

Agenda Item No 5

Planning and Development Board

7 December 2020

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.

2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.

2.3 The proposals presented for decision are set out in the index at the front of the attached report.

2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications.

3 Implications

3.1 Should there be any implications in respect of:

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

4 Site Visits

4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.

4.2 Members are reminded of the “Planning Protocol for Members and Officers dealing with Planning Matters”, in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

5 **Availability**

5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council’s web site: www.northwarks.gov.uk.

5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 11 January 2021 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

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5/d	PAP/2021/0358	16	79 Friary Road Erection of outbuilding	General
5/e	PAP/2020/0420	21	Land east of Islington Farm, Wood End Outline application for residential development of up to 34 dwellings and associated works with access being considered at outline stage.	General
5/f	PAP/2018/0349	36	Land – Whitegate Stables, Lea Marston Change of use of field from market/car boot sales from 14 to 28 days annually and retain vehicle access onto Kingsbury Road.	General
5/g	PAP/2020/0340	62	3 Hillside, Kingsbury Outbuilding at bottom of garden for use as gym space	General
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General Development Applications

(5/a) Application No: PAP/2020/0561

Memorial Hall, Long Street, Atherstone, B78 1DS

Works to trees in Conservation Area, for

North Warwickshire Borough Council

Introduction

This application is referred to the Board as the Council owns the land.

The Site

The Memorial Hall stands at the far western end of Long Street on its northern side extending back to Croft Road at its rear. The tree the subject of this application is at the rear north-eastern corner of the Hall close to the side road access. Its location is shown as T1 on the plan at Appendix A.

The Proposals

The tree concerned is a mature London Plane which in a good state of health but it needs minimal and sympathetic treatment in order to prevent it causing a future issue particularly in respect of the buildings on the other side of the access. It is proposed to create and maintain a three-metre clearance from those buildings. A report is attached at Appendix B.

Background

The application is submitted because the tree is located in the Atherstone Conservation Area. In this regard the Board's remit here is to assess whether or not the tree should be the subject of a Tree Preservation Order.

Observations

The works proposed here are reasonable and proportionate such as to avoid a potential nuisance. It is not considered that an Order is appropriate given that the tree is in the ownership of a Local Authority with the tree not being under threat.

Recommendation

That it is not expedient in this case to make an Order and as such the proposed works may continue.

BACKGROUND PAPERS

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

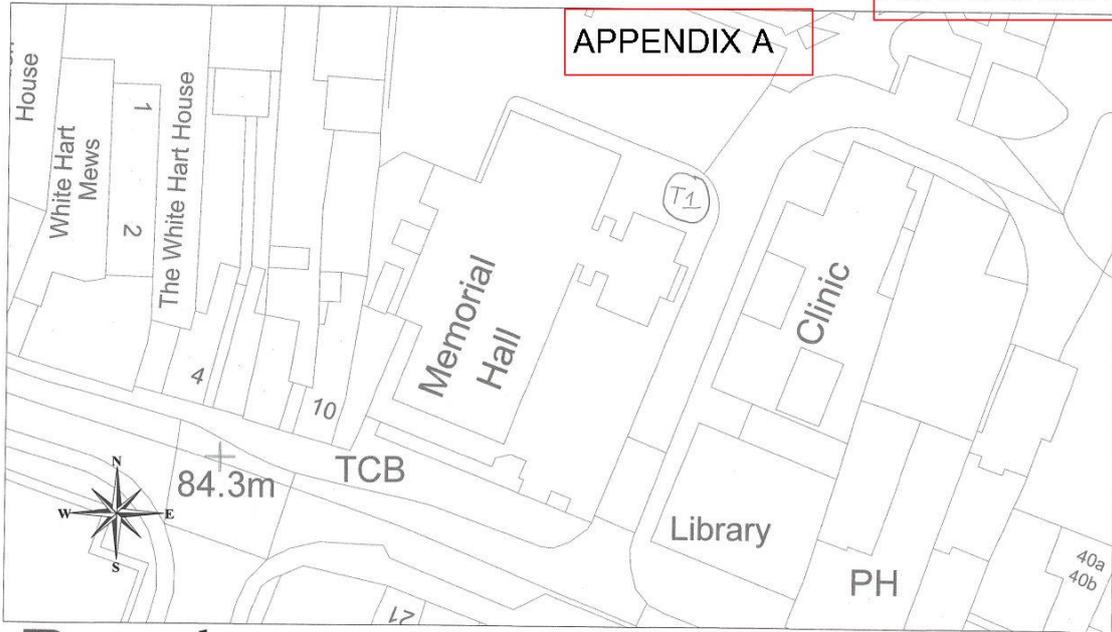
Planning Application No: PAP/2020/0561

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	23/10/20

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



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ARBORICULTURAL APPRAISAL /INSPECTION/TREE REPORT

- **NWBC Ref No:** NWBC Notification Memorial Hall
- **Site Address:** Memorial Hall, Long Street, Atherstone, CV9 1AX
- **Prepared by** Andrew Watkins
- **Prepared for:** Planning Notification
- **Date of Inspection:** 21/10/2020
- **Date of Report:** 23/10/2020

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**PLANNING & DEVELOPMENT
DIVISION****Works applied for:**

- Works to a tree within a Conservation Area.
- T1 London Plane. Create and maintain a three-metre clearance from NHS Clinic Building adjacent to tree. Works required to Abate a Nuisance.

Observations:

- The tree within this report is located upon land owned by North Warwickshire Borough Council, the canopy of which is in close proximity to other structures within the immediate area. This area is within the Atherstone Conservation Area. This Notification follows the un-scheduled re-inspection of the tree by the North Warwickshire Borough Council Green Space Officer (Trees) (the author of this report) further to representation received by the Facilities Management department of a neighbouring building.
- **T1. London Plane.** This specimen is seen to be mature in age class. This specimen is seen to be in a very good state of health and the requested works to the tree are only required to prevent any possible legal action against the Authority due to damage to neighbouring buildings if a clearance is not created and maintained.



The Authority has the opportunity to deny the works requested to T1 by the placement of a Tree Preservation Order (TPO). It is felt that at this time it would not be expedient to place such an Order, as due to the ownership of the tree (Local Authority) only necessary works would be performed to the tree and that these recently requested works are seen to be of a most minimal and sympathetic nature. It must be noted that in relation to the

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

Occupiers Liability Act of both 1957 and 1984 (1) an occupier with control over premises (which can be gardens and woodland) is liable to take such care that is “reasonable” to see that either the visitor (under the 1957 part of the Act) or trespasser (under the 1984 part of the Act) will be reasonably safe. A higher standard of care is owed to a visitor than for a trespasser and a higher standard still is required for a child compared with an adult. The works notified to the three trees is deemed to be a reasonable response to the hazards posed by these specimens. Although not mentioned within the Act, a responsible landowner must also take what action is necessary to prevent Nuisances, wherever possible.

- **Recommendations:**

Facilitate the works to T1 after the Notification period has expired.

- **Appendices**

None

- **References**

1. The Occupiers Liability Act (1957 and 1984).

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

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General Development Applications

(5b) Application No: PAP/2020/0562

2, Owen Street, Atherstone, CV9 1DG

Works to trees in Conservation Area, for

North Warwickshire Borough Council

Introduction

The application is referred to the Board as the trees are on land owned by the Council.

The Site

The trees are at the rear of number 2 Owen Street which is close to the flats on St Benedict's Close.

A location plan is at Appendix A.

The Proposals

There are six trees involved in this location – a London Plane; three lime trees, an ash and an acer. As can be seen from the plan they are in close proximity to each other.

The proposals arise following inspection by relevant Council officers and instructions from a Loss Adjustor assigned to the Council's Insurance Company following a subsidence claim against the Council, together with members of the public tripping over an uneven surface caused by root systems.

Background

The trees are within the Atherstone Conservation Area. The Council's remit here is assess whether the trees are worthy of individual Protection Orders.

The Proposals

The works proposed are now explained.

- The Plane tree is mature and in good health. However major roots from the tree have caused the road surface to lift to the point that they are now trip hazards. A member of the public has tripped over the roots and in order to remove the hazard, the advice is that roots should be removed. However the identified roots are significant and in doing so, the structural integrity of the tree itself would be severely prejudiced. It is thus proposed to fell the tree.
- The remaining five trees have been the subject of discussion between the Council's Insurers and that of a local resident alleging that root systems are have caused subsidence damage to his property and that they are continuing to do so.

The Council's Loss Adjustor has recommended removal of all of the trees so that the Council will be without liability should further damage be caused.

A report is attached at Appendix B

Observations

The Council's remit here under the Tree Regulations is only to assess whether or not the trees are worthy of Preservation Orders. Members are aware that Orders are unusual in respect of trees owned by a Local Authority. The trees are clearly under threat and the trees do have public amenity value being prominent visually. However, there is wider public amenity issue here. As owners of the trees the Council has to weigh the liability of retaining these particular trees in the public interest as against their wider public amenity value. In this case it is considered that the public interest lies in not making Orders.

The recommendation below includes taking the opportunity to replacing the trees with more appropriate species.

Recommendation

That the Council does not consider it expedient to make Preservation Orders in this case and that officers take the opportunity to agree appropriate replacement trees.

BACKGROUND PAPERS

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

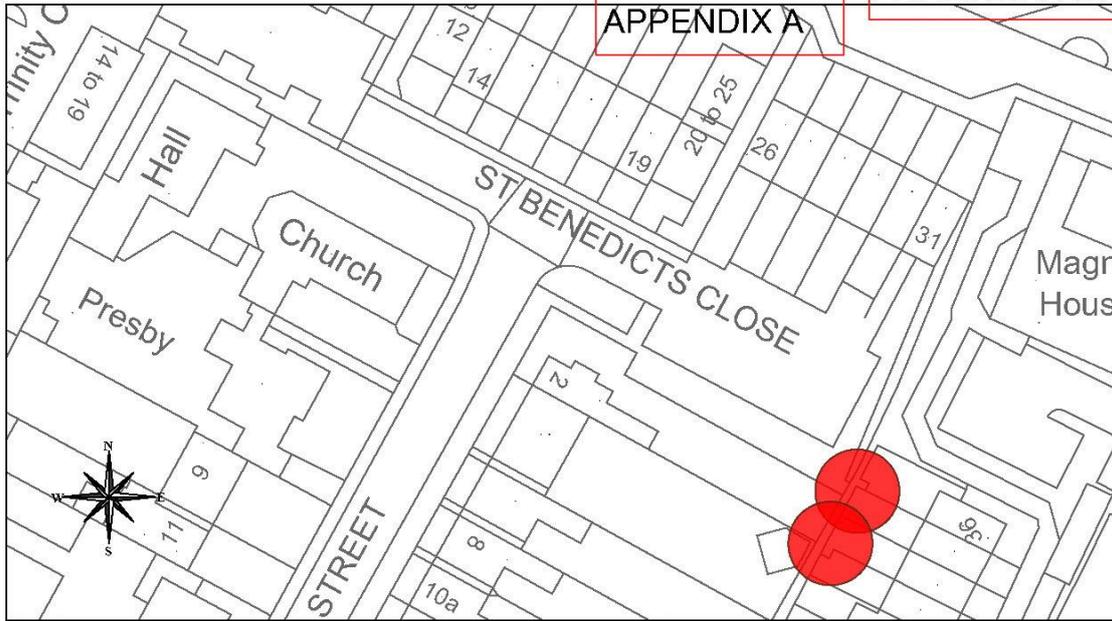
Planning Application No: PAP/2020/0562

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/10/20

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



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ARBORICULTURAL APPRAISAL /INSPECTION/TREE REPORT

- **NWBC Ref No:** NWBC Notification St Benedict's Close
- **Site Address:** St Benedict's Close, Atherstone, CV9 1EP
- **Prepared by** Andrew Watkins
- **Prepared for:** Planning Notification
- **Date of Inspections:** 2018, 2019 & 2020
- **Date of Report:** 23/10/2020

Works applied for:

- Works to trees within a Conservation Area.
- **T1 London Plane.** Fell to allow removal of root plate to enable re-instatement of roadway after removal of trip hazard.
- **T2 Lime.** Remove to prevent Authority liability in relation to an on-going Subsidence Claim against the organisation.
- **T3 Lime.** Remove to prevent future Authority liability in relation to an on-going Subsidence Claim against the organisation.
- **T4 Lime.** Remove to prevent future Authority liability in relation to an on-going Subsidence Claim against the organisation.
- **T5 Ash.** Remove to prevent future Authority liability in relation to an on-going Subsidence Claim against the organisation.
- **T6 Acer.** Remove to prevent future Authority liability in relation to an on-going Subsidence Claim against the organisation.
- **Observations:**
 - The trees within this report are located upon land owned by North Warwickshire Borough Council within the Atherstone Conservation Area. This Notification follows the un-scheduled re-inspection of the trees by the North Warwickshire Borough Council Green Space Officer (Trees) (the author of this report) further to representation received by both the Civil Engineering Department of the Authority, and instruction from the Loss Adjuster assigned to the Authority's Insurance company following a Subsidence Claim against the Authority.
- **T1. London Plane.** This specimen is seen to be mature in age class. This specimen is seen to be in a very good state of health and the requested works to the tree are required due to works needed to remove major roots from the tree that have caused the road surface to lift to a point that they have become a trip hazard. It has been reported to the

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Authority that a resident local to the tree had tripped over the surface of the road earlier in 2020. The Civil Engineer for the Authority has concluded that the only viable remedy to remove the trip hazard is to remove all roots from this tree that are beneath the road surface. It can be reported that this removal of roots will severely impact upon the structural integrity of the root system to a point that the tree will fail. The removal of the tree before the removal of the roots will prevent such a failing.

- **T1 London Plane**



- **Trees 2-6**

These trees have been the subject of lengthy, ongoing discussion between the Authority's insurance company and the insurance company that represents a local resident. The resident's insurance company maintain that T2 has caused subsidence damage to the property (Owen Street, Atherstone) and that removal of T2 is required to remove the continuing impact that the tree has upon the footings of the building. The remaining trees have been the subject of an associated tree report that was submitted to the Authority via its insurance company. The report has stated that these trees have the future potential to cause subsidence damage to the property. The Loss Adjuster for the Authority has recommended that all of the trees be removed in a timely manner so that the Authority will be without liability should further damage be caused to the property and that this action would be the only legally defensible action for the Authority to take.

The Authority has the opportunity to deny the works requested to all of the trees within the Notification by the placement of Tree Preservation Orders (TPOs). It is felt that at this time it would not be expedient to place such Orders, as due to the nature of the Nuisances noted by the trees remaining in position, the Authority may find itself financially liable for injury or damage caused.

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

It must be noted that in relation to the Occupiers Liability Act of both 1957 and 1984 ⁽¹⁾ an occupier with control over premises (which can be gardens and woodland) is liable to take such care that is "reasonable" to see that either the visitor (under the 1957 part of the Act) or trespasser (under the 1984 part of the Act) will be reasonably safe. A higher standard of care is owed to a visitor than for a trespasser and a higher standard still is required for a child compared with an adult. The works notified to the three trees is deemed to be a reasonable response to the hazards posed by these specimens. Although not mentioned within the Act, a responsible landowner must also take what action is necessary to prevent Nuisances, wherever possible.

- **Recommendations:**

Facilitate the works to T's 1 to 6 after the Notification period has expired.

- **Appendices**

None

- **References**

1. The Occupiers Liability Act (1957 and 1984).

Andrew Watkins *Tech Cert (Arbor A) Cert Arb (RFS)* Green Spaces Officer (Trees)

North Warwickshire Borough Council Tel: 01827 719212 Mob: 07875700111

General Development Applications

(5c) Application No: CON/2020/0015

Birmingham Road, Water Orton

Submission under Schedule 17 (6) of the High Speed Rail (London to West Midlands) Act 2017 for approval of lorry routes to/from the Bromford Tunnel East Portal for

HS2 (Ltd)

Introduction

This application has been submitted to the Birmingham City Council and it in turn has invited the Borough Council to comment on the proposals.

The Site

The site access for the east portal of the Bromford Tunnel is on the south side of the B4118 Birmingham Road about 800 metres west of Water Orton just before the road crosses the M6 motorway. The portal will be around 200 metres south of the Road close to the M6 Motorway. The western portal is some 5 kilometres to the west at Washwood Heath.

The Proposals

Works here include the construction of a new bell-mouth access; setting up of the site compound and all of the associated facilities to be used in the construction of the eastern portal to the tunnel. This Schedule 17 application however is NOT for these works – it is for the approval of the routes to be used by construction traffic to complete these initial preparation works.

Access to the site will be from the east – that is through Water Orton using the route from the A446 along Watton Lane. Access from the site will be to the west – that is continuing along Birmingham Road into Castle Bromwich and hence to the M6 at Junction 5. Maximum movements are estimated to be 40 2-way movements a day with the operations running from 0800 to 1800 hours on weekdays and 0800 to 1300 hours on Saturdays. These initial works are programmed to start before the end of 2020 and last for a year.

These routes are illustrated at Appendix A.

The actual build of the tunnel portal and the tunnelling will then extend from late 2021 to the end of 2024. Access to the eastern portal for this period will be directly off the M6 – M42 eastbound link road south of Water Orton. This will involve a new left-in and left-out junction onto the east bound carriageway and a length of new haul road from here, across Attleboro Lane to the east portal of the tunnel. This arrangement would also be used in connection with the construction of the HS2 line south of Water Orton.c

Background

HS2Ltd has applied for an Order under the Transport and Works Act 1992 to vary the works on this stretch of the HS2 line so as to extend the tunnel on the west side of Water Orton. The decision to extend the eastern portal of the tunnel will necessitate fresh works to access its construction. The routing described above in this application is solely for the preparation works and NOT for the tunnelling operations.

The proposed sub-station for the tunnel to be constructed close to Attleborough Lane is the subject of a separate planning application. That is already with the Borough Council and will be determined through the normal planning process.

Observations

The only vehicular access routes to the site compound are through Water Orton and Castle Bromwich, both through residential areas with their community facilities. There is no avoiding this. As a consequence, there is little that either this Council or the City Council can do apart from requesting appropriate mitigation – hours of operation and cleaning of roads etc.

Members will have noticed that the later main operations for construction of the tunnel will involve direct access via the Motorway system.

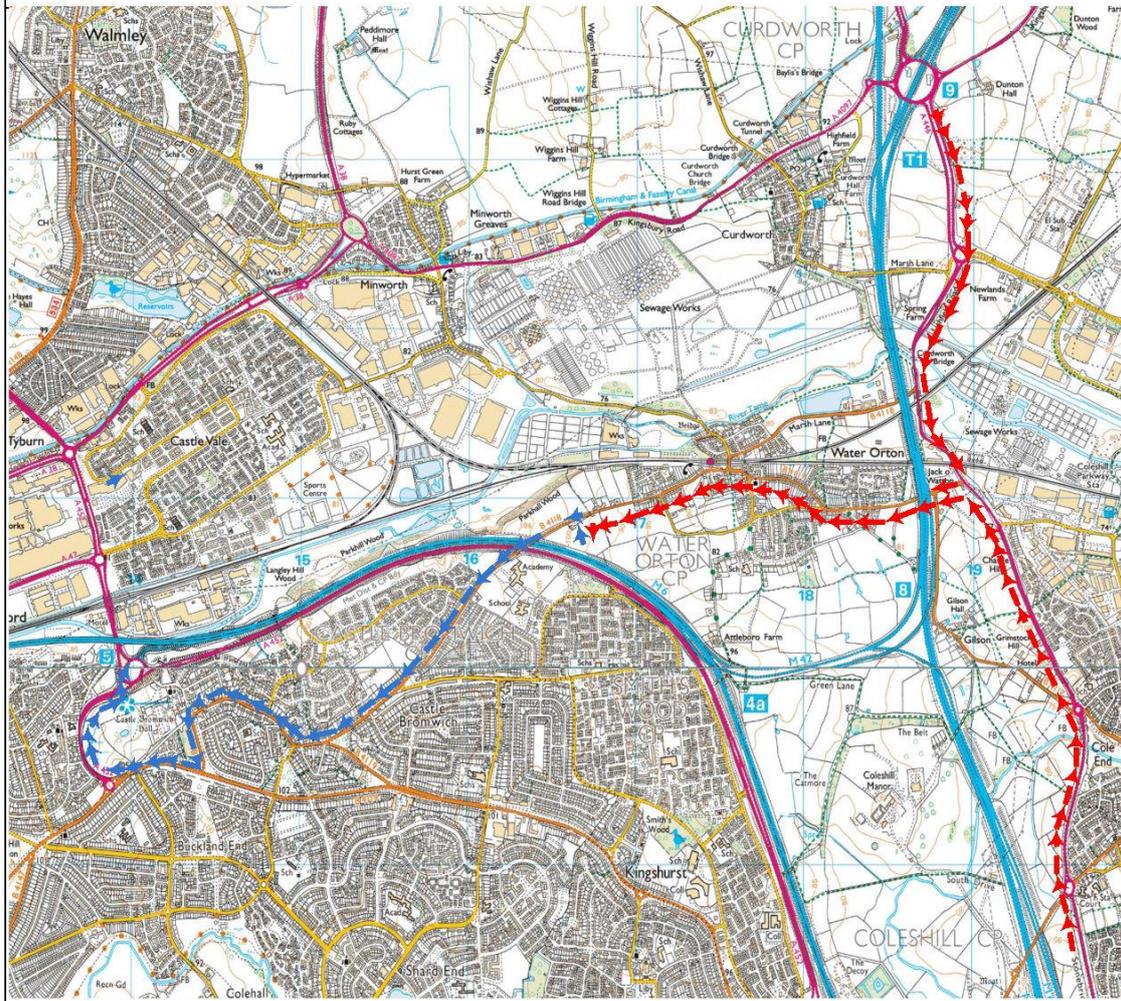
Recommendation

That subject to the tunnel being approved under The Transport and Works Act No Objection be raised subject to the mitigation measures referred to in the report.

Document Title: Sch17 Lorry Route – B4118 Water Orton Compound
 Document No: 1MC09-BBV-CL-MAP-N002-000001
 Revision: C01
 Consents Register Ref:

APPENDIX A

B4118 Water Orton Compound



Key:

- - - - - → Inbound – Green Route
- - - - - → Outbound – Orange Route

General Development Applications

(5d) Application No: PAP/2020/0358

79, Friary Road, Atherstone, CV9 3AL

Erection of outbuilding, for

Ms Ewelina Stecyk

Introduction

This item is referred to the Board by a local Member concerned about the potential impact of the proposal.

The Site

This is a two-storey semi-detached property on the north side of Friary Road within a frontage of similar properties with residential development at the rear. It is illustrated at Appendix A.

The Proposal

Planning permission is sought for an outbuilding at the rear of the property. It would measure 5 by 8 metres with a pitched roof at 3.66 metres and be timber clad with roofing tiles. It would also include a basement with the same floor area.

The applicant proposes to use the building for his hobby – model making – and for home working.

Details are illustrated at Appendices A, B and C.

Representations

Atherstone Town Council – No objection subject to any neighbour objection.

An objection has been received from a local resident concerned about the use of the building and potential structural issues with the basement.

Development Plan

The Core Strategy 2014 – NW10 (Development Considerations)

Other Material Planning Considerations

The National Planning Policy Framework

Observations

The design of the building is complimentary to the host dwelling and in terms of its scale and positioning there are no issues with potential overlooking or loss of residential amenity. Indeed the only representation received relates to its potential use and structural integrity.

These matters carry very little weight in planning terms. Permitted Development rights enable the construction of outbuildings in locations such as this subject to conditions. The only reason for the application here is the height close to the boundary fence.

Moreover the use of the building can be conditioned to it being solely used for incidental residential use and restricting full residential or business use. The structural integrity of the construction and its impact on neighbouring buildings is a matter for the Building Regulations.

Recommendation

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

1. Standard Three Year condition
2. Standard Plan number condition – plan numbers 01C; 03B and 05B
3. The building hereby approved shall not be used for any purpose within Class C3 of the Town and Country (Use Classes) Order 2020 other than for use incidental to the residential use of 79 Friary Road and specifically nor for any use within Class E of that Order.

REASON

In the interests of the residential amenity of neighbouring property

Notes

1. The Local Planning Authority has met the requirements of the National Planning Policy Framework in this case through seeking to resolve representations received if possible.
2. Standard Party Wall Act Informatives
3. Particular attention is drawn to the need to secure and establish the proper structural integrity of the building as well as to protect neighbouring properties through the Building Regulations

BACKGROUND PAPERS

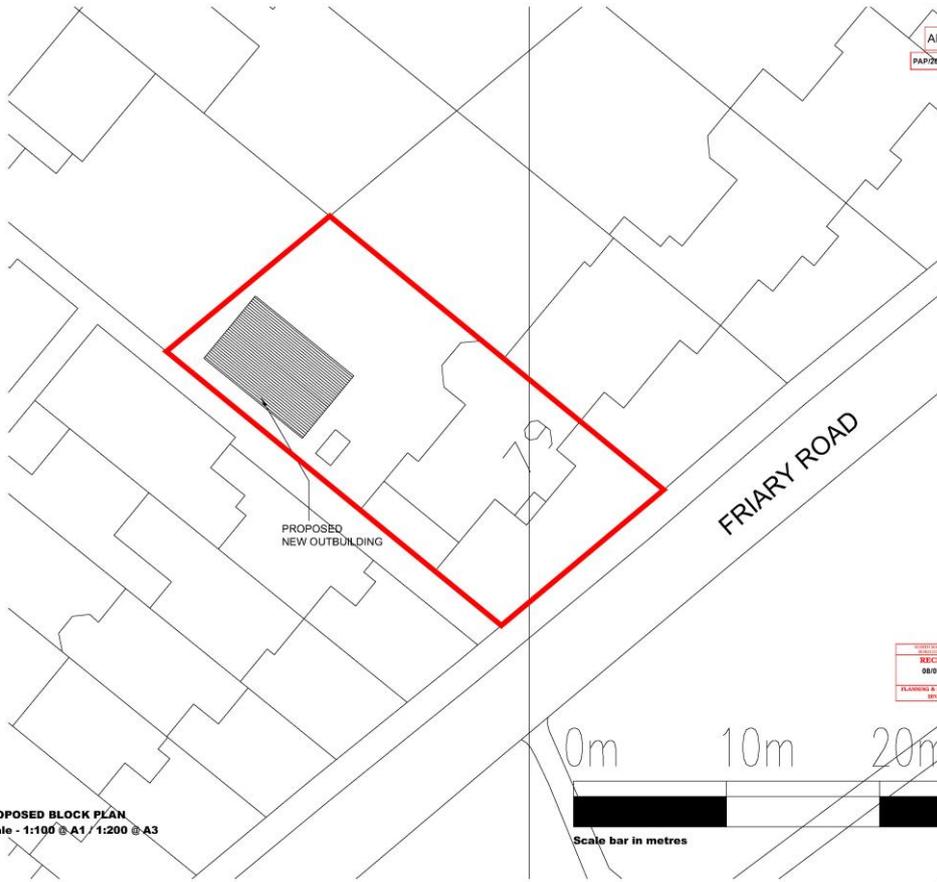
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2020/0358

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	8/7/20
2	Atherstone Town Council	Representation	19/8/20
3	Resident	Representation	

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.

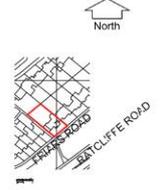
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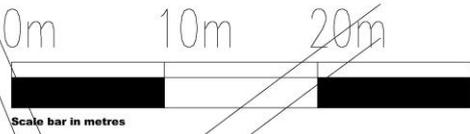
PROPOSED BLOCK PLAN
Scale - 1:100 @ A1 / 1:200 @ A3

APPENDIX A
PAP/2020/0358

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LOCATION PLAN
Scale - 1:1250 @ A1 / 1:2500 @ A3



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08/07/2020
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RIBA #
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Project Title:
PROPOSED OUTBUILDING at 75
Friary Road, Atherton, CV9 3AL

Client:
E. Stoyke

Drawing Title:
Location / proposed block plan

File Number: F/1

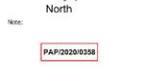
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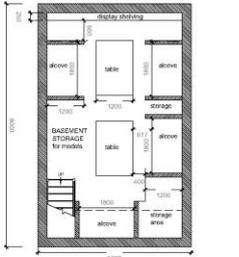
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Dwg No: 01 **Rev:** C

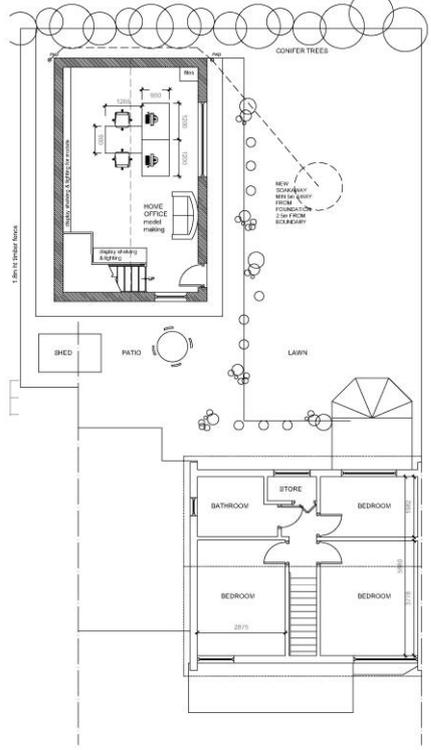
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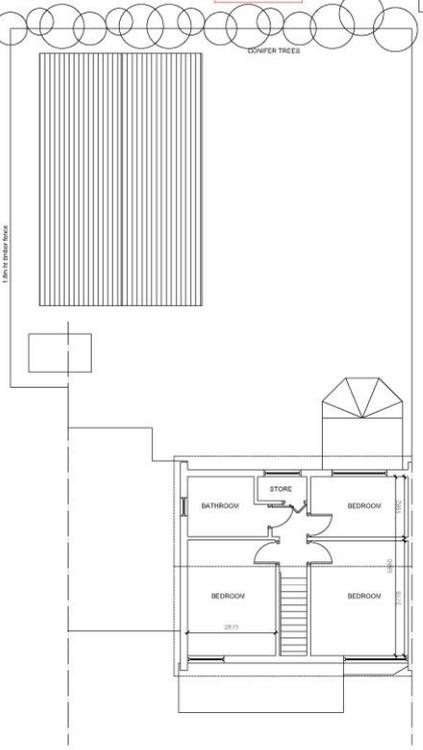
PAP/2020/0358



PROPOSED BASEMENT FLOOR PLAN
Scale - 1:50 @ A1 / 1:100 @ A3



PROPOSED GROUND FLOOR PLAN
Scale - 1:50 @ A1 / 1:100 @ A3



PROPOSED ROOF / FIRST FLOOR PLAN
Scale - 1:50 @ A1 / 1:100 @ A3

RECEIVED
08/07/2020
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RIBA #
Royal Institute of
British Architects

Project Title:
PROPOSED OUTBUILDING at 75
Friary Road, Atherton, CV9 3AL

Client:
E. Stoyke

Drawing Title:
Proposed plans

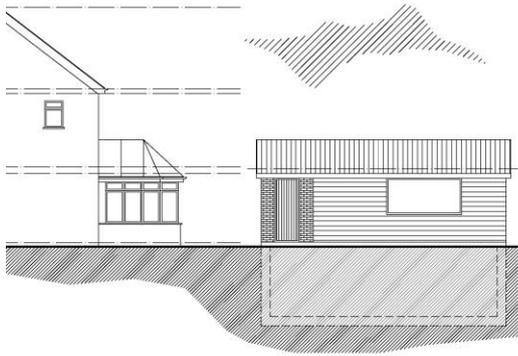
File Number: F/1

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Scale: A1: 1:50 Date: 3.6.20

Dwg No: 03 **Rev:** B



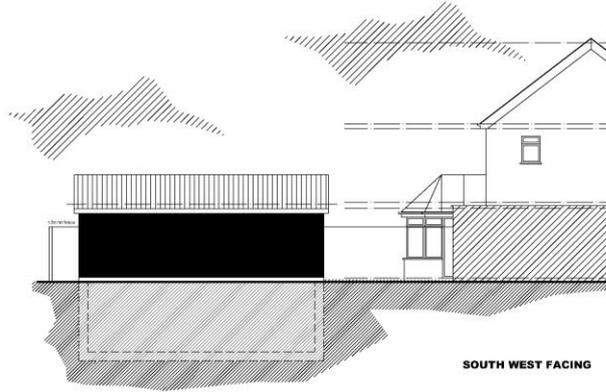
NORTH - EAST FACING



NORTH - WEST FACING



SOUTH EAST FACING



SOUTH WEST FACING

PROPOSED ELEVATIONS
 Scale - 1:50 @ A1 / 1:100 @ A3

APPENDIX C

Responsibility is not accepted for errors made by others in creating these drawings. It is the responsibility of the client to ensure that the drawings are used for the intended purpose and that the client is satisfied with the design and construction of the building.

PAP/2020/2558

Note:

- Material key:**
- new windows - UPVC colour t.b.c
 - Fascia & soffits - oak
 - Rainwater goods - upvc
 - Roof - Tile to match existing
 - Brick - to match existing
 - cladding - oak timber
 - render - Weber system

RECEIVED
 08/07/2020
 PLANNING & DEVELOPMENT
 DIVISION

Kree8

Architectural Services
 RIBA #
 Royal Institute of
 British Architects

Project Title:
 PROPOSED OUTBUILDING at 75
 Flaxey Road, Ashbourne, CV9 3AL

Client:
 E. Eshayk

Drawing Title:
 Proposed elevations

File Number:	FR1
Drawn By:	WCL
Checked By:	WCL
Scale:	A1: 1:50 A3: 1:100
Drawn Date:	05
Rev:	B

General Development Applications

(5/e) Application No: PAP/2020/0420

Land East Of Islington Farm, Tamworth Road, Wood End,

Outline application for residential development of up to 34 no. dwellings and associated works, with access being considered at outline stage for

- Summix IFW Developments Limited

Introduction

The receipt of this application was referred to the Board earlier this year and a copy of that report is attached at Appendix A.

An illustration of a potential layout is at Appendix B.

Consultations

Police (Architectural Liaison) – No objection and detailed design advice passed onto the applicant.

NWBC (Refuse and Waste) – Some detailed design points have been forwarded to the applicant for consideration at the detailed stage.

Warwickshire County Council as Lead Local Flood Authority – No objection subject to standard conditions.

Warwickshire County Council (Rights of Way) – No objection.

Warwickshire County Council (Ecology) – A bio-diversity loss would result as a consequence of the proposal and thus an off-setting contribution is requested.

NWBC Recreation and Leisure – A contribution is requested so as to enhance existing facilities.

Warwickshire County Council as Highway Authority – It has no objection in principle but has asked for more detail on the design of the access.

Warwickshire County Council as Education Authority – No objection and no contribution is sought as there is sufficient capacity in the existing area schools

Warwickshire Fire Services – No objection subject to a standard condition

Warwick Museum - No objection

Environmental Health Officer – No objection subject to conditions

Draft Section 106 Contributions

NWBC Leisure and Community Development – £45,904 for off-site youth provision and £13,044 for leisure facilities

WCC Ecology Off-Setting - £164,297 for bio-diversity enhancement off-site.

George Eliot NHS Trust - £28,158 for local enhancements

WCC Public Health – £7,363 towards enhancements to local facilities

WCC Rights of Way - £3217 towards the maintenance of local public footpaths.

Affordable Housing – 40% on site provision (14 dwellings)

Representations

Six letters of objection have been received referring to the following matters:

- Wood End is not suitable for the scale of new housing proposed.
- There are inadequate services and facilities in the village
- It will be the precursor of more applications if approved
- Water pressure is poor
- The character of the village will change
- The access is onto a bend and there is congestion at the village shop
- Concerns about the efficacy of the surface water drainage proposals
- Adverse noise impacts arising from the new access
- Lack of privacy for the Tamworth Road and Delves Crescent residents

Observations

a) Introduction

This site is outside of but adjoining the Wood End development boundary as defined by the Core Strategy. However, as Members are aware development boundaries have been found to be out-of-date following the Daw Mill appeal decision. In these circumstances the NPPF advises that where the policies most important to the determination of a planning application are out of date, then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole – paragraph 11. As a consequence, the presumption here is to support the proposed development unless significant harm is likely to be caused.

That support is given added weight in this case as the whole of the application site is on land proposed to be allocated for residential development in the emerging Local Plan which will supersede the Core Strategy. This is the site known as H28 in that Local Plan and it is allocated for 28 dwellings. The allocation does not carry full weight at this time, but its inclusion does add some weight to the situation set out in the paragraph above.

b) Harms

As indicated above, harms should be significant and demonstrable if they are to form the basis of a refusal here. Moreover, the harms are to be assessed against the NPPF and not the Core Strategy. There are several potential harms which need to be looked at.

The key theme running through the NPPF is the promotion and delivery of sustainable development. This reflected in the identification of the settlement hierarchy in the Core Strategy. In this case Wood End is a Category Four settlement where new development is to be limited because of the range of local services it has and a minimum figure of 30 new dwellings is identified. That figure of 30 has been accommodated in recent years since the beginning of the plan period - new houses since 2011. That in itself is not a reason for refusal here as the figure of 30 is a minimum and in view of the development boundaries being out of date, the issue is whether the current application would lead to unsustainable development. It is considered not. There are several reasons for this.

Firstly, in view of the growth in the Borough's housing requirement after the Core Strategy, there is an ongoing need to provide new houses. Secondly, recognition of this is contained in the emerging Local Plan which whilst retaining Wood End as a Category Four settlement, does propose an allocation of further residential land. Thirdly, that allocation is the current application site. Fourthly, the proposal adjoins the current built up boundary of Wood End on three sides and enables reasonable pedestrian and cycle access into the village. Finally, the scale of the development is proportionate in that it will assist in the viability of the local shop; assist in bus patronage and in keeping numbers at the local primary school. There will be some adverse impacts as a consequence – notably increased traffic and parking – but these are highly localised and temporary in nature and it is considered that the ongoing viability of retaining these services clearly outweighs them. Indeed, the sustainability appraisal work undertaken to evidence the proposed additional allocation in Wood End supports this conclusion. In overall terms therefore it is considered that it cannot be demonstrated that this is unsustainable development.

The NPPF requires new development to be sympathetic to local character and history, including the surrounding built environment and landscape setting; to create places that are safe and accessible, with a high standard of amenity and which will function well. This is reflected in policies NW12 and NW13 of the Core Strategy. Wood End is in the "Wood End to Whitacre – Upper Tame Valley Farmlands" Landscape Character area which describes, " an extensive area of mixed undulating farmland with open arable fields and woodland to upper slopes and more intimate pastoral valleys, punctuated by a dispersed and ancient settlement pattern of small hamlets, scattered rural properties and farmsteads all connected by an intricate network of narrow hedged lanes. Hurley and Wood End have a core of older vernacular buildings but have also seen more recent expansion. Modern houses are found on the edges of most hamlets and along roadsides, but these do not generally detract from the traditional settlement character". It is considered that the proposal would not adversely affect this overall description

This is because the proposal is "close-in" to the eastern edge of the village thus leading to it being physically "contained" with a defensible boundary as it would not extend into open land. Visually too that containment would limit any wider adverse impacts. However, there will be an adverse impact locally, as the development would interfere with the current open aspect of the views from all of the surrounding established

residential development. This application is in outline and thus mitigation of this impact would be left to the later detailed stages, but the illustrative layout provided does show that open space; retention of hedgerows and trees together with new planting can mitigate these impacts. It is thus concluded that there is negligible landscape harm caused but limited visual harm would arise. This is not considered to give rise to the significant and demonstrable harm by the NPPF to warrant a refusal.

In respect of ecological matters, the NPPF says that bio-diversity should be protected and enhanced. When determining planning applications, the ecological impacts should be assessed and any loss should be mitigated or compensated if possible. In this case there would be a bio-diversity loss, but the County Ecologist is satisfied that notwithstanding much can be done on site to recoup that loss, the balance will need to be addressed through an off-site offsetting contribution. In this way the proposal would satisfy the NPPF and this would not give rise to significant and demonstrable harm.

The NPPF requires that development should not have an unacceptable impact on highway safety or that cumulative residual impacts should not be severe. It is of substantial weight that the County Council as Highway Authority has not objected in principle to this current application. Members will be aware that the same access location for the recently dismissed 145 house appeal proposal was also not the subject of an objection and not a matter that led to the Inspector consider dismissal on the grounds of highway harm. The County Council is currently considering the detailed design of the access arrangement. In these circumstances significant highway harm could not be demonstrated.

The NPPF says that development in areas at high risk of flooding should be avoided and that major developments should incorporate sustainable drainage systems. The site here is not in one the most vulnerable Flood Zones according to the Environment Agency and the Lead Local Flood Authority has not objected in the knowledge that an appropriate sustainable surface water drainage system can be designed for the development at the detailed stage. In terms of foul water drainage then Severn Trent Water Ltd has confirmed that there will be capacity in the local network following upgrading. In these circumstances it is not considered that there is evidence to demonstrate significant harm

The NPPF also looks at the quality of the design of new development and Members will be familiar with Policy NW10 of the Core Strategy which deals with a number of design and amenity considerations. The site is sufficiently large to accommodate the proposed number of houses as well as leave adequate space between those new houses and the adjoining established residential properties. Indeed, the illustrative Masterplan shows open space around much of the perimeter of the site. Bearing in mind that this is an outline application, then conditions can assist in controlling distances to those shown on that Plan. Residents in the surrounding houses will have the opportunity to comment on the detailed design and layout. In this case however there will be an adverse impact on the residential amenity of both of the occupiers of the two properties that will neighbour the line of the new access into the site – numbers 113a and 117a. That will be because of the passage of traffic into and out of the site and the associated noise, lighting, air pollution and pedestrian activity. These will be adverse impacts. However, this access route is identified through the allocation of the application site in the emerging Local Plan. An access here has therefore already been acknowledged. To a certain extent the impacts can be mitigated through planting and the provision of acoustic fencing, but the

impact will still be a noticeable change to the amenity of those two households and thus the impacts will be moderate and as such there would not be complete compliance with Policy NW10.

Overall therefore, the harms on that side of the final planning balance revolve around the impacts on the residential amenity of the neighbouring residential occupiers and in particular those on either side of the proposed new vehicular access into the site.

c) The Benefits of the Proposal

On the other side of the planning balance are the benefits of the proposal. In this case the most significant is the delivery of new housing in line with the objectives of the NPPF and in this case to meet the anticipated housing requirements in the Borough as expressed through the emerging Local Plan. Although that Plan is not adopted it carries some weight as an expression of where the Council would consider new housing development within the context of its settlement hierarchy. The sites' allocation in that Plan thus indicates that this would be sustainable development.

Additionally, a permission here would assist in retaining the delivery of a five-year housing supply.

The delivery too of a policy compliant affordable housing provision is a further benefit.

d) The Planning Balance

As indicated in the introduction, the presumption here is to grant a planning permission unless there are significant and demonstrable harms caused. That is not considered to be the case here and thus the balance weighs in favour of supporting this proposal.

Recommendation

That subject to the completion of a Section 106 Agreement on the basis as outlined in this report, outline planning permission be granted subject to the following conditions together with others that might be requested by the County Council as Highway Authority – particularly in respect of condition (4) below:

Standard Conditions

1. Details of the appearance, landscaping, layout and scale (hereinafter called "reserved matters") shall be submitted to and approved by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. The first application for approval of reserved matters shall be made to the Local Planning Authority not less than two years from the date of this permission. All applications for approval of reserved matters shall be made to the Local Planning Authority not later than five years from the date of this permission.
3. The development hereby permitted shall take place not later than three years from the date of approval of the last of the reserved matters to be approved.

Defining Conditions

4. Standard Plan numbers condition – the site location plan numbered P20/1121/10 and the access plan numbers 20018/02E; 03 and 03/2.
5. Not more than 34 two storey dwellings shall be constructed on the application site.

REASON

In the interests of minimising harms and the local character and distinctiveness of the settlement.

6. No existing tree or any length of hedgerow shall be removed unless otherwise agreed within the permission granted for the reserved matters referred to in condition (1).

REASON

In the interests of retaining the amenity and ecological value of these assets on the site.

7. Within the submission of any reserved matters as referred to in condition (1) relating to layout and/or landscaping:
8. The location and extent of public open space shall broadly conform with that shown on the Parameters Plan numbered P20/1121/12/Rev C received on 26/10/20;
9. The location of all new built development together with underground service infrastructure shall be defined by the root protection areas of all trees and hedgerows to be retained as approved under condition (xv) below.

REASON

In the interests of securing a development that has the least visual and landscape harm; which maximises the opportunity to plan for development that does not detract from the character of the village and which retains the most important trees and hedgerows on site.

10. The reserved matters shall be designed as to include details of electric vehicle charging points within at least 10% of the dwellings hereby approved and so as to include space for three refuse bins within the curtilage of each dwelling.

REASON

In the interests of reducing energy demands and to providing appropriate waste disposal arrangements.

Pre-commencement conditions

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

REASON

In the interests of reducing the risk of flooding.

- 12.No development shall commence on site until details for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes has first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be implemented on site.

REASON

In the interests of public safety

- 13.No development shall take place on site until a preliminary assessment for contaminated land has first been undertaken and submitted to the Local Planning Authority. If that identifies contamination a further detailed investigation shall be carried out and details of remediation measures shall then be included within that submission. Only remediation measures approved in writing by the Local Planning Authority shall then be undertaken onsite.

REASON

In the interests of reducing the risk of pollution.

- 14.In the event that contamination is found at any time during construction that was not identified in the assessment submitted under condition (11) it must be immediately reported in writing to the Local Planning Authority. An investigation and risk assessment must be included and a remediation scheme prepared. Remediation measures shall only be undertaken following the written approval of the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution.

15. Where remediation measures have been undertaken in pursuance of conditions (11) and (12) a post remediation verification report shall be submitted in writing to the Local Planning Authority.

REASON

In the interests of reducing the risk of pollution.

16. No development shall commence on site until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include:

- The phasing of the development
- The means of preventing mud, waste and debris being deposited on the public highways
- The means of dust suppression
- An HGV routing plan to and from the site
- Details of the location of site compounds; workers car parking areas and other storage compounds including their migration through the site
- Details of the hours of construction
- Details of the hours of deliveries
- Details of on-site security and lighting
- Details of both on-site and off-site contacts for the purposes of resolving complaints

The development shall proceed in accordance with the approved Management Plan at all times.

REASON

In the interests of the amenities of the residents in the area and for highway safety reasons.

17. No development shall commence on site until a Tree and Hedgerow survey has been undertaken and submitted to the Local Planning Authority. This survey shall establish the health and longevity of all of these features on site and shall define appropriate root protection areas for any that are to be retained on site.

REASON

In order to retain the visual and ecological assets of the site.

Pre- Occupation Conditions

18. The electric vehicle charging points approved under condition (8) above shall be installed in each of the respective dwellings before each is occupied for residential purposes to the written satisfaction of the Local Planning Authority and maintained as such over the lifetime of the dwelling.

REASON

In the interests of energy reduction

19. No dwelling hereby approved shall be occupied until it has been provided with the space for three refuse bins as approved under condition (8) above and this space shall be retained at all times as such.

REASON

In the interests of sustainable development

20. No dwelling hereby approved shall be occupied until any post remediation verification report required by condition (13) has first been agreed in writing by the Local Planning Authority.

REASON

In the interests of sustainable development.

21. No dwelling hereby approved shall be occupied until a detailed maintenance plan has been submitted to and approved in writing to show how the surface water drainage systems approved above under condition (9) are to be maintained in perpetuity.

REASON

In the interests of reducing the risk of flooding.

Notes:

1. The Local Planning Authority has met the requirements of the NPPF in this case through pre-application engagement and work with the various technical agencies and bodies to overcome concerns such that the proposal can be supported.
2. Attention is drawn to Sections 149, 151, 163 and 278 of the Highways Act 1980; the Traffic Management Act 2004, the New Roads and Street Works Act 1991 and all relevant Codes of Practice.

3. The details required under condition (ix) shall include demonstration that the surface water drainage systems are designed in accordance with CIRIA C753; evidence that the discharge rate generated by windfall events up to and including the 100 year plus 40% allowance for climate change critical rainstorm has been limited to the QBar runoff rates for all return periods, demonstrate detailed design in support of any surface water drainage scheme including details of any attenuation system and outfall arrangements, demonstrate, through calculations, and the performance of the drainage system for a range of return periods and storm durations inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year , 1 in100 year and 1 in a 100 year plus climate change return periods. If discharge is to a drainage system maintained or operated by another Authority – e.g. STW Ltd – evidence of consultation and acceptability of any discharge to their system should be submitted. Additionally, demonstration should be submitted of the proposed allowance for exceedance of any discharge and associated overland flow routeing.
4. Standard Radon gas Informative

BACKGROUND PAPERS

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

Planning Application No: PAP/2020/0420

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	4/8/20
2	Resident	Objection	4/9/20
3	Resident	Objection	3/9/20
4	Resident	Objection	22/8/20
5	Resident	Objection	4/9/20
6	Resident	Objection	3/9/20
7	Resident	Representation	17/9/20
8	Resident	Objection	5/11/20
9	Police (Architectural Liaison)	Consultation	17/8/20
10	NWBC (Waste and Refuse)	Consultation	19/8/20
11	WCC (Flood Authority)	Consultation	21/8/20
12	WCC Rights of Way	Consultation	1/9/20
13	WCC Fire Services	Consultation	4/9/20
14	WCC Archaeology	Consultation	20/8/20
15	NWBC (L and CD)	Consultation	20/8/20
16	WCC Highways	Consultation	7/9/20
17	Applicant	E-mail	1/10/20
18	WCC (Ecology)	Consultation	7/9/20
19	Applicant	E-mail	7/10/20
20	Applicant	E-mail	13/10/20
21	WCC Ecology	Consultation	14/10/20
22	Environmental Health Officer	Consultation	25/9/20
23	Police	Consultation	29/9/20
24	George Eliot NHS Trust	Consultation	25/8/20
25	CCG Health	Consultation	16/10/20
26	WCC Infrastructure	Consultation	18/11/20

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.

PAP/2020/0420

Land East of Islington Farm, Tamworth Road, Wood End

Outline application for residential development of up to 34 dwellings and associated works with access being considered at outline stage for

Summix IFW Developments Ltd

Introduction

Members will recall the recent outline planning application for up to 145 dwellings on land east of Islington Farm in Wood End and the subsequent dismissal of an appeal against the Council's refusal.

That application site comprised two areas land – three enclosed paddocks at the rear of numbers 111 to 119 Tamworth Road and to the east of numbers 26 to 36 Delves Crescent and a substantial portion of a large arable field beyond to the east. The current application is limited to the site of the paddocks.

The application will be reported to the Board for determination in due course. At the present time it is reported for information.

The Site

This is an area of 1.23 hectares on the north side of Tamworth Road behind an existing built frontage of detached houses and bungalows, extending to the range of existing buildings known as Islington Farm. To the west are the rear gardens of residential properties in Delves Crescent. To the east is a strong hedgerow which runs along the side of the access track running from the Tamworth Road north towards Islington Farm. There are other hedgerows around the boundaries and there are significant individual trees within the centre of the site.

The application site includes 115 Tamworth Road as well as the Islington Farm access track.

The site slopes from north-east to south-west.

As can be seen from Appendix A, it is located along the eastern edge of Wood End – built development to the south, west and north, but open countryside to the east.

The Proposals

This as an outline application for up to 34 new dwellings with all matters reserved except for the access details. That access is proposed to be through the site of 115 Tamworth Road which would be demolished. The Islington Farm access track would be retained.

It is proposed that there would be 40% affordable provision on site – 14 dwellings. Initial proposals suggest 10 would be affordable rented and 4 would be intermediate affordable.

An illustrative layout has been submitted – Appendix B. This shows a central access road and essentially three development areas, one for each of three paddocks as previously described and separated by the retention of the established trees.

The application is accompanied by a number of supporting documents.

An Air Quality Assessment looks at the impacts of the development on local air quality. It concludes that the residual impacts once development is complete would be negligible, but that appropriate mitigation measures are needed through a Construction Management Plan.

A Noise Assessment concludes as above that the site is considered suitable for the proposal, not giving rise to adverse noise impacts.

A Ground Conditions Survey indicates that there are no significant sources of contamination on the site but draws attention to the possibility of "made" ground within the infilled pond on the site. It recommends that further work is needed in respect of potential ground gas emissions and potential agricultural chemicals that might be resident on the site.

An Ecological Appraisal identifies a number of statutory and non-statutory designated wildlife sites within two kilometres of the site but none would be impacted by the proposal given the intervening built development to the west and the lack of any development to the east. There would also be little or no impact on protected species which have been identified in the locality. The site comprises three paddocks enclosed by intact, but species poor hedgerows; scattered hedgerow trees and two significant oaks in the centre of the site. The land is poor in floristic diversity with no invasive species. The trees and hedgerows have the potential for bat roosting and foraging. Overall it is concluded that there would be only limited harm to ecological interests, but that these should be capable of mitigation.

An Archaeological Assessment identifies no historic assets within the site. Previous evaluation work has identified some post-medieval agricultural works, but otherwise it is of limited potential.

A Flood Risk Assessment states that the site is Flood Zone One which is the least susceptible to fluvial flooding. Flood Risk from surface water is considered to be low provided that water is attenuated before discharge into a nearby combined sewer in Tamworth Road. The proposals include surface features to do so.

A Utilities Assessment shows that the foul water network is to be upgraded and that provided occupation is after 2020/21 there would be no objection. STW Ltd has indicated that there would be capacity from the water main in Tamworth Road.

A Visual and Landscape Appraisal concludes that the landscape impacts would be local given the site's containment and thus negligible in respect of the wider landscape character. Overall there would be a greater visual impact because of the surrounding built development. These again are localised because of the immediate context of the site and therefore it is very unlikely that there would be impacts on within the wider setting.

A Transport Assessment concludes that there would no material impact on the safety or the operation of the local highway network and that the site is accessible to local facilities by foot and by cycling. The design of the proposed access is proportionate to the development.

A Design and Access Statement describes the setting of the site and how that has given rise to the indicative Masterplan layout.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Amount of New Development), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development), NW14 (Historic Environment), NW15 (Natural Environment) and NW12 (Implementation)

Other Material Planning Considerations

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

The Submitted Local Plan 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP9 (Affordable Housing Provision), LP14 (Historic Environment), LP15 (Natural Environment), LP31 (Development Considerations), LP39 (Housing Allocations)

The “Wood End” appeal decision – APP/R3705/W/19/3234056

The “Daw Mill” appeal decision – APP/R3705/W/16/3234056

The North Warwickshire Five Year Housing Land Supply – 31/3/19

The North Warwickshire Landscape Character Assessment 2010

Observations

Members will recall the recent appeal Hearing and subsequent decision in respect of the larger proposal here on this side of Wood End, which included the current application site. It does not however follow that this dismissed appeal should necessarily lead to the refusal of this current application. It will have to be determined on its own merits. In this respect the site is outside but adjoins the development boundary defined for Wood End in the Development Plan. It is also a site that is allocated for housing development in the emerging Local Plan – site H 28 for 28 houses. This policy background will have to be assessed in the light of the Council’s Housing Land Supply position and whether there are demonstrable and significant harms likely to be caused. The recent appeal decision too will have to be reviewed to see if there is any reference there-in to matters or impacts that directly relate to this smaller portion of that appeal site.

There is no recommendation at this time as the report is for information purposes only.

APPENDIX B

PAP/2020/0420

DESIGN PRINCIPLES:

1. Primary vehicular and pedestrian access off Tamworth Road.
2. Verge to primary road applied to receive swales.
3. Carriage width of primary road reduced at pinch point between existing trees.
4. All existing vegetation subject to survey.
5. Proposed landscape planting to soften interface between existing and proposed dwellings.
6. Drainage attenuation basin. and
7. Existing access serving Istrington Farm and Cottage retained.

SCHEDULE:

- 20no. Open Market Dwellings (60%)
- 14no. Affordable Dwellings (40%)
- Gross site area: 1.23 hectares / 3.04 acres
- Public open space: 0.34 hectares / 0.85 acres
- Net developable area: 0.89 hectares / 2.19 acres
- Density: 39 dph

LEGEND:

- Application Boundary
- Primary Road (adopted)
- Mews Courts (private)
- Existing Trees (subject to survey)
- Public Open Space
- Proposed Dwellings
- Barrier fence to the boundary of 115A Tamworth Road (details to be confirmed)



LAND AT WOOD END, ATHERSTONE | ILLUSTRATIVE MASTERPLAN

TEAM/DRAWN BY: SJ/WF | APPROVED BY: SJ/W | DATE: 23/06/2020 | SCALE: 1:500 @ A2 | DRAWING REF: P20-1121_12 | REV: C | CLIENT: SUMMIX IFW DEVELOPMENTS LTD

DESIGN | ENVIRONMENT | PLANNING | ECONOMICS | HERITAGE

General Development Applications

(5/f) Application No: PAP/2018/0349

Land South And South West Of Whitegate Stables, Kingsbury Road, Lea Marston, Warwickshire,

Change of use of field from market/car boot sales from 14 days to 28 days annually and to retain vehicle access onto Kingsbury Road, for

Mr J Taroni

Introduction

The application was brought to the Board's 2019 November meeting, but determination was deferred in order to enable members to discuss the application further with the applicant in light of the local representations received. That meeting looked at alternative access locations; additional landscaping, the location of the toilets and the line of the public footpath. Additionally, the Warwickshire County Council was asked to review its position of raising no objection because of the HS2 development.

This has led to the submission of an amended plan. This shows:

- the siting of the car boot site moved approximately 25 metres further away from Haunch Lane;
- the toilets will be stored on the site, with landscaping around the storage area.
- Additional landscaping is proposed along the boundary to Haunch Lane including the planting of poplar trees and
- the public footpath remaining and running to the north of the car boot area.

There is no alteration to the proposed access arrangements – in off Haunch Lane and out onto the Kingsbury Road.

The location plan can be viewed at Appendix A. The revised site plan can be viewed at appendix B. The previous report is attached for convenience at Appendix C.

The Site

This is a parcel of land about 15.7 hectares in area south of the Kingsbury Road and extending from Haunch Lane in the west to the Coton Road in the east. The Kingsbury Road links Kingsbury to the M42 Motorway. The site is degraded land and has hedgerows particularly fronting its roadside boundaries. It has a slightly elevated central section.

The site used to be known as Whitegate Stables, with the stables located to the north east but these have since been removed. Unauthorised container storage at the Haunch Lane end of the site has also been cleared. The western half of the site is already used for car boot sales under permitted development rights.

Existing access points into the site are from Haunch Lane opposite the Lea Marston Hotel and from the Kingsbury Road central to the site's frontage with that road

There is a public footpath within the site – the M24A – which runs parallel to the Kingsbury Road along its full frontage

The application site is illustrated at Appendix A.

Background

The car boot event which presently runs from the site is one of several that have been and are operating in the locality. The other sites include Hams Lane in Lea Marston; land at Marston Fields Farm off the Kingsbury Road, land opposite The Belfry Hotel and at a site at Dunton Hall.

Due to the COVID 19 pandemic emergency planning legislation has allowed car boot sites to operate for an additional 14 days between July and December 2020. Therefore, lawfully this site could have operated for 28 days this calendar year.

The Proposal

The application is to increase the number of days on which a car boot sale can take place on the land annually from 14 to 28 days. These events would be confined to the western and central portion of the application site in very much the same area as they are currently held. The proposal shows that there would be an “in” and an “out” access arrangement - in off Haunch Lane via a widened access leading to a multi lane stacking area - and out onto Kingsbury Road via a 3.5 metre wide single lane access. These access points would be hard surfaced over their initial lengths.

The site as proposed would accommodate 1428 cars and 294 pitches, with areas set aside for mobile toilets and mobile vans selling food and drink. Substantial perimeter landscaping is also proposed particularly along the Haunch Lane side of the site. The car boot site – the car park and event area - would be surrounded by a 1.2 metre high chestnut wooden fence, which is said would keep the public footpath route open and also prevent unauthorised access onto the site.

Members should be aware that the size described above is that which currently operates here.

The car boots would generally take place between March and October each year with the land being cleared after each event. The following detail has been submitted:

- Opening Hours: 0500 – 1400 hours
- Days of operation: Saturdays, Sunday and Bank Holidays
- Operation: All year but mainly between March to October. Most car boots will take place during the summer months
- Maximum: 28 days per annum
- Approximately 50-300 traders
- Approximately up to 2000 visitors depending upon the weather.

A Road Safety Audit has also been submitted and this was referred to the County Council.

The proposed site layout is shown at Appendix B.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW9 (Employment), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment)

North Warwickshire Local Plan 2006 (Saved Policies) - ENV13 (Building Design), ENV14 (Access Design) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

The Submitted Local Plan 2018 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP14 (Landscape), LP16 (Natural Environment), LP25 (Transport Assessment), LP31 (Development Considerations) and LP35 (Water Management)

National Planning Policy Framework – (the “NPPF”)

National Planning Practice Guidance – (the “NPPG”)

Consultations

Warwickshire County Council (Rights of Way) – No objection.

Warwickshire County Council as Highway Authority – No objection subject to conditions following re-consultation after additional information and matters had been raised by local representations as indicated above.

Environmental Health Officer – No objection subject to conditions.

HS2 – No objection and its comments are set out below. In particular HS2 says that the proposed car boot would operate on Sundays and Bank Holidays, when HS2 construction traffic will not be operating. Overall, its position is set out below:

“We have reviewed this application with respect to potential interfaces with HS2 works in this area. We have concluded that the works are unlikely to impact HS2 construction or operation and therefore have no objection to the application. However, we note that the proposed additional car boot sales would take place in the vicinity of HS2 construction and would encourage the applicant to be mindful of the likely construction traffic on roads close to the development site.”

Representations

Twenty-five letters of objection have been received referring to:

- Currently waste is burnt on site and it is not being disposed of correctly
- Mud is being brought onto the highways and impacting on drains.
- There will be increased traffic in the area, especially at weekends.
- There will be on road parking along the as “booters” try to avoid paying to access the site.

- There are currently more than fourteen events in a year
- Breach of green belt principles.
- There is already noise pollution from the site caused from music and engines.
- It is already difficult to pull out of Haunch Lane onto Kingsbury Road.
- The Portaloos and the fence will make the use permanent.
- The planting of trees will impact upon views and sunlight into properties on Haunch Lane.
- The container use is shown on the plan.
- Kingsbury Road is already busy with oil tankers.
- Local roads and ditches are already used as a “dumping ground” for unsold car boot items.
- Any Licence for entertainment, food and alcohol should be refused.
- 28 days use could set a precedent.
- Impact upon residents to Haunch Lane, with some access issues.
- Flooding issues in the area.
- Main Kingsbury road is not cleaned regularly.

The Lea Marston Parish Council objects referring to:

- The access off the A4097 that has been used for transporting the storage containers to the site does not have the approval of highways and they should be consulted on the safety for its use as an access or for the installation of the dropped kerbs.
- The access has been made wider onto Kingsbury Road.
- The roads are already very busy and congested with queuing for the Water Park.
- Fourteen days for the car boot is already sufficient.
- The proposed increase in days is due to HS2 taking over land used by other car boots in the area.
- Impact of HS2 in the area upon the road network.
- The number of car boots in the parish would be up to 56 days.
- How will the number of days be enforced?
- The area currently has four sites being used which immediately impacts on the Parish. Should this site be granted consent to increase to 28 days then this would invite other applications and set a worrying precedent.
- There are current issues - early morning noise, litter, visual impact - as well as the nature of the other activities faced by the community in the area, and that increases in car boot activity will only add to this and be to the detriment of local parishioners.
- The access arrangements are inappropriate to the Green Belt.
- 28 car boot days is too many and 20 should be considered a maximum.
- There are already breaches of the 14-day provision.
- That initially a 12-month approval is granted. This is to allow the Parish time to adjust to the impacts of HS2 and any increases in car boot activity and then be able to monitor the site.
- A full and relevant Site Management Plan is needed.
- Car boots held during December 2019.
- Will the Council enforce any planning conditions should it be approved
- The 1.2m fences conflicts with the Green Belt.

Observations

a) Introduction

The Board is reminded that whatever the outcome of this application, car boot sales can continue on this site without any need for the submission of a planning application and thus the imposition of planning conditions. This is a fall-back position of significant weight. Members are therefore advised that the discussion on impacts has to only consider what effect there would be over and above those that might occur in any event, under this permitted development right. In this regard Members may wish to consider whether the submission of this application, might enable the imposition of conditions and any terms of any Legal Agreement being applied to the operation here so as to bring the use of the whole site for car boot sales under planning control for the whole of each year.

b) Green Belt

The site is in the Green Belt. The application involves the change of use of land. The NPPF advises that such changes are inappropriate development unless they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. As a consequence, if these conditions are satisfied then the development is appropriate, and the presumption is to support the proposal. If not, then the presumption is to refuse as inappropriate development is harmful to the Green Belt by definition.

There is no definition of openness in the NPPF, but it is generally taken in planning terms to mean the absence of development. The NPPG however does provide some useful guidance. There is a spatial element to openness. Here the setting is open with some dispersed development in the locality – both built development and uses other than agricultural. The topography is generally flat and there are public viewpoints. The proposal is large in scale covering a wide area and whilst little in the way of built development is involved, the use is extensive. The use is also temporary in nature, 28 days in a year but 14 of those are permitted in any event. As such it is concluded that from a spatial perspective there would be limited harm to openness. In respect of the visual element of openness, then there would again be an impact. This is not through new buildings but through the scale and extent of the use over a wide area. It would be a significant change in the area whilst it operates. There is additional landscaping proposed and that would mitigate adverse visual impact, but because of the scale of the activity here, even over an additional 14 days there would be a moderate visual impact. The use would be temporary rather than permanent and the land left open during each event. Finally, the activity associated with the events would have an impact on openness because the scale of the operation. Again, this is considered to be a moderate impact over the extra fourteen days. In conclusion therefore it is considered that the proposal would not preserve openness.

Turning to the matter of whether there is conflict with the purposes of including land in the Green Belt then it is considered that there would be only limited conflict with the one purpose, that of safeguarding the countryside from encroachment – essentially because of the site would not be used permanently throughout the year. The cumulative effect of this proposal and other development in the locality has also been considered in coming to this conclusion.

Overall, it is considered that the proposal would not satisfy the two conditions and thus this is inappropriate development carrying the presumption of refusal.

In terms of actual Green Belt harm then from the above it can be seen that that would be moderate.

It is now necessary to see if the any other harms likely to be caused.

c) Other Harms

It is not considered that there is unacceptable harm caused by the proposal on local heritage assets, ecological interests or as a consequence of the surface water and foul water disposal arrangements. There would be some impact on the character of the landscape here but for all of the reasons outlined above that would be moderate in extent. A significant landscaping area along Haunch Lane boundary is proposed, which will provide mitigation and visually enhance the area as well as bringing some bio-diversity increase.

The two main concerns where more significant harms might be caused are the impacts on the residential amenity of neighbouring occupiers and whether there are any adverse highway impacts.

In respect of the former, then there are residential properties in Haunch Lane that have already experienced car boot sales of this scale operating on this site and there are other properties on the local road network that see the traffic impacts of the existing events. These matters are referred to in the representations section – early morning activity, noise, litter, parked cars and bonfires. Many of these incidents are due to the car boot operation not being the subject of planning conditions. The proposals include moving the car boot sale some 130 metres to the east of Haunch Lane and to plant in that intervening corridor as well as to provide space for car stacking on entry to the site rather than along the road. The applicant is also proposing a Site Management Plan involving the use of site marshals. The Highway Authority requires a Registered Traffic Management Company to undertake this task and this is one of its recommended conditions. As indicated above, fourteen unregulated events can take place here without recourse to the submission of a planning application. The increase to twenty-eight will be material because of the size of the events and because those impacts - both environmental and highway - would affect the same residents. Of substance too is that these events are scheduled for mainly Sundays and Bank Holiday Mondays, with some Saturdays and would run for half of the Sundays in a year during the summer months, when residents might expect to enjoy the outside of their premises. The applicant has suggested operational hours could be imposed by planning condition. This is agreed. An early morning start is suggested because with the entry “stacking” arrangement, cars could enter the site and not therefore park/queue on Haunch Lane. This would be an added benefit. Overall, it is considered that even with the imposition of planning conditions, the additional days would cause limited harm to the wider local community but moderate harm to the most affected residential occupiers.

The highway impact has been the most significant one that has been raised and it is the reason for the delay in determining the application. Neither the County Council nor HS2Ltd have objections notwithstanding repeated concerns expressed to both Agencies

by local representations. This is of substantial weight. However the County Council is suggesting the grant of a temporary permission in order to monitor the events. HS2 works have now started in the area and HS2 has a local agreement about its traffic movements with the County Council in the form of a Schedule 17 lorry route approved under the HS2 Act (on 29th September 2020) by Warwickshire County Council for movements along the Kingsbury Road, and thus neither Agency objects. The Highway Authority was asked to review its original position in light of the HS2 works and in respect of other developments recently permitted in the vicinity, but it maintains its position of no objection but with an initial limited consent. That position has been endorsed following its consideration of the Road Safety Audits. These support the access arrangements including the use of a one-lane exit onto the Kingsbury Road. The Highway Authority also sees the use of traffic marshals as being essential. It is of substantial weight that the Highway Authority and HS2Ltd have not objected in principle to the amended proposals particularly after extensive engagement with the County Council following local concerns. As such it is considered that there would be limited adverse harm caused. Certainly, there would be insufficient evidence to defend a highway reason of refusal.

The public right of way would remain open during events and so there is not a harm created in this respect.

d) Other Matters

Many of the representations received relate to local resident's concerns following first hand experience of the present car boot sales run from the site. These have not been the subject of planning controls because they are permitted development. The submission of the application now presents the opportunity to introduce such controls. These should include a Site Management Plan that firstly explains the operation and management of the car boot sales and in particular the measures to be taken to ensure that the site is cleared after each event such as signs and litter being removed, the cleansing of the roads if detritus is deposited on the highway and the prohibition of fires and burning on the site. The Plan also has to include an agreed procedure for monitoring the number of events held each calendar year. This has been the source of concern. The running of these events is connected to weather conditions. Often an event is called-off in the day before a scheduled event or indeed very early in the morning of an event day, but that does and will not prevent people still arriving in the morning on the event day. Nevertheless, the Plan can set out an agreed method of recording events. Additionally, with conditions limiting the events to named days between specified dates and to the 28, it is considered that a degree of order and control can be introduced such that breaches of planning control can be better evidenced. This Plan would be the subject of consultation with the local community.

e) The Harm Side of the Balance

In conclusion therefore the harm side of the balance consists of substantial de facto Green Belt harm; moderate actual Green Belt harm, moderate harm to the residential amenity of the most affected neighbouring occupiers and limited highway harm.

f) The Applicant's Case

The applicant has raised a number of considerations which he considers do provide the weight to clearly outweigh the total harms identified above. The matters he raises are the presence of the unregulated fall-back position; that this proposal would provide agreed planning controls to be imposed on the operation of the site, that there would be a landscape enhancement and finally that the use does provide benefits to the local community in increasing footfall to local facilities elsewhere.

It is considered that these matters cumulatively carry significant weight. The issue is whether they are of sufficient weight to "clearly" outweigh the total level of harms likely to be caused.

g) The Final Balance

This application offers an opportunity to bring the existing car boot operation here under planning control through the use of planning conditions and through the introduction of a properly managed site layout which does reduce identified harms. The size of this operation is significant and the adverse impacts described in the representations continue to be raised each year. An opportunity does therefore arise here. However, in exchange for regularisation, the number of events would be increased. The proposal will lead to the siting of the car boot being moved away from Haunch Lane boundary, with additional landscaping and traffic control. It is considered that the proposals do have the ability to materially improve the existing situation here and thus there is a clear opportunity for support for the proposals. However that is subject to conditions which are set out in the recommendation.

The most significant matter affecting conditions is whether there should be only a temporary grant of planning permission in order to monitor the management of the site to see if the agreed arrangements do improve the situation as presently experienced by the local community. The County Council would support this approach too. The NPPG does enable the use of temporary permissions when the monitoring of a use is a material consideration, as is the case here. However the time period in any condition has to be reasonable and proportionate. Whilst the local community would wish to see a minimum period – which in this case would have to be a calendar year - the interests of the operator have also to be taken into account in a fair and balanced way. There is a significant investment to be made to set up the extended sales operation – particularly in the construction of the access arrangements; the internal road system and layout as well as the landscaping. In this respect the additional planting will not have any material effect for several years. It is thus recommended that any temporary consent is limited to three years. This would enable a range of weather conditions to be experienced; for a phased implementation of new works as well as for the site's management to "settle down" and for any issues and concerns to be explored and resolved through engagement locally with the community. Members are full aware of local liaison groups set up so that the local community can discuss issues with a developer – e.g the one at the former Baxterley Colliery with JLR; at Grendon with Lindon Homes and at Ansley with Countryside Properties. These examples have had a positive influence on on-site management. One is recommended here.

Conditions

The recommendation below includes the use of pre-commencement condition(s) (this is a condition imposed on a grant of planning which must be complied with before any building or operation comprised in the development is begun or use is begun). The Town and Country Planning (Pre-commencement Conditions) Regulations 2018 provide that planning permission for the development of land may not be granted subject to a pre-commencement condition without the written agreement of the applicant to the terms of the condition. In this instance the applicant has given such written permission, and requested some revisions, including opening hours and period the permission lasts.

Recommendation

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

1. The development hereby shall enure solely for a period of three years from the date of this planning permission. At the expiry of this period or at any time earlier following the cessation of the use hereby permitted, the land shall be restored and reinstated to the its condition as at the date of this planning permission.

REASON

To ensure that the use does not become permanently established on the site.

2. For the avoidance of doubt this planning permission allows car boot sales to be operated in the manner as shown on the application site – as defined by condition 3 below – for not more than 28 days in any calendar year and those 28 days shall be only be on Sundays and Bank Holidays between the 1 April and 31 October in each calendar year.

REASON

In order to define the scope of the permission in the interests of the amenity of residential occupiers and highway safety.

3 The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 9441.03 REV I received by the Local Planning Authority on 11 February 2020, to the plan numbered 9441.04 and 9441.01 received by the Local Planning Authority on 4 June 2018, and to the Stage 1 Road Safety Audit of May 2019 received by the Local Planning Authority on 20 May 2019.

REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

4. The site hereby approved shall not be used for the use as hereby approved for more than 14 days in the first year of its operation, until the following matters have been fully laid out and provided in full on site to the written satisfaction of the Local Planning Authority:

- a) The complete access arrangements as shown on Drawing No. 9441.03 Rev I;
- b) The provision of the whole of the chestnut fencing as shown on Drawing No. 9441.03 Rev I, and
- c) The layout and implementation of then toliet storage area as shown on Drawing No. 9441.03. Rev I.

REASON

In the interests of the amenities of the area and safety on the public highway.

5 The site hereby approved shall not be used for the use as approved for more than 14 days in the first year of its operation until a registered traffic management company has been employed (and retained) to control the event including required advertising and signage. The terms and conditions for this arrangement shall first have been agreed in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area and safety on the public highway.

6. Within three months of the date of this permission details of the landscape buffer as shown on drawing 9441.03 REV I shall be submitted to the Local Planning Authority for approval. The species of trees shall include poplars.

REASON

In the interests of the amenities of the area.

7. The scheme referred to in Condition No 6 shall be implemented in the first available planting season after approval, and in the event of any tree or plant failing to become established within three years thereafter, each individual tree or plant shall be replaced within the next available planting season to the satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area

8. Within three months of the date of this permission a Car Boot Site Management Plan shall be submitted to the Local Planning Authority. It shall include the hours of operation; how the site will be managed in terms of its access arrangements and vehicle circulation throughout the site, the measures to be employed in clearing and cleaning the site after each event, the measures to be employed to remove detritus that might be deposited on the public highway and the names of contacts should concerns and complaints arise. The Plan shall also provide full details of the method and procedures to be followed so as to record and monitor the number of each event throughout each

calender year. The site shall then only be operated in full accordance with the approved Plan.

REASON

In the interests of the residential amenity of nearby occupiers and in the interests of highway safety.

9. The site shall not be used for more than 14 days for the use hereby approved, within the first year of its operation until the Plan approved under condition 8 has been agreed in writing and has been implemented in full.

REASON

In the interests of the residential amenity of nearby occupiers and in the interests of highway safety.

10. There shall be no lighting, public address or tannoy systems whatsoever used or installed on the 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 the amenities of the area.

11 There shall be no burning of waste at any time on the site whatsoever.

REASON

To protect the amenities of nearby residential property.

Notes

1. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

2. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of

any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

3. The Rights of Way team therefore has no objection to the amended proposals but the applicant should be aware of the following requirements which we request are carried as advisory notes on any consent, if granted:

- Public footpath M24a must remain open and available for public use at all times unless closed by legal order, so must not be obstructed by parked vehicles or by materials during works.

- Any disturbance or alteration to the surface of public footpath M24a requires the prior authorisation of Warwickshire County Council's Rights of Way team, as does the installation of any new gate or other structure on the public footpath.

4. The applicant is advised that to comply with the condition relating to the standard of works to trees, the work should be carried out in accordance with British Standard BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations".

5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

6. The applicant will need submit a further application at the end of the temporary consent, otherwise the use of the land can only for 14 days of a car boot use.

7. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at plantprotection@cadentgas.com prior to carrying out work, or call 0800 688 588

8. Condition number 3 requires works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must enter into a Highway Works Agreement with the Highway Authority under the provisions of Section 184 of the Highways Act 1980. Application to enter into such an agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less ten days, notice will be required. For works lasting longer than 10 days, three months notice will be required.

9. Section 163 of the Highways Act 1980 requires that water will not be permitted to fall from the roof or any other part of premises adjoining the public highway upon persons using the highway, or surface water to flow - so far as is reasonably practicable - from premises onto or over the highway footway. The developer should, therefore, take all steps as may be reasonable to prevent water so falling or flowing.

10. Pursuant to Section 149 and 151 of the Highways Act 1980, the applicant/developer must take all necessary action to ensure that mud or other extraneous material is not carried out of the site and deposited on the public highway. Should such deposits occur, it is the applicant's/developer's responsibility to ensure that all reasonable steps (e.g. street sweeping) are taken to maintain the roads in the vicinity of the site to a satisfactory level of cleanliness

B) That a local community liaison group be established in order to monitor the site's operation.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0349

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	4/6/2018
2	WCC Footpaths	Consultation response	8/8/18
3	NWBC Environmental Health	Consultation response	14/8/18
4	NWBC Environmental Health	Consultation response	29/8/18
5	WCC Highways	Consultation response	6/9/18
6	Lea Marston Parish Council	Consultation response	7/9/18
7	WCC Highways	Consultation response	5/11/18
8	Lea Marston Parish Council	Consultation response	6/11/18
9	WCC Highways	Consultation response	7/1/19
10	WCC Highways	Consultation response	20/2/19
11	NWBC Environmental Health	Consultation response	5/4/19
12	WCC Footpath	Consultation response	11/4/19
13	WCC Highways	Consultation response	15/4/19
14	WCC Highways	Consultation response	26/9/19
15	HS2	Consultation response	1/8/19
16	Lea Marston Parish Council	Consultation response	15/3/19
17	Neighbour	Representation	13/8/18
18	Neighbour	Representation	13/8/18
19	Neighbour	Representation	15/8/18
20	Neighbour	Representation	17/8/18
21	Neighbour	Representation	20/8/18
22	Neighbour	Representation	29/8/18
23	Neighbour	Representation	29/8/18
24	Neighbour	Representation	28/9/18
25	Neighbour	Representation	11/10/18
26	Neighbour	Representation	12/10/18
27	Neighbour	Representation	28/3/19
28	Neighbour	Representation	28/3/19
29	Neighbour	Representation	3/4/19
30	Neighbour	Representation	4/4/19
31	Neighbour	Representation	5/4/19
32	Neighbour	Representation	11/4/19
33	Neighbour	Representation	23/4/19
34	Case officer and WCC Footpaths	Exchanges of emails	8/8/18 – 17/10/18
35	Case officer and agent	Exchange of emails	8/8/18 – 29/8/18
36	Parish Council	Email to case officer	29/8/18
37	Cllr Reilly and case officer	Email exchange	10/9/18
38	Case officer and agent	Exchange of emails	7/9/18 – 16/12/18
39	Case officer and Highways officer	Exchange of emails	7/1/19 – 10/6/19
40	Case officer / neighbour /	Exchange of emails	March/

	Parish Council		April 2019
41	Case officer / highways / Parish Council	Exchange of emails	April / May 2019
42	Case officer / NWBC EH / Parish Council	Exchange of emails	April - July 2019
43	Case officer and agent	Exchange of emails	8/1/19 – 29/3/19
44	Case officer and agent	Exchange of emails	9/4/19 – 21/8/19
45	Case officer and agent	Exchange of emails	11/10/19 – 23/10/19
46	Case officer and highways	Exchange of emails	25/9/19 – 11/10/19
47	Council	Meeting with applicant	December 2019
48	Lea Marston Parish Council	Consultation response	15/1/20
49	Lea Marston Parish Council	Consultation response	21/2/20
50	Lea Marston Parish Council	Consultation response	4/3/20
51	Lea Marston Parish Council	Consultation response	12/3/20
52	WCC Highways	Consultation response	21/7/20
53	HS2	Consultation response	5/8/20
54	WCC Highways	Consultation response	14/10/20
55	WCC Highways	Consultation response	11/11/20
56	HS2	Consultation response	15/10/20
57	Neighbour	Representation	24/3/19
58	Neighbour	Representation	14/2/20
59	Neighbour	Representation	21/2/20
60	Neighbour	Representation	21/2/20
61	Neighbour	Representation	25/2/20
62	Case officer and agent	Exchange of emails	16/10/19 – 20/12/20
63	Case officer and Councillors	Emails	11/2/20 – 13/2/20
64	Case officer and WCC highways and footpaths	emails	20/12/19 – 2/1/20
65	Case officer and agent	Exchange of emails	4/2/20 – 11/2/20
66	Case officer	Re-consultation	14/2/20
67	Case officer / agent / applicant	Exchange of emails	25/2/20 – 27/4/20
68	Head of Planning	Email to WCC highways	22/6/2020
69	Case officer / agent / applicant	Exchange of emails	30/6/20 – 16/11/20
70	Case officer	Email to agent / applicant	16/11/20

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 – Application Site



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Appendix C – November 2019 Board Report

() Application PAP/2018/0349

Land South And South West Of Whitegate Stables, Kingsbury Road, Lea Marston, Warwickshire,

Change of use of field from market/car boot sales from 14 days to 28 days annually and to retain vehicle access onto Kingsbury Road, for

Mr Taroni

Introduction

The application is brought to the Board following concerns expressed by Local Members about the impacts of the proposal.

The Site

This is a parcel of land about 15.7 hectares in area south of the Kingsbury Road and extending from Haunch Lane in the west to the Coton Road in the east. The Kingsbury Road links Kingsbury to the M42 Motorway. The site is degraded land and has hedgerows particularly fronting its roadside boundaries. It has a slightly elevated central section.

The site used to be known as Whitegate Stables and the stables were located to the north east but have since been removed. Unauthorised container storage has also been cleared. The western half of the site is already used for car boot sales under permitted development rights.

Existing access points into the site are from Haunch Lane opposite the Lea Marston hotel and from the Kingsbury Road central to the site's frontage with that road

There is a public footpath within the site – the M24A – which runs parallel to the Kingsbury Road along its full frontage

The application site is illustrated at Appendix A.

Background

The car boot event which presently runs from the site is one of several that have been and are operating in the locality. The other sites have and do include Hams Lane in Lea Marston, land at Marston Fields Farm off the Kingsbury Road, land opposite The Belfry Hotel and at a site at Dunton Hall.

The Proposal

The application is to increase the number of days on which a car boot sale can take place on the land annually from 14 to 28 days. These events would be confined to the western and central portion of the application site in very much the same area as they are currently held. The proposal shows that there would be an "in" and an "out" access arrangement - in off Haunch Lane via a widened access leading to a multi lane stacking

area - and out onto Kingsbury Road via a 3.5 metre wide single lane access. These access points would be hard surfaced over their initial lengths.

The site as proposed would accommodate 1464 cars and 300 pitches, with areas set aside for mobile toilets and mobile vans selling food and drink. Substantial perimeter landscaping is also proposed particularly along the Haunch Lane side of the site.

Members should be aware that the size described above is that which currently operates here.

The car boot site – the car park and event area - would be surrounded by a 1.2 metre high chestnut fence, which is said would keep the public footpath route open and also prevent unauthorised access onto the site.

The car boots would take place between March and October each year with the land being cleared after each event. The following detail has been submitted:

- Opening Hours: 0500 – 1400 hours
- Days of operation: Sunday and Bank Holidays
- Operation: March to October
- Maximum: 28 days per annum
- Approximately 100-300 traders
- Approximately 2000 visitors and a maximum of 1000 cars.

The proposed site layout is at Appendix B.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW9 (Employment), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment)

North Warwickshire Local Plan 2006 (Saved Policies) - ENV13 (Building Design), ENV14 (Access Design) and TPT6 (Vehicle Parking)

Other Material Planning Considerations

The Submitted Local Plan 2018 - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP3 (Green Belt), LP14 (Landscape), LP16 (Natural Environment), LP25 (Transport Assessment), LP31 (Development Considerations) and LP35 (Water Management)

National Planning Policy Framework – (the "NPPF")

National Planning Practice Guidance – (the "NPPG")

Consultations

Warwickshire County Council (Rights of Way) – No objection.

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

Environmental Health Officer – No objection subject to conditions.

Representations

Twenty letters of objection have been received referring to:

- Currently waste is burnt on site and it is not being disposed of correctly
- Mud is being brought onto the highways and impacting on drains.
- There will be increased traffic in the area, especially at weekends.
- There will be on road parking along the as "booters" try to avoid paying to access the site.
- There are currently more than fourteen events in a year
- Breach of green belt principles.
- There is already noise pollution from the site caused from music and engines.
- It is already difficult to pull out of Haunch Lane onto Kingsbury Road.
- The Portaloos and the fence will make the use permanent.
- The planting of trees will impact upon views and sunlight into properties on Haunch Lane.
- The container use is shown on the plan.
- Kingsbury Road is already busy with oil tankers.
- Local roads and ditches are already used as a "dumping ground" for unsold car boot items.
- Any Licence for entertainment, food and alcohol should be refused.

The Lea Marston Parish Council objects referring to:

- The access off the A4097 that has been used for transporting the storage containers to the site does not have the approval of highways and they should be consulted on the safety for its use as an access or for the installation of the dropped kerbs.
- The access has been made wider onto Kingsbury Road.
- The roads are already very busy and congested with queuing for the Water Park.
- Fourteen days for the car boot is already sufficient.
- The proposed increase in days is due to HS2 taking over land used by other car boots in the area.
- The number of car boots in the parish would be up to 56 days.
- How will the number of days be enforced?
- The area currently has four sites being used which immediately impacts on the Parish. Should this site be granted consent to increase to 28 days then this would invite other applications and set a worrying precedent.
- There are current issues - early morning noise, litter, visual impact - as well as the nature of the other activities faced by the community in the area, and that increases in car boot activity will only add to this and be to the detriment of local parishioners.
- The access arrangements are inappropriate to the Green Belt
- 28 car boot days is too many and 20 should be considered a maximum.
- There are already breaches of the 14 day provision.

- That initially a 12 month approval is granted. This is to allow the Parish time to adjust to the impacts of HS2 and any increases in car boot activity and then be able to monitor the site.
- A full and relevant Site Management Plan is needed.

Observations

a) Introduction

The Board is reminded that whatever the outcome of this application, car boot sales can continue on this site without any need for the submission of a planning application and thus the imposition of planning conditions. This is a fall-back position of significant weight. Members are thus advised that the discussion on impacts has to only consider what effect there would be over and above those that might occur in any event, under this permitted development right. In this regard Members may wish to consider whether the submission of this application, might enable the imposition of conditions and any terms of any Agreement being applied to the operation here so as to bring the use of the site for car boot sales under planning control

b) Green Belt

The site is in the Green Belt. The application involves the change of use of land. The NPPF advises that such changes are inappropriate development unless they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. As a consequence if these conditions are satisfied then the development is appropriate and the presumption is to support the proposal. If not, then the presumption is to refuse as inappropriate development is harmful to the Green Belt by definition.

There is no definition of openness in the NPPF but it is generally taken in planning terms to mean the absence of development. The NPPG however does provide some useful guidance. There is a spatial element. Here the setting is open with some dispersed development in the locality – both built development and uses other than agricultural. The topography is generally flat and there are public viewpoints. The proposal is large in scale covering a wide area and whilst little in the way of built development is involved, the use is extensive. The use is also temporary in nature, 28 days in a year but that 14 of those are permitted in any event. As such it is concluded that from a spatial perspective there would be limited harm to openness. In respect of the visual element of openness, then there would be an impact. This is not through new buildings but through the scale and extent of the use over a wide area. It would be a significant change in the area whilst it operates. Even for the additional 14 days that visual impact would be moderate. The use would be temporary rather than permanent and the land left open during each event. Finally the activity associated with the events would have a significant impact on openness because the scale of the operation. Again this is considered to be a moderate impact over the extra fourteen days. In conclusion therefore it is considered that the proposal would not preserve openness.

Turning to the matter of whether there is conflict with the purposes of including land in the Green Belt then it is considered that there would be only limited conflict with the one purpose of safeguarding the countryside from encroachment. The cumulative effect of this proposal and other development in the locality has had an influence in coming to this conclusion

Overall therefore it is considered that the proposal would not satisfy the two conditions and thus this is inappropriate development carrying the presumption of refusal.

In terms of actual Green Belt harm then from the above it can be seen that that would be moderate.

It is now necessary to see if the any other harms likely to be caused.

c) Other Harms

It is not considered that there is unacceptable harm caused by the proposal on local heritage assets, ecological interests or as a consequence of the surface water and foul water disposal arrangements. There would be some impact on the character of the landscape here but for all of the reasons outlined above that would be limited in extent.

The two main concerns where harms might be caused are the impacts on the residential amenity of neighbouring occupiers and whether there are any adverse highway impacts.

In respect of the former, then there are residential properties in Haunch Lane that have already experienced car boot sales of this scale operating on this site and there are other properties on the local road network that see the traffic impacts of the existing events. These matters are referred to in the representations section – early morning activity, noise, litter, parked cars and bonfires. Many of these incidents are due to the car boot operation not being the subject of planning conditions. The proposals include moving the car boot sale some 100 metres to the east of Haunch Lane and to plant in that intervening corridor as well as to provide space for car stacking on site rather than along the road. The applicant is also proposing a Site Management Plan involving the use of site marshals to monitor the site. As indicated above, fourteen unregulated events can take place here without recourse to planning legislation. The increase to twenty eight will be material because of the size of the events and because those impacts - both environmental and highway - would affect the same residents. Of substance too is that these events are scheduled for Sundays and would run for half of the Sundays in a year during the summer months, when residents might expect to enjoy the outside of their premises. Overall it is considered that even with the imposition of planning conditions, the additional days would cause limited harm to the wider local community but moderate harm to the most affected residential occupiers.

The highway impact has been the most significant one that has been raised and it is the reason for the delay in determining the application. The Highway Authority has not objected to the proposals subject to conditions. That position has been arrived at following the submission of Road Safety Audits and significant engagement between the applicant and that Authority. This resulted in an amendment being made to the original submission involving a change from a two lane exit to a one lane access and to the use of marshals to prevent on-road parking. It is of substantial weight that the Highway Authority has not objected to the amended proposals and as such it is considered that there would be only limited harm caused. Certainly there would be insufficient evidence to defend a highway reason of refusal.

The public right of way would remain open during events and so there is not a harm created in this respect.

d) The Harm Side of the Balance

In conclusion therefore the harm side of the balance consists of substantial de facto Green Belt harm but moderate actual Green Belt harm with moderate harm to the residential amenity of the most affected neighbouring occupiers.

e) The Applicant's Case

The applicant has raised a number of considerations which he considers do provide the weight to clearly outweigh the total harms identified above. The matters he raises are the presence of the fall-back position; that this proposal would provide planning controls to be imposed on the operation of the site and finally that the use does provide benefits to the local community in increasing footfall to local facilities elsewhere.

It is considered that these matters cumulatively carry significant weight. The issue is whether they are of sufficient weight to "clearly" outweigh the total level of harms likely to be caused.

f) The Final Balance

This application offers an opportunity to bring the existing car boot operation here under planning control through the use of planning conditions and through the introduction of a properly managed site layout which does reduce identified harms. The size of these events is considerable and the adverse impacts described in the representations continue to be raised each year. An opportunity does therefore arise here. However in exchange for regularisation, the number of events would be increased.

It is considered that there are matters which should be further explored before concluding on this. Those matters are:

- Whether the applicant would consider the cessation of other car boot sales in the area that he currently operates, particularly if they may be the subject of HS2 acquisition and works
- Whether the applicant would consider a temporary planning permission in order to monitor the events
- Whether any such monitoring period should be confined to say 20 events in a year in the first instance through a temporary permission
- The actual content of any Site Management Plan so as to include the measures put in place to monitor the number of events held, overall monitoring of the activity and the sanctions for non-compliance.
- Whether a Section 106 Agreement or Unilateral Undertaking is more appropriate in these matters.

The recommendation below follows this approach.

Recommendation

That the Council is minded to support this proposal, but wishes to engage with the applicant to discuss the matters raised in this report through a meeting between appropriate Members and representatives of the applicant. The outcome of that meeting would be referred back to the Board.

BACKGROUND PAPERS

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

Planning Application No: PAP/2018/0349

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	4/6/2018
2	WCC Footpaths	Consultation response	8/8/18
3	NWBC Environmental Health	Consultation response	14/8/18
4	NWBC Environmental Health	Consultation response	29/8/18
5	WCC Highways	Consultation response	6/9/18
6	Lea Marston Parish Council	Consultation response	7/9/18
7	WCC Highways	Consultation response	5/11/18
8	Lea Marston Parish Council	Consultation response	6/11/18
9	WCC Highways	Consultation response	7/1/19
10	WCC Highways	Consultation response	20/2/19
11	NWBC Environmental Health	Consultation response	5/4/19
12	WCC Footpath	Consultation response	11/4/19
13	WCC Highways	Consultation response	15/4/19
14	WCC Highways	Consultation response	26/9/19
15	HS2	Consultation response	1/8/19
16	Lea Marston Parish Council	Consultation response	15/3/19
17	Neighbour	Representation	13/8/18
18	Neighbour	Representation	13/8/18
19	Neighbour	Representation	15/8/18
20	Neighbour	Representation	17/8/18
21	Neighbour	Representation	20/8/18
22	Neighbour	Representation	29/8/18
23	Neighbour	Representation	29/8/18
24	Neighbour	Representation	28/9/18
25	Neighbour	Representation	11/10/18
26	Neighbour	Representation	12/10/18
27	Neighbour	Representation	28/3/19
28	Neighbour	Representation	28/3/19
29	Neighbour	Representation	3/4/19
30	Neighbour	Representation	4/4/19
31	Neighbour	Representation	5/4/19
32	Neighbour	Representation	11/4/19
33	Neighbour	Representation	23/4/19
34	Case officer and WCC Footpaths	Exchanges of emails	8/8/18 – 17/10/18
35	Case officer and agent	Exchange of emails	8/8/18 – 29/8/18
36	Parish Council	Email to case officer	29/8/18
37	Cllr Reilly and case officer	Email exchange	10/9/18
38	Case officer and agent	Exchange of emails	7/9/18 – 16/12/18

39	Case officer and Highways officer	Exchange of emails	7/1/19 – 10/6/19
40	Case officer / neighbour / Parish Council	Exchange of emails	March/ April 2019
41	Case officer / highways / Parish Council	Exchange of emails	April / May 2019
42	Case officer / NWBC EH / Parish Council	Exchange of emails	April - July 2019
43	Case officer and agent	Exchange of emails	8/1/19 – 29/3/19
44	Case officer and agent	Exchange of emails	9/4/19 – 21/8/19
45	Case officer and agent	Exchange of emails	11/10/19 – 23/10/19
46	Case officer and highways	Exchange of emails	25/9/19 – 11/10/19

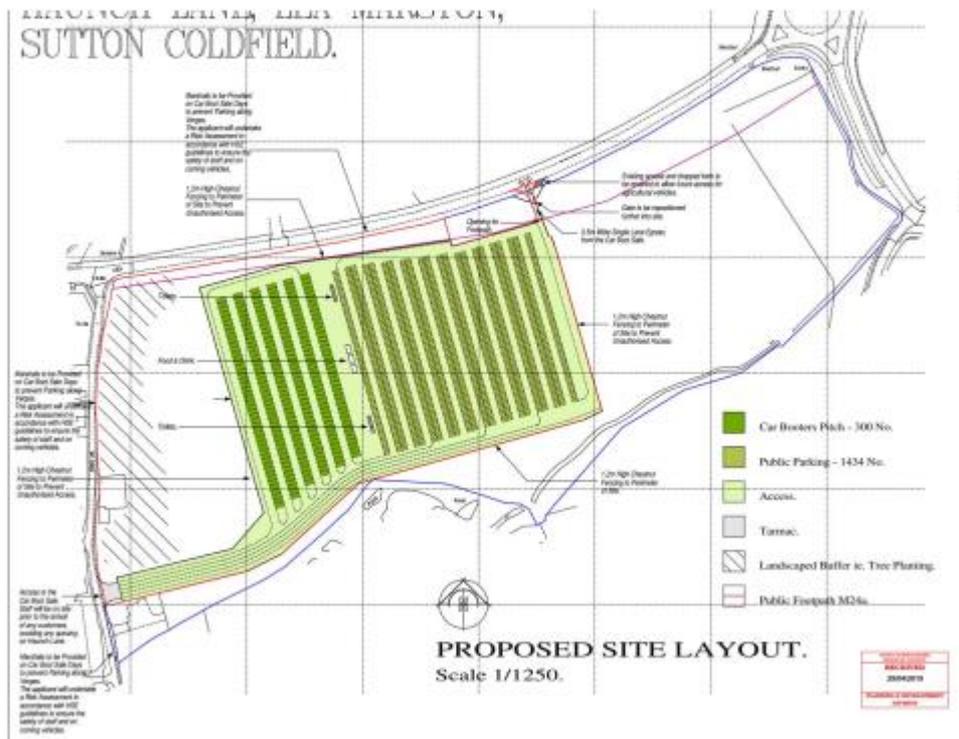
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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 – Application Site



Appendix B – Proposed site layout



General Development Applications

(5/g) Application No: PAP/2020/0340

3, Hillside, Kingsbury, B78 2ND

Outbuilding at the bottom of the garden for use as a gym space, for

Mr Matthew Alexander

Introduction

This case is reported to the Board for determination at the request of local Members who are concerned about the impact of the building on the residential amenity of local occupiers.

The Site

This is the right-hand side of a pair of semi-detached dwellings which front the northern side of Hill Side within a frontage of similar residential property. The rear garden backs onto those of detached residential bungalows in Range Way. Those rear gardens are smaller than that of the application site and the common boundary runs at an angle. The distance of the rear elevation of number 8 to the boundary thus varies between 11 and 13 metres. The rear elevation of number 8 Range Way has ground floor openings as well as a conservatory. The rear garden of number 10 is smaller than that at number 8 and the equivalent distances are 6.5 to 7.5 metres. Its rear elevation has windows at ground floor.

The boundary line is marked by a wooden fence and there is also tall tree and shrub planting within both of the rear Range Way gardens.

The houses and rear gardens in Hill Side are at a higher level than the rear gardens in Range Way and there is a noticeable "step" down running along the common boundary between the properties.

The general location is illustrated at Appendix A

Background

Officers were asked to investigate the construction of an out-building here during the summer. They established that there had been a breach of planning control in that the building exceeded the limits allowed under permitted development rights for the erection of an outbuilding for incidental use within a residential curtilage. The owner decided to remedy this breach through the submission of a retrospective planning application. This was submitted as described below. However, during the course of handling the application, the plans have been amended and the latest plans are again described below.

Members will be aware that most outbuildings benefit from permitted development rights. In this case there is a “fall-back” position in that an outbuilding in this location could be constructed under those rights to the same floor area as that already constructed and if the height is 2.5 metres or less.

The applicant points out that there was a small shed at the rear of his garden on an area of rough ground. This was levelled and patio paving laid such that its level aligned with levels in both of his adjoining neighbours. The new building was constructed on the new patio.

The Proposal

The application is to retain an outbuilding constructed at the rear of number 3 Hill Side running along the whole of the rear garden boundary. It is to be used as a gym with a storage area. It would measure 7.1 metres in width but because of the angled boundary at its rear, it would measure 4.2 by 1.9 metres in depth. The building as originally under construction would have had a full flat roof and it would be 2.6 metres tall. An amended plan submitted after the application was submitted now includes two flat rooves – one at 2.6 metres tall and one at 2 metres over the right-hand storage room on the right-hand side of the building thus giving a “stepped” appearance. The original building has three openings in its front elevation facing number 3, but this is reduced to a single opening patio door in the amended plan.

The existing unfinished concrete block appearance would be rendered and then painted in an agreed colour and finished with a flat felted roof.

The originally submitted plan is at Appendix B and that at Appendix A is the amended plan.

Representations

There were four objections received from residents of Range Way in response to the submission of the original application as described above. The matters referred to include:

- There will be noise and it may be used for a business
- It is ugly and prominent built in concrete blocks.
- The ground level on the application site was raised by 0.3 metres in 2017 without appropriate construction methods and without reference to the Party Wall Act.
- The raising of the land may cause drainage/soakaway issues and may not be able to support the building.
- The height of the building on the raised ground exacerbates its impact on residential amenity.
- The workmanship is poor and appears not to comply with the Building Regulations
- It has affected tree roots in neighbour’s gardens such that trees have had to be removed

The amended plans have been circulated for re-consultation. The expiry of this period ends on 4 December and there will be a verbal update given to the Board on the receipt of any representations.

A photograph of the outbuilding taken from inside number 10 Range Way is at Appendix C. A photograph from the rear of number 8 is at Appendix D and one from the road in Range Way outside of number 6 is at Appendix E.

Development Plan

The Core Strategy 2014 – NW10 (Development Considerations)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV13 (Building Design)

Other Material Planning Considerations

The National Planning Policy Framework

The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

Observations

a) Introduction

There is no objection in principle to this development and the issues here relate to the details. However, there are two general and material matters which Members will be aware of. The first is that notwithstanding the original construction was in breach of planning control, it was not an illegal operation from a planning perspective and the submission of a retrospective application is a recognised means within planning legislation of resolving that breach. The determination of the application therefore rests solely on its planning merits as assessed against Development Plan policy. Secondly, outbuildings within rear residential gardens can be “permitted development” under the terms of the General Permitted Development Order. This means that they already have a deemed planning permission by virtue of that Order subject to the conditions defined in that Order. If these conditions are not satisfied, then a planning application is required. That is the case here. An outbuilding in this location and of the same floor area would be permitted development if the height of the building is limited to 2.5 metres. Additionally, under the same Order a boundary fence two metres tall could be erected on this rear boundary on the applicant’s side without the need for a planning application. These are both “fall-back” positions and they carry substantial weight in the determination of the current application. Members therefore are advised that the assessment of the planning merits here against planning policy is in respect of that part of the building that is over 2.5 metres tall. In other words, the consideration is of what impact does that difference have and not what impact does the whole building have.

b) The Amended Plan

The original submission was to retain the building in the course of construction - that is with a flat roof 2.6 metres tall. The amendment seeks planning permission for two different roof heights – one a 2.6- over the gym area - and one at 2 metres – over a storage area. The lower height is on the right hand side of the building and was altered in an attempt to reduce the impact of the building on the residential amenity of the occupier at number 10 Range Way as there is a much smaller rear garden here as recorded in site description and photograph above – Appendices A and C above. This is welcomed and in effect it is a betterment even over the “fall-back” position for an outbuilding and equates with the “fall-back” position for a boundary fence. Attention is drawn to Appendix C. This shows the building as was being constructed. The amended plan would have the majority of this wall reduced in height by 0.6 metres – being at least two of the block courses on the photograph. Given the two fall-back positions and the change that would occur in the present situation as shown from the photograph, it is considered that that impact would not be material.

However, the original height remains in respect of the left-hand side of the building – that facing number 8 Range Way. Number 8 has a larger rear garden and there is a more mature landscaped boundary here – Appendix D. However, there would still be an impact – particularly if any of the vegetation was removed. The building “fall-back” position is just 0.1 metre lower than the actual position here and the fence “fall-back” is 0.6 metres lower. The additional height is not considered to be material to cause a significant adverse impact.

c) Other Matters

There is a query concerning ground levels in that it is said that the ground level on which the outbuilding has been erected has itself been increased by around 0.3 metres. It is argued that this exacerbates the impact of the building’s height – even at the lower 2 metre dimension as now proposed. The applicant says that there was a former outbuilding here which was removed, and the surface then levelled such that it aligns with the garden levels on either side – numbers 1 and 5 Hill Side. It is agreed that there may well have been some increase here, but alterations to ground levels in rear gardens do not require the submission of a planning application. The General Permitted Development Order in respect of outbuildings does refer to height conditions with reference to ground levels. However, the relevant section of the Order for such outbuildings – Class E of Part 1 to Schedule 2 – does not stipulate “original” ground levels or indeed any level at all. The associated technical guidance advises that heights should be measured from the ground level where the building is to be located. Whilst the argument is understood, there is unfortunately little weight to be given to it in these circumstances. The assessment should thus be made on what is seen on site and how that is to be altered by virtue of the amended plan.

The second matter is the view that the construction of the building may not be safe, stable or compliant with the Building Regulations. Neighbours have indicated that some trees have had to be removed and that there is evidence of subsidence because of the lack of a retaining feature. Members will be aware that these are not planning matters and need to be taken up privately with the applicant and his representatives. That too would apply to any alleged breaches of the Party Wall Act. However, in light of the recommendation below, which is solely based on planning matters, it is perhaps appropriate to require full construction details.

The applicant has confirmed that the building would be rendered and painted. A planning condition can be used to agree the colour.

If a planning permission is granted, then the use of the building can be restricted to uses incidental to the residential use of the host dwelling.

Recommendation

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

1. Standard Plan numbers - Plan Number 1 received on 16/11/20
2. No further work shall proceed on the construction of the building hereby approved until such time as full details and specifications of the foundations for the building have first been submitted to and approved in writing by the Local Planning Authority. Only the approved foundations shall then be installed on site.

REASON

In the interests of the residential amenity of neighbouring occupiers.

3. The building hereby approved shall only be used for uses incidental to the residential use as defined under Class C3 of the Town and Country Planning (Use Classes) Order 2020 of number 3 Hill Side and not for any other use including a use under Class E of the Town and Country Planning (Use Classes) Order 2020.

REASON

In the interests of the residential amenity of neighbouring occupiers

4. Prior to the first use of the building hereby approved, details of the colour of the render or paint to be used shall first be submitted to the Local Planning Authority to and agreed in writing by the Local Planning Authority. Only the approved colour shall then be used on site.

REASON

In the interests of the visual amenities of the area

Notes:

1. The Local Planning Authority has met the requirements of the NPPF in this case through seeking amended plans in an attempt to overcome objections thus leading to a positive outcome
2. Standard Party Wall Act Informatives

BACKGROUND PAPERS

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

Planning Application No: PAP/2020/0340

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	31/7/20
2	Resident	Objection	17/8/20
3	Resident	Objection	12/8/20
4	Resident	Objection	12/8/20
5	Resident	Objection	13/8/20
6	Applicant	Amended plan	16/11/20

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.

LEGEND

PAP/2020/0340

RECEIVED
31/07/2020
PLANNING & DEVELOPMENT
DIVISION

SUPERSEDED

CLIENT: Mr. M. Alexander 3 Hill Side Kingsbury B78 2ND		CONT. No. SHEET: 1 of 1
PROJECT: Block Built Gym / Storage		SCALE: 1:25 / 1:500
LOCATION: 3 Hill Side, Kingsbury		DATE: 25/07/20
DRAWN BY: S.A.	CHECKED BY: S.A.	APPROVED BY: S.A.

ELEVATION A

ELEVATION B

ELEVATION C

ELEVATION D

PLAN LAYOUT

LOCATION PLAN







General Development Applications

(5/h) Application No: PAP/2020/0568 and 2020/0569

Britannia Works, Coleshill Road, Atherstone, CV9 2AA

Planning and Listed Building Applications for the demolition of the existing buildings identified as blocks O, P, R, T and U for

Mr S Shihn

Introduction

Planning permission and Listed Building Consent were granted in late 2019 for the substantial demolition of these industrial premises off the Coleshill Road and alongside the Coventry Canal together with the redevelopment of the site as a 70-bed care home. The consents enabled the rebuilding of those parts of the façade to the Coleshill Road that were to be demolished to be rebuilt with the same appearance.

In the September 2020 the majority of the pre-commencement conditions attached to these permissions were discharged.

During the intervening period there has been further deterioration in the condition of the buildings, particularly amongst those facing Coleshill Road and there has been further unauthorised entry into the site. The Covid situation has also resulted in additional challenges to the developer in finding the financial backing to fund both the demolition as approved and the new construction. This has led to a funding gap. In order to reduce that gap, a reduction in demolition costs could be achieved if certain parts of the frontage were not retained – e.g. the cost of supporting these portions of the buildings would not be incurred over a significant length of time – and sources of grant funding are actively being promoted.

As a consequence, these two new applications have been submitted to demolish the structures that were to be retained along the frontage. In other words, the whole of the existing buildings would be removed; the care home constructed as approved and the existing frontage re-built replicating its current appearance.

The applicant is in the process of submitting additional documentation to support the application. This will be circulated when it is received.

For convenience the previous report is attached at Appendix A.

Representations

One letter of support has been received from a local resident.

Atherstone Town Council has no comment to make.

Atherstone Civic Society – No objection. The buildings are in a dangerous condition and should be demolished. Every building of historic interest cannot be “saved”.

Consultations

The Inland Waterways Association objects as the removal of these last blocks will mean the loss of the whole heritage asset which will cause substantial harm and should be resisted if the preservation of the Borough's heritage is to be valued.

The Canal and River Trust also considers that the removal of these last blocks will mean the loss of the whole heritage asset. It is also concerned about the methodology of demolition and the impact of any contamination leaching into the canal.

Observations

It is not proposed to repeat the content of the previous reports here, but Members are reminded that they should be taken to be an integral part of this report. It is therefore proposed to concentrate on the key issues.

Before that however, it is proposed to run through the present plans so that Members are familiar with the proposals.

The frontage blocks that were to remain under the recent permissions are the blocks identified in the application header above. These are now all to be demolished. They are shown at Appendix B and the corresponding front elevations are at Appendix C.

There have been no changes to the relevant parts of the Development Plan since the 2019 approvals and there has been no material change in other planning policy considerations. The emerging Local Plan has not progressed to become of significant weight.

The present proposals do not alter or vary any matters to do with the principle of the proposal; the access arrangements, impacts on residential amenity, design and appearance or other harms which we considered last year. The key issue is to revisit the statutory duties of the Council in respect of its determination of applications affecting heritage assets because of the additional demolition works proposed.

The Council is under a statutory duty to have special regard to the desirability of preserving or enhancing the character and appearance of a Conservation Area when it comes to determine any planning application. Here the town's Conservation Area is a little distant – some 100 metres to the north. The significance of the Area is that it is large covering the whole of the town centre and that it reflects the town's history in architectural and built form terms, representing a number of different periods and though a number of different uses and activities. Contemporaneous features, characteristics and attributes remain in situ and its significance is enhanced by the size and range of these elements. The proposals have no direct impact on the character and appearance of the Conservation Area because of the separation distance. However, the additional demolitions and replacements when taken with the present approval, would still retain a scale of development on a site that is wholly linked to the town's industrial and transport history which is represented elsewhere in the Conservation Area. It is not only this historic and architectural link with the significance of the Area, but there is also a visual link as the site is visible from locations within the Area. It is concluded that even with the additional demolitions that the approved scheme in general built form and

appearance would still preserve and enhance the Conservation Area to a moderate degree and that as a consequence, there is no harm to this heritage asset.

The Council is also under a statutory duty to pay special regard to the desirability of preserving a Listed Building; its setting or any features of special architectural and historic interest that it possesses. The application site is part of a Grade 2 former millinery works and factory dating from the early 19th Century. The significance of this asset is that it remains part of the town's industrial heritage as a "hatting" town. It is one of other surviving factories which combine to make the town of national importance. In this case the transport link to the canal adds to its importance. The historic background is reflected in the contemporaneous architectural characteristics of the mid to late Victorian period extending into the 20th Century which particularly are seen along the Coleshill Road frontage.

The Council has already agreed that notwithstanding the substantial harm caused through the demolition of 90% of the current site, the community and public benefits would outweigh that harm. The issue now is whether the total loss of the asset would lead to the same conclusion. Any support for the additional demolitions should require exceptional, clear and convincing justification. The NPPF also lists four "tests" which should be satisfied as part of this process. Each is now looked at in turn.

The first is that the nature of the asset prevents all reasonable use of the site. It was concluded previously that the nature of the asset doesn't prevent all reasonable use, but it does restrict the available alternatives. Indeed, two alternative uses have been permitted – residential use and as a care home. The demolition of the remaining buildings would not prejudice either of these outcomes.

The second is that no viable use can be found in the medium term through appropriate marketing to enable its conservation. A viable use for the parts of the buildings now to be demolished is considered to be unrealistic and impractical given the condition of the surrounding and supporting buildings.

The third is that conservation cannot be made possible through grant funding or charitable ownership. Nothing was evidenced in either of the two previous permissions and no funding would be tenable for the conservation of these last remaining buildings in the absence of any for the bulk of the site.

The final one is that the harm or loss is outweighed by the benefit of bringing the site back into use. This was agreed under the last 2019 permission. Since then the building has deteriorated further; there has been continued unauthorised access, the costs of demolition have risen and a funding gap is the focus of bids for grant aid. It is not considered proportionate to retain these remaining buildings which could now be considered as prejudicing the overall redevelopment scheme. The rebuilding of the façade is not a heritage benefit or gain. It is however a realistic and appropriate alternative in order to retain the street-scene on this main entrance route into the town.

As a consequence, it is still considered that the balance lies with the benefit of implementing the 2019 permission in principle.

The NPPF also says that all reasonable steps should be taken to ensure that the new development will proceed should there be a total loss of an asset as would result here. It is considered that this is the case – the owner and applicant have undertaken additional security works to the site so as to limit unauthorised access in consultation with the relevant Agencies; they have continued to discharge the appropriate pre-commencement conditions on the 2019 permissions so as to reduce the risk of these expiring and they have actively worked with appropriate officers to apply for grant funding to fill the current funding gap on the overall scheme. This condition is thus considered to be satisfied.

Notwithstanding the current proposal which would lead to the total loss of this heritage asset, it is still considered that the public and community benefits of continuing with the 2019 permission are overriding.

The proposals include the rebuilding of the Coleshill Road frontage so as to replicate the existing appearance.

Recommendation

That subject to Member's being satisfied that the content of the additional documentation, once circulated, does not materially affect the matters raised in this report:

a) PAP/2020/0568

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

1. Standard Three Year Condition
2. Standard Plan Numbers – 503, 502,501,505 and 504
3. Rebuilding of the front elevation of the buildings hereby approved for demolition shall take place strictly in accordance with plan number HCT/288/PA2/206B approved under planning permission PAP/2019/0180 dated 7th November 2019 together with the details approved under DOC/2020/0031 dated 22nd September 2020.

REASON

In the interests of the visual amenities of the area and the town's heritage.

Notes:

1. The Local Planning Authority has met the requirements of the NPPF in this case through the issue of a speedy decision and with reference to the relevant advice therein on heritage assets.
2. Attention is drawn to the adjoining canal and the need to contact the Canal and River Trust in regard to demolition methods and management as well as the prevention of potential contamination of the canal water.

b) PAP/2020/059

That Listed Building consent be **GRANTED** subject to the following conditions:

1. Standard Three year condition
2. Standard Plan numbers condition – 501, 502, 503, 504 and 505
3. Rebuilding of the front elevation of the buildings hereby approved for demolition shall take place strictly in accordance with plan number HCT/288/PA2/206B approved under Listed Building Consent PAP/2019/0183 dated 7th November 2019 together with the details approved under DOC/2020/0032 dated 22nd September 2020.

REASON

In the interests of the visual amenities of the area and the town's heritage

Notes:

1. The Local Planning Authority has met the requirements of the National Planning Policy Framework in this case through the issue of a speedy decision and with reference to the relevant advice therein on heritage assets.

BACKGROUND PAPERS

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

Planning Application No: PAP/2020/0568

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	27/10/20
2	Inlands Waterway Association	Objection	6/11/20
3	Resident	Support	8/11/20
4	Atherstone Town Council	Representation	19/11/20
5	Atherstone Civic Society	Representation	25/11/20

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.

General Development Applications

(#) Application No: **PAP/2019/0180** and PAP/2019/0183

Britannia Works, Coleshill Road, Atherstone, CV9 2AA

Erection of 70 apartments (use class C3) with extra care provision, for

Atherstone Britannia Ltd

Introduction

These applications were referred to the Board's May meeting. A copy of the report is at Appendix A and a note of the site visit is at Appendix B.

There have been no changes to the Development Plan or to other relevant material planning considerations since that time and thus Members are referred to Appendix A for the appropriate planning policy background.

However before providing the report for determination of the applications, it is necessary to refer to the receipt of amended plans.

Amendments

The amendments submitted do not go to the heart of the proposals in that the scale and nature of the proposals remains exactly the same. The changes affect the blocks fronting the Coleshill Road. These changes essentially are that the extent of demolition here is widened and that one of the frontage blocks would have alterations to its fenestration. These changes come about for two reasons. Firstly, there has been continuing deterioration in the stability of the structure of these blocks and secondly there is an operational reason directly consequential to the nature of the proposals. These front blocks have different floor and ceiling levels such that it has been impossible to devise a workable internal layout without the need for ramps, steps and at least two lifts. This would not be operationally acceptable for the proposed use. Indeed the likely occupier of the development has indicated that such a situation would lead to the withdrawal of their interest. In these circumstances a greater degree of demolition is now proposed and this would probably have been needed in any event due to the continuing deterioration of the property. The front façade would still remain, apart from one block, but the demolitions behind would now enable level floors and corridors to be inserted. The demolished block would be rebuilt to the same height and design, re-using the materials, but the windows would all be lower than existing. There would also be a simplification of the new build behind the other blocks.

On a point of detail, the amended plans no longer include proposals for bollards and double yellow lines at the access locations in Richmond Road. These were initially included to retain clear space at the access points. However early comments from the Highway Authority led to their removal in order to lessen any consequential impacts on Richmond Road.

The amount of the existing structure that was to be retained is at Appendix C and that now to be retained is at Appendix D.

The Coleshill Road frontage that was included in the original submission is at Appendix E and that now proposed is at Appendix F.

The canal side frontage has also been the subject of design changes. The original submission is at Appendix G and that now proposed is at Appendices H and I. The only changes are minor fenestration alterations.

Because of the receipt of amended plans, re-consultation has been undertaken. The section below summarises the responses from both the original and the second consultation.

Additional Background

Local Members will certainly be aware that there has been a significant increase in unlawful entry into the site as well as anti-social behaviour on site – particularly in the summer months. Both the Police and the Fire Service have had cause to visit on several occasions. There have been other site visits and investigations with Building Control colleagues. As a consequence of all of this and the deteriorating structure of the buildings – particularly its Coleshill Road frontage - and the need to protect public safety because of its location, a formal Dangerous Structure Notice has been served on the owners under the Building Act. This falls short of complete demolition due to the Listed Building status of that front elevation. The Notice requires demolition as agreed under any Listed Building Consent that might be granted. The Notice is thus a material planning consideration of substantial weight given the location of the site and the degree of deterioration.

Consultations

Warwickshire County Council as Highway Authority – It has maintained an objection throughout. It is concerned about traffic generation and the sole means of access for that being onto Richmond Road.

Warwickshire County Council as Lead Local Flood Authority- No objection subject to a standard condition.

County Archaeologist – No objection subject to standard conditions requiring an evaluation post-demolition.

Warwickshire Libraries – A contribution of £1532 is sought to enhance existing facilities.
Warwickshire Police (Architectural Liaison) – A number of detailed design matters have been forwarded to the applicant in order to add security.

Environmental Health Officer – No objection subject to conditions relating to a Construction Management Plan; contaminated land assessments, and the need for electric charging points on site.

Inland Waterways Association – The redevelopment is welcomed given the historic and tourism importance of the canal to the town. However, it expresses concern over the “monolithic and uninspiring” canal frontage which whilst addressing the industrial character of the site does not reflect the vernacular architecture of the canal.

Canal and River Trust – Whilst the canal side frontage would use brick as the primary material and there have been changes to the top floor, the Trust repeats the criticism of the IWA above. The frontage lacks variation. Conditions are needed in respect of construction details and final canal boundary treatments.

George Eliot NHS Trust – It requires a financial contribution of £29,344 towards additional health care facilities for the Trust

Warwickshire Public Health – It requires a financial contribution of £50,111 towards primary medical care facilities in the CCG's identified Rural North Primary Care Network
NWBC Waste and Refuse Officer – Richmond Road is a difficult road to service for waste vehicles whether public or private. Waste collection points at the site entrances are satisfactory.

Representations

Atherstone Town Council – No objections.

Atherstone Civic Society – No objections and would support increased car parking on site if possible as well as more ground level views of the canal through the main building blocks.

Three letters of objection have been received referring to the following matters:

- The development is far too short on on-site car parking
- Extra traffic coming onto Coleshill Road
- Refuse/Waste collections are already difficult
- 41 to 47 Richmond Road are on an un-adopted private road. There should be no access/trespass onto this stretch of road
- Where will tenants of properties at 41 and 43 park their cars and put out their bins
- The impact of parking in Richmond Road
- Overlooking and loss of light to private property along Richmond Road and at its southern end.

One letters of representation has raised concerns about the demolition process; the length of time involved, contractors' parking, what will be the final boundary treatments around the site where they adjoin private property and on-site security.

Observations

a) Principle

There is no objection in principle to this proposal. There are several reasons for this – the site is located within the town's development boundary as defined by the Development Plan and is thus appropriate for new residential development in overall terms; Atherstone is a Category One settlement in the hierarchy as defined by that Plan being suitable for larger developments, and the fact that permissions have already been granted for the residential redevelopment of the site – the last being in 2017 for 59 dwellings. This last permission could still therefore be taken up. The determination of these applications is thus a matter of assessing both the impacts arising from this changed proposal to see if they would cause significant and demonstrable harm as well the details of the proposal to see if they accord with the heritage interest in the site and the good quality of development required by the Development Plan.

b) The Proposal

Whilst it would appear that this proposal at 70 units would cause greater impacts than the permission for the 59 because it is more intensive, it is necessary to say that this is not likely to be the case. This proposal is materially different to the 2017 scheme. This is because the proposal is for an extra care home which means that there would be far less of a traffic impact than that arising from the scheme for 59 private apartments. The residents would not be commuters and very unlikely to take daily car trips. The site is close to the town centre, the bus and rail stations and whilst not all would walk, taxi services would become prominently used. Members are familiar with these developments elsewhere in the Borough. As a consequence it is material to the determination to understand the difference in the nature of this current proposal.

There are other "benefits" arising from this changed circumstance. The County Council is fully supportive of the scheme, not only in general terms but because it would assist in continuing to meet the growing need and requirement for this type of accommodation in the north of the County. It thus meets a different type of housing need where there is a known shortage in the Borough. This has a consequence in that if the units here are occupied by local people there will be a "freeing-up" of existing established houses in the town thus becoming available for other occupiers.

Secondly there is a significant "community" hub being proposed in the scheme – the lounge/restaurant and retail space. This will support the local community and should enhance footfall to the existing services in the Coleshill Road.

In overall terms therefore this proposal is appropriate in principle and would bring other benefits that would accord with Development Plan policy that might not have arisen with the 2017 scheme.

c) Highway Impacts

The Highway Authority's position is entirely to be expected and wholly understandable. Members will have seen themselves the access points into Richmond Road, the scale of the on-street parking, the narrowness of the carriageway and the visibility at its junction with the Coleshill Road. This new development will have an adverse impact by

its very nature and that impact could be significant. In response, the applicant argues that this current scheme would materially reduce traffic generation compared to the approved scheme in terms of both numbers of trips made and that there would not be the pronounced peak movements during the day. This is acknowledged and it would reduce the level of impact. But, it would not eliminate it all together and neither would it reduce to anything less than a moderate impact. There is still harm likely to be caused.

In respect of car parking provision, then the scheme reflects the nature of the proposal. As a consequence 30 spaces are provided on-site – that is 43% provision. Members' attention is drawn to the Laurel Gardens development in Mancetter where 51% provision was approved and to the Orchard Blythe development in Coleshill (the former Police Station) where 43% was provided. In neither of those two cases did the Highway Authority object to that level of provision. It is agreed that this issue is material, perhaps even more so in this particular location with the nature of the surrounding road network. In short, whatever development is approved for the redevelopment of this site, there will always be this particular impact. This current proposal does however have the benefit of there being more likelihood of a reduction of parking being needed. The issue however is still one that should be considered as a likely harm.

d) Heritage Harm

The Council is under a statutory duty to have special regard to the desirability of preserving or enhancing the character and appearance of a Conservation Area when it comes to determine any planning application. Here the town's Conservation Area is a little distant – some 100 metres to the north. The significance of the Area is that it is large and that it reflects the evolution of the town's history in architectural and built form terms, representing a number of different periods and through a number of different uses and activities. Contemporaneous features, characteristics and attributes remain in situ and its significance is enhanced by the size and range of these elements. The proposal has no direct impact on the character and appearance of the Conservation Area because of the separation distance. However it does have a beneficial impact in that it would retain a scale of development on a site that is wholly linked to the towns industrial and transport history which is represented elsewhere in the Conservation Area. It is not only this historic and architectural link with the significance of the Area, but there is also a visual link as the site is visible from locations within the Area. It is agreed that the scheme in general built form therefore does preserve and enhance the Conservation Area to a moderate degree and that as a consequence there is no substantial harm.

The Council is also under a statutory duty to pay special regard to the desirability of preserving a Listed Building; its setting or any features of special architectural and historic interest that it possesses. The application site is a Grade 2 former millinery works and factory dating from the early 19th Century. The significance of this asset is that it retains part of the town's industrial heritage as a "hatting" town. It is one of other surviving factories which combined to make the town of national importance. In this case the transport link to the canal adds to its importance. This historic background is reflected in the contemporaneous architectural characteristics of the mid to late Victorian period extending into the 20th Century which particularly are seen along the Coleshill Road frontage.

As the proposals involve demolition – over 90% of the existing structures are to go – it is considered by fact and by degree that substantial harm will be caused to the significance of this asset. That is mitigated to a degree by the retention of the Coleshill Road façade in overall terms; the retention of a couple of those frontage blocks and the replication of an “industrial” approach to the design of canal side frontage. Hence whilst there would be retention and recognition of both the historic and architectural characteristics within the current proposals, it is the degree of demolition and the significance of the asset to the town’s industrial history that leads to the conclusion that substantial harm would be caused.

In respect of other neighbouring Listed Buildings then Members attention is first drawn to the canal infrastructure along the waterway that adjoins the site. The lock systems here are Grade 2 Listed and are a little to the west of the site. Their significance is that they exhibit a strong historic connection with the town’s industrial past and that they reflect the architectural characteristics typical of that infrastructure. They now have a strong tourist and recreational value. There is no direct impact on these listed structures or their setting because of the separation distance and because the proposals generally replicate the built form presently on site. With the Coleshill Road frontage largely unaffected the degree of harm is considered to be less than substantial. The other canal infrastructure here – the Coleshill Road bridge and the towpaths – can be considered as non-designated assets. Again here the degree of harm is considered to be less than substantial as the proposal may well be considered to enhance their setting whilst replicating the past industrial linkages. Public access to the canal side is retained from the site. Although this is limited it does enable appreciation of the linkages here.

Queen Anne House a Grade 2 late 18th/early 19th Century house on the other side of Coleshill Road and on the other side of the canal. Its significance is that it is a retained detached house of that period, complete with external and internal contemporaneous features set in its own curtilage. There is no direct impact on either the historic or architectural characteristics of this significance arising from the proposal. It is the setting of the House that is most at risk. However there is some distance between the sites (100 metres) and the built form proposed at the Britannia Works matches the scale and mass of the existing, such that that setting is not materially altered through visual or physical “enclosure” or “intervention”. As a consequence there is less than substantial harm caused and that level of harm would be at the lower end of the scale.

In conclusion therefore, there is substantial harm caused to the significance of the Britannia Works and less than substantial harm to the adjoining and neighbouring canal infrastructure and to the setting of Queen Anne House. However the proposal does have a moderate benefit in enhancing and preserving the character and appearance of the Conservation Area.

e) Design and Appearance

Whilst this was touched on in looking at the heritage impact on the architectural significance of the Listed Building, it is necessary to look at the design and appearance of the proposal as a whole regardless of its heritage value.

Firstly, the proposed built form here is entirely appropriate and relevant to its setting. The existing site is highly visible, prominent and with an undoubted industrial appearance. These elements are all retained in the scale and massing of the new built

structures. The Coleshill Road frontage is left unaltered in these respects and the retention the building on the canal bridge is significant in "turning" the development onto the canal side, as well as linking the historic industrial appearance of the frontage to the modern industrial face of the canal side. That face matches the existing structures in scale and mass.

Secondly, it is appropriate to take an industrial "lead" on the design of this canal frontage rather than a residential one. It reflects and preserves the historic use of the site. Residential detail such as gables, balconies, domestic scale fenestration and sloping rooves would wholly change the visual environment and not retain the heritage linkages of the site.

These two conclusions do however give rise to the criticisms raised the Canal and River Trust. The canal frontage is "big" in length and height but it is split into a number of blocks and the use of facing brickwork will be material particularly if different colours and textures are used. It is considered that the design is sufficiently well presented and coherent such that it would accord with Development Plan policies. Members may wish to take a different view and follow the views expressed by the Trust and the Inland Waterways Association. The comment that this frontage in architectural terms should reflect the canal's linkages to the site is very much acknowledged, but it is the scale and mass of this frontage that first needs to be addressed. It is considered that that requires an "industrial" approach. It is not considered that experience of canal users would be unduly harmed.

f) Residential Amenity

This is a large development and there will be new residential development along the canal side up to four storeys in height. There will thus be overlooking of established properties to the north in Westwood Road and Westwood Crescent. However it is notable that there have been no objections received from this area. Nevertheless there will be harm caused but this is mitigated by separation distances and the fact that the former factory floors would have overlooked the residential properties. Of note too, is that there is an approved residential scheme with four and three storey development for the site. As a consequence, whatever redevelopment scheme comes forward for the site, this issue will always arise.

There will also be a degree of overlooking of property in Richmond Road more particularly at its eastern end. There is potential harm here because the proposals are much closer to established property. However there is an approved scheme for the site and Members will be aware that residential redevelopment schemes have been approved for sites outside of the application site and the end of Richmond Road. This does not mean that the harm is eliminated as it will remain as a residual harm whatever is approved in this particular location.

g) Other Harms

It is not considered that the proposal will result in unacceptable harm in respect of surface water drainage, ecological or archaeological interests. It is of significant weight that the Environmental Health Officer has no objected thus leading to the conclusion that there should not be unacceptable noise or air quality impacts or those arising from the site's ground conditions.

h) Other Matters

The representations received reflect the matters that have been raised above. However one particular concern relates to the situation at the far end of Richmond Road. It is correct that the stretch from 41 to 47 is a private road. However the application site does not include any of that land. Any depiction of boundaries on the application plan outside of the application site is not material to the determination of these applications and such disputes need to be taken up privately or through the Land Registry.

It is however a planning matter that the existing access from Richmond Road into the site here would become an entrance for the staff car park and that some refuse bins would be collected from here. There would therefore be increased activity over the present situation. That activity too may displace the use of this area as now used by local residents. However it would revert to the situation when the site was in its former use as an access and indeed to the situation as approved under the recent 2017 permission. Additionally as indicated above there are other approvals at the end of Richmond Road and these too if taken up, will displace some car parking. It is therefore agreed that there could be a cumulative adverse impact on residents at the far end of Richmond Road. This cannot be "mitigated" in full despite the change in the nature of this current proposal. This residual "harm" therefore has to be added into the final planning balance.

In respect of the potential for the existing buildings as a roosting site for bats, surveys have been undertaken and at that time no evidence was found. It was however concluded that they could well be used for foraging on a transient basis. As a consequence demolition would need to be undertaken with a licensed bat handler and mitigation measures such as bat boxes included in the final construction.

The site was used a former factory and as was the case in the recent 2017 approval, appropriate conditions can be attached for site investigations into ground contamination once demolition has been completed.

i) The Final Planning Balance

At the beginning of this section, it was concluded that there is no objection to the principle of the proposed development. That presumption remains. However it is necessary to assess whether any of the harms identified above are of sufficient weight individually or together, to outweigh the presumption.

Starting with the heritage harm, then great weight has to be given to the conservation of a heritage asset. It is clear here that the harm to the asset is substantial. As a consequence, given the weight to be given to conservation, the NPPF states that any support for proposals resulting in substantial harm to a Grade 2 Listed Building should be refused. Any support for such a scheme should be exceptional and require clear and convincing justification. The NPPF says that for this to happen, either the harm is necessary to achieve substantial public benefits, or all of four "tests" are satisfied. Whilst this is an either/or situation, it is considered appropriate to look at both in order to fully explore the issues involved. It is first proposed to look at each of the "tests" in turn.

The first is that the nature of the asset prevents all reasonable uses of the site. The very nature of the asset here limits the range of potential uses. Clearly there is a lawful commercial B2 use associated with the site, but resumption of that is unlikely – the site has been vacant for several years - and any resumption would result in environmental harms that would be unacceptable. A re-use for B1 light industrial uses or office accommodation would be acceptable in principle but would be unlikely to be viable in Atherstone and give rise to substantial highway and parking issues. Other uses such as recreation and leisure uses would give rise to similar issues. It is not only the nature of the asset itself that prevents these uses but its setting which severely handicaps the range of other uses. A residential conversion is a reasonable use for the asset. An approved scheme exists for such a development. A different form of residential development as is proposed now does offer an alternative reasonable use with lessening of the adverse impacts. So the nature of the asset here doesn't prevent all reasonable uses, but it does restrict the alternatives available.

The second is that no viable use can be found in the medium term through appropriate marketing to enable its conservation. The Council has considered alternative schemes for this site over the last few years and there have been different owners. All of the schemes that been approved have not been implemented and the general view is that the developments even with the benefit of permission have not been viable. This is considered to be largely a consequence of the continuing deterioration of the buildings and the costs of demolition and clearance. Also the market for residential apartments in Atherstone is not as buoyant as in the larger conurbations. This planning history shows that a viable use is going to be extremely difficult to achieve here.

The third is that conservation cannot be made possible through grant funding or charitable ownership. There has been no interest expressed at any time through recent years and Historic England has not promoted the site. This is a large complicated and very difficult site to develop and it is therefore understandable that there has been no other interest. However the applicant has not submitted evidence to demonstrate that there is no such interest. This third "test" is therefore not fully met.

The final one is that the harm or loss is outweighed by the benefit of bringing the site back into use. This is considered to be the case here. The harm here is not total loss of the asset. Past consents have supported substantial demolition works here with the most significant buildings being retained. As the building has deteriorated the likelihood of increased demolition has also risen. The current Dangerous Structure Notice is a clear pointer that further demolition is needed. The current proposal does so, not only for this reason but also to enable an alternative use that appears to have other benefits as well as reducing other harmful impacts. As a consequence it is considered on balance, that this "test" is satisfied.

In conclusion therefore these considerations suggest that the range of options for a reasonable use of the site is limited; that no viable uses have been forthcoming and whilst there is no evidence of other means of funding or part funding a proposal, there has been no expression of interest shown or has it been promoted by other Agencies and that the loss and harm caused does have the benefit of bringing the most significant elements of the asset back into use and conserving their character and appearance.

These findings now need to be considered in answering the key heritage issue. This is, are there substantial public benefits here to outweigh the substantial harm caused by the proposal to the heritage asset? It is considered that there are.

There are several reasons for this. The first is that the building is now the subject of a Dangerous Structures Notice. Its condition has deteriorated significantly since the 2017 planning permission and there is now an identified health and safety risk. These factors mean that more of the buildings will need to be demolished in order to retain the most significant element of the asset – namely its Coleshill Road façade.

Secondly, the proposed use is one that is needed in the Borough and one that is supported by the County Council in that regard. There is a willing operator who wishes to implement any planning permission granted because of that need and the particular merits of this site and the opportunities it offers to meet that need.

Thirdly, the proposed use is one that reduces other adverse impacts that will cause harm – namely the highway and parking issues described above. The scheme is less intensive in these respects to the already approved developments.

Finally, the site is important to the town. It has heritage value; it is on one of the main road arteries into the town and it links with the tourism objectives of the Borough through its canal side setting. Its future needs to be secured. It is currently vacant and rapidly deteriorating. There will be a substantial benefit in its appropriate redevelopment.

Having reached this conclusion on heritage harm, the Board still needs to assess whether there are any other harms that might outweigh the presumption to support the principle of this proposal. The most significant one is the highway/parking issue.

It would be fair to say that whatever the proposed development, then there are going to be adverse highway and parking impacts. The site's location and the nature of the surrounding built form and the highway network make this inevitable. The issue is to achieve a reasonable balance. There have been past permissions here and these set a bench mark for answering that question. In this case, it is considered that the current scheme is a "better" scheme than those already approved and thus that the balance does lie in supporting the proposal. The Highway Authority will understandably object to any redevelopment scheme that involves even a moderate degree of traffic generation. That is reflected too in the representations submitted by some local residents. However that should be not be given greater weight when there are other more significant benefits being proposed. A continuing vacant and derelict site is not in the public's interest.

It is not considered that any of the other identified harms, or indeed a combination of all of the harms is of greater weight than the benefits and opportunities presented by this proposal. As a consequence the final planning balance lies in supporting the developments.

Finally, Members attention is referred to the contributions that have been requested and as are set out earlier in this report. A Viability Assessment has been prepared by the applicant in response to them and this concludes that their inclusion would make the scheme unviable. This is essentially due to the abnormal demolition and construction

costs involved and the lower property values that could be expected in Atherstone rather than in Birmingham or other areas of Warwickshire. This report does carry weight. Moreover the contributions sought relate to health contributions. As these are largely calculated on a formula basis it is not evident that any account has been taken for the nature of the development proposed – that of extra care provision with some degree of assistance being available on site. Moreover many of the residents would be from the local area and thus not “new” additions to the health requirements of the area. As a consequence it is not clear whether the requests would be CIL compliant. Given these circumstances and the view that the overall public benefit is to secure a future for the site and to meet the need for new accommodation in this sector, it is considered that the balance here lies with proceeding with the development without the contributions.

It is in consideration of all of the matters raised above that the current proposals can be recommended for approval.

Recommendations

a) PAP/2018/0180

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

1. Standard Three year condition
2. Standard Plan numbers condition – plan numbers 001A, 002A, 100A, 101A, 102A, 103, 104A, 105, 106, 107A, 108A, 109, 110A, 111A, 112A, 113A, 200B, 201B, 202C, 203D, 204C, 205C, 206B, 207A, 208A, 209A, 210A and 211 and supporting documents including Written Scheme of Investigations and Structural Surveys and Heritage Statement.
3. Before building work commences, the following details shall be submitted to the local planning authority for approval:
 - i) A schedule of materials (including samples) to be used in the elevations, roofing, hard surfacing, wall plinth/bases of the new development and the restoration of Block Q.
 - ii) Eaves/verges, ridges and chimneys at a scale of not less than 1:10

The development shall be constructed in the approved materials and details.

REASON:

To ensure the architectural detailing of the new buildings reflects the established character of the area and in the interests of preserving the appearance of the historic buildings.

4. Before building work commences, a sample panel of walling of the buildings to be renovated and the new buildings shall be constructed on site to the written satisfaction of the local planning authority. The works shall be carried out in full accordance with these sample walls.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to these historic buildings.

5. Prior to the installation of glazed elements including windows, doors (glazed and timber) and glazed links, scaled elevations at 1:20 and sections at 1:10 shall be submitted to the Local Planning Authority and approved in writing for the new blocks and where there are changes to the architectural detail in the historic buildings. Only the approved details shall then be used.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to the historic buildings.

6. Prior to the installation of architectural Ironmongery details of the balconies, rainwater goods, fencing, lighting, CCTV, gates, decking, street furniture and railings shall be submitted to the local planning authority for their approval in writing. Only the approval details shall then be used.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to these historic buildings.

7. No part of the development hereby approved shall commence until a scheme detailing the phasing for the implementation of the overall development has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall describe the stages in which the development will be implemented and for each stage it shall describe the phasing of conversion of the historic building and of the re-construction of any building. The development shall then proceed only in accordance with the approved phasing details.

REASON

To ensure that all components of the overall development are provided in a manner appropriate to the heritage value of the site.

8. No building shall be occupied until all works within that phase of the development have been completed, the historic blocks shall be converted to a standard deemed to be appropriate for their occupation as confirmed in writing by the Local Planning Authority.

REASON:

In the interests of safeguarding the Heritage Asset.

9. Details of the methods to be used for the protection of the retained building fabric shall be submitted to and approved in writing by the Local Planning Authority before any works for demolition and construction commence. Particular reference shall be made to the protection of the remaining blocks O/P, R and U/T

and to the boundary wall alongside the canal. The approved protection works shall be carried out before any other works are carried out.

REASON

To ensure that parts of the original listed building are properly protected and supported.

10. The demolition of Block Q shall be carried out by hand (or tools held in the hand other than power-driven tools) and the materials stored for re-use on the site.

REASON

To protect the significance of the remaining listed buildings.

11. For the avoidance of doubt, there shall be no uPVC windows or doors used on any of the buildings whatsoever. All of the windows and external doors shall be recessed back in their openings by a minimum of 75mm.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to these historic buildings.

12. Prior to any demolition works a historic building survey shall be undertaken and completed in accordance with the document submitted with this application entitled "Written Scheme of Investigation for Historic Building Survey", by University of Leicester Archaeological Services.

REASON

To ensure appropriate recording of the historic buildings.

13. Prior to construction the following details are required:

- a) a programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition shall be undertaken and completed in accordance with the document submitted with this application entitled "Written Scheme of Investigation for Archaeological Field Evaluation", by University of Leicester Archaeological Services.
- b) an Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the LPA. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

REASON

In view of the potential for the works to disturb any archaeological features associated with the industrial use of this site.

14. Prior to the first occupation of the site, a detailed proposal for the remediation of any soft landscaping areas proposed to address the lead content of the underlying soils shall be submitted to the Local Planning Authority for its approval in writing. The scheme shall then be implemented in accordance with the approved details.

Reason

In view of the former use of the site so as to reduce the risk of pollution.

15. No works shall commence on site other than the demolition works hereby approved, until a preliminary assessment for contaminated land has first been undertaken. It shall be submitted to the Local Planning Authority. If this assessment identifies potential contamination, then at the request of the Local Planning Authority a further detailed investigation shall be carried out and details of all remediation measures shall then be submitted to the Authority. Works may then only progress in accordance with measures as approved in writing by the Authority.

Reason

In the interests of reducing the risk of pollution.

16. In the event that contamination is found under condition (9) at any time when carrying out the development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and Risk Assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared. Work may only continue in line with remediation as agreed in writing by the Authority.

Reason

In the interests of reducing the risk of pollution.

17. Where any remediation measures have been carried out in pursuance of conditions (9) and (10) a post remediation verification report shall be submitted to the Local Planning Authority before the development is first occupied. Occupation may only proceed following the written approval of the Authority

Reason

In the interests of reducing the risk of pollution.

18. No development shall take place on the site other than the demolition works hereby approved until full details of the gas protection measures to be provided within the buildings have first been submitted to and approved in writing by the Local Planning Authority. All construction work shall then take place including the approved measures

Reason

In view of the former use of the site so as to reduce the risk of pollution.

19. No development shall commence on site other than the demolition works hereby approved until a Landscape and Open Space Management Plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped and open space areas has first been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of the mechanisms which will secure its implementation as well as details of the heritage assets from the former hat factory which will be placed in these open spaces. The Plan shall then be carried out as approved.

Reason

In the interests of the visual amenities of the area.

20. No development shall commence on site until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. This Plan must contain details for the suppression of dust generated from activities on the site; the prevention of mud and debris being deposited on the surrounding highways, the hours of construction, the hours for the delivery of goods and materials to the site, the arrangements for worker's car parking, the security arrangements and the points of contact identified for concerns and complaints from the local community.

Reason

In the interests of the amenities of the area.

21. No development shall commence on site other than the demolition works hereby approved until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details. The scheme shall:

- Demonstrate that the system is designed in accordance with CIRIA C753 through the submission of plans and cross sections of all the drainage features
- Limit the discharge rate generated by all rainfall events up to and including the 100 year plus 40% critical rain storm to a rate to be agreed by the Local Planning Authority. This must show a minimum of a 50% reduction on pre-development peak run-off.
- Demonstrate that the attenuation storage accords with Science Report SC030219.
- Demonstrate detailed design of the surface water scheme including details of all attenuation and outfall arrangements. Calculations should demonstrate the performance of the system for a range of return periods and storm duration

inclusive of the 1 in 1 year; 1 in 2 year, 1 in 30 year and 1 in 100 year plus climate change return periods.

- Provide plans and details showing the allowance for exceedance flow and overland flow routing. Water must not be directed toward properties nor flow onto third part land. Overland flow routing should look to reduce the impact of an exceedance event.

Reason

To reduce the risk of flooding.

22. There shall be no occupation of the development hereby approved until a detailed maintenance plan written in accordance with CIRIA C753 has first been submitted to and approved in writing by the Local Planning Authority. It shall include the name of the party together with full contact details, responsible for the implementation of the approved plan. The measures in the approved plan shall be maintained at all times.

Reason

To reduce the risk of pollution.

23. There shall be no occupation of any of the units hereby approved until the whole of the car parking provision; turning areas and access arrangements as shown on the approved plan has first been fully completed to the written satisfaction of the Local Planning Authority.

Reason

In the interests of highway safety.

24. No development shall commence work on site other than the demolition works hereby approved, until such time as a Noise Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the appropriate specification for any noise insulation needed to ensure an acceptable noise climate for the occupiers of the residential development and in particular those occupying units adjoining the neighbouring public house. The approved Plan shall be implemented in full prior to occupation of any of the units hereby approved.

Reason

In the interests of the residential amenities of the area.

b) PAP/2019/0183

That Listed Building Consent be **GRANTED** subject to the following conditions:
Condition numbers (1) to (12) inclusive as above in (a)

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.

REASON

To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory purchase Act 2004, and to prevent an accumulation of unimplemented consents.

2. Standard Plan numbers condition – plan numbers 001A, 002A, 100A, 101A, 102A, 103, 104A, 105, 106, 107A, 108A, 109, 110A, 111A, 112A, 113A, 200B, 201B, 202C, 203D, 204C, 205C, 206B, 207A, 208A, 209A, 210A and 211 and supporting documents including Written Scheme of Investigations and Structural Surveys and Heritage Statement.

REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

3. Before building work commences, the following details shall be submitted to the local planning authority for approval:
 - iii) A schedule of materials (including samples) to be used in the elevations, roof, wall plinth/bases of the new development and the restoration of Block Q.
 - iv) eaves/verges, ridges and chimneys at a scale of not less than 1:10

The development shall be constructed in the approved materials and details.

REASON:

To ensure the architectural detailing of the new buildings reflects the established character of the area and in the interests of preserving the appearance of the historic buildings.

4. Before building work commences, a sample panel of walling of the buildings to be renovated and the new buildings shall be constructed on site to the written satisfaction of the local planning authority. The works shall be carried out in full accordance with these sample walls.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to these historic buildings.

5. Prior to the installation of glazed elements including windows, doors (glazed and timber) and glazed links, scaled elevations at 1:20 and sections at 1:10 shall be submitted to the Local Planning Authority and approved in writing for the new blocks and where there are changes to the architectural detail in the historic buildings. Only the approved details shall then be used.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to the historic buildings.

6. Prior to the installation of architectural Ironmongery details of the balconies, rainwater goods, fencing, lighting, CCTV, gates, decking, street furniture and railings shall be submitted to the local planning authority for their approval in writing. Only the approval details shall then be used.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to these historic buildings.

7. No part of the development hereby approved shall commence until a scheme detailing the phasing for the implementation of the overall development has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall describe the stages in which the development will be implemented and for each stage it shall describe the phasing of conversion of the historic building and of the re-construction of any building. The development shall then proceed only in accordance with the approved phasing details.

REASON

To ensure that all components of the overall development are provided in a manner appropriate to the heritage value of the site.

8. No building shall be occupied until all works within that phase of the development have been completed, the historic blocks shall be converted to a standard deemed to be appropriate for their occupation as confirmed in writing by the Local Planning Authority.

REASON:

In the interests of safeguarding the Heritage Asset.

9. Details of the methods to be used for the protection of the retained building fabric shall be submitted to and approved in writing by the Local Planning Authority before any works for demolition and construction commence. Particular reference shall be made to the protection of the remaining blocks O/P, R and U/T

and to the boundary wall alongside the canal. The approved protection works shall be carried out before any other works are carried out.

REASON

To ensure that parts of the original listed building are properly protected and supported.

10. The demolition of Block Q shall be carried out by hand (or tools held in the hand other than power-driven tools) and the materials stored for re-use on the site.

REASON:

To protect the significance of the remaining listed buildings.

11. For the avoidance of doubt, there shall be no uPVC windows or doors used on any of the buildings whatsoever. All of the windows and external doors shall be recessed back in their openings by a minimum of 75mm.

REASON

In the interests of preserving these historic buildings and ensuring that any new build is sympathetic to these historic buildings.

12. Prior to any demolition works a historic building survey shall be undertaken and completed in accordance with the document submitted with this application entitled "Written Scheme of Investigation for Historic Building Survey", by University of Leicester Archaeological Services.

REASON

To ensure appropriate recording of the historic buildings.

13. Prior to construction the following details are required:
- a) a programme of archaeological evaluative work and associated post-excavation analysis, report production and archive deposition shall be undertaken and completed in accordance with the document submitted with this application entitled "Written Scheme of Investigation for Archaeological Field Evaluation", by University of Leicester Archaeological Services.
 - b) an Archaeological Mitigation Strategy document (including a Written Scheme of Investigation for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the LPA. This should detail a strategy to mitigate the archaeological impact of the proposed development and should be informed by the results of the archaeological evaluation.

REASON

In view of the potential for the works to disturb any archaeological features associated with the industrial use of this site.

BACKGROUND PAPERS

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

Planning Application No's: PAP/2019/0180

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/3/19
2	Resident	Objection	7/5/19
3	Resident	Objection	13/4/19
4	Resident	Objection	13/4/19
5	Atherstone Town Council	Representation	18/4/19
6	Resident	Representation	28/4/19
7	Resident	Representation	29/4/19
8	Resident	Objection	25/7/19
9	Atherstone Civic Society	Representation	
10	Resident	Objection	25/7/19
11	Atherstone Town Council	Representation	19/9/19
12	Warwickshire Police	Consultation	12/4/19
13	Inland Waterways Association	Consultation	10/4/19
14	WCC Highways	Consultation	9/4/19
15	WCC Highways	Consultation	26/9/19
16	Environmental Health Officer	Consultation	30/5/19
17	Environmental Health Officer	Consultation	8/5/19
18	GE NHS Trust	Consultation	
19	WCC Public Health	Consultation	28/5/19
20	WCC Infrastructure	Consultation	
21	Canal and River Trust	Consultation	3/5/19
22	Canal and River Trust	Consultation	17/9/19
23	County Archaeologist	Consultation	30/4/19
24	NWBC Waste	Consultation	12/4/19
25	WCC Flooding	Consultation	15/4/19
26	WCC Flooding	Consultation	23/9/19
27	Applicant	Amended plan	2/9/19
28	WCC Highways	Consultation	3/10/19
29	Resident	Objection	
30	NWBC Waste	Consultation	2/10/19
31	Applicant	E-mail	23/10/19

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.

Planning Application No: PAP/2019/0183

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Historic England	Consultation reply	18.4.19
3	Atherstone Town Council	Consultation reply	18.4.19
4	Canal and River Trust	Consultation reply	3.5.19
5	Atherstone Civic Society	Consultation reply	20.5.19
6	Heritage Officer to Case Officer	Consultation reply	31.5.19
7	Heritage Officer to Case Officer	Consultation reply	20.6.19
8	Case Officer to Heritage Officer	Plans	22.8.19
9	Heritage Officer to Case officer	Consultation reply	23.8.19
10	Agent	Revised plans	29.8.19
11	Canal and River Trust	Consultation reply	17.9.19
12	Historic England	Consultation reply	18.9.19
13	Atherstone Town Council	Consultation reply	23.9.19

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.

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General Development Applications

(#) Application No: PAP/2019/0180 and PAP/2019/0183

Britannia Works, Coleshill Road, Atherstone, CV9 2AA

Planning and Listed Building applications for the erection of 70 apartments (use class C3) with extra care provision, for

Atherstone Britannia Ltd

Introduction

The receipt of these applications is reported to the Board in view of its continuing interest in the site.

The Site

These former hat factory premises are located between the Coventry Canal, Richmond Road and the Coleshill Road about 400 metres south of the Atherstone town centre.

There are established residential areas around the site with some other retail uses and a public house.

Within the site are two separate mill buildings which date from the late Victorian age – one facing the Coleshill Road and the second overlooking the canal towards the south-east. These two are now connected by early twenty century industrial blocks. The whole complex was last in use in 1999 when manufacturing ceased. The overall built form is generally three to four storeys in height and runs along the Coleshill Road frontage and the canal side. All vehicular access is via Richmond Road.

The ground level of the site sits above the residential properties in Westwood Crescent to the north.

The site's general location is shown at Appendix A.

The existing Coleshill Road elevation is at Appendix B and the canal side northern elevation is at Appendix C.

The Proposals

The majority of the existing buildings are to be demolished in order to provide as relatively clear development site. The buildings to be retained in full or in part are the two former Victorian mill buildings – the two storey traditionally brick built building in the south-east corner overlooking the canal, and in essence the front portions of the main Mill building overlooking the Coleshill Road including retention of its complete façade.

As described above the proposal is for 70 apartments as "extra care" provision. The number would be split evenly between one and two bedroom accommodation.

The main new build would face the canal side and the general approach taken is to reflect the industrial nature of the site but with a contemporary design therefore leading to a number of different con-joined blocks.

The Applicant's Ecological Appraisal identified no bat roosts during surveys but says that the buildings might have the potential to support roosts of some species of bat. It is recommended therefore that some bat boxes are included in the final design of the buildings.

The Flood Risk Assessment says that the site is in Flood Zone One where development is at the least risk of fluvial flooding. Surface water drainage is to discharge into the canal and foul water would use the existing sewerage network.

The Transport Assessment concludes that the site is well located to the town centre, nearby shops with accessible pedestrian access and routes to regular public transport services. It is thus a well located sustainable site. There will be less traffic generated by the proposed use as compared with the previous permissions given the change in the nature of the residential use now proposed.

Written Schemes for the Historic Investigation of the Buildings and for the archaeological evaluation of the site itself have been submitted.

A Heritage Impact Assessment has also been submitted which concludes that the proposal would accord with both Development Plan and NPPF planning policies. This Assessment is not copied into this report but will be referred to in detail in the subsequent determination report.

A Design and Access Statement describes how the proposed design of the new build has been arrived at.

A Planning Statement draws all of the relevant planning considerations together.

The plan at Appendix D illustrates the extent of the existing buildings on site and Appendix E illustrates those to be retained.

Appendix F illustrates the proposed layout and Appendices G and H are the equivalent elevations for the sections referred to above – Coleshill Road and the canal side.

Background

In 2008 planning and listed building permissions were granted, but never taken up for the part demolition and conversion of the site for residential use together with a heritage centre.

In 2017 planning and listed building permissions were granted for the part demolition and part conversion of the site for residential use by 59 new units. Several of the pre-commencement conditions attached to these permissions have been discharged.

The frontage Victorian Mill building is a Grade 2 Listed Building. The remaining buildings on the site are associated curtilage buildings.

The site is not in the Atherstone Conservation Area.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV12 (Urban Design); ENV14 (Access Design), ENV16 (Listed Buildings) TPT3 (Access and Sustainable Transport) and TPT 6 (Vehicle Parking)

Other Material Planning Considerations

The National Planning Policy Framework

The Submitted Local Plan 2018 – LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP9 (Affordable Housing Provision), LP15 (Historic Environment), LP31 (development Considerations), LP32 (Built Form) and LP36 (Parking)

Observations

Members have been pressing for the future of this site to be resolved given the significance of its heritage value in the history of the town and its prominent location. The recent permissions have not been taken up and thus the buildings on the site have continued to deteriorate, albeit with emergency works, including demolitions, to overcome times when there were call outs under the dangerous structures procedures.

Given the site's location within the town's development boundary and the recent permissions which are considerations of substantial weight, the principle of redevelopment with a residential use has been acknowledged. The main issues with any new proposals are thus going to revolve around a number of detailed issues. In general terms these are the amount of demolition; the impact of that on the significance of the heritage asset, the appearance and design of the new buildings, the means of access into the site, parking provision and the overall impact on neighbouring residential amenity.

A full determination report will be brought to the Board in due course when the consultation responses have been assessed and any amendments sought have been received.

It is suggested that Members should visit the site. However given the condition of some of the buildings and that the main issues are going to be with appearance and design, it is considered that that visit perhaps be confined to a walk around the site taking in the canal and the Coleshill Road and Richmond Road frontages.

Recommendation

That the report be noted at this time and that a visit be organised prior to the application's determination.

BACKGROUND PAPERS

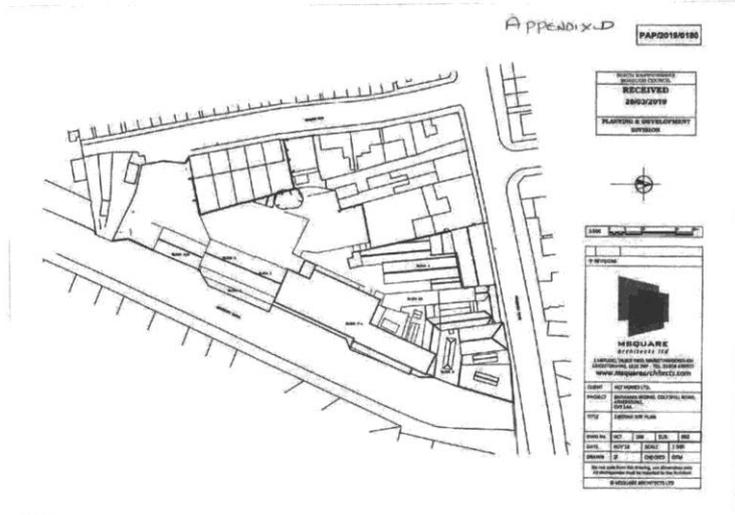
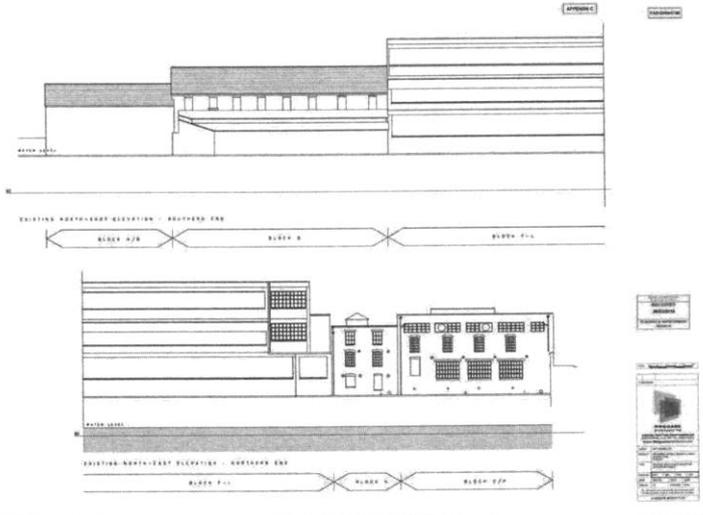
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2019/0180 and PAP/2019/0183

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/3/19

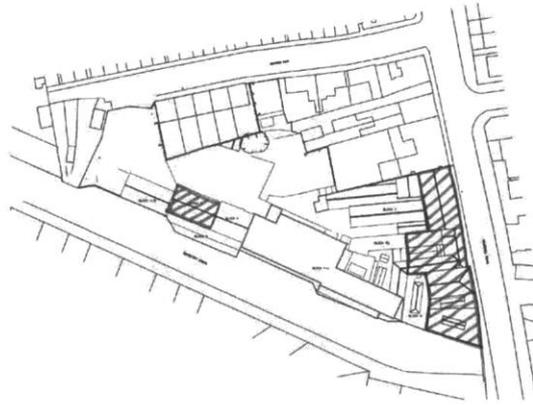
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APPENDIX F

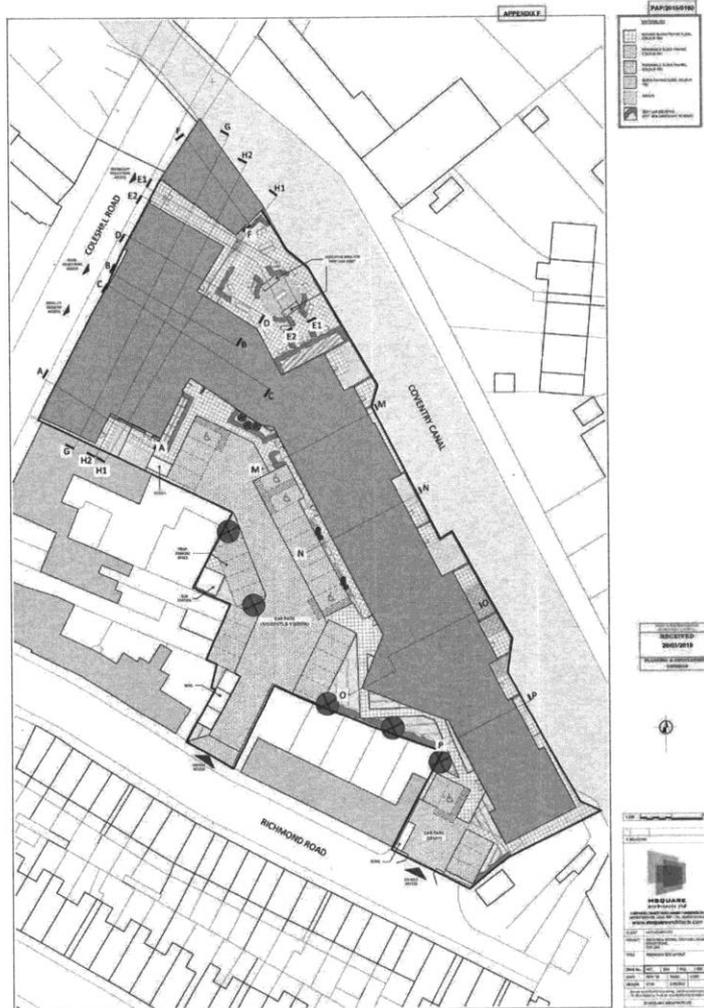
PAP/2019/0180

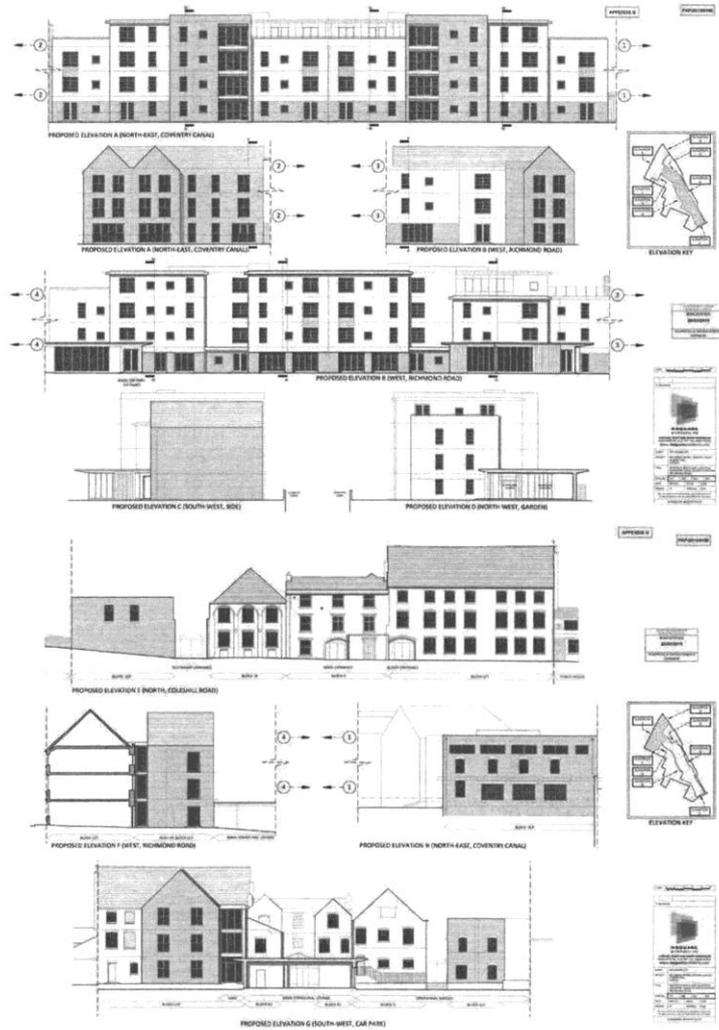


PLANNING & DEVELOPMENT DEPARTMENT
28/03/2019



MEHDIJAHRE
ARCHITECTS
LIMITED
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APPENDIX B

PAP/2019/0180

Britannia Works, Coleshill Road, Atherstone

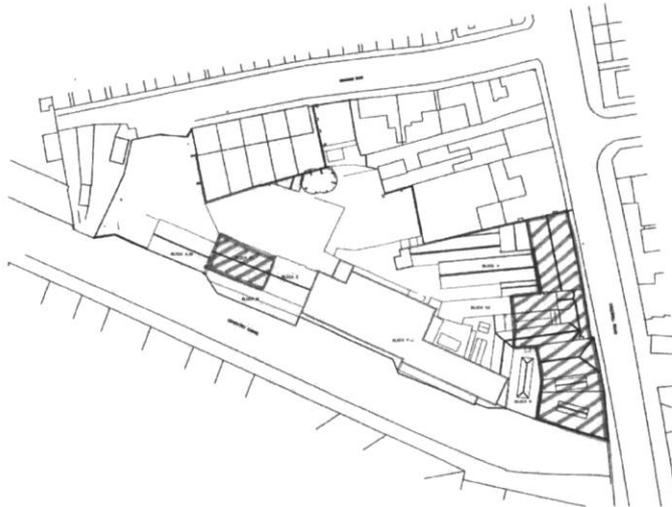
Member Site Visit – 1 June 2019 at 1000

Present: Councillors Bell, D and T Clews, Dirveiks, D and M Humphries, Jarvis, H Phillips, Simpson Symonds and D Wright together with J Brown

1. Members met on the Coleshill Road opposite the site and were shown plans illustrating the scale of the proposed demolition together with the proposed layout within the site and the proposed appearance of the front elevation.
2. Members then walked into Richmond Road in order to look at the two points of access as well as the nature of that road with its on-street car parking and the now vacant industrial premises at the end of the road.
3. Members returned to the Coleshill Road and noted the condition of some parts of the front elevation.
4. They then met on the canal-side frontage. Here they could appreciate the full extent of the demolition involved. Plans illustrating the appearance of the new build were also circulated.
5. The visit concluded at around 1035

APPENDIX C

PAP/2019/0180



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PROJECT: BRITANNIA WORKS, COFFSHILL ROAD,
LINCOLNSHIRE, LN29 7PQ.

TITLE: EXISTING SITE PLAN

DWG No.	HCT	200	01A	001
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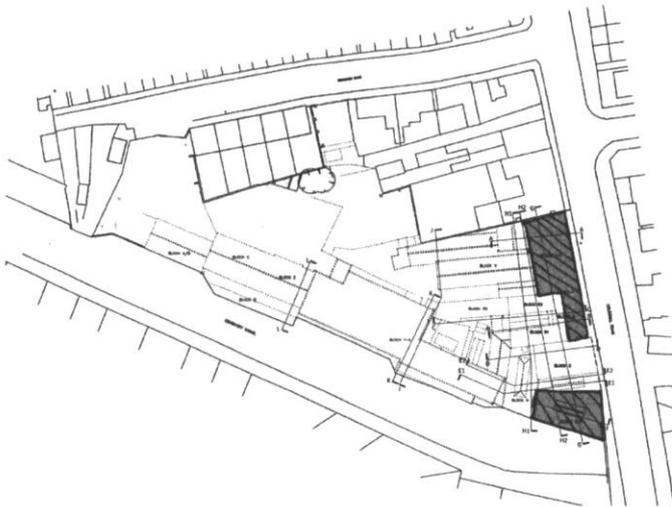
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APPENDIX D

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PROJECT: BRITANNIA WORKS, COFFSHILL ROAD,
LINCOLNSHIRE, LN29 7PQ.

TITLE: DEMOLITION SITE AND ROOF PLAN

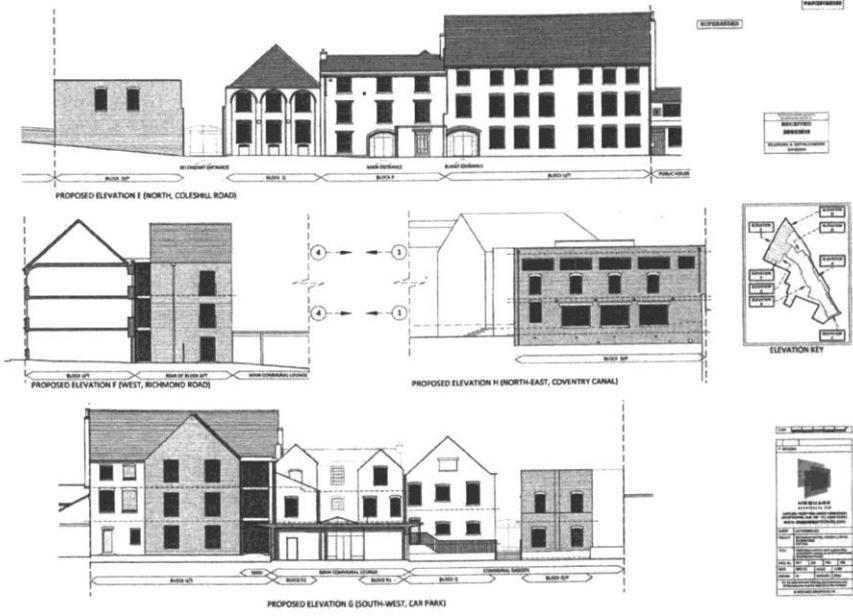
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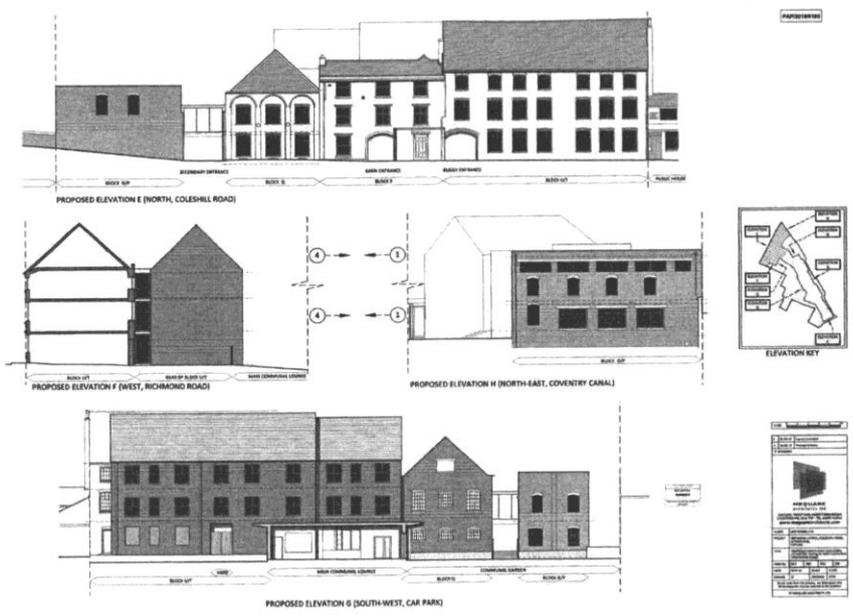
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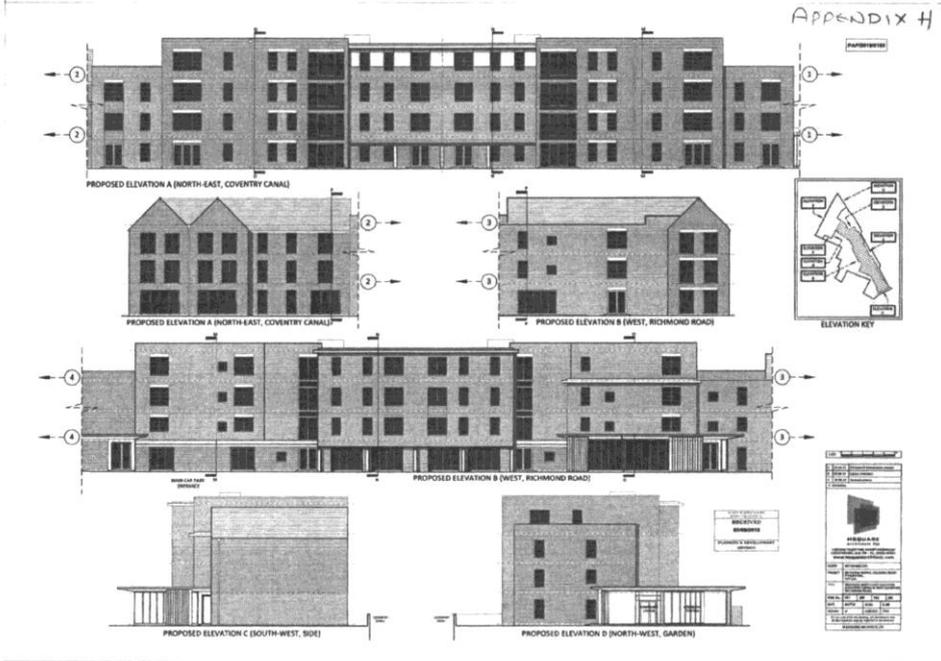
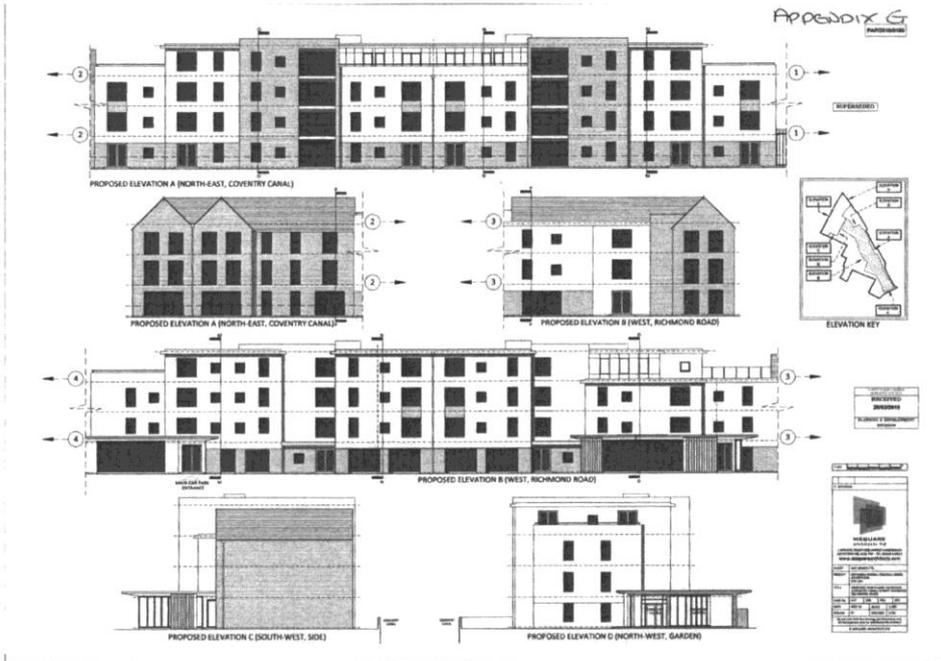
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APPENDIX E

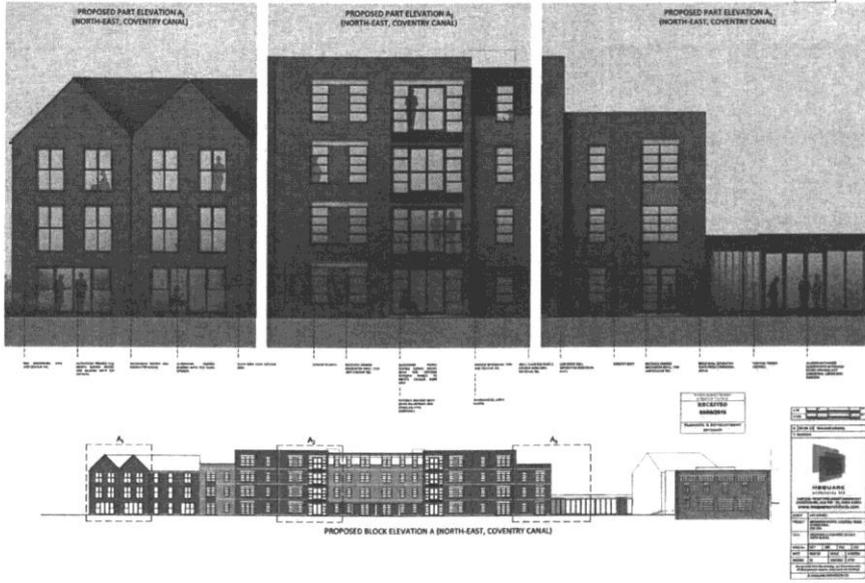


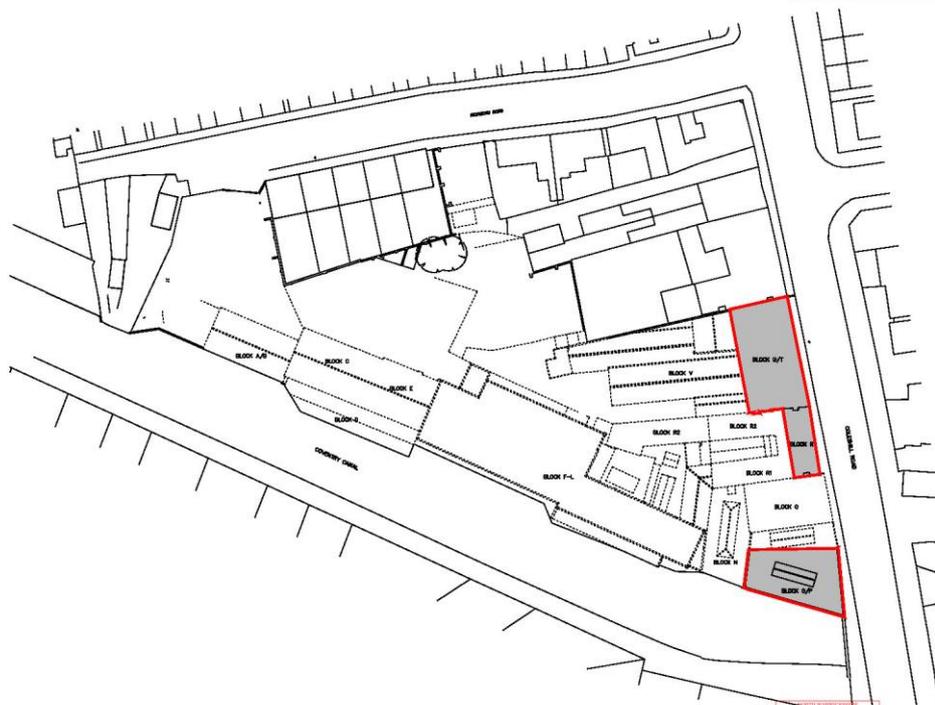
APPENDIX F





Appendix I





1:500

↑ REVISIONS

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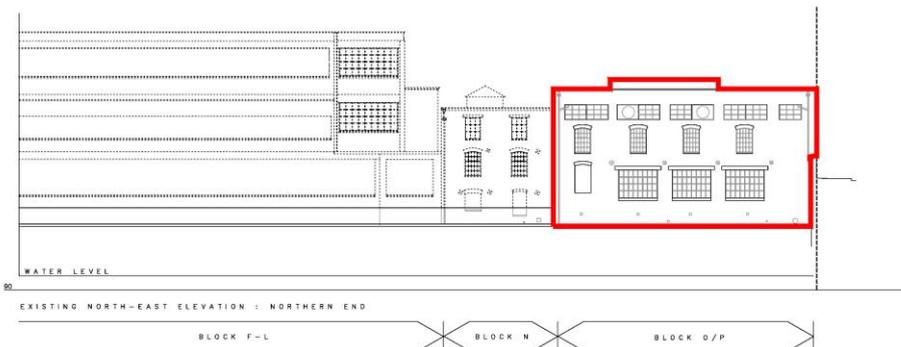
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