

## **General Development Applications**

**(5/c) Application No: PAP/2022/0241**

**The Office, Church Road, Warton, B79 0JN**

**Change of use of land to become public house seating area, with pergola structure for covered seating, also containing drainage and raised garden beds, for**

**Mr Marven**

### **Introduction**

This application is referred to the Board as the land is owned by the Council.

### **The Site**

This is a small rectangular piece of land – 14 by 5 metres - adjoining the former Boot Inn, now known as The Office, immediately at the rear of a couple of newly constructed houses off the Hatters Close cul-de-sac. It extends from the rear of 29 Hatters Close to the rear of 3 Trinity Close and is at a much lower level than the small rear garden of the Trinity Close property. It is at much the same level as the small rear garden to number 28 and 29 Hatters Close because of the fall in the land from north to south.

The adjoining land at The Office comprises its car park towards the southern end of the site and terraced seating areas towards the north. The site is effectively at car park level.

It is shown at Appendix A.

### **Background**

The Hatters Close redevelopment, built on Council owned land has recently been completed and is now fully occupied. The land the subject of this current application was included in that scheme to be retained for planting. It lies between The Office and a communal parking area for Hatters Close residents. It remains in the Council's ownership. It was at a higher level than that of The Office car park and was an overgrown and untidy piece of land. However, its retaining wall alongside the car park was leaning towards the car park and had to be removed for safety reasons. That exercise inevitably required the removal of much of the land behind it because of the resulting unsupported root structures of the overgrown foliage here and the lowering of its level to that of the car park. It presently has a bare earth base and the sides are presently supported as part of those "making good" works.

The Office premises are used for licensable activity including the sale of alcohol and regulated entertainment. This includes the playing of recorded music and live music at various times. These licensable activities are time limited by the Licence – two live music events per month starting at around 2100 hours. Windows and doors are closed to prevent noise breakout. There is also live music within the existing beer garden four times year – 1600 to 1900 hours typically at weekends.

The existing beer garden is open from 1600 to 2100 during Monday to Thursday and from 1200 to 2100 on the remaining days. The maximum capacity of this area is 140 people, but the licensee says that on average it is used by around 40 people.

## **The Proposals**

The proposals are to provide a use for this area as an extended beer garden to The Office. A retaining wall would be added around three sides and the existing ground level retained. Raised garden beds would be added to the northern and southern boundaries. The car park side would be partially fenced so as to separate it from the car park but be open at its northern end so as to allow customer access via the existing beer garden.

The difference in height between the site's ground level and the top of the fence at the rear of the Trinity Close houses is 3.84 metres – and 2.2 metres between ground levels. The difference between the site's ground level and the top of the fence at the rear of the Hatters Close properties is 2 metres as is the ground level difference.

The proposals are shown at Appendix B.

## **Representations**

The occupiers of property in Hatters Close have objected because they say that they are already experiencing noise disturbance from The Office particularly at weekends and this would be made worse because of the proximity of the proposed extended beer garden.

## **Consultations**

Environmental Health Officer – Whilst there are no records of noise complaints in the last few years there is concern about the extension coming closer to residential property. A noise assessment is required before advice can be given.

## **Consultant's Report**

As a consequence of the above request by the Environmental Health Officer and the receipt of the objection, a Noise Impact Assessment was commissioned. This specifically monitored existing noise conditions from the rear garden of the objector's property in Hatters Close.

It concluded that proposed "mitigation measures will effectively reduce existing levels of noise at the most affected residential property. This is consistent with planning policy and noise guidance to improve health and quality of life. I do not consider noise, when placed in the context of noise and planning guidance, a reason for refusal".

The full concluding chapter of the Assessment including the recommended mitigation measures are at Appendix C.

## **Development Plan**

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

## **Other Material Planning Considerations**

The National Planning Policy Framework – (the “NPPF”) with particular reference to para 187

Noise Policy Statement for England 2010

National Planning Practice Guidance

Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs 2003

Noise Council Code of Practice

## **Observations**

There is no objection in principle to an extension of licensed premises within the development boundary of a settlement. The central issue is whether that extension would be likely, in the terms of Local Plan Policy LP29 (9), “to avoid and address unacceptable impacts upon neighbouring amenities through ..... noise” – amongst other things.

In this regard there are concerns because of residential property adjoining an existing beer garden and the activities already licensed at the premises. Whilst there have been no noise complaints received, that is insufficient to assume that the proposed extension to the existing arrangements would not give rise to future issues. Indeed, an objection to the proposal has been received and the Environmental Health Officer has expressed some caution.

To this end, the submission of an up to date and relevant Impact Assessment is welcomed. This was undertaken by appropriately qualified professionals and the methodology used complies with the necessary guidance. The monitoring of the existing situation was also undertaken with specific reference to the address of the objector in this case, being directly adjacent to the site. The conclusions from this Assessment are thus to be given substantial weight. In overall terms these say that noise should not be the subject of a refusal reason, providing suitable mitigation measures as recommended are undertaken.

It is necessary to look through the recommended mitigation measures in order to establish whether these themselves can be implemented through a grant of planning permission, or if one or other of the measures would be likely to cause any other adverse noise impacts.

Four of the recommended measures relate to screen walls and fences around the application site as well as within the existing upper beer garden. These are reasonable in amenity terms as the ground level of the site is already well below the level of the land to the north and this would not exceed the height of the existing fence. To the south, the existing garden fence is 2 metres tall and the new wall here would rise above this by 0.7 metres. There would thus be some degree of shading in that rear garden. The recommendations for the existing beer garden are understandable as they would provide an additional series of “barriers”. They are all on land owned by The Office. These matters can be conditioned. The orientation of the seating is more problematic as a planning condition, but it is achievable if that seating is fixed to the ground.

There are a couple of other matters to consider.

Firstly, whilst not a case that directly involves the “agent of change” principle set out in para 187 of the NPPF, that paragraph contains a useful “test”. In other words, can suitable mitigation be introduced so as not to give rise to unreasonable restrictions on an established business. It is considered that in this case, those measures are suitable as they not only are recommended to reduce impacts for the neighbours, they also have taken account of the existing activities that can be carried out at The Office under its lawful planning use and its Licence to sell alcohol and provide live music. It is understood that the proprietor has no objection to the mitigation measures. It is certainly in his best interests to do so.

This is because of the second issue. The Licence here can be reviewed and if residents have evidence of a breach of the Licence, they can refer their evidence to the Council for potential involvement of the Licensing Committee.

### **Recommendation**

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

1. Standard Three year condition
2. Standard plan numbers – the site plan received on 5/5/22 and the existing and proposed plans received on 12/5/22.
3. The development hereby approved shall not be used for commercial purposes other than between 1600 and 2100 hours on Mondays to Thursdays inclusive, and between 1200 and 2100 hours on Fridays, Saturdays and Sundays.

### **REASON**

In the interests of protecting the residential amenity of neighbouring occupiers.

4. No development shall commence on the development hereby permitted until such time as details of the facing brick work and timber fencing to be used have all been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be used on site

REASON

In the interests of the visual amenities of the area.

5. No development shall commence on the development hereby permitted until such time as details of the landscaping to be implemented have been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be used on site

REASON

In the interests of the visual amenities of the area.

6. The development hereby approved shall not be brought into business use until all of the following matters have been fully completed to the written satisfaction of the Local Planning Authority.

- a) The whole of the site has been lowered by 0.5 metres below the existing ground level of the lower beer garden.
- b) The brick wall around the site has a height of 2.7 metres as measured from the sites' ground level following its lowering as required above.
- c) New screen fences to a height of 1.5 metres have been erected within the upper beer garden
- d) A new screen fence to a height of 1.5 metres has been erected along the western boundary of the site and the lower beer garden
- e) A new screen fence to a height of 1.5 metres has been erected along the western boundary of the site extending around to the south-west boundary of the lower beer garden
- f) The seating within the application site has been permanently fixed to the ground such that it oriented towards the north /north-west

For the avoidance of doubt the location of the wall and fences set out above is illustrated on the plan attached to this Notice.

REASON

In the interests of reducing the risk of noise emissions from the site.

7. No lighting whatsoever shall be erected, placed or connected to the application site unless details 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 protecting the residential amenity of neighbouring occupiers

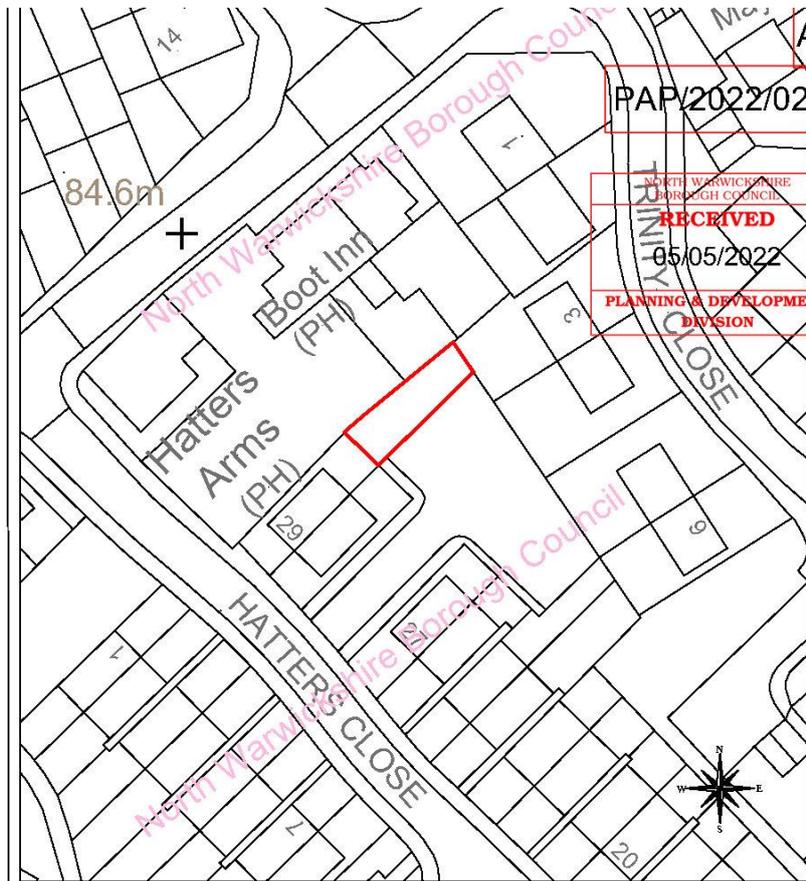
8. There shall be no live music event or activity take place on the application site, nor any recorded music be relayed to the site at any-time.

REASON

In the interests of protecting the residential amenity of neighbouring occupiers.

Informatives:

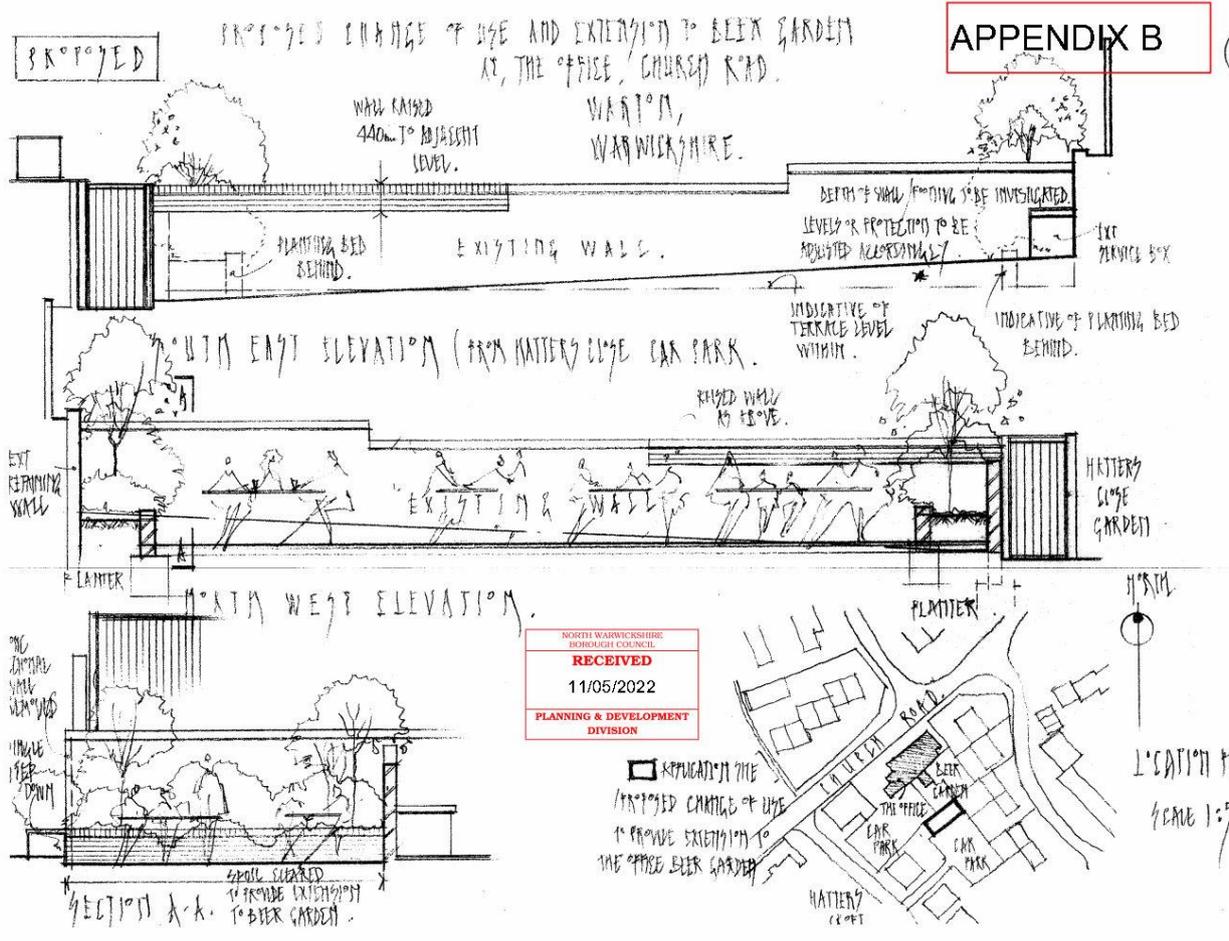
1. The Local Planning Authority has met the requirement of the NPPF in this case through undertaking technical assessments in order to ensure that a positive outcome can be achieved taking into account the residential amenity of neighbouring occupiers.
2. The Party Wall Act standard notes.



APPENDIX A

PAP/2022/0241

NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
**RECEIVED**  
05/05/2022  
PLANNING & DEVELOPMENT  
DIVISION

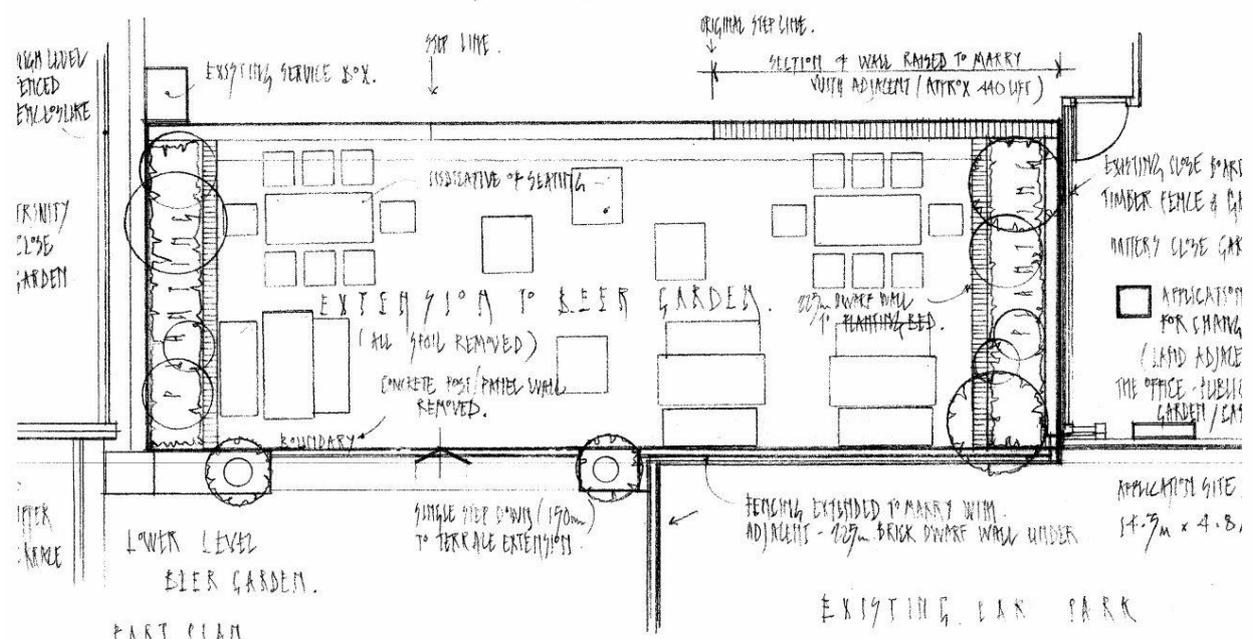


APPENDIX B

NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
**RECEIVED**  
11/05/2022  
PLANNING & DEVELOPMENT  
DIVISION

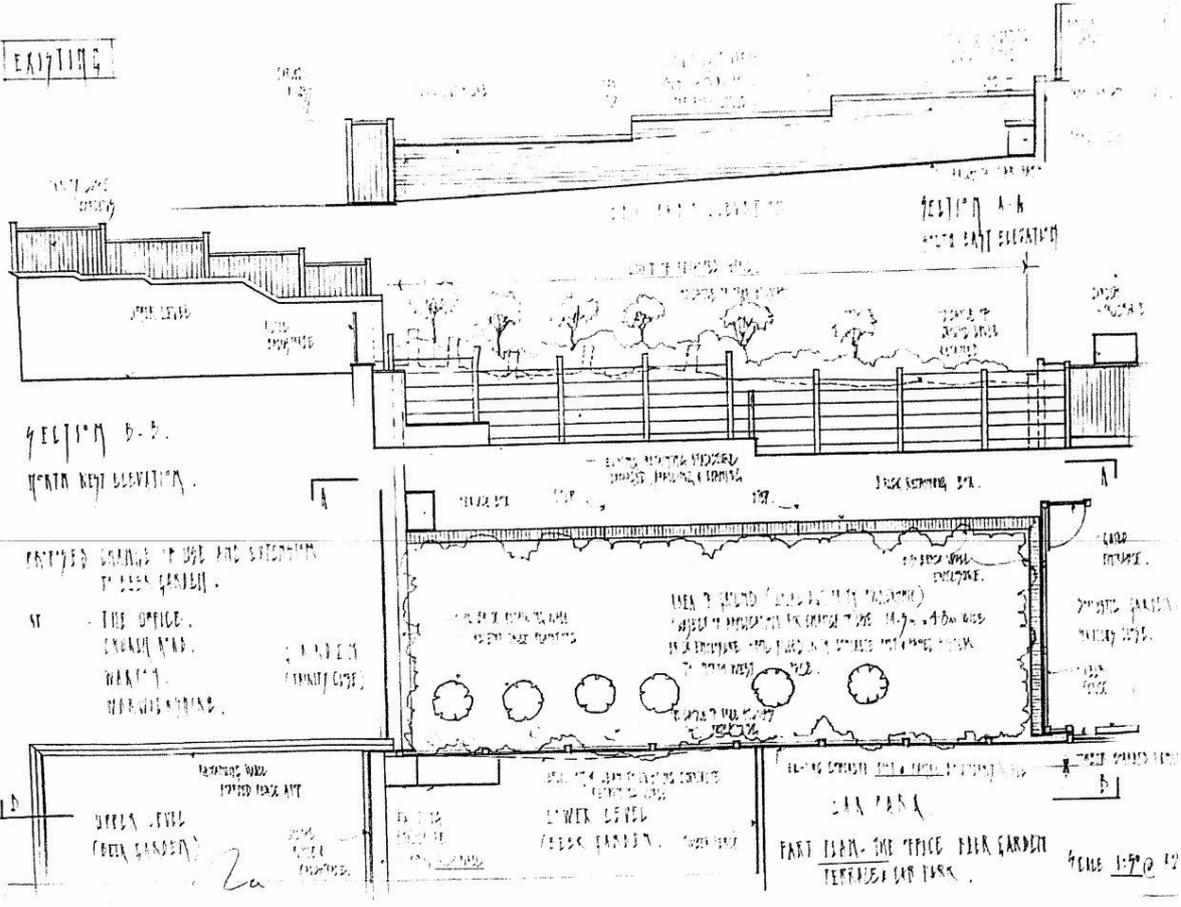
PROPOSAL

# HATTERS CLOSE CAR PARK.



PART PLAN  
 PROPOSED CHANGE OF USE / EXTENSION TO BEER GARDEN.  
 AT THE OFFICE, CHURCH ROAD, WARSON, WARWICKSHIRE.

SCALE 1:50 @ A



## 8.0 Conclusions and recommendations

- 8.1 BAC were commissioned by NWBC independently assess proposals for the use of a currently disused area of land to form an extension to an existing beer garden. The proposed use seeks to increase the area of the beer garden which is currently split into two main areas; the upper and lower beer garden.
- 8.2 The proposed development is located close to existing residential gardens recently developed/redeveloped on Trinity Close and Hatters Close. Noise from beer gardens can be problematic due to the character of noise (voices) and context (time of occurrence, regularity during evenings and weekends etc). Noise from people contains acoustic features with the potential to attract attention and potentially increase annoyance to the listener, especially when received in a home environment.
- 8.3 The character of noise from the existing beer garden including raised voices are expected and congruent sounds within the immediate locale. The LPA granted planning permission for the redevelopment and development of land immediately adjacent The Office for residential use. This indicates the LPA consider existing levels of noise emanating from The Office to be acceptable.
- 8.4 Noise monitoring was undertaken during a weekend to determine typical noise levels from use of the beer garden during a live outdoor music event. The events occur four times per year typically between 4pm and 7pm. Comparison with the NC COP was considered a useful aide to assess levels of noise from the live music event. The noise monitoring shows a guideline derived through the application of the NC COP (52dB LAeq,15min) was met by 2 to 6dB.
- 8.5 The noise monitoring shows typical worst case average sound levels measured within the garden of 29 Hatters Close of around 46dB to 51dB LAeq,15min. Peaks of noise from raised voices and laughing were typically measured between 55dB and 60dB up to typical worst-case levels of 65dB to 71dB.
- 8.6 With no additional mitigation, modelling of the proposed development shows increases of average noise levels of 3dB at 29 Hatters Close (54dB LAeq,15min). This indicates an increase in noise that could be considered indicative of significant adverse and/or adverse effects on the nearest noise sensitive receptors.
- 8.7 The proposed development does not seek to introduce a new source of noise within the neighbourhood as noise from the beer garden is already present within the acoustic environment. Assuming a worst case, noise from the proposed development could change the acoustic character of the area by increasing average noise levels

by 3dB and maximum event noise by 6dB to the point coping mechanisms may be necessary. For example, consistent with a perception of either present and disruptive noise equivalent to a significant observed adverse effect or present and intrusive noise equivalent to adverse effects from noise. The PPG on noise advises noise impact that is disruptive should be avoided and noise that is intrusive should be mitigated and reduced to a minimum. The appropriate planning response is to avoid significant adverse effects and mitigate and reduce to a minimum adverse effects from noise.

8.8 In summary, to meet the appropriate planning response, BAC recommend the following mitigation measures are implemented within the existing and proposed development site:

- Increase height of wall around proposed development to 2.7m
- Install new screen/fence within upper beer garden (1.5m)
- Install new screen/fence along western boundary of new development and lower beer garden (1.5m)
- Install new 1.5m (5 foot) fence along western boundary of new development extending around to the south western boundary of the lower beer garden
- Reduce floor level of proposed development by 0.5m relative to the ground level of the lower beer garden
- Orientate seating to encourage speech to be directed towards the north / north west
- Explore potential for solid construction of pergola walls and roof (or heavy/absorptive drapes to dampen sound and reduce reflections) (optional)

8.9 The focus of the mitigation is to provide a complete breakage of the line of acoustic sight from patrons seated within the beer garden to the closest dwellings to the south.

8.10 Post implementation of mitigation, the predicted noise levels for average noise are reduced by 6dB to 48dB LAeq,15min. This represents a noticeable reduction in noise and also reduces noise from the existing upper and lower beer gardens by 3dB. Post implementation of mitigation, the predicted maximum event noise levels from the proposed development are 66dB LAeq,125ms. This is 6dB lower than existing maximum event noise within the closest residential garden which represents a noticeable improvement.

- 8.11 The assessment considers uncertainty, but this does not alter the conclusions of the assessment. I do not consider noise, when judged in the context of existing levels of noise from the existing beer garden, acceptance of existing levels of noise by the LPA through the granting of planning permission for adjacent residential uses and application of planning guidance, a reason for refusal.
- 8.12 The proposed development and implementation of mitigation measures both within the proposed development and existing site (beer garden) is considered consistent with the requirements of national planning and noise policy and guidance. The implementation of screening minimises any impact that could be considered to cause adverse effects on health and quality of life and any impact that could be considered to cause significant adverse effects on health and quality of life has been avoided. The proposed development promotes improvements in health and quality of life by reducing 'average' noise levels by 3dB and maximum event noise by 6dB.
- 8.13 The level of noise impact from the proposed development, post implementation of mitigation, is considered suitable providing planning gain through the reduction of average and maximum event noise from people within the beer garden.

## **General Development Applications**

**(5/d) Application No: PAP/2022/0298**

**South View, Weddington Lane, Caldecote, Nuneaton, CV10 0TS**

**Proposed garage, gym and link to existing property, for**

**Mr Mark Spencer**

### **Introduction**

This case is referred to the Board in light of its previous interest in the site.

Members will recall that they have visited this site and that of a neighbouring occupier in connection with a retrospective application to retain built development comprising a garage, gym, a link to existing property and a play-room.

### **Background**

The previous report in connection with the then proposal is at Appendix A. In short, the Board considered that the extension here was too large, having an adverse impact on the residential amenity of a neighbouring occupier. Planning permission was refused for the reason as recommended in that report. Whilst authority was given to commence enforcement action, the Board resolved that officers engage with the applicant on a “without prejudice” basis, to review alternative proposals. The applicant has done so and has now submitted this updated application. The proposals as described below amend the present construction on the site – there would be partial demolition and “finishing off” of the remaining building.

### **The Site**

The general description of the site and its setting is as set out in Appendix A. There had been no change since that time. A location plan is at Appendix B.

### **The Proposals**

The plan at Appendix C illustrates the position prior to any work commencing. It shows an extension running close to the northern boundary

The plan at Appendix D shows the building now on site and this is the scheme that was refused planning permission after consideration of the report at Appendix A.

The current amended plan is at Appendix E. It shows a reduction in height and design from the refused scheme.

In summary, the current proposal retains the same footprint as that presently on site and its distance from the common neighbouring boundary is as now. The uses that were to be accommodated on the ground floor are to remain - a garage and gym. The change is in the loss of the whole of the first or attic floor and its completion with a mansard roof rather than a normal pitched roof. The side gable window with its Juliet

balcony is removed as a consequence. The footprint would come no closer to the tree that is the subject of an Order.

The new height to the highest part of the new roof as far as can be measured from the plans would be 4.5 metres. The height on site at present is 5.8 metres. The original building on the site did not have a “normal” roof structure. There was a mansard roof at the front measuring 4.5 metres with an almost flat roof at the rear, which varied between 2.5 and 3 metres because of different ground levels.

## **Representations**

An objection has been received and this has been circulated to Members at the request of the objector, rather than appended to this report. In summary it refers to the following:

- Does not consider there to be a material change from the last refusal, by the Planning Committee.
- The proposed siting, scale, bulk and height of the buildings are not proportionate to the buildings they replaced. The appearance of the building and materials proposed would not assimilate with the character of the local vernacular. Significant and detrimental impact on the surrounding character and appearance of the area and they do not comply with the NPPF and LPA guidance.
- Domineering to the local area due to scale and mass.
- The proposed buildings do not bear any relationship to the buildings that were demolished, and they replaced.
- The reduction will not improve light.
- The planning application and drawings are inaccurate.
- The application does not reflect the footprint of the original garage and outbuilding, that the building has been constructed next to a 180-year-old oak tree, which has been pruned.
- In my opinion the quality and design of the buildings do not comply with the Authority’s guidance as they are imposing, intimidating and intrusive.
- Concerned that the construction is close to a mature oak, which may require specialist engineering to its foundations and the impact to the tree and surrounding buildings if these have not been completed.
- Consider the steepness of the roof pitches (especially the Snug) may raise a number of health and safety risk relating to the buildings.
- The buildings have had an impact upon natural environment of the area.
- LPA needs to be satisfied that the garage building is safe when considering the Corporate Manslaughter and Homicide Act 2007.
- LPA needs to consider the Human Rights Act 1998, with regards to Article 8 and potentially Article 2.
- LPA should consider potential pollution issue, which may arise from the proposed and future usage.
- Set a precedent for similar proposals in the area.

## **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

## **Observations**

The issue for the Board here is whether the current proposal goes sufficiently far to removing the reason for the recent refusal. That refers to the scale and massing of the building which would have an overbearing impact on neighbouring residential amenity as well as the loss of light.

It is considered that the amendments now proposed have done so. The height of the extension has been significantly lowered – 1.3 metres – and the use of the mansard roof reduces the “mass” of the overall structure. The length of the building is still extended as is the position now – which is 2.6 metres longer than the original garage. However, the key concern with the previous plan was its height and mass. This does still not match that of the original building being 1.5 metres taller. However, Members have to assess whether the current amended plan overcomes the refusal, not whether it matches the original building. It is considered that this does represent a material improvement and that as a consequence, whilst it will have an impact, that is not unacceptable. It is acknowledged that its length has been retained but the reduction in height is sufficient to improve the day lighting and sun lighting to the neighbouring property. The three rooflights that Members saw on their visit will be retained and these are shown on the plan at Appendix E. However, as Members saw on their visit, these face the side elevation of the neighbouring property and have limited if any, harmful impact.

The position in respect of the protected tree remains as set out in the previous report. The matter concerning the steepness of the snug roof, falling objects and other legislation was dealt with in Appendix A.

## **Legal Implications**

Members will note that, as in relation to the first application, an objection has been made to this proposal citing that the Council must consider the Human Rights Act 1998, including Article 8 and possibly Article 2) and the Corporate Manslaughter Act 2007.

As members will be aware, the Human Rights Act prohibits public authorities such as the Council from acting in a way which is incompatible with convention rights. Dealing first with Article 2, this protects the right to life, i.e. that no person shall be deprived of their life. As will be quite evident, no decision that the Board could make in relation to this application will result in any person being deprived of their life and, accordingly, Article 8 is not relevant.

Article 8 protects the right to private and family life, which may only be infringed in accordance with the law as is necessary in a democratic society for certain purposes.

As stated in relation to the earlier application, case law states that Article 8 rights are capable of being a material consideration in determining a planning application. Case law further states that there is a difference between the engagement of Article 8 rights and the question whether there has been interference with whatever form the Article 8 right takes in any individual case. Only if there is such interference does a balancing exercise need to be carried out to establish whether such interference is proportionate in that individual case. The process for determining planning applications allows representations to be made by those affected and members will be familiar with the need to identify any potential infringement and balancing the impact of any that may arise.

The Corporate Manslaughter Act only creates criminal liability where a relevant duty of care exists under the law of negligence in certain situations, e.g. for a company which carries on construction operations causes the death of a person. The Act expressly states that any duty of care owed by a public authority in respect of a decision as to matters of public policy (including in particular the allocation of public resources or the weighing of competing public interests) is not a “relevant duty of care”. Accordingly, no decision which the Board can make in relation to this application would be subject to that Act.

## **Recommendation**

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

1. The development to which this permission relates must be begun no later than the expiration of six months from the date of this permission.
2. Standard plan numbers condition – 9606/01 and 9606/21
3. No additional openings within any elevation of the building hereby approved or within any part of its roof shall be undertaken.

### REASON

In the interests of protecting the residential amenity of neighbouring occupiers.

4. The building hereby approved shall only be used for incidental residential use in association with the residential property known as South View, and for no other purpose whatsoever.

### REASON

In the interests of protecting the residential amenity of neighbouring occupiers.

Notes:

1. The Local Planning Authority has met the requirements of the NPPF in this case by working with the applicant to achieve an amended scheme that can be supported.
2. Standard Party Wall Act Informative
3. The building is close to an oak tree protected by an Order. Any works close to that tree should first be discussed with the Local Planning Authority prior to being carried out.

## **General Development Applications**

**(7/e) Application No: PAP/2020/0259**

**South View, Weddington Lane, Caldecote, CV10 0TS**

**Demolition of existing garaging, replacement garaging, gym, snug and playroom, for**

**Mr Spencer**

### **Introduction**

This application is reported to the Board as local Members are concerned about the impact of the proposals on neighbouring residential amenity.

Members undertook site visits on 10 July 2021 and 21 January 2022. A note of these is at Appendix A.

As a consequence of these visits, Members will be aware that the new building has almost been completed and thus this application is a retrospective one to retain it.

### **The Site**

The site is located on the west side of Weddington Lane within a range of other similar large detached residential properties south of the junction with the A5. The houses are set well back from the road and have large front gardens. There are numerous trees within the curtilages of all of these properties.

The property to the north – Timberlea – is a bungalow and is sited on slightly lower ground than the application property. It has an existing detached garage along the common ownership boundary.

A location plan is shown at Appendix B.

### **The Proposal**

Planning permission is sought for the demolition of an existing garage and its replacement with a new larger building in the same location to provide a replacement garage, a gym, snug and playroom. As can be seen from the location plan, the original and proposed buildings run along the northern boundary of the site and extend forwards from the main dwelling to which they are attached.

The original garage is shown as shaded on the plan at Appendix C. It was connected to the existing swimming pool. Its appearance and height in comparison to the main structures on the site can be seen here. It essentially had a flat roof surrounded by a mansard roof arrangement of different scales. The rear elevation however was effectively a single wall. The dimensions of this garage were 9.4 metres by 7.5 metres. The eaves level at the front was 2.5 metres with the mansard ridge at 4.5 metres, whereas at the rear, the eaves level was approximately 2.9 metres with the mansard ridge also at 4.5 metres.

The proposal would create a new garage for three vehicles with a playroom within its roof space. The area between the existing swimming pool and the new garage would accommodate a gym and a snug room. It would have a normal pitched roof. Whilst the main openings would face south – there would be three roof lights added into the snug room and an additional roof light above the stairwell accessing the play-room. The plans and elevations are shown at Appendix D and again its appearance and height can be seen in comparison with the existing structures on the site. The footprint would be 12 metres by 6.8 metres, or 14.2 metres if you include the lobby and it would be 5.8 to its ridge and 2.8 metres to the eaves.

The former garage has in fact now been demolished and the new building is substantially completed. The application is thus to be treated as one seeking retrospective permission. Officers have visited the site and can confirm that the building has been constructed in accordance with the dimensions shown on the proposed plans.

A comparison between the footprint of the original garage and that now constructed is at Appendix E. A similar comparison of the rear elevations of the original garage and that now built is at Appendix F. The rear elevation is shown as this is the elevation facing the neighbouring property, Timberlea.

The application has been supported with the following documents.

A Tree report was submitted by the applicant in February 2021 which looks at the likely impact of the new building on a mature English oak tree located within the curtilage of Timberlea, close to the common ownership boundary and to the garage at Timberlea. The location of the tree is shown on Appendix D. A survey was undertaken after the original garage was demolished and the new building erected. The report concedes that the new building is within the Root Protection Zone of the tree, as is the neighbouring garage. The report notes that the closest point of the new building to the tree is 4 metres with the intervening ground being impermeable gravel. At the time of the survey it was noted that the tree appeared to be healthy, with no obvious adverse impacts. It is also likely that any impact on the root extensions of the tree would be minimal because of the 4 metre distance and there originally being hard standing here as well as the foundations of the former building. Additionally on the assumption that foundation depths of 600mm were used – which would be likely for this building – the impacts would be likely to be low. This the report says, is supported as there was no evidence of impacts on the tree's health or stability. However it was recommended that the tree should be fully re-assessed in twelve months time - ie. February 2022.

A Daylight and Sunlight report has also been submitted by the applicant to assess the impact of the development on the light received at the neighbouring property – Timberlea. It looked at the windows in the side house elevation facing Timberlea as well as the windows and roof light in its extended front elevation, together with the window in the nearby garage. It concludes that all of the neighbouring windows pass the relevant Building Research Establishment ("BRE") tests for diffuse and direct sunlight and that the development also passes the relevant BRE overshadowing test for garden and open spaces. The report's overall conclusion is that whilst the development would affect the lighting in the side elevation of the house and the outbuilding together with closest opening in the front elevation, that impact would be low in respect of the overall light receivable at the neighbouring property.

Photos provided with the application can be viewed at Appendix H. Council officer photos of the site taken from Southview and Timberlea can be viewed at Appendix L.

## **Background**

The application property has been extended several times during the 1960's, 1970's and 1980's as well as more recently in 2011. These included the original garage now the subject of this replacement application.

A front extension to the neighbouring property to the north at Timberlea was granted in 2016. This is now completed and Members saw this on their visits.

The tree referred to above is protected by an Order which includes almost all of the trees on this side of Weddington Lane south of the A5 and within the curtilages of these properties. Its extent is shown by the shaded area at Appendix G.

Member site visits took place on Saturday 10<sup>th</sup> July at 1100 and 21 January 2021, both included visiting the applicant's property as well as that of Timberlea.

## **Representations**

In summary, the following concerns have been raised in objection to the proposals.

- The proposal is having an impact on mental fitness and well-being, as it is so oppressive, intimidating, intrusive and overbearing.
- The light assessment has not been made for the objector's side.
- The building leads to loss light and shadowing.
- Design is not acceptable.
- The tree survey is not independent and objective
- Some branches / limbs have already fallen recently, contrary to the report.
- Does the building comply with Building Regulations with regards to foundations and tree roots. The report makes reference to 600mm foundations and that given the buildings proximity to an Oak tree, it is understood that the recommended building regulations depths are considerably greater and may require specialist engineering.
- The tree could become a hazard if the building has made it unsafe, leading to works having to take place which may not be able to be undertaken on the applicant's site.
- Does not comply with parts of the Local plan including the North Warwickshire Local Plan and NPPF
- There is a need to consider The Human Rights Act 1998 and the Corporate Manslaughter and Homicide Act 2007.

Photographs taken by the objector have already been circulated to all Board Members as well as forwarded to the applicant. They are reproduced at Appendix J.

## **Consultations**

NWBC Tree Officer - It is highly unlikely that tree roots were not present in the construction area and therefore some must have been removed to facilitate the new building. These roots may have been quite substantial this close to the trunk of the tree. Further exploratory work however may well cause further damage to the root system of the tree. He agrees that frequent re-assessments are needed.

Warwickshire County Council Forestry Officer – The conclusions of the applicant's tree consultant, as reported above and the comments of the Council's own tree officer both suggested that there be further monitoring of the tree. Following the departure of the Council's tree officer, the County Council was requested to take a further inspection of the tree. This took place in October 2021. That Officer's report is at Appendix I. It concludes that, "Tree root damage can cause crown dieback and/or render a tree liable to windthrow. One would normally expect to see crown dieback within a few growing seasons following excessive tree root damage and this would tend to lead to a prolonged period of crown decline until the tree balances out its root to shoot ratio. From assessing the annual growth over the last four years the tree has been growing at a similar rate as another oak tree within the garden. I would therefore conclude that the tree has not suffered any short or long-term damage that it has not coped with".

NWBC Environmental Health – no comments

## **Development Plan**

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

## **Other Material Planning Considerations**

The National Planning Policy Framework

The NWBC Residential Householder SPG - 2003

## **Observations**

Members will be aware that replacement outbuildings within an established residential curtilage are acceptable in principle. In this case too, the development is set well back from the road, largely not visible to the public and in an area characterised by large houses in extensive grounds. It is the potential impact of any proposal on neighbouring residential amenity that needs to be assessed in this case. There is the added matter of the impact on a protected tree. Each will be looked at in turn.

### **a) Design**

Policy LP1 of the Local Plan requires all development proposals to demonstrate a high quality of sustainable design that positively improves the environmental quality of an area. Policy LP29 requires all new development to respect and reflect the existing pattern character and appearance of its setting. Section 12 of the NPPF also reflects these aims.

In terms of looking at the design of the proposal in isolation, then it is considered that it is in-keeping with the character and appearance of the host dwelling. It is larger than the original building here, but there are already quite substantial structures within close proximity and the new building matches their scale, design and materials used. It is also well set back from the road and is thus not in the public domain.

#### **b) Neighbouring Residential Amenity**

Notwithstanding the conclusion reached above, the proposed development will have an impact on the residential amenity of the neighbouring occupiers at Timberlea. The report will also look at the impact on the property to the south of South View – known as Keepers Gate – as well as refer to the property beyond Timberlea to the north – Highlands. Policy LP29 of the Local Plan requires new development to avoid and to address unacceptable impacts. Amongst others, these include harms caused by loss of privacy, overlooking and new development over-shadowing other property. Policy LP30 says that replacements should reflect the scale and proportions of the setting of the host dwelling amongst other things. Additionally, they should safeguard the amenity of the host premises and neighbouring occupiers.

In looking at Timberlea, the starting point on which to make an assessment here is to acknowledge that there was an existing building in this location, close to the ownership boundary and visible from Timberlea. The issue is to establish what degree of change there has been and to assess whether that amount of change has led to an unacceptable impact. In making this assessment it is necessary to look at loss of day and sunlight as well as the visual impact.

The original garage here was smaller – in footprint, in length, in width and in height. Appendices E and F illustrate the extent of changes.

These diagrams show that there will be a material change in outlook from Timberlea. The proposed building will be taller to the new ridge by some 1.6 metres with the mansard roof, but 3.6 metres if taken from the flat roof and that additional height would be over an extended length, some 4.8 metres when including the lobby. Whilst the eaves height of the new building is broadly similar to that of the original building's roof, it is the increased height and mass of the whole building that produces that material change. That is best illustrated by the plan at Appendix F. The line of the original building is marked on this for comparison purposes. Members will also have seen this view on their site visits. It is considered that there is a loss of openness here and that the massing of the proposal does have a strong presence, even given the overall character and appearance of the houses that front Weddington Lane, which is one of houses set in a spacious setting. This change is of such a scale that it is considered that it would not accord with Policy LP30 because of the massing of the development, which is overbearing and dominant.

The property at Timberlea is to the north of the new building – its side elevation being some 4.0 metres approximately metres from the new building. It is also at a slightly lower level, but from the site visits this was not generally noticeable. It faces east and its main window openings face east and west. The side elevation facing the new building includes a door and small window to a utility room, as well as a small window to an en-suite. The closest windows in the front elevation are to a bedroom and lounge and these are large floor to eaves openings. There is also a small front window in the garage facing east close to the new development. The Lighting report submitted with the application concludes

that there is a limited impact on the degree of sun and day light received by Timberlea consequent to the development. The worst affected rooms are those along the side elevation, but these are not habitable rooms – neither is the garage. The two most affected windows are those two in the new front elevation closest to the development as a consequence of the new front extension. The photographs at Appendix J show a sequence on a February morning taken from Timberlea Appendix K shows images of the previous garage and the new garage under construction. The sun will travel from east to west and thus the timings of these photos are relevant as they illustrate the likely worst impact – a winter morning. It can be seen that there is an impact on these two windows. Taken together these photographs do show the shading effect of the building as constructed. Whilst this is the case, it is not considered to be substantial, given the size of the windows and that as these are facing east, they will experience shade for a period of the day in any event even if the building was not there.

The main garden to Timberlea is at the front and it does not really have an “open” setting given the number of existing trees in the locality. It is considered that the light entering that garden is not materially affected by the new development. The courtyard in front of the house will mainly be affected as illustrated in the photographs. However, this impact is limited to a part of that courtyard and not continually through the day.

In respect of the potential loss of day and sunlight therefore, it is considered that there is an adverse impact, but that it is not considered that this would be sufficient to defend a refusal reason on its own. However, it does add weight to the conclusion reached above about the impact of the scale of the proposal.

There are rooflights added to the slope of the new roof facing Timberlea. These are shown on the plans and Members saw them on their visit. These are not considered to impact upon privacy or the potential for overlooking because of their height above floor level in the respective rooms and because they face the side elevation of Timberlea which has no habitable rooms here. There would be a larger window in the building’s eastern most gable which serves the first-floor play-room – see Appendix D. Because of the length of the building, it would not overlook the front elevation of Timberlea or its front courtyard. The window faces the front garden of Timberlea which as indicated above has many trees and on balance, it is not considered that there would be a material adverse impact.

To the other side of the application site is Keepers Gate - a distance of 45 metres away. It is not considered that the building’s south facing first floor dormers would have an adverse impact on loss of privacy because of this separation and other intervening buildings and trees.

Beyond Timberlea to the north is a further residential property - Highlands. Because of the separation distance – some 45 metres - there is not considered to be a material impact on residential amenity.

There are other matters that are relevant to an assessment of the balance to be made in respect of the impact of the building on the residential amenity of occupiers of Timberlea. Firstly, there is no fall-back position here as any new building in this location would not be permitted development because it would be forward of the principal elevation of the host dwelling. The former building here – now demolished – came about through the grant of planning permission not through permitted development rights. Secondly impacts can be mitigated through the use of planning conditions – in this case the most appropriate

would be to restrict any new openings beyond that now proposed and also to restrict the use of the building to use incidental to the residential use of the main dwelling. However, such conditions would not mitigate the physical impacts of the replacement building as described above.

Overall, it is considered that there is an adverse impact on the occupiers of Timberlea because of the scale and massing of the new building such that it would not accord with Policy LP29 of the Local Plan. This is given added weight because of the sun and day lighting impacts.

#### **c) The Protected Tree**

The application site is partly covered by a much wider Tree Preservation Order as illustrated at Appendix G with the location of the relevant tree to this case at Appendix D. Members saw this tree on the visits.

A summary of the applicant's submitted tree report is included above which in effect concludes that there is only likely to be limited damage to the tree's health and stability, but that further monitoring is needed.

The Council's Tree Officer did not fully endorse this report. Of particular concern was the lack of evidence about the foundations and the severing/removal of roots. He agrees that further monitoring is required.

The owner of Timberlea considers that proposal should not be determined until after a further report is undertaken as recommended by the report author and indeed the Council's tree officer.

In light to these comments and following the departure of the Council's own tree officer, the County Council's Arboricultural Manager was asked to look at the tree and to provide that later assessment. His conclusion is that the tree has not suffered any short, or long-term damage in that it has coped with the change of circumstance within its root protection area. It is considered that this up to date conclusion carries significant weight.

#### **d) Human Rights and Corporate Manslaughter and Homicide Act**

These are referred to in the representations received.

In the case of the Human Rights Act the representation refers to Article 2 (the Right to Life) and Article 8 (the Right for respect to a private life). Members are aware that the determination of this application is to be made under planning legislation – essentially this is about conformity with the Development Plan and whether there are other material considerations that indicate otherwise. The Human Rights Act is sometimes mentioned in Board reports and advice given to Members revolves around two matters. The first is that the rights mentioned are not Absolute Rights. The second is that there is appropriate and relevant other legislation here, in order to properly address the matters referred to the two Articles mentioned - the Planning Acts. That enables the matters raised to be assessed and balanced by reference to the Development Plan. As a consequence, the respect for a private and family life are fully represented by the Development Plan policies referred to in this report – Policies LP29 and LP30 of the Local Plan.

The issue around the other Act relates to two matters. Firstly, the possibility of the oak tree failing as a consequence of this development, leading to damage to buildings. Secondly to the prospect of tree branches or snow/ice falling from the building's roof onto a third party's property. As indicated previously, this application is to be determined under planning legislation. That enables consideration being given to the impact of the development on the tree's health and stability. In respect of the second matter then there are many roof slopes that affect neighbouring property throughout the Borough. As such it is considered that this is a matter that is more appropriately dealt with by civil action.

#### **e) Conclusion**

The assessment above concludes that there has been an adverse impact on the residential amenity of the occupiers of Timberlea because of the scale and massing of the building, together with some consequential sun and daylight impacts. However, there has been little adverse impact on the protected tree.

This conclusion has now to be assessed against the appropriate Development Plan policies. Policy LP29(9) says that development should "avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, air quality or other pollution". It is considered that the building works here have not avoided a consequential unacceptable impact of overshadowing and thus the proposal would not accord with this Policy LP29(9). Policy LP30 says that amongst other things, replacements should "safeguard the amenity of the host premises and neighbouring properties". It is considered that the new building has not safeguarded the amenity of the neighbouring premises because of the scale being over-bearing and thus not reflecting the setting.

#### **f) The Expediency of Enforcement Action**

If the conclusion above is agreed by Members, and because the application is now retrospective, the Board will have to consider the expediency of enforcement action.

In this event the unauthorised development is the replacement building as shown on the plans and seen on site. Any Notice would thus require its removal. A compliance period of six months would appear to be reasonable and proportionate given the scale of the works involved as the demolition would not appear to be unusual. However, the Notice will have to address the matter of the foundations as their removal may affect the longevity and safety of the protected tree. It may be that after having taken further advice, that the Notice limits the requirements to just demolition down to slab level.

There will be an impact on the owner as there will be a cost involved in this demolition work. However, he undertook the work in advance of the receipt of planning permission and continued notwithstanding foreknowledge of this. It is not considered that this impact carries sufficient weight to override the need for the Notice.

Members will also be aware that the owner can appeal a refusal of planning permission and the service of an Enforcement Notice.

In this case if the Board does refuse planning permission, it may be that given the existence of a previous building on the site, that the owner can agree a smaller replacement building with officers, or that an amendment to the current proposals might

be considered. In either case, the owner should be aware that there will be public consultation on any alternative proposal.

### **Recommendation**

That the application be **REFUSED** for the following reasons:

A) That planning permission be refused for the following reason:

"It is considered that the size, scale and massing of the replacement building along the boundary, will lead to adverse impacts on the residential amenity that neighbouring occupiers could reasonably expect to enjoy. In this case the scale of the proposal leads to an over-bearing development which does not accord with Policy LP30 of the North Warwickshire Local Plan 2021. This in turn leads to overshadowing and the loss of sunlight and daylight such that there is also non-compliance with Policy LP29 (9) of the North Warwickshire Local Plan 2021".

B) That, subject to the receipt of advice from the County Council's Forestry Officer, that the Head of Legal Services be authorised to issue an Enforcement Notice under Section 172 of the Town and Country Planning Act 1990 requiring the removal of the replacement garage, gym, snug and playroom to slab level with the removal of all subsequent material from the site, for the reasons as set out in the reason for refusal in (A) above and with a compliance period of six months.

C) That should it be considered necessary, authorisation also be given to initiate prosecution proceedings under Section 179 of the Town and Country Planning Act 1990 should there be evidence to show non-compliance with the Notice authorised under recommendation B above

D) That on a "without prejudice" basis, officers engage with the applicant in order to review alternative proposals

### **Notes**

1. Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to address the concerns and objections and allowing time to overcome the issues, through discussions and meetings so providing the opportunity to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed/the suggested amendments have not been supplied. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2020/0259

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Officers	Members site visit note	10/7/21
3	Officers	Members site visit note	21/1/22
4	applicant	Tree report	18/2/2021
5	WCC	Tree report – update	11/2021
6	Right of light consulting – for applicant	Day light and sunlight report	18/2/2021
7	Agent	Revised drawings	13/8/20 – 19/5/21
8	NWBC tree officer	Consultation responses	18/2/21 and 19/7/21
9	Neighbour	Photos provided to council	21/7/2021
10	Neighbour	Representation	21/10/20 and 22/10/20
11	Neighbour	Representation	12/3/21
12	Neighbour	Representation	10/5/21
13	Neighbour	Representation	1/7/21
14	Neighbour and case officer	Exchange of emails	12/3/22 – 02/09/2020
15	Officer and Building control	Exchange of email	07 and 08/2021
16	Officer and agent	Exchange of emails	3/9/20 – 22/12/20
17	Officer and agent	Exchange of emails	18/2/21 – 17/9/21
18	Officer and applicant	Exchange of emails	19/11/21 – 21/1/22
19	WCC tree officer and case officer	Exchange of emails	01/2022
20	NWBC EH and case officer	Exchange of emails	21/10/20

*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

## Appendix A – Member site visits

PAP/2020/0259

Southview, Weddington Lane, Caldecote

Site Visit - Sat 10<sup>th</sup> July at 1105

Present:

Cllrs Dirveiks, Hancocks, D Humphries, Lees, Phillips and Parsons plus the applicant's father and J.Brown

1. The plans of the buildings that originally stood on the site were explained and the proposals as now seen on the ground were illustrated through reference to the plans.
2. Members were able to see the join with the swimming pool as well as the new gym and the garage block with the playroom above.
3. Members viewed the end gable from the drive and saw the opening that was to be glazed and fitted with a Juliette-balcony.
4. The location of the protected tree was pointed out and its distance to the end gable noted
5. Members looked around the base of the tree's trunk.
6. Members then walked around to Timberlea – the next door property

Present at Timberlea:

The same Councillors as above plus Mr and Mrs Welford (the owners of Timberlea), Mrs Brown (the owner of Highlands) and J Brown

7. Members were shown the same plans – the former building and that now standing.
8. The recent front extension to Timberlea was also pointed out.
9. The height of the new ridge was visible and comparisons with the length and height of the original building were illustrated by reference to the present building.
10. Members walked down the side of Timberlea to see the windows there.
11. The new roof lights were identified.
12. Members also looked at the tree and around its base. The extent of its canopy was pointed out.
13. The location of the proposed Juliette-balcony was also pointed out.
14. Members were shown a series of photographs by Mr Welford
15. It was agreed that these would be sent to the Council and that officers would then forward them to the whole of the membership of the Planning Board as well as to the applicant. This was pointed out to the applicant's father on return to South View.
16. The whole visit concluded at 1135.

**PAP/2020/0259**

**Southview, Weddington Lane, Caldecote**

**Site visit – Friday 21 January 2022 at 12.30.**

Present:

Cllrs Dirveiks, Simpson, Jordan, D Clews, T Clews, Jarvis, plus the applicant's father.

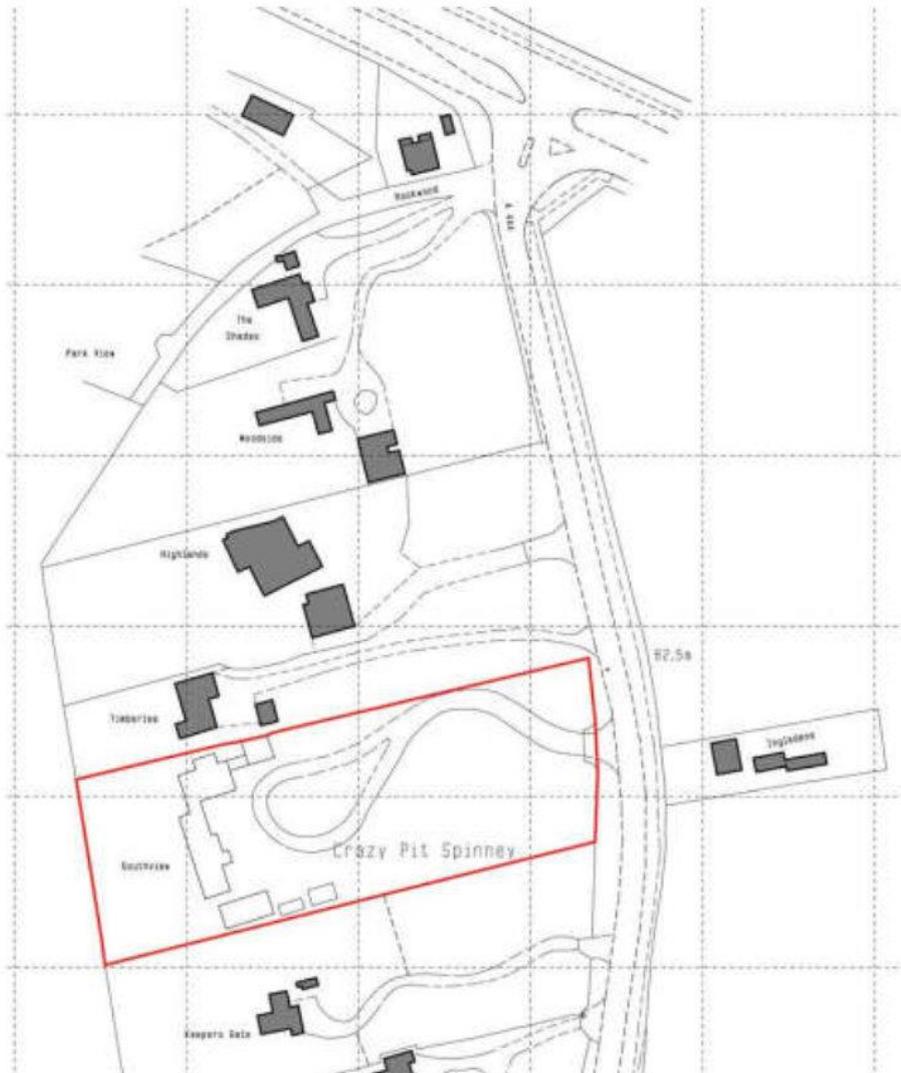
J Brown and I Griffin

1. The plans of the proposal were shown and the existing plans, were explained.
2. Members were able to see the extension as built with roof.
3. Members viewed the tree nearest application building
4. Members walked down the drive and around to Timberlea.

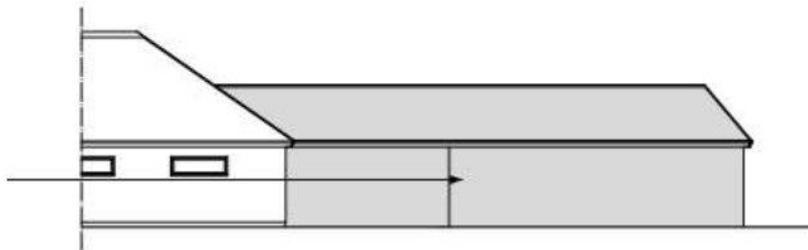
**Present at Timberlea**

5. The same Councillors, J. Brown and I Griffin. Mr Welford (owner of Timberlea) and Mrs Brown (owner of Highlands).
6. Members were shown the same plans of the former building and as built extension.
7. Member were shown the three roof lights to the extension as a point of reference to the proposed plan.
8. It was pointed out to member where the line of the previous garage roof was.
9. Mr Welford has put up a series of photos and a plan of the TPO, to show members what was there previously and the current scheme. Also, it was pointed out which way the sun came around on the site.
10. Members walked down the side of Timberlea to view openings and stood in the rear garden.
11. Members went to view the tree and the base and viewed the canopy.
12. The location of the end gable Juliet balcony was pointed out to members
13. The whole visit concluded at 13.00.

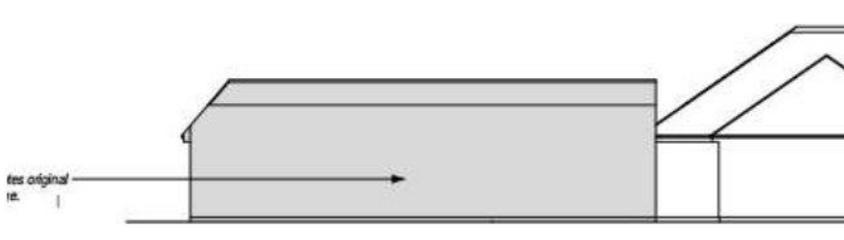
**Appendix B – site location plan**



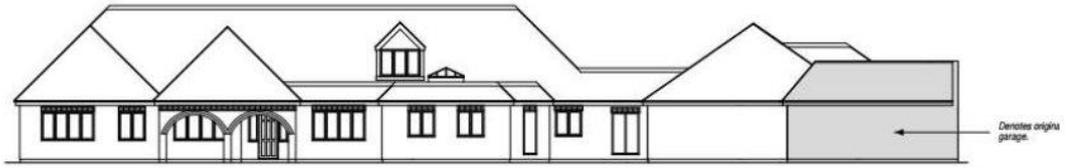
Appendix C – Original Garage plans



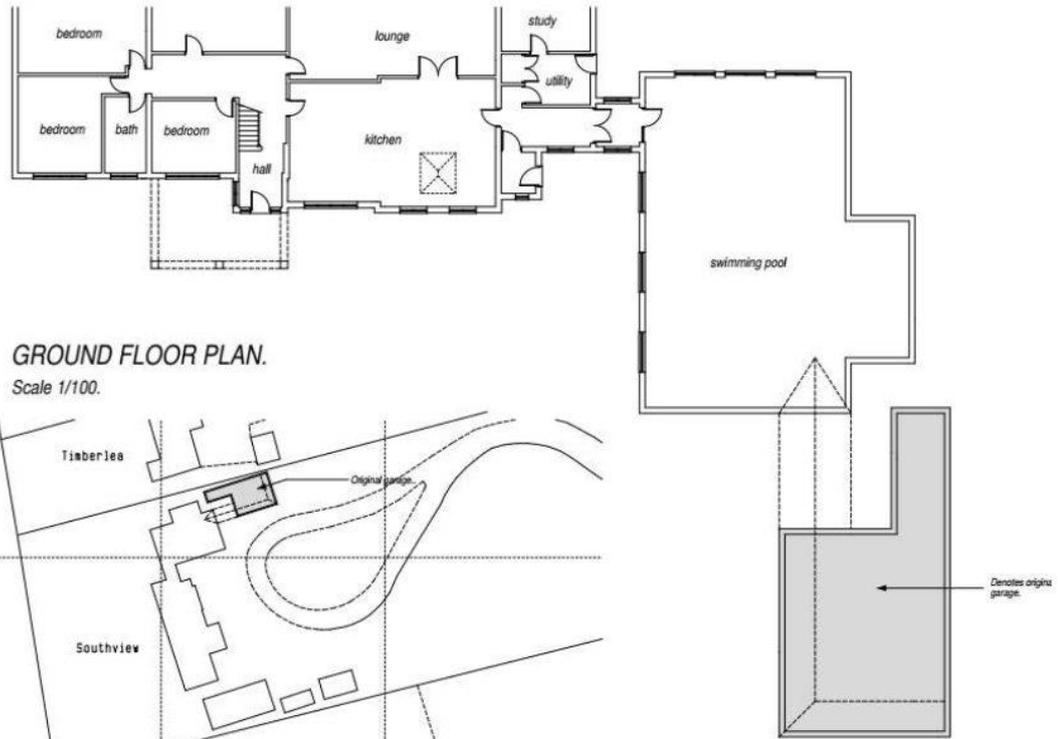
*ELEVATION - facing Keepers Gate.*



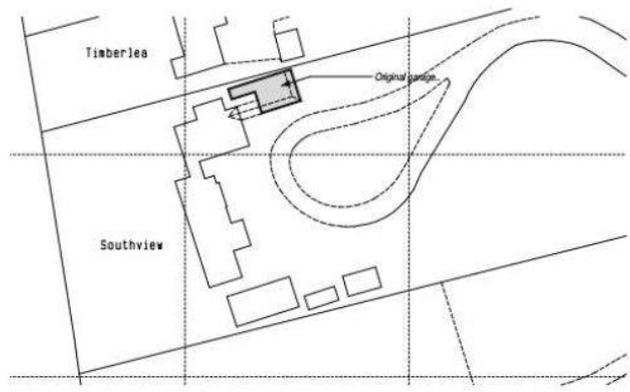
*ELEVATION - facing Timberlea.*



*ELEVATION - facing Weddington Road.*



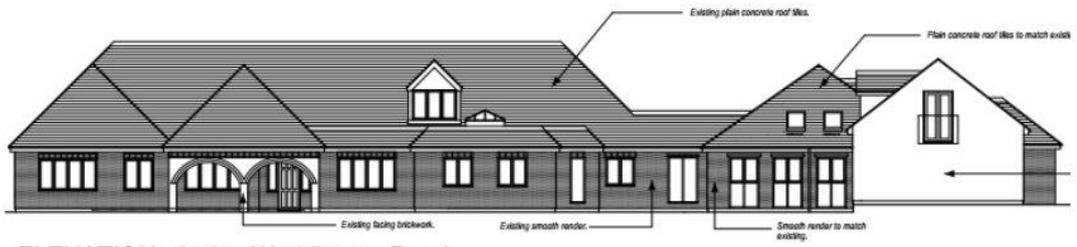
*GROUND FLOOR PLAN.  
Scale 1/100.*



*SITE LAYOUT.  
Scale 1/500.*



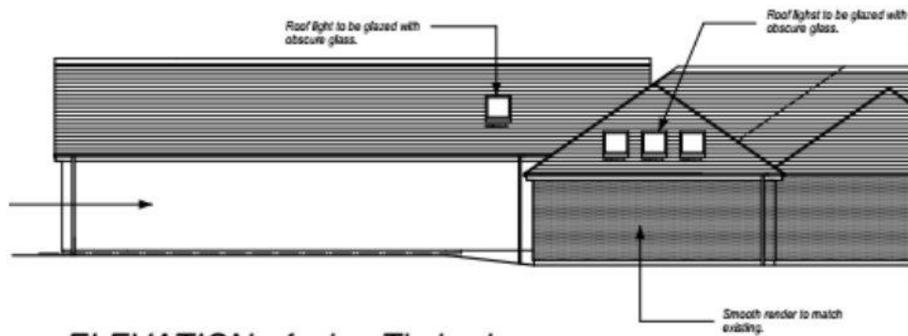
**Appendix D – Proposed plans including position of tree**



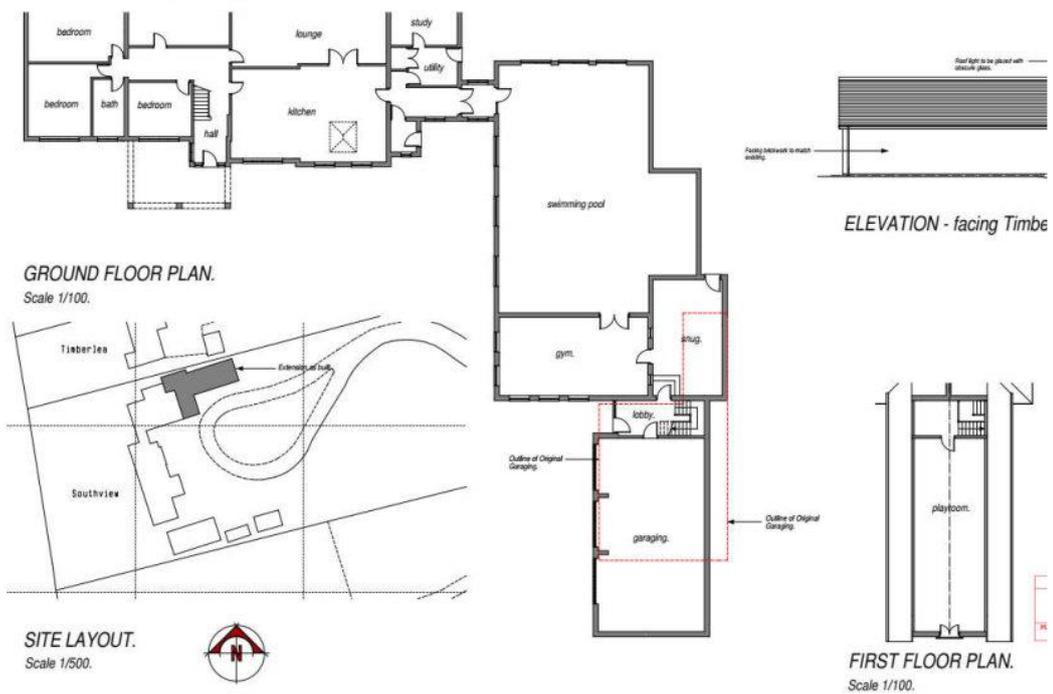
*ELEVATION - facing Weddington Road.*



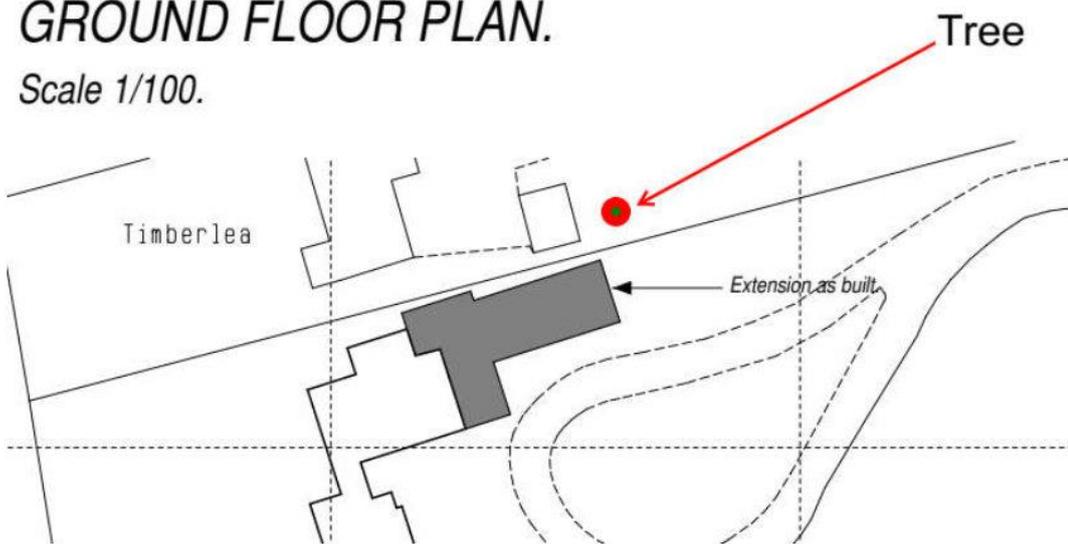
*ELEVATION - facing Keepers Gate*



*ELEVATION - facing Timberlea.*

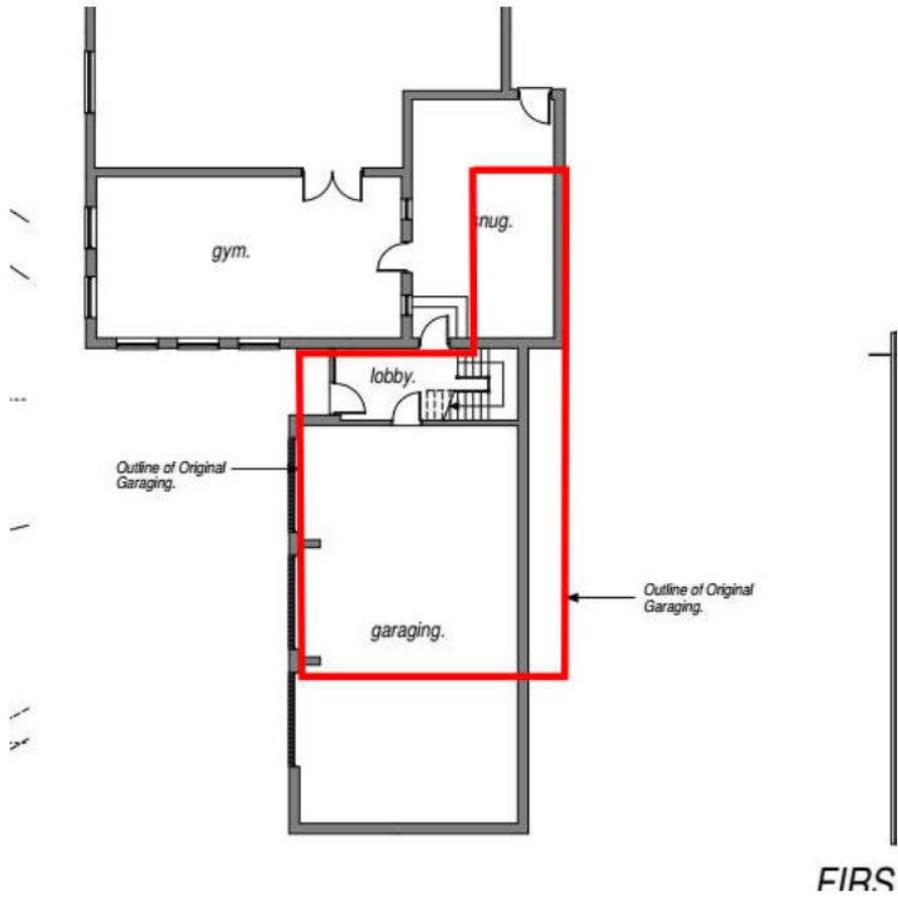


**GROUND FLOOR PLAN.**  
Scale 1/100.



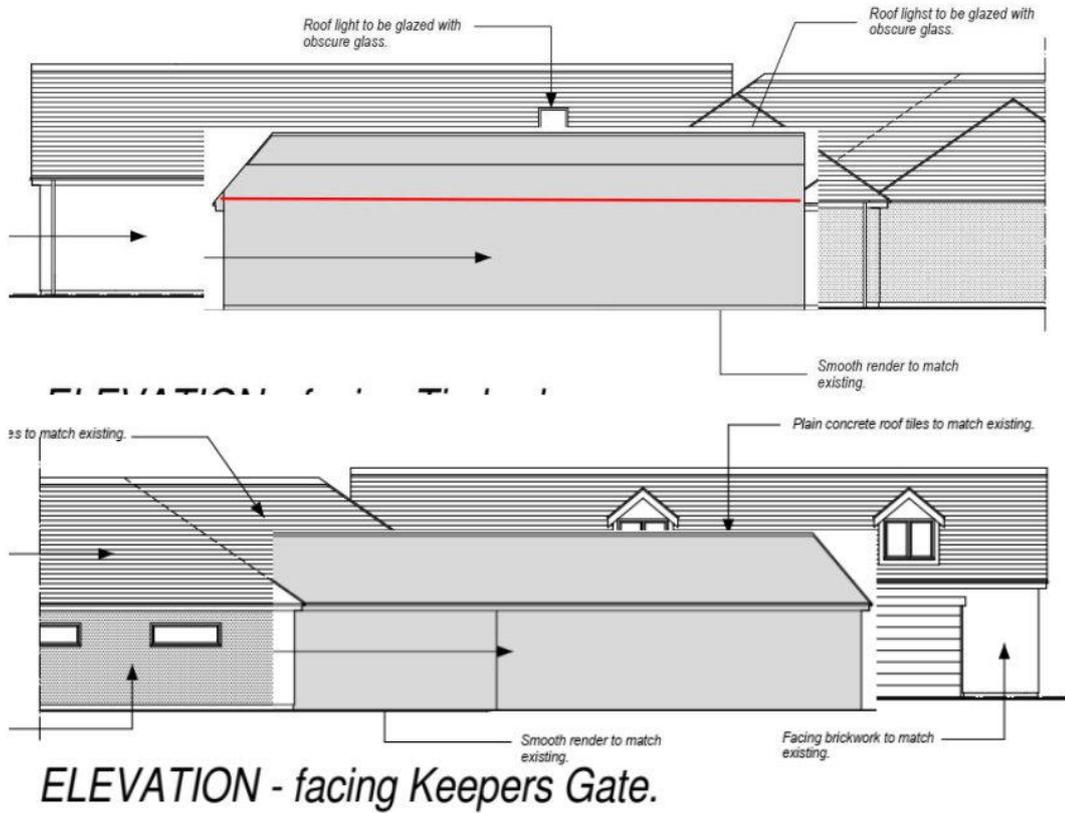


**Appendix E – Comparable footprint of the original garage (red) and built form**

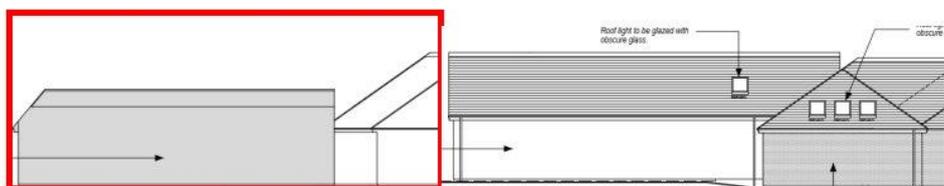


**Appendix F – Comparable elevations**

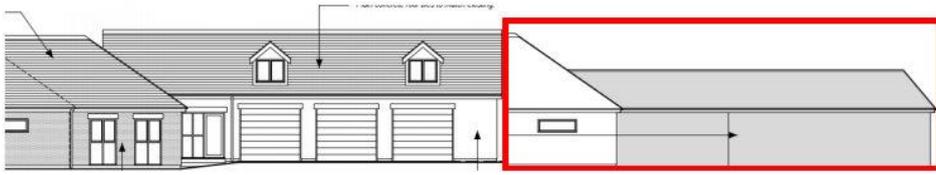
Combined previous and built garage. The red line is the approximate flat roof of the previous garage. Front and rear elevations.



Rear – previous with red box



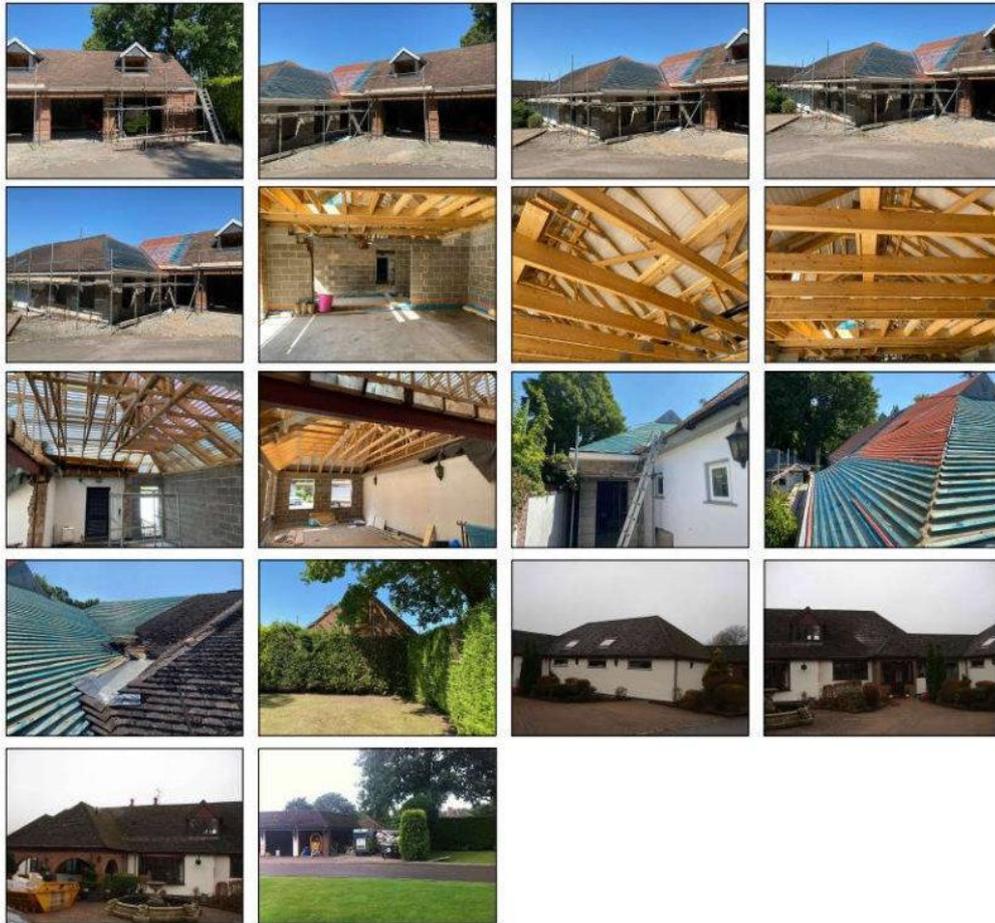
Front - previous with red box



**Appendix G - Extract from Tree Preservation Order, with shaded area the order. The application site is defined by the balloon.**



**Appendix H – photos as provided with the application**



**Appendix I – Tree report – November 2021**



**Arboricultural Tree Physiological  
Report**

**Site:** South View, Caldecote

**Forestry Ref No:** 7736

**Prepared for:** Mark Spencer

**Prepared by:** Clint Parker

**Date of Inspection:** October 2021

**Date of Report:** 9 November 2021

Clint Parker Arboricultural Manager  
Warwickshire County Council  
Communities  
Forestry  
Highways Depot, Buckley Green  
Henley-in-Arden B95 5QE  
Tel: (01926) 413469

<b>1</b>	<b>Contents</b>	
1	Contents .....	2
2	Introduction .....	3
2.1	Instruction and Brief .....	3
2.2	Site Description .....	3
2.3	Report Limitations .....	3
3	Survey information .....	4
3.1	Survey Methodology .....	4
3.2	Survey Inventory Results and Key .....	4
4	Observations .....	5
4.1	Measuring Annual tree growth .....	5
4.2	Findings .....	5
5	Conclusion .....	8
6	Qualifications and Experience of Author .....	8
7	References .....	8

## 2 Introduction

### 2.1 Instruction and Brief

Clint Parker has been instructed by Mark Spencer to arrange for the inspection of a tree growing on the adjacent property to South View called Highlands.

The instruction was also to provide a tree report following ground works carried out in October 2017 and report on the trees physiological condition, potential damage and subsequent reduced life expectancy of an Oak tree growing in an adjacent property the Highlands.

### 2.2 Site Description

The tree is located approximately 2 metres to the North away from the corner of a building and close to a conifer hedge running to the south. Figure 4 shows the location of the tree.

### 2.3 Report Limitations

Trees are living dynamic organisms whose health and condition can change rapidly; the health and safety of trees should be checked on a regular basis, and after any extreme weather.

It is not possible to guarantee the absolute safety of a tree. Even trees with no defects can fail. It is a natural occurrence for trees to shed small branches and twigs during their life span and it is therefore not practicable to predict when this may occur.

The conclusions and recommendations in this report relate to conditions found at the time of inspection and are valid for a period of 12 months only. The period of validity may be reduced in the case of any changes in the condition of the tree, or in the proximity of the tree.

This report is for the sole use of the client and must be kept together in its entirety. Any alteration or deletion from this report will invalidate it as a whole.

This report is for the trees physiological condition at the time of inspection.

This report was carried out from the property of South View only and no branches were cut or removed to take measurements.

### 3 Survey information

#### 3.1 Survey Methodology

The field work, inspections, and data collection were carried out by Clint Parker, who holds the LANTRA Professional Tree Inspection certificate.

Tree data was captured and recorded on our database.

The Visual Tree Assessment method (VTA) (Mattheck and Breloer 1995) was used to assess the condition of the trees.

#### 3.2 Survey Inventory Results and Key

**Tree No:** Tree number relating to the numbering on Tree Location Plan at Figure 4.

**Species:** Oak *Quercus robur*

**Age Class:** Mature: tree within final third of the estimated life expectancy

**Stem Diameter: 900cm Approximate due to no access to adjacent garden**  
Given in centimetres at 1.5m above adjacent ground level (taken on the up-slope side of the tree base where on sloping ground).

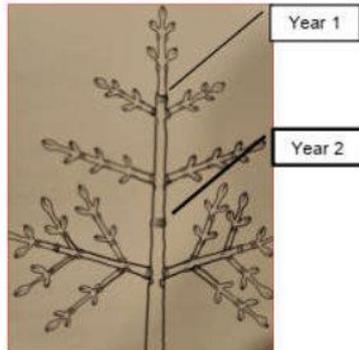
**Spread:** 11m Overall diameter of crown measured in metres (m) at widest point.

**Height:** 20m Overall height estimated to 2 metre bandings, recorded in meters (m).

## 4 Observations

### 4.1 Measuring Annual tree growth

Oak trees annually produce what is known as determinate growth this growth involves elongation of new shoots and leaves from resting buds (see figure 1) (Hirons 2021)



**Figure: 1** Woody shoot showing 3 years growth.

The measurement of this annual growth can be used to determine a tree's vitality and if measured against a tree of the same species in a similar setting can be used to determine the tree's vitality following root damage.

Other measurements include observational assessments of deadwood and crown dieback in the canopy of the tree.

### 4.2 Findings

- 4.2.1 Twig samples were measured from the T1 Oak (*Quercus petraea*) tree near to the property and from T2 Oak (*Quercus petraea*) located in the garden of South View as a control to determine the growth differences.
- 4.2.2 The following figures show the extension growth over 4 years as previously discussed.

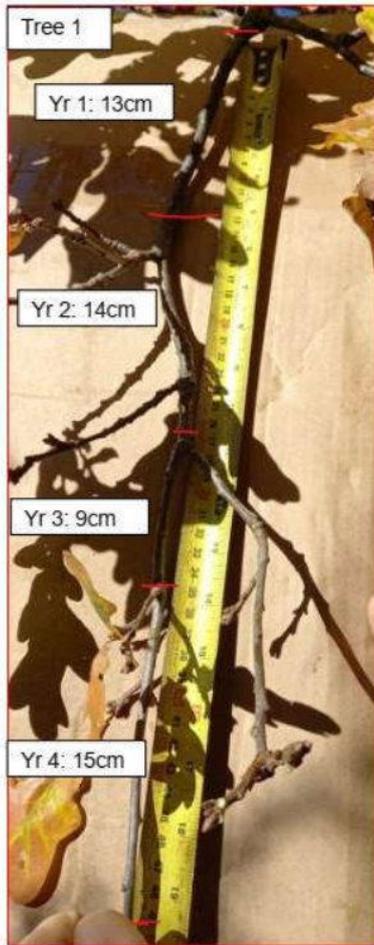


Figure 2: Showing T1



Figure 3: Showing T2

4.2.3 Within the canopy there is a sparse amount of inner deadwood as one would expect from a mature tree growing and shading out the inner branches as the outer canopy forms. There is no crown dieback in the outer canopy and figure 4 taken from google earth 16 June 2021 shows the tree to be growing like the other trees in the area.



Figure 4: Showing tree canopy cover in June 2021

## 5 Conclusion

- 5.1 Tree root damage can cause crown dieback and or render a tree liable to windthrow. One would normally expect to see crown dieback within a few growing seasons following excessive tree root damage and this would tend to lead to a prolonged period of crown decline until the tree balances out its root to shoot ratio. From assessing the annual growth over the last 4 years the tree has been growing at a similar rate as another Oak tree within the garden. I would therefore conclude that the tree has not suffered any short or long-term damage that it has not coped with.

## 6 Qualifications and Experience of Author

### Career History

1995 – 1998	Arborist/climber/self-employed	Treewise, Leicestershire
1998 - 2003	Arborist gang leader	George Walker Tree Care Leicestershire
2003 - 2005	Tree Inspector	Warwickshire County Council
2005 – 2014	Arboricultural Officer	Warwickshire County Council
2014 – 2020	Tree Manager	Warwickshire County Council
2020 onwards	Arboricultural Team Captain	Warwickshire County Council

### Education and qualifications

Quantified Tree Risk Assessment (QTRA) 2018.  
Foundation Degree Arboriculture (FdSc. Arb). University of Central Lancashire 2013.  
Lantra Certificate, Professional Tree Inspection 2008.  
Treelife Westonbirt Arboretum – Arboricultural Association Technicians Certificate 2005.  
Brooksby Agricultural College – National Certificate Horticulture/Arboriculture 1997.

### Memberships

Arboricultural Association (professional member).  
Municipal Tree Officers Association (MTOA).

## 7 References

Hirons, A.D and Thomas P.A. (2018) *Applied Tree Biology: How Shoots Grow*. Wiley Blackwell.

Mattheck, C, & Breloer, H, (1995). *The Body Language of Trees: A Handbook for Failure Analysis* (Research for Amenity Trees 4). London: HMSO

**Appendix J – Photos of sunlight impact of extension upon neighbours property**

**Picture at 0940**



Picture at 0942



Picture at 0948



Picture at 1007



Picture at 1101



Picture at 1139



**Appendix K – Photos of previous garage and construction of new extension**

**Rear aerial view of garage and outbuilding 2016**



2017 photo from Timberlea looking towards the application site and the previous garage / store

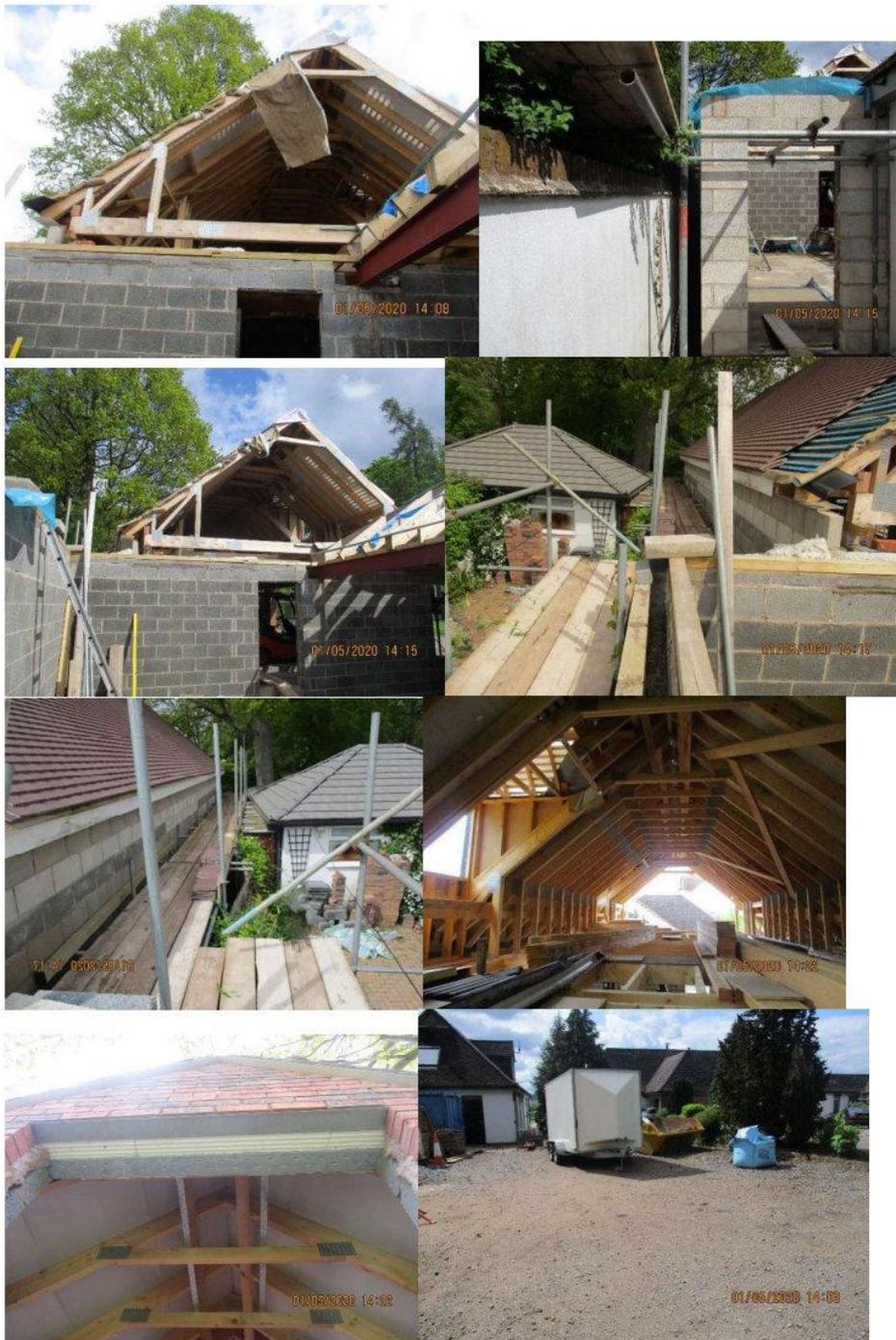


Previous garage and outbuilding footprint 2015



Appendix L – Council officers photos







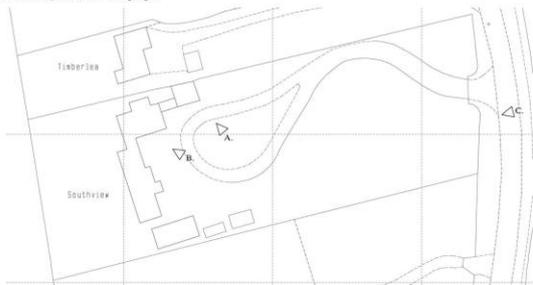




View A - Original Garage      View B - Existing Swimming Pool      View C - A444



Original Aerial View prior to demolition of garages



SITE LAYOUT.  
SCALE - 1/500.



LOCATION PLAN.  
SCALE - 1/1250.

The design team has prepared this plan in accordance with the provisions of the Planning and Development Act 2000 and the Planning and Development Regulations 2001. It is intended to be used as a guide only and does not constitute an offer of any services or products. The design team is not responsible for any errors or omissions in this plan.

NO.	DESCRIPTION	DATE

NO.	DESCRIPTION	DATE

**BAILEY DESIGN LIMITED**  
ARCHITECTURAL PLANNING & DEVELOPMENT CONSULTANTS  
45A MITCHELLS COURT LORRAINE GARDENS STAMFORD  
LEICESTERShire LE10 2JH  
01530 420000  
PROPOSED GARAGING, GYM & PLAYROOM AT  
SOUTHVIEW, WEDDINGTON ROAD,  
CALDECOTE, LEICESTERSHIRE.  
EXISTING SITE & LOCATION PLAN.

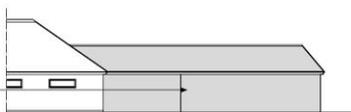
SCALE	DATE	DRAWN	CHECKED
1/500	13/06/2022		

9606/01

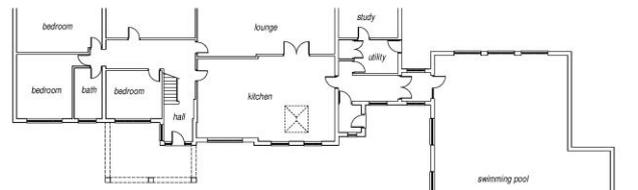
RECEIVED  
13/06/2022  
PLANNING & DEVELOPMENT  
DIVISION



ELEVATION - facing Weddington Road.



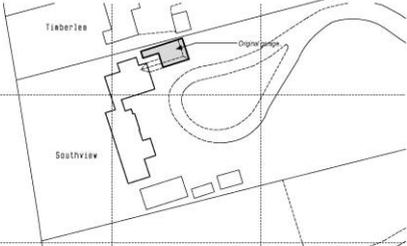
ELEVATION - facing Keepers Gate.



GROUND FLOOR PLAN.  
Scale 1/100.



ELEVATION - facing Timberlea.



SITE LAYOUT.  
Scale 1/500.

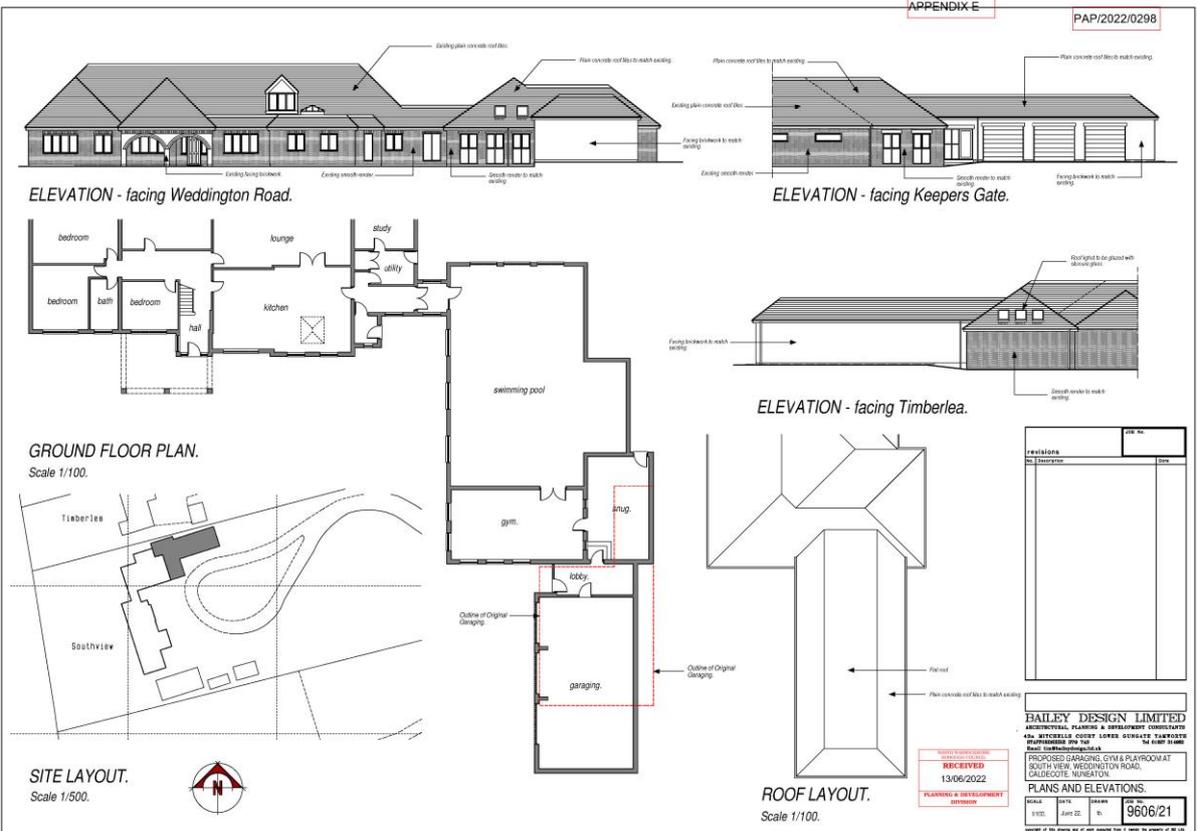
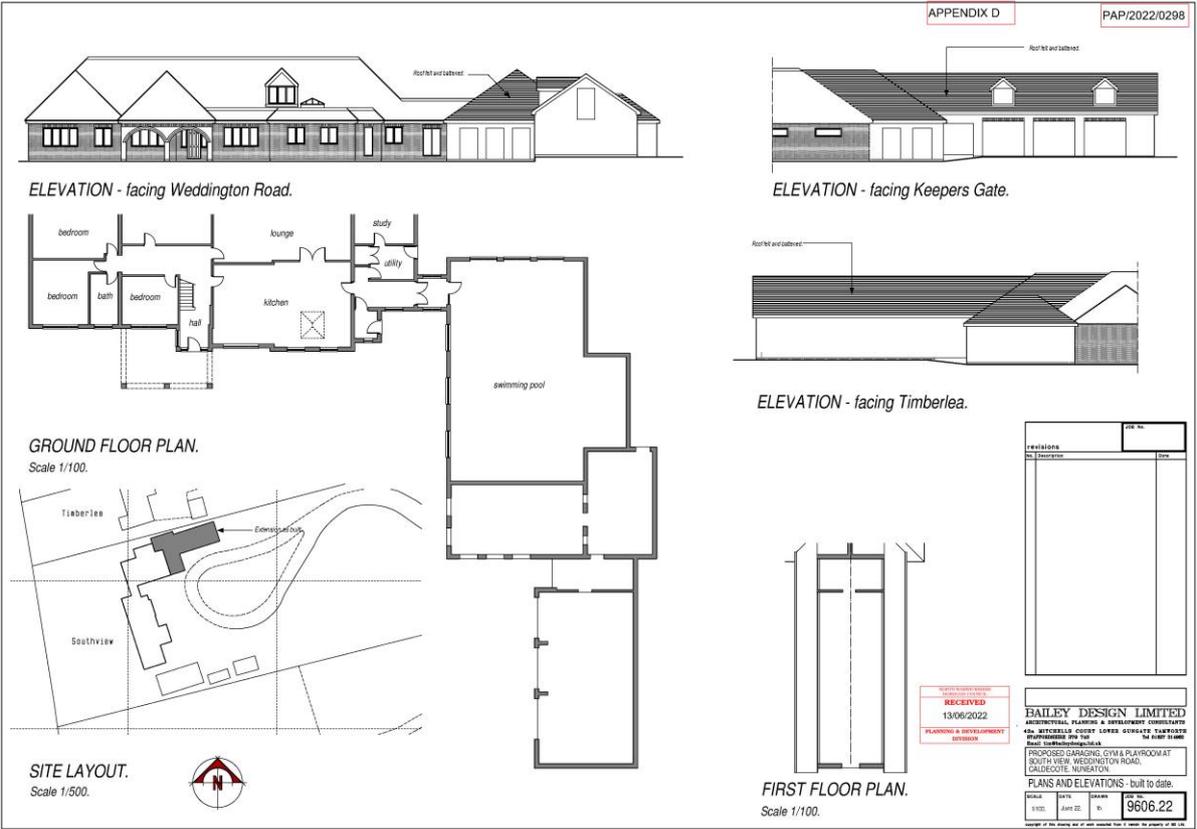
NO.	DESCRIPTION	DATE

**BAILEY DESIGN LIMITED**  
ARCHITECTURAL PLANNING & DEVELOPMENT CONSULTANTS  
45A MITCHELLS COURT LORRAINE GARDENS STAMFORD  
LEICESTERSHIRE LE10 2JH  
01530 420000  
PROPOSED GARAGING, GYM & PLAYROOM AT  
SOUTHVIEW, WEDDINGTON ROAD,  
CALDECOTE, LEICESTERSHIRE.  
PLANS AND ELEVATIONS - Original Garage

SCALE	DATE	DRAWN	CHECKED
1/500	13/06/2022		

9606.23

RECEIVED  
13/06/2022  
PLANNING & DEVELOPMENT  
DIVISION



**Agenda Item No 6**

**Planning and Development Board**

**1 August 2022**

**Report of the Chief Executive**

**Supplementary Planning Document  
“Planning Obligations for Open  
Space, Sport and Recreation” and  
Associated Calculator Documents  
Update for Public Consultation**

**1 Summary**

- 1.1 This report seeks approval for public consultation of an updated Draft Planning Obligations for Open Space, Sport and Recreation’ Supplementary Planning Document (SPD) and associated Calculator Documents. The report addresses points and issues raised by Members of the Local Development Framework Sub-committee at their meeting on 23rd May 2022. Any comments from the public consultation will be brought back to Board, prior to progressing towards formal adoption as a Supplementary Planning Document.

**Recommendation to the Board**

- a To agree the Draft Planning Obligations for Open Space, Sport and Recreation Supplementary Planning Document and associated Calculator Documents for public consultation, incorporating the changes made at the May 2022 LDF Sub-committee meeting and any raised by the Board; and,**
- b the draft documents be used in negotiations for open space, sports and leisure provision as part of the planning application process.**

**2 Purpose of a Supplementary Planning Document (SPD)**

- 2.1 A SPD is a document which supplements the policy from an adopted Development Plan document. It is a technical document used mainly by planning officers, agents and members used in negotiations in interpreting planning policy in determination of a planning application. It essentially provides the meat on the bone of the planning policy to assist in determining the amount, style, type or cost equivalent of a certain policy requirement. In this case it relates to open space, sports and recreation provision.

### 3 Introduction

3.1 Prior to the publication of the submission of the Local Plan 2018, the Community and Environment Board on the 18th January 2016 approved the commissioning of a number of documents to assist with the overarching review of leisure provision in North Warwickshire, including leisure facilities, open space, sport and recreation need and supply and the revision of the Borough Council's Green Space and Playing Pitch Strategies. A "Summary Statement" of these various documents has been included as Appendix A to the Draft SPD to help inform members, agents, consultants and the public of the basis and evidence from which the SPD is derived.

3.2 This review included the drafting of a Supplementary Planning Document: Planning Obligations for Open Space, Sport and Recreation. The documents also included two associated Calculator Documents that indicated the expected financial contributions towards the various site allocations contained within the Plan. It provided a method of calculating financial contributions from other housing applications not allocated within the Plan, to help inform negotiations in S106 agreements and planning decisions on those applications. As part of the review, these documents were recommended to be taken into consideration in determining S106 negotiations for planning applications, at Executive Board on the 12 February 2018.

3.3 Although the draft Supplementary Planning Document (SPD) has been used by the Borough Council's Development Management, Forward Planning and Leisure Services teams to help inform planning decisions during the progress of the new North Warwickshire Local Plan's through Examination it only carried limited weight in decision making as it had not yet progressed to the point of formal adoption. Now the Local Plan is adopted the SPD can progress to adoption. However, due to the time between first drafting and now it is important that the Draft SPD and supporting documents are updated to ensure the requirements are as robust as possible.

3.4 The revised Consultation Draft Open Space, Sport and Recreation SPD and associated Calculator spreadsheet documents now incorporates reference to the adopted Local Plan and are attached as Appendices to this Report. In addition, following consideration of the draft SPD at the May meeting of the Local Development Framework Sub Committee, some further changes and clarifications have also been incorporated. Appendix G to this report outlines the issues and concerns/clarifications raised by LDF Members with an officer response and recommendation for changes.

3.5 The various Appendices to the SPD and this Board report are listed as follows;

- ...                   • ANNEX A - Supplementary Planning Document - Planning Obligations for Sport, Recreation and Open Space, Consultation Draft May 2022, with Appendices as follows;
- ...                   • Appendix A: Open Space, Leisure and Recreation Strategies Summary Statement (NOTE: incorporated at end of SPD, in Annex A)
- ...                   • Appendix B: National and local planning policies references

- ...
  - ...
  - ...
  - ...
  - ...
  - ...
- Appendix C: Capital Costs of facilities, pitch and open space provision
  - Appendix D: Maintenance Costs Calculations Base
  - Appendix E: SPD spreadsheet calculator worked example
  - Appendix F: Summary standards Table for Open space, Sports & Recreation facilities standards
  - Appendix G: Table of Changes to SPD addressing issues raised at 23rd May 2022 Local Development Framework Sub Committee

## 4 Updates and Changes to SPD

- 4.1 The principal changes to the updated SPD, attached as Annex A, and spreadsheet calculator, as outlined in Appendix E, involve the following;
- a) updates to the relevant national and local planning policies and strategies referenced in the document,
  - b) updating the table of Local Plan site allocations table to only include those that do not yet have planning consent, and
  - c) a change to the SPD Spreadsheet Calculator to one area covering all of the Borough instead of the previous two (North west sub area and South east sub area), dealing with strategic open space costs.
- 4.2 The contributions to Strategic Open Space costs for the remaining allocated sites will not be explicitly listed in this new spreadsheet (as originally listed in the 2017 version) to enable them to be calculated at the point of future applications, for informing negotiation at that time and in order to be able to incorporate any cost increases and inflation that may arise. Similarly, the general open space requirements for sites are to be calculated using the 'Open Space Calculator' in the excel spreadsheet and can therefore be varied to reflect any changes in housing numbers and types of development subsequently submitted. It should nevertheless be noted that, particularly for the larger strategic sites, most will be expected to provide on-site facilities.
- 4.3 For clarity and information Appendix F also provides Members with a 'Summary Standards Table', detailing the standards and accessibility requirements that are to be used in the calculator by officers in assessing site needs for open space, sports & recreation facilities.

## 5 Conclusion

- 5.1 Members are asked to approve the draft documents for public consultation (as subsequently amended following consideration at earlier LDF Sub-Committee on the 23rd May) and any comments brought back to Board prior to adoption.
- 5.2 As the documents have been drafted to reflect the adopted Local Plan it is recommended that the documents be used in negotiations for open space, sports and leisure provision as part of the planning application process and taken in to account in making decisions on planning applications. This will enable the SPD assist in delivering the requirements of the adopted Local Plan. As the SPD progresses through the consultation and adoption process it will gain more weight when considered in planning decisions.

## **6 Report Implications**

### **6.1 Finance and Value for Money Implications**

- 6.1.1 The costs of the programme of work for Supplementary Planning Documents as listed in the Local Development Scheme, are funded through the Local Plan budget.

### **6.2 Legal and Human Rights Implications**

- 6.2.1 The SPD complies and conforms with the relevant policies in the adopted Local Plan, for which a Sustainability Appraisal, Equalities Assessment and Habitat Regulations Assessment have all been undertaken. The Local Plan was found to be legally sound and consistent with national policy. The Board should note that an SPD is not part of the Council's Development Plan however, it is intended to build on and provide more detailed advice or guidance on policies in an adopted Development Plan. SPDs are a material consideration in planning decision-making.

### **6.3 Environment, Climate Change & Health Implications**

- 6.3.1 A Sustainability Appraisal, incorporating Strategic Environmental Assessment, were undertaken as part of the North Warwickshire Local Plan, to which the Open Space, Sport and Recreation SPD must comply and conform, as well as with the national planning policies applying under the current NPPF 2021.

### **6.4 Equality Implications**

- 6.4.1 An equality impact assessment was carried out as part of the Local Plan.

### **6.5 Safer Communities Implications**

- 6.5.1 The publication and adoption of the Draft Open Space, Sport and Recreation SPD contributes to community safety by establishing a framework and delivery process for contributions (via the planning and development management system) to support the provision of well-managed indoor and outdoor leisure, recreation and open space services and facilities that encourage and afford opportunities for positive activity which helps address the Borough community safety objectives.

### **6.6 Links to Council's Priorities**

- 6.6.1 The delivery of the SPD's, listed in the Local Development Scheme and relevant services and infrastructure needs generated by development, are linked to all of the Council priorities.

The Contact Officer for this report is Mike Dittman (719451)



The Old Barn, Nortoft Cottage,  
Guilsborough NN6 8QB  
Tel: 01604 586526



# North Warwickshire Borough Council

## Supplementary Planning Document

### Planning Obligations for Sport, Recreation and Open Space



North Warwickshire  
Borough Council

Consultation Draft  
May 2022



## Table of Contents

1. Introduction	5
The purposes of the SPD	5
Scope of the SPD	6
2. Planning Obligations	7
What are planning obligations?	7
Why are obligations important?	7
3. Planning policy context	9
National Policy	9
Local Policy	10
Neighbourhood Plans	12
4. Applying the SPD	12
What type of sport, recreation and open space facilities can be required?	12
When will we require open space, sport and recreation contributions?	13
What can the Council ask for?	13
Does this SPD affect masterplans and phasing for larger housing developments?	14
Proportional approach towards land and costs	16
What is meant by 'appropriate land'?	18
Can contributions be made to existing facilities?	18
What costs are justified in relation to maintenance and life cycle?	19
How are maintenance and life cycle costs calculated?	21
Is there flexibility in requesting contributions?	21
Phasing contributions	22
Cross local authority boundary opportunities	22
Is there early advice available to developers?	23
How are the legal agreements made?	23

How is inflation dealt with?	23
Monitoring and enforcement	24
5. Understanding the Evidence Base	25
What is the evidence base?	25
What assessment is made to ensure the contributions are needed by a development?	26
What are the standards of provision?	31
What population figure should be used in assessment of demand?	32
6. Assessing the contributions required	36
What is the process for assessing demand?	36
How are the demand and potential contributions calculated?	36
How are contributions costed for upgrades and extensions?	37
How should decisions be made about what is required?	37
How will contributions for leisure facilities be assessed and used?	38
How will contributions for playing fields be assessed and used?	38
What is considered to be open space?	39
7. Flow charts	43

## Tables

Table 1: Proportionate approach towards land and costs .....	17
Table 2: Sport and recreation facility standards.....	33
Table 3: Open space standards.....	34
Table 4: Play provision for number of dwellings .....	42

## Appendices

Appendix A	Open Space, Leisure and Recreation, Green Space and Infrastructure Strategies Summary Statement
Appendix B	Planning policies
Appendix C	Capital costs
Appendix D	Open Space Maintenance Costs
Appendix E	SPD Sport, Recreation and Open Space Calculator worked examples

## 1. INTRODUCTION

- 1.1. Sport, recreation, open space, leisure and other community facilities are key infrastructure that must be provided to support new housing development in North Warwickshire, with existing facilities also protected and enhanced.
- 1.2. With a minimum of 6,183 new homes being built in the Borough by 2033, the funding of this infrastructure needs to be planned and supported. This Supplementary Planning Document (SPD) sets out detailed guidance on the type and scale of open space, sport and recreation developer contributions that will be sought to support new development, based on the standards set out in the Council's various Leisure, Open Space, Playing Pitch and Recreation strategies. These strategies are summarised in Appendix A to this SPD.
- 1.3. The SPD supplements the policies in the adopted North Warwickshire Local Plan 2021 and updates the 2017 Open Space, Sport and Recreation SPD, taking into account the implications of changed national policy guidance, including the updated National Planning Policy Framework, . Importantly, it also responds to the ending of the national policy on the pooling of restrictions for S106 funds, which was a key factor in the approach towards contributions as set down in the 2017 SPD.
- 1.4. This SPD, once adopted, will be a material consideration in the determination of planning applications. It has been prepared in accordance with the necessary regulations and will be used when securing developers' contributions, otherwise known as S106 agreements, and in unilateral undertakings.
- 1.5. North Warwickshire Borough Council has not introduced a Community Infrastructure Levy, so funding of infrastructure is via planning obligations.

### The purposes of the SPD

- 1.6. The purposes of this SPD are to:
  - Retain and improve access for all to open space, sport and recreation facilities, including through the enhancement of links between urban open spaces and the countryside, and the sustainable management of these facilities;
  - Deliver a wide range of high quality open space, sport and recreation across the Borough that is fit for purpose, with an appropriate balance between the provision of new facilities and the enhancement of existing provision, in order to maintain and improve the health and wellbeing of the Borough's population;
  - Support increased participation in sport and leisure, particularly amongst groups and individuals with greatest social disadvantage;
  - Consider the cumulative impact of housing development in the Borough and explain how this will be dealt with in relation to sport and leisure, through the use of planning obligations;

- Integrate land-use and transport policies by locating new open space, sport and recreation facilities where they are accessible to residents via a range of transport modes;
- Help reduce crime, anti-social behaviour and the fear of crime, through increased use of open space areas and increased participation in sport and active recreation.

1.7. In addition, this SPD will help:

- Explain how the Council uses planning obligations to: residents, applicants, developers and the wider community;
- Explain when the Council will seek planning obligations to balance the impact of development on local open space, sport and recreation;
- Show how the calculations for the provision and cost of new and improved open space, sport and recreation provision are worked out, improving transparency and consistency in the planning obligation process;
- Developers to understand the relevant types of infrastructure and the amount of contributions which will be needed. This information can support land negotiations, master planning and early viability assessments.

## Scope of the SPD

- 1.8. The SPD sets out the justification for developers' contributions and summarises the standards for the provision for the different open space typologies, sport and recreation facilities and community halls. It also provides information on the level of contributions that will be sought in relation to new residential developments, and clarifies when land may also need to be provided.
- 1.9. It should be noted, however, that the planning obligations outlined in this SPD are not exhaustive. There may be some limited occasions when unanticipated demands arise which are sport/recreation/open space related and which need to be taken into account on a specific site to make the proposed development acceptable.
- 1.10. The exact type and range of planning obligations sought for an individual site will depend on the development proposed and its impacts on the local environment, local services and facilities, in accordance with the National Planning Policy Framework (NPPF 2021), the CIL Regulations (2010 as amended) and other relevant national and Borough planning policies.
- 1.11. As new policy requirements emerge and change, the SPD will be updated and revised to reflect these changes.
- 1.12. It should be noted that this SPD does not include sport and recreation facilities or open spaces which are private and not proposed to be used by the community. This includes for example schools, unless there is or there is or proposed to be, legally secure community use on a joint use basis.

## 2. PLANNING OBLIGATIONS

### What are planning obligations?

- 2.1. Planning obligations are legal obligations entered into to mitigate the impacts of a development proposal. They may be used to ensure that the impacts arising as a result of a new development can be addressed so that the development can be acceptable in planning terms. They are also a valuable way of ensuring that a development complies with planning policies contained in the Local Plan and any Neighbourhood Plans.
- 2.2. Planning obligations may be set out in an agreement between the Council and the developer (and any other relevant parties) or in a unilateral undertaking offered by the developer under section 106 of the Town and Country Planning Act 1990. In either case, this is with an individual, scheme-specific legal document. Such agreements or undertakings can contain a number of planning covenants or obligations and can relate to both financial and non-financial contributions.
- 2.3. Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.

### Why are obligations important?

- 2.4. Planning obligations for open space, sport and recreation are important because they help ensure that new development provides adequate infrastructure to meet the anticipated future demand. The planning obligations identified in the SPD reflect the Borough's Local Plan's vision and will help to support the improved health and wellbeing of the residents of North Warwickshire.
- 2.5. The need for improvements in the residents' health and wellbeing is confirmed by Public Health England's Local Health profile<sup>1</sup> for North Warwickshire. This shows that the borough has some significant health challenges, in particular:
  - Lower life expectancy at birth for both males and females.
  - Levels of limiting long-term illness or disability.
  - Children's prevalence of being overweight or obese, particularly at reception age.
  - Emergency hospital admissions for under 5s.
  - Emergency hospital admissions for hip fracture for those aged 65+ years.
  - Deaths from all causes.
  - Deaths from respiratory diseases.

---

<sup>1</sup>Public Health England: <https://www.localhealth.org.uk>

- 2.6. Research by organisations, such as Sport England via its Active Lives<sup>2</sup> survey, have demonstrated that physical activity levels fall with age, with higher levels of socio-economic deprivation, as well as amongst people having long term health conditions or a disability. Sport England together with Public Health England have developed a number of principles of Active Design<sup>3</sup> which will help to shape places to encourage activity in everyday lives including:
- Activity for all neighbourhoods.
  - Walkable communities.
  - Connected walking and cycling routes.
  - Co-location of community facilities.
  - Network of multifunctional open space.
  - High quality streets and spaces.
  - Appropriate infrastructure.
  - Active buildings.
  - Management and maintenance of all spaces.
- 2.7. The provision of high quality, accessible community sports and leisure facilities, open space and opportunities to be physically active therefore have a significant role to play in addressing local health and wellbeing inequalities. The Health and Wellbeing Action Plan (2020-2023) relies on the availability of these opportunities, and this SPD can significantly assist in its delivery. Developers' contributions will therefore be sought towards the strategic off-site facilities for sport and recreation such as swimming pools and sports halls, as well as for contributions on site.
- 2.8. The Borough's adopted Local Plan recognises that provision of new open space and recreation facilities within new development contributes towards the creation of sustainable communities and high quality design. Full details of the layout, landscaping and phasing of all on-site open space and facility provision will be secured by conditions attached to the planning permission. Where the justified provision is not proposed to be on-site, then off-site contributions will be sought. Requirements for the type of contribution will therefore vary by the type of provision, and on a site specific basis.
- 2.9. The adopted Borough Local Plan and the topic strategies which form the evidence base of the Local Plan underpin the justification for developer contribution requests for open space, sport and recreation. The strategies consider in detail what should be provided to meet the needs of the communities across North Warwickshire, now and in the future. The recommendations from these strategies inform the Borough's standards of provision and the main investment priorities for which developers' contributions are sought.

---

<sup>2</sup> <https://www.sportengland.org/know-your-audience/data/active-lives>

<sup>3</sup> <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

### 3. PLANNING POLICY CONTEXT

- 3.1. National and local planning policies that are relevant to and support the developer contribution guidance in this SPD are more fully set out in Appendix B.

#### National Policy

- 3.2. The National Planning Policy Framework (NPPF) sets the overall approach towards planning obligations. The NPPF says that Local Plans should set out the contributions expected from development. These policies should not however undermine the deliverability of the Plan.
- 3.3. This SPD addresses planning obligations for open space, sport and recreation and is consistent with the planning policies set down in the NPPF.
- 3.4. Local planning authorities should consider whether otherwise unacceptable development can be made acceptable through the use of conditions or planning obligations. However, planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
- 3.5. The NPPF paragraph 57 sets the tests for planning obligations, which reflects those of paragraph 122(2) of the Community Infrastructure Levy Regulations 2010. It states:
- Planning obligations must only be sought where they meet all of the following tests:*
- a) necessary to make the development acceptable in planning terms;*
  - b) directly related to the development; and*
  - c) fairly and reasonably related in scale and kind to the development.*
- 3.6. NPPF paragraph 98 requires that the planning policies for sport, recreation and open space should be based on robust and up-to-date assessments which identify the need (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. These assessments are contained in the North Warwickshire evidence base strategies. The strategies therefore provide the primary justification for the planning obligations envisaged by this SPD.
- 3.7. The NPPF also provides policy guidance for the approach towards the assessment of viability, with more detail provided in the associated national planning practice guidance. This approach ensures that local plans clearly set out the contributions that developers are expected to make towards infrastructure; introduces a standard approach to establishing land value; and increases transparency and accountability through the publication of viability assessments and through improvements to the monitoring and reporting of Section 106 planning obligations<sup>4</sup>.

---

<sup>4</sup> Planning practice Guidance- viability [www.gov.uk/guidance/viability](http://www.gov.uk/guidance/viability)

## Local Policy

- 3.8. The Borough Plan, adopted in September 2021, provides the local planning context for this SPD. The vision sets out that by 2033, Rural North Warwickshire will be:

*...a community of communities. A place where people want to live, work and visit, now and in the future, which meets the diverse needs of existing and future residents is sensitive to the local environment and contributes to a high quality of life. A place which is safe and inclusive, well planned, built and run and offers equality of opportunity and good services for all. (para 4.2)*

- 3.9. Chapter 6, Sustainable Development sets out the policy justification in LP1 Sustainable Development, for the seeking of developer contributions, in that all development proposals must be supported by the required infrastructure as well as meeting a number of other policy tests.

### **LP1 Sustainable Development**

*Planning applications that accord with the policies in this Plan (and where relevant, with other development plan policies including those in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, applications will be determined in accordance with the presumption in favour of sustainable development.*

### **Quality of Development / Place**

*All development proposals must;*

- *be supported by the required infrastructure*
- *be consistent with the approach to place making set out through development management policies, including, where relevant*
- *integrate appropriately with the natural and historic environment, protecting and enhancing rights of way network where appropriate*
- *demonstrate a high quality of sustainable design that positively improve the individual settlement's character; appearance and environmental quality of an area;*
- *deter crime;*
- *sustain, conserve and enhance the historic environment;*
- *provide, conserve and enhance biodiversity; and,*
- *create linkages between green spaces, wildlife sites and corridors.*

*Development should protect the existing rights of way network and where possible contribute to its expansion and management.*

### **Implementation and Infrastructure**

*Infrastructure will be sought where it is necessary, directly related to the development and is fairly and reasonably related in scale and kind to the development. It may be related to social, economic and/or environmental issues. Supplementary Planning*

*Guidance and documents will be used to guide provision, Infrastructure requirements are outlined in the Infrastructure Delivery Plan (For clarity, infrastructure projects drawn from the IDP are itemised and indicated to be either critical to the Plan's strategy as a whole, or necessary in association with particular allocations or projects, along with indicative timings are itemised in NWBC26, Appendix A(updated December 2020)) and the supporting documents contained in Appendix C of the Local Plan. The list is not exhaustive as each will be taken on a site by site basis and will depend on the viability of the scheme. Other site specific measures will be considered at the time of the planning permission. These will be secured through conditions, S106's or other agreements considered appropriate to ensure its delivery. It will be necessary to ensure the ongoing maintenance, where appropriate, of any infrastructure provision.*

- 3.10. The Local Plan evidence base included the relevant strategies which inform this SPD include:
- Green Space Strategy 2019 – 2033 (January 2020)
  - Leisure Facilities Strategy 2016-2031 (October 2017)
  - Playing Pitch Strategy (December 2018)
  - Health and Wellbeing Action Plan 2020 to 2023
  - Infrastructure Delivery Plan (IDP) (March 2018 (with update to Appendix A December 2020))
  - Warwickshire, Coventry and Solihull Sub-regional Green Infrastructure Strategy (2013).
- 3.11. The supporting text in policy LP1 makes it clear that updates of the evidence base, including the relevant strategies and SPDs will be undertaken and used to help ensure that the justification for seeking planning obligations remains sound.
- 3.12. The Local Plan *Chapter 11, Services and Facilities*, includes Policy LP22. Its supporting text addresses the provision and protection of open space, sport and recreation facilities, both on-site and off-site. This policy also requires contributions towards maintenance, for example in relation to open space provision. The supporting text to this policy lists the typologies of spaces, including amongst others: parks and gardens, outdoor sports facilities, amenity green space and allotments.
- 3.13. Chapter 13 of the Borough Plan, Development Considerations, includes the principles of high quality design and place making and the promotion of healthy and active lifestyles which is a key local priority as set out in the North Warwickshire Sustainable Community Strategy<sup>5</sup>. It also refers to the various strategy evidence base documents.
- 3.14. Some of the Local Plan housing site allocation policies make specific reference to the need to provide playing field space on or off site, such as H4, Land to the east of Polesworth and Dordon, and most refer to the provision of open space.

---

<sup>5</sup> North Warwickshire Community Partnership, 2010; North Warwickshire Sustainable Community Strategy

- 3.15. A more detailed extract of the key policies of the adopted Local Plan is contained in Appendix B.

## **Neighbourhood Plans**

- 3.16. Developer contributions or new provision on site for sport, recreation and open space may also be justified by policies set out in Neighbourhood Plans. Applicants should have regard to such policies when formulating development proposals.

## **4. APPLYING THE SPD**

### **What type of sport, recreation and open space facilities can be required?**

- 4.1. The Council will normally require the provision of on-site and/or off-site contributions towards all the sport and recreation facilities, and for open space typologies.
- 4.2. To help ensure compliance with the CIL regulations, the evidence base strategies will be reviewed and updated on a regular basis, approximately every 5 years. These reviews may result in amended requests for developers' contributions generally, including potentially different standards and different types of sports facilities. Where significant changes result, the SPD will be updated and be subject to further consultation.
- 4.3. For a specific development, it is expected that a developer's local consultation, including with the relevant parish or town council, local sports clubs and other local organisations and consultees, may identify additional local needs that are not within an evidence base strategy, but still can be justified and requested as a contribution. This will include the need for contributions towards community or village halls.

## When will we require open space, sport and recreation contributions?

- 4.4. The SPD will generally be applied to all planning applications for new residential development that results in a net gain of 10 or more residential units or an application which is 0.5ha or more in area. This will be applied in a way that is appropriate to the end users.
- 4.5. In villages, where a specific local need has been identified, the threshold for contributions may be lowered. Specific need may be identified through Neighbourhood Plans or through local consultation, including with parish councils. This approach recognises that new development is likely to be less frequent and of a smaller scale in villages but could contribute towards local facilities and the vitality of the village in which the development is proposed to take place. For example, this could include contributions towards the enhancement of play provision and the community/village hall. Such contributions will be considered on a site specific basis and will need to comply with the CIL regulations.

## What can the Council ask for?

- 4.6. The Council will be seeking developer contributions in accordance with this SPD for the different open space typologies and sport and recreation facilities where they meet the three Community Infrastructure Levy (CIL) tests as set out in the CIL Regulation 122 and NPPF paragraph 57: The Government has announced its intention to replace Section 106 planning obligations and the tariff-based Community Infrastructure Levy (CIL) with a new, uniform infrastructure levy. However, the Borough Council will continue to apply the 'Three Tests' approach used in assessing Section 106 planning obligations.
- Necessary to make the development acceptable in planning terms;
  - Directly related to the development;
  - Fairly and reasonably related in scale and kind to the development.
- 4.7. Any obligations sought will therefore be based on a tailored approach to each development, using up-to-date strategies (and subsequent updates) as a part of the evidence base (and/or other robust up-to-date planning policy) and local consultation feedback.
- 4.8. This tailoring includes consideration of the nature of a facility or space, and its catchment. For example, swimming pools, sports halls and artificial grass pitches used for football have effective catchments of around 20 minutes' drive time. Many grass football pitches are used by people travelling about 15 minutes, often by car, whilst amenity green space areas used for informal recreation are almost always accessed on foot by people living close by. The expected accessibility thresholds for sport and recreation facilities are provided in Table 2 and for open space typologies in Table 3. However, drive time accessibility will not be the sole method/means of determining

accessibility to services and facilities. Where limited (or non-existent) public transport services apply, or there are limited or no, safe cycle and walking access routes available or other alternatives to access by private cars are not available, then services and facilities should be fairly and reasonably related in location, as well as in scale and kind to the development, particularly in rural locations. For major development in rural locations on-site provision or improvement of nearest walking and cycling accessible services and facilities within the settlement affected will be expected before consideration or application of significant drive times above for local services not strategic services and centres.

- 4.9. In addition to the capital cost (or provision) of a new/extended facility, there will be additional costs. These may include both maintenance and a contribution towards the replacement costs, both for on-site and off-site provision. See paragraphs 4.32 to 4.34.

## **Does this SPD affect masterplans and phasing for larger housing developments?**

### **Borough Local Plan strategic sites policies**

- 4.10. A large or strategic sports facility such as leisure centre or playing fields may be required on a specific development site or allocation, for example as set out in the Borough's Local Plan (2021). This can ensure that suitable land is planned from the outset and provided at no cost to the community.
- 4.11. For new large strategic facilities, the Borough's future planning policies will identify: where that facility is to be located; how sufficient land is to be secured, and (where known) the individual developments that need to contribute to it.

### **Co-ordinating phased developments**

- 4.12. Where housing sites are developed in phases or through multiple applications, and where the sport, recreation or open space provision is required on-site within the allocation, this provision is required to be masterplanned, co-ordinated and delivered, on an allocation-wide basis, by the promoters, landowners and/or developers working together. In these circumstances, a single site for sport and recreation facilities such as playing pitches, or a strategic open space, the provision of which is to serve all of the allocation, may be required.
- 4.13. The proposals for open space provision on-site or off-site should similarly be co-ordinated and delivered on an allocation-wide basis by the landowners/developers working together to ensure that the provision fits within the overall policies of the Warwickshire, Coventry and Solihull Green Infrastructure Strategy and the Borough Local Plan.

- 4.14. If the required on-site provision is not delivered in the first/early phases of a housing site allocation, then these first/early phases planning permission will only be granted if the land required for sport, recreation or open space has been legally secured to ensure delivery of the required future provision.
- 4.15. Ideally if this were known ahead of land purchase agreements, the planning obligation likely land requirements for sport, recreation and open space, can be factored into land calculations. However, this may not always be the case, so in all such circumstances it is strongly recommended that early pre-application discussions are sought by the applicant, landowner and developers.

### Developments within a close geographical area

- 4.16. Where there are separate housing allocations or developments in a close geographical area, e.g. around a town, that taken together generate a need for a whole facility, contributions need to be made from all of them to that new facility provision or towards improving and/or extending an existing facility provision which can meet the anticipated demand.
- 4.17. Such a facility may need to be located on land on one of these housing development sites. Through early engagement with North Warwickshire Borough Council and the masterplanning of such sites, opportunities should be sought to secure delivery into the most appropriate site, or on new unallocated sites, or on sites with an existing leisure provision and available space. Developers should cooperate locally to identify a solution which is acceptable to the Council. The Local Plan update should also take such need into account.
- 4.18. Separate housing allocations or developments which are within a close geographical area will only be granted planning permission if the land required for sport, recreation or open space has been legally secured to ensure delivery of the required future provision, or there is agreement with the Council on how this provision will be made.

### Proportional approach towards land and costs

- 4.19. Taking into account the need to assess the whole of a housing allocation or allocations in a close geographical area, the following approach will be adopted to assessing the justified need for developers' contribution for sport, recreation and each open space typology.
- 4.20. The land costs will be assessed at leisure use value, not at housing or other development value. In addition, there may be a need to recognise any site-specific costs which cannot be reasonably avoided e.g. abnormal ground conditions, site access needs, structural landscaping, acoustic fencing, legal fees etc.
- 4.21. The definition of appropriate land is given in the following section.

Table 1: Proportionate approach towards land and costs

Level of Demand/Need generated by the proposal/development	Provision of land and/or proportion of management and servicing contributions to be sought on-site
The development generates the need for a whole facility / open space	Delivery of the facility/ open space including: sufficient appropriate serviced land costs; capital construction costs; justified maintenance and life cycle costs.
The development generates 66% or more of the need/demand for a facility / open space .	Appropriate serviced land will be provided by the developer at no cost, plus the population-related proportion of: capital construction costs and justified maintenance and life cycle costs.
The development generates less than 66% of the need/demand for a facility / open space and the facility/open space is to be provided on-site.*	<p>The developer will be required to meet the population-related proportion of the: serviced land costs; the capital construction costs; and justified maintenance and life cycle costs.</p> <p>The remainder of the costs will need to be funded from other sources.*</p>
The development will result in the loss of all or some of an existing sports and recreation facility or public open space.	<p>The proposal will need to fully meet NPPF, Borough Local Plan policies and for sport and recreation facilities, Sport England's policies, particularly for the protection of playing fields.</p> <p>It is likely that replacement will be required, including appropriate serviced land. For sports facilities, replacement will include a facility constructed to at least current NGB/Sport England standards. A business plan showing financial viability and sustainability will be required.</p>

Note: the definition of appropriate land is given in paragraphs 4.25 to 4.27.

\*Where a development proposal generates less than two thirds, or 66%, of the needs and demands, but an on-site facility/open space is to be provided which will also be serving other approved/allocated development proposals, and **towards which** their contributions can be directed.

(The calculator associated with this SPD will help assess whether the full facility or a proportional contribution will be provided by the developer.)

- 4.22. If the land cannot be provided for on-site because of proven and reasonable masterplanning constraints, financial viability or other relevant reasons, then if the Council agrees, it may negotiate an appropriate alternative contribution. Again, this should take into account what would otherwise be required on site in relation to the land area plus the population-related proportion of the capital, maintenance and life

cycle costs of the facility. In this circumstance, the Council can require the applicant/developer to find, secure and fund appropriate alternative off-site land, or to provide a sufficient contribution to enable the Borough to secure such land.

- 4.23. Alternatively, the land will need to be secured for permanent and viable community use by the developer by another means.
- 4.24. As an example of off-site provision, if a housing development generates an on-site need for a whole youth sport provision (say a skatepark), but it is agreed with the Council that there is no suitable space on-site, then the developer will be required to secure the delivery off-site on appropriate, accessible land. This might be achieved by, for example, using land that a parish council already owns and upon which it wishes to see such a facility developed. In this case there may be no cost of land purchase but the other costs would be justified.

### **What is meant by 'appropriate land'?**

- 4.25. 'Appropriate land' means, for example, sufficient land for the sport and its ancillary facilities (such as a pavilion/clubhouse and parking), in an appropriate and accessible location, suitably serviced and with good drainage, outside of the floodplain, and away from tree canopies. For playing fields the land must enable the proposed pitches to be constructed and maintained to meet the technical specifications of the relevant national governing body of sport and the Sport England Performance Quality Standard for natural turf pitches.
- 4.26. It is also important to ensure that the proposed function of the land is not compromised by current or planned adjacent development. For example, a sports or recreation use should not significantly impact on residential amenity (noise, light, traffic, parking, cricket ball strike, etc).
- 4.27. It is equally important that new housing (and other) development must not cause the use, function or enjoyment of an existing sports or recreation facility to be compromised. For example, a development may be required to leave a sufficient area around a cricket pitch to prevent ball strike issues, or avoid building close to an existing clubhouse to prevent noise impacting on residential amenity.

### **Can contributions be made to existing facilities?**

- 4.28. Where there is an assessed deficit in the provision of a facility, and there is an existing facility with appropriate community access that could potentially meet the demands generated by the development, but it needs to be upgraded or extended, then contributions may be sought towards such improvements. The Leisure Facilities Strategy and Playing Pitch have action plans which identify the larger facility investment needs. These strategies will be regularly updated by the Council. There may also be more local facilities or open spaces such as a village hall or children's

playground where this situation potentially exists. The flow charts in Section 7 will aid the decision making.

- 4.29. Contributions need to meet the CIL tests but in principle the value of the development generated demand (for a new facility/space) can be used towards the improvement or extension of an existing facility or open space to enable it to meet the new demands of the development.
- 4.30. If the proposal is to invest in an existing facility the operator (including any school or club) will need to be supportive of this, including in relation to the timescales for payment of contributions and on delivering the outputs required. Evidence of this support will need to be provided as part of the supporting documents to the application.
- 4.31. If the existing facility does not already have secure community use then the recipients will usually be expected to enter into a binding agreement with the Council securing appropriate community use, which also may if relevant, be included as a planning condition relating to the facility. For schools, the terms of the agreement and if appropriate, the planning condition, should be based on the Sport England recommended models.<sup>6</sup> The full proposed community use agreement should be submitted as one of the supporting documents to the application.

### **What costs are justified in relation to maintenance and life cycle?**

- 4.32. In addition to the development of a new facility or open space, it is important that provision is made for the future maintenance and life cycle needs. If not, the quality of the new provision will deteriorate, and it may not be possible to replace a facility when required.
- 4.33. In accordance with Borough's Local Plan policy LP1, in addition to the capital cost (or provision) of a new/extended facility, there will therefore usually be costs including maintenance and, in some cases, life cycle costs for long term replacement, e.g. for play equipment. This applies both to contributions on-site and off-site. These contributions recognise, for example, that local authorities may be unable to cover any additional costs associated with maintaining a new space or facility, or one which is much more intensively used after the new population is in place. The contributions will need to be reasonable and fair and will not be used to subsidise a commercial i.e. profit-distributing body, but may be permissible to Arms Length Management Organisations (ALMOs), set up by the Council or other Public Bodies or Charitable/Non-profit organisations and agencies, re-investing funds generated into the service provided, set-up with appropriate future financial and legal safeguards. Similarly, maintenance and life cycle costs would not be appropriate where it can be argued that normal facility operational income should cover these costs.

---

<sup>6</sup> <https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport/community-use-agreements>

- 4.34. In recognition of the wide range of different factors and the need to consider each development site separately to accord with the CIL tests, the SPD provides the Council with flexibility in the seeking of developers' contributions.

### How are maintenance and life cycle costs calculated?

- 4.35. Maintenance and life cycle costs, where justified, will be calculated and included in the request for contributions. These may be based on Sport England's or the relevant national governing body's advice for sports facilities, or on the costs in Appendix D of this SPD for open space and play, as relevant.
- 4.36. However, alternative local costs may be used. These will need to be robust and confirmed by an independent and appropriately qualified person. This work may be undertaken on the behalf of a developer and proposed to the Council, which will properly consider them.
- 4.37. Developers will need to demonstrate they have secured an acceptable means of ensuring future maintenance, particularly of open space. If the developer is proposing to use a management company, details will need to be submitted with the planning application to ensure the Council is satisfied that appropriate arrangements will be in place to effectively maintain the provision to a suitable standard in perpetuity.

### Is there flexibility in requesting contributions?

- 4.38. The contributions outlined in this document provide consistency and transparency in the planning obligation process. However, as each application is considered on its own merits, there may be variations in requirements for similar developments, taking into account the specifics at the time the planning application is considered. The provision and cost calculations are the starting point for negotiations but need to be used in conjunction with the local evidence base.
- 4.39. In all cases, there may be reasons for the Council to choose to be flexible in how it applies this guidance. As examples:
- Where the required need is for part of a facility, the Council may request all of the land but not ask for a contribution to the facility's provision or maintenance.
  - The Council may request all of the provision of a facility but none of the maintenance or life cycle costs.
  - Where the nature of the recipient of the funds means that a request for life cycle and maintenance costs would not be appropriate.
  - Where a new village hall or community centre is built to support a new community, life cycle and maintenance costs may be appropriate up until the time that the new community is fully established, but thereafter the facility may be expected to be financially self-sustaining.
  - Where new provision is proposed but there is very significant local concern about the times that a new facility may be used, then reasonable time restrictions may be considered.
  - Housing scheme viability may reduce the amount being requested.

- 4.40. The Council may typically include a clause in a planning condition or obligation agreement to provide for an alternative CIL-compliant facility, in order to cater for unforeseen circumstances. This might include occasions when there is some uncertainty in securing the delivery of the preferred facility. For example, at the time of signing a s106 there may be a need for new sports facility at a club site, but either the facility is subsequently funded by other sources ahead of the time that the contribution is due to be paid, or the club ceases to operate. In these situations, an appropriate alternative facility that can deliver the same or similar sports, recreation and/open space outcomes should be substituted.

### Phasing contributions

- 4.41. The required timing and delivery of the sports, recreation and community facilities and open spaces should be considered in relation to the housing development phasing. This can help to achieve a balance between ensuring the facility is in place in time to meet the needs of the new residents and/or avoid excessive pressure being placed on existing facilities, and/or be fair and reasonable in relation to a development's cash flow.
- 4.42. Where necessary, a one-off early commuted sum from the developer will be requested to support the early years operation of a facility, where otherwise this would not be viable. The type of facility envisaged here is a community centre or sports facility which should become increasingly self-sustaining as the community it serves grows. It is not appropriate to delay delivery of these types of facility until the development has grown to its full extent unless there is, in the short term, sufficient capacity within existing off-site facilities for a period, which are also within the relevant accessibility standard, e.g. 800m for community centres.

### Cross local authority boundary opportunities

- 4.43. It is expected that all relevant developments within North Warwickshire Borough will provide developers' contributions to North Warwickshire Borough Council.
- 4.44. However, in some cases, the nearest current or potential new facility may be across the local authority boundary, outside of the Borough. In this case the Borough Council may consider cross-boundary co-operation, perhaps offering s106 funding towards the relevant facility, or by finding another way to fairly share the infrastructure burden between the two authorities. However, this would be dependent upon the adjacent authority providing the justification for the investment and a formal policy agreement between the authorities.
- 4.45. It is also recognised that facilities within North Warwickshire may meet the potential needs of developments outside of the Borough's boundary. In this case, the Council may consider receiving s106 funding towards a facility or alternatively find other ways to fairly share the infrastructure burden. However, this would also be dependent upon a formal policy agreement between the authorities.

- 4.46. These possible approaches reflect the ‘duty to co-operate’ with neighbouring authorities.

### Is there early advice available to developers?

- 4.47. It is recommended that discussions on planning obligations should take place as early as possible in the planning process, for example through pre-application discussions. This can be used as the first opportunity for discussion on the layout, design and overall acceptability of a scheme and to establish the likely mitigation that will be required through a planning agreement.
- 4.48. Early guidance about the provision, design and delivery of open space, sport and recreation should be also be sought from the relevant agencies, such as Council’s Environment team, Sport England and the national governing bodies of sport.

### How are the legal agreements made?

- 4.49. Following any decision to grant planning permission, that is subject to the finalisation of a section 106 deed, whether a s106 agreement or a unilateral undertaking, and/or discharge of conditions, the legal representatives of the Council and the applicant will confirm any necessary obligations in the form of a binding legal agreement and agree and pay relevant fees. The agreement will contain the necessary planning obligations, including any trigger points for the provision of facilities or payment of the contributions, and any other commitments to be undertaken by the developer and the Council.
- 4.50. It is to be noted that the legal agreements run with the land and the originator of the planning obligation will be required to advise the Council if a site is sold on with the benefit of the planning permission and obligation. The Council will charge for the cost of any subsequent Deed of Variation, or discharge of an obligation when this is agreed by all parties. However, such changes to the planning obligation agreement will not be acceptable unless the needs of the development can still be met.

### How is inflation dealt with?

- 4.51. The base costs in this SPD are current costs based on Q2/2021, unless otherwise stated. Developers will need to pay costs that reflect construction and delivery inflation and/or other justified costs at the time of the application. Applicants should note that the Council will review the capital and maintenance costs annually to take inflation into account.
- 4.52. As the commencement of development may not take place immediately following the completion of the legal agreement, all contributions listed within the document will be index linked from the date of the Resolution to the date of payment using the latest indexing factor available at the date of payment. The Council will use the (RPI – All

Items) or BCIS index unless otherwise agreed by all parties and an alternative index is listed within the legal agreement for the development.

## Monitoring and enforcement

- 4.53. Planning obligations will be monitored to ensure that they are being undertaken and/or paid at the agreed times. The provision of infrastructure and the timing of payment of contributions will be negotiated on an individual basis to provide a phased programme of payments relating to development progress, commencement and completion / occupancy trigger points. Notification should be given to the Council when the development commences and / or when the trigger for payment/delivery has been reached as per the individual agreement. On receipt of the notification the Council will issue an invoice for the amount payable including any indexation.
- 4.54. The Council will monitor Building Control and other sources and will issue an invoice if the Applicant fails to advise the Council that the payment has been triggered. Indexation applies until the date of the invoice, so in these circumstances the amount may be higher than if the applicant had advised the Council when the payment was triggered. Penalty interest is payable to all contributions not paid in accordance with the legal agreement and accrues from the date payment is triggered to the date of actual payment.
- 4.55. Late payment fees will be calculated at the annual rate of 4% above the Bank of England base rate from the date the sum (including any indexation) fell due until the date of the actual payment. If there is a failure to comply, the Council will take appropriate enforcement action and full cost recovery will be sought.
- 4.56. To cover the cost of monitoring, the Council may charge a monitoring fee which will be index linked and is payable on or prior to the commencement of the development.
- 4.57. The Council will monitor and report annually on the section 106 contributions received in the Authority Monitoring Report and Infrastructure funding statements.

## 5. UNDERSTANDING THE EVIDENCE BASE

### What is the evidence base?

- 5.1. Developers' contributions requirements set out in this SPD are based on the relevant strategies, and any subsequent updates of them. The current strategies which are available to view on the Council's website are:
- Green Space Strategy 2020-2033
  - Leisure Facilities Strategy 2016-2031, October 2017
  - Playing Pitch Strategy, October 2018
  - Health and Wellbeing Action Plan 2017 (2020 to 2023)
  - Infrastructure Delivery Plan, March 2018 (with update to Appendix A December 2020)
  - Warwickshire, Coventry and Solihull Sub-regional Green Infrastructure Strategy (2013)
- 5.2. Each of these strategies (and their updates) have action plans which help to identify the project investment priorities.
- 5.3. The current Infrastructure Delivery Plan is dated March 2018,(with update to Appendix A in December 2020). The IDP brings together the main themes of the strategies under the following headings:
- Green Infrastructure
    - Canal towpath improvements
    - Improved pedestrian and cycle routes
    - Parks, Open Spaces and Play Areas
  - Social Infrastructure
    - Community, Arts, Culture and Leisure
    - Sports Centres and Pitches
    - Village Halls, Community Facilities/Services
- 5.4. Appendices B, C and D of the IDP provide the infrastructure lists, but the projects are not specifically costed. The Borough wide infrastructure requirements include: canal towpaths, play areas, allotments, playing pitches, community venues and walking and cycling routes. Settlement specific projects include: refurbishment of leisure facilities at Atherstone/Mancetter, Dordon/Polesworth, Old and New Arley, and Kingsbury.
- 5.5. In addition, neighbourhood plans and consultation including with Parish or Town Councils and other local consultees, may identify a local need(s) that it is not in a strategy but still can be justified and requested as a contribution.

## What assessment is made to ensure the contributions are needed by a development?

- 5.6. The following test will be used to assess whether the existing provision within an area can provide for the demand generated by a development, or whether a new facility may be needed. The evidence base strategies on which this SPD is founded, have used these tests for the formulation of the recommendations, and a summary of the standards set down in the strategies are provided in Table 2 for sport and recreation facilities, and Table 3 for open space typologies.

### Quantity

- 5.7. The quantity requirements are based on the demand generated by the development. This is derived from the relevant strategies. This is expressed as the facility or space requirement per 1,000 people. The exception is in relation to the contribution which may be requested towards community or village halls, where the requirements will be informed by local consultation.
- 5.8. The quantity standards for the sport and recreation are provided in Table 2 and for open space typologies in Table 3.

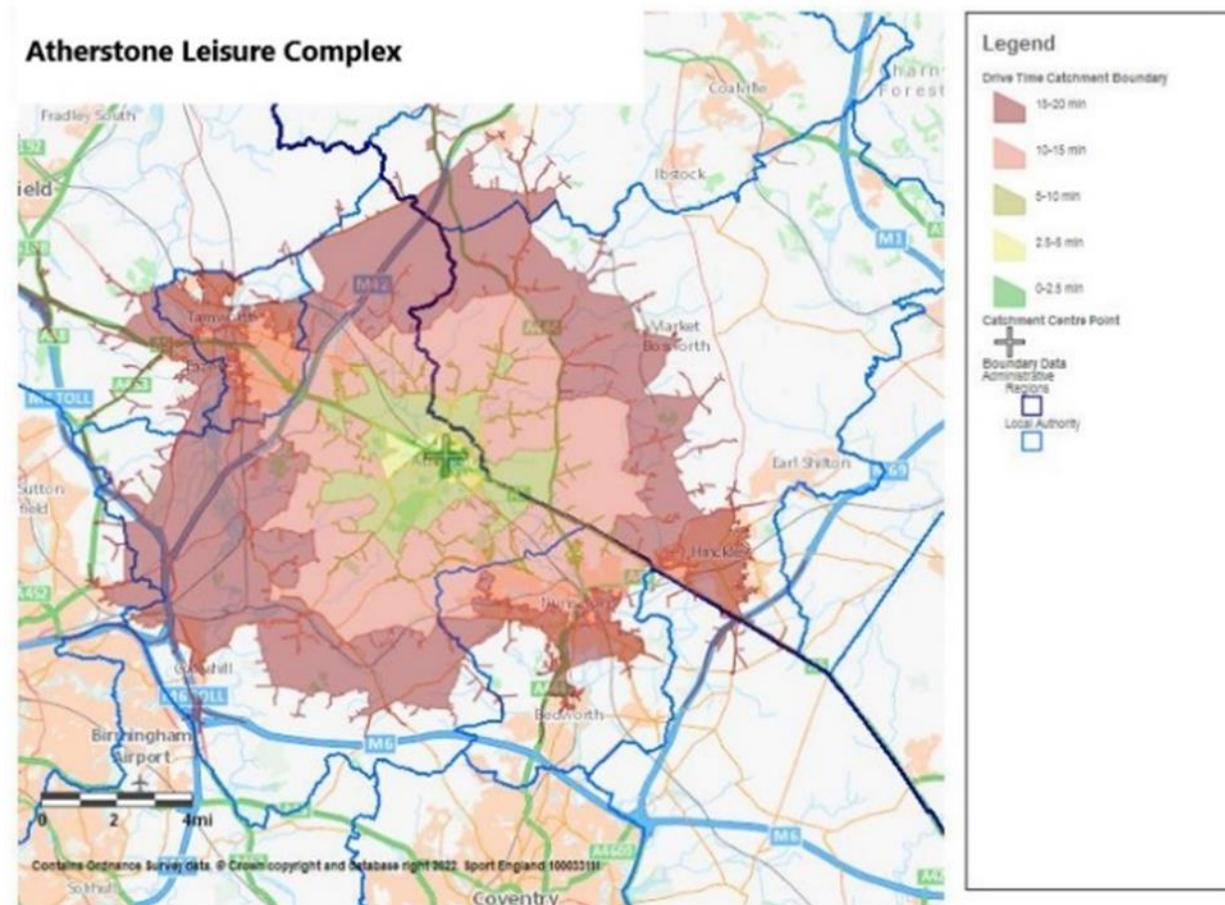
### Accessibility

#### Distance

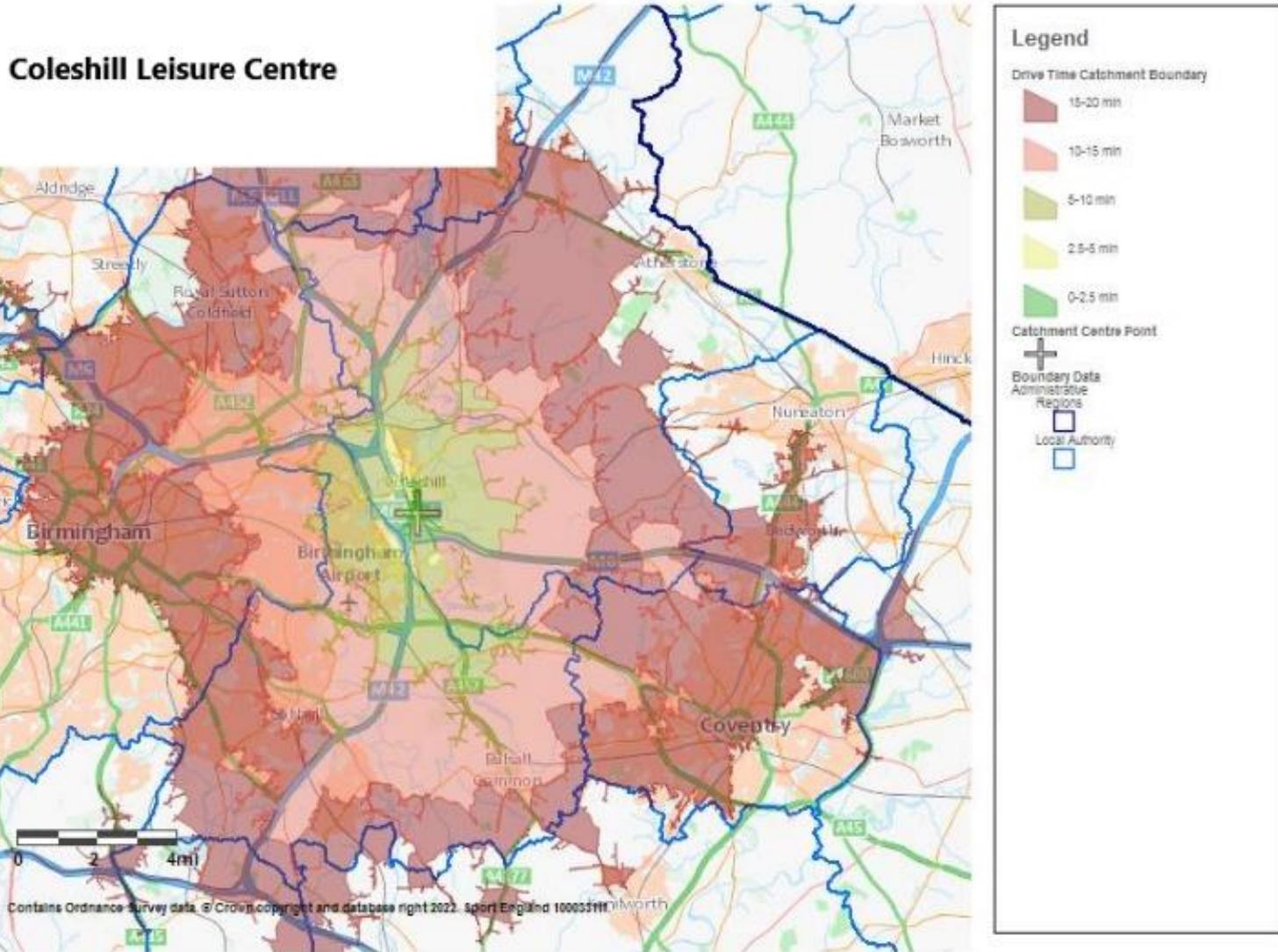
- 5.9. The accessibility requirement includes the acceptable travel distance (catchments) to a facility or open space. This reflects the way in which people usually travel to reach a type of relevant facility or space. For example, most people will travel up to 20 minutes to reach a swimming pool or sports hall, and most users travel by car. This compares to the local walking catchments of play areas, amenity green space and community / village halls.
- 5.10. This accessibility information can be used to guide whether provision should be on-site or off-site, and to guide the maximum distance to existing facilities which potentially have capacity to meet the new demand generated from the development. For example, there may be an overall surplus of one facility or open space typology in the Borough, but none located within the appropriate catchment area of a development, so a new facility or open space may need to be provided.
- 5.11. The accessibility standards for the sport and recreation are provided in Table 2 and for open space typologies in Table 3. It should be noted that the accessibility distances /time are related to the real accessibility, not to a direct line distance. Where there are barriers to access, such as a major road or railway line, then the accessibility assessments will need to take this into account.

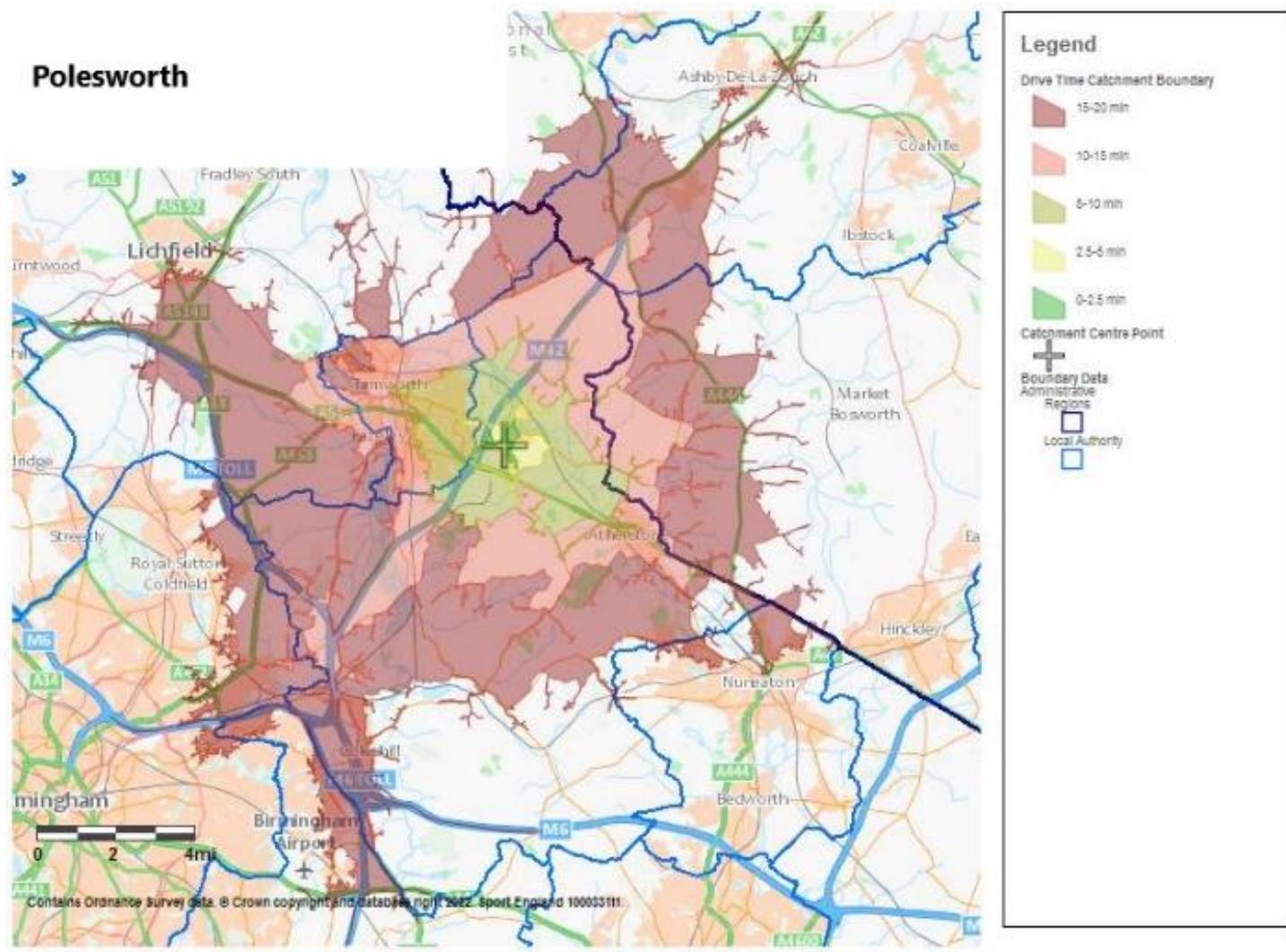
5.12. Figure 1 shows the 20 minutes' drive time catchments using the Sport England Active Places Power<sup>7</sup> tool from the main leisure centres/sports facilities. These catchment maps show that most of the borough falls within the catchment of all of three strategic centres, but that some areas are only covered by a one facility, e.g. the southern edge of the borough by Coleshill. Atherstone Leisure Complex and Queen Elizabeth Community Sports Centre are approximately 4 minutes' drive apart, so effectively have the same catchment.

Figure 1: 20 minutes' drive time catchments from strategic sports centres



<sup>7</sup> <https://www.activeplacespower.com/>





Sport England assumes no responsibility for the completeness, accuracy and currency of the information contained on this map/report. This information is taken from the Active Places Power website and its terms and conditions apply. 29/3/2022 12:39

Figure 1: 20 minutes' drive time catchments from strategic sports centres

### Other accessibility considerations

- 5.13. The accessibility requirement also needs to consider the facility ownership, management and availability for community use. The 'availability' must be sufficient for the expected community's needs and include hours of use, pricing policy and any exclusions. There should be legally secure community use for at least 25 years, or preferably longer.
- 5.14. Typically, the hours for community sport facilities should not be less than 5pm to 10pm for Monday to Friday, 8am to 10pm on Saturday, and 8am to 8pm on Sunday.
- 5.15. For example, there may be a sports hall at a local private school that is proposed to be used to meet the demand arising from the development. This could only be acceptable if the school enters into a formal community use agreement based on the Sport England model with peak opening hours similar to the above, no restriction on who can use the sports hall, affordable charging policies, and suitable management mechanisms in place.
- 5.16. As another example, a commercial gym may offer enough peak time hours for community use, with either no or limited user restrictions and at an affordable price. This facility would be counted as a community accessible facility, whilst an hotel type gym with restricted use, or one with high membership charges, would not be.
- 5.17. A community hall/village hall would usually be expected to have community access during weekday daytime, but it may also have an anchor tenant, such as a nursery. A reasonable balance between day and evening use will be required.

### Open spaces

- 5.18. Public open spaces and play facilities should be available at all times, unless exceptional circumstances are agreed with the Council.

### Quality

- 5.19. The quality requirement relates to the quality, attractiveness, design, layout and specification of facilities and open spaces.
- 5.20. The age and overall condition of a facility or open space will impact upon its quality. Generally, the older the facility is, the less attractive it is to users. As a result, such a facility or open space may have less 'capacity' to meet the demand generated from a development.
- 5.21. All sport, recreation and play facilities, whether a new build, extension or refurbishment, should be designed to current best practice standards including layout and specification. The relevant guidance may include that from Sport England, the National Governing Bodies of Sport, Fields in Trust, professional or trade organisations

such as the Grounds Management Association, the Sports and Play Construction Association, and the Borough Council.

5.22. Quality guidelines will include:

- Quality appropriate to the intended level of performance, designed to appropriate technical standards.
- Located where they are of most value to the community to be served.
- Located where they are attractive and safe to use, for example, not adjacent to busy roads, under electricity pylons or overshadowed for much of the day by tall buildings.
- Appropriately designed and managed to enable recreational use by the whole community, including for those people with disabilities or cultural restrictions.
- Appropriately laid out e.g. useable areas that are not thin strips of land alongside roads, or small isolated areas.
- Appropriately landscaped.
- Maintained safely and to a high level of quality, with finance made available.
- Positively managed taking account of the need for repair and replacement over time as necessary.
- Provision of appropriate ancillary facilities and equipment, such as toilets at allotments, where suitable and necessary.
- Provision of footpaths and cycleways/cycle access, especially links to and between existing routes, PROW's and bridlepaths to improve connectivity.
- Designed so as to be free of the fear of harm or crime.
- Provision of opportunities for informal leisure and access to areas for informal activities such as dog walking areas and improved access to PROW's and Bridlepaths to support opportunities and facilitate improvements to Health and Wellbeing.

### What are the standards of provision?

5.23. Standards for provision are set out in Table 2 and Table 3. They are referred to in the flow charts in Section 7. The quantity standards underpin the calculators on the North Warwickshire Borough Council's website. Examples of their application are given in the 'Worked Examples' in section 7.

5.24. The 'standards per 1,000 population' for sports halls and swimming pools is derived from the Sport England Sports Facilities Calculator. The provision standards per 1000 for studios and fitness gyms with stations are calculated from the recommendations for new provision totals of the Leisure Facilities Strategy, with the population forecast used in the Strategy for 2031 at 83,561.

5.25. The provision requirements for playing pitches, both grass and artificial, are those generated for each sport per 1,000 population by the Sport England Playing Pitch Calculator for North Warwickshire. This approach is consistent with the Playing Pitch Strategy recommendations.

- 5.26. The provision per 1,000 population for open spaces is as set out in the Green Space Strategy.
- 5.27. It should be noted that standards of provision should not be used in isolation, but must be used in tandem with actual assessed need and other robust evidence. For example, there may be an assessed potential surplus of a facility or specific open space typology which has secure community use and is accessible (see Table 2 or Table 3 as relevant) but its quality is poor. In this situation, a contribution(s) may agreed to be used towards investment in the quality of the existing facility or open space in order to increase the quality and capacity, so that it(they) can meet the development's assessed demand.
- 5.28. In all circumstances, provision and design of facilities should address climate change and the goal of sports and leisure structures and facilities using advancements in building techniques and technology to achieve low or carbon neutral status, to help the UK reach net-zero by the deadline of 2050.

### **What population figure should be used in assessment of demand?**

- 5.29. The contributions must meet the three CIL regulations tests; that they are necessary, directly related, and fairly and reasonably related in scale and in kind, to the scheme in question.
- 5.30. The average number of people per household in the Borough is 2.37, derived from the Housing Market Area data for the Borough's Local Plan which in turn was based on the February 2015 updated population projections for the Borough. This figure will need to be updated from time to time as national and local population statistics change.
- 5.31. The estimated population of a development, for both outline and full applications will be based on the 2.37 persons per dwelling. Thus, a development of 100 dwellings will be assessed as generating a population of 237 people. However, if it can be demonstrated to the Council's satisfaction that an alternative population figure should be used for a proposed development because of site specific circumstances, then this will be acceptable.
- 5.32. In the case of a change in the proposed population of a development, for example by increased density, then the developers' contributions will need to be recalculated and the implications for provision be masterplanned appropriately.

Table 2: Sport and recreation facility standards

Facility	Measurement		Accessibility (fully available at peak time)	Quality
Sports halls	0.28	Badminton courts per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England and relevant national governing body of sport guidance.
Swimming pools	10.63	sqm of water space per 1,000 people	About 20 mins drive time	
Fitness facilities	4.56	Fitness stations per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England guidance.
Studios	0.07	Studios per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England guidance.
Village or community halls	Additional and improved facilities including storage to enable more sports and activities to be offered.		800m walk	Design to be agreed with the Council.
Football grass pitches	0.43	Hectares per 1,000 people	About 15 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Rugby Union grass pitches	0.18	Hectares per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Cricket with natural grass turf wickets	0.42	Hectares per 1,000 people	About 15 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Football 3G artificial grass pitch (3G-AGP)	0.04	Full size floodlit 3G pitch	About 20 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Hockey sand based artificial pitch	0.01	Full size floodlit pitch	About 20 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.

Table 3: Open space standards

Typology	Measurement Hectares per 1,000 people	Accessibility (walk)	Quality
Parks and gardens	0.8	710 m	<ul style="list-style-type: none"> <li>• Welcoming clean, well maintained area with hard/soft landscaping</li> <li>• A one stop community facility, accessible to all with a range of leisure, recreational and play opportunities</li> <li>• Safe to visit, pleasant to walk and sit in</li> <li>• Cut back trees and bushes for safety and clear sightlines</li> <li>• Include paved and planted areas, paths, grassed areas, seating, clear pathways, appropriate lighting and signage to, and within, the site</li> <li>• Include ramps instead of steps and wide paths for wheelchair and pushchair users</li> <li>• May provide opportunities for public realm art</li> <li>• Should link to surrounding green space.</li> <li>• Clean and well maintained green space, with appropriate ancillary furniture pathways, and natural landscaping</li> <li>• Safe site with spacious outlook</li> <li>• Enhance the environment/ could become a community focus</li> </ul>
Amenity green space e.g. village greens	0.6	480 m	<ul style="list-style-type: none"> <li>• Large spaces may afford opportunities for informal play.</li> <li>• Smaller landscaped areas in and around housing areas</li> <li>• Informal recreation</li> <li>• Provide connections for wildlife and people movement</li> <li>• Include, and often connect to, green lungs</li> <li>• Contribute to biodiversity</li> <li>• Planted using native species</li> <li>• Areas to be maintained clear of dog fouling and litter</li> <li>• Provision of seating and bins</li> <li>• May provide opportunities for public realm art</li> <li>• May include woodland.</li> </ul>
Natural and semi-natural green space	1.8	720m	<ul style="list-style-type: none"> <li>• Appropriately landscaped</li> <li>• Positive management</li> <li>• Provision of footpaths</li> <li>• Designed to be free of the fear of harm or crime</li> </ul>

Allotments	0.2	400 m	<ul style="list-style-type: none"> <li>• Secure area of land commonly within, or on the edge of, a developed area which can be rented by local people for the growing of vegetables, flowers or fruit, not-for profit.</li> <li>• Provide opportunities for those who wish to do so to grow their own produce, and support health, sustainability and social inclusion</li> <li>• Sites should be well drained and accessible with wide paved paths, car access and parking, toilets, recycling facilities and inorganic waste disposal facilities</li> <li>• Areas should be well lit and provide safe paths.</li> </ul>
Play areas for children	0.25	LEAPs:400m NEAPs: 1,000m	<ul style="list-style-type: none"> <li>• A range of provision of both equipped and natural play areas</li> <li>• Spaces should be well sited, accessible, convenient, visible, safe and secure, with seating for adults, litter bins and cycle racks – also consider pushchair/wheelchair access</li> <li>• Well-lit with informal surveillance when possible</li> <li>• Equipment should suit the needs of all ages and abilities and be well maintained</li> <li>• Zones to prevent conflict and spaces and seating for supervision</li> <li>• Should be clearly bounded, well maintained, free of dog fouling, have clear pathways, appropriate lighting and signage</li> <li>• The Council will only accept Local Areas for Play in exceptional circumstances.</li> </ul>
Youth provision	0.3	700m	<ul style="list-style-type: none"> <li>• Robust yet imaginative play environments ranging from youth shelters to skate parks and multi-use games areas</li> <li>• Kick about/games areas, skate parks, basket ball courts</li> <li>• If located within other areas of open space they should include buffer zones to prevent conflict</li> <li>• Should promote a sense of ownership and be accessible to all and have clear pathways, appropriate lighting and signage</li> <li>• They should be visible and safe, well maintained and free of dog fouling</li> </ul>
Canal towpaths	Contribution	200m	<ul style="list-style-type: none"> <li>• Canal towpath improvements</li> </ul>

## 6. ASSESSING THE CONTRIBUTIONS REQUIRED

### What is the process for assessing demand?

- 6.1. The CIL test of ensuring any contributions are 'fairly and reasonably related in scale and kind to the development' requires that any contributions sought are directly proportional to the anticipated population of the development.
- 6.2. The North Warwickshire facility and open space Contribution Calculators are designed to automatically calculate the demand based on the number of dwellings or population from a development, applying the quantity standards set out in Table 2 and Table 3. These in turn are based on the relevant Borough strategies.
- 6.3. The outputs help to inform the decision process, summarised by decision flow charts in Section 7.
- 6.4. In addition, there may be justified local needs which the developer identifies through local consultation, including with the Borough and town/parish councils.

### How are the demand and potential contributions calculated?

- 6.5. The facility, playing pitch and open space capital costs, as set out in Appendix C and incorporated into the Calculator (available on the Council's website) are based on: Sport England's latest facility costs guidance<sup>8</sup>; costs from National Governing Bodies of Sport (NGBs) and, where relevant, other latest industry figures, including SPON'S Architect's and Builders' Price Book and SPON's External Works and Landscape Price Books. The costs generated by the calculator will be indexed to take account of inflation.
- 6.6. The justified contribution for a development based on the standard costs calculates automatically on inputting of the number of dwellings or anticipated population, and a worked example is provided in Appendix E of this SPD for 500 dwellings and using standardised costs.
- 6.7. Alternatively, locally assessed capital costs can be used, but these need to be robust and confirmed by an independent and appropriately qualified person. This work may be undertaken on the behalf of a developer and proposed to the Council, which will properly consider them. These can be input into the SPD Calculator using the orange boxes for leisure facilities and open spaces. There are no local costs for playing fields.

---

<sup>8</sup> Sport England Facility Costs Q2/2021; and Sport England facility Lifecycle costs.  
<https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/facility-cost-guidance>

## How are contributions costed for upgrades and extensions?

- 6.8. In addition to new facilities, where a whole new facility is not required but an assessed need for an extension or major refurbishment of an existing sport or recreation facility, playing pitch site or open space has been identified, robust costs can be used from relevant sources including: Sport England's Facilities Cost Guidance, Sport England Playing Pitch Calculator, National Governing Bodies of Sport, SPON's Price Books, or robust local market estimates or quotes.
- 6.9. The North Warwickshire Leisure Facilities and Playing Pitch Calculator both use the cost of new provision to estimate the costs of meeting demand from a development. The costs of meeting and maintaining different open space typologies are based on SPON'S External Works and Landscape Price Book (2019) or market prices with inflation to 2Q 2021 using the BISCO index.
- 6.10. Local costs can be used instead, for example on a £ per sqm basis, but these need to be robust and confirmed by an independent and appropriately qualified person. This work may be undertaken on the behalf of a developer and proposed to the Council, which will properly consider them.

## How should decisions be made about what is required?

- 6.11. The CIL tests require that any contributions should be necessary to make the development acceptable in planning terms. It is therefore essential to assess each application separately to determine the demand and whether existing sport and recreation facilities, playing pitches and open spaces can meet the needs of the application both specifically and within any application's wider housing allocation or geographical context.
- 6.12. The developer will therefore need to provide an assessment as part of the supporting documents for the application, for each sports facility, playing pitch and open space typology, in relation to the quantity, accessibility and quality of the existing facilities and spaces. The North Warwickshire Sport, Recreation and Open Space Calculator<sup>9</sup> can be used, together with the recommendations of the evidence base strategies which will help to guide the built sports facility and playing pitch investment priorities, plus findings from local consultation. The latter will be particularly important in relation to the open space typologies and community/village hall provision.
- 6.13. The developer's proposals should then seek to deliver on-site or support off-site the most appropriate provision for each sport and recreation facility type and open space typology. The proposals will need to meet both the expected demand generated by the development and the requirements of the Local Plan policy.

---

<sup>9</sup> add link

- 6.14. Flow diagrams in Section 7 are provided to aid the decision process. There is one each for leisure facilities, playing pitches and open space.

### How will contributions for leisure facilities be assessed and used?

- 6.15. The development contributions based on the anticipated population are calculated in the North Warwickshire Sport Recreation and Open Spaces Calculator on the Leisure Facilities tab.
- 6.16. The flow chart in Section 7 supports the decision making as to where the investment priorities may be and has two parts:

- Sports hall, swimming pools, fitness facilities

The contributions will be towards strategic facilities. North Warwickshire Borough Council will decide which facility will be funded, guided by the Leisure Facilities Strategy action plan latest version, which is available on the Council's website.

- Community/village halls

The need for and how this can be met should be confirmed by local consultation in addition to relevant strategies.

### How will contributions for playing fields be assessed and used?

- 6.17. The development contributions based on the anticipated population are calculated in the North Warwickshire Sport Recreation and Open Spaces Calculator on the Playing Pitches tab.

- 6.18. The flow chart in Section 7 supports the decision making as to where the investment priorities may be and has two parts:

- artificial pitches and grass rugby pitches
- grass football and cricket pitches

- 6.19. The justification for contributions for playing pitches is contained in the Playing Pitch Strategy. This includes the list of projects requiring investment which will enable the demand from the new development to be met, but there may be others identified through local consultation.

- 6.20. Playing pitches lie within playing fields. The playing fields area that needs to be provided must accommodate, in addition to the pitch space, space for the ancillary facilities which support the pitch use such as access, parking, pavilion, landscaping, spectator space and safety margins. The land area to be provided will therefore normally need to be approximately 150% of the area of the new grass pitch space required for football or rugby, or 2 ha per cricket pitch.

- 6.21. It is important that new playing pitch sites are viable so the usual minimum size of provision on one site is:
- football: a pitch area of 1.48 ha, the equivalent of 2 senior pitches
  - rugby: a pitch area of 2.08 ha, the equivalent of 2 senior pitches
  - cricket: one pitch of 8-natural turf wickets
- 6.22. If the demand generated by the development is for the large majority (66% or more) of this minimum provision then the playing field space for the pitches and accompanying ancillary facilities are likely to be required to be provided on-site, in accordance with Section 4, and Table 1.
- 6.23. If the calculated pitch amount is less than 66% of the minimum provision, then usually an off-site contribution will be required. However, this is dependent upon demonstration to the Council's satisfaction, that there is actually sufficient accessible capacity elsewhere to meet the new demand arising from the development.
- 6.24. The contribution towards, or provision of, a proposed artificial grass pitch (AGP) is more complex than grass pitch provision as these facilities, particularly full size pitches, are usually linked to secondary schools, leisure centres or to club sites. AGPs are not generally considered as a simple replacement for grass pitch provision, and provision on-site or contribution off-site to a proposal not included within the Playing Pitch Strategy would need to be supported by a comprehensive business case demonstrating the community need, viability and sustainability of the facility, including its long term management.
- 6.25. Sport England advises that developers should contact them for early advice about playing pitch provision proposals, whether this is on-site or off-site.
- 6.26. Appendix E provides a worked example of the costs for playing pitches and pavilions based on 500 dwellings.

### **What is considered to be open space?**

- 6.27. Public open spaces include: the combined typologies of: parks and gardens, amenity green space; natural and semi-natural green space; allotments; play areas for children; and youth provision (e.g. MUGA/skatepark). They are designed to have a clear recreational function and will almost always be larger than 0.2 ha in size.
- 6.28. All open spaces are required to be publicly accessible at all times. Allotments may however have some restriction on public access due to security needs. Open spaces should also be safe and attractive.
- 6.29. The following land uses do not count towards public open space: structural and peripheral landscaping, footpaths and cycleways except where integral to a large area of public open space, and small areas of incidental land. Also discounted will be

smaller areas of land that are largely surrounded by roads which are not suitable for reasons of amenity and safety, or where the adjacent use leaves the location unattractive to use.

- 6.30. In relation to sustainable urban drainage (SUDS) areas, some of these areas may also be possible to use as natural and semi-natural green space or even amenity green space. However, the Council will need to be persuaded that the design of such SUDS is safe, attractive to use for informal recreation, and easily accessible. Furthermore, the area of the SUDS to be counted as public open space should be dry and usable for a significant majority of the time.
- 6.31. Public open space will also need to be laid out with appropriate infrastructure, which typically will include: good walking access and/or parking, paths, fences, benches, signage, dog and waste bins, cycle parking, watering points and car parking. Parks and gardens and amenity green space may have all of these, whilst natural and semi-natural green space may have less. Allotments can be expected to have all the facilities suggested by the National Allotments Society, including parking, sufficient water, fencing/security, toilets, and communal shed. It will be the Council's decision as to what is reasonable and relevant to be required for open space facilities provision.
- 6.32. Whilst not included in calculations for open space provision, canals have important recreational value, and are recognised in the Infrastructure Delivery Plan. As such, development sites within 800 metres (10 minutes' walk) of inland waterways will be expected to make contributions towards canal towpath improvements. Developers are advised to seek early pre-application discussions with the Canal and River Trust. Contributions will be assessed on a site by-site basis in consultation with relevant agencies.

### What is the minimum size of a public open space?

- 6.33. All new public open space should be of at least 0.2 ha in size, with the occasional exception of standalone Local Equipped Areas for Play (LEAP), or where agreed to be provided, a Local Area for Play (LAP). This is based on the minimum size of area included within the Green Space Strategy.
- 6.34. On development sites generating less than 0.2ha of any one of: parks and gardens, amenity green space, natural and semi-natural green space or allotments, the Council will accept a commuted sum towards provision of new off-site open space of the relevant typology, or towards the enhancement of an existing open space of the relevant typology which is within the accessibility thresholds specified in Table 3.

### What are the long term requirements for public open space?

- 6.35. Where there is a need for new or upgraded open space, the contribution is calculated using the standards of provision in Table 3.

- 6.36. As well as the provision of open space and play facilities, their maintenance and life cycle costs will be required to be met.
- 6.37. If the new provision is proposed to be adopted by North Warwickshire Borough Council or by a town or parish council, then a commuted management sum would be payable for a period of not less than 25 years with the contributions being given to the relevant body. Appendix D identifies the average cost of maintaining different open space typologies based on locally derived maintenance costs. As set out in paragraphs 4.51 and 4.52, these costs will be indexed to take account of inflation.
- 6.38. Alternatively, local costs can be used, but these need to be robust and confirmed by an independent and appropriately qualified person. This work may be undertaken on the behalf of a developer and proposed to the Council, which will be properly considered.
- 6.39. The Council will be willing to consider alternative management approaches put forward by developers on a case by case basis. The Council will however always need to ensure each arrangement is effective and viable. For example, an alternative approach could be a management company. In this case there would need to be a planning condition that sets out specifications and quality standards for provision and maintenance in perpetuity, along with the guaranteed funding mechanisms for this.
- 6.40. Reasonable contributions can be requested to cover the Council's costs of setting the specifications for open space and play provision and the long term monitoring of the management arrangements.

### What play provision is required?

- 6.41. Play provision is a trigger based on the number of houses, so as to provide an appropriate level of facility(ies) for the development, see Table 3. The 66% approach set out in Table 1 also applies to play provision. For example, this means that a development of 47 dwellings (expected population of 111 people) which does not have access to a LEAP within the accessibility catchment, needs to provide sufficient land on site plus the population related proportion of the capital, maintenance and life cycle costs. The 66% threshold for NEAP and teenage provision is 400 dwellings (development population of 948).
- 6.42. Any variations to this approach will need to be adequately justified by the applicant and agreed by the Council.
- 6.43. The Council will only consider the provision of a Local Area for Play (LAP) in exceptional circumstances, such as for a development of 10-46 houses where there is no appropriate accessible play provision.

Table 4: Play provision for number of dwellings

Scale of Housing Development	Local Area for Play (LAP)	Locally Equipped Area for Play (LEAP)	Neighbourhood Equipped Area for Play (NEAP)	Youth Sport (MUGA; Skatepark; adventure play)
5-9 dwellings	✓			
10-199 dwellings	✓	✓		Contribution
200-399 dwellings	✓	✓	Contribution	✓
400+ dwellings	✓	✓	✓	✓
<b>Accessibility</b>	100m	400m	1,000m	700m

## 7. FLOW CHARTS

7.1. The following flow charts are designed to support decision making in relation to planning obligations for sport, recreation and open space. There are three flow charts:

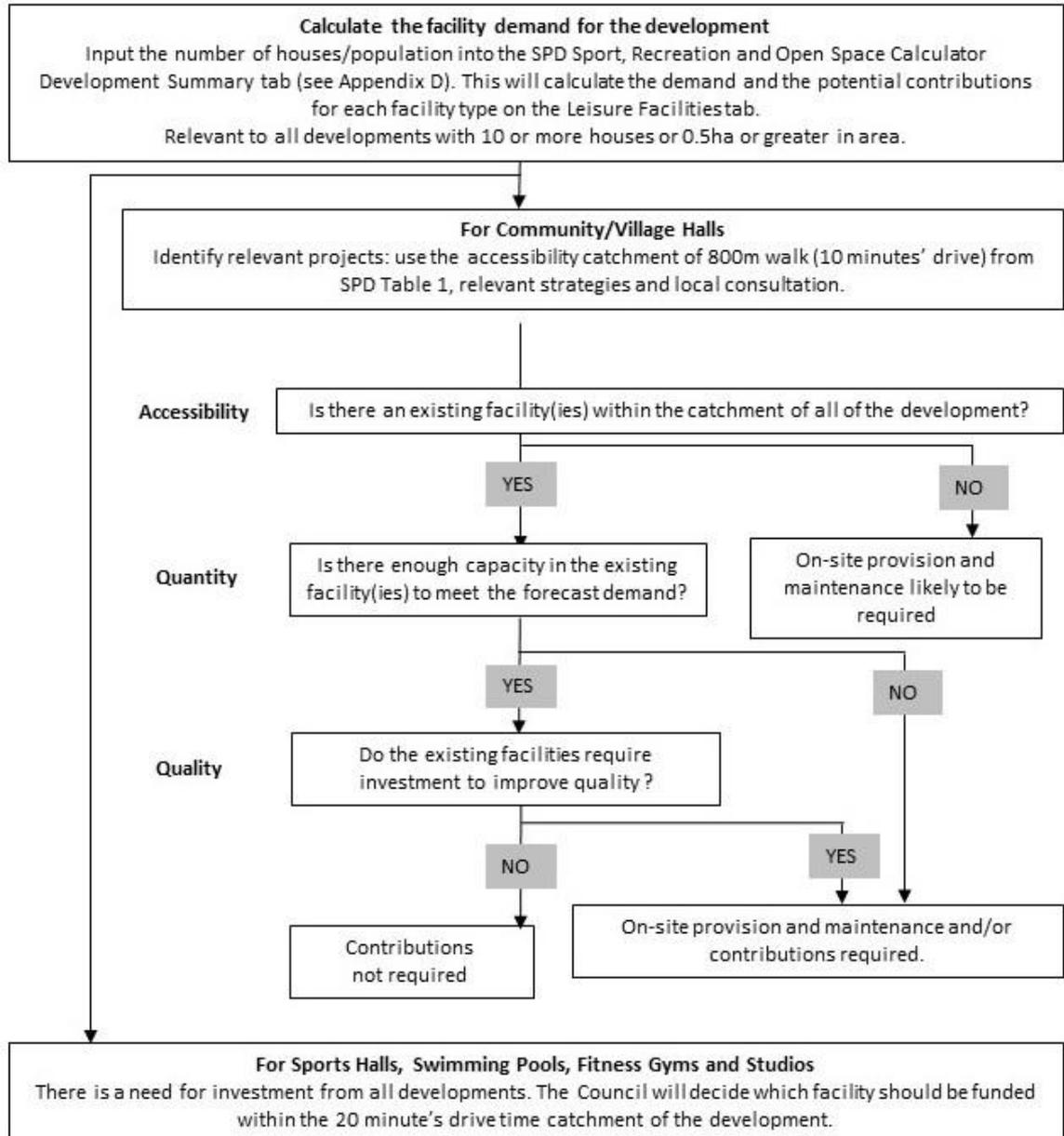
- Leisure Facilities – for built facilities including community/village halls
- Playing Pitch – for grass and artificial playing pitches
- Open space – for the different types of open space, including play.

7.2. The flow charts help to determine whether provision is justified for a particular development, and whether this is likely to be on-site or off-site.

## Leisure Facilities Contributions Flowchart

Leisure facilities include sports halls, swimming pools, fitness gyms, studios and community/village halls<sup>1</sup>. This flowchart needs to be considered alongside relevant paragraphs in this SPD (e.g. Table 2 on standards of provision), and the latest Leisure Facilities Strategy's action plan and recommendations.

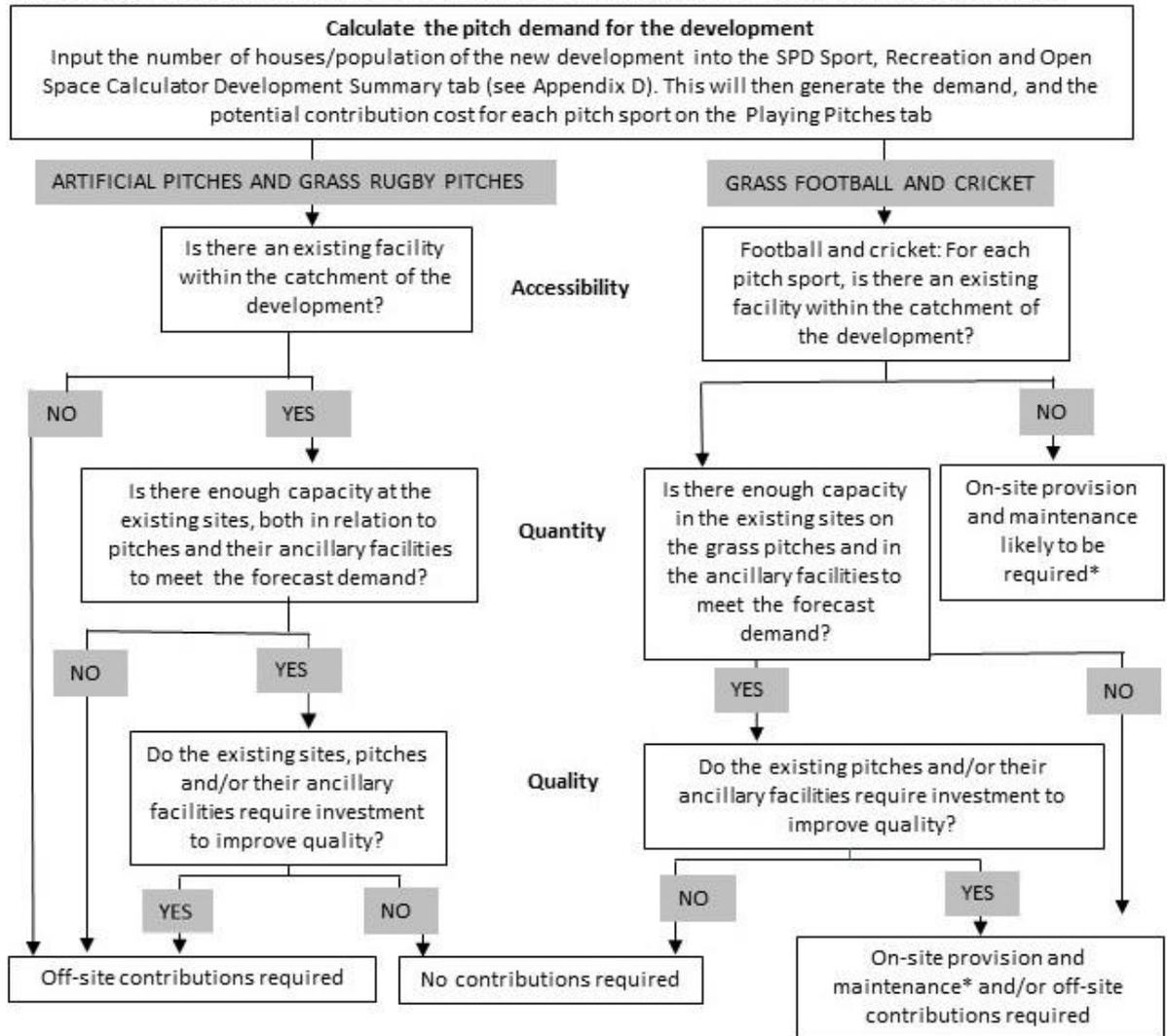
There are two parts to this flowchart. One part is for sports halls, swimming pools, fitness facilities and studios. The other is for community/village halls.



Note 1: there are other leisure facilities e.g. squash courts, but the current Leisure Facility Strategy does not make recommendations for these as the priorities for developers' contributions investment.

## Playing Pitch Contributions Flowchart

Playing Pitches includes pitches for football, cricket, rugby and hockey. They may be grass or artificial grass, as appropriate for the sport. This flowchart needs to be considered alongside relevant paragraphs in this SPD e.g. Table 2 on standards of provision, the latest Playing Pitch Strategy and local consultation.

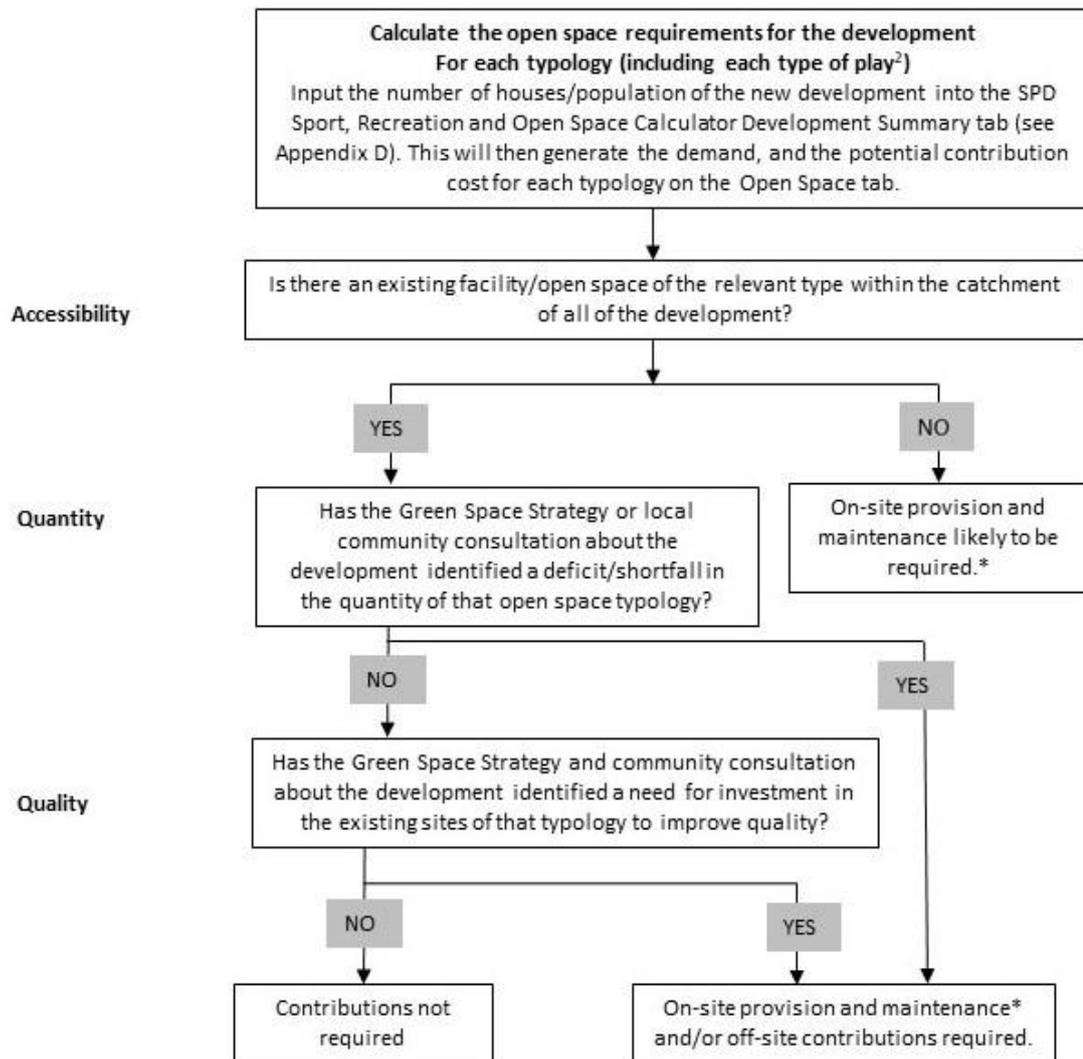


\*if above minimum threshold

## Open Spaces Contributions Flowchart

Open Space includes: parks and gardens; amenity green space; natural and semi-natural green space; allotments; play areas for children and youth provision. In addition, contributions towards canal towpaths but this element is not included within this flowchart. The flowchart needs to be considered alongside relevant paragraphs in this SPD e.g. Table 3 on standards of provision, the latest Green Spaces Strategy and outcomes of local consultation.

Local consultation (e.g. with the parish/town council as well as with NWBC) is required.



Note:

\*if above minimum threshold

On development sites generating less than 0.2ha of parks and gardens, amenity green space, natural and semi-natural green space or allotments the Council may accept a commuted sum towards provision of new off-site open space of the relevant typology, or towards the enhancement of an existing open space of the relevant typology which is within the accessibility thresholds specified in Table 3.

**APPENDIX A****Open Space, Leisure and Recreation, Green Space and Infrastructure Strategies**  
**Summary Statement****Summary Statement of the Strategies supporting the Planning Obligations for Sport, Recreation and Open Space Supplementary Planning Document**

- (i) This Supplementary Planning Document (SPD) deals with 'Planning Obligations for Sport, Recreation and Open Space', required as a result of major planning applications to address the needs generated by submitted development proposals/applications and planning allocations within the adopted local plan for North Warwickshire. Its primary function will be its use as a technical tool by Officers of the Council, Agents and Consultants to inform negotiations and expectations for on-site provision and off-site financial contributions for Sport, Recreation and Open Space services and facilities.
- (ii) In 2016, North Warwickshire Borough Council (NWBC) commenced a comprehensive Strategic Review, produced in parallel with the emerging Local Plan. This work comprised a number of separate, but linked elements as follows:
- Health, Well-being and Leisure Strategy
  - Green Space Strategy
  - Playing Pitch Strategy (PPS)
  - Leisure Facilities Strategy
  - Leisure Facilities Operational Review and Future Delivery Options
  - Light Touch Review of Community Development approach
- The SPD is evidenced by these strategies and documents, the principal ones of which are summarised below.
- (iii) **The Playing Pitch Strategy** provided an evidence base for the emerging Local Plan, which has subsequently been adopted in 2021, in respect of outdoor sports facilities with a strategic assessment of national policy and local sports development needs that provides an up-to-date analysis of supply and demand for playing pitches (grass and artificial) in the local authority.
- (iv) The assessment methodology adopted for the PPS follows the published guidance from Sport England and focussed on the following sports: Football, Rugby Union, Cricket and Hockey. Within these sports, the PPS seeks as far as is practicable to include consideration of all forms of play to:
- Ensure that service delivery is focused to meet the current and future needs of residents of, and visitors to, the Borough, and takes account of potential future growth in the Borough.
  - Provide a framework for the delivery of targeted services that contribute directly to the development of sustainable, cohesive communities, improved health and well-being and increased opportunities for participation in both sport and informal recreation.
  - Ensure the appropriate provision of accessible, high quality green space, sports and recreational facilities.

- (v) **The Green Space Strategy** seeks to improve the quality of, and people's engagement with, the natural environment. It will contribute to the delivery of the North Warwickshire **Health and Wellbeing Action Plan, 2020-2023**, the current aim of which is "to encourage and support the local community to adopt a proactive approach in the positive self-management of their health".
- (vi) In particular, it will directly impact upon the themes to increase the number of adults and children who are physically active and to reduce the percentage of adults and children with excess weight to help positively influence individual and collective mental wellbeing.
- (vii) Further, the Green Space Strategy will contribute to the delivery of specific activities and acts drawn from the Joint Strategic Needs Assessment Action Plan (JSNA) for North Warwickshire, including supporting the implementation of the JSNA Funding Plans that support delivery of the adopted Green Space Strategy and Playing Pitch Strategy. This SPD will directly help deliver that support.
- (viii) The Vision for the Green Space Strategy is for *'North Warwickshire will have a well-planned and managed network of sustainable, biodiverse green spaces that meet the needs of its communities and has maximized HS2 and climate change mitigation opportunities'*.
- (ix) The Green Space Strategy framework objectives are to;
- Improve the management and maximise the benefits of green spaces
  - Community Engagement
  - Co-ordinate action and develop partnership working
  - Access more funding opportunities
  - Promote green space investment as a policy priority
  - Help create sustainable communities
- This SPD will actively help address these objectives in addressing some of the resource issues and opportunities, helping communities both existing and growing.
- (x) **The Green Infrastructure Strategy** purpose is to provide evidence for the preparation of plans, policies and strategies relating to Green Infrastructure (GI) at a sub-regional level and at a local level. It details how GI can be delivered with the help from landholders and partners and addresses through three disciplines: Landscape, Biodiversity and Accessibility.
- (xi) The GI Strategy Vision is for *"A diverse and well-managed Warwickshire, Coventry and Solihull Green Infrastructure network that underpins the quality of life for communities. This will be the result of a well-connected, accessible and biodiversity resilient landscape, supporting economic growth, social health and climate change adaptation,"* and includes a separate vision for each of the three disciplines noted above.
- (xii) Green Infrastructure functions to provide habitats and access to nature, access for recreation and movement, provides the landscape setting and context including historic environment while acting as a sustainable resource that will help areas manage climate change adaptation.

(xiii) This SPD will help support the delivery of Green Infrastructure and enhancements through on-site or financial contribution and provision of informal green space, improved links between and accessibility to green infrastructure networks.

(xiv) **The Leisure Facilities Strategy (LFS)** has been prepared in accordance with the guidance from Sport England contained in the document 'Assessing Needs and Opportunities Guide for Indoor and Outdoor Sports Facilities. In line with the Government's National Planning Policy Framework, the LFS assesses existing leisure facilities, the future need for sport and active recreation as the Borough grows and develops, opportunities for new provision, rationalisation/refurbishment and expansion of existing facilities. The LFS:

- Provides evidence to justify the provision of new open space, sport and recreation provision or enhancement of existing;
- Will help assess the merits of planning applications and guide planning obligations;
- Will help direct expenditure of any future Community Infrastructure levy monies and Section 106 planning contributions for sport;
- Supports the development of sport and physical activity in the Borough by ensuring a high-quality facility infrastructure exists; and
- Supports the strategic case for applications to funding organisations.

(xv) The LFS includes a number of key factors and issues to take into account in planning for future facility provision in the Borough. These are:

- The need to provide for increased demands as a result of the population growth in the Borough
- The need for sport and leisure facilities to continue to contribute to healthy and active lifestyles in the Borough
- The need to maintain existing levels of participation, and increase where needed,
- The need to address existing and future under-supply of swimming pool provision
- The need to ensure provision of accessible and affordable fitness facilities are retained into the future, given the increased demand by 2031
- The need to consider how best to address future need for indoor bowls facilities
- How best to address growing demand for facilities for cycling, gymnastics and trampolining,
- The need to consider how best to replace ageing facilities, which are poorer quality, and less effective operationally.

(xvi) As noted above, the LFS has a direct relationship with the SPD, both in providing the evidence for the level of needs and demands for leisure facilities, and the information to enable officers to assess the merits of planning applications, guiding Section 106 planning contributions for sport as laid out within this SPD.

(xv) These four principal strategies, with support from their various Action Plans and active Community Development work, provide the aims, objectives and Vision that instruct, direct and establish the need for this SPD.

## APPENDIX A: NATIONAL AND LOCAL PLANNING POLICIES

1. This appendix provides more details on the relevant national and local planning policies which underpin the approach towards requests for developers' contributions in the SPD Planning Obligations for Sport, Recreation and Open Space.

### National planning policies

#### National Planning Policy Framework (NPPF)

2. Under the NPPF, local planning authorities are required to consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations (NPPF paragraphs 55-58). The framework reiterates the three tests that govern the use of planning obligations in the CIL Regulations (see CIL Regulations below) and endorses the principle that planning conditions are preferable to planning obligations. Local authorities such as North Warwickshire Borough Council are also required to ensure that planning obligations take account of changes in market conditions over time and, wherever appropriate, are sufficiently flexible to prevent development from being stalled.

3. Para 8(b): One of three overarching objectives for sustainable development is a social objective:

*a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being;*

4. In NPPF section 3 relating to "Plan-making", para 20 confirms that the strategic policies should address leisure, community and the green infrastructure:

*Strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for:*

*a) ..... leisure .....*

*c) community facilities (such as health, education and cultural infrastructure); and*

*d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure....*

5. Para 34 of the NPPF requires that the Local Plan should be clear about the contributions which will be expected, but that plan must still be deliverable.

*Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport,*

*flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.*

6. NPPF para 55 requires that planning obligations are only appropriate where the impact of a development is not possible to address through conditions:

*Local Planning authorities should consider whether other unacceptable development can be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.*

7. Para 56 of the NPPF addresses the broad approach to planning conditions:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.*

8. Para 57 sets out tests for planning obligations:

*Planning obligations must only be sought where they meet all of the following tests:*  
*a) necessary to make the development acceptable in planning terms;*  
*b) directly related to the development; and*  
*c) fairly and reasonably related in scale and kind to the development.*

9. Section 8 of the NPPF is “Promoting healthy and safe communities”. Para 92 sets out the aims which are:

*Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:*

- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other .....*  
*b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and*  
*c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.*

10. Para 93 requires positive planning and makes direct reference to the supporting the delivery of the relevant strategies:

*To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- a) plan positively for the provision and use of shared spaces, community facilities (such as ..... sports venues, open space, ..... ) and other local services to enhance the sustainability of communities and residential environments;*
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

11. Paragraph 98 confirms the importance of a network of high quality of open spaces and facilities for sport and recreation. It also emphasises the importance of robust and up-to-date assessments which are a key part of the evidence base justifying the planning policies and planning obligation requests.

*Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.*

12. Paragraph 99 of the NPPF protects existing provision of open space and sport and recreation facilities.

*Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*
- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.*

13. Para 91(c): "Planning policies and decisions should aim to achieve healthy, inclusive and safe places which: ... c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the

provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling”.

14. Para 92: “To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

*a) plan positively for the provision and use of shared spaces, community facilities (such as ... meeting places, sports venues, open space ... ) and other local services to enhance the sustainability of communities and residential environments;*  
*b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*  
*c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community’s ability to meet its day-to-day needs;*  
*d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*  
*e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

15. Para 96: “Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate”.

16. Para 97. “Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless: a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use”.

## National Planning Guidance

17. National Planning Practice Guidance<sup>1</sup> for planning obligations provides further detail on the planning obligations:

- Planning obligations run with the land, are legally binding and enforceable. A unilateral undertaking cannot bind the local planning authority because they are not party to it.
- Planning obligations are also commonly referred to as ‘section 106’, ‘s106’, as well as ‘developer contributions’ when considered alongside highways contributions and the Community Infrastructure Levy.

---

<sup>1</sup> <https://www.gov.uk/guidance/planning-obligations>

Paragraph: 001 Reference ID: 23b-001-20190315

- Developers may be asked to provide contributions for infrastructure in several ways.
- Local authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Developers will have to comply with any conditions attached to their planning permission. Conditions should be kept to a minimum and only imposed where they are necessary, relevant, enforceable, precise and reasonable.
- Planning obligations, in the form of section 106 agreements and section 278 agreements, should only be used where it is not possible to address unacceptable impacts through a planning condition.
- Developers may also contribute towards infrastructure by way of the Community Infrastructure Levy which is a fixed charge levied on new development to fund infrastructure.

Paragraph: 003 Reference ID: 23b-003-20190901

- *Local planning authorities are expected to use all of the funding received by way of planning obligations, as set out in individual agreements, in order to make development acceptable in planning terms. Agreements should normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not.*

Paragraph: 021 Reference ID: 23b-021-20190315

- *In accordance with the Community Infrastructure Levy Regulations any authority that receives a contribution from development through the levy or section 106 planning obligations must prepare an infrastructure funding statement....*

Paragraph: 030 Reference ID: 23b-030-20190901

## The Community Infrastructure Levy Regulations 2010 (amended)

18. The CIL Levy Regulations<sup>2</sup> are relevant to this SPD. The tests set down in para 122 need to be met in any request for developer contributions:

122

*(1) This regulation applies where a relevant determination is made which results in planning permission being granted for development.*

*(2) A planning obligation may only constitute a reason for granting planning permission for the development if the obligation is—*

*(a) necessary to make the development acceptable in planning terms;*

*(b) directly related to the development; and*

*(c) fairly and reasonably related in scale and kind to the development.*

*(3) .....*

---

<sup>2</sup> <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/122>

## Local Planning Policy

19. The Borough Plan, adopted September 2021, provides the context for this SPD and the main policy hooks. The vision sets out that by 2033, Rural North Warwickshire will be:

*...a community of communities. A place where people want to live, work and visit, now and in the future, which meets the diverse needs of existing and future residents is sensitive to the local environment and contributes to a high quality of life. A place which is safe and inclusive, well planned, built and run and offers equality of opportunity and good services for all. (para 4.2)*

20. Chapter 6, Sustainable Development sets out the policy justification in LP1 Sustainable Development, for the seeking of developer contributions.

### **LP1 Sustainable Development**

*Planning applications that accord with the policies in this Plan (and where relevant, with other development plan policies including those in Neighbourhood Plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, applications will be determined in accordance with the presumption in favour of sustainable development.*

### **Quality of Development / Place**

*All development proposals must;*

- *be supported by the required infrastructure*
- *be consistent with the approach to place making set out through development management policies, including, where relevant*
- *integrate appropriately with the natural and historic environment, protecting and enhancing rights of way network where appropriate*
- *demonstrate a high quality of sustainable design that positively improve the individual*
- *settlement's character; appearance and environmental quality of an area;*
- *.....*
- *provide, conserve and enhance biodiversity; and,*
- *create linkages between green spaces, wildlife sites and corridors.*

*Development should protect the existing rights of way network and where possible contribute to its expansion and management.*

### **Implementation and Infrastructure**

*Infrastructure will be sought where it is necessary, directly related to the development and is fairly and reasonably related in scale and kind to the development. It may be related to social, economic and/or environmental issues.*

*Supplementary Planning Guidance and documents will be used to guide provision, Infrastructure requirements are outlined in the Infrastructure Delivery Plan ..... and the supporting documents contained in Appendix C of the Local Plan. The list is not exhaustive as each will be taken on a site by site basis and will depend on the viability of the scheme. Other site specific measures will be considered at the time of the planning permission. These will be secured through conditions, S106's or other agreements considered appropriate to ensure its delivery. It will be necessary to ensure the ongoing maintenance, where appropriate, of any infrastructure provision.*

*Where development is proposed in excess of plan requirements and would assist in the provision of or enabling infrastructure, particularly that related to facilitating development in the long term, or of affordable housing relative to needs, that will carry weight in favour of granting permission.*

21. The supporting text in para 6.16 makes specific reference to green infrastructure, leisure facilities and community facilities:

*6.16 In the context of planning for the growth of an area, infrastructure can be defined as physical development needed to support communities and which directly relates to economic development and regeneration. This includes:*

*.....*

*Green Infrastructure - Enhancing and creating networks of open spaces;*

*Leisure Facilities - Open space and built recreation facilities;*

*.....*

*Community Facilities - Includes libraries, community halls etc.*

22. The supporting text in para 6.17 - 6.20 sets down that the Infrastructure Delivery Plan and Supplementary Planning Documents together with the evidence base to the Local Plan, underpin the policies relating to developers' contributions. It is clear that this provides for updating the evidence base, including the relevant strategies and SPDs as may be required and that they will guide the planning obligations sought in relation to development:

*6.17 More details are provided in the Infrastructure Delivery Plan, Supplementary Planning Documents, and the evidence which underpins this Local Plan .... as indicated in Appendix C of this Local Plan. This information will be updated through the Plan period by the Council and the numerous partners, agencies and organisations.*

*6.18 Contributions towards infrastructure provision will be sought through appropriate use of planning conditions and obligations in accordance with national policy and associated Planning Practice Guidance, and statute.*

*6.19 Alongside this Local Plan is an Infrastructure Delivery Plan. This sets out the known infrastructure requirements to accommodate the growth within the Borough. This will be updated on a regular basis.....*

6.20 The policies give a framework within which assessments of S106, CIL or other legal agreements will be made. These will be supplemented, where necessary, over time by further advice in the form of guidance notes and Supplementary Planning Documents.

23. Chapter 11 of the Borough Plan addresses Services and Facilities, with Policy LP22 and its supporting text addresses the provision and protection of open space, sport and recreation facilities:

**LP22 Open Spaces and Recreational Provision**

*Wherever possible, Open spaces and recreational areas will be retained, protected and enhanced (unless their loss is off-set by an equivalent or improved replacement). Development proposals will be expected to provide a range of new on-site and open space recreational provision such as parks and amenity space, sport or recreation facilities and semi-natural areas such as woodland wherever appropriate to the area and to the development.*

*The design and location of these spaces and facilities should be accessible to all users; have regard to the relationship with surrounding uses, enhance the natural environment, protect and improve green infrastructure and link to surrounding areas where appropriate.*

*The Council will require the proper maintenance of these areas and facilities to be agreed. Where on-site provision is not feasible, off-site contributions may be required where the developments use leads to a need for new or enhanced provision.*

**Supporting text**

11.6 As part of any development it is important that provision is made for open spaces and recreation whether this is indoor or outdoor, publicly or privately owned. The health and wellbeing benefits of such provision can improve the quality of life for residents. Spaces can include the following typologies:

1. parks and gardens – including urban parks, country parks, forest parks and formal gardens;
2. outdoor sports facilities (with natural or artificial surfaces and either publicly or privately owned) – including tennis courts, bowling greens, sport pitches, golf courses, athletic tracks, school and other institutional playing fields, and other outdoor sports areas;
3. amenity green space (most commonly, but not exclusively in housing areas) – including informal recreation spaces, communal green spaces in and around housing, and village greens;
4. provision for children and teenagers – including play areas, kickabout areas, skateboard parks and outdoor basketball hoops;
5. green corridors – including river and canal banks, amenity footpaths and cycleways;
6. natural and semi-natural urban green spaces – including woodlands, urban

*forestry, grasslands (e.g. meadows), wetlands, open and running water, and rock areas (e.g. cliffs);*

*7. allotments and community gardens;*

*8. cemeteries and churchyards; and*

*9. civic spaces, including civic and market squares and other hard surface areas designed for pedestrians.*

*11.7 Work was undertaken to update the Council's Open Space, Sport & Recreation Audit and Green Space Strategy and the North Warwickshire Playing Pitch Strategy and a review of Leisure Services built facilities. This was completed in 2018 and will feed into the future plans of the Borough Council and also will influence advice and guidance given on development proposals. All proposals will take account of this updated evidence when published.*

*11.8 Long term maintenance is a key issue. Therefore, improvements may be more appropriate to improve off-site facilities / sites rather than creating new on-site provision. This will be particularly relevant to smaller scale sites.*

24. Chapter 13 of the Borough Plan, Development Considerations, includes the principles of high quality design and place making and the promotion of healthy and active lifestyles which is a key local priority as set out in the North Warwickshire Sustainable Community Strategy<sup>3</sup>.
25. Para 13.6 of this chapter underlines the importance of open space and refers to the evidence base, the Council's Open Space, Sport & Recreation Audit and Green Space Strategy (2008) and the North Warwickshire Playing Pitch Strategy which identify existing shortfalls in provision as well as classifying the importance of existing open spaces and working to improve and protect sports facilities across the Borough.
26. The policy LP29 Development Considerations summarises the relevant policy and references the Green Space Strategy and the Playing Pitch Strategy (LP29, 7).
27. Some of the housing site allocation policies make specific reference to the need to provide playing field space on or off site such as H4, Land to the east of Polesworth and Dordon, and most refer to the provision of open space.

---

<sup>3</sup> North Warwickshire Community Partnership, 2010; North Warwickshire Sustainable Community Strategy  
Nortoft

## APPENDIX C: CAPITAL COSTS

## LEISURE FACILITIES

	Affordable sports hall	Affordable community swimming pool	Studio space	Fitness gym
Size/details	4 court (34.5 x 20m)	6-lane 25 m pool (25x12.5m)	200 sq m studio	540 sqm gym with 100 fitness stations
Area sq m	690	312.5	200	504
Capital cost per item (£)	£ 2,510,000	£ 5,130,000	£ 384,200	£ 12,136
Unit used in NWBC calculator	1 court	sq m	sq m	fitness station
Cost per unit of sports facility	£ 627,500	£ 16,416	£ 1,921	£ 121
Changing / clubhouse provision	included within the facility calculation	included within the facility calculation	N/a	N/a
Cost source	Sport England Facility Costs 2Q2021	Sport England Facility Costs 2Q2021	SPON's 2Q2021	SPON's 2Q2021 plus market costs

## PLAYING PITCHES

	Football grass		
	U8/U7 mini (43x33m)	U16/U15 youth	Senior
Size/details	43x33m	97 x 61m	106x70m
Area sq m	1,419	5,917	7,420
Capital cost per item (£)	£ 25,000	£ 80,000	£ 100,000
Unit used in NWBC calculator	mini pitch	youth pitch	senior pitch
Cost per unit of pitch	£ 17.62	£ 13.52	£ 13.48
Changing / clubhouse provision	N/a	2 x changing rooms per pitch	2 x changing rooms per pitch
Changing / clubhouse provision cost basis		4-team changing with clubroom	4-team changing with clubroom
Changing / clubhouse provision		£ 690,000	£ 690,000
Cost of changing per pitch		£ 345,000	£ 345,000
Cost source	Sport England Facility Costs 2Q2021	Sport England Facility Costs 2Q2021	Sport England Facility Costs 2Q2021

	Rugby grass	Cricket grass
	Senior	Senior
Size/details	130x88m	9 pitch square
Area sq m	10,400	12,923
Capital cost per item (£)	£ 140,000	£ 184,670
Unit used in NWBC calculator	senior pitch	9 pitch square
Cost per unit of pitch	£ 13.46	£ 14.29
Changing / clubhouse provision	2 x changing rooms per pitch	2 x changing rooms per pitch
Changing / clubhouse provision cost basis	4-team changing with clubroom	4-team changing with clubroom
Changing / clubhouse provision	£ 690,000	£ 690,000
Cost of changing per pitch	£ 345,000	£ 345,000
Cost source	Sport England Facility Costs 2Q2021	Pitch: England and Wales Cricket Board. Pavilion: Sport England Facility Costs 2Q2021

	3G Artificial	Sand based (hockey)
	Senior	Senior
Size/details	106 x 70m	101.4x63m
Area sq m	7,420	6,388
Capital cost per item (£)	£ 995,000	£ 830,000
Unit used in NWBC calculator	60mm fenced, floodlit	18mm sand-dressed, fenced, floodlit
Cost per unit of pitch	£ 134.10	£ 129.93
Changing / clubhouse provision	2 x changing rooms per pitch	2 x changing rooms per pitch
Changing / clubhouse provision cost basis	4-team changing with clubroom	4-team changing with clubroom
Changing / clubhouse provision	£ 690,000	£ 690,000
Cost of changing per pitch	£ 345,000	£ 345,000
Cost source	Sport England Facility Costs 2Q2021	Sport England Facility Costs 2Q2021

## OPEN SPACE

	Parks & Gardens	Amenity Green Space	Natural & Semi-Natural Green Space	Children's Play and Youth Provision	Allotments
Capital cost per sqm (£)	19.97	10.28	4.14	122.97	10.28
Unit used in NWBC calculator	sq m	sq m	sq m	sq m	sq m
Cost source	Rates based upon SPON's "External Works and Landscape Price Book" (2019/Q1) then BCIS indexed to Q2/22 . Actual specifications and costs will vary from site to site. Youth provision assumed same rate as children's play.				

## Appendix D: Maintenance Costs Calculations Base

The maintenance costs for Open Space are based on market rates for Q1 2020 indexed using BICS to 2Q 2021.

In the table below some of the maintenance components are listed as the same, but generally Parks and Gardens and Play have the highest level of maintenance (e.g. more times a year), Natural/Semi-Natural the least, and Amenity Grassland and Allotments in between.

Typology	Components	Annual £s per sqm	£s per sqm over 25rs
Parks and Gardens	Benches, annual bedding (spring and summer), grass mowing high amenity, grass mowing park, hedge cutting, shrubs, trees, fencing, litter sweep, litter pick, path sweeping, weed-kill paths etc, dog bins collect and cleanse, gate maintenance, and general inspection.	£1.820	£45.500
Amenity Grassland	Benches, grass mowing amenity, hedge cutting, trees, fencing, litter sweep, litter pick, weed-kill paths etc, dog bins collect and cleanse, gate maintenance, and general inspection.	£0.459	£11.475
Natural/Semi-natural Grassland	Grass mowing by parking area, grass mowing conservation cut (some areas); trees, litter, parking area weed kill, general inspection	£0.081	£2.025
Children's play and youth provision	Grass mowing high amenity and standard annual, fences, dog bins collect and cleanse, benches, litter pick, weed control, regular general inspection.  Costs for children's play is average per sqm for 1,500 sqm LEAP and 1,000 sqm NEAP.  Costs of youth provision maintenance will depend in part on what facilities are provided. Assumed to be the same as for children's play.	£6.382	£159.557
Allotments	Grass mowing amenity, hedge cutting, fences, trees, dog bins collect and cleanse, benches, litter pick, weed control, gates lock/unlock/maintain, regular general inspection	£0.489	£12.225

**North Warwickshire Developer Contributions Calculator  
Summary**

**Enter site/development information into orange shaded boxes**

Planning application number	XXXXXX
Site	Example Site
Details	North Warwickshire

	<b>ENTER</b> number of dwellings proposed	Housing multiplier (number of occupants)	Number of people
All	500	2.37	1185
<b>TOTAL</b>			<b>1185</b>

**SUMMARY OF CONTRIBUTIONS REQUESTED BASED ON STANDARDISED COSTS.**

For local costs, please refer to individual tab

<b>LEISURE FACILITIES</b>			
Leisure Facilities	Demand from development		Capital contribution required excluding land but including ancillary facilities
Sports halls	0.33	number of badminton courts	£ 208,205
Swimming pools	12.60	sq m of water space	£ 206,785
Studio space	0.08	number of studios	£ 31,869
Fitness gyms	5.40	number of fitness stations	£ 65,581
<b>TOTAL CONTRIBUTION FOR LEISURE FACILITIES EXCL COMMUNITY/VILLAGE HALLS</b>			<b>£ 512,440</b>

<b>PLAYING PITCHES</b>				
<b>Grass playing fields including ancillary space and facilities</b>				
	Demand from development		Capital contribution from the development	Provision likely to be on-site or off-site
Football	0.76	ha of playing field space including pitches and ancillary facilities	£ 227,391	off-site
Cricket	0.78	ha of playing field space including pitches and ancillary facilities	£ 243,596	off-site
Rugby	0.32	ha of playing field space including pitches and ancillary facilities	£ 96,356	off-site
<b>Total for grass</b>	<b>1.85</b>	<b>ha of playing field space including pitches and ancillary facilities</b>	<b>£ 567,343</b>	
<b>Artificial grass pitches including ancillary</b>				
3G pitches	0.051	number of full size pitches	£ 67,600	off-site
Sand based pitches (hockey)	0.026	number of full size pitches	£ 15,225	off-site
<b>Total for artificial pitches</b>			<b>£ 82,825</b>	
<b>TOTAL CONTRIBUTION FOR PITCHES AND PLAYING FIELDS</b>	<b>1.853</b>	<b>ha of grass playing field space including pitches and ancillary facilities</b>	<b>£ 650,168</b>	

<b>OPEN SPACE</b>				
			Capital contribution from the development	Total contribution including 25 years
Parks and gardens	0.95	ha of space	£ 189,316	£ 620,656
Amenity green space	0.71	ha of space	£ 73,091	£ 154,856
Natural and semi natural green space	2.13	ha of space	£ 88,306	£ 130,966
Children's play	0.30	ha of space	£ 364,299	£ 836,966
Youth provision	0.36	ha of space	£ 437,158	£ 1,004,359
Allotments	0.24	ha of space	£ 24,364	£ 51,619
<b>TOTAL CONTRIBUTION FOR OPEN SPACE</b>	<b>4.681</b>	<b>ha of space</b>	<b>£ 1,176,533</b>	<b>£ 2,799,420</b>

Leisure Facilities

Planning application number  
Site  
Details

XXXXXX
Example Site
North Warwickshire

	Number of dwellings proposed	Housing multiplier (number of occupants)	Number of people
All	500	2.37	1185
<b>TOTAL</b>			<b>1185</b>

<b>CAPITAL CONTRIBUTION EXCLUDING LAND COSTS REQUIRED FROM DEVELOPMENT</b>			
<b>USING STANDARD COSTS</b>	<b>£512,440</b>	<b>USING SOME OR ALL LOCAL COSTS</b>	<b>£512,440</b>

For local costs enter into orange shaded boxes

<b>Sports halls</b>								
	Demand: number of badminton courts per 1000 population	Capital Cost: 1 badminton court of 4-court affordable sports hall.	Demand from development based on population, number of badminton courts	Contribution per dwelling @ 2.37 persons per dwelling	Capital contribution required	Maintenance costs per annum @ 0.5% of construction costs	Sinking fund costs per annum @ 0.7% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Sport England Sports Facility Costs 2Q 2021	0.28	£ 627,500	0.33	£ 416.41	£ 208,205	£ 1,041	£ 1,457	£ 2,498
Local costs				£ -	£ -	£ -	£ -	£ -

<b>Swimming pool space</b>								
	Demand: sq m water space per 1000 population	Capital Cost: per sq m of 6-lane 25 m affordable community swimming pool (312.5 sq m)	Demand from development based on population, sq m of water space	Contribution per dwelling @ 2.37 persons per dwelling	Capital contribution required	Maintenance costs per annum @ 1.1% of construction costs	Sinking fund costs per annum @ 0.4% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Sport England Sports Facility Costs 2Q 2021	10.63	£ 16,416	12.60	£ 413.57	£ 206,785	£ 2,275	£ 827	£ 3,102
Local costs				£ -	£ -	£ -	£ -	£ -

<b>Studio space</b>								
	Demand: number of studios per 1000 population	Capital cost: studio @200 sqm incl storage @£1,912/sqm	Demand from development based on population, number of studios	Contribution per dwelling @ 2.37 persons per dwelling	Capital contribution required	Maintenance costs per annum @ 0.5% of construction costs (same rate as sports hall) + 10% equip/yr	Sinking fund costs per annum @ 0.7% of construction costs (same rate as sports hall)	TOTAL LIFECYCLE COST PER ANNUM
SPON'S	0.07	£ 384,200	0.08	£ 63.74	£ 31,869	£ 159	£ 223	£ 382
Local costs				£ -	£ -	£ -	£ -	£ -

<b>Fitness Gyms</b>								
	Demand: number of fitness stations per 1000 population	Capital cost per fitness station. Building £1,912/sqm. Gym stations @ £2.5k each. Based on a 100 stations size @ 504sqm.	Demand from development, number of fitness stations	Contribution per dwelling @ 2.37 persons per dwelling	Capital contribution required	Maintenance costs per annum @ 0.5% of construction costs	Sinking fund costs per annum @ 0.7% of construction costs, plus 10%/yr replacement of stations	TOTAL LIFECYCLE COST PER ANNUM
SPON'S + market costs for equipment	4.56	£ 12,136	5.40	£ 131.16	£ 65,581	£ 328	£ 473	£ 800
Local costs				£ -	£ -	£ -	£ -	£ -

Note:  
Capital costs of sports halls and swimming pools includes ancillary facilities e.g. changing

Playing pitches

Planning application number	xxxxxx
Site	Example Site
Details	North Warwickshire

	Number of dwellings proposed	Housing multiplier (number of occupants)	Number of people
All	500	2.37	1185
<b>TOTAL</b>			<b>1185</b>

CAPITAL CONTRIBUTION EXCLUDING LAND COSTS REQUIRED FROM DEVELOPMENT	
Grass pitches for football, rugby and cricket	£ 567,343
Artificial pitch 3G	£ 67,600
Artificial pitch hockey	£ 15,225
<b>TOTAL</b>	<b>£ 650,168</b>

ON-SITE OR OFF-SITE PROVISION OF GRASS PITCHES MAY BE NEEDED	
Football	off-site
Cricket	off-site
Rugby	off-site

GRASS PITCHES

FOOTBALL

	Number of pitches per 1000 population based on PPS	Pitch area per 1000 population based on PPS (ha)	Total playing field area per 1000 population @ 150% of pitch area (ha)	Number of changing rooms per 1000 population @ 2 changing rooms per senior /youth pitch	Construction cost of pitches per 1000 population (£)	Construction cost of changing rooms per 1000 population (£)	Development generated demand for pitch space (ha)	Development generated total playing field area @150% of pitch area (ha)	Development generated demand (number of changing rooms)	Capital cost excluding land costs	TOTAL CAPITAL CONTRIBUTION EXCL LAND COST	Maintenance costs pitches per annum @17% of construction costs	Maintenance costs per annum for pavilion/clubhouse per annum @1.2% of construction costs	Sinking fund costs per annum @ 4% of construction costs	Sinking fund costs per annum for pavilion/clubhouse @0.4% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Pitches		0.428			£ 53,602		0.51	0.76		£ 63,518		£ 10,798		£ 2,541		
Ancillary playing field space Pavilion/club house 4-team change facility with club room			0.641	0.818		£ 138,289			0.969	£ 163,872	£ 227,391		£ 1,966		£ 655	£ 15,961

CRICKET

	Number of cricket pitches per 1000 population based on PPS	Pitch area per 1000 population based on PPS	Total playing field area per 1000 population @ 2ha per cricket pitch area (ha)	Number of changing rooms per 1000 population @ 2 changing rooms per pitch	Construction cost of pitches per 1000 population (£)	Construction cost of changing rooms per 1000 population (£)	Development generated demand for pitch space (ha)	Development generated demand for pitches and playing field space (ha)	Development generated demand (number of changing rooms)	Capital cost excluding land costs	TOTAL CAPITAL CONTRIBUTION EXCL LAND COST	Maintenance costs pitches per annum @17% of construction costs	Maintenance costs per annum for pavilion/clubhouse per annum @1.2% of construction costs	Sinking fund costs per annum @ 5% of construction costs	Sinking fund costs per annum for pavilion/clubhouse @0.4% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Pitches	0.33	0.424			£ 94,753		0.50	0.78		£ 112,283		£ 16,842		£ 5,614		
Ancillary playing field space Pavilion/club house 4-team change facility with club room			0.656	0.656		£ 110,813			0.777	£ 131,314	£ 243,596		£ 1,576		£ 525	£ 24,558

RUGBY

	Number of senior rugby pitches per 1000 population based on PPS	Pitch area per 1000 population based on PPS	Total playing field area per 1000 population @ 150% of pitch area (ha)	Number of changing rooms per 1000 population @ 2 changing rooms per pitch	Construction cost of pitches per 1000 population (£)	Construction cost of changing rooms per 1000 population (£)	Development generated demand for pitch space (ha)	Development generated demand for pitches and playing field space (ha)	Development generated demand (number of changing rooms)	Capital cost excluding land costs	TOTAL CAPITAL CONTRIBUTION EXCL LAND COST	Maintenance costs pitches per annum @17% of construction costs	Maintenance costs per annum for pavilion/clubhouse per annum @1.2% of construction costs	Sinking fund costs per annum @ 5% of construction costs	Sinking fund costs per annum for pavilion/clubhouse @0.4% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Pitches	0.17	0.178			£ 23,472		0.21			£ 27,814		£ 4,728		£ 1,391		
Ancillary playing field space Pavilion/club house 4-team change facility with club room			0.267	0.342		£ 57,841		0.32	0.405	£ 68,542	£ 96,356		£ 823		£ 274	£ 7,216

ARTIFICIAL PITCHES

3G AGP

	Number of full size football floodlit 3G per 1000 population based on PPS	Number of changing rooms per 1000 population @ 2 changing rooms per pitch	Construction cost of pitches per 1000 population (£)	Construction cost of changing rooms per 1000 population (£)	Development generated demand for 3G pitch and changing rooms (number)	Capital cost excluding land costs	TOTAL CAPITAL CONTRIBUTION EXCL LAND COST	Maintenance costs pitches per annum @ 0.5% of construction costs	Maintenance costs per annum for pavilion/clubhouse per annum @1.2% of construction costs	Sinking fund costs pitches per annum @ 2.9% of construction costs	Sinking fund costs per annum for pavilion/clubhouse per annum @0.4% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Pitches	0.04		£ 42,359		0.0515	£ 50,196	£ 67,600	£ 251		£ 1,456		
Changing rooms		0.087		£ 14,687	0.1030	£ 17,405		£ 209			£ 70	£ 1,985

Sand based (hockey)

	Number of full size sand based floodlit pitches per 1000 population based on PPS	Number of changing rooms per 1000 population @ 2 changing rooms per pitch	Construction cost of pitches per 1000 population (£)	Construction cost of changing rooms per 1000 population (£)	Development generated demand for sand based pitch and changing rooms (number)	Capital cost excluding land costs	TOTAL CAPITAL CONTRIBUTION EXCL LAND COST	Maintenance costs pitches per annum @ 0.5% of construction costs	Maintenance costs per annum for pavilion/clubhouse per annum @1.2% of construction costs	Sinking fund costs pitches per annum @ 2.3% of construction costs	Sinking fund costs per annum for pavilion/clubhouse per annum @0.4% of construction costs	TOTAL LIFECYCLE COST PER ANNUM
Pitches	0.01		£ 9,076		0.0132	£ 10,755	£ 15,225	£ 54		£ 247		
Changing rooms		0.02		£ 3,772	0.0264	£ 4,470		£ 54			£ 18	£ 373

Notes:

Playing pitches

	Capital cost excl land costs	Size sq m	cost per sq m
Grass pitches			
Pitches: football senior	£ 100,000	7,420	£ 13.48
Pitches: cricket 9 pitch square	£ 184,670	12,923	£ 14.29
Pitches: rugby union	£ 140,000	10,400	£ 13.46
AGP full size floodlit			
Sand dressed	£ 830,000	6,388	£ 129.93
3G football, 60mm	£ 995,000	7,420	£ 134.10
Pavilion/club house 4-team change facility with club room	£ 690,000	122.5	£ 5,632.65

Source of costs:

Capital costs Capital cost for football, rugby, AGPs - Sport England Facilities Costs Second Quarter 2021  
 Capital cost for cricket - Sport England Facilities Costs Second Quarter 2021 cricket natural turf for 1293 sq m  
 Lifecycle costs: Based on a percentage of the total project costs per annum as set out in Sport England's Life Cycle Costings: Natural Turf Pitches (April 2012); Artificial Sports Surfaces (Q2/2021); Sports Halls, Swimming Pools, Sports Centres & Changing Rooms (Q2/2021)

Open Spaces

Planning application number  
Site  
Details

xxxxxx  
Example Site  
North Warwickshire

	Number of dwellings proposed	Housing multiplier (number of occupants)	Number of people
All	500	2.37	1185
<b>TOTAL</b>			<b>1185</b>

CAPITAL CONTRIBUTION EXCLUDING LAND COSTS BUT INCLUDING 25 YR MAINTENANCE REQUIRED FROM DEVELOPMENT				Total area required for parks & gardens, amenity green space and natural and semi-natural green space (ha)
CAPITAL CONTRIBUTION EXCLUDING LAND COSTS AND MAINTENANCE REQUIRED FROM DEVELOPMENT		CAPITAL CONTRIBUTION EXCLUDING LAND COSTS BUT INCLUDING 25 YR MAINTENANCE REQUIRED FROM DEVELOPMENT		
USING STANDARD COSTS	£1,176,533	USING STANDARD COSTS	£2,799,420	3.79
USING SOME OR ALL LOCAL COSTS	£1,176,533	USING SOME OR ALL LOCAL COSTS	£1,622,887	

For local costs enter into orange shaded boxes

Parks & Gardens								
	Demand: hectares per 1000 population	Unit cost (£s per sqm)	Provision for this development (ha)	Capital contribution from the development	Cost of maintenance (£s/sqm/yr)	Maintenance time period (yrs)	Maintenance Contribution	Total Contribution
Standard costs	0.80	£ 19.97	0.95	£ 189,316	£ 1.82	25	£ 431,340	£ 620,656
Local costs				£ -		25	£ 431,340	£ 431,340

Amenity Greenspace								
	Demand: hectares per 1000 population	Unit cost (£s per sqm)	Provision for this development (ha)	Capital contribution from the development	Cost of maintenance (£s/sqm/yr)	Maintenance time period (yrs)	Maintenance Contribution	Total Contribution
Standard costs	0.60	£ 10.28	0.71	£ 73,091	£ 0.46	25	£ 81,765	£ 154,856
Local costs				£ -		25	£ 81,765	£ 81,765

Natural and Semi Natural Green Space								
	Demand: hectares per 1000 population	Unit cost (£s per sqm)	Provision for this development (ha)	Capital contribution from the development	Cost of maintenance (£s/sqm/yr)	Maintenance time period (yrs)	Maintenance Contribution	Total Contribution
Standard costs	1.80	£ 4.14	2.13	£ 88,306	£ 0.08	25	£ 42,660	£ 130,966
Local costs				£ -		25	£ 42,660	£ 42,660

Children's Play								
	Demand: hectares per 1000 population	Unit cost (£s per sqm)	Provision for this development (ha)	Capital contribution from the development	Cost of maintenance (£s/sqm/yr)	Maintenance time period (yrs)	Maintenance Contribution	Total Contribution
Standard costs	0.25	£ 122.97	0.30	£ 364,299	£ 6.38	25	£ 472,667	£ 836,966
Local costs				£ -		25	£ 472,667	£ 472,667

Youth Provision								
	Demand: hectares per 1000 population	Unit cost (£s per sqm)	Provision for this development (ha)	Capital contribution from the development	Cost of maintenance (£s/sqm/yr)	Maintenance time period (yrs)	Maintenance Contribution	Total Contribution
Standard costs	0.30	£ 122.97	0.36	£ 437,158	£ 6.38	25	£ 567,200	£ 1,004,359
Local costs				£ -		25	£ 567,200	£ 567,200

Allotments								
	Demand: hectares per 1000 population	Unit cost (£s per sqm)	Provision for this development (ha)	Capital contribution from the development	Cost of maintenance (£s/sqm/yr)	Maintenance time period (yrs)	Maintenance Contribution	Total Contribution
As per amenity greenspace	0.20	£ 10.28	0.24	£ 24,364	£ 0.46	25	£ 27,255	£ 51,619
Local costs				£ -		25	£ 27,255	£ 27,255

Notes:

Play: On-site Provision				
Scale of Housing Development	Local Area for Play (LAP)	Locally Equipped Area for Play (LEAP)	Neighbourhood Equipped Area for Play (NEAP)	Youth Sport (MUGA; Skatepark; adventure play)
5-9 dwellings	✓			
10-199 dwellings	✓	✓		Contribution
200-399 dwellings	✓	✓	Contribution	✓
400+ dwellings	✓	✓	✓	✓
<b>Accessibility</b>	100m	400m	1,000m	700m

## Housing Allocation

<b>Policy Ref</b>		<b>Area (ha)</b>	<b>No. of dwellings</b>	<b>Forecast population @ 2.27 / dwelling</b>
<b>Category 1 - Market Towns</b>				
<i>Atherstone &amp; Mancetter</i>				
H1	Land at Holly Lane Atherstone	32.7	620	1469
H2	Land to north-west of Atherstone off Whittington Lane <i>Coleshill</i>	71.2	1282	3038
H3	Allotments adjacent to Memorial Park, Coleshill <i>Polesworth &amp; Dordon</i>	1.4	30	71
H4	Land to east of Polesworth and Dordon	160.8	1675	3970
<b>Category 2 - Adjacent adjoining settlements</b>				
H5	Land west of Robey's Lane, adjacent Tamworth	66.1	1270	3010
H6	Site at Lindridge Road adj. Langley SUE, Wishaw	6.7	141	334
<b>Category 3 - Local Service Centres</b>				
<i>Baddesley Ensor/Grendon</i>				
H7	Land at Church Farm, Baddesley	2.2	47	111
H8	Land north of Grendon Community Hall (former Youth Centre) Boot Hill Grendon <i>Hartshill/Ansley Common</i>	0.3	7	17
H9	Land between Church Rd and Nuneaton Rd, Hartshill	30.4	400	948
H10	Land south of Coleshill Road, Ansley Common <i>Water Orton</i>	17.2	450	1067
H11	Former School redevelopment site (excluding original historic school building)	2.8	48	114
<b>Category 4 - Other Settlements with a Development Boundary</b>				
<i>Ansley</i>				
H12	Land at Village Farm, Birmingham Road <i>Newton Regis</i>	0.6	12	28
H14	Manor Farm <i>Shuttington</i>	1	21	50
H15	Land south of Shuttington Village Hall <i>Warton</i>	1.2	24	57
H16	Land north of Orton Rd <i>Wood End</i>	4.2	128	303
H17	Land south of Islington Farm, r/o 115 Tamworth Rd	1.3	28	66
		<b>Total</b>	<b>6183</b>	<b>14654</b>

Summary Standards Table

Facility	Measurement		Accessibility (fully available at peak time)	Quality
Sports halls	0.28	Badminton courts per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England and relevant national governing body of sport guidance.
Swimming pools	10.63	sqm of water space per 1,000 people	About 20 mins drive time	
Fitness facilities	2.86	Fitness stations per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England guidance.
Studios	0.21	Studios per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England guidance.
Village or community halls	Additional and improved facilities including storage to enable more sports and activities to be offered.		800m walk 10 minutes by car	Design to be agreed with the Council.
Football grass pitches	0.43	Hectares per 1,000 people	About 15 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Rugby Union grass pitches	0.18	Hectares per 1,000 people	About 20 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Cricket	0.42	Hectares per 1,000 people	About 15 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Football 3G artificial grass pitch (3G-AGP)	0.04	Full size floodlit 3G pitch	About 20 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.
Hockey sand based artificial pitch	0.01	Full size floodlit pitch	About 20 mins drive time	Design and quality to meet Sport England and national governing body of sport guidance.

Typology	Measurement Hectares per 1,000 people	Accessibility	Quality
Parks and gardens	0.8	710 m	<ul style="list-style-type: none"> <li>• Welcoming clean, well maintained area with hard/soft landscaping</li> <li>• A one stop community facility, accessible to all with a range of leisure, recreational and play opportunities</li> <li>• Safe to visit, pleasant to walk and sit in</li> <li>• Cut back trees and bushes for safety and clear sightlines</li> <li>• Include paved and planted areas, paths, grassed areas, seating, clear pathways, appropriate lighting and signage</li> <li>• to, and within, the site</li> <li>• Include ramps instead of steps and wide paths for wheelchair and pushchair users</li> <li>• May provide opportunities for public realm art</li> <li>• Should link to surrounding green space.</li> <li>• Clean and well maintained green space, with appropriate ancillary furniture pathways, and natural landscaping</li> <li>• Safe site with spacious outlook</li> <li>• Enhance the environment/ could become a community focus</li> </ul>
Amenity green space e.g. village greens	0.6	480 m	<ul style="list-style-type: none"> <li>• Large spaces may afford opportunities for informal play.</li> <li>• Smaller landscaped areas in and around housing areas</li> <li>• Informal recreation</li> <li>• Provide connections for wildlife and people movement</li> <li>• Include, and often connect to, green lungs</li> <li>• Contribute to biodiversity</li> <li>• Planted using native species</li> <li>• Areas to be maintained clear of dog fouling and litter</li> <li>• Provision of seating and bins</li> <li>• May provide opportunities for public realm art</li> <li>• May include woodland.</li> </ul>
Natural and semi-natural greenspace	1.8	720m	<ul style="list-style-type: none"> <li>• Appropriately landscaped</li> <li>• Positive management</li> <li>• Provision of footpaths</li> <li>• Designed to be free of the fear of harm or crime</li> </ul>

Play Areas for Children	0.25	LAPs – 100m LEAPs – 400m NEAPs – 1,000m	<ul style="list-style-type: none"> <li>• A range of provision of both equipped and natural play areas</li> <li>• Spaces should be well sited, accessible, convenient, visible, safe and secure, with seating for adults, litter bins and cycle racks – also consider pushchair/wheelchair</li> <li>• access</li> <li>• Well-lit with informal surveillance when possible</li> <li>• Equipment should suit the needs of all ages and abilities and be well maintained</li> <li>• Zones to prevent conflict and spaces and seating for supervision</li> <li>• Should be clearly bounded, well maintained, free of dog fouling, have clear pathways, appropriate lighting and signage</li> <li>• The Council does not encourage the provision of unequipped Local Areas for Play.</li> </ul>
Youth provision	0.3	700m	<ul style="list-style-type: none"> <li>• Robust yet imaginative play environments ranging from youth shelters to skate parks and multi-use games areas</li> <li>• Kick about/games areas, skate parks, basket ball courts</li> <li>• If located within other areas of open space they should include buffer zones to prevent conflict</li> <li>• Should promote a sense of ownership and be accessible to all and have clear pathways, appropriate lighting and signage</li> <li>• They should be visible and safe, well maintained and free of dog fouling</li> </ul>
Allotment Gardens	0.2	400 m	<ul style="list-style-type: none"> <li>• Secure area of land commonly within, or on the edge of, a developed area which can be rented by local people for the growing of vegetables, flowers or fruit not-for profit</li> <li>• Provide opportunities for those who wish to do so to grow their own produce, and support health, sustainability and social inclusion</li> <li>• Sites should be well drained and accessible with wide paved paths, car access and parking, toilets, recycling facilities and inorganic waste disposal facilities</li> <li>• Areas should be well lit and provide safe paths.</li> </ul>

Supplementary Planning Document “Planning Obligations for Open Space, Sport and Recreation -  
TABLE OF CHANGES

Issues raised and clarification sought following consideration of the SPD Report to 23rd May 2022  
Local Development Framework Sub Committee

	<b>Member Change sought/clarification requested</b>	<b>Note of change agreed/where included in the revised SPD</b>
1.	Executive Summary sought of the various Open Space, Green Infrastructure, Recreation and Playing Pitch Strategies as part of Introduction at start of SPD document	Difficult to provide a short executive summary of all the various Strategies. So a ‘Summary’ of all strategies proposed to be included as an Appendix statement, “Open Space, Leisure and Recreation Strategies Summary Statement”, rather than included as a large introduction or executive summary at the front of the SPD, due to amount of additional text/information this would result in including in the SPD, which should be focussed on the purpose of the SPD. This is in establishing the need and justification for developer contributions to address the open space, recreation needs generated by the development, in accordance with the standards established and set out in the various strategies. See reference in para 1.2
2.	Change tense, so document is forward looking, not using ‘past’ tense	Noted, see para 1.4 and subsequent changes. Will be checked throughout final document once changes agreed.
3.	Clarify Borough Council’s stance regarding CiL situation	Clarified text in para 1.5
4.	Correction to Local Plan Policy LP1 extract	See para 3.9
5.	Make sure SPD refers to the latest, most up-to-date versions and relevant Strategies for the evidence base.	See text and evidence base document date reference amendments and updates in para’s 3.9, 3.10 bullet points list.
6.	Clarify Borough Council’s stance regarding which planning applications will generate potential contribution requirements.	See para. 4.4 text clarification and para 4.6 deletion.
7.	Delete reference to CiL Regulations as these are changing and a uniform national infrastructure levy is to be introduced	Do not delete reference as legislation still applies and not yet repealed/replaced, but clarify situation regarding emerging legislation and regulation. See para. 4.7 (former 4.6) text clarification.
8.	Concerns raised over application of 20 min’ drive time to facilities, where does this come from, is it necessary?	Deletion of reference to 20 min drive time not recommended as this reflects Sport England Guidance on facility accessibility. Clarify in text para. 4.9 (former 4.8) that this will not be the sole means of determining provision within North Warwickshire in light of limited public transport, cycling walking route accessibility and lack of alternatives to

## Appendix G – P & D Board 1 Aug 2022

		the private car. The 20 minute drive time also generally relates to more strategic services/facilities, (swimming pools, main leisure centres/sports halls, such as in main towns) not smaller local services/facilities. Note drive time figures come from National Sport England Guidance – “Assessing Needs and Opportunities Guide for Indoor and Outdoor Sports Facilities How to undertake and apply Needs Assessments for Sport” July 2014. For walking/cycling travel time best practice is around 10mins. For local services focus will generally be on upgrading and improving existing accessible facilities (or improving their accessibility) where possible.
8.	Minor text corrections and clarifications.	See para’s 4.14 to 4.15 and 4.19 (now 4.13 to 4.14 and 4.18)
10.	Clarity sought for Table 1, 2 <sup>nd</sup> and 3 <sup>rd</sup> Rows.	Table text clarified and simplified in rows 2 and 3. Titles to table columns added. The reference to a demand generation figure of around 66% (more or less) equating to the trigger for development needing to provide serviced land, capital construction costs and justified maintenance and life cycle costs has been supported and tested as best practice elsewhere, with recent application in the East Herts Development Plan open Space SPD (Adopted May 2020) and the approach to the application at Top Farm, Nuneaton and Bedworth.
11.	Reference should be made to potential for commercial non-profit operators, such as Council Agencies or “ALMO’s” that may be set up to deliver/address the Borough’s service and facility needs, being able to access contributions (with suitable financial and legal safeguards in place).	See para. 4.33 (former 4.32) for text clarification.
12.	Para 4.35,(now 4.34) Reference to CiL tests and Regs noted again.	As noted above, until the current CiL regulations are repealed and new legislation enacted the current Regulatory and Legislative situation should be noted and maintained. No change proposed.
13.	Para 4.47,(now 4.46) Reference to duty to co-operate requirements noted as to be abolished.	As noted above, until the current duty to cooperate legal requirements and regulations are repealed and new legislation enacted via the planning Bill, the current Regulatory and Legislative situation should be noted and maintained. No change proposed.
14.	Para 5.1, list of relevant evidence base and Strategies needs checking and updating to	Noted, Para 5.1 Bullet Point list updated and corrected where necessary. See also para 5.3.

## Appendix G – P & D Board 1 Aug 2022

	reflect latest situation and relevant up-to-date versions.	
15.	Figure 1, drive time catchments maps from strategic sports centres, too small and unclear.	Maps size and page layout changed to help increase clarity of Maps.
16.	Para's 5.15 and 5.16 appear contradictory.	Text clarified in paragraph 5.16 to remove contradiction.
17.	Concerned that Para 5.22 guidelines are too broad?	The application of terms "appropriate" or "where appropriate" allows flexibility in provision and delivery where necessary, but allows application of relevant guidance and standards (such as Sport England's) which may also change overtime. Use of term "Where suitable and necessary" is accepted as too flexible, so has been deleted from bullet point 9. Where infrastructure/services are unavailable sustainable provision such as "Green" composting toilets should be possible.
18.	Term "cultural restrictions" is unclear?	This reference primarily relates to refers to potential religious and cultural social/gender restrictions and privacy, such as avoiding solely unisex facilities with potential male/female interaction (or public viewing where screening may address the issue) . Where cultural requirements seek female only facilities and services (on moral/privacy on cultural and religious grounds) then by using the term 'managed' the facilities can provide services for female (gender separated) only use, at set times to address this issue, including if and where current 'unisex' only facilities are available.
19.	Guidelines need also wider reference to informal leisure needs and pursuits such as dog-walking areas and access to rights of way, bridlepaths for rambling etc.	Noted. Additional text and bullet point added (last 3 bullet points) to address this concern/omission.
20.	Reference made to 'what the vision for our leisure facilities and recreation facilities are in the Borough?. Need for summary at the start as Guide?	See Point 1. SPD specifically related to Technical/Officer use as a tool to guide S106 contributions, not establishing or generating a Vision for Leisure and Recreation in the Borough. This has already been established by the various strategies that form the evidence base for this SPD. Too help address this concern a Summary of the various strategies, their Visions and Objectives, has been included as an Appendix to this SPD.
21.	The issue of Climate change and Zero Carbon targets has not been adequately referenced	Noted. Additional text references included. See additional paragraph 5.28 and other text references addressing this issue.

## Appendix G – P & D Board 1 Aug 2022

22.	Benefits of improving open space, leisure and recreation services and facilities to Health and Wellbeing not sufficiently referenced in light of Cross Government programmes, the Governments new Health and Care Act 2022 with health and Well Being Boards and aims for a more integrated health and care system, noted in Office for Health Improvement and Disparities (OHID) guidance 'All Our Health', Better Health and 'Every Mind Matters'.	Noted. Additional text references included (See para 5.22) and referencing in Appendix A, Summary of open Space and Leisure/Recreation Strategies, including reference to Borough Council's Health and Wellbeing Action Plan, 2020-2023
-----	--	---

**Agenda Item No 7**

**Planning and Development Board**

**1 August 2022**

**Report of the  
Head of Development Control**

**Appeal Update**

**1 Summary**

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

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

**a) Rosne, Sandy Lane, Fillongley**

3.1 This appeal concerned a retrospective application to retain a “sun-room” and covered link at this detached bungalow. As the property is in the Green Belt, the decision rested on whether the extension was appropriate or not. The Inspector found that it, together with other past extensions did give rise to a disproportionate addition over and above the original building. The Inspector therefore found that the extension was not appropriate development. He also found it to have an adverse impact on the openness of the Green Belt. The case was thus dismissed. The letter is at Appendix A.

3.2 The decision is relevant as it again shows the significance of the cumulative impact of works to isolated houses in the Green Belt, which in some circumstances can have an adverse impact on openness.

**b) Corley Rise, Old House Lane, Corley**

3.3 This decision reflects one that was reported to the Board a couple of meetings ago – the removal of permitted development rights from a property in the Green Belt. In this Corley Rise case, Members may recall that they visited this site and should therefore recognise the description in paragraphs 3 and 4 of the decision letter – Appendix B. The decision again is very “site-specific” and should not lead to an overall view that permitted development rights are to be withdrawn for all property in the Green Belt.

3.4 Interestingly, the consequence of not withdrawing such rights can be seen in the Rosne decision at (a) above.

**c) Flavel Farm, Warton Road, Austrey**

3.5 This concerns the change of use of land to a residential site for a gypsy and traveller family. The appeal was allowed and planning permission granted.

3.6 This site has been the subject of previous applications and a recent appeal, which was dismissed. The key reason for the change in outcome now, is that the previous Inspector did not consider the use of a public footpath running from Cinder Lane into the village in the assessment of whether the site was within a reasonable and safe walking distance of a settlement. The Inspector this time, sets out in some detail the reasoning for his decision that the site accords with this criterion.

3.7 The grant of permission will add to the number of pitches provided to count against the requirement set out in Policy LP5 of the 2021 Local Plan.

... 3.8 The decision letter is at Appendix C.

**4 Report Implications**

**4.1 Environment, Climate Change and Health Implications**

4.1.1 The two householder cases here fully align with the Council's Development Plan policies in regard to new development in the Green Belt – particularly Policy LP3. The Inspector has concluded that the Austrey case fully accorded with the relevant policy in the newly adopted Local Plan – LP10 – and was thus sustainable development.

**4.2 Links to Council's Priorities**

4.2.1 The two householder decisions are in line with the Council's priority of protecting the Borough's rural character.

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



---

## Appeal Decision

Site visit made on 31 May 2022 by Darren Ellis MPlan

### Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2022

---

### Appeal Ref: APP/R3705/D/21/3289880

#### Rosne, Sandy Lane, Fillongley CV7 8DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Todd against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2021/0412, dated 6 July 2021, was refused by notice dated 5 October 2021.
  - The development proposed is a single storey rear extension.
- 

### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Preliminary Matter

3. The appeal relates to a rear extension comprising a 'sun room' and a covered link. It has been constructed and appeared to accord with the plans before me. I have therefore dealt with the appeal on the basis that the development has already taken place.

### Main Issues

4. The appeal site is within the Green Belt and so the main issues are:
  - whether the extension is inappropriate development for the purposes of development plan policy and the National Planning Policy Framework (Framework);
  - the effect of the extension on the openness of the Green Belt; and
  - if the extension is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

## Reasons for the Recommendation

### *Whether inappropriate development*

5. The Framework establishes that new buildings in the Green Belt are inappropriate except in certain circumstances, including where they involve the extension of an existing building. This is provided that the extension does not result in a disproportionate addition over and above the size of the original building. The Framework defines 'original building' as 'a building as it existed on 1 July 1948, or, if constructed after 1 July 1948, as it was built originally.'
6. Policy LP3 of the North Warwickshire Local Plan (September 2021) (LP) is consistent with the Framework in that it seeks to protect the Green Belt and that inappropriate development should only be approved in very special circumstances. Neither the LP nor the Framework define 'disproportionate', however paragraph (b) of policy LP3 states that the merits of each individual case will be used to determine if an extension is disproportionate and that both quantitative and qualitative criteria will be used in an assessment.
7. The appeal property is a detached bungalow set in a generous plot. The Council has provided drawings of the dwelling as it was in 1999. Since then, the property appears to have been extended to the front, side and rear and there have also been alterations to the roof including the addition of dormer windows. Although based on approximated figures, the Council asserts that the previous extensions together with this extension have increased the volume of the original property by 123%. The appellant has not challenged this figure and accepts that the extensions have led to a large increase in the footprint of the building.
8. Size can be more than a function of volume and footprint and can include bulk, mass, and height. In this case, the scale and mass of the building had already been considerably increased through the previous additions. Although modest in itself, the appeal extension has further increased the massing of the dwelling and has added to the visual bulk of the dwelling as well as the volumetric impact of previous extensions. Compared to the property as it was in 1999, when it had already been extended, the dwelling now is considerably larger in bulk, massing and overall visual impact.
9. Consequently, the appeal extension, together with the previous extensions, cumulatively amounts to a disproportionate addition over and above the size of the original building. It is therefore inappropriate development which is, by definition, harmful to the Green Belt.

### *Openness*

10. Openness is an essential characteristic of the Green Belt. The Planning Practice Guidance states that openness is capable of having both spatial and visible aspects, so that both the visual impact of the proposal and its volume may be relevant.<sup>1</sup>
11. The extension, which also joins the dwelling to an outbuilding, has increased the visual and spatial bulk and massing of the dwelling and therefore has resulted in a reduction in the openness of the Green Belt both visually and spatially. However, given the modest size of the extension and its siting, the

---

<sup>1</sup> Planning Practice Guidance, Paragraph: 001 Reference ID: 64-001-20190722

backdrop of the existing dwelling and presence of sizeable outbuildings, that harm is limited. Nonetheless, one of the fundamental aims of Green Belt policy is to keep land permanently open and, having regard to the Framework, I afford this harm substantial weight.

*Other Considerations*

12. I understand the appellants' desire to provide additional habitable space for grandchildren now residing at the property. However, I have no details of how many are now living there, their ages or any specific requirements they may have. Personal circumstances will seldom outweigh more general planning considerations and I therefore attach moderate weight to this matter.
13. The appellants state that a larger rear extension than those already existing could be constructed under the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), subject to the completion of the prior approval process. A plan outlining the footprint of such an extension has been provided. However, they acknowledge that such an application cannot be made retrospectively and that the existing rear extensions would need to be taken down before a prior approval application could be made, which would not be practical or viable. For these reasons I consider there to be little or no likelihood of such an approach being followed, and therefore this potential fallback position carries negligible weight.

*Whether very special circumstances exist*

14. The rear extension causes harm to the Green Belt by way of inappropriateness and reduction in openness, to which I afford substantial weight. The Framework states that development should not be approved unless the harm to the Green Belt, and any other harm, is clearly outweighed by other considerations. The other considerations identified above do not clearly outweigh the totality of the harm. Consequently, the very special circumstances necessary to justify the front extension do not exist.

**Conclusion and Recommendation**

15. Accordingly, the extension conflicts with LP policy LP3 and with the Framework. There are no material considerations which indicate that a decision should be made other than in accordance with the development plan. Therefore, for the reasons given above and having had regard to all other matters raised, I recommend that the appeal be dismissed

*Darren Ellis*

APPEAL PLANNING OFFICER

**Inspector's Decision**

17. I have considered all the submitted evidence and the Appeal Planning Officer's report and I agree with the recommendation that the appeal should be dismissed.

*L McKay*

INSPECTOR




---

## Appeal Decisions

Site visit made on 24 May 2022

**by Tamsin Law BSc MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 June 2022**

---

### **Appeal A Ref: APP/R3705/W/21/3289113**

#### **Corley Rise , Old House Lane, Corley CV7 8BS**

- 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 J Sheehan against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2021/0458, dated 24 July 2021, was refused by notice dated 30 September 2021.
  - The application sought planning permission for removal of condition no's 3 & 4 of planning permission PAP/2014/0473 relating to occupancy solely for holiday purposes and the keeping of a register of visitors staying in the accommodation without complying with a condition attached to planning permission Ref PAP/2016/0725, dated 10 October 2017.
  - The condition in dispute is No 2 which states that: Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 2015, or as may be subsequently amended, no development under classes A, B or E of that Part shall commence on site unless details are first submitted to and approved in writing by the Local Planning Authority.
  - The reason given for the condition is: In order to protect the visual amenities of the area and protect the appearance of the building.
- 

### **Appeal B Ref: APP/R3705/W/21/3289119**

#### **Corley Rise , Old House Lane, Corley CV7 8BS**

- 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 J Sheehan against the decision of North Warwickshire Borough Council.
  - The application Ref PAP/2021/0457, dated 24 July 2021, was refused by notice dated 30 September 2021.
  - The application sought planning permission for single storey extension without complying with a condition attached to planning permission Ref PAP/2018/0539, dated 16 November 2018.
  - The condition in dispute is No 4 which states that: No development whatsoever within Classes A, B, C, D, E and F of Part 1, and Classes A and B of Part 2, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved in writing by the Local Planning Authority, in writing.
  - The reason given for the condition is: In the interests of the amenities of the area.
-

## **Decision**

1. Both appeals are dismissed.

## **Main Issue**

2. The main issue is whether the condition is necessary and reasonable having regard to local and national policies relating to proposals affecting the Green Belt.

## **Reasons**

3. The appeal site comprises a modest detached single storey dwelling set within a defined large plot. The dwelling is elevated from the adjacent highway and is bound by residential dwellings to the south and east, and highways to its north and west. Tall mature hedgerows run around the boundary of the site. The garden to the property is largely located to the east and north of the host dwelling and remains grassed over with no buildings or means of enclosure, giving it an open appearance.
4. The host building has an extensive planning history. The dwelling was originally granted consent as a garage for the adjacent dwelling to the south. Further to its construction consent was granted to use the building as a holiday let and then as a self-contained dwelling.
5. Paragraph 54 of the Framework states planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Expanding on this, the Planning Practice Guidance (PPG) advises conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity. The scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), so that it is clear exactly which rights have been limited or withdrawn.
6. The GPDO sets out the Permitted Development (PD) rights for development within the curtilage of a dwellinghouse. These rights apply generally to all dwellinghouses, with some exceptions. Given that land within the Green Belt was omitted from these exceptions, land within the Green Belt is regarded as no different in terms of the application of PD rights as land outside of it.
7. The Framework denotes openness as an essential characteristic of the Green Belt. The openness of the Green Belt has a spatial aspect as well as a visual aspect. 'Open' can mean the absence of development in spatial terms, and it follows that openness can be harmed even when development is not readily visible from the public realm.
8. The reason for refusal in both cases are clear in that the Council seeks control in assessing any future effects on the Green Belt. A detached house on a large plot could otherwise feasibly undertake a significant amount of development without the need for planning permission. The appeal site's location within the Green Belt, does not, in itself, represent an exceptional circumstance to warrant removal of PD rights. I have considered the particular characteristics of the dwelling and its surroundings.

9. The dwelling sits on a large plot but is modest in scale. It is not a conventional new build structure but a conversion of an existing outbuilding with a small bungalow appearance. Consequently, it would be highly sensitive to change from further, what could be quite substantial, additions and outbuildings and the provision of hard standings and means of enclosure. The presence of boundary vegetation offers some screening, but glimpses of the site are available from the adjacent highway and via the associated access. Notwithstanding its limited visibility from the public realm, the potential future development could noticeably and significantly reduce the openness of the Green Belt in spatial terms given the scale of the building and the size of its associated curtilage.
10. The appellant has drawn my attention to various appeal decisions relating to removal of PD rights. While there may have been good reasons to amend PD rights in those cases, here I find that the circumstances are incomparable in relation to site characteristics and the reasons for the conditions. In any event I have determined this appeal on its own merits.
11. Accordingly, the removal of the conditions to restrict PD rights would not comply with Policy LP3 of the North Warwickshire Local Plan (2021) which seeks to protect the Green Belt from inappropriate and thus harmful development.

### **Conclusion**

12. For the reasons I have given, the conditions are reasonable and necessary in that they allow the Council to assess whether any future additions to the appeal building and site would be disproportionate and/or harmful to the openness of the Green Belt and thereby avoid inappropriate development in the Green Belt. I therefore dismiss both appeals.

*Tamsin Law*

INSPECTOR

Appendix 1  
List of those who have appealed

<b>Reference</b>	<b>Case Reference</b>	<b>Appellant</b>
Appeal A	APP/R3705/W/21/3289113	Mr John Sheehan
Appeal B	APP/R3705/W/21/3289119	Mr John Sheehan



# Appeal Decision

Hearing held on 10 May 2022

Site visit made on 10 May 2022

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 June 2022**

**Appeal Ref: APP/R3705/W/20/3253928**

**Stables at land south of Flavel Farm, Warton Lane, Austrey, Atherstone CV9 3EJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr J Connors against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2020/0156, dated 12 March 2020, was refused by notice dated 22 May 2020.
- The development proposed is a material change of use of land for mixed use for equestrian use (existing) and proposed residential use for Gypsy-Traveller families with associated development (hard standing and package treatment plant).

## Decision

1. The appeal is allowed and planning permission is granted for a material change of use of land for mixed use for equestrian use (existing) and proposed residential use for Gypsy-Traveller families with associated development (hard standing and package treatment plant) at Stables at land south of Flavel Farm, Warton Lane, Atherstone CV9 3EJ in accordance with the terms of the application Ref PAP/2020/0156, dated 12 March 2020, and the plans submitted with it, subject to the conditions listed in the attached schedule.

## Preliminary Matters

2. I have included 'Atherstone' to the address above in the banner heading as it is listed on the appeal form.
3. Since the Council made its decision on the planning application, which is subject of this appeal, on 29 September 2021 the North Warwickshire Local Plan (LP) was adopted. Consequently, the policies contained within the Council's Core Strategy have been superseded. I am required to determine this appeal on the basis of the development plan which is in force at the time of my decision. The Council have confirmed in correspondence that they now rely upon LP Policies LP5 and LP10. Before the Hearing both parties have had the opportunity to submit comments on this matter.
4. Policies LUT10 and W9 of the Warwickshire Local Transport Plan 2011-2026 (WLTP) were cited by the Highway Authority in its submission, but were not included on the decision notice. It was confirmed orally at the Hearing by the Council that they do not form part of the development plan and should be regarded as guidance. I have dealt with the appeal and WLTP policies LUT10 and W9 on this basis.

5. An accompanied site visit was undertaken on 10 May 2022. However, I also undertook unaccompanied visits prior to the event on the evening of 9 May 2022 and on my way to the event on 10 May 2022. I also undertook the Church Lane and Bishop's Field Circular Walk (the Circular Walk) alone, directly after the accompanied site visit had finished.
6. There is no dispute that the Appellants comply with the definition of Gypsies as set out in Planning Policy for Traveller Sites (PPTS). Based on the details provided, the representations made at the hearing and in the absence of substantive evidence to the contrary, I have no reason to disagree.

### **Main Issues**

7. The main issues of this appeal are:
  - whether the proposed development would be in a suitable location with particular regard to its effect on highway safety and the safety of pedestrians; and,
  - whether any harm arising from the proposed development would be outweighed by other considerations.

### **Reasons**

8. The site is located within the open countryside and approximately 500m from the boundary of Austrey. The access to the site is located off Warton Lane, which is a classified C road and comprises the primary route between Austrey and Warton. The section of Warton Lane between the site and Austrey has the characteristics of a typical rural lane, through its width, grass verges either side and no footpaths or street lighting present.
9. LP Policy LP5 concerns the amount of development within the Council area, where the Council seeks to make provision for a minimum of 19 permanent residential gypsy and traveller pitches between 2019 and 2033. LP Policy LP10 is for new gypsy and traveller sites, subject to compliance with 6no. criteria. The Council does not raise any issue with the criteria listed in this policy, apart from point 2, which concerns the location of the site, within a safe reasonable walking distance of a settlement boundary or public transport service, and access to a range of school and health services.
10. Policy AP8 of the 'made' Austrey Neighbourhood Plan 2017-2029 (2017) (ANP) requires any new development to comply with the accepted standards applied by the local Planning and Highways Authorities and should strive to achieve a "five minute walkable neighbourhood", encouraging the use of sustainable, active transport (walking and cycling).
11. The parties agree that the proposal is within a reasonable distance of a settlement, where a number of facilities exist, including a shop, public house, and primary school. There is also no dispute that Warton Lane benefits from a 'hail and ride' bus service. The issue at hand is whether or not the route between the site and Austrey is safe.
12. My attention has been drawn towards an appeal decision<sup>1</sup> (the previous appeal) for a similar scheme on the same site, which was dismissed. This decision comprises a material consideration of significant weight. Whilst noting the

---

<sup>1</sup> APP/R3705/W/18/3199987 dated 6 February 2019

findings of the previous Inspector, the scheme before me differs in that an alternative route along Cinder Lane has been brought to my attention. It is agreed by the parties that this was not a consideration on the previous appeal. Additionally, the appellant is of the view that the previous Inspector only drove along Warton Lane. However, the extent of the site visit undertaken by the Inspector on the previous appeal is not apparent. Although, I acknowledge the reference to "having driven the length of Warton Lane" (paragraph 12 of the previous appeal decision).

13. During the accompanied site visit, I stood at the entrance of the site and crossed the road, then walked to the junction of Cinder Lane, which is a category D road. I then proceeded unaccompanied, to the start of the Circular Walk from the Bird in Hand public house. When I reached Cinder Lane, I took a slight diversion towards the Warton Lane junction and then back tracked along the full length of Cinder Lane towards Main Road. I noted at both ends of Cinder Lane that there is clear signage advising that the road is unsuitable for heavy goods vehicles (HGV). Whilst the Highway Authority advises of an encounter with an HGV during a site visit on Cinder Lane, it is highly likely that this was an isolated incident.
14. The Highway Authority confirmed orally at the Hearing that the 7no. recorded collisions since 1990 in the personal injury accident data within the vicinity of the site only involved motorists. Having walked in both directions along Warton Lane between the site and Austrey, I accept that this modest section of carriageway would not lend itself to regular walking, during inclement weather or hours of darkness. However, whilst only a snapshot in time, the level of traffic that I experienced at different times of the day<sup>2</sup> did not appear overly excessive, and largely comparable to the data contained in the 2017 survey<sup>3</sup>.
15. The amount of traffic on Warton Lane, the associated speed of vehicles and the road width did not result in an inability for motor vehicles to pass safely. Additionally, the verges, the accesses to field gates and to a lesser extent, the drainage gulleys provided suitable refuge along this section of carriageway, should I have needed to step out of the road. Similar characteristics are present along Cinder Lane, coupled with a notable reduction in vehicular movements.
16. I acknowledge that the Circular Walk would not be suitable for everybody, especially those with mobility issues, particularly at the section that joins Cinder Lane. However, I am also mindful that such mobility issues would likely result in the use of an alternative method of transport, in any event. Nonetheless, the National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
17. Concern has been raised about the safety of the hail and ride bus service and it stopping on Warton Lane. The Highway Authority agreed at the Hearing that the safe stopping of the bus would be at the discretion of its driver and to date no highway safety issues have been raised with this style of service on this road or in the locality. I agree that a bus would likely avoid stopping close to the bend in the road, but find little evidence to substantiate an inability for a

---

<sup>2</sup> 5.30pm to 6pm on 9 May 2022; 8am to 8.30am and 2pm to 3.30pm on 10 May 2022

<sup>3</sup> The Hurlstone Partnership dated 31 December 2017 (Recorded between Friday 15 and Thursday 21 December 2017)

bus to stop safely on the straighter sections of carriageway towards Austrey and Warton, which are both in proximity of the site.

18. I have found that in the case of both Warton Lane and Cinder Lane that drivers are easily able to assimilate the conditions on the carriageway, when driving along these roads. Thus, reducing the associated potential likelihood of vehicular/pedestrian conflict. Furthermore, I note the signage for a cycle route on Warton Lane opposite the Cinder Lane junction, the public right of ways in the locality and the promotion of the Circular Walk by the Parish Council.
19. An appeal decision<sup>4</sup> has been supplied by the Council, but this was dismissed on substantial harm to the Green Belt as it comprised inappropriate development, whilst having a harmful effect on character and appearance. Thus, whilst there are some similarities between this decision and the appeal scheme, the circumstances are not directly comparable.
20. Given the above factors, which include my own experiences driving in the locality and walking along Warton Lane, Cinder Lane and the Circular Walk, I find that the site is within a safe reasonable distance of Austrey, with particular regard to walking and cycling. Additionally, there are a number of safe alternative routes available to different parts of the settlement. Thus, there are circumstances present in this appeal that enable me to reach a different conclusion to the previous Inspector.
21. For the reasons given above, I conclude that the proposal would not result in any significant harm that would create adverse conditions with regard to highway/pedestrian safety. Consequently, the proposal would accord with the highway/pedestrian safety aims of LP Policies LP5, LP10, ANP Policy AP8, WLTP policies LUT10, W9 and the requirements of the Framework.

### **Other Matters**

22. The appeal raises issues surrounding the best interests of the child, personal circumstances and need. However, as I have found that the proposal complies with the development plan as a whole, I have not needed to consider these matters any further.
23. A number of interested parties have also expressed a number of concerns including, but not limited to flooding and drainage. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
24. I also note reference to concerns of the adjacent occupier at Flavel Farm (the neighbouring occupier), with regard to a fear of crime and health issues. I accept that the evidence indicates that there has been a dispute between the appellant and the neighbouring occupier in the past, which required intervention by the Police and a Community Protection Notice (CPN) being served. However, the latest correspondence from the Gypsy and Traveller Liaison/Advisor at Warwickshire Police (the GTLA) indicates that the CPN did not escalate to a Community Protection Order, indicating no breach of the CPN.

---

<sup>4</sup> APP/R3705/W/19/3220135

The GTLA also confirm that any claims of intimidation from the appellant have not been corroborated and that he is not subject of any ongoing investigations.

25. Consequently, there is an absence of any direct evidence surrounding a fear of crime, which does not add any material weight against allowing the appeal especially in light of the comments received from the GTLA. Whilst I sympathise with the neighbouring occupier, regarding their health issues, such personal circumstances have little bearing on my conclusion of the main issues in this instance.
26. Furthermore, concerns were raised by the neighbouring occupier in regard to their living conditions. However, after my site visit, I do not consider that any such harm would arise in this respect, given the scale of the mobile homes/caravans, their layout and the height of the closed boarded fence on the shared boundary between the site and Flavel Farm. This is further reinforced by the mature vegetation located behind the fence, which extends above it.
27. The effects of the proposal on the adjacent farm as a potential source of noise and odour in the area should also be considered. The issue is acknowledged in paragraph 187 of the Framework, which advises that planning policies and decisions should ensure that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Whilst noting the proximity of the farm complex to the site, there is little before me to indicate that such complaints would realistically arise, especially in the absence of any concerns from the Council.

### **Conditions**

28. The parties have suggested conditions in the Statement of Common Ground which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the Planning Practice Guidance. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary.
29. Pre-occupation conditions regarding, landscaping, drainage, external lighting, car parking areas, reconstruction of the vehicular access and a bin collection area are all reasonable and necessary in the interest of character and appearance, the surrounding environment and highway safety respectively. A suggested distance of 20.0 metres for the area of bound material was discussed at the Hearing, but there was little justification for this distance when compared to the suggested 15.0 metres distance for the exclusion of gates. Thus, I have used the distance of 15.0 metres in this instance.
30. Other conditions, such as restricting the site to people who meet the PPTS definition is both reasonable and necessary to define the permission. Controlling the number of caravans and mobile homes on the site is reasonable and necessary to define the permission and in the interest of character and appearance. This was discussed orally at the Hearing and condition no.7 reflects those discussions. Defining the use of the site for residential/equestrian purposes is also both reasonable and necessary, to ensure that the living conditions currently afforded by neighbouring occupiers is maintained.

31. The replacement of trees or shrubs planted as part of the approved planting scheme if they become diseased or die within 5 years is both reasonable and necessary to ensure the successful establishment of the approved landscaping scheme. The conditions surrounding the location of gates on the access and the visibility splays are both reasonable and necessary to ensure highway safety. The conditions relating to floodlighting and outside storage are both reasonable and necessary to ensure no harmful effects to character and appearance.
32. I have not included conditions surrounding the burning of waste, as this is not directly applicable to the proposal and is covered by other and more relevant legislation. Additionally, the stable building has been approved through another planning application and therefore it is not reasonable or necessary to impose a condition restricting additional openings for the purpose of this scheme. Likewise, it is not reasonable or necessary to impose a condition preventing any commercial use of the stable as this is not subject of this scheme and should have been included on the original planning application. In any event, any such commercial operation would likely require a planning application to be submitted in its own right.
33. A condition to prevent/minimise the spread of extraneous material onto the public highway has not been demonstrated either to be reasonable or necessary, given the site comprises a gravel area, along with the measures contained in other conditions such as the area of bound material at the access. Thus, I am satisfied that the highway would be maintained in a satisfactory without such a condition being imposed.

### **Planning Balance and Conclusion**

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
35. Given my findings above, the proposal accords with the development plan when taken as a whole, and there are no other material considerations that indicate otherwise. It also complies with the requirements of the Framework. I therefore conclude that the proposed development is suitable for the site.
36. For the reasons above, I conclude that the appeal should be allowed.

*W Johnson*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

### **Time limit**

1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

### **Approved drawings**

2) The development hereby permitted shall be carried out in accordance with the following approved plans: BP-03 Block Plan and LP-02 Site Location Plan. As received by the Local Planning Authority on 13 March 2020.

### **Pre-occupation**

3) Prior to first use and occupation of the site, the following details shall first be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be implemented in full and retained for the life of the development.

i) landscaping

ii) disposal of foul and surface water drainage

iii) the internal layout of the site, including the siting of caravans if different from the site layout plan;

iv) details of the mobile homes and caravans to be located on the site.

v) any external lighting. Lighting within the site shall not be positioned so as to create glare upon the public highway carriageway.

vi) surfacing, drainage and levels of the car parking and manoeuvring areas as shown on the approved plan. No accommodation shall be occupied until the areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles.

4) Prior to first use and occupation of the site, the existing vehicular access to the site shall be re-constructed in accordance with the approved drawing and the specification of the Highway Authority. The access shall be surfaced with a bound material for a distance of no less than 15.0 metres, as measured from the near edge of the public highway carriageway and shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.

5) Prior to first use and occupation of the site, details of a bin collection area adjacent to the highway shall be first submitted to and approved in writing by the Local Planning Authority. The approved storage area shall then be fully implemented and retained for the life of the development.

### **Other**

6) The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of the PPTS (or its equivalent in replacement national policy).

7) No more than 4 caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 as amended (of which no

more than 2 shall be static caravans) shall be stationed on the site at any time.

8) No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site, apart from horse boxes or equestrian vehicles.

9) If within a period of 5 years from the implementation of the site development scheme, any tree or plants which formed part of the approved landscaping under condition 3 (i) site development scheme die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of similar size and species.

10) Access for vehicles to the site from the public highway (Warton Lane) shall not be made other than at the position identified on the approved drawing number BP-03 providing an access no less than 6 metres in width for a distance of 15.0 metres, as measured from the near edge of the public highway carriageway. No gates shall be hung within the vehicular access so as to open within 15.0 metres of the near edge of the public highway carriageway.

11) The existing visibility splays to the vehicular access, passing through the limits of the site fronting the public highway, with an 'x' distance of 2.4 metres and 'y' distances of 90.0 metres looking left (north-easterly) from the vehicular access to the near edge of the public highway carriageway and 60.0 metres looking right (southerly) from the vehicular access, shall be maintained and retained for the life of the development, remaining unobstructed at all times. No structure, tree or shrub shall be erected, planted or retained within the visibility splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

12) There shall be no additional floodlighting installed on the site, unless prior written approval has been obtained from the Local Planning Authority.

13) There shall be no outside storage related to the equestrian use on the site whatsoever and the site shall be kept tidy.

**\*\*End of Schedule\*\***

## **APPEARANCES**

### FOR THE APPELLANT:

Mr A Heine                      Agent  
Mr J Connors                  Appellant

### FOR THE LOCAL PLANNING AUTHORITY:

Mr I Griffin                      North Warwickshire Borough Council  
Mr M Dittman                      North Warwickshire Borough Council  
Mr T Burrows                      Warwickshire County Council

### INTERESTED PARTIES:

Cllr D Humphreys                  North Warwickshire Borough Council /  
Warwickshire County Council  
Cllr M Humphreys                  North Warwickshire Borough Council /  
Warwickshire County Council  
Cllr S Goldney-Neate              Austrey Parish Council  
Mr J Collier MRICS FAAV          Land Agent (on behalf of the occupier at Flavel  
Farm)  
Mr S Spencer                      NFU Mutual (on behalf of the occupier at Flavel  
Farm)  
Mr R Davies                      Farm Community Network (on behalf of the  
occupier at Flavel Farm)

## **HEARING DOCUMENTS**

The following documents were submitted and accepted at the Hearing:

### ON BEHALF OF THE APPELLANT:

- An email dated 25 April 2022 from the GTLA.

### ON BEHALF OF THE LOCAL PLANNING AUTHORITY:

- A copy of the Warwickshire Local Transport Plan 2011-2026
- Emails from Environmental Health dated 28 September 2017 and 9 October 2017 in relation to PAP/2017/0519 (for previous application, carried over onto the appeal scheme).
- 2no. screen shots of Public Rights of Way in the locality of the site.

### ON BEHALF OF AN INTERESTED PARTY:

- Further representation on behalf of the occupier at Flavel Farm.

## Agenda Item No 8

### Planning and Development Board

1 August 2022

#### Report of the Corporate Director - Resources

#### Budgetary Control Report 2022/23 Period Ended 30 June 2022

## 1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2022 to 30 June 2022. The 2022/2023 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Board.

### Recommendation to the Board

**That the report be noted and that the Board requests any further information it feels would assist it in monitoring the budgets under the Board's control.**

## 2 Introduction

- 2.1 Under the Service Reporting Code of Practice (SeRCOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but also support costs relating to such areas as finance, office accommodation, telephone costs and IT services. The figures contained within this report are calculated on this basis.

## 3 Overall Position

- 3.1 The actual expenditure for those services reporting to this Board as at 30 June 2022 is £137,502 compared with a profiled budgetary position of £68,360; an overspend of £69,142 for the period. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period.

- 3.1.2 Where possible, the year-to-date budget figures have been calculated with some allowance for seasonal variations to give a better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

### 3.2 Planning Control

- 3.2.1 The overspend of £67,816 is due to a lower level of planning fees income to date of £77,601 due to a change in the mix of applications from larger to small householder applications, partially offset by lower than expected expenditure on professional fees and postage costs.

#### 4 **Performance Indicators**

4.1 In addition to the financial information provided to this Board, when the budgets were set in February performance indicators were included as a means of putting the financial position into context. These are shown at Appendix B.

...

4.2 The gross cost of planning applications is above the budgeted position due to the lower number of applications received and lower costs. The net cost of planning applications is above the budgeted position, due to lower numbers of applications.

4.3 The gross and net cost per Land Charge search is higher than expected due to the lower number and mix of searches between full searches and Official Register searches undertaken.

#### 5 **Risks to the Budget**

5.1 The key risks to the budgetary position of the Council from services under the control of this Board are:-

- The need to hold Public Inquiries into Planning Developments. Inquiries can cost the Council around £50,000 each.
- A change in the level of planning applications received. A fall in applications is likely to lead to a reduction in planning income, whilst an increase in applications will increase the pressure on staff to deal with applications in the required timescales.
- The Government requires all planning applications to be dealt with within 26 weeks. If this is not achieved, the costs of the application must be borne by the authority. Whilst the Planning Team deals with almost 100% of current applications within this time, there is always the potential for this to slip, leading to a decline in the planning income level.
- There are potential additional costs for the Council in carrying out its planning function. If the Council loses a planning appeal, an award of costs can be made against the Council (the appellant's costs for the appeal). If the Council consistently loses appeals it will become a designated authority, which means that prospective applicants can submit their applications directly to the planning directorate. This would mean the Council would lose the accompanying planning fee.

5.2 A risk analysis of the likelihood and impact of the risks identified above are included in Appendix B.

## 6 **Estimated Out-turn**

6.1 Members have requested that Budgetary Control reports provide details on the likely out-turn position for each of the services reporting to this Board. The anticipated out-turn for this Board for 2022/23 is £268,570 the same as the approved budget.

6.2 The figures provided above are based on information available at this time of the year. Whilst planning income is currently below budget, it can vary significantly during the year. No change to the out-turn has been assumed at this time but this may change as the financial year progresses. Members will be updated in future reports of any changes to the forecast out turn.

## 7 **Report Implications**

### 7.1 **Finance and Value for Money Implications**

7.1.1 Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board at future meetings.

### 7.2 **Environment and Sustainability Implications**

7.2.1 The Council must ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

## **Background Papers**

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>

**Planning and Development Board**

**Budgetary Control Report 2022/2023 as at 30 June 2022**

<b>Cost Centre</b>	<b>Description</b>	<b>Approved Budget 2022/2023</b>	<b>Profiled Budget to 30 June 2022</b>	<b>Actual to 30 June 2022</b>	<b>Variance</b>	<b>Comments</b>
4009	Planning Control	146,380	47,507	115,323	67,816	3.2
4010	Building Control Non Fee-earning	46,200	2,575	2,575	(0)	
4012	Conservation and Built Heritage	60,730	15,183	15,412	229	
4014	Local Land Charges	8,080	1,300	1,908	608	
4018	Street Naming & Numbering	7,180	1,795	2,283	488	
	<b>Total Net Expenditure</b>	<b>268,570</b>	<b>68,360</b>	<b>137,502</b>	<b>69,142</b>	

## Performance Indicators for Budgets Reporting to the Planning and Development Board

	Budgeted Performance	Profiled Budgeted Performance	Actual Performance to Date
<b>Planning Control</b>			
Number of Planning Applications	900	225	184
Gross cost per Application	£870.32	£933.36	£1,088.16
Net cost per Application	£162.64	£52.79	£128.14
<b>Caseload per Planning Officer</b>			
All applications	167	41.7	34.1
<b>Local Land Charges</b>			
Number of searches	400	100	90
Gross cost per search	£178.00	£170.80	£183.01
Net cost/(surplus) per search	£20.20	£13.00	£21.20

## Risk Analysis

	Likelihood	Potential impact on Budget
Need for public enquiries into planning developments	Medium	Medium
Decline in planning applications leading to a reduction in Planning Income.	Medium	Medium
Applications not dealt with within 26 weeks, resulting in full refund to applicant.	Low	Medium
Implications of losing planning appeals, resulting in appellant costs awarded against the Council or loss of Planning Income	Medium	Medium

**Agenda Item No 9**

**Planning and Development Board**

**1 August 2022**

**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 items of business, on the grounds that they involve the likely disclosure of exempt information as defined by Schedule 12A to the Act.**

**Agenda Item No 10**

**Tree Preservation Order** – Report of the Head of Development Control

Paragraph 2 – information which is likely to reveal the identity of an individual;  
and

Paragraph 6 – by reason of the need to consider the making of an order.

**Agenda Item No 11**

**Confidential Extract of the Minutes of the meeting of the Planning and Development Board held on 4 July 2022**

Paragraph 6 – by reason of the need to consider the making of an order.

In relation to the items 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).