreement requiring a contribution to the wider scheme. The full letter is at Appendix E.

North Warwickshire Borough Council Housing - There is an objection to the application. They have serious concerns about the proposed development. The creation of the Willow Close scheme in 1980's was to meet the needs of elderly residents in the area. There is a limited supply of these bungalow which are in high demand. These bungalows meet a need to let to elderly and disabled people which should be taken into account. The proposal will be seriously detrimental to our tenants. There is sufficient on-street parking for ease of access and the amendments would reduce the parking available. Given the concerns expressed, the application should be refused. The full letter is at Appendix F.

For information there were no objections submitted to the Nuneaton and Bedworth Borough Council in respect of the main application from the Environment Agency, the County Council as Lead Local Flood Authority and as Public Rights of Way Authority as well as the County Archaeologist and the Nuneaton Waste officer.

Representations

At the time of the original submission, four individual objections were received from residents in Willow Close together with a petition with signatories from fifty residents in Willow Close and Lillebourne Close referring to the following matters:

- Disturbance to residents in an elderly persons' development
- Greater pressure on the highway network that is already over- capacity.
- Construction traffic will have to come through Willow Close
- The site often floods
- Local infrastructure is already over-subscribed
- Loss of green space

These representations were also recorded by the Nuneaton and Bedworth Borough Council in its consideration of the main application.

It is understood that the Nuneaton and Bedworth Borough Council has not re-consulted residents in Willow Close as a consequence of the County Council's recommendations to amend the parking arrangements. This has however been undertaken by North Warwickshire officers.

This has resulted in an additional 10 objections at the time of writing this report. They raise the following concerns

- Negative effect on close knit neighbourhood which is safe and contained for its elderly and disabled residents.
- Many residents are disabled with health issues including mobility and breathing difficulties
- Greater pressure on the highway network that is already over- capacity.
- There is a huge parking issue in Willow Close especially around school drop off and pick up time.
- Construction traffic will have to come through Willow Close
- Emergency vehicles access is required daily for the elderly, this includes carers who visit daily up to 3 times per day.
- The proposed parking spaces are some distance making it difficult for residents to use them practically.
- The Hartshill Transport Study shows the roads off Willow Close are already over-saturated.

Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP9 (Affordable Housing Provision), LP14 (Landscape), LP16 (Natural Environment), LP29 (Development Considerations), LP37 (Housing Allocations) and LP38 (Reserve Housing Sites)

The Hartshill Neighbourhood Plan 2017 – H4 (Good Quality Design); H5 (Infrastructure), H6 (Housing Mix), H7 (Traffic) and H8 (Local Wildlife)

Other Material Planning Considerations

The National Planning Policy Framework 2021 – (the “NPPF”)

Observations

The remit of the Board here is limited to that part of the main application that is on land within North Warwickshire – namely the access connection from the proposed cul-de-sac into Willow Close. In practice therefore, the grant of planning permission here would enable the main development within Nuneaton’s area. That Council has supported the principle of that development proceeding. The Board therefore will need to consider the impact of that development, if it were to go ahead.

The main consideration here is the impact on the residential amenity of the existing residents in Willow Close as a consequence of the additional vehicular and pedestrian traffic and activity generated by that development.

Local Plan policy LP29 (9) says that development should “avoid and address unacceptable impacts on neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution”. Policy H4 of the Hartshill Neighbourhood Plan says that developments should preserve and enhance the locally distinctive built environment and have no significant adverse impact on residential amenity for existing and future residents. These policies reflect the content of the NPPF in paragraph 130 (f) which says that new developments should “create places that are safe, inclusive and accessible and which promote health and well-being with a high standard of amenity for existing and future users, and where crime and disorder and the fear of crime do not undermine the quality of life or community cohesion and resilience”.

The small estate at Willow Close comprises 29 bungalows for occupation by the elderly managed by the Borough Council. It is fully occupied at the present time. The Council’s Housing Officers report that it is valued location and that there is a waiting list for future occupation. It is a cul-de-sac with limited traffic movements and with direct pedestrian access either onto Plough Hill Road or the Coleshill Road in order to access local services. As such the character and ambience of the cul-de-sac is materially different to that of the surrounding areas.

The proposal will impact on this character for the following reasons:

- a) Willow Close itself will become a much longer cul-de-sac and all of the traffic associated with 29 new houses would have to pass through the existing estate – occupiers, visitors and deliveries.

- b) As that development is for family housing, the traffic movements generated would be far greater than that from the existing Willow Close development and likely to be concentrated into morning and evening peak hours. Throughout the day it is indicated that the proposal would lead to an additional 131 vehicles movements (07:00-19:00). Movements in the morning peak would equate to around 15 movements (08:00-09:00) and in the evening peak these would be around 14 movements (17:00-18:00).

Table 2 – Proposed Trip Rates and traffic generation (29 dwellings)

	Trip Rate			Traffic Generation		
	Arrivals	Departures	Total	Arrivals	Departures	Total
08:00-09:00	0.129	0.381	0.510	4	11	15
17:00-18:00	0.341	0.140	0.481	10	4	14
07:00-19:00	2.242	2.263	4.505	65	66	131

- c) The increase in traffic passing through Willow Close will necessitate changes to the nature and character of that length of road as evidenced by the County Council’s recommendations.
- d) This will result in greater traffic speeds.
- e) There will also be greater pedestrian and cycle access through Willow Close in order to access the local services on Coleshill Road and the local schools and surgery.

It is considered that these impacts will cumulatively be material as they change the character and ambience of the existing cul-de-sac – the setting and the sense of place will change.

The Council is also under a Public Sector Equalities Duty to consider the impact of decisions on different groups of the population. In this case the impact will be wholly on one group – the elderly some of whom are disabled. It therefore becomes a material planning consideration in this case. Here that has to be given substantial weight because of the existing character of the cul-de-sac; the number of people affected, the material change in traffic movements, increased speeds and overall human activity. In this case too, the sense of community established over time in the cul-de-sac would be materially changed.

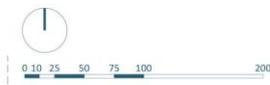
Recommendation

That planning permission be **REFUSED** for the following reason:

“It is considered that the proposal would not accord with Policy LP29(9) of the North Warwickshire Local Plan 2021 nor Policy H4 of the Hartshill Neighbourhood Plan 2017 as supplemented by para 130 of the National Planning policy Framework 2021. The proposal if approved, would enable vehicular and pedestrian access into a cul-de-sac wholly occupied by elderly people. The increased vehicular and pedestrian activity would give rise to adverse impacts which would materially change the character and sense of place and community in the existing cul-de-sac. These impacts could not be overcome by planning conditions or mitigation measures.”



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Please read this drawing in conjunction with the specification.
Check all the dimensions prior to any construction.
Refer any discrepancies found to the Architects.

Revisions

Contact + Location
T 01914 824503
E info@lfa-architects.co.uk
Lawrence & Finlay Architects Ltd
22 Howard Street,
Leicester LE1 1JG,
Leicestershire, LE1S 2AD

Details
Client: Leicestershire Strategic Land
Job Title: Land Off Wilford Close, Nuneaton
Job Type: New Residential Development
Drawing Title: Location Plan
Job Number: 279
Drawing Number: 12503
Status: PLANNING



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11/02/2022
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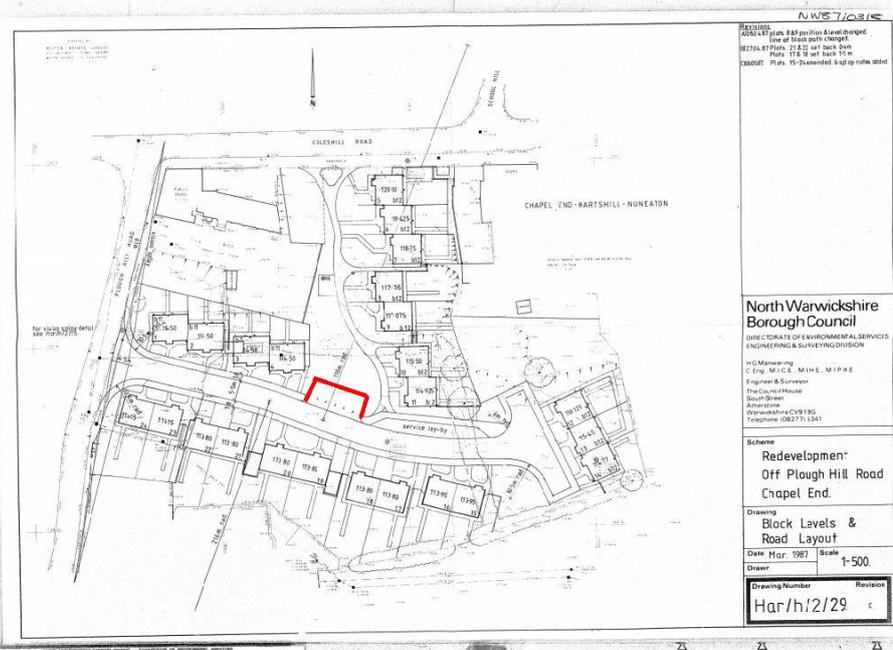
Revisions
A. Revised in Line With Highways Comments 06/02/2022

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Lawrence & Finlay Architects Ltd
22 Howard Street,
Leicester LE1 1JG,
Leicestershire, LE1S 2AD

Details
Client: Leicestershire Strategic Land
Job Title: Land Off Wilford Close, Nuneaton
Job Type: New Residential Development
Drawing Title: Illustration Masterplan
Job Number: 279
Drawing Number: 12503
Status: PLANNING



APPENDIX C



NWS 7/03/15
 1:2500
 100% of the 442 possible A-level changed
 100% of the 442 possible B-level changed
 100% of the 442 possible C-level changed
 100% of the 442 possible D-level changed
 100% of the 442 possible E-level changed
 100% of the 442 possible F-level changed
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 100% of the 442 possible X-level changed
 100% of the 442 possible Y-level changed
 100% of the 442 possible Z-level changed

North Warwickshire
 Borough Council
 DIRECTORATE OF ENVIRONMENTAL SERVICES
 ENGINEERING & SURVEYING DIVISION
 G. Mansfield
 C. Eng. M.C.E., M.I.N.E., M.I.P.E.
 Engineer & Surveyor
 The Council House
 South Street
 Atherstone
 Warwickshire CV9 1BS
 Telephone (0273) 3241

Scheme
 Redevelopment
 Off Plough Hill Road
 Chapel End.

Drawing
 Block Levels &
 Road Layout

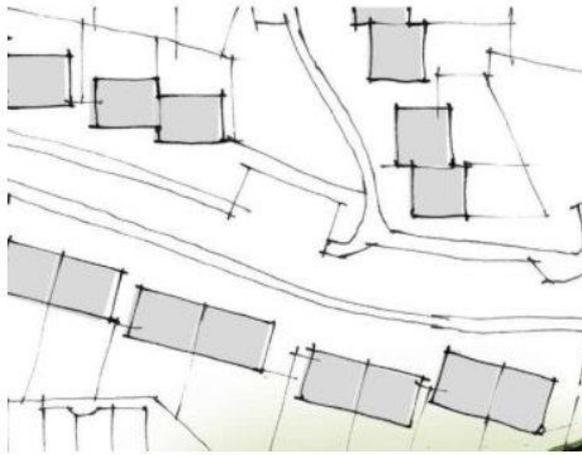
Date: Mar 1987 Scale: 1:500
 Drawing Number: Har/h/2/29 Revision: c



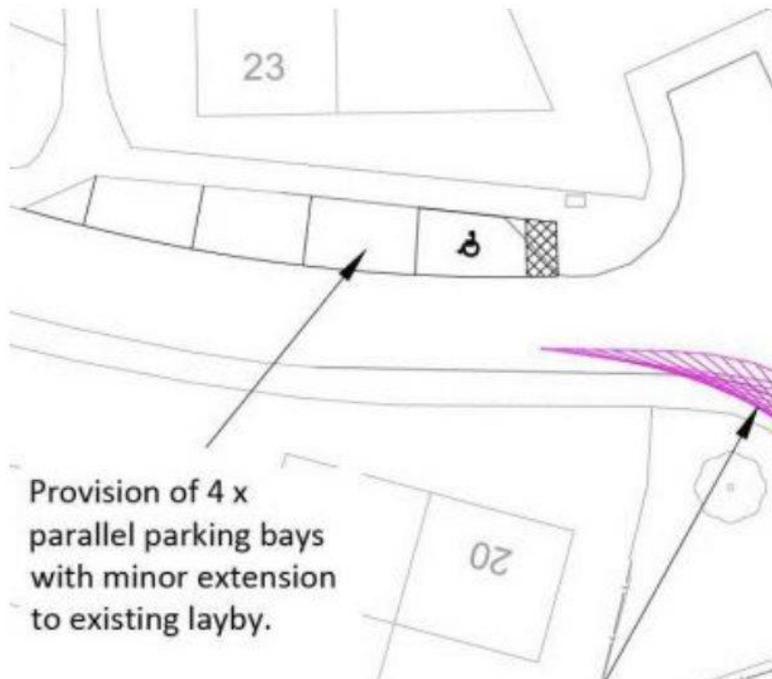
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APPENDIX D

- i) Retention of the six spaces between numbers 7 and 23



- ii) Replacement of the seven echelon parking spaces in the lay-by outside 23 with four parallel spaces including a disabled space



- iii) Addition of two spaces in the hammer head outside number 25 through the creation of this white lining will also allow for two spaces at the end of the hammerhead outside 25 Willow Close shown above



- iv) Additional spaces opposite number 29 within the main application site.



APPENDIX E

Your ref: PAP/2021/0395
My ref: 210395



Communities

Shire Hall
Warwick
CV34 4RL

Tel: (01926) 412359
chrislancett@warwickshire.gov.uk
www.warwickshire.gov.uk

Mr J Brown BA Dip TP MRTPI
Head of Development Control Service
The Council House
South Street
Atherstone
CV9 1DE

FAO: Andrew Collinson

19th January 2023

PROPOSAL: Outline application with all matters reserved except for the proposed access off Willow Close for up to 29 dwellings with associated landscaping, open space, sustainable drainage system and service infrastructure. (Affecting footpaths N7 and N9).(Land abuts to Willow Close/Alders Lane/Lilleburne Drive and Chancery Lane.)

LOCATION: Site25C011 - Land rear of Lilleburne Drive", Nuneaton (to the rear of Willow Close/Alders Lane/Lilleburne Drive and Chancery Lane Nuneaton.)

Warwickshire County Council, hereby known as the 'Highway Authority', has undertaken a full assessment, of the planning application, at the request of North Warwickshire Borough Council in its capacity as the Local Planning Authority.

Since the initial submission the Highway Authority has had multiple discussions, meetings etc with the applicant/ transport consultant to overcome the various concerns raised throughout the process.

Amended plans have been submitted to show how the access would be laid out regarding the existing turning head on Willows Close to show the proposed access would be a continuation of Willow Close with the northern area of the turning head creating a northern spur. Indicative lining has been shown on the provided plans to show the centre line and continuation line and swept paths have been provided for this layout.

A Forward visibility splay of 19 metres is proposed around the bend on Willow Close which is considered to be acceptable. The environment of Willow Close should reduce speeds and the layout of the internal spine road could be utilised to also help reduce speeds exiting the development. This can be further agreed during future reserved matters applications.

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*Working for
Warwickshire*

6d/25

It has been confirmed that NBBC would be responsible for the collection of waste on the site and swept path analysis has been provided to show the vehicle used by NBBC.

Swept path analysis has been provided to show that 2 MPVs would be able to pass each other around the bend on Willow Close and it has also been shown that 2 vehicles could park in the northern spur and manoeuvre within the spur without reversing into Willow Close.

Echelon parking currently occurs within the lay-by on Willow Close. To ensure that this does not result in carriageway narrowing close to the bend it has been confirmed that formal parallel bays will be marked out within the lay-by, including 1 disabled bay. To accommodate the loss of parking additional lay-by parking will be provided within the proposed site close to the northern boundary. It is likely that the existing lay-by is used by Nos. 9-23 in addition to the allocated parking further to the west. The replacement parking could therefore result in residents, visitors etc being required to walk an additional 100 metres to the dwellings. Whilst this may not result in a highway safety concern it could affect the amenity of those residents.

Also to consider is Nos. 25-29 as no parking is currently provided for those dwellings. During various site visits vehicles have been parked on-street fronting these dwellings. These parked vehicles could obstruct the free flow of traffic into/ out of the proposed development, it is therefore proposed to provide off-street parking allocated to these dwellings within the development site in order to provide a suitable and attractive parking area for these dwellings to use.

A stage 1 Road Safety Audit has been carried out and reviewed by WCCs Safety team. The audit team identified 1 problem and 2 considerations. All 3 of these related to the lack of formal pedestrian crossings serving the proposed parking for Nos. 25-29 and within the internal layout. Amended plans have been submitted to show a formal crossing at the site access serving the parking area and additional crossing points within the site will be considered as part of any future reserved matters application.

The initial modelling carried out was based off flows obtained in 2020. Since that time the Highway Authority has updated its Hartshill/ Plough Hill area. As a result, the Highway Authority required the modelling to be redone with the updated flows. The updated modelling shows that the Plough Hill Road/ Coleshill Road is overcapacity in the reference case, i.e. as existing, so there is no spare capacity for any additional development that would create trips through this junction. Once the development trips were added both the delays and RFC increased significantly such that the development would have an unacceptable cumulative impact on the public highway.

Following this the applicant/ transport consultant have put forward a mitigation scheme at the junction in order to mitigate the development impacts. The proposed scheme has been modelled in PICADY and shows that both the delays and RFC would be reduced over the base without the scheme or development. The proposed scheme would

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therefore suitably mitigate this developments impacts and also provide a minor improvement to the base arrangement, although the junction would still be over capacity. Whilst the mitigation scheme identified is shown by the modelling to mitigate this development the Highway Authority has been working hard in the background to identify a wider improvement scheme to improve the overall capacity of the junction to accommodate the various allocated sites within the area with spare capacity for additional windfall sites. The Highway Authority would therefore prefer a S106 contribution to the wider highway improvement scheme rather than minor changes to the highway.

Based on the appraisal of the development proposals and the supporting information in the planning application the Highway Authority submits a response of **no objection**, subject to the following conditions:

1. The development shall not be occupied until the proposed access, white lining, pedestrian crossings and alterations to the existing lay-by on Willow Close have been laid out and constructed in general accordance with the approved plan 21507-01-2 Rev C, and shall be constructed in accordance with the Highway Authority's specifications.
2. The construction of the estate roads serving the development including footways, verges and footpaths shall not be other than in accordance with the standard specification of the Highway Authority.
3. No dwelling shall be occupied until the estate roads (including footways) serving it have been laid out and substantially constructed to the satisfaction of the Highway Authority in accordance with the details approved in writing by the Local Planning Authority.
4. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and Local Highway Authority. The Construction Management Plan shall be strictly adhered to and shall provide for: the anticipated movements of vehicles; the parking and loading/unloading of staff, visitor, and construction vehicles; the loading and unloading of plant and materials; the storage of plant and materials used in constructing the development; a turning area within the site for construction vehicles; wheel washing facilities and other measures to prevent mud/debris being passed onto the public highway; a construction phasing plan; and a HGV routing plan.
5. The development shall not be occupied until the allocated off-street parking for Nos 25-29 Willow Close and unallocated replacement lay-by parking as indicatively shown on drawing 178 10 Rev A have been provided and shall be thereafter retained for those purposes.

Notes:

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6d/27

- a) Condition number 1 requires works to be carried out within the limits of the public highway. The applicant / developer must enter into a [Minor] Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works. The applicant / developer should note that feasibility drawings of works to be carried out within the limits of the public highway which may be approved by the grant of this planning permission should not be construed as drawings approved by the Highway Authority, but they should be considered as drawings indicating the principles of the works on which more detailed drawings shall be based for the purposes of completing an agreement under Section 278.

An application to enter into a Section 278 Highway Works Agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution.

Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less ten days, notice will be required. For works lasting longer than 10 days, three months notice will be required.

- b) Condition numbers 2-3 require that the estate roads including footways, verges and footpaths are designed and laid out in accordance with the principles set out in the Warwickshire County Council Design Guide and constructed in accordance with the Highway Authority's standard specification. The developer is advised that they should enter into a Highway Works Agreement with the Highway Authority made under Section 38 of the Highways Act 1980 for the adoption of the roads.

The approval of plans for the purposes of the planning permission hereby granted does not constitute an approval of the plans under Section 38 of the Highways Act 1980.

An application to enter into a Section 38 Highway Works Agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

Section 39 of the Road Traffic Act 1988 requires local authorities to take such measures as appear to the Authority to be appropriate to reduce the possibilities of accidents when new or improved roads come into use. In submitting plans for the approval of the above proposal the developer is advised that an independent stage 1 safety audit of the proposals must be provided to satisfy the requirements of the Act.

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- c) Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow – so far as is reasonably practicable – from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.
- d) Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness.

S106 requests:

1. A sum of £xxxx to be paid pre-occupation of the first dwelling to contribute towards the identified improvement scheme at the Plough Hill Road/ Coleshill Road junction.

At present, this is being calculated by colleagues in Transport Planning based on the impact of the development on this scheme. This information will be provided in due course.

Yours sincerely

Chris Lancett

Chris Lancett
Development Group

****FOR INFORMATION ONLY****
COUNCILLOR TROMANS – GALLEY COMMON
COUNCILLOR BELL – HARTSHILL & MANCETTER

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APPENDIX F



North Warwickshire
Borough Council

Angela Coates BA Hons MCIH
Director(Housing)
The Council House
South Street
Atherstone
Warwickshire
CV9 1DE

Jeff Brown
Head of Development Control
North Warwickshire Borough Council

Switchboard : (01827) 715341
Fax : (01827) 719225
E Mail : angelacoates@northwarks.gov.uk
Website : www.northwarks.gov.uk

By e-mail

This matter is being dealt with by: Angela Coates
16th February 2023

Dear Mr Brown,

PAP 2021 395 – Land at Southern End of Willow Close

I have been made aware by your team of a planning application for a residential development in Nuneaton which requires access through the Council's small residential estate of bungalows for elderly people at Willow Close, Hartshill.

The Housing Division has serious concerns about the intention of the developer to bring all of the traffic for the 29 new homes planned through Willow Close and the County Council Highway Authority's acquiescence in allowing them to do so. I should note that Warwickshire County Council has not contacted the Housing Division to consult us on their proposal to change the road layout on our estate. Given this I will be contacting them to ask for a meeting so that I can discuss my concerns about their proposal.

In the late 1980's the Council created this small scheme of bungalows to meet the need of elderly residents in this area. Until this estate was developed their needs were not met and whilst the bungalows that became available filled the immediate gap they have also continued to do so in the long term because Government regulations have generally prevented the Council from developing more properties of this type in the area. Given that these properties have been and will continue to be let to elderly and disabled people the Housing Division is asking for decisions taken on this planning application to take their needs into account. We need to protect their health and their welfare. We also need to ensure that they have good access to their homes. The proposal to bring traffic from a large development of family homes through our small estate and on to two busy junctions will be seriously detrimental to our tenants. We anticipate queuing traffic as a regular occurrence outside our bungalows on the edge of the estate. We are also concerned about increased risks to pedestrians as a quiet cul-de-sac of bungalows is turned into a busy area for transgressing traffic.

Whilst there is no designated parking on our estate there is generally sufficient on street parking for ease of access in front of each bungalow (very important for elderly and disabled residents) and in laybys for visitors. Warwickshire County Council's plans to change the road layout will change these arrangements to the detriment of our tenants. It will reduce the parking available at the same time as introducing more traffic through the estate with the likelihood that residents and visitors to the new development will create a new demand and will park on our estate and the new one.

Given the concerns expressed above we are requesting that the applications is refused.


Angela Coates
Director of Housing

Chief Executive: Steve Mayes BA (Hons) Dip LC Solicitor

General Development Applications

(6/e) Application No: PAP/2022/0228

Durnos Nurseries, Old Holly Lane, Atherstone, CV9 2HD

Variation of condition no: 2 of planning permission PAP/2014/0540 dated 18/11/2021 relating to revisions to house types and changes to road and footpath design, in respect of Demolition of Virginia House and nursery buildings and erection of 123 dwellings with public open space and associated infrastructure, for

Bloor Homes Ltd

Introduction

This case is reported to the Board because the applicant is offering a Unilateral Undertaking with the County Council in respect of a highway matter.

The Site

The site is the former nursery located immediately to the north of a recently completed residential estate with access from Old Holly Lane, to the north of the town. This is illustrated at Appendix A.

The Proposals

Planning permission was granted here in late 2021 and the current application seeks a variation of condition 2 in respect of the approved drawings under Section 73 of the 1990 Planning Act. These variations cover two main elements:

- A substitution of some house types so as to reflect the applicant's current range
- Changes to the layout so as to respond to the Highway Authority's latest design requirements in order to enable the subsequent adoption of roads and footways.

The approved layout is at Appendix B and that now proposed is at Appendix C.

Background

The planning permission was accompanied by a Section 106 Agreement. There is a specific clause therein – Clause 20 on page 14 – which states that in the event of a planning permission being granted under Section 73, references within the 106 Agreement shall be deemed to include any such subsequent development. As such, the Section 106 Agreement is applicable to and will not need to be revised as a result of this Section 73 application if it is approved.

The Undertaking referred to in the Introduction above relates to a new matter directly attributable to the proposed change to the layout so as to accommodate a change in the Highway Authority's design requirements since the submission of the original application. It can thus be dealt with separately outside of the 106 Agreement.

Representations

As indicated below in the consultation section, there have been a number of layout alterations since submission in order to accommodate highway requirements. As such there has been re-consultation. The main issues raised have been consistently raised through this process. The representations received are now summarised.

Eight objections have been received. These fall into four main areas:

- Trees have been removed thus exposing the development to existing occupiers to the south in Panama Drive. No adequate replacement is proposed
- The proposals replace some single storey dwellings with two storey houses thus affecting residential amenity
- There are queries about the drainage arrangements.
- Potential trespass onto existing residential property.

A letter has been received from the agents acting on behalf of the Merevale Estate who own the land to the north of the site and which benefits as part of a much larger area, from an outline residential development for 600 plus houses. The letter supports the proposed layout. It points out that the Estate and Bloor Homes have agreed a Collaboration Agreement in order to ensure relevant infrastructure connections are made between the two sites. The letter requests that the connection should be safeguarded and not prejudiced.

Atherstone Town Council - It had no comments to make throughout the re-consultation process.

Consultations

Warwickshire County Council as Highway Authority – No objection subject to conditions following a series of amendments

Warwickshire County Archaeologist – A Written Scheme of Investigation has been submitted separately and can be approved.

Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP29 (Development Considerations) and LP30 (Built Form)

Other Material Planning Considerations

The National Planning Policy Framework 2021

Observations

The principle of residential development here by 123 dwellings has already been agreed by virtue of the recent consent. Similarly, the extant Section 106 Agreement is not open to revision. The Board's remit here to is look at the detail of the revisions to house types and to layout.

In terms of the house types then the applicant wishes to substitute those that were approved with a range that is now up to date and within his current portfolio of house types. Those approved in 2021 were in fact as submitted several years beforehand and are not now being built by the applicant.

The approved range of market house types includes 6, 2-bed units, 36, three-bed units and 37, four- bed dwellings. The approved scheme had 7, 2-bed units, 29, three-bed units and 43 four-bedroom dwellings.

There is no change to the provision of on-site affordable housing at 37% – 22 rented units and 22 shared-ownership units. This percentage and tenure split remains as approved in 2021.

There is no objection to the new range of house types as they align in general with the surrounding residential environment.

The proposed layout safeguards the connection through to the land to the north and is now agreed by the Highway Authority. This is critical if the land to the north is to be connected – i.e., an adopted road connecting with an adopted road.

In respect of the matters raised locally, then the planning permission from 2021 did involve the removal of the trees along the common boundary with the rear gardens of those properties in Panama Drive. The boundary would now be marked by a close boarded fence – again as previously approved. It is agreed that five single storey houses would be replaced by two storey development. The separation distances between the two rear elevations meets the standard guidance that the Council uses. This replicates the distances already approved elsewhere along this boundary.

The applicant has responded directly to the query about drainage details providing a factual explanation.

Members will know that ownership matters are not material planning considerations and are to be dealt with privately.

The Undertaking referred to above is a payment of £3000 to the County Council, to cover the making of a Traffic Regulation Order to place a 20mph speed limit throughout the layout that is to be adopted.

Recommendation

That subject to the completion of the Undertaking as described in this report, planning permission be granted subject to the following conditions:

1. Standard three year condition
2. Standard plan numbers condition – M1096/LOC/01, LS/001L, 002K, 003K, 004K, 005K, 006H, 007C, M1096/PD/300D, 002L, M1096/SL/004K, 302X, 800E together with the Atherstone S73 Revised House types received on 9/1/23, the recommendations of the Flood Risk Assessment referenced 10137/FRA/01 and the Archaeological Written Statement of Investigation prepared by Orion Heritage dated March 2022.

Pre-Commencement Conditions

3. No development shall commence onsite, other than demolition, until such time as an intrusive site investigation based on the submitted Phase One Assessment has been undertaken and submitted in writing to the Local Planning Authority. This submission shall include proposed mitigation and remediation measures based on the investigation. Work may only then commence on site in full accord with the content of all mitigation and remediation measures as approved in writing by the Local Planning Authority.

REASON:

In the interests of reducing the risk of pollution.

4. If any contamination or adverse ground conditions are found following the commencement of work, then all works shall cease and a further site investigation and assessment shall be undertaken so as to propose further mitigation and remediation measures. Work shall then only recommence on site and in full accord with the content of the written approval of further measures as approved in writing by the Local Planning Authority.

REASON:

In the interests of reducing the risk of pollution.

5. Within three months of the completion of all of the approved mitigation and remediation measures approved under conditions (3) and (4), a verification report shall be submitted to the Local Planning Authority to order to verify that those measures have been completed in full.

REASON:

In the interests of reducing the risk of pollution.

6. No development, other than demolition, shall commence on site until a detailed surface water drainage scheme for the site based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be fully implemented on the site.

REASON:

In the interests of reducing the risks of flooding and pollution. In view of the archaeological finds on the adjoining site.

7. No development, other than demolition, shall commence on site until a detailed scheme for the disposal of foul water from the site has first been submitted to and approved in writing by the Local Planning Authority. Only the approved scheme shall then be implemented on the site.

REASON

In the interests of reducing the risk of pollution

8. No development other than demolition shall commence on site until such time as a scheme for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes at the site has been submitted to and approved in writing by the Local Planning Authority. The development shall then not be occupied until the scheme has been implemented in full to the written satisfaction of the Local Planning Authority.

REASON:

In the interests of public safety.

9. No development, other than demolition, shall commence on site until such time as:
 - a) The completion of the evaluative work and associated post-excavation analysis, report production and archive deposition as all set out in the Written Scheme of Investigation approved under Condition 2 above have been submitted to the Local Planning Authority and
 - b) Any archaeological mitigation strategy based on that evaluation and analysis, has first been agreed in writing by the Local Planning Authority. Work shall then only commence and continue on site in full accord with any approved Strategy.

REASON:

In light of the potential archaeological interest in this site.

10. No development including demolition shall commence on site until such time as a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. The Plan shall include:
- Details of construction hours
 - Details of the times for deliveries
 - Measures to reduce the amount of debris and waste being deposited onto the local road network
 - Details of the measures for dust suppression
 - Details of the location of the site compound and parking areas for staff and visitor vehicles as well as for HGV deliveries.
 - Details of the phasing of the scheme Details of the contacts both on site and off site in the event of complaints.

The content of the Plan as approved shall be adhered to at all times

REASON

In the interests of the residential amenity of neighbouring property.

11. No development above slab level shall commence on site until such time as full details of the noise attenuation measures to be incorporated into the fenestration and ventilation elements of the houses hereby approved, have first been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be completed in full on the site.

REASON

In the interests of reducing the risk of noise pollution

12. No development shall commence on site other than demolition until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority. It shall include measures to reduce car dependency and measures to meet agreed modal share targets together with the monitoring and review mechanisms.

REASON

In the interests of promoting sustainable transport.

13. No development other than demolition shall commence on site until details for the provision of vehicle electric charging points and low emission boilers have first been submitted to and approved in writing by the Local Planning Authority. The approved details shall then be provided in full throughout the development.

REASON:

In order to reduce energy consumption.

Pre-Occupation Conditions

14. The details contained in the landscaping plans hereby approved shall be implemented in full before the occupation of the last dwelling house approved under this permission.

REASON

In the interests of the visual amenities of the area.

15. No dwelling hereby approved shall be occupied until written details of the street lighting and signage required for the site wide 20mph speed limit have first been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be implemented on site.

REASON

In the interests of highway safety

16. No dwelling hereby approved shall be occupied until the visibility splays from the vehicular access to that plot, passing through the limits of the site and adjacent properties fronting the highway, have been provided in accordance with the approved plans. These shall remain unobstructed at all times.

REASON

In the interests of highway safety

On-Going Conditions

17. All junction visibility splays shall be provided within the site, passing through the limits of the site fronting the highway, with an "x" distance of 2.4 metres and a "y" distance of 25 metres to the near edge of the carriageway. These shall remain unobstructed at all times.

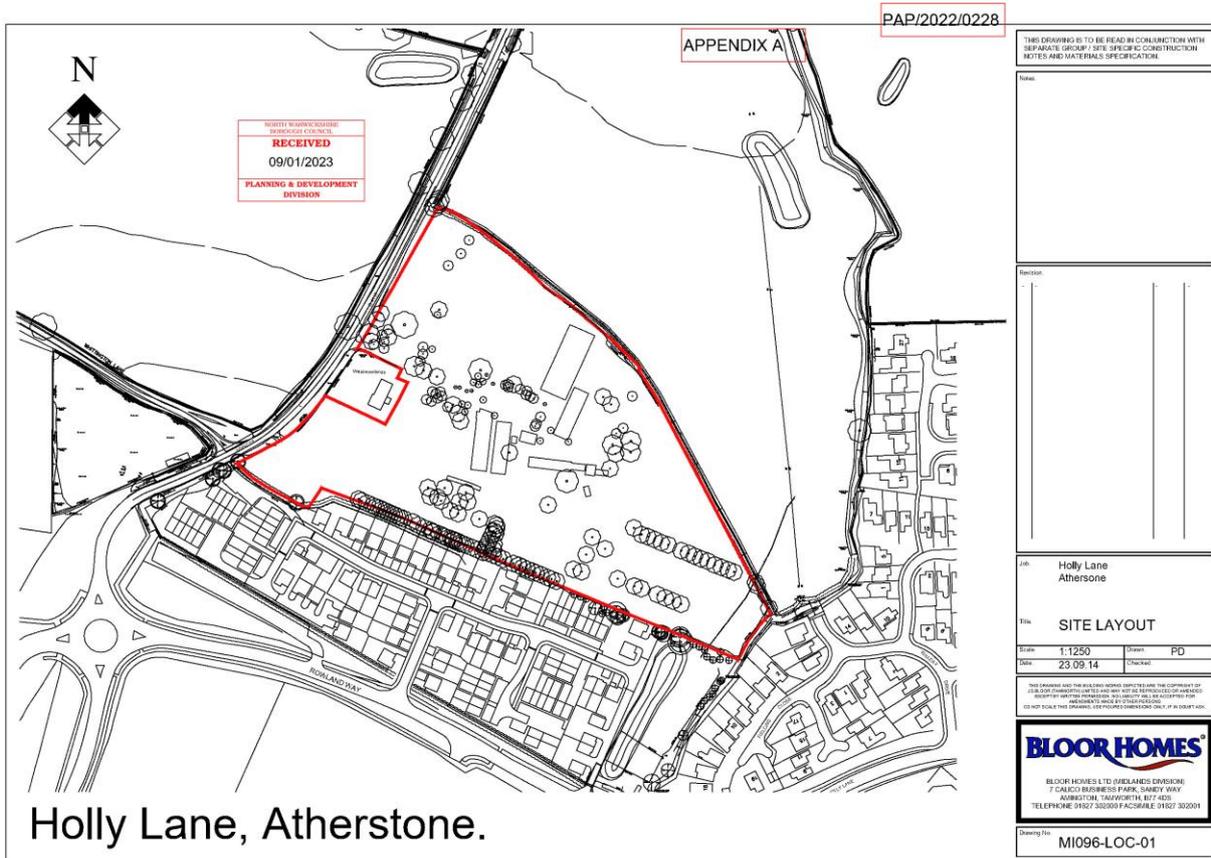
REASON

In the interests of highway safety

INFORMATIVES

1. The Council has met the requirements of the National Planning Policy Framework in this case through seeking amendments to the proposals so as to overcome technical objections.
2. Attention is drawn to Sections 38, 59, 149, 151, 163 and 278 of the 1980 Highways Act; the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.

3. Badgers and their setts are protected under the Protection of Badgers Act 1992. Unless permitted under a licence issued by Natural England this makes it an offence to kill, injure or capture a badger, destroy damage or obstruct access to a badger sett displaying signs of current use or disturbing badgers whilst in occupation of a sett.





Holly Lane, Atherstone

General Development Applications

(6/f) Application No: PAP/2021/0238

Polesworth Working Mens Club, High Street, Polesworth, B78 1DX

Change of use of existing function room to provide bed and breakfast accommodation (25 bedrooms), including an additional mezzanine floor and elevation changes, for

Mr Paul Owens

Introduction

This application was referred to the Board at its December meeting, but determination was deferred to enable clarification of the proposal through the submission of more detail and to undertake a site visit.

A copy of the previous report is at Appendix A

Additional Information

Following the December Board meeting, the applicant has submitted an updated plan which shows that the 25 rooms are all capable of accommodating a double or two single beds. Disabled accommodation and access are also illustrated. This is at Appendix B.

Additionally, the applicant organised two “drop-in” sessions for local residents in order to explain how the proposed accommodation might look and how it would be managed and operated with reference to the applicant’s other ventures, where similar Club premises have been found an alternative use. These “drop -in” sessions were held at the Polesworth Club itself on the 9th and 12 February. The applicant has submitted an outline of the content of that exhibition together with a summary of the feedback. This is attached at Appendix C.

The summary says that well over 150 people attended. There were 23 written responses of objection, which in general terms repeated the matters already raised and summarised in Appendix A. There were eight responses in favour of the proposals including some if conditions could be attached prohibiting certain categories of occupancy.

This Appendix has been circulated to Local Members, the Parish Council and to the speaker who represented the objectors at the last meeting. Any comments received will be reported at the meeting.

Observations

There has been no change to the Development Plan since the referral of this case to the Board in December and neither has there been any change to other material planning considerations which might need assessment in the determination.

The main issues raised at the December meeting were the need for greater clarity on the nature and management of the introduction of the bedroom accommodation and secondly, the potential impact on the heritage value of the setting.

In respect of the first of these, then the updated plan is welcome. Appendix C explains the proposed management of the rooms in more detail. The feedback from the events in Polesworth generally reflects the position as set out in the previous report in terms of the content of the representations previously received and reported in Appendix A. Officers have previously supported this proposal in principle as an appropriate use for this building and it is considered that the supplementary clarification now submitted, adds weight to the recommendation. In order to reflect this in the grant of any planning permission, the amended plan should supersede that already submitted and referred to in Condition 2 of the original recommendation, and an additional condition should be imposed requiring a Management Plan to be submitted and approved for the implementation of the operation of the new rooms. It would be anticipated that this would follow the description set out in Appendix C. The recommendation below reflects this and also includes the setting up of a small liaison group whereby any concerns and questions expressed by the local community following the implementation of any planning permission, can be discussed with the applicant. A local Member should perhaps also be involved.

The second issue related to the perception that the ambience of the setting here would change if a planning permission was implemented. Notwithstanding the matters raised in the last report in this respect, it is considered that the matters raised above should allay those concerns.

Notwithstanding the “drop-in” sessions held by the applicant, it is clear that whilst these events did help to explain the proposal in more detail, there are still local misgivings about the proposal.

The Board is aware that it should determine this application on its planning merits and thus whether it accords with Development Plan policy or not. Any refusal should be based on planning reasons and cite the evidence which leads to that position. The Board will understand that it is not appropriate to condition the occupancy of the proposed accommodation.

Recommendation

A) That planning permission be **GRANTED** subject to the conditions attached in Appendix A as amended by:

1. Substitution of a plan number in Condition 2 to reflect the submission of the new plan, and
2. The addition of the following pre-commencement condition

“No development shall commence on site until a Management Plan has first been submitted to and approved in writing by the Local Planning Authority. This Plan shall particularly outline how the bedroom accommodation is to be managed in terms of the booking procedures, the policy on the length of stay

and how and where it is to be advertised and marketed. The use hereby permitted shall only continue in accordance with the approved Plan”

REASON

In order to prescribe the use hereby permitted.

- B) That a local Liaison Group is set up between representatives of the applicant and the local community together with those representing the Parish Council and Borough Council in order to discuss concerns and issues that might arise from the proposed use.

General Development Applications

(7/b) Application No: PAP/2021/0238

Polesworth Working Mens Club, High Street, Polesworth, B78 1DX

Change of use of existing function room to provide bed and breakfast accommodation (25 bedrooms), including an additional mezzanine floor and elevation changes, for

Mr Paul Owens

Introduction

This application is referred to the Board at the request of local Members who are concerned about the impacts of the proposal on the area.

The Site

This Club is located on the north side of High Street about 75 metres east of its junction with Bridge Street within the town centre of Polesworth. It is a large flat roofed building dating from the 1960's with a strong linear character to its front elevation and a single storey rear extension. It is set back from the road with front and side car parking.

Immediately to the west is a fish and chip shop and beyond that, the new residential conversion at the former Nethersole School. To the east is the Spread Eagle Public House with the Co-op retail outlet beyond and then residential property. Opposite the site are the Polesworth Abbey Gate House, the Health Centre and other mixed-use premises.

There are residential properties to the rear of site in Nethersole Street.

The general location is illustrated at Appendix A and the existing elevations are at Appendix B.

The Proposals

The property has a lawful use within a mix of local community uses under Class F2 and as a "commercial, business and service use" under Use Class E of the 2021 Use Classes Order. The application is to change this lawful use to mixed use retaining a use under F2 as well as introducing a new Hotel use within Use Class C1 of the same Order.

The present club has two large bars together with two function rooms at ground floor level. The proposal would involve reusing the larger function room by adding a mezzanine floor so as to provide 11 single bedrooms as bed and breakfast accommodation. In addition, the entire premises would be renovated so as to include an additional 14 single bedrooms at first floor level, a refurbished manager's flat as well as new disabled facilities. The existing bars at ground level would remain together with the smaller of the two function rooms for use by guests as well as existing club members. It

7B/8

is said that the accommodation would create a new revenue stream to underpin the club's future.

The would be very little in the way of external alteration.

The internal changes, elevations and site layout are at Appendices C D and E.

Background

Use Class F2 includes some shops, community halls and meeting places as well as swimming pools and skating rinks

Use Class C1 includes hotels, boarding and guest houses

The site is in the Town Centre defined for Polesworth by North Warwickshire Local Plan Policy LP 21.

The site is also within the Polesworth Conservation Areas designated in 1995

There are a number of Listed Buildings in the locality of the site.

Consultations

Warwickshire County Council as Highway Authority – No objection subject to conditions

Environmental Health Officer – No objection as previous concerns regarding noise emitted from the Public House have been addressed through a variation to its premises licence. The Noise Assessment submitted provides increased confidence that noise is unlikely to constitute an adverse impact. The proposed development may be integrated effectively with existing businesses.

Representations

Polesworth Parish Council – It objects because

- The use is not appropriate for the Conservation Area and
- It doesn't represent quality development or an acceptable standard of accommodation.

There are 28 objections from local residents referring to:

- The standard of accommodation is poor not benefitting tourists
- It will become a hostel
- Overlooking from bedrooms
- It will introduce more traffic
- Parking will overflow onto the road which is already obstructed
- This will add to existing anti-social behaviour in the area
- There are existing noise issues
- There ambience and character of the Conservation Area will be adversely affected

7B/9

- There are existing access points into property at the rear which appear not to be safeguarded.

There are two supporting representations

Development Plan

The North Warwickshire Local Plan 2021 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP15 (Historic Environment), LP21 (Services and Facilities), LP29 (Development Considerations), LP30 (Built Form) and LP34 (Parking)

Other Material Planning Considerations

The National Planning Policy Framework – (the “NPPF”)

The Polesworth Conservation Area Designation Report 1995

Observations

a) Introduction

This site is within the settlement boundary defined for Polesworth as defined by the Development Plan and its Policy LP2. New development is supported here where there is already a wide range of local services and facilities, as well as access to public transport. Moreover, the site is within the defined town centre of Polesworth and Policy LP21 supports commercial, business and service uses in such a location. The proposed mixed use would fall squarely within this range of uses. It is for these policy reasons that the principle of supporting this proposal is acknowledged.

b) The Proposed Use

The present lawful use of the premises covers a wide range of uses including its use for the community as well as for commercial uses including those where food and drink can be consumed on the premises. The extent of the E and F2 Use Classes means that a wide variety of different uses and activities could be undertaken here without the need for any reference to the Local Planning Authority. Being in the town centre, this is appropriate and an approach which is supported by the NPPF as a consequence of greater flexibility sought by the Government through the new 2021 Use Classes Order. The introduction of the bed and breakfast accommodation – which would take up some 66% of the premises - is considered very likely to reduce the scale and amount of activity that could take place if the present uses were fully re-introduced, or other uses within the same Use Classes were accommodated here. The existing club use will continue, but on a much smaller scale. Overall, therefore it is considered that the impacts may very well be less than under any “fall-back” position, as the proposal has a material residential element. Indeed too, the use is probably more appropriate here where there are other commercial and business uses as well as on-site parking space, rather than being within a wholly residential area.

7B/10

6f/46

c) Highway Impacts

Local Plan policy LP29(6) requires that safe and suitable access is to be achieved for new development proposals. The NPPF points out that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. It is of substantial weight that the Highway Authority has not objected. This is because the existing access arrangements and the established lawful use of the premises are a material fall-back position. The proposed use may well result in less traffic using the access and the site, than if used to its full potential under the fall-back position. The proposal is thus considered to accord with the relevant planning policies.

Local Plan policy LP34 requires parking provision commensurate with the Council's Standards. The proposed layout for the site shows 37 spaces. This would be an over-provision of some ten spaces in respect of the proposed new use. However, the existing lawful use would still operate, albeit on a reduced scale. That use is more likely to attract pedestrian visitors. Overall, it is considered on balance that this would be sufficient. It is of weight that the Highway Authority does not object and requires a planning condition for a Car Park Management Plan which would address operational issues such as preventing the site being used by the public. Members will be aware of such conditions from elsewhere in the Borough – at similar premises in Coleshill and at a new shop in Hartshill.

d) Heritage Impacts

Local Plan policy LP15 requires the quality, character, diversity and local distinctiveness of the historic environment to be conserved or enhanced.

The site is in the Polesworth Conservation Area. In assessing the merits of a development proposal, the Council is under a statutory duty to pay special attention to the desirability of preserving or enhancing the character and appearance of an Area. Here the significance of the Area is that it covers the whole of the town centre and its environs exhibiting the historic, architectural and community evolution of the town through many years, evidenced by the character and appearance of its layout, built fabric and its commercial/business and community uses. Of particular significance is the historic and community link to the Abbey and its associated buildings and open spaces.

The proposed use is within a building which itself has a lawful use that might well be seen as not being compatible with this latter characteristic. The proposed use is considered to introduce a residential element to this building and thereby reduce the scale of its lawful use. There indeed will still be vehicular and pedestrian activity here, as there would be if the present use was fully continued. Additionally, whilst the external appearance of the building would not be materially changed, there would be some betterment. It is considered on balance, that the proposal would cause less than substantial harm to the character and appearance of the Area, if any at all. This has to be balanced against any public benefit that might arise from the proposals. That benefit would be to retain a use for the building such that it would not fall into disrepair or remain vacant for some time. This would harm the appearance of the Area. Additionally, the proposal has the benefit of introducing a preferred use – mainly a residential use. These benefits would outweigh the less than substantial harm caused.

7B/11

There are a number of Listed Buildings nearby. The Council is under a Statutory Duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. There are four listed buildings close by in High Street. Directly opposite is the Grade 2 star 14th Century Abbey Gate House and the adjoining Grade 2 star 16th Century house at number 22. The former has its upper part being a probable rebuild from the 17th Century. Their significance lies in their historic association with the former Abbey and now the current church as its main gateway entrance. Their architectural significance lies in the retention of the contemporaneous retention of their historic fabric and built form. They also have a strong community linkage to the former Abbey and the current Church and its open setting beyond the arched gatehouse. The proposal will have no direct impact on the fabric of these assets or on their individual historic or architectural attributes. It is the impact on their setting that is more important. As indicated above, the application site has a lawful use which would not normally be seen as being compatible with the quiet and restrained ambience around the Church and its extensive open setting. Indeed, there are other uses in the immediate area too and thus the setting is one which is very busy with day and night-time activity. The proposal's impact would be likely to be of benefit, given that there is a material residential element involved, with a reduction in the use as an active social club. There is thus unlikely to be any harm caused to the significance of the two buildings.

The former Nethersole School and its associated buildings is to the west. It is a Grade 2 Building which was completely rebuilt in 1818. Its significance lies in its historic connections to the Nethersole Family and its architecture reflects its age. There is a strong community significance being the retention of an early Victorian School building. It has recently been converted to two apartments. As above and because of its distance from the site there is no harm caused to these characteristics. The setting too would not be affected.

Polesworth Congregational Church is a Grade 2 Listed Building on the other side of the road. Its significance lies in the retention of an early Victorian Chapel exhibiting contemporaneous architectural characteristics, but also the strong community link in the settlement of the non-conformist tradition. Again, there would be no direct impact on the asset and similarly the setting would not be materially harmed for the reasons set out above in respect of other assets here.

Other Listed buildings are some distance away with no intervisibility between them and the site.

Some of the representations received speculate about the nature of the occupiers of the proposed new rooms, but as the Board is aware this is not a planning consideration that should be given any weight.

Overall, it is considered that the Local Plan policy would be satisfied as the historic environment would be preserved.

e) Amenity Impacts

Local Plan policy LP29 (9) requires all developments to avoid and address any unacceptable impacts on neighbouring residential amenity. It is not considered that there would be any greater impacts than those likely to be caused through continuation of the existing lawful use or indeed any other use that could be accommodated here

7B/12

within the same Use Class as the existing building. Indeed, there could well be less activity and less noise as the lawful use is reduced in scale. However, there would be a new residential use and that might lead to overlooking of adjoining property. The bedroom windows on the front would mainly overlook the car park, the road and the health centre. The Abbey Gate House would also be visible, but the separation distance is some 30 metres. The bedroom windows in the east would overlook the garden of the Spread Eagle Public House and the rear gardens of the residential properties in Abbey Croft – some 35 metre distant. The bedrooms in the north elevation would face the rear of properties in Nethersole Street – a distance of 45 metres. In all of these instances it is considered that the separations would not lead to unacceptable harm given the guidance distance of 22/23 metres between the rear of residential property.

The representations have also referred to queries about rear access to properties in Nethersole Street. This is a private matter between the owner of the site and those residents as there is no public access or public rights of way that are affected. Private arrangements are not material planning considerations.

Overall it is considered that the proposal would accord with policy LP29(9).

f) Noise Issues

There is no issue with noise emissions from the proposal given the extent and scope of the lawful use here. If anything, that may well reduce. The issue here is that set out in para 187 of the NPPF – the agent of change matter.

Here the site immediately adjoins the Spread Eagle Public House and its beer garden. The issue is whether the proposed use would lead to “unreasonable restrictions” being placed on the Licence of the Public House, because of an increased number of complaints coming from the occupiers of the proposed bedrooms about noise coming from the Public House and its beer garden.

Paragraph 187 reads,

“Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where an operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or “the agent of change”) should be required to provide suitable mitigation before the development has been completed”.

There have already been complaints lodged with the Council concerning noise emissions from events at the Public House. This led to formal action being taken under the Environmental Protection Act leading to variations in the Licence for the premises. As such the noise issue was resolved, but this background is a material planning consideration in the assessment of the current application – the proposal being “an agent of change” which could lead to further complaints notwithstanding the varied Licence. The proposal would lead to eleven bedrooms facing the beer garden of the Public House. As a consequence, a Noise Impact Assessment was requested from the applicant, and this was submitted after the date of the varied Licence. Environmental Health Officers involved in the formal action referred to above, have reviewed this Assessment and do not object to the proposal.

7B/13

Substantial weight is given to this response as it takes account of the background and the current application. The proposal based on this conclusion, would be unlikely to result in "unreasonable restrictions" being placed on the adjoining use. However, para 187 does infer the inclusion of "suitable mitigation" being applied to the proposed development. In this case a planning condition requiring a specification for the glazing and ventilation of the eleven windows would be appropriate and proportionate.

g) Conclusion

The representations received fall into two groups – those referring to potential direct impacts such as parking noise and additional traffic and then secondly, to speculation about how the development might be used. It is considered that when assessed against the relevant planning policies that the potential adverse impacts are not significant, with little evidence to show that they would be unacceptable. The "speculative" concerns in the second set of representations are not material planning considerations. The potential impact on the setting of the Conservation Area and the notable Listed Buildings in the Area is understood. However existing lawful uses here including that of the application site itself mean that this is not a quiet area at night or in the day. The proposal does have the potential to reduce the level of that activity and also to ensure that the building does not become vacant or partially vacant and thus fall into dis-repair which would affect the character and appearance of the Area. On balance the proposal can be supported.

Recommendation

That planning permission be GRANTED subject to the following conditions:

1. Standard Three year condition
2. Standard plan numbers condition – the location plan and plan numbers 1120/02A; 04A, 06B and 07.
3. The car park associated with this site shall only be used as a customer and staff car park in connection with the development hereby approved. For the avoidance of doubt, there shall be no outside storage on the car park of any materials, plant, equipment or structures including containers other than that directly related to the approved use.

Reason:

To ensure that the car park remains available for the use of the premises only so as to prevent on-street car parking.

4. There shall be no HGV parked, stored or kept on the car park other than those directly related to the approved use.

Reason:

To ensure that the car park remains available for the use of the premises only so as to prevent on-street car parking.

7B/14

Pre-Commencement Conditions

5. No development shall commence on site until details of all of the facing materials to be used have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used on site.

Reason:

In the interests of the visual amenity of the area.

6. No development shall commence on site until full details of the glazing and ventilation specifications for the eleven windows within the east elevation have been submitted to and approved in writing by the Local Planning Authority. The windows installed shall only be those that accord with the approved specifications.

Reason

In order to reduce the risk of noise impacts.

7. No development shall commence on site until a Car Park Management Plan has first been submitted to and approved in writing by the Local Planning Authority. This Plan shall show how the car park is to be managed and operated to ensure compliance with condition (3) above and show how the car park is to be made secure. The Plan that is subsequently approved by the Local Planning Authority shall then be implemented in full and maintained at all times.

Reason:

In the interests of the general amenities of the area and highway safety.

8. The development hereby approved shall not be brought into use until the window specifications have been fully installed as under condition (6)

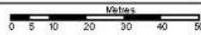
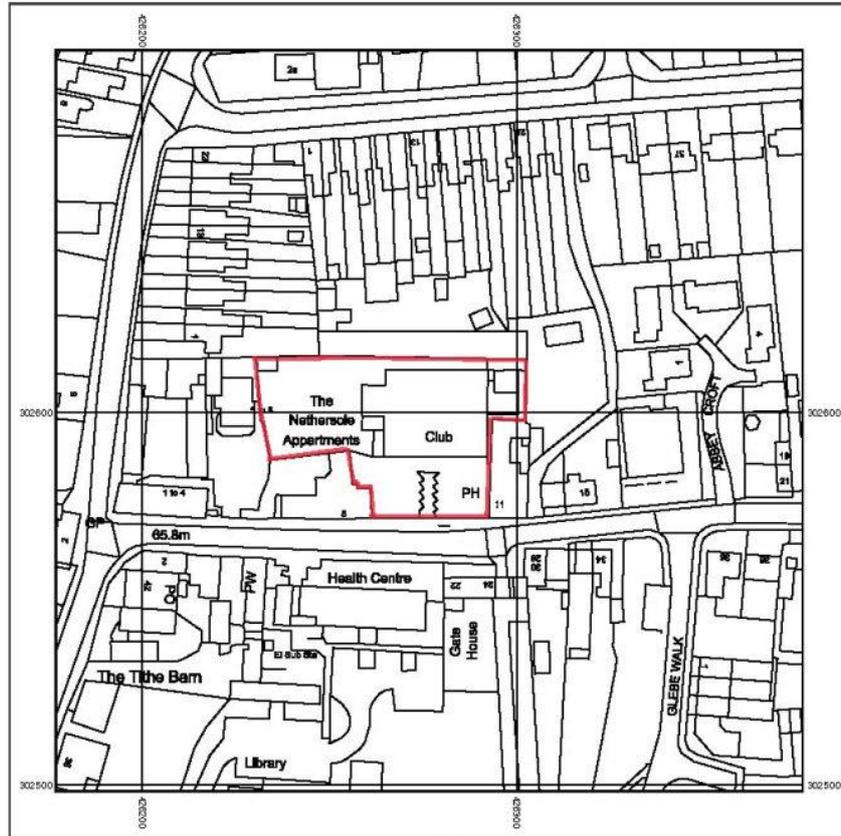
Reason:

In order to reduce the risk of noise impacts.

9. The development hereby approved shall not be brought into use until the whole of the car park has been laid out and completed as approved under condition (3) and the approved Car Park Management Plan under condition (7) has been commenced.

Reason

In the interests of the general amenities of the area and highway safety.



Scale: 1: 1250



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 Produced: 14/04/2021
 Serial number: 33409

POLESWORTH SPORTS & SOCIAL CLUB
 HIGH STREET
 POLESWORTH
 TAMWORTH

Plot centre co-ordinates: 426276,302598
 Download file:
 Project name: aupson_polesworth

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NORTH WARWICKSHIRE
 BOROUGH COUNCIL
RECEIVED
 20/04/2021
 PLANNING & DEVELOPMENT
 DIVISION

Polesworth Club Presentation

There were two meetings with the locals of Polesworth, on Thursday 9th and Sunday 12th February 2023 these were two different groups of local residents.

On Thursday 9th February there were tables of ten arranged in the function room and I went from table to table to discuss any concerns they may have had regarding the proposals. I had a lap top with me and showed to each table in turn illustrations of other venues operated by Westbourne Leisure. Most of the concerns were centred around the type of clientele that the proposal would attract. People were under the impression that we would be housing refugees, Illegal immigrants, and the homeless. I underlined that this was totally against the company's business plan I also stated that to book a room it was a requirement to have a home address and personal ID and that the maximum stay for any one period was 16 days. This session was from 5pm. to 8pm. and 92 people attended.

On Sunday 12th February I addressed the whole room in three sessions, and the manager from the Liberal House was also present to assist in operational questions. Approximately 70 people attended in total and this session lasted from 5pm. to 8.15pm.

On both occasions, as stated above, the initial reaction of the locals was one of scepticism about the type of customer we were hoping to attract and the kind of operation that we would be running.

There were 23 written responses expressing views against the scheme ranging from car park issues to drainage but mostly concerns regarding the type of customer. In addition there were 8 written response in favour of the scheme albeit with conditions. Some of the locals referred to the fact that the application was for a C2 category, when in fact it was for C1 as stated on the application form.

I went on to outline that that a food offer will be operating for breakfast and evening meals , and that the bar will show sky and BT sports and be driven with all local teams in mind, which was also perceived to be attractive . It was also emphasised that the function room will also be available for hire.

Finally I pointed out that a figure of 2 million was proposed for the development including a complete refurbishment of the facility which would enable the club element to be retained, which would otherwise not be sustainable, also the meetings were something I volunteered on behalf of Westbourne to allay any fears the locals might have.

Overall, I think it is fair to say that most people's worries are because they were not aware of the high standard of the premises that we operate and that we are not catering for homeless or refugees.

Karen Stevens
Operations Director
Westbourne Leisure

Agenda Item No 7

Planning and Development Board

6 March 2023

Report of the
Head of Development Control

Tree Preservation Order - Land at
the Wheatsheaf Inn, Station Road,
Coleshill

1 Summary

- 1.1 A Tree Preservation Order has been placed on a Lime tree and an Oak tree located at the Wheatsheaf Inn in Coleshill. It came into force on 15 December 2022 and lasts six months (until 15 June 2023). This report seeks to make the Order permanent.

Recommendation to the Board

That the Board confirms the Tree Preservation Order for the protection of the lime and oak trees on land at the Wheatsheaf Inn, Station Road, Coleshill.

2 Background

- 2.1 The report presented to the December Board seeking authority for the Order is at Appendix A. As members may be aware, once an Order is made the Council must make it available to the public and therefore the information contained in the earlier report is already available.

3 Representations

- 3.1 Representations from neighbours and the Coleshill Town Council were invited in writing with an expiry date of 23 January 2023.
- 3.2 A representation from a neighbouring property was received on 19 January 2023. The neighbour was concerned with the placing of an Order on the lime tree in the car park of the Wheatsheaf Inn (identified as 2GWF on map in Appendix A) for the following reasons:
- The tree is not prominent in the area – it is tucked at the back of the car park.
 - The tree is difficult to maintain and is a health and safety risk.
 - It is not in the public interest to be placing an Order on this tree.
 - There is no objection to an Order being placed on the Oak tree (identified as 2GWF on map in Appendix A).
 - The Order would put costs onto the businesses.

- 3.3 Following receipt of this objection, the Warwickshire County Council Forestry Officers were consulted on whether or not they still supported the implementation of the Order.

Their response is as follows:

- There is no cost associated with applying for works to be carried out to a tree protected by an Order.
- Clearance of any leaf debris/moss experienced should fall under the remit of general property maintenance.
- There is no evidence to support this tree posing an immediate health and safety risk.

4 Observations

- 4.1 The decision to make an Order is whether it is in the interests of the amenity of the area to do so. Here the two trees are prominent in the public domain and highly visible. They supplement existing trees along the River Cole within the Cole End Park. In these respects the trees enhance the amenity of the area. The representations made do not provide any evidence to show that the trees are not in good health or that they will cause maintenance difficulties. These should be dealt with under normal good practice in any event. Confirmation of the Order is thus recommended.

5 Report Implications

5.1 Financial and Value for Money Implications

- 5.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable, if Consent is refused for works to a protected tree.

5.2 Legal and Human Rights Implications

- 5.2.1 The Town and Country Planning Act 1990 only allows a tree preservation order to be made if it is expedient to do so in the interests of amenity. If members are satisfied that this remains the case having considered all the facts, the Order may be confirmed. Once made, the owners of the land would have a legal responsibility to maintain the tree and protect it from harm. Applications will need to be made to the Local Planning Authority in order to carry out works to the trees other than limited exceptions such as works to a protected tree to prevent an immediate risk of harm.

5.3 Environment and Sustainability Implications

- 5.3.1 The trees to be protected exhibit value for both the present and the future public amenities of the area, given their appearance and prominence in the street scene.

The Contact Officer for this report is Andrew Collinson (719228).

NOT FOR PUBLICATION

by virtue of paragraph 6
of Part 1 of Schedule 12A to the
Local Government Act 1972

Agenda Item No 11**Planning and Development Board****5 December 2022**

**Report of the
Head of Development Control**

**Tree Preservation Order - Land At
the Wheat Sheaf Inn, Station
Road, Coleshill**

1 Summary

- 1.1 A Planning Duty Officer email suggested that trees at the Wheat Sheaf Inn, Station Road, Coleshill were at imminent risk. The value of the trees was assessed by the County Forestry Officer and were found to be worthy of protection. The oak tree on the southern side of the building is situated in the Coleshill Conservation Area which affords it some protection. This report seeks authority for the protection of both trees through the making of Orders.

Recommendation to the Board

That the Board authorises the making of a Tree Preservation Order in respect of the two trees identified in this report on land at The Wheat Sheaf Inn, Station Road, Coleshill.

2 Background and Statement of Reasons

- 2.1 A contact to the Planning Duty Officer on the 20 October 2022 alerted officers to the trees on the premises. On further investigation it was identified that one the trees was not protected by either a preservation order or by being located in the Conservation Area and that both trees appeared to contribute to the public amenity of the area.
- 2.2 The County Forestry Officer was asked to undertake a TEMPO assessment of the value of both trees, and they both scored 18, suggesting that the trees definitely merited a Tree Preservation Order.
- 2.3 The photographs below show a selection of views of the Oak and Lime tree from the public areas around the development. The oak tree is within the Conservation Area, however it is necessary to further protect any work through a preservation order too.

2GWE



2GWF



2.4 The TEMPO assessment completed by the County Tree Officer is attached to this report together with the tree location plan. The TEMPO assessment completed by the County Tree Officer is attached to this report as Appendix A.

...

- 2.5 The TEMPO assessment concludes that the trees are worthy of protection. The Board is advised that subject to agreement, a tree preservation order is made. The owner, occupier and neighbours will be served with a notice of the tree preservation order. There will then an opportunity for representations to be submitted. A further report will be submitted to the Planning and Development Board following the conclusion of the consultation period for Members to consider whether the Order should be confirmed and made permanent.
- 2.6 The TEMPO forms consider the value of the trees, based on a number of factors including amenity value, retention span, relative public visibility, others issues and expediency assessment. Based on this the maximum score is 25. If a tree scores more than 16, it is considered worthy of being protected. The scores for the trees are highlighted below and reference to them is indicated in Appendix A.

Number of species	Tempo Score	Worthy of TPO
T1 English Oak GWE	18	Yes
T2 Lime Tree GWF	18	Yes

3 Report Implications

3.1 Financial and Value for Money Implications

- 3.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable, if Consent is refused for works to a protected tree.

3.2 Legal and Human Rights Implications

- 3.2.1 As stated in the report, the Town and Country Planning Act 1990 only allows a tree preservation order to be made if it is expedient to do so in the interests of amenity. If members are satisfied that this remains the case having considered all the facts, the Order may be confirmed. Once made, the owners of the land would have a legal responsibility to maintain the tree and protect it from harm. Applications will need to be made to the Local Planning Authority in order to carry out works to the tree.
- 3.2.2 The owners of the land and those with an interest in it, will now have the opportunity to make representations to the Council before the Order is confirmed.

3.3 Environment and Sustainability Implications

- 3.3.1 The trees to be protected exhibit value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

The Contact Officer for this report is Andrew Collinson (719228)

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 02/11/2022	Surveyor: Matthew Alford
------------------	--------------------------

Tree details	
TPO Ref (if applicable):	Tree/Group No: 2GWE Species: English Oak
Owner (if known):	Location: Station Road, Coleshill

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good	Highly suitable	Score & Notes 5
3) Fair/satisfactory	Suitable	
1) Poor	Unlikely to be suitable	
0) Dead/dying/dangerous*	Unsuitable	
* Relates to existing context and is intended to apply to severe irremediable defects only		

b) Retention span (in years) & suitability for TPO

5) 100+	Highly suitable	Score & Notes 5
4) 40-100	Very suitable	
2) 20-40	Suitable	
1) 10-20	Just suitable	
0) <10*	Unsuitable	
*Includes trees which are an existing or near future nuisance, including those <u>clearly</u> outgrowing their context, or which are significantly negating the potential of other trees of better quality		

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable	Score & Notes 4
4) Large trees, or medium trees clearly visible to the public	Suitable	
3) Medium trees, or large trees with limited view only	Suitable	
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable	
1) Trees not visible to the public, regardless of size	Probably unsuitable	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of formal arboricultural features, or veteran trees	Score & Notes 3
4) Tree groups, or principal members of groups important for their cohesion	
3) Trees with identifiable historic, commemorative or habitat importance	
2) Trees of particularly good form, especially if rare or unusual	
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)	
-1) Trees with poor form or which are generally unsuitable for their location	

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

5) Immediate threat to tree inc. s.211 Notice	Score & Notes 1
3) Foreseeable threat to tree	
2) Perceived threat to tree	
1) Precautionary only	

Part 3: Decision guide

Any 0	Do not apply TPO	Add Scores for Total: 18	Decision: Yes TPO
1-6	TPO indefensible		
7-11	Does not merit TPO		
12-15	TPO defensible		
16+	Definitely merits TPO		

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 02/11/2022	Surveyor: Matthew Alford
------------------	--------------------------

Tree details	
TPO Ref (if applicable):	Tree/Group No: 2GWF Species: Lime
Owner (if known):	Location: Wheat Sheaf Inn, Coleshill

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good 3) Fair/satisfactory 1) Poor 0) Dead/dying/dangerous*	Highly suitable Suitable Unlikely to be suitable Unsuitable	Score & Notes <div style="font-size: 2em; font-weight: bold;">5</div>
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* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

5) 100+ 4) 40-100 2) 20-40 1) 10-20 0) <10*	Highly suitable Very suitable Suitable Just suitable Unsuitable	Score & Notes <div style="font-size: 2em; font-weight: bold;">4</div>
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*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees 4) Large trees, or medium trees clearly visible to the public 3) Medium trees, or large trees with limited view only 2) Young, small, or medium/large trees visible only with difficulty 1) Trees not visible to the public, regardless of size	Highly suitable Suitable Suitable Barely suitable Probably unsuitable	Score & Notes <div style="font-size: 2em; font-weight: bold;">4</div>
--	---	---

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of formal arboricultural features, or veteran trees 4) Tree groups, or principal members of groups important for their cohesion 3) Trees with identifiable historic, commemorative or habitat importance 2) Trees of particularly good form, especially if rare or unusual 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) -1) Trees with poor form or which are generally unsuitable for their location	Score & Notes <div style="font-size: 2em; font-weight: bold;">3</div>
--	---

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

5) Immediate threat to tree inc. s.211 Notice 3) Foreseeable threat to tree 2) Perceived threat to tree 1) Precautionary only	Score & Notes <div style="font-size: 2em; font-weight: bold;">2</div>
--	---

Part 3: Decision guide

Any 0 1-6 7-11 12-15 16+	Do not apply TPO TPO indefensible Does not merit TPO TPO defensible Definitely merits TPO	Add Scores for Total: <div style="font-size: 1.5em; font-weight: bold;">18</div>	Decision: Yes TPO
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Agenda Item No 8

Planning and Development Board

6 March 2023

Report of the
Head of Development Control

Tree Preservation Order - Dog Inn,
Marsh Lane, Water Orton

1 Summary

- 1.1 A Tree Preservation Order has been placed on a eucalyptus tree located at the Dog Inn, Marsh Lane, Water Orton. It came into force on 3 October and lasts for 6 months (until 3 April 2023). This report seeks to make the Order permanent.

Recommendation to the Board

That the Board confirms the Tree Preservation Order for the protection of a eucalyptus tree located at Dog Inn, Marsh Lane, Water Orton.

2 Background

- 2.1 The report presented to members on 7 September 2022 seeking authority for the Order is at Appendix A. As members may be aware, once an Order is made the Council must make it available to the public and therefore the information contained in the earlier report is already available.

3 Representations

- 3.1 Representations from neighbours and Water Orton Parish Council were invited in writing with an expiry date of 7 November 2022.
- 3.2 One objection was received on 18 October 2022 with the following comments:
- The tree roots are affecting the ground around the tree, creating a trip hazard for members of the public.
 - They are affecting the highway, tarmac, and fence line, again creating a trip hazard.
 - They have the potential to affect the structural integrity of the building given the size and proximity of the tree.
- 3.3 The County's Forestry Officers were asked to comment on these matters and they have said that the Order would not prevent an application coming forward proposing the pruning of tree roots or other tree works. Such proposals may well be consented, provided that they are accompanied by the appropriate evidence. In any event the management of the tree and its risks should be part of a general maintenance regime for the property.

4 **Observations**

- 4.1 The decision to make an Order is whether it is in the interests of the amenity of the area to do so. Here the tree is prominent in the public domain and highly visible within an area that generally has little tree cover. The representations made do not provide any evidence to show that the tree is not in good health or that it is causing maintenance difficulties or that it represents a risk. These matters should be dealt with under normal good practice in any event. The making of an Order does not prevent applications being made to undertake works to protected trees and with the appropriate evidence such applications may be consented. Confirmation of the Order is thus recommended.

5 **Report Implications**

5.1 **Financial and Value for Money Implications**

- 5.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable, if Consent is refused for works to a protected tree.

5.2 **Legal and Human Rights Implications**

- 5.2.1 The Town and Country Planning Act 1990 only allows a tree preservation order to be made if it is expedient to do so in the interests of amenity. If members are satisfied that this remains the case having considered all the facts, the Order may be confirmed. Once made, the owners of the land would have a legal responsibility to maintain the tree and protect it from harm. Applications will need to be made to the Local Planning Authority in order to carry out works to the tree, other than limited exceptions such as works to a protected tree to prevent an immediate risk of harm.

5.3 **Environment and Sustainability Implications**

- 5.3.1 The trees to be protected exhibit value for both the present and the future public amenities of the area, given their appearance and prominence in the street scene.

The Contact Officer for this report is Andrew Collinson (719228).

NOT FOR PUBLICATION

by virtue of paragraphs 2 and 6
of Part 1 of Schedule 12A to the
Local Government Act 1972

Agenda Item No 8**Planning and Development Board****7 September 2022****Report of the
Head of Development Control****Tree Preservation Order - Dog Inn,
Marsh Lane, Water Orton****1 Summary**

- 1.1 A query from Star Pubs and Bars was received on the 22nd August 2022 requesting the removal of a eucalyptus tree, as the tree roots were said to be impacting the public highway and garden area. The owners were also concerned that the tree would impact the integrity of the pub's building fabric. Officers looked at the prominent position of the tree and size of the tree and from this considered it would be appropriate to consider protecting it via a Tree Preservation Order.
- 1.2 Following this the value of the tree was assessed by the County Forestry Officer and was found to be worthy of protection. This report seeks authority for the emergency protection of the tree under delegated powers. Notice will then be served on the owners and immediate neighbours.

Recommendation to the Chair

That you consider whether by reason of special circumstances, which must be specified in the minutes, you are of the opinion that the item should be considered at the meeting as a matter of urgency.

If the Chair determines that there are special reasons which make consideration of the report urgent:

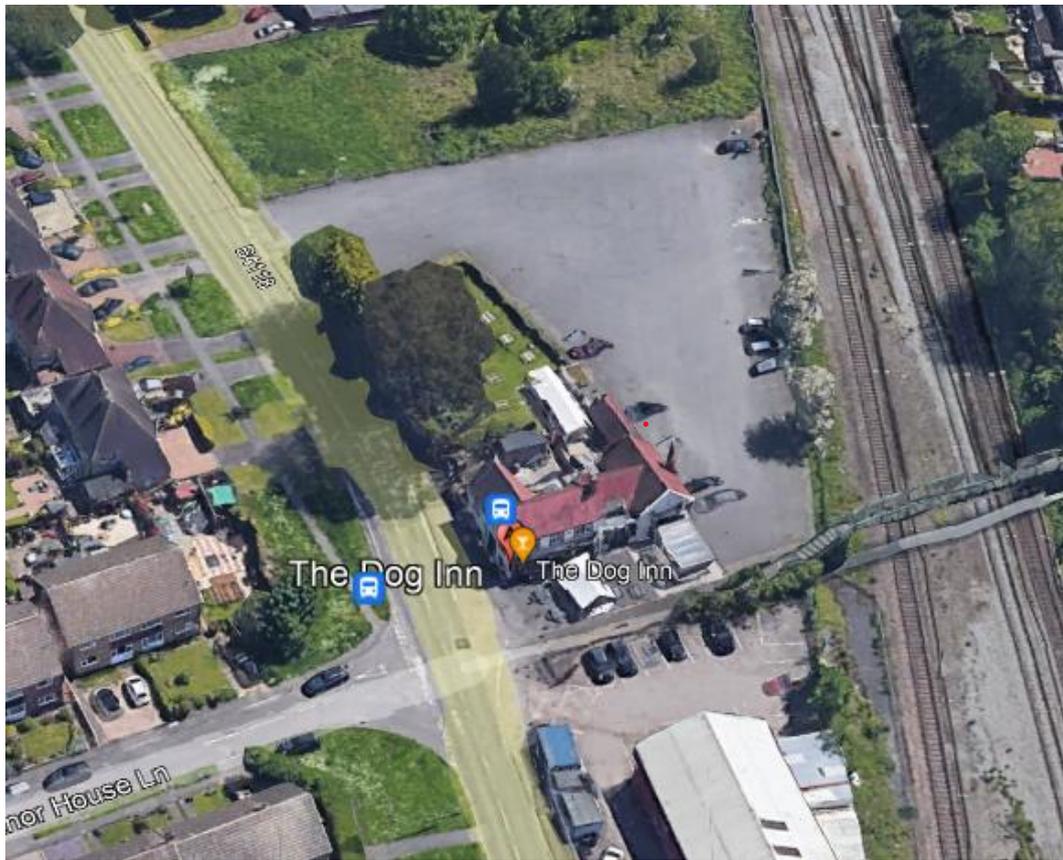
Recommendation to the Board

- a That the Board confirms the action taken in the issue of an Emergency Tree Preservation Order for the protection of a eucalyptus tree located at Dog Inn, Marsh Lane, Water Orton;**
- b If the Board confirms the action taken, they agree that the minutes of this part of the meeting are made public once the Order has been made and served since the legislation requires the Order to be available to the public.**

2 Background and Statement of Reasons

- 2.1 Following a query relating to works to the tree, officers contacted Warwickshire trees officers. The County Council Forestry Officer went on site to assess the condition of the tree which indicated that it is mature 14-16 metre high eucalyptus tree.
- 2.2 The County Forestry Officer undertook a TEMPO assessment of the value of the tree, and it scored 23, suggesting that the tree definitely merited a Tree Preservation Order. At present the tree is not within the Conservation Area, but it will be included within the revised boundary changes, if agreed in the future.
- 2.3 The photographs below show the eucalyptus tree located in the garden of the Dog Inn, Water Orton.





- ... 2.4 The TEMPO assessment completed by the County Tree Officer is attached to this report together with the tree location plan as Appendix A.
- 2.5 The TEMPO assessment concludes that the tree is worthy of protection from an amenity and age/dimensions perspective. The Board is advised that subject to agreement, an emergency tree preservation order is made. The owner, occupier and neighbours will be served with a notice of the tree preservation order. There will then an opportunity for representations to be submitted. A further report will be submitted to the Planning and Development Board following the conclusion of the consultation period for Members to consider whether the Order should be confirmed and made permanent.
- 2.6 The TEMPO forms consider the value of the trees, based on a number of factors including amenity value, retention span, relative public visibility, others issues and expediency assessment. Based on this the maximum score is 25. If a tree scores more than 16, it is considered worthy of being protected.

Number of species	Tempo Score	Worthy of TPO
Eucalyptus	23	Yes

3 Report Implications

3.1 Financial and Value for Money Implications

3.1.1 There are no implications in making this Order, but if confirmed, then there may be implications, in that compensation may be payable, if Consent is refused for works to a protected tree.

3.2 Legal and Human Rights Implications

3.2.1 The owners of the land and those with an interest in it, will now have the opportunity to make representations to the Council before the Order is confirmed.

3.3 Environment and Sustainability Implications

3.3.1 The tree to be protected exhibit amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene.

The Contact Officer for this report is Andrew Collinson (719228).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
Appendix A	County Forestry Officer	TEMPO Evaluations and Tree Location Plan	01/09/2022

Appendix A

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 01/09/2022	Surveyor: Matthew Alford
Tree details	
TPO Ref (if applicable):	Tree/Group No: 2GMA Species: Eucalyptus
Owner (if known):	Location: Dog Inn Public House, Marsh Lane, Water Orton, Birmingham, B46 1NW

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|--------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair/satisfactory | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous* | Unsuitable |

Score & Notes

5

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes

4

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

4

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of formal arboricultural features, or veteran trees |
| 4) Tree groups, or principal members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features (inc. those of indifferent form) |
| -1) Trees with poor form or which are generally unsuitable for their location |

Score & Notes

5

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

- | |
|---|
| 5) Immediate threat to tree inc. s.211 Notice |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |

Score & Notes

5

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total:

23

Decision:

Yes- TPO .



Unique ID: 2GMA
Private
Eucalyptus sp.
W3W: vast.dairy.couple

Overview Photos



Inventory	
Surveyor	Matthew Alford
Inspection Date	01-Sep-2022
Trunk Type	Twin from 1.5m
Age	Mature
Condition	Good
Proximity	As per map
Building Number	Dog Inn Public House
Street	Marsh Lane
Area	North Warwickshire Borough
Sub Area	Water Orton
Stem Diameter	120 - 130cm
Spread	14 - 16m
Height	14 - 16m
Committee	Private
Site	On fence line

Species	
Count	1
Vegetation Type	Broadleaf
Species	Eucalyptus sp.

Maintenance

Agenda Item No 9

Planning and Development Board

6 March 2023

**Report of the
Head of Development Control**

Appeal Update

1 Summary

1.1 The report updates Members on recent appeal decisions

<p>Recommendation to the Board</p> <p>That the report be noted.</p>

2 Consultation

2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Appeal Decisions

i) 89/91 Main Road, Austrey

3.1 Members will recall this case of the use of a private swimming pool for community use. It was considered by the Board more than once and a Member site visit took place. The appeal against the refusal was dismissed. The Inspector concluded that “the disputed condition would cause unacceptable harm to highway and pedestrian safety” – para 23 of the letter – as well as that “the appeal proposal would lead to extra traffic noise that would detrimentally affect the living environment at nearby dwellings” – para 17 of the letter. He did not consider that these harms would be outweighed by the community benefit of the extended use or the Council’s Public Sector Equality Duty. The appeal letter is at Appendix A.

...

3.2 The appellant in this case also submitted a claim for costs against the Council on the basis that the Council had acted unreasonably in reaching the decision to refuse. This claim was dismissed by the Inspector. The costs letter explains at length the reasons for this decision, particularly referring to the site visit and to the fact that the matter had been considered more than once by the Board.

...

The costs letter is also included at Appendix B.

3.3 Following its refusal of planning permission, the Board resolved to issue an Enforcement Notice. This appeal decision adds weight to the service of such a Notice provided that there is a robust evidence base on which to issue the Notice. Officers are seeking legal advice on the nature and scope of such evidence. The Board will be kept up to date on this matter.

4 Report Implications

4.1 Environment, Sustainability and Health Implications

4.1.1 The appeal decision was found to be in accordance with the Development Plan.

The Contact Officer for this report is Jeff Brown (719310).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



Appeal Decision

Site visit made on 31 January 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2023

Appeal Ref: APP/R3705/W/22/3307971 89-91 Main Road, Austrey CV9 3EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Hames against the decision of North Warwickshire Borough Council.
 - The application Ref PAP/2021/0687, dated 16 December 2021, was refused by notice dated 8 September 2022.
 - The application sought planning permission for alterations and extensions to house including redesign of swimming pool and conservatory as previously approved without complying with a condition attached to planning permission Ref PAUSAV/0602/96/FAP, dated 14 August 1996.
 - The condition in dispute is No 4 which states that: The swimming pool hereby shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwellinghouse known as Charity House, 89 Main Road, Austrey as such.
 - The reason given for the condition is: In order to prevent any unauthorised use of the property.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Hames against North Warwickshire Borough Council. This application is the subject of a separate Decision.

Background and Preliminary Matters

3. Planning permission was granted in 1996 for various works to the appeal property (hereafter referred to as Charity House). These include the construction of an outbuilding containing a swimming pool, which has been completed. In effect, the appeal proposal seeks to amend the disputed condition to allow community use of the pool as well as the use incidental to the enjoyment of Charity House.
4. The additional use would be for private swimming lessons by appointment only. The application form sets out times when the pool would be used for swimming lessons but the appellant has since proposed the following time periods:
 - between the hours of 10.00am and 2.00pm as well as between 4.30pm and 6.00pm on Mondays;

- between 10.00am and 12.15pm as well as between 1.00pm and 2.00pm on Wednesdays; and
 - between 10.00am and 2.00pm on Fridays.
5. The Council has considered the application on the basis of the lessons only taking place during the above time periods. I have assessed the appeal on the same basis. Private swimming lessons have already taken place at Charity House, although I understand that these have ceased since the appeal was lodged.

Main Issues

6. Given the Council's refusal reasons, a main issue is whether the disputed condition is necessary to ensure satisfactory living conditions for occupiers of neighbouring properties, particularly when having regard to the noise and other effects of traffic. In light of interested parties' comments, an additional main issue is whether the disputed condition is necessary in the interests of highway and pedestrian safety. The appellant has had the opportunity to respond to interested parties' comments through the appeal process and so no injustice is caused by having regard to this factor in my assessment.

Reasons

Living conditions

7. Charity House is a dwelling with a large rear garden. The outbuilding containing the swimming pool is next to the rear of the house. A gated entrance to the front of the house provides vehicular access directly from Main Road. Also, a separate track runs from the garden along the rear of Austrey Baptist Church and 93 and 99 Main Road (Nos 93 and 99) before turning onto Flats Lane, which joins up with Main Road. A public footpath runs along part of this track. The submissions state that visitors to the swimming lessons would access and egress the property via Flats Lane.
8. Nos 93 and 99 are both residences that face onto Main Road. No 93 is set back from the highway, whereas No 99's front elevation adjoins the roadside pavement. No 99's side elevation is next to Flats Lane, close to its junction with Main Road. A ground floor window and garage doors in the side elevation face onto the track. Both No 93 and No 99 have back gardens that are away from Main Road and that adjoin the access drive.
9. Flats Lane provides access for vehicles to adjoining fields as well as to No 99's garages and the appeal property. Also, it would provide vehicular access to a proposed dwelling in an outbuilding at Charity House, which was granted planning permission following an appeal¹. No information on current traffic movements along the track has been provided. However, its informal nature and the limited number of properties it serves suggests the track is used infrequently. Even if it is provided, the permitted dwelling in the outbuilding would generate only a modest number of daily vehicular trips. Consequently, the tranquil character of the Flats Lane track is likely to remain.
10. The introduction of private swimming lessons is bound to lead to an increase in visitors to Charity House in the form of swimmers and class instructors. The

¹ Appeal reference number APP/R3705/W/21/3267144

site is in the village and so it is within a reasonable walking distance for some Austrey residents. However, there is no guarantee that those attending lessons would walk to the pool even if they are local. As such, it is reasonable to expect the proposal would lead to an increase in vehicular usage of the Flats Lane access.

11. The amount of visitors and so the level of associated traffic would to a degree be dependent upon the number of separate classes and the number of attendees for each class. The appellants have suggested that private lessons in the aforementioned time periods would generate 154 two-way traffic movements per week. However, this is based on the pool not being used so intensely during certain time periods and with some classes lasting longer than others and so with a less frequent turnover of swimmers. There is no certainty that the length and format of classes will remain as stated and so the number of visitors to the pool may be higher.
12. In any event, it is highly probable that the stated trip generation figures would represent a significant increase in the vehicular use of the Flats Lane access. No noise impact assessment has been provided to me by the Council or the appellants. However, given the proximity of the track, it seems likely that additional vehicular activity would generate noise that is heard by occupants of Nos 93 and 99. This is likely to be noticed from the room served by the side window to No 99, even though traffic noise on Main Road already affects the property to a degree. Also, despite boundary fencing, I envisage the noise of extra cars travelling close to the rear boundaries would cause disturbance to those using the back gardens to Nos 93 and 99. This would be particularly noticeable and disruptive given the current tranquillity of the locality. In light of the probable level of additional traffic and associated noise, I consider the harm caused would be significant and unacceptable, even though it would only occur at the specified times.
13. In allowing the aforementioned appeal for a new dwelling at Charity House, the Inspector made no comment on noise from associated traffic and whether this would cause a nuisance to nearby residents. However, the vehicular trip patterns associated with a new residence would be markedly different in terms of number and timings of car movements compared to the current proposal. Therefore, this previous decision does not set a precedent to be followed in the consideration of this appeal.
14. The appellants state that the Council's environmental health officer has raised no objection to the proposal. However, I have been provided with no record that shows an environmental health officer has been consulted or that they have advised the proposal would be acceptable in terms of noise impacts. The lack of any comments from an environmental health officer either in support or against the scheme fails to address my concerns.
15. I have given consideration as to whether any detriment caused by noise effects could be addressed through the imposition of planning conditions. However, apart from the proposed amendment to the disputed condition, the appellants have made no suggestions on how traffic noise could be attenuated. As such, I am uncertain how noise effects associated with the proposal could be addressed.
16. The refusal reason also refers to the inconvenience caused by additional traffic, although the Council has provided little explanation for this objection. No 99's

occupier has objected on the grounds that vehicles leaving their garages would move onto Flats Lane close to a tight corner where forward visibility is limited. As such, extra traffic associated with the swimming classes may lead to an increased need for care when moving a vehicle into and out of the garages. However, irrespective of the proposal, an element of care and attention is needed by drivers using the garages. Therefore, I find no unacceptable additional effect would be caused in terms of convenience.

17. Nevertheless, for the above reasons, I conclude the appeal proposal would lead to extra traffic noise that would detrimentally affect the living environment at nearby dwellings. Therefore, the disputed condition is needed to ensure satisfactory living conditions for occupiers of Nos 93 and 99. A development that allows private swimming lessons would not accord with part 9 of policy LP29 of the North Warwickshire Local Plan 2021 (the LP) as it would not avoid unacceptable harm to neighbouring amenities by reason of noise.

Highway and pedestrian safety

18. At its entrance on Main Road, Flats Lane is wide enough to allow 2 vehicles to pass. However, evidence before me supported by my observations indicate that cars are parked at times outside the side elevation of No 99. Such parking restricts space at the start of the track so as to prevent 2 cars from passing. Also, the track narrows as it approaches the bend and as it rises up towards Charity House. There are no obvious passing places between the bend in the track and the entrance into Charity House's garden.
19. I have already found in considering the first main issue that the swimming lessons would markedly increase the vehicular use of Flats Lane and the access track. While it is stated lessons would be by appointment only, there would still be a reasonable likelihood of people arriving and leaving the appeal property at the same time, particularly if there are classes after each other. As such, the proposal would increase the risk of 2 vehicles meeting while on the track. Such incidences may lead to a delay in drivers entering into Flats Lane, thereby hindering the free flow of traffic on Main Road. Also, they may result in drivers needing to reverse back onto Main Road to allow space for vehicles to exit the lane. There can be no certainty that drivers on the track would reverse to allow cars to enter Flats Lane. Moreover, it is likely that vehicles meeting on the track would require drivers to reverse, possibly around a corner or for a significant distance. Any of the above situations would either increase the risk of collision on Main Road or prejudice the safety of pedestrians using the public footpath that follows the track.
20. I note and attach significant weight to the fact that neither the Council nor Warwickshire County Council (WCC) as highway authority has raised highway safety concerns. Nonetheless, WCC acknowledges the development would result in an intensification of the use of a sub-standard access. WCC suggest a condition to secure proposed improvements to the access and the appellants indicate the lane could be re-surfaced in a hardbound material. However, I am uncertain whether any improvements would enable the track to be widened to allow vehicles to pass. Without such assurance, I find that the lack of objection from the Council and WCC fails to fully address my concerns.
21. The previous appeal Inspector found that traffic associated with the proposed dwelling would not lead to unacceptable harm to highway safety. However, the Inspector was considering a development that would generate a different

- pattern and level of car movements than the current proposal. Compared to a single new dwelling, the private swimming lessons use is more likely to lead to vehicles meeting on the track. Also, there is a realistic prospect that the approved dwelling would be provided in which case, associated traffic may coincide with car movements connected with the proposed lessons. In light of this cumulative effect, it would not be inconsistent with the previous appeal decision to find harm would be caused by the current proposal to highway and pedestrian safety.
22. Concerns have been raised over the visibility when leaving Flats Lane onto Main Road, with reference to a recent accident near to the junction. However, the full details of this incident are not before me and so it is unclear whether limited visibility was a contributory factor. The appellants' plan shows the required 2.3m x 34m visibility splay to the north of the access can be provided. Criticisms have been raised over the accuracy of the splay measurements. However, from my observations I am satisfied that drivers leaving Flats Lane would have adequate sight of road users in both directions so as to not cause an unacceptable highway safety issue. Also, I am satisfied that any restriction to visibility at the junction would not put pedestrians at undue risk of harm as the pavement ends in front of No 99 on the Flats Lane side of Main Road. However, acceptability in these regards would not overcome my concerns over the increase in traffic using a single vehicular width track along which there is a public right of way.
23. For the above reasons, I conclude the proposed revision to the disputed condition would cause unacceptable harm to highway and pedestrian safety. Consequently, the condition as it stands is necessary in order to ensure the development accords with part 6 of LP policy LP29. This looks for safe and suitable access to developments.

Other Matters and Planning Balance

24. Austrey Baptist Church is a grade II listed building dating from 1808. Its significance derives from its age as well as its architectural quality. The Council officer's report on the planning application leading to this appeal highlights that vehicles travelling along the track and parking at Charity House would change the ambience of the church. Even so, traffic noise is most likely to affect the rear of the church and it would not detract from the appreciation of the more attractive front and side elevations. As such, the development's effect on the setting of the church would not harm the aspects that contribute to its significance.
25. Also, I am advised that No 99 is a grade II listed building. I have already found that traffic noise associated with the appeal development would affect the living conditions of occupiers of this property. However, it would seem that No 99's heritage significance lies solely with its age and architectural interest. This would be unaffected by vehicular noise associated with the swimming classes. As such, the development would not harm the heritage significance of No 99.
26. Reference is also made to listed buildings at 87 Main Road and the Homestead. These are set away from the pool and the access and so the proposed swimming classes and associated traffic noise would not affect their settings nor their heritage significance. Lack of harm to the nearby designated heritage assets is a neutral factor in my assessment.

27. Interested parties have written in support of the proposal, including those that attended lessons before they ceased. The community use of the pool would bring people together and would promote exercise and healthy lifestyles. It would be a new community facility in the village and would provide an opportunity for local residents, including children, to attend local swimming lessons and to attain an important life skill. I am advised that there is no alternative pool within Austrey. The swimming classes would also provide employment opportunities. All of these benefits are supported by the provisions of the National Planning Policy Framework as well as parts 3, 4, 5 and 7 of LP policy LP29. Such factors weigh in favour of the scheme.
28. Even so, the proposal would cause harm as identified in respect of the main issues. As such, it would be contrary to the provisions of the development plan when read as a whole. Overall, the weight to be given to the advantages of the private swimming classes do not justify a decision to grant planning permission contrary to the development plan.
29. The submissions indicate that some of the proposed swimming classes would cater for people with disabilities. The Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 sets out the need to advance equality of opportunity for people who share a protected characteristic and those who do not. A decision to dismiss the appeal may deprive people with disabilities the chance to attend swimming lessons and so it would fail to advance equality of opportunity.
30. However, the identified harm to the living conditions of nearby residents and to highway and pedestrian safety outweighs the benefits in terms of advancing equality of opportunity. Also, it does not follow from this decision that another proposal that allows a level of pool usage by disabled people would be unacceptable. Moreover, interested parties have highlighted that, as well as Flats Lane, Charity House benefits from an alternative vehicular access. No explanation has been provided by the appellants as to why this alternative would be unsuitable for use in connection with swimming lessons at the pool. As such, I am unconvinced from the evidence that the revision to the condition as proposed is the only way to secure private swimming lessons. In such circumstances, it would be proportionate to dismiss the appeal even when having regard to the PSED.

Conclusion

31. The proposed amendment to the disputed condition would lead to harm as identified above. The benefits of the proposal would fail to override this harm. Therefore, the appeal does not succeed.

Jonathan Edwards

INSPECTOR



Costs Decision

Site visit made on 31 January 2023

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2023

Costs application in relation to Appeal Ref: APP/R3705/W/22/3307971 89-91 Main Road, Austrey CV9 3EG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr and Mrs Hames for a full award of costs against North Warwickshire Borough Council.
 - The appeal was against the refusal of planning permission for alterations and extensions to house including redesign of swimming pool and conservatory as previously approved without complying with a condition attached to planning permission Ref PAUSAV/0602/96/FAP, dated 14 August 1996.
-

Decision

1. The application for an award of costs is refused.

Reasons

2. The Planning Practice Guidance advises that costs may be awarded against a party who has behaved unreasonably and so caused the costs applicant to incur unnecessary expense in the appeal process. This application claims unreasonable behaviour by the Council in terms of (i) failing to objectively assess the proposal, (ii) failing to substantiate its objections, (iii) relying upon vague, inaccurate, generalised and unsubstantiated assertions about the proposal's impact, (iv) refusing planning permission that clearly should have been allowed having regard to the development plan policies, and (v) refusing planning permission on a ground capable of being dealt with by planning conditions.
3. The decision to refuse planning permission was made by the Council's planning and development board against the advice of its officers. The Council is not duty bound to follow this advice but it has to clearly demonstrate on planning grounds why a proposal is unacceptable and properly substantiate its reasons.
4. The board's decision was made on 7 September 2022 after reports on the planning application had been put before it in May and July 2022. The board twice deferred making a decision on the application, firstly to seek an amendment to reduce the time periods for the proposed community use and secondly to allow a visit to the site. These actions indicate that the board members have carefully considered the proposal and its effects. As such, the evidence suggests that the board has carried out an objective assessment.
5. I can understand the appellants' grievance that the board's concern on the effect of vehicle movements on neighbouring properties was not raised as a potential issue prior to its meeting on 7 September 2022. However, it is also

- understandable that such a concern would only come to light following the board members' site visit on 5 August 2022. Also, objections to the proposal due to the effect on living conditions of occupants of 93 and 99 Main Road (Nos 93 and 99) had been submitted. Therefore, it was clearly a matter that the board would need to consider. I find no convincing evidence to indicate that the board members was unduly or inappropriately influenced by concerns raised by interested parties in reaching its decision.
6. The Council's refusal reason is brief but it refers to a relevant local plan policy and explains the concerns regarding the effects of vehicular movements on neighbouring properties. The Council's appeal statement of case sets out its contentions in more detail by referring to the existing vehicular usage of Flats Lane and how the proposal would increase car movements. The case made is again brief but the Council has clearly submitted evidence to substantiate its concerns. It is appropriate for the Council to refer to objections received from nearby residents as they offer support for its case.
 7. The Council has not provided any technical noise assessment to support its contentions. The appellants suggest that without such an appraisal, a site visit by board members is inadequate to arrive at a well-informed view on noise effects. However, I note that the appellants also have provided no noise assessment. As such, my assessment of the appeal has had to be made on the same basis as the board members' decision. In such circumstances, I find the Council has not acted unreasonably in refusing permission without a technical noise assessment to support its concerns.
 8. The refusal reason in itself does not identify the neighbouring properties the Council considers would be adversely affected. Also, there is little explanation on why the Council considers traffic would cause inconvenience. However, further explanation has been provided as part of the appeal and there is no evidence that the appellants have misunderstood or misinterpreted the Council's concerns. In any event, the occupiers of Nos 93 and 99 have also made representations that clearly outline their objections on how traffic associated with the development would cause them nuisance. The appellants have been made aware of these concerns and had the opportunity to respond. In such circumstances, I find the Council's submissions are not so vague or generalised to be unreasonable.
 9. The officer's reports on the planning application highlight the benefits of swimming lessons and there is no evidence to show the representations in support of the proposal have been ignored. As highlighted in my appeal decision, there are benefits as well as detrimental effects to consider. The assessment of such factors and the weight to be attributed in the final balance are matters of planning judgement. I have arrived at the view that the benefits do not outweigh the harm and so the proposal is not clearly permissible in light of development plan policies. It follows that the Council has not been unreasonable in deciding to refuse planning permission.
 10. In effect, the application seeks to amend the disputed condition with limitations on the times of private swimming lessons. Despite these time restrictions, I have found the proposal would lead to harm to residential amenity and highway and pedestrian safety. In light of the basis on which the application was made and how it has been considered, I am aware of no conditions that could be reasonably imposed which would fully address these concerns. It

therefore follows that I find the Council has not acted unreasonably by refusing permission on grounds that could be addressed by the imposition of planning conditions.

11. The appellants also raise concerns over how the board members acted at its meeting in September 2022 and how they reached the resolution to refuse planning permission. However, I am unconvinced that any of the complaints in these regards identifies a type of behaviour that warrants an award of costs. I appreciate the appellants' misgivings on the Council's actions and decision but I find no evidence of unreasonable behaviour. Therefore, I conclude an award of costs is not justified.

Jonathan Edwards

INSPECTOR

Agenda Item No 10

Planning and Development Board

6 March 2023

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

To consider whether, in accordance with Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 11

Confidential Extract of the Minutes of the meeting of the Planning and Development Board held on 6 February 2023.

In relation to the item listed above members should only exclude the public if the public interest in doing so outweighs the public interest in disclosing the information, giving their reasons as to why that is the case.

The Contact Officer for this report is Julie Holland (719237).