

**To: The Deputy Leader and Members of the Planning and Development Board
Councillors Simpson, Bell, T Clews, Deakin, Dirveiks, Hancocks, Hayfield, D Humphreys, Jarvis, Lees, Macdonald, Morson, Moss, Parsons, H Phillips and Rose.**

For the information of other Members of the Council

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

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

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

PLANNING AND DEVELOPMENT BOARD AGENDA

10 January 2022

The Planning and Development Board will meet on Monday, 10 January 2022 at 6.30pm in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire.

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

AGENDA

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

REGISTERING TO SPEAK AT THE MEETING

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

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

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

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

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

- 4 **Minutes of the meeting of the Board held on 6 December 2021 –** copy herewith, to be approved and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

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

Summary

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

5a Application No: PAP/2021/0354 – Land Adjacent 54 Moor Road, Hartshill

Works to trees protected by a tree preservation order

5b Application No: PAP/2021/0355 – Land to the rear of 32 to 52 Chestnut Grove, Coleshill

Works to trees in Conservation Area

5c Application No: PAP/2021/0660 – 7 Bray Bank, Furnace End, Coleshill, B46 2LN
Bay window to front of property

5d Application No: PAP/2020/0473 – Laxes Farm, Nuneaton Road, Furnace End, B46 2NL
Installation of 3 biomass boilers and flues and use of site for firewood business

5e Application No - PAP/2021/0605 – Land at Smorrall Lane, Astley
The construction of an agricultural building, renewable energy generating station comprising ground mounted photo-voltaic solar arrays together with substation, inverter/transformer stations, grid connection infrastructure, grid cable route, battery energy storage, site accesses, access gates, car parking, attenuation pond, internal access tracks, security measures, other ancillary infrastructure, landscaping and bio-diversity enhancements

Application No – PAP/2021/0651 – Land at Nuthurst Lane, Astley
The construction and operation of a solar PV Farm and battery energy storage, plus ancillary infrastructure and equipment, landscaping and access

5f Application No – DOC/2021/0075 – 92 Coleshill Road, Hartshill, CV10 0PH
Approval of details required by condition numbers 11, 12 & 13 of planning permission PAP/2020/0599 dated 23/08/21 relating to closing fence gaps, car park management plan and safety barrier

5g Application No's - PAP/2021/0028, PAP/2021/0029 and PAP/2021/0030 - Old Rail Farm, Hurley Common, Hurley, CV9 2LS
Change of use of land to stationing a shepherd's hut for holiday accommodation and associated walkway and parking area, and formation of visitor car park for existing permitted holiday lets

Change of use of redundant agricultural building to workshop for the maintenance of HGVs and agricultural vehicles, together with associated development including formation of hardstanding

Change of use of redundant agricultural building to stables, feed storage, office, mess room, commercial horse-rug washing, and dog-grooming and associated works

5h Application No - PAP/2021/0473 - Land East and South East Of Dunton Hall, Kingsbury Road, Curdworth
Development of a 349.9 MW Battery Energy Storage System with associated infrastructure including access road for construction

**5i Application Nos - PAP/2021/0261 and PAP/2021/0265 -
The Homestead, 82 Main Road, Austrey, CV9 3EG**
Dismantling of the existing grade 2 listed barn and re-build to
form two new dwellings

Listed Building Consent for dismantling of the existing grade 2
listed barn and re-build to form two new dwellings

**5j Application No - PAP/2021/0653 - 17, Norton Road, Coleshill,
B46 1ES**
Single storey rear extension

**5/k Application No - PAP/2019/0451 - Blackgreaves Farm,
Blackgreaves Lane, Lea Marston, Sutton Coldfield, B76 0DA**
Extension to existing shooting club house

The Contact Officer for this report is Jeff Brown (719410).

6 Appeal Update – Report of the Head of Development Control.

Summary

This report brings Members up to date with recent appeal decisions.

The Contact Officer for this report is Jeff Brown (719410).

STEVE MAXEY
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

6 December 2021

Present: Councillor Simpson in the Chair

Councillors Bell, T Clews, Dirveiks, Hancocks, Hayfield, D Humphreys, Jarvis, Lees, Moss, Parsons, H Phillips and S Smith

Apologies for absence were received from Councillors Deakin, Macdonald (Sub S Smith), Lees (Sub M Humphreys) and Morson.

Councillors D Clews and Reilly were also in attendance. With the permission of the Chairman, Councillor D Clews spoke on Minute No 32(a) Planning Applications (Application Nos PAP/2018/0050 and PAP/2021/0484 – Fir Tree Paddock, Quarry Lane, Mancetter) and Councillor Reilly spoke on Minute No 32(e) Planning Applications (Application No PAP/2021/0473 (Land East and South East of Dunton Hall, Kingsbury Road, Curdworth).

29 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

30 **Minutes**

The minutes of the meeting of the Planning and Development Board held on 1 November 2021, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

31 **Budgetary Control Report 2021/22 Period Ended 31 October 2021**

The Corporate Director – Resources reported on revenue expenditure and income for the period from 1 April 2020 to 31 October 2021. Details of the 2021/2022 budget and the actual position for the period, compared with the estimate at that date, were given, together with an estimate of the out-turn position for services reporting to this Board.

Resolved:

- a That the report be noted; and**

Recommendation to Special Sub-Group

- b That a review of the resources within Enforcement and Planning Control be undertaken subject to budgetary implications.**

32 Planning Applications

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

Resolved:

- a That Application No PAP/2018/0050 (Fir Tree Paddock, Quarry Lane, Mancetter) be approved subject to the conditions set out in the report of the Head of Development Control, and that application PAP/2021/0484 (Fir Tree Paddock, Quarry Lane, Mancetter) be approved subject to the conditions set out in the report of the Head of Development Control and subject to two additional conditions - one relating to the need for landscaping and the second for the need to clad the utilities building;**
- b That Application No PAP/2021/0501; 516, 544 and 570 (Numbers 2, 3, 4 and 6 Epsom Close, Dosthill, B77 1QT) be approved, subject to the condition set out in the report of the Head of Development Control.**
- c That on hearing the evidence from the speakers at the meeting, Application No PAP/2020/0684 (Meadow View Farm, Kinwalsey Lane, Meriden, CV7 7HT) be refused as it is considered that the proposed use would give rise to unacceptable impacts on neighbouring residential amenity through adverse noise arising from that use given the proximity of neighbouring residential property. As such the proposal would not accord with Policy LP29(9) of the North Warwickshire Local Plan 2021.**
- d That in respect of Application No PAP/2021/0611 (Cole End Park, Lichfield Road, Coleshill) the proposed works to trees in the Conservation Area can proceed. Officers were also asked to ensure that the applicant notifies neighbours of these approved works.**
- e That the determination of Application No PAP/2021/0473 (Land East and South East of Dunton Hall, Kingsbury Road, Curdworth) be deferred as additional information had been received between the publication of the agenda and the date of the meeting which was material to the determination. This was in respect of the consultation response received from the Minerals Planning Authority, the representations received from Lea Marston Parish Council and details concerning the status of the final access in the site. The Board requested that a supplementary report be submitted to the Board to address these matters.**

33 **Appeal Update**

The report brought Members up to date with recent appeal decisions.

Resolved:

That the report be noted.

34 **Exclusion of the Public and Press**

Resolved:

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

35 **15 Shawbury Lane, Shustoke**

The Chief Executive set out the planning history of this site and identified an ongoing breach of planning control recommending a course of action to resolve that breach.

Resolved:

That the Head of Legal Services be authorised to issue an Enforcement Notice in respect of unauthorised development to an outbuilding at 15 Shawbury Lane, Shustoke, requiring its overall reduction in height for the reasons set out in the report of the Chief Executive, with a compliance period of six months.

Councillor Simpson
Chairman

Planning and Development Board

6 December 2021

Additional Background Papers

Agenda Item	Application Number	Author	Nature	Date
6	PAP/2021/0611	Coleshill Town Council	No Objection	24/11/21
6	PAP/2021/0473	Warwickshire County Council	Consultation	29/11/21
6	PAP/2021/0473	Lea Marston Parish Council	Observations	29/11/21
6	PAP/2021/0473	Applicant	Response to PC	02/12/21
6	PAP/2021/0473	HS2 Ltd	Letter	20/08/21
6	PAP/2021/0473	Warwickshire County Council	e-mail	03/12/21
6	PAP/2021/0473	Warwickshire County Council	e-mail	03/12/21

**Report of the
Head of Development Control**

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

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

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 7 February 2022 at 6.30pm via Teams.

6 **Public Speaking**

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

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
5/a	PAP/2021/0354	1	Land Adjacent 54, Moor Road, Hartshill, Works to trees by protected by a tree preservation order	General
5/b	PAP/2021/0355	2	Land To The Rear Of 32 To 52, Chestnut Grove, Coleshill, Works to trees in Conservation Area	General
5/c	PAP/2021/0660	3	7 Bray Bank, Over Whitacre Bay window to front of property	
5/d	PAP/2020/0473	7	Laxes Farm, Nuneaton Road, Furnace End Installation of 3 biomass boilers and flues and use of site for firewood business	
5/e	PAP/2021/0605 & PAP/2021/0651	27	Land at Smorral Lane Astley Construction of an agricultural building, renewable led energy generating station comprising ground-mounted photovoltaic solar arrays together with substation, inverter/transformer stations, grid connection infrastructure, grid cable route, battery energy storage, site accesses, access gates, car parking, attenuation pond, internal access tracks, security measures, other ancillary infrastructure and landscaping and biodiversity enhancements Land at Nuthurst Lane, Astley The construction and operation of a solar PV farm and battery energy storage, plus ancillary infrastructure and equipment	
5/f	DOC/2021/0076	77	92 Coleshill Road, Hartshill Approval of details required by condition no's: 11,12 & 13 of planning permission PAP/2020/0599 dated 23/08/2021 relating to closing fence gaps, car park management plan and safety barrier	

5/g	PAP/2021/0028 PAP/2021/0029 PAP/2021/0030	138	Old Rail Farm, Hurley Common, Hurley, CV9 2LS i) Change of use of land to stationing a shepherd's hut for holiday accommodation and associated walkway and parking area, and formation of visitor car park for existing permitted holiday lets, ii) Change of use of redundant agricultural building to workshop for the maintenance of HGVs and agricultural vehicles, together with associated development including formation of hardstanding iii) Change of use of redundant agricultural building to stables, feed storage, office, mess room, commercial horse-rug washing, and dog-grooming and associated works	
5/h	PAP/2021/0286	168	Land East and South East Of Dunton Hall, Kingsbury Road, Curdworth, Development of a 349.9 MW Battery Energy Storage System with associated infrastructure including access road for construction	
5/i	PAP/2021/0261 & PAP/2021/0265	287	82 Main Road, Austrey Dismantling of the existing grade 2 listed barn and re-build to form two new dwellings Listed Building Consent for dismantling of the existing grade 2 listed barn and re-build to form two new dwellings,	
5/j	PAP/2021/0653	330	17 Norton Road, Coleshill Single storey rear extension	
5/k	PAP/2019/0451	338	Blackgreaves Farm, Lea Marston Extension to existing shooting club house.	

General Development Applications

(5/a) Application No: PAP/2021/0354

Land Adjacent 54, Moor Road, Hartshill,

Works to trees by protected by a tree preservation order, for

North Warwickshire Borough Council

Introduction

This application was referred to the September Board meeting as the tree is located on Council owned land. The Board deferred determination to seek further information.

Additional Information

Since that time, the tree has been inspected by an Arborist from the County Council as the main issue leading to the deferral was to see if there were alternatives to the proposed felling of the tree. A second appraisal of the tree was thus requested.

The report from the County Council concludes that there was very little dead wood within the crown of the tree and that the observations made in the initial report to the Board are on-going as the tree ages. However, an immediate felling of the tree is not considered necessary. A re-inspection is needed in a couple of years' time in order to reassess that ageing process.

Observations

The application has been withdrawn as a consequence of this second appraisal.

General Development Applications

(5/b) Application No: PAP/2021/0355

Land To The Rear Of 32 To 52, Chestnut Grove, Coleshill,

Works to trees in Conservation Area, for

North Warwickshire Borough Council

Introduction

This application was referred to the September Board meeting as the trees are located on Council owned land. The Board deferred determination to seek further information.

Additional Information

Since that time, the trees and the wider setting have been visited by Members together with an Arborist from the County Council. The main issue leading to the deferral was to see if there were alternatives to the proposed felling of the trees particularly in respect of the removal of the trip hazards from the roots. A different approach was outlined at the time of the visit – namely the raising of the footpath. The County Arborist has forwarded a specification of these works to the relevant officers at the Council.

Observations

The application has been withdrawn as a consequence of this information.

General Development Applications

(5/c) Application No: PAP/2021/0660

7, Bray Bank, Furnace End, Coleshill, B46 2LN

Bay window to front of property, for

Mrs Jane Loveridge

Introduction

This application is referred to the Board as the applicant is a member of Council staff.

The Site

This is one of a pair of semi-detached houses at the end of the small cul-de-sac of Bray Bank which has a frontage of similar properties. The site is shown at Appendix A.

The Proposals

The proposal is to add a small bay window to the front elevation. The existing and proposed plans are at Appendices B and C.

Representations

None received at the time of preparing this report, but as the expiry for notifications was the 26 December, a verbal update will be given to Members.

Development Plan

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

Other Material Planning Considerations

The National Planning Policy Framework

Observations

The design of this small bay window is in keeping with the character and appearance of the host dwelling and there is no impact on neighbouring residential amenity.

Recommendation

That subject to no objections being received, planning permission be **GRANTED** subject to the following conditions:

1. Standard three year condition
2. Standard plan numbers condition - the plans received on 2/12/21

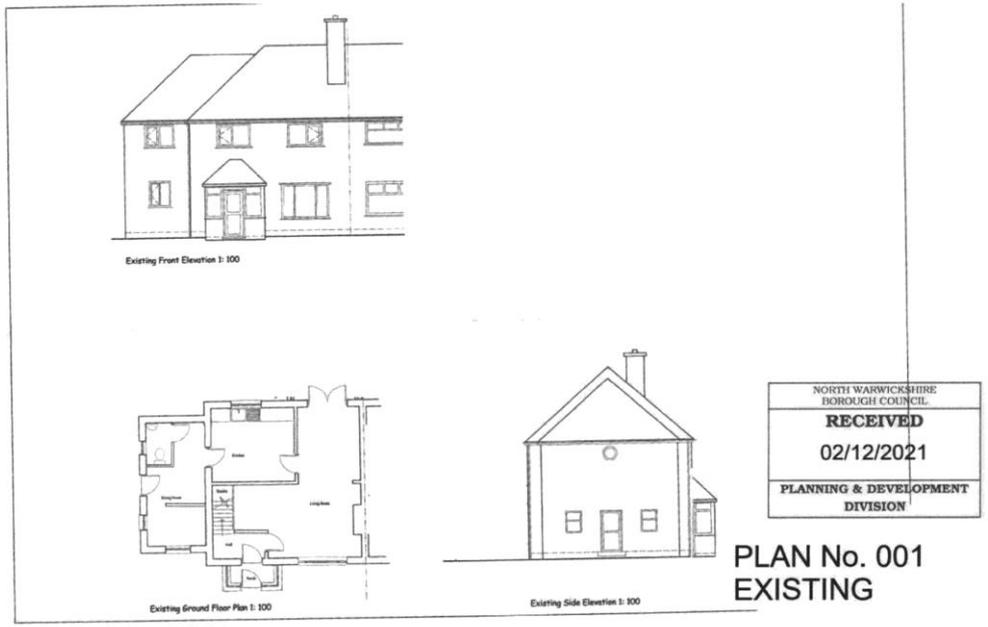
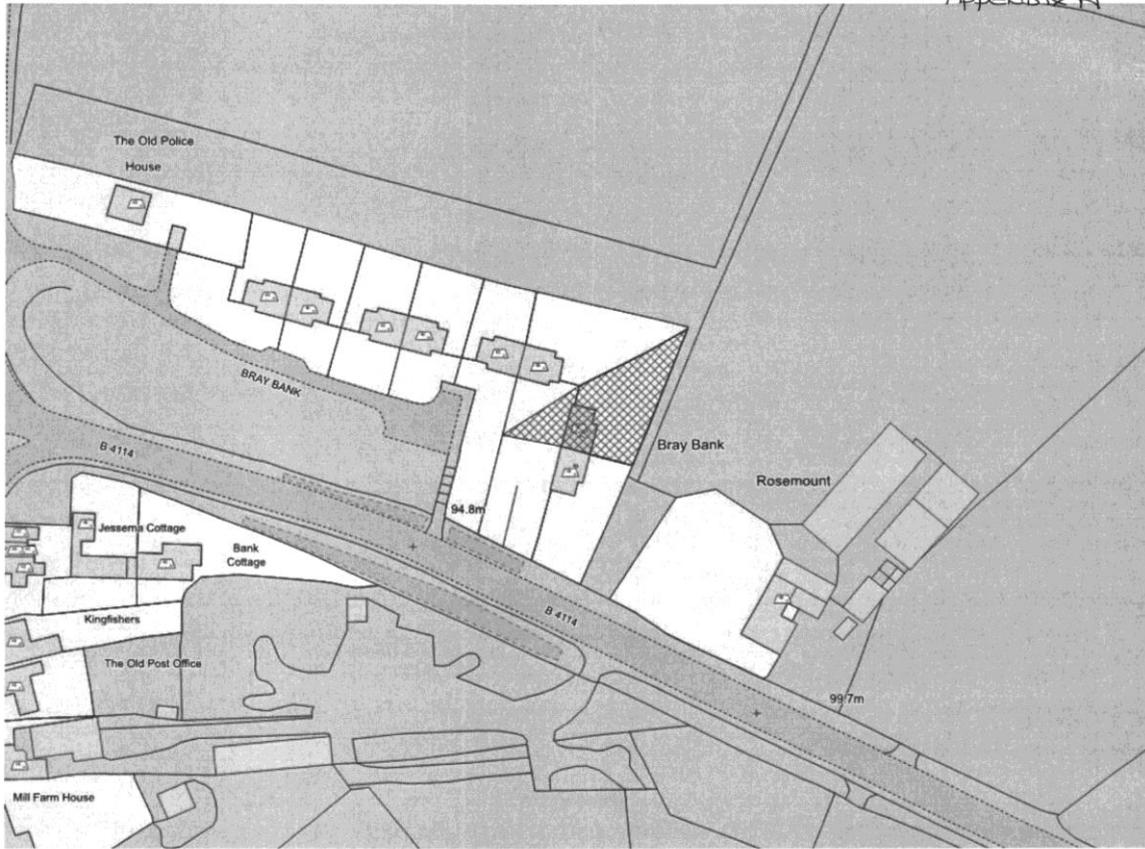
3. The materials used to construct the window shall match the type, texture and colour of those on the existing building.

REASON

In the interests of the visual amenities of the area

Notes:

1. Standard Party Wall Act Informatives
2. The Local Authority has met the requirements of the National Planning Policy Framework in this case through the issue of a positive outcome within the appropriate time period.



PAP/2021/0660



Proposed Front Elevation 1:100



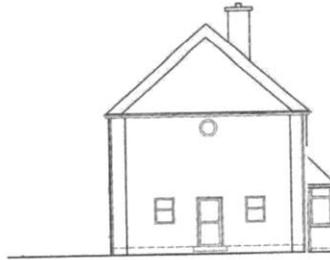
Site Location Plan 1:1250



Proposed bay window design



Proposed Ground Floor Plan 1:100



Proposed Side Elevation 1:100

NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
02/12/2021
PLANNING & DEVELOPMENT
DIVISION

**PLAN No. 001
PROPOSED**

General Development Applications

(5/d) Application No: PAP/2020/0473

Laxes Farm, Nuneaton Road, Furnace End, B46 2NL

Installation of 3 biomass boilers and flues and use of site for firewood business, for

Ben Parfitt - Arden Fire Wood

Introduction

The application is reported to the Board as the recommendation includes the possibility of enforcement action.

The Site

The site is within an existing range of farm buildings including a listed farmhouse, accessed off the main road, about a kilometre and a half due east of Furnace End. The application buildings are on the north-east side of this complex and set just around 150 metres back from the road with farmland surrounding the buildings. There are a couple of cottages fronting the road.

The location plan is at Appendix A and the application buildings are also identified on the plan.

The Proposal

The planning application relates only to the retention of the installation of three biomass boilers and flues within a small new building. The stainless steel flues extend three metres above the roof of the building. The plans illustrating the proposals at Appendix B.

In order to help mitigate the visual impact of the flues, landscaping proposals associated with the application are shown at Appendix C.

Photographs taken by officers and those provided by the applicant are at Appendix D.

Background

a) The Use of the Site

Arden Firewood is a firewood business that operates from other buildings at the farm in close proximity to the new boilers. It began around 2017 and involves the import of wood to the site, that then being cut, dried and stored for onward delivery to customers wanting wood to burn in domestic heating units. The buildings used for this business are shown within the site outlined at Appendix A and again at Appendix C. A short description of this use is to be found on the business website – copied at Appendix E.

The Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020 required changes to the moisture content of the resulting wood product to be effective from May 2021. In essence this meant that that wood needed to be “drier”. In order to achieve the new standard, the boilers were installed at the site within the new building prior to May 2021 so as to better dry the cut wood and thus be compliant with the new legislation. They were installed early in 2020 but the application to retain them was only submitted in late 2020.

The business employs three people full time as well as supporting three self-employed contractors.

The general hours of operation for the business are between 0800 and 1630 on weekdays with both wood processing occurring at the site as well as deliveries to customers' homes. On top of this, the business delivers at weekends between 0800 and 1500 primarily because customers are usually in at weekends so can take delivery. This outline is described as being “general” because the applicant points out that,

“When the business is at its busiest during the winter months, they receive 2 loads of 25 tonnes of wood per week (deliveries made during normal working hours). This is cut and placed in the kilns to dry the wood (heated by the boilers subject to the application), before being put into the wood store (that can hold a maximum of 500 tonnes of wood) or directly being distributed in wheelie bins and delivered to customers. During the winter, to fulfil their 7 days' worth of deliveries, the business must process wood 5 days a week minimum. If there are any breakdowns then the processing staff must also work through the weekend to fulfil the orders, or risk losing custom. To fulfil orders during the winter the business needs to be able to run until 1800, 7 days a week, in case a machine breaks down or there is a surge in demand (customers ordering all at once, as the business only has a limited storage capacity of dried wood). It is not the applicant's intention to work seven days a week throughout the winter, and instead only to work on weekends when it is absolutely necessary.”

The applicant has also provided the following information in respect of the operations.

“The bins will not be filled prior to 0900 each day, but there will be a requirement to use the processing equipment (chainsaws, vehicles, and boilers) prior to 0900 in order to make the most of daylight hours during the winter months. Though sometimes the business is forced to work later in the day when the sun has set in the winter, it is important that as much of the work can be carried out during daylight hours as possible for the benefit of the health and safety of the staff.”

In terms of the level of noise created by the business, the applicant says that,

“the nearest residential neighbours, excluding the landowner/farmer, are located circa 153m from the nearest edge of the application site to the nearest point of the residential dwelling. The dwellings located alongside Nuneaton Road, also known as the B4114, are circa 10m away from the edge of the highway. The noise generated by a moving tractor is 100dB, with the residential dwelling located 153m away, unobstructed the noise will reach the outside of the property at 56.3dB. Idling a tractor makes 80dB, reaching the outside of the residential properties at 36.3dB. A refrigerator running

creates 50dB, which would be located within the residential property. The residential properties sit circa 10m away from the B4114. The legal noise level for a new car is 74dB, at 10m this is 54dB. A lorry creates 90dB, at 10m this is 70dB. The only noise that would exceed the noise generated by the road at the neighbouring residential property would be that of using a Chainsaw, which at 120dB would reach properties unobstructed at 76.3dB. However, chain-sawing is carried out in the yard between the agricultural building to the west and the log store and mature trees to the east, therefore there are significant obstructions between the noise source and the neighbouring properties. Additionally, if chainsaws are properly maintained and serviced, they produce a lower sound pressure level than that indicated above. As highlighted, it is the intention of the applicant that the business processes wood Monday to Friday, however there are times when it needs to be carried out at weekends.”

In respect of the boilers the applicant says that,

“The boilers are Eco-Angus Gasification boilers, which come with pre-approved Renewable Heat Incentive emission certificates. They are also HETAS approved and benefit from an exemption under the Clean Air Act 1993. The boiler is maintained and serviced at regular intervals.”

b) The Planning Position

It is considered that the operation of this business is a material change of use as it introduces a mixed use to the farm – namely an agricultural use together with the business use of the wood operation as described above. At the present time this is unauthorised as it does not benefit from a grant of planning permission and neither is it immune from enforcement action by the passage of time. This matter will be referred to later in this report.

Representations

Objections from neighbouring residential occupiers refer to the following matters:

- Noise from the site, due to cutting up wood with chain saws and dropping wood into wheelie bins.
- Working hours and working weekends.
- Smells from boiler smoke impacting upon washing and can be smelt inside residential properties.
- Impact on everyday amenity.
- Level of smoke and it can linger.
- The use of the site is not acceptable close to residential properties.
- Smoke can be seen at all times of the day and also at night.

The representors have submitted photographs and videos to support their objections and these are attached at Appendix F.

Marcus Fox MP has also referred to the matter on behalf of the representors.

Consultations

Environmental Health Officer – His latest response is one of objection and this is attached in full.

“We have received complaints from two residents living in the vicinity of the site about odour and smoke. Significant nuisance has not yet been observed at a complainant’s property. Video footage has been provided showing excessive smoke emission and poor dispersal on many occasions. Although the footage does not prove nuisance, it does show that the devices are not operating as they should and throws doubt on the conclusions of the air quality assessment. The air quality assessment doesn’t show the devices comply with standards in the Air Quality SPD:

Solid biomass boiler (< 1 MW thermal input) NO_x 180mgNm³ / PM 5mgNm³

A site visit was carried out 1 October 2021 and several problems were identified including storage of waste wood pallets outside and poor door seals. Smoke was observed escaping from the devices at low level. Video footage showing excessive smoke emission and poor dispersal were described to the operator. A further visit was carried out on 17 November 2021. Smoke emissions were discussed and the operator claimed to have implemented improvements such as servicing and repair and had obtained a better understanding of how to operate the devices in such a way to minimise smoke emission. It was also agreed that burning of waste wood would be suspended while requirements for a permit were looked at.

Available information about the devices and fuel burning shows that the aggregated capacity for burn rate is equal to or greater than 50 Kg/hour which is the threshold for requiring a permit under the Environmental Permitting (England and Wales) Regulations 2016 for the incineration / combustion of waste wood. The operator will need to apply for a permit and demonstrate they can achieve best available techniques. As the devices do not currently have a permit they should not be operated to burn waste wood.

Requirements for permitting and compliance with air quality standards have not yet been adequately addressed in supporting information for the application. At this stage I am unclear if the operator is able to achieve the best available technique requirements of a permit which will be necessary to burn waste wood. There has not been sufficient time for the operator to demonstrate if improvements they implemented have resulted in reduced smoke emissions. Additional information is also required to show the devices meet the Air Quality SPD standards. I am not currently in a position to recommend planning permission be granted subject to conditions as additional information is required.”

Development Plan

The North Warwickshire Local Plan 2021 - LP1(Sustainable Development); LP3 (Green Belt), LP11 (Economic Regeneration), LP13 (Rural Employment), LP14 (Landscape), LP15 (historic Environment), LP29 (Development Considerations), LP30 (Built Form), LP32 (New Agricultural, Forestry and Equestrian Buildings) and LP35 (Renewable Energy and Energy Efficiency)

Other Material Planning Considerations

The National Planning Policy Framework

National Planning Practice Guidance

The Air Quality and Planning Guidance SPD – 2019

The Environmental Permitting (England and Wales) Regulations 2016

Observations

a) Introduction

The application before the Board is solely for the retention of the boilers and the small building housing them. The report therefore concentrates on this matter, but other associated matters will also need to be covered.

b) The Green Belt

The application site is in the Green Belt. The construction of new buildings is not appropriate development in the Green Belt as defined by the NPPF. However, there are exceptions to this as also set out in the NPPF. There are two that might be appropriate here. The first is when the construction is of an agricultural or forestry building. This could be the case here if the operation was solely one that was managed as an incidental use to the main use of the holding as an agricultural business. This doesn't apply here as the evidence points by fact and by degree to a separate business use operating in addition to the agricultural business. The second exception is where the construction is of a building being an extension to an existing building provided that it does not result in a disproportionate addition over the size of the original building. Even when the flues are added into this assessment, the overall conclusion does not change. This is considered to be the case here as evidenced by the plans and photographs. As a consequence, the extension is appropriate development in the Green Belt and the presumption is for it to be supported.

However, as Members will have seen from the report the issues here lie not with the actual building operations, but with the use of the building in housing the boilers and their operation.

c) The Boilers

Planning Officers as well as Environmental Health Officers have been engaged on this matter with both the applicant and the objectors.

Local Plan Policy LP29(9) says that all development proposals should avoid and address unacceptable impacts on neighbouring amenities through noise and air quality amongst other matters. Section 15 of the NPPF says that planning decisions should contribute towards compliance with relevant limit values or national objectives for pollutants. The Council also has an adopted up-to-date and relevant Air Quality SPD in

order to assist in the assessment of impacts arising from new developments. This is explicit in its requirements for solid biomass boilers. As reported above the Environmental Health Officer has concluded that there is non-compliance with the SPD's requirements. Members should be aware that it is the emissions from the boilers that has caused the concern, not the steam arising from the drying of the wood.

Officers have been working with the applicant in order to address this non-compliance so as to attempt to meet the SPD standards. In particular, the use of wooden pallets as fuel for the boilers has been the subject of investigation, as has general good practice and maintenance. Officers have allowed time for new practices and better management to take effect and that is the reason why the determination of this application has been delayed. However, the latest response from the Environmental Health Officer still remains one of concern. Additionally, the objectors also continue to raise concerns.

It is acknowledged that any assessment of the consequence of changing the source of the boiler fuel and assessing new management of the boilers will take time, but the Environmental Health Officer's response is not encouraging and quite a period of time has lapsed now since the submission – twelve months. It is thus considered that there is sufficient technical evidence to support a refusal based on LP29(9) as supported by the SPD.

The representations received also refer to noise issues arising from the cutting of wood with chainsaws and also the placing of wood into containers. The location of this activity on the south-eastern side of the farm buildings is more exposed than if it was located within the range of buildings. With the open land beyond it is understandable that noise would be heard particularly from the chain saws. The Environmental Health Officer presently does not consider this to be at a level to constitute a nuisance but clearly there is some disturbance caused to local residential occupiers. Whilst the impact of noise emissions from a working farm could be said to mitigate or lessen the weight to be given to this impact, the fact that the cutting of wood takes place fairly regularly and that this activity is on the edge of the farmyard does give rise to a general amenity issue. Notwithstanding the Environmental Health Officers conclusion, the planning issue is one of the level of residential amenity that neighbours may reasonably expect to experience and not necessarily if that activity is a statutory nuisance.

As a consequence, it is the cumulative impacts here that warrant the recommendation of refusal under Policy LP29(9) as that policy refers to both noise and air quality.

d) Other Matters

i) Heritage

Laxes Farmhouse is to the west of the application building as can be seen on Appendix B. It is a Grade 2 Listed Building.

The Local Planning Authority has a statutory duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses. This duty is directed by Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The significance of the asset here is that a traditional early 19th Century farmhouse has been retained reflecting contemporaneous architectural characteristics. Its significance is enhanced in

that it is still located within a range of agricultural buildings thus also retaining the operational link with the land. There is no direct impact on the building itself from the proposal, but the key issue is whether its setting is harmed. The building is set away from the asset and is small in extent. Additionally, there are more modern buildings within the existing yard and ranges here and so there is no visual harm caused. The smoke arising from the boilers could well be seen as affecting the setting of the farmhouse but given that this is a working agricultural establishment of some size with a variety of different activities being undertaken, there is not considered to be a harmful impact.

ii) Design

The appearance of the building is in-keeping within the range of the functional buildings here and it is not at all prominent. The flues can be seen but are seen against the backdrop of these buildings. They could be coloured if felt to be appropriate.

iii) Other Issues

There are no other harms caused – with no comments being received from the County Council as Highway Authority or as the Lead Flood Authority.

e) Conclusions

The application before the Board is solely for the retention of the boilers and the building in which they are located. The report concludes that the use of the boilers is presently not in accord with the Council's adopted SPD on air quality emissions and also that this is affecting the residential amenity that neighbouring residential occupiers can reasonably expect. As a consequence, the application is recommended for refusal which raises the matter of the expediency of enforcement action. That would require the removal of the boilers and their flues. It's not considered that that action should reasonably include the demolition of the small extension in which they are housed.

The refusal reason is to be based solely on air quality grounds. However, the wider business use is considered to be unauthorised as explained above and consideration of this also needs to be undertaken and that would take into account other impacts on residential amenity such as noise emissions.

f) The Expediency of Enforcement Action

Because of the non-compliance with the Air Quality SPD, it is considered that it would normally be expedient to take enforcement action requiring the removal of the boilers and flues. It is possible that the operator could adjust/adapt his operations and management of the boilers in order to meet the SPD standards, or that he might choose to relocate them to an alternative location elsewhere within the range of existing buildings in the wider farmyard. It is thus considered that a compliance period of six months is appropriate in order for him to review these matters.

The Board should also consider an alternative requirement – that is to say the cessation of the use of the boilers for a period of time, rather than their removal. The compliance period could also be six months in order to review operations and the option of relocation.

In assessing these alternatives, Members are reminded that the firewood business is itself unauthorised. Again, the expediency of enforcement action needs to be reviewed. The removal of the boilers or cessation of their use however will inevitably lead to the cessation of this business.

Members should assess all matters relevant to the expediency matter on the wider business use. In this regard there are significant material planning considerations which are of weight in supporting this business use. The use is one that is appropriate in a rural area and one too that could be considered to be appropriately located within a range of farm or forestry buildings. Paragraph 84 of the NPPF says that decisions should enable growth and expansion of all types of business in rural areas and the diversification of agricultural businesses. Local Plan Policies LP11 and LP13 actively encourages farm diversification and the broadening of employment opportunities. There is thus strong national and local planning policy support behind the retention of the overall business.

Members are reminded that any enforcement action should be proportionate. The planning balance here is not weighted to the cessation of the business. The main causes for concern here are the emissions from the boilers and to some degree the noise from the chainsaws. Action to cease the use of the boilers would resolve the first concern and limit the second. By agreeing to an extended compliance period in which the management and operation of the whole business can be re-assessed, would provide a fully proportionate and reasonable response to the breaches of planning control here.

Recommendations

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

“It has not been demonstrated that the use of the boilers meets the requirements of North Warwickshire Borough Council’s Supplementary Planning Document on Air Quality 2019 adopted in 2019. As a consequence there has been an adverse impact on the residential amenity that neighbouring occupiers could reasonably expect as a consequence of of smoke and smell emissions coming from the flues which are attached to the boilers. The proposal therefore does not accord with Policy LP29 (9) of the North Warwickshire Local Plan 2021 as supported by the Council’s Air Quality SPD 2019 and paragraphs 185 and 186 of the National Planning Policy Framework”.

B) 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 cessation of all use of the boilers and flues as shown on the Plan to accompany the Notice and as illustrated in planning application reference PAP/2020/0473, for the reasons as set out in this report and the refusal reason contained in Recommendation A above 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

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/2020/0473

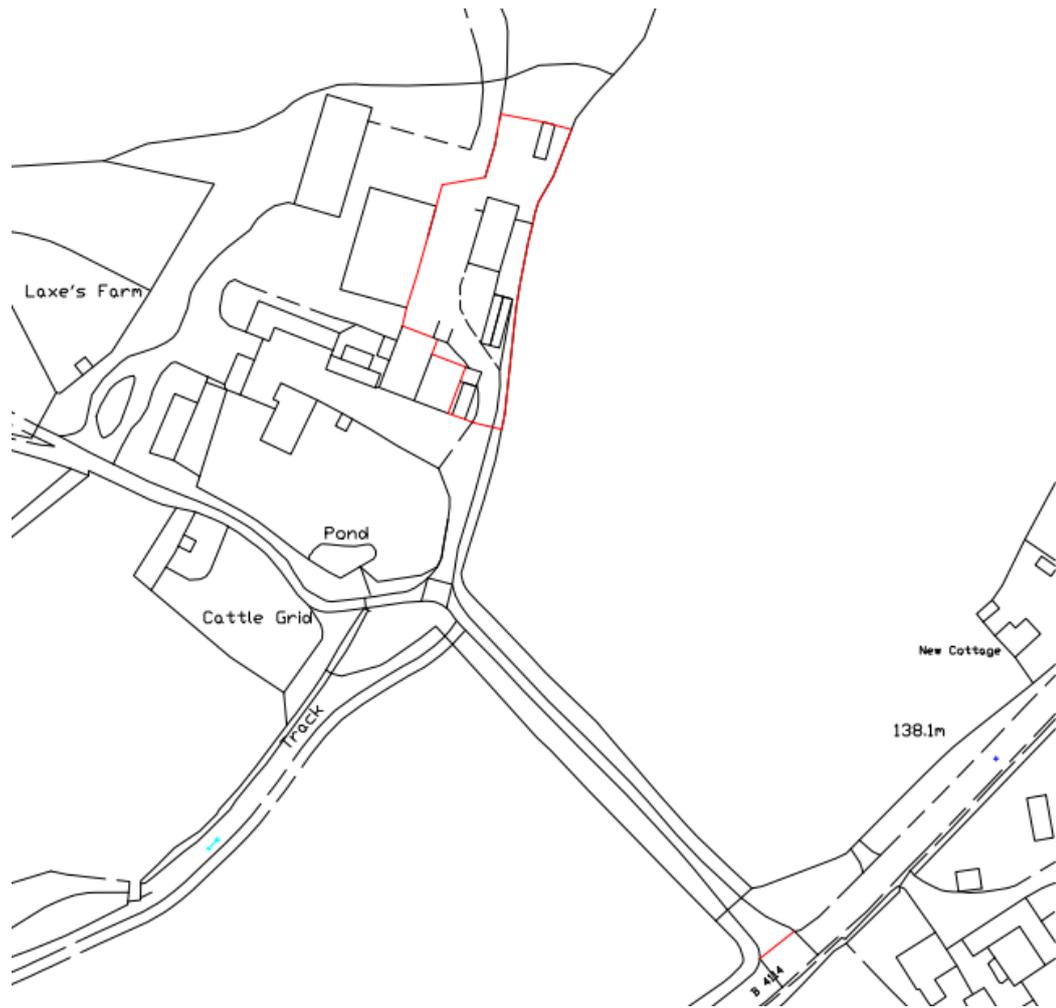
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/10/2020
2	Neighbour representation	Representation and document	24/05/2021
3	Agent	Email to case officer to address objections	27/1/2021
4	Council	Validation email	28/10/2020
5	Agent	Email to Council	19/12/20
6	Agent	Extension of time agreement	21/12/2021
7	Neighbour representation	Objection and photos	03/12/2020
8	Neighbour representation	Objection	7/12/2020
9	Neighbour representation	Objection	6/1/2021
10	Neighbour representation	Objection	25/01/2021
11	Neighbour representation	Images of site	2/7/21
12	Neighbour representation	Representation / comments to officer	29/10/2021
13	Neighbour representation	objection	1/11/2021
14	Neighbour representation	Email to officer and images	5/11/2021
15	Neighbour representation	Information provided to Council	26/11/2021
16	Neighbour representation	image	9/11/2021
17	Neighbour representation	Image	26/11/2021
18	Neighbour representation	Images	29/11/2021
19	Neighbour representation	images	13/10/2021
20	Neighbour representation	Logs of smoke and smell	During 2021
21	Officer	File notes	1 and 8.12.21
22	Neighbour representation	images	3.12.2021
23	Neighbour representation	images	8/11/2021
24	Case officer	Officers visited application site.	17/11/2021
25	NWBC Heritage	Consultation response	3/11/2020
26	NWBC EH	Consultation response	02/02/2021
27	NWBC EH	Consultation response	05/07/2021
28	NWBC EH	Consultation response	07/10/2021
29	NWBC EH	Consultation response	23/11/2021
30	Case officer and applicant	Exchange of emails	11/11/2020 – 02/12/2020
31	Case offices and Neighbours	Exchange of emails	02/12/21 – 7/12/20
32	Case officer and agent	Exchange of emails	19/12/20 – 21/12/20
33	Case officer and neighbour	Exchange of emails	3/1/21 – 22/03/21
34	MPs office and Council	Exchange of emails	31/3/21 –

			1/4/21
35	Case officer and neighbour	Exchange of emails	21/4/21-05/07/21
36	Case officer and agent	Exchange of emails	31/03/21 – 22/7/21
37	Case officer and EH officer	Exchange of emails	24/5/21 -
38	Agent	Air Quality assessment provided	6/8/21
39	Case officer and neighbour	Exchange of emails	12/08/21 -
40	Case officer and agent	Exchange of emails	6/8/21 – 24/11/21
41	Case officer and EH officer	Exchange of emails	17/9/21 – 15/12/21
42	Case officer and EH officer visited neighbour site	visit	1/10/21
43	EH officer	Email to agent	18/11/21

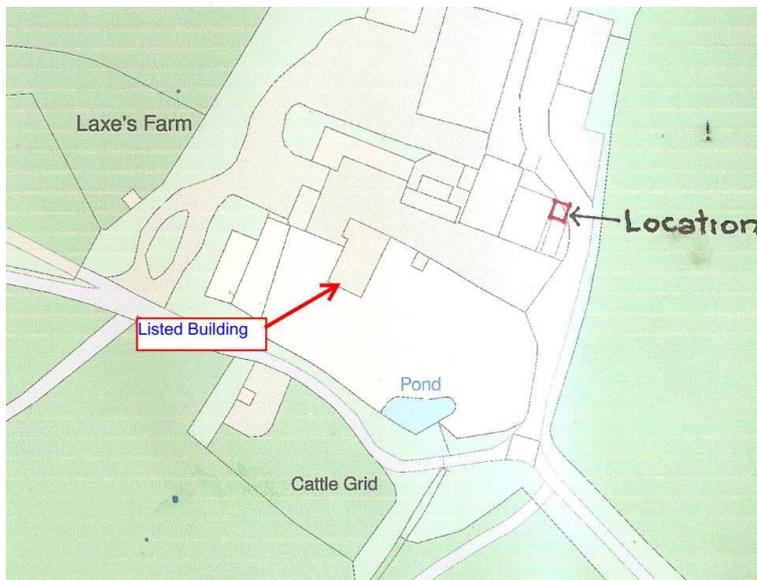
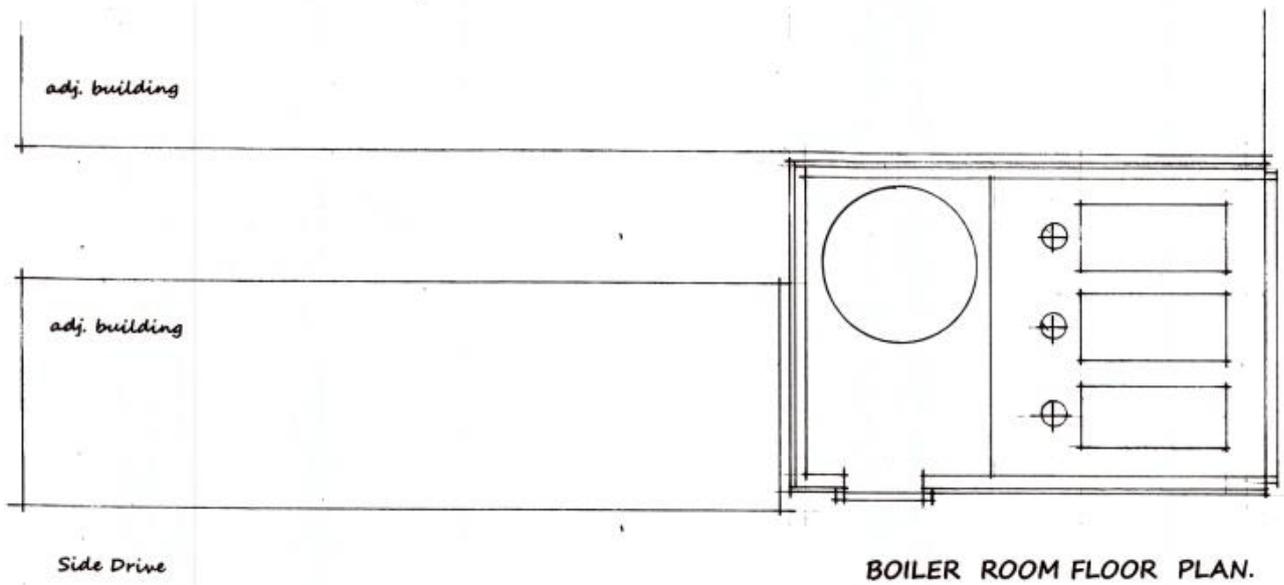
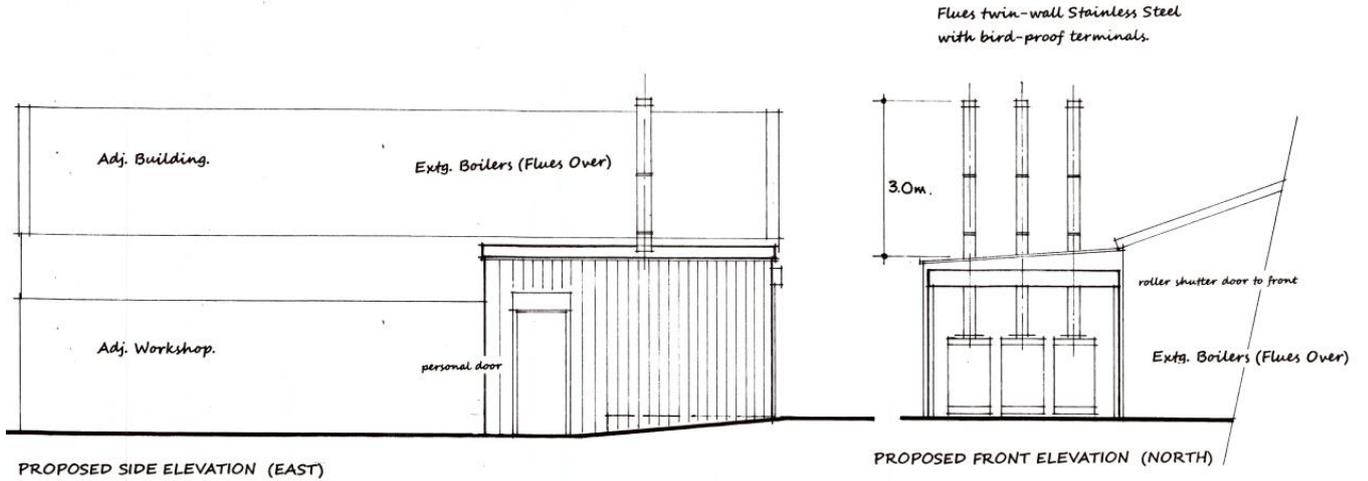
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.

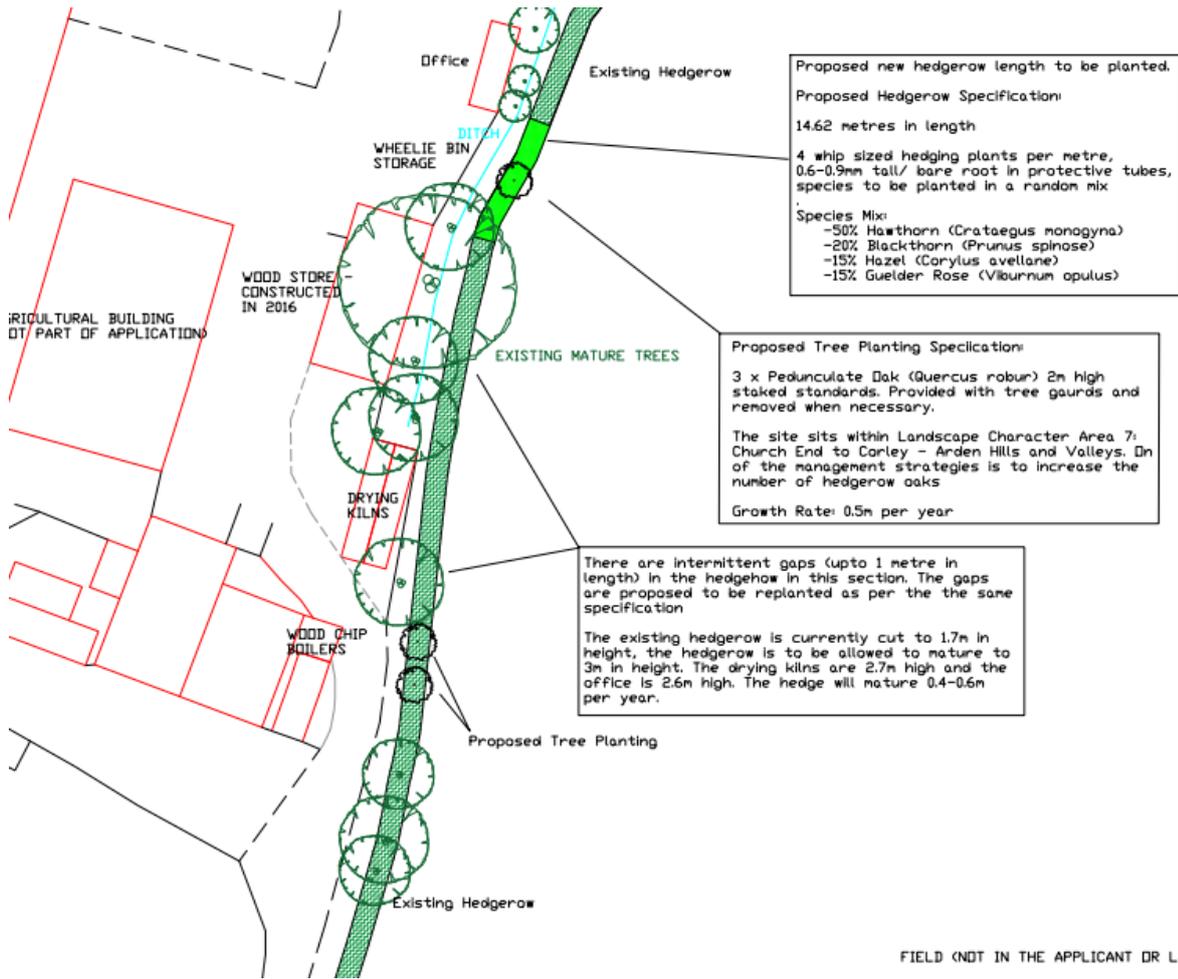
Appendix A – Site Location Plan



Appendix B - Plan



Appendix C – Landscaping Plan



Proposed new hedgerow length to be planted.
 Proposed Hedgerow Specification:
 14.62 metres in length
 4 whip sized hedging plants per metre, 0.6-0.9m tall/ bare root in protective tubes, species to be planted in a random mix
 Species Mix:
 -50% Hawthorn (*Crataegus monogyna*)
 -20% Blackthorn (*Prunus spinosa*)
 -15% Hazel (*Corylus avellane*)
 -15% Guelder Rose (*Viburnum opulus*)

Proposed Tree Planting Specification:
 3 x Pedunculate Oak (*Quercus robur*) 2m high staked standards. Provided with tree gaurds and removed when necessary.
 The site sits within Landscape Character Area 7: Church End to Corley - Arden Hills and Valleys. One of the management strategies is to increase the number of hedgerow oaks
 Growth Rate: 0.5m per year

There are intermittent gaps (upto 1 metre in length) in the hedgerow in this section. The gaps are proposed to be replanted as per the the same specification
 The existing hedgerow is currently cut to 1.7m in height, the hedgerow is to be allowed to mature to 3m in height. The drying kilns are 2.7m high and the office is 2.6m high. The hedge will mature 0.4-0.6m per year.

FIELD (NOT IN THE APPLICANT OR LANDLORD'S OWNERSHIP)

Appendix D – Officer's Photos







Our firewood is all harvested locally. This means that we cut out the middleman, we save on haulage meaning that you get better quality logs at a better price. All wood is cut, prepared and logs and firewood loaded on the farm to ensure the best quality and service.

We use sustainable resources such as woodland thinning, dangerous or dead trees. No trees are unnecessarily cut down. Our logs are kiln dried to ensure a low moisture content and great burning characteristics. We check all our firewood with a moisture test before deliver.

We are committed to providing guaranteed top quality kiln dried firewood throughout the Midlands area to keep you warm all winter. Our logs are dried and stacked in our waterproof barn to ensure they stay dry all year round.

Our standard average log length is 10", but we can supply logs in any length required. These take 2 weeks to process as we have to run them through our kiln. Log types are all hardwood mainly Ash, Birch, Oak, Sycamore and Beech.

**Appendix F - Selected Objector's
Photos / stills from videos**



