

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

**(Councillors Simpson, Reilly, Bell, Chambers, L
Dirveiks, Hayfield, Henney, Jarvis, Jenns,
Morson, Phillips, Smitten, Sweet, Symonds and
A Wright)**

For the information of other Members of the Council

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For general enquiries please contact David Harris,
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via e-mail - davidharris@northwarks.gov.uk.

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

PLANNING AND DEVELOPMENT BOARD AGENDA

15 JANUARY 2018

The Planning and Development Board will meet in
The Council Chamber, The Council House, South Street,
Atherstone, Warwickshire CV9 1DE on Monday 15
January 2018 at 6.30 pm.

AGENDA

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

- 4 **Minutes of the meetings of the Board held on 9 October and 6 November 2017** – copies herewith, to be approved as a correct record and signed by the Chairman.

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

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

Summary

Town and Country Planning Act 1990 – applications presented for determination

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

- 6 **Planning and Fire Safety** – Report of the Head of Development Control.

Summary

The report provides a summary of the different roles of a number of respective Regulatory regimes. It was prepared as a consequence the Grenfell Tower incident.

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

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

9 October 2017

Present: Councillor Reilly in the Chair.

Councillors Bell, Chambers, L Dirveiks, N Dirveiks, Farrell, Hayfield, Henney, Humphreys, Jarvis, Morson, Smitten, Symonds and A Wright

Apologies for absence were received from Councillors Jenns (substitute Councillor Humphreys), Phillips (substitute Councillor N Dirveiks), Simpson and Sweet (substitute Councillor Farrell)

39 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor Reilly declared a non-pecuniary interest in Minute No 42 Planning Applications (Application No 2017/0471 - Land East of 68, Vicarage Lane, Water Orton), left the meeting and took no part in the discussion. Councillor Humphreys was elected Chairman for that item.

40 **Minutes**

The minutes of the meetings of the Board held on 10 July, 7 August, 4 September and 27 September 2017, copies having been previously circulated, were approved as a correct record.

41 **Budgetary Control Report 2017/2018 Period Ended 31 August 2017**

The Assistant Director (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2017 to 31 August 2017. The 2017/2018 budget and the actual position for the period, compared with the estimate at that date were detailed, together with an estimate of the out-turn position for services reporting to the Board.

Resolved:

That the report be noted

42 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

Resolved:

- a** That Application No 2016/0725 (Holiday Cottage at Radford, Land adj to 66 Old House Lane, Corley, CV7 8BS) be approved subject to the conditions set out in Appendix A to the report of the Head of Development Control;

[Speaker Howard Darling]

- b** That consideration of Application No 2017/0104 (Land 260m South East Of Northbound Motorway Services Area, Smorrall Lane, Corley), be deferred;

[Speakers Howard Darling and Jennifer Smith]

- c** That Application No 2017/0352 (Land East of, St Lawrence Road, Ansley) be refused for the following reasons

“The proposal does not accord with Policy NW2 of the North Warwickshire Core Strategy 2014, as the site lies outside of the defined development boundary for Ansley and it is a development of more than ten houses. Moreover the Council has a five year housing land supply and it is considered that harm would be caused to this spatial planning policy of the Core Strategy as well as to the character of the village through the loss of open space and the cumulative impact of additional housing within the settlement, contrary to Policy NW12 of the Core Strategy.”

[Speakers Melvyn Lyon and Matt Wedderburn]

- d** That the report in respect of Application No 2017/0412 (61 Coventry Road, Coleshill, Warwickshire, B46 3EA) be noted; and

- e** That Application No 2017/0471(Land East of 68, Vicarage Lane, Water Orton) be approved subject to the conditions set out in the report of the Head of Development Control.

[Speaker Mick Lee]

Chairman

**Planning and Development Board
9 October 2017
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
6/2	PAP/2017/0104	RHA	Representation	28/9/17
		Applicant	E-mail	2/10/17
		J Galloway	Objection	9/10/17
		J & G Venables	Objection	6/10/17
		R Oakes	Objection	6/10/17
6/3	PAP/2017/-352	NHS Trust	Consultation	29/9/17
		Applicant	E-mail	6/10/17

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

6 November 2017

Present: Councillor Simpson in the Chair.

Councillors Chambers, Clews, L Dirveiks, N Dirveiks, Hayfield, Humphreys, Jarvis, Jenns, Morson, Phillips, Reilly, Smitten and Sweet

Apologies for absence were received from Councillors Bell (substitute Councillor Clews), Councillor Henney (substitute Councillor N Dirveiks), Councillor Symonds (substitute Councillor Humphreys) and Councillor A Wright

Councillor Farrell was also in attendance and with the Chairman's permission spoke on Application No 2017/0104 (Land 260m South East Of Northbound Motorway Services Area, Smorrall Lane, Corley)

43 **Disclosable Pecuniary and Non-Pecuniary Interests**

Councillor Chambers declared a pecuniary interest in Minute No 44 Planning Applications (Application No 2017/0417 - Boat Yard, Slacks Avenue, Atherstone, CV9 2AR), left the meeting and took no part in the discussion or voting thereon.

Councillors L and N Dirveiks declared non pecuniary interests in Minute No 44 Planning Applications (Application No 2017/0417 - Boat Yard, Slacks Avenue, Atherstone, CV9 2AR)

In respect of Minute No 44 Planning Applications (Application No 2017/0417 - Boat Yard, Slacks Avenue, Atherstone, CV9 2AR), the Monitoring Officer had granted the remaining Members a dispensation to consider and determine the Application.

Councillor Sweet declared a non pecuniary interest in Minute No 44 Planning Applications (Application No 2017/0467 – 52 New Street, Baddesley Ensor), left the meeting and took no part in the discussion or voting thereon.

44 **Planning Applications**

Councillor Simpson vacated the Chair for Application No 2017/0104 (Land 260m South East Of Northbound Motorway Services Area, Smorrall Lane, Corley) and Councillor Reilly chaired the meeting for this item.

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

Resolved:

- a i) That Application No 2017/0104 (Land 260m South East Of Northbound Motorway Services Area, Smorrall Lane, Corley), be refused for the following reason

“The proposal represents inappropriate development within the Green Belt. It is considered that this causes significant harm and that as such the considerations put forward by the applicant do not amount to the very special circumstances to clearly outweigh this harm. The proposal does not therefore accord with policy NW3 of the North Warwickshire Core Strategy 2014 or with Section 9 of the National Planning Policy Framework 2012.”

- ii) That a report be taken to the Executive Board on what can be done in partnership with Warwickshire County Council with regard to HGV parking in North Warwickshire

[Speakers Christopher Galloway and Jennifer Smith]

- b That Application No 2017/0415 (Austrey House, Orton Lane, Austrey, Atherstone, CV9 3EA) be approved subject to the conditions set out in the report of the Head of Development Control and delegated power be given to the Head of Development Control to revise condition 5;

[Speakers Damian Gallagher and Christopher Corbett]

- c That Application No 2017/0417 (Boat Yard, Slacks Avenue, Atherstone, CV9 2AR) be approved subject to the conditions set out in the report of the Head of Development Control;

[Speakers Kate Gordon and Antony Webster]

- d That Application No 2017/0467 (52, New Street, Baddesley Ensor, CV9 2DN) be approved subject to the conditions set out in the report of the Head of Development Control;

- e That having been withdrawn, Application No 2017/0517 (Moor Farm Stables, Wall Hill Road, Corley, CV7 8AP) be not determined.

45 **Appeal Update**

The Head of Development Control provided an up to date position in respect of appeal decisions.

Resolved:

That the report be noted.

46 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - September 2017**

The Chief Executive and the Deputy Chief Executive informed Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to September 2017.

Resolved:

That the report be noted.

Councillor Mark Simpson
Chairman

**Planning and Development Board
6 November 2017
Additional Background Papers**

Agenda Item	Application Number	Author	Nature	Date
4/4	PAP/2017/0104	Meeting	Note	19/10/17
		C Galloway	Objection	30/10/17
		Applicant	E-mail	3/11/17
4/36	PAP/2017/0415	M and P Wilson	Objection	5/11/17
		I Wileman	Objection	5/11/17
		R and J Parker	Objection	5/11/17
		J Reed	Objection	5/11/17
		J and J Boyle	Objection	5/11/17
4/81	PAP/2017/0517	Corley Parish Council	Objection	31/10/17
		Fillongley Parish Council	Objection	1/11/17
		Applicant	E-mail	3/11/17

Agenda Item No 5

Planning and Development Board

15 January 2018

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, 5 February 2018 at 6.30pm in the Council Chamber at the Council House.

6 **Public Speaking**

- 6.1 Information relating to public speaking at Planning and Development Board meetings can be found at: www.northwarks.gov.uk/downloads/file/4037/.
- 6.2 If you wish to speak at a meeting of the Planning and Development Board, you may either:
- e-mail democraticservices@northwarks.gov.uk;
 - telephone (01827) 719222; or
 - write to the Democratic Services Section, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE enclosing a completed form.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	PAP/2016/0430	5	Land opposite Thompsons Meadow, Spon Lane, Grendon, Outline - Housing Development with all matters reserved	General
2	PAP/2017/0156	22	Land South of Dairy House Farm (Phase 2), Spon Lane, Grendon, Outline application for erection of residential dwellings with associated access	General
3	PAP/2017/0333	41	Old Beretun, Barnes Wood Lane, Whitacre Heath, Retrospective application for continued use of land and the retention of a summer house and shed	General
4	PAP/2017/0431	50	Boot Hill Methodist Church, Boot Hill, Grendon, Atherstone, Warwickshire, Outline application for the demolition of existing church and erection of two dwellings including details of access with all other matters being reserved.	General
5	PAP/2017/0465	73	Clinic And Welfare Centre, Coventry Road, Kingsbury, Ground floor space for two commercial units covering the following uses; shops (use class A1) and financial and professional services (use class A2), and two one bed first floor apartments (use class C3)	General
6	PAP/2017/0496	88	Copperfields, Dog Lane, Nether Whitacre, Conversion and extension of garage to individual dwelling	General
7	PAP/2017/0519	96	Land South Of Flavel Farm Bungalow, Warton Lane, Austrey, Change of use of land to a mixed use site, to continue the equestrian use and add residential use for two Gypsy families. Site to contain two static caravans, two touring caravans, parking for four vehicles with associated hardstanding and water treatment plant	General
8	PAP/2017/0522 And PAP/2017/0536	108	White Horse Inn, 127 Long Street, Atherstone, Listed Building Consent and Advertisement consent for illuminated and non illuminated signage and painting of brickwork to the front elevation.	General

9	PAP/2017/0524	122	The Old School, Nuneaton Road, Ansley, Change of use of land to the west of property to store and sell vehicles	General
10	PAP/2017/0533	136	20, Hawthorn Way, Hartshill, Works to trees protected by a tree preservation order	General
11	PAP/2017/0548	144	North Warwickshire Borough Council Flats, Long Street & Welcome Street, Atherstone, Renew windows and external wall insulation	General
12	PAP/2017/0554	155	51, Long Street, Atherstone, Retrospective application for change of use from shop to Heritage Centre with small sales area	General
13	PAP/2017/0561	164	Charity Farm, Main Road, Baxterley, Retrospective application for change of use for extra caravan storage and erection of CCTV camera	General
14	PAP/2017/0568	183	7, Hawthorn Way, Hartshill, Works to tree protected by a tree preservation order	General
15	PAP/2017/0570	188	9, Hawthorn Way, Hartshill, Nuneaton, Works to tree protected by a tree preservation order	General
16	PAP/2017/0602	193	Land 160m South Of North Warwicks Sports Ground, Tamworth Road, Polesworth, Outline - residential development up to 150 dwellings, open space, landscaping, drainage features and associated infrastructure. Detailed approval is sought for principal means of access, with all other matters reserved	General

General Development Applications

(1) Application No: PAP/2016/0430

Land opposite Thompsons Meadow, Spon Lane, Grendon,

Outline - Housing Development with all matters reserved, for

Mr & Mrs B Chant

Introduction

This application is reported to the Board for determination at the discretion of the Head of Development Control as the site is adjacent to that of a larger proposal for housing development which is reported elsewhere on this Agenda – PAP/2017/0156 (Dairy House Farm, Grendon).

The Site

This is a long strip of paddock land of some 0.3 hectares in area between Spon Lane and the newly constructed Hastings Road at the northern end of Spon Lane beyond the A5. Dairy House Farm is to the east as is a newly completed residential estate of 85 houses – referred to here as the Bellway Estate. The site is flat with hedgerow boundaries. There is open land around the other boundaries of the site.

Its location and setting is shown at Appendix A.

The Proposal

This is an outline application for residential development with all matters reserved for later agreement. Indicative plans however suggest that the site could accommodate ten detached dwellings with access off Hastings Road and a section of Spon Lane.

This illustration is shown at Appendix B.

As part of the submission, the applicant has included a Flood Risk Assessment and a Foul and Surface Water Drainage Strategy. These identify that the site is right on the boundary of Flood Zones 1 and 2 and it recognises the fluvial flooding risk from the Penmire Brook. The Strategy points to the need for raised ground levels as well as on site surface water drainage measures.

Representations

Five letters of objection have been received from local residents referring to the following matters:

- This development when considered with others, exceeds the Core Strategy policy requirement for Baddesley and Grendon
- The site is outside of the development boundary
- There will be added strain on local facilities and services

- Local drainage infrastructure is inadequate to accommodate the cumulative impacts of recent development as well as this proposal
- There will be increased parking and traffic pressure on the existing roads particularly as there is also farm traffic using them
- There are no housing types included
- There needs to be a pedestrian crossing over the A5
- The character of the area is being materially changed

There is one letter of support for the proposal.

Grendon Parish Council – No comments have been received

Consultations

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

Highways England – No objection

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

Environmental Health Officer – No objection

Warwickshire Fire and Rescue Services – No objection subject to a standard condition

Warwick Museum – No objection

Warwickshire County Council Infrastructure – No objection and no contributions sought.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation) and NW20 (Services and Facilities)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV13 (Urban Design); ENV14 (Access Design) and TPT 6 (Vehicle Parking)

Other Relevant Material Planning Considerations

The National Planning Policy Framework – (NPPF)

National Planning Practice Guidance

The draft Submission Version of the Local Plan for North Warwickshire 2017 – Policies 39 and 39a (Housing Allocations and Reserve Housing Sites)

Observations

a) Introduction

The determination of this application is to be made on its own merits and that is the approach that will be taken here.

There has been a material change in planning circumstances since the planning application was submitted. This is the Council's resolution to publish a draft Submission Version of the Local Plan for North Warwickshire which includes proposals that directly impact on this site. These are two-fold. The first is the allocation of land to the east of the recent Bellway development referred to above for a further 120 houses with access off Hastings Road and Spon Lane which bound this current application site and secondly, the further reservation of housing land beyond for an additional 360 houses with the potential for the diversion of the A5.

The current application will need to be considered against the present Development Plan. If it accords with that Plan then the presumption is that it should be supported in principle. If not, then the proposal should be considered within the context of the draft Submission Version of the emerging Local Plan and an assessment made as to whether the changed circumstances as set out therein, are of sufficient weight to outweigh the harm caused to the present Development Plan.

b) The Development Plan - Principle

Policy NW2 of the Core Strategy defines a settlement hierarchy for the promotion of new housing development in North Warwickshire. Baddesley and Grendon are combined here, defined as a category 3A settlement. The Policy states that new housing is encouraged within this category of settlement provided that it is within or adjacent to the defined development boundary for the combined settlements. Policy NW5 then goes on to distribute minimum new housing requirements in line with the hierarchy. In the case of these two settlements, that is a combined minimum of 180.

In this case the application site is outside of the development boundary defined in the Development Plan for Baddesley and Grendon. It lies to the north of the defined development boundary divided from it by Spon Lane. In this respect too it is not technically adjacent to the development boundary. However the policy NW2 goes on to say that development boundaries will need to be changed to recognise changing circumstances once new development has taken place outside of a boundary. This would normally be done in the next plan review. As a matter of fact the recent Bellway development is now complete and thus the development boundary will need alteration, as is indeed the case in the draft Submission Version of the new Local Plan. As a matter of fact though, the current application site is still divided from this new development by Spon Lane/Hastings Road. So even in these circumstances the site is not technically adjoining that revised development boundary. The issue is thus how much weight should be given to this conclusion.

It is considered that this would carry limited weight for the following two reasons. Firstly the site is only a road widths distance from the current development boundary and indeed that emerging in the new Local Plan. Secondly, and significantly the site itself is self-contained being surrounded by roads and thus has firm defensible boundaries.

The proposal here is an outline application with no number of new houses confirmed although indicative plans suggest that it could take up to ten units. With an area of 0.3 hectares and using the preferred density, this figure would appear reasonable. So, even with other proposals in the area, this would satisfy the minimum requirement of 180 as set out in policy NW5, if the site was taken to be adjoining the development boundary.

The Council has a five year housing supply identified as 5.1 years. This would re-inforce the point made above that the development would not accord with policies NW2 or NW5 because the site is outside of the defined development boundary and neither is it required to be developed because of a lack of land supply. However the housing supply figure does need to be maintained with a range of deliverable sites and that is best dealt with through ensuring a sufficient “buffer” of sites that could be delivered. The buffer presently is not large. This would therefore add weight to the need to release this site.

In all of these circumstances it is concluded that the proposal does not accord with Policy NW2 of the Core Strategy and thus by association policy NW5, but that the degree of harm caused to these policies is limited.

c) Other Harm

It is necessary to see if there is any other harm caused to the Development Plan.

It is considered that there is no harm caused to any heritage asset. The site is not close to a Conservation Area or does it affect the setting of any Listed Building. The Warwick Museum does not consider that pre-determination survey work is required in respect of the potential for underground heritage impacts. As such the proposal would satisfy Policy NW14 of the Core Strategy.

Secondly, there is no ecological or bio-diversity objection to the proposal. It is of low present value and provided that surrounding hedgerows are retained and that any sustainable drainage measures are designed to accommodate a range of habitats the proposal would satisfy policies NW15 and NW16 of the Core Strategy.

Thirdly there is little likelihood of any harm being caused to the residential amenity of existing occupiers. Indeed this has not been raised through the representations made. The separation distances involved are materially greater than elsewhere and the intervening road network adds to this conclusion. Detailed design considerations such as the location of windows will be considered at the detailed stage. Ten houses on the site would neither cause material dis-benefits to future occupiers. The proposal thus satisfies the relevant sections of Policy NW10 of the Core Strategy.

In respect of landscape character then it is not considered that material harm would be caused here. There is no designated landscape area here or in the vicinity and as the site is small and self-contained physically and visually, there is no adverse impact on the wider landscape character or indeed the character of the existing built form. The proposal would thus satisfy Policy NW13 of the Core Strategy.

It is of material weight that the Highway Authority has not objected to the proposal and neither has Highways England. They consider that the proposal would have no material impact on the immediate highway arrangements or the wider highway network. Clearly at the next detailed stage the design of access into the site will be a matter to be dealt with technically. The site is small and thus from the point of view of Highways England, would not materially affect its present position in respect of the need for a pedestrian

crossing over the A5. At present therefore, there is no objection to the scheme under the relevant sections of Policy NW10 of the Core Strategy.

It is also of substantial weight that there has been no objection from the relevant flooding and drainage Agencies. Members will be aware of the extensive debate at recent Public Inquiries and from other sites elsewhere in the Borough in respect of flooding matters, that the general conclusion is that these concerns are very unlikely to be upheld as refusal reasons without the support of the appropriate technical Agencies. In this case the County Council has asked for extensive further work to be undertaken by the applicant prior to it reaching its conclusion that it has no objection. It is in these circumstances that it cannot be recommended to Members that the proposal does not accord with the relevant sections of Policy NW10 of the Core Strategy.

There is no objection to the proposal from the various service and infrastructure providers and no contributions are requested as a consequence. The Council therefore has no evidence to support a refusal based on Policies NW1 and NW20 of the Core Strategy.

No affordable housing is proposed within this development either through on-site provision or through an off-site contribution. This would accord with recent Government Guidance on such provision for smaller sites – ten or less units. However the provision should still be requested where the gross development floor area exceeds 1000 square metres. This application is in outline and thus details of house types are unknown. In order to protect the Council's policies for such provision, a planning condition would be required in the event of an approval here, limiting the floor space to 1000 square metres with an advisory note explaining that provision over this threshold at the detailed stage will require such provision either on or off-site. In this way the proposal would satisfy policy NW6 of the Core Strategy.

It is therefore concluded that there is no adverse identifiable harm caused by this proposal that can be evidenced to support reasons for refusal.

In looking at the proposal against the Development Plan, the overall conclusion is that it does not accord with policies NW2 and NW5 but the degree of harm caused to these policies is limited, and that there is no other harm caused.

d) Changing Circumstances

As indicated above it is necessary now to see how the current proposal is affected by the material change in circumstance since its submission, with the publication of the draft Submission Version of the new Local Plan.

That Plan now carries moderate weight. It allocates substantial land to the east of this site for new housing – a further 480 houses. Even although this Plan does not actually allocate the present application site for development, it is considered that in the absence of evidenced significant harm caused by this current proposal, that this draft Submission Version would add support to the current proposal. It would only cause limited, if immaterial harm, in the wider setting.

e) Conclusion

Bringing matters together, it is concluded that whilst limited harm is caused to the present housing and spatial planning policies of the Development Plan by this proposal, this is clearly outweighed by the direction of travel as defined in the emerging Local Plan which now carries moderate weight. As there is no other harm, the development can be supported.

Recommendation

That the application be **GRANTED** subject to conditions:

1. This permission is granted under the provisions of Article 5(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 on an outline approval, and the further approval of the Local Planning Authority shall be required with respect to the under-mentioned matters hereby reserved before any development is commenced:-
 - (a) access
 - (b) appearance
 - (c) landscaping
 - (d) layout
 - (e) scale

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

2. In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

Defining Conditions

4. The development hereby approved shall not be carried out otherwise than in accordance with site location red line plan received by the Local Planning Authority on 26 July 2016, and the Flood Risk Assessment for Planning and Foul and Surface Water Drainage Strategy documents, Land opposite Thompsons Meadow, Spon Lane, Grendon_UNDA_86749-Bowley-SponLn_ October 2017, as received by the Local Planning Authority on 23 November 2017.

REASON

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

5. The site shall contain no more than 10 dwellings in total with a combined maximum gross floor area of no more than 1000 square metres. The dwellings shall be of a height no greater than 8.0 metres and should be of a two storey design or dormer bungalow design. There shall be no roof dormers. The built form shall run along the site as shown on the indicative layout plan/floodzone plan as provided to the Local Planning Authority on 7 September 2017. The pedestrian and vehicle access points shall be off Hasting Road/Spon Lane to the south eastern facing boundary.

REASON

In Order to define the scope of the development.

Pre-Commencement Conditions

6. No development shall commence until the proposed datum levels of the built form have been provided and approved by the Local Planning Authority. The development shall only then proceed in line with the approved levels.

REASON

To reduce the risk of flooding.

7. No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, the approved FRA and Drainage Strategy, Land opposite Thompsons Meadow, Spon Lane, Grendon_UNDA_86749-Bowley-SponLn_ October 2017 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 in consultation with the LLFA. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall:
 - Undertaken infiltration testing in accordance with the BRE 365 guidance to clarify whether or not an infiltration type drainage strategy is an appropriate means of managing the surface water runoff from the site
 - Demonstrate that the surface water drainage system(s) are designed in accordance with 'The SuDS Manual', CIRIA Report C753.
 - Limit the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm to the QBar Greenfield runoff rate for the site
 - Demonstrate the provisions of surface water run-off attenuation storage in accordance with the requirements specified in 'Science Report SC030219 Rainfall Management for Developments'.
 - Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation system, and outfall arrangements. Calculations should demonstrate the performance of the designed 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 in 100 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, overland flow routing should look to reduce the impact of an exceedance event.
- Provide evidence to show an agreement from Severn Trent Water to connect to the existing surface water network.
- Provide a maintenance plan to the LPA giving details on how the entire surface water systems shall be maintained and managed after completion for the life time of the development. The name of the party responsible, including contact name and details shall be provided to the LPA.

REASON

To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

8. No development shall take place until a detailed hydrological model of the surface water flood risk to the site, identified within the FRA, has been conducted. The modelling should include a range of return periods and identify the extents, depths and velocities of flooding caused by surface water in these events.

REASON

To ensure the safety of site users; to inform the area at lowest risk of surface water flooding and to prevent the increased risk of flooding

9. No development shall be commenced before details of all facing materials to be used have been submitted to and approved by the Local Planning Authority in writing. The approved materials shall then be used.

REASON

In the interests of the amenities of the area.

10. The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for fire fighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority.

REASON

In the interests of Public Safety from fire, and the protection of Emergency Fire Fighters

11. No development, shall commence until a Construction Method and Management Statement has been submitted to and approved in writing by the Local Planning Authority. This shall include details of :-

- the hours during which work will take place;
- the parking provision for construction workers;
- the arrangements to manage deliveries to the site;
- the measures to prevent the deposit of extraneous materials on the surrounding highway network;
- the measures to minimise disturbance due to noise and dust;
- the location of site buildings and the arrangements for the storage of materials.
- the location and specification of any site lighting to be installed during the construction phase;
- the procedure for the handling of complaints
- the period during which plan shall be put into effect,
- the means by which the plan provisions will be monitored and reviewed.

The approved Statement shall be implemented in full and complied with all times.

REASON

In interest of amenity, highway safety & sustainable development.

12. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

REASON

To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

Pre-Occupation conditions

13. Prior to occupation of the dwelling(s) hereby approved a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of each dwelling. The storage facility shall remain permanently available for that purpose at all times thereafter.

REASON

To enable effective storage and disposal of household waste and in the interests of the amenity of the area.

Other Conditions

14. Condition 1 sets out that that highways details (access and layout) are required as part of the reserved matters for the site. The details shall include:
- Areas which are proposed for adoption.
 - Access road radii geometry.
 - Access road width (particularly where there are any changes).
 - Treatment of junctions (in respect of speed management features)
 - Visibility at splays junctions, speed control bends, changes in alignment (which will require forward stopping sight distance), accesses (including pedestrian visibility splays).
 - Tracking/Swept path analysis (based on largest vehicle requiring regular access)
 - Changes of material.
 - Communal bin storage collection points (to be within 25.0 metres of the public highway)
 - Annotation of details regarding TROs, lining, etc. that would have been referred to as part of the approved planning permission but maybe S106/S278/Minor Works.
 - Position of any trees proposed within those areas which are to be proposed for possible adoption.
 - Trees will have to be an element that is considered at Section 38 stage due to approval procedure of street lighting. However where they are to be an integral part of the street scene these details should still be included to understand the aspirations of the LPA/developer with respect to this element of the site layout.

REASON

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

15. No development whatsoever within Class A, B, C and E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

REASON

In the interests of the amenities of the area.

16. Any parking area hereby provided as part of the site development shall not be used for any purpose other than the parking of cars.

REASON

To ensure adequate on-site parking provision and to discourage parking on the adjoining highway in the interests of local amenity and highway safety.

Notes

1. Warwickshire Police have set out the following guidance - Research studying the distribution of burglary in terraced housing with open rear access footpaths has shown that up to 85% of entries occurred at the back of the house. Where there is rear access to multiple rear gardens this access needs to be gated at the front of the building line and with a self closing spring, and a snap shut lock, that needs a key to release. All perimeter fencing should be 1.8 metre high close boarded fencing however where it backs onto open space it should be topped with 0.2 trellis, so the overall height is 2 metres in height. Lighting on adopted highways, footpaths, private roads and footpaths and car parks must comply with BS 5489-1:2013. Building sites and in particular, site offices and storage areas are becoming common targets for crimes such as theft of plant and fuel. These sites should be made as secure as possible. All plant and machinery should be stored in a secure area. Tools and equipment should be marked in such a way that they are easily identifiable to the company. Consideration should be given to the use of security patrols. Developers are now requested to inform the local Safer Neighbourhood Policing Team, which covers the area of the development that they have arrived on site and provide contact numbers of the site manager for use in the case of an emergency. A grid reference for the site should be provided. This will help to reduce the possibilities of a delayed response.
2. You are advised to contact Warwickshire County Council at the address below with regards to Sustainability Travel Packs at £75 per pack. Infrastructure Team, Economic Growth, Warwickshire County Council, PO Box 43, Barrack Street, Warwick, CV34 4SX.
3. 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.
4. 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>
5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through discussions, and seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

6. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining.

Further information is also available on The Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

7. The Highways Authority has set out the following, which should form part of the reserved matters application - There is already a field gate access to the site located on the eastern side of the site fronting Spon Lane. The preferred access point/s would be from southern side of Spon Lane, as the speed limit is lower and the recommended visibility splays can be achieved. However, the layout fronting the site along that section of Spon Lane has altered, so does not look like the drawing submitted. So at reserved matters an accurate drawing will need to be submitted. The point/s of access should not conflict with the existing junctions. The site fronts the access to a busy farm. As such, parking provision should be the maximum standard, if not more. Very large machinery is used by the farm and the farm has regular visits by articulated vehicles, so Spon Lane should not be obstructed. Shared accesses to central parking courts may be the preferred option, so that people are encouraged to enter the site rather than park on-street
8. Wildlife and Countryside Act 1981 - Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act - in respect of a single bird, nest or egg - is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.
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. With regards to conditions flooding the WCC FRM team has set out the following: Warwickshire County Council as the Lead Local Flood Authority does not consider oversized pipes or box culverts as sustainable drainage. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, with a preference for above ground solutions.

11. With regards to conditions flooding the WCC FRM team has set out the following: Surface water run-off should be controlled as near to its source as possible through a sustainable drainage approach to surface water management. Sustainable Drainage Systems (SuDS) are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on-site as opposed to traditional drainage approaches which involve piping water off-site as quickly as possible.
12. With regards to condition 11, it is considered that no work relating to the construction of the development hereby approved, including preparation prior to operations, or internal fitting out, shall take place before the hours of 0700 nor after 1900 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.
13. As covered in condition 5, on site affordable housing will be required if the scheme has a gross floor area of more than 1000 metres square, or more than 10 dwellings. You are advised to contact the Local Planning Authority for advice.

BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0430

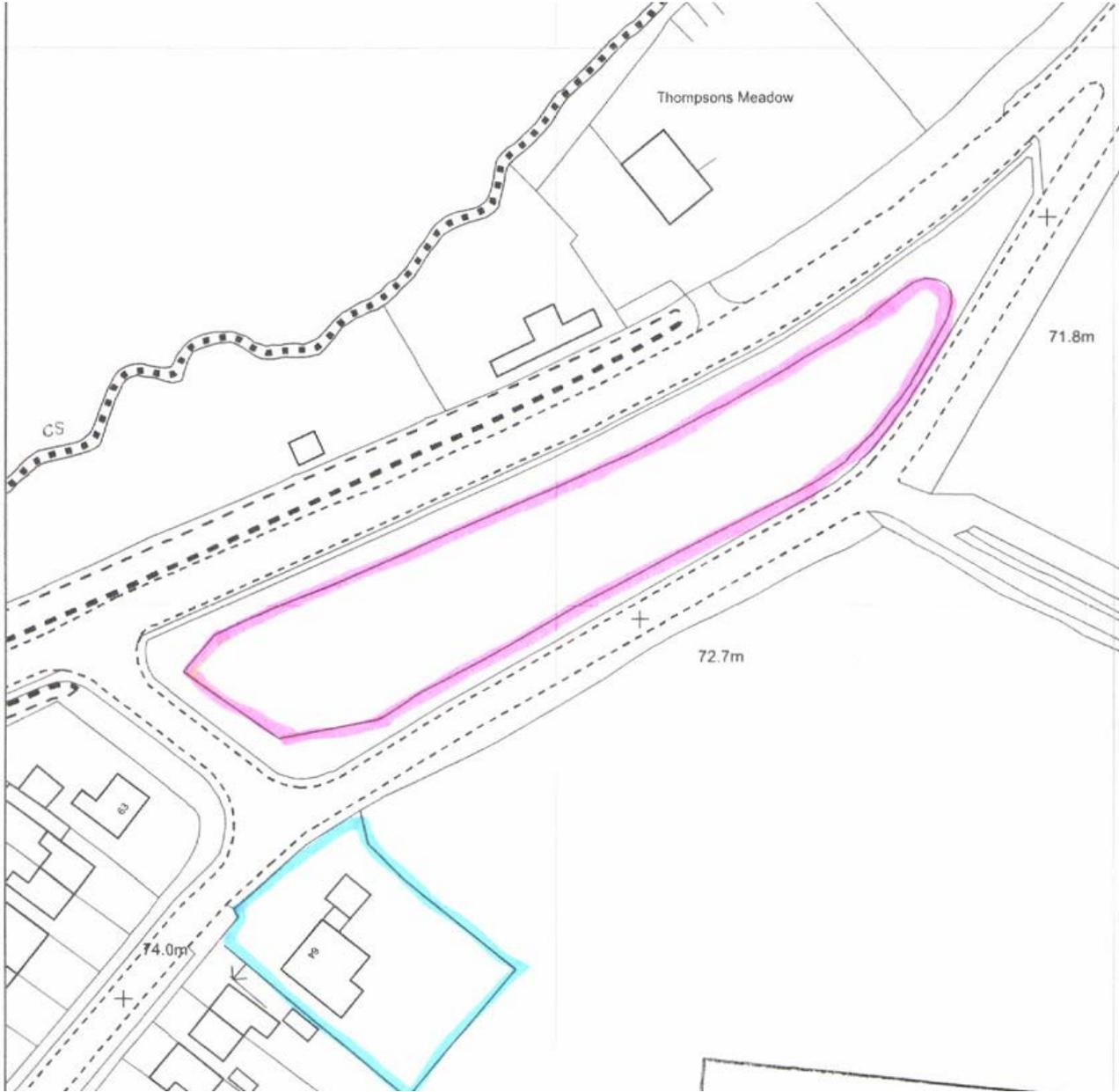
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/7/16
2	NWBC Environmental Health	Consultation response	18/8/16
3	WCC FRS	Consultation response	23/8/16
4	WCC Archaeology	Consultation response	23/8/16
5	WCC Highways	Consultation response	2/9/16
6	Highways England	Consultation response	27/9/16
7	WCC Infrastructure	Consultation response	30/9/16
8	WCC FRM	Consultation response	7/10/16
9	WCC FRM	Consultation response	28/11/16
10	WCC FRM	Consultation response	8/12/16
11	WCC FRM	Consultation response	22/11/17
12	Neighbour	Representation	15/8/16
13	Neighbour	Representation	22/8/16
14	Neighbour	Representation	22/8/16
15	Neighbour	Representation	15/9/16
16	Neighbour	Representation	26/8/16
17	Neighbour	Representation	26/8/16
18	Neighbour	Representation	31/8/16
19	Neighbour	Representation	21/9/17
20	Case officer and agent	Extension of time agreement	11/2/17
21	Case officer and agent	Extension of time agreement	10/7/17
22	Case officer and agent	Extension of time agreement	22/8/17
23	Case officer and agent	Extension of time agreement	17/10/17
24	Case officer and agent	Extension of time agreement	14/11/17
25	Case officer and agent	Exchange of emails	29/7/16 to 8/8/16
26	Case officer and agent	Exchange of emails	19/8/16 – 23/8/16
27	Case officer and neighbour	Exchange of emails	2/9/16
28	Case officer	Email to agent	2/9/16
29	Case officer	Email to agent	12/9/16
30	Case officer and Highways England	Exchange of emails	16/9/16

31	Case officer and agent	Exchange of emails	20/9/16 – 23/9/16
32	Case officer and agent	Exchange of emails	5 and 7/10/16
33	Case officer and WCC FRM	Exchange of emails	21 and 24/10/17
34	Case officer and agent	Exchange of emails	26/9/17 – 17/11/17
35	Case officer	Email to WCC FRM	18/11/17
36	Case officer and agent	Exchange of emails	2/12/16 – 28/11/16
37	Case officer	Email to WCC FRM	2/12/16
38	Case officer and WCC FRM	Exchange of emails	31/1/17 – 10/2/17
39	Case officer and agent	Exchange of emails	10/2/17 – 26/2/17
40	Case officer and neighbour	Exchange of emails	1/5/17 – 2/5/17
41	Case officer and WCC FRM	Exchange of emails	4/5/17 – 8/5/17
42	Case officer, agent and WCC FRM	Exchange of emails	8/5/17 – 18/5/17
43	Case officer	Email to agent	29/6/17
44	Case officer and agent	Exchange of emails	10/8/17 – 30/8/17
45	Case officer, agent and WCC FRM	Exchange of emails	6/9/17 – 9/11/17
46	Case officer, agent and WCC FRM	Exchange of emails	14/11/17 – 23/11/17
47			23/11/17 – 27/11/17
48	Case officer	Email to case officer	27/11/17
49	Agent	Agreed extension of time to case officer	28/11/17

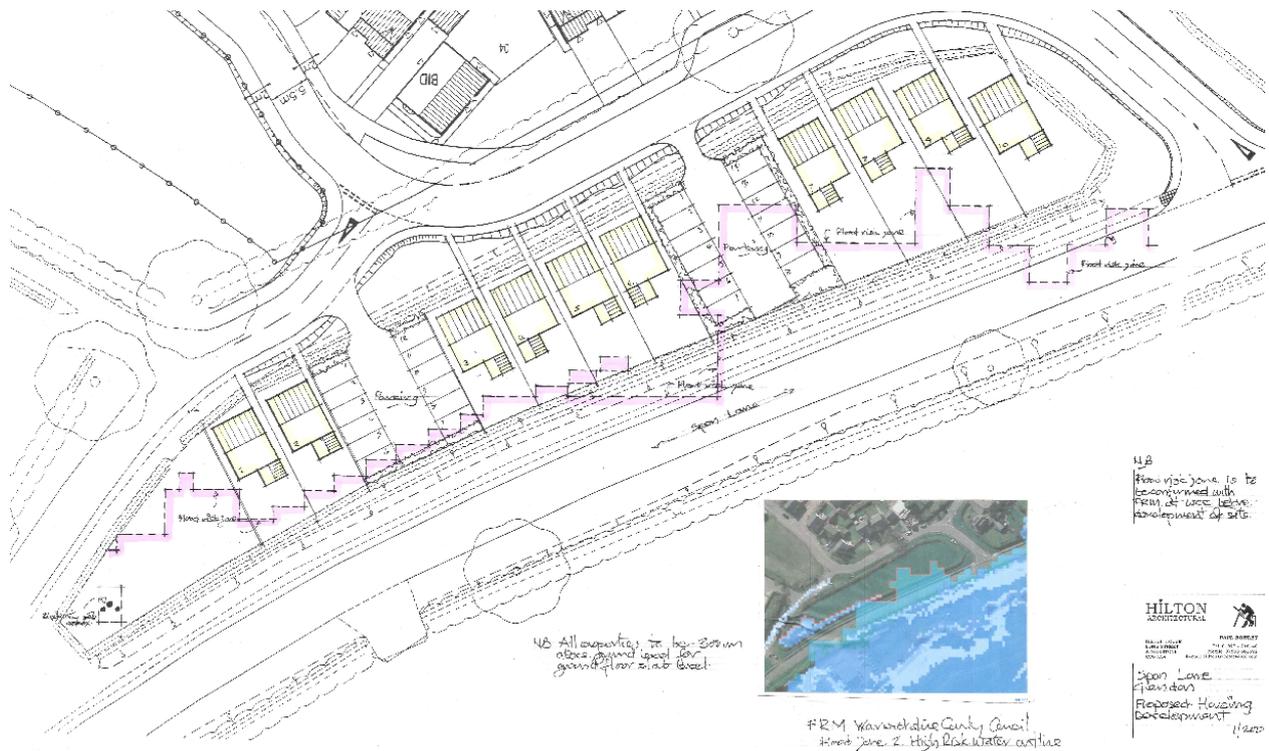
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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 – Location of site



Appendix B – Indicative Plan



(2) Application No: PAP/2017/0156

Land South of Dairy House Farm (Phase 2), Spon Lane, Grendon,

Outline application for erection of residential dwellings with associated access, for

Kler Group

Introduction

This application was reported to the Board's May meeting for information. It is now brought to the Board for determination. A copy of the earlier report is attached for convenience at Appendix A. It should be read in conjunction with the present report as it is not intended to repeat the information previously set out.

It is first proposed to outline changes in the material planning considerations affecting this application before providing the usual report leading to a recommendation.

Changes since the Submission

The nature and scope of the application itself has not changed since May. It is still an outline application for residential development with all details reserved for later agreement, except that of access which would be via an extension of the existing arrangement serving the newly completed housing off Spon Lane. Indicative plans suggest a development of 120 houses.

However other relevant material planning considerations have changed since the application was submitted.

The Council has now agreed to the publication of a Draft Submission Version of its emerging Local Plan for North Warwickshire. This means that the weight given to this emerging plan has risen from limited at the first publication stage last year, to moderate. Significantly, this Submission Version directly affects this application site and its wider setting.

Representations received on the Application

Nine letters of objection have been received from local residents. The matters referred to include:

- Increased congestion
- Inadequate roads
- Lack of facilities and existing ones under pressure
- Problems with schools being full
- Community is "lost"
- Alternative sites should be developed

- The loss of bio-diversity and ecological impact
- Loss of privacy to adjoining houses
- There will now be increased noise on both sides of residents living on the A5
- Extra air pollution from the roads and from construction
- The proposed access crosses open space.
- Queries about the future of the open space shown on the Master Plan

Grendon Parish Council – It objects to the proposal on the following grounds:

- The site is not included in the Core Strategy
- The number of houses built has already exceeded that set out in the Strategy
- Brownfield land should be used first – e.g. the nearby Sparrowdale School site
- There are no local facilities on this side of the A5
- There is no safe crossing over the A5
- What are the benefits to the community?
- The primary school is full
- There should be an ecological assessment
- There is increased flooding risk
- Traffic volumes in the area are already too high

Consultation Responses

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

Environment Agency – No objection

Warwickshire County Council as Highway Authority - No objection subject to standard conditions

Highways England – It has no objection in principle to the proposal in terms of highway impacts onto the A5. However it has three times directed that no decision be taken until more detail concerning a potential signalised crossing over the A5 has been submitted.

This has now occurred and a final response has been received. It is satisfied that there is “no identifiable need for a signalised crossing” and as such a crossing is “not considered necessary to facilitate the development”.

WCC Rights of Way – No objection, but require the existing footpaths to be left unobstructed. A contribution of £12,327 is also required for local footpath upkeep.

Warwickshire County Council as Education Authority - A contribution of £447,494 is required to provide increased early years provision within two miles of the site; for additional secondary provision at Polesworth and/or Atherstone, additional post-16 provision at Polesworth and for SEN facilities at Polesworth/Atherstone.

WCC Public Health – A contribution of £26,043 is required to provide improvements at Dordon Surgery

George Elliot NHS Trust – A contribution of £69,178 is requested to provide additional health care services to meet patient demand arising from this proposal.

West Mercia and Warwickshire Police Service – A contribution of £14,906 is sought to mitigate additional policing impacts.

Warwickshire Police (Architectural Liaison) – No objections

Warwick Museum – No objection but require pre-commencement investigations to be dealt with by way of condition

Warwickshire Wildlife Trust – The site has low value to bio-diversity but the retention of the hedgerows is welcome as is the significant perimeter buffer of open space. The balancing ponds and wildlife meadow are all ecological enhancements of benefit. Overall it is considered that there would be bio-diversity improvement.

Warwickshire Fire Service – No objection subject to a standard condition

Environmental Health Officer – No objection subject to construction hours being agreed and noise mitigation measures being introduced into the new dwellings.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW16 (Green Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows); ENV13 (Urban Design), ENV14 (Access Design), TPT1 (Traffic Assessment) and TPT3 (Access and Sustainable Travel)

Other Material Planning Considerations

The National Planning Policy Framework 2012 – (NPPF)

The National Planning Practice Guidance

The Draft Submission Version of the Local Plan for North Warwickshire 2017 – Policies LP 39 and LP 39a (Housing Allocations and Reserve Land)

The appeal decision reference APP/R3705/W/15/3129354 – the Watling Street pedestrian crossing

Observations

a) Introduction

This application has to be determined in accordance with the Development Plan unless other material planning considerations indicate otherwise. As reported in the introduction, other material planning considerations have moved materially since this application was submitted. The Board therefore has first to consider the application against the Development Plan as presently exists. If it does accord with the Plan, then there should be a presumption of support. If not, then the Board will have to weigh this against the other relevant material planning considerations and assess the final planning balance to establish if those considerations outweigh the harm to the Development Plan. This is the outline that will be followed below.

b) The Development Plan

Development within the Borough is to be distributed in accordance with the settlement hierarchy which is set out in policy NW2 of the Core Strategy. In respect of Baddesley and Grendon, these are identified as Category 3A settlements wherein development will be permitted in or adjacent to development boundaries, where it is considered to be appropriate to its place in the hierarchy. This is expanded in Policy NW5 where the Borough's housing requirements are distributed between the named settlements in the hierarchy. For the two settlements of Baddesley and Grendon the combined minimum housing requirement is 180 houses.

As a consequence it is considered that this proposal does accord with these two policies. The site is adjacent to the northern side of the Grendon Development boundary and when taken together with the recent new housing developed on both settlements, the proposal would take this figure to just above the minimum figure of 180 houses. It is important to point out that this figure is a minimum figure not a maximum one. It could be suggested that the site is only partially adjacent to the development boundary at this location, but the policy is silent on matters of lengths or proportions of development boundaries affected. Members' attention is also drawn to the wording of policy NW2 which says that where necessary, changes to development boundaries will be made in the appropriate development plan document, or once development has taken place. As a consequence the recent Bellway development off Spon Lane will automatically lead to a change in the development boundary. This is already recognised in the Submission Version of the new Local Plan. So the circumstances on the ground now also add support to the development being in accordance with the Development Plan, as the application site will be fully bound on two sides by a development boundary.

The applicant in his supporting statement relies heavily on the situation at the time of submission, that the Council did not have a five year supply of housing land as evidenced in the Ansley appeal decision. He argued that as a consequence, the Development Plan was out of date and thus the terms of the NPPF should carry greater weight. Indeed it might now be argued that as the Council has a five year supply that a potential refusal could be considered. However this cannot be recommended. The proposal satisfies policies NW2 and NW5 as set out in the above paragraph and as will be concluded below there is no other significant adverse harm caused. Moreover, the Council should retain and maintain a five year supply as a minimum at all times, together with a "buffer", which the current position does not adequately provide.

The presumption therefore is that the application should be supported in principle.

c) Harm

If this presumption is to be overturned, then there will have to be evidence to show that there would be significant harm arising from the proposal.

There are several impacts to consider. Firstly, it is agreed that there are no heritage impacts either on potential underground assets or on the setting of Conservation Areas or Listed Buildings. The proposal therefore is in accord with policy NW14 of the Core Strategy.

Secondly, there is concern raised locally about the impact on the ecology and bio-diversity of the area. The applicant has undertaken an ecological appraisal – as reported in Appendix A. This has been examined by the Warwickshire Wildlife Trust and as can be seen from the consultation response above, there is considered to be an overall enhancement as a consequence of the development proposals, thus meeting the requirement of the NPPF. The matters raised by local residents about the existing site have also been referred to the Trust for further comment. In response the Trust says that the applicants' surveys were undertaken appropriately at the right times of the year and that proportionate mitigation measures have been included in the proposals. There are some species that have been listed that are material considerations as these would be displaced – e.g. sky lark and hare. However the local populations of these are not considered to be endangered or put at risk. As a consequence the Trust has not objected. An Ecological Management Plan can be conditioned which would incorporate mitigation measures where appropriate. Overall therefore it is not considered that material bio-diversity impacts will result and that Core Strategy policies NW15 and NW16 are satisfied.

It is not considered that there would be adverse amenity impacts on neighbouring residential occupiers. In this proposal there is a substantial “buffer” of open space proposed around the perimeter of the whole site ensuring significant separation distances. Indeed many of the Watling Street frontage properties would be higher than the ground level of the new houses. This would materially mitigate impacts such as loss of privacy and overlooking as well as impacts such as noise generated by the new development. It is agreed that the open space would be accessible to the public and thus security issues would be greater than existing. However because of the leisure and ecological benefits of the open space as well as the reduced risk of overlooking, it is considered overall that the balance lies with support for the suggested layout and thus the relevant parts of policy NW10 of the Core Strategy are satisfied.

It is now necessary to look at the four main areas that have been raised locally and indeed which were the subject of discussion at the Public Inquiry that dealt with the recently complete Bellway development.

The first one is the impact on landscape in general and that the development is not in keeping with the local distinctiveness of Grendon. In short it was argued at the Inquiry that that development would materially alter the built form of Grendon away from its ribbon frontages along the Watling Street. Substantial time was spent on this issue but the outcome clearly did not support the case made by the Council. This current application is more significant in its scale and in its location and so it is relevant to revisit this argument. However given recent decisions in the Borough elsewhere – Austrey and Ansley – it is suggested that this would not be a strong case. In these cases there was no landscape or townscape evidence to demonstrate that significant harm would be

caused and the same would apply here. There are no designated landscape areas affected and much of the site would not be visible from the higher ground to the south. When viewed from the north there already is substantial built development rising from the A5 to the higher ground in Baddesley. As a consequence policy NW13 of the Core Strategy is satisfied.

The second is the potential impact on the increasing the risk of flooding as a consequence of increased surface water discharge. Members will be aware that were no objections from either of the relevant Agencies in respect of the recent Bellway development and that sustainable drainage measures have been incorporated into that development. Both the Warwickshire County Council as the Local Flood Authority and the Environment Agency have been involved with this current proposal. Both Agencies are very much aware of the flooding situation in the River Anker and the Penmire Brook. However it is of substantial weight that even in these circumstances, neither has objected. The existing sustainable drainage measures in the Bellway development are to be extended and incorporated into the application site at its northern end. As was the case at the recent Inquiry, the local objections raised did not result in that appeal being dismissed and it is strongly suggested that the same outcome would ensue with the current proposal. The relevant parts of policy NW10 of the Core Strategy are thus satisfied.

The third is the potential impact on local facilities and services. The representations received mirror those that were raised following the earlier application and thus at the ensuing Public Inquiry. It is very noticeable that the relevant Agencies in this current case have all responded. Members can see from the consultation responses that contributions are sought from the Education Authority, the Health Authorities as well as the Police with a total request for £569,948. In these circumstances it is considered that the impacts arising from increased demand have been addressed by the relevant Agencies and thus Core Strategy policies NW1 and NW20 are both satisfied.

The final matter is that of the highway impact of the development. This particularly focusses on the issue of a pedestrian crossing over the A5 and this will be dealt with a little later. It is significant that neither of the two relevant Highway Authorities have objected to the current proposal. The Warwickshire County Council, despite earlier concerns about extending the existing access arrangements into the site, has removed its initial objection subject to conditions. Additionally there is no issue with the public footpath network which will remain as part of the proposed layout and promote pedestrian access to the south. Highways England too has not directed refusal because of any adverse highway impacts on the strategic road network. As a consequence the proposal does satisfy the relevant section of policy NW10 of the Core Strategy.

The central issue however is whether the scale of the proposal is sufficient to warrant the provision of a signalised pedestrian crossing over the A5. It is a material consideration of substantial weight that Highways England would not support such a crossing as a consequence of the recent Bellway development and that the Secretary of State, through the Planning Inspectorate, confirmed that position at appeal. The same issue arises again with the current application. Highways England understand that there is an issue here given the increased number of dwellings on the north side of the A5 if this application was permitted, but that facilities are on its southern side with local bus services running along the A5 itself. The applicant too recognises the significance of the matter and has been prepared to provide possible alternative outcomes to Highways England. This is why Highways England required deferral of a decision on three occasions, such that full road safety and technical checks could be explored. In this

case there is a difference to the earlier proposal as there is a footpath exit from the site directly into the Watling Street. As such a potential location for a crossing could be further to the east thus avoiding the proximity to the Grendon roundabout which was the source of the earlier problem. Highways England has now responded formally to all of these studies saying that it cannot require such a proposal. This is immensely disappointing, but the weight that has to be given to this conclusion should be overriding, particularly following the outcome of the previous appeal.

Given the significance of this issue and to the Council, the matter will again be raised later on in this report as a consequence of the publication of the Submission Version of the new Local Plan referred to at the beginning of this report.

It is therefore concluded that the current proposal does not introduce adverse impacts of such weight as to warrant refusal reasons either individually or cumulatively that would outweigh the planning policy position referred to in section (b) above. In other words the presumption of support remains.

d) The Draft Submission Version of the Local Plan for North Warwickshire

As already indicated, this is now a material planning consideration of moderate weight.

At the beginning of this report it was stated that this Plan has direct implications for this proposal. There are two – it actually allocates the application site for residential development and secondly that allocation is part of a much wider reservation of land potentially involving the re-location of the A5 itself.

This is not the place to expand on these issues, but the content of the Submission Version clearly adds support to the current proposal through policy LP39 which identifies the current application site as an allocated site for 120 houses. Secondly the wider implications could give a beneficial outcome in respect of a prospective crossing over the A5. This is set out in policy LP39a which reserves additional land to the east of the current application for a further potential 360 houses. The significance of this is the accompanying potential re-location of the A5 to the north of the current and the reserve sites. If this were to occur, then the present section of the A5 through Grendon would be likely to be de-trunked with its operational management then referring to the County Council. It is then more likely that the technical aspects around the provision of a pedestrian crossing would be more favourable – e.g. less traffic on the road. In other words the prospect of a crossing gains weight.

So notwithstanding the position of Highways England in respect of the current application, the prospect for the provision of a crossing is not lost. It is considered important therefore to safeguard this potential benefit. A contribution will thus be sought to provide such a crossing from this application. If this does not come to realisation, then that contribution should be repaid. This is set out in the recommendation.

e) Conclusion

It is concluded that the current proposal does in fact accord with the present Development Plan and thus should be supported in principle. This conclusion arises not only from the wording of the relevant policies and the situation on the ground which has changed since the Core Strategy was adopted, but which allows that change to be treated as remaining in accordance with the Plan. There is an argument that even so, the Council has a five year supply and thus the application should be considered for refusal. There are four matters that counter this position:

- the Council has to retain and maintain a “buffer” of land above and beyond the five year supply which presently is not captured in our present supply of only 5.1 years;
- the proposal is sustainable development located on the edge of an existing settlement which is identified for growth and for which contributions are sought to mitigate impacts on local services and facilities,
- there is not the evidence available to demonstrate significant harm in respect of other impacts arising from the proposal, and finally,
- all of up to date housing needs evidence has been translated into a Submission Version for the emerging replacement Local Plan for the Core Strategy, which then actually allocates this land in order to meet those new housing needs in a sustainable way. In other words the “direction of travel” supports the application.

These matters are considered to carry substantial weight in supporting the grant of an outline planning permission.

Recommendation

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

- a) The completion of a Section 106 Agreement to include all of the contributions set out earlier in this report for the purposes as outlined;
- b) The inclusion in that Agreement of a financial contribution, to be agreed with the applicant and Highways England, for the provision of a signalised pedestrian crossing over the A5 in a position similarly to be agreed and that if no such provision is made within fifteen years of the date of the Agreement, the contribution be returned.
- c) The following planning conditions
 - 1-3 Standard Outline conditions – reserving all matters apart from access.
 - 4 Standard Plan numbers – the red line location plan received on 31/3/17 and the site access layout details shown on plan number WIE11711/001revB.

Defining Conditions

5. For the avoidance of doubt this permission permits no more than 120 houses – none to be more than two storeys in height - to be constructed within the application site and this number shall be provided in general terms as identified on the Master Plan number 16/254.02D received on 31/3/17.

REASON

In order to define the scope of the permission granted

- 6 For the avoidance of doubt, 40% of the dwellings hereby approved shall be “affordable” dwellings and the details of this provision shall first be agreed and approved in writing by the Local Planning Authority prior to any development commencing on site. These details shall include tenure mix; the size of the dwellings, the means of retaining affordability in perpetuity and the mechanism for defining occupancy such that the local communities housing needs are delivered.

REASON

In the interests of providing affordable housing in accordance with the Development Plan.

Pre-Commencement Conditions

7. No development shall commence on site, including any site preparation or clearance work until a detailed surface water drainage scheme for the site (including a timetable for implementation), based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved scheme.

REASON

In the interests of reducing the risk of flooding.

8. No development shall take place until a scheme for the disposal of foul water from the site (including a timetable for delivery) has first been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved scheme.

REASON

In the interests of reducing the risks of pollution and flooding.

9. No development shall commence on site until a detailed Landscape and Ecological Management Plan has first been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with that approved Plan.

REASON

In in the interests of the visual amenities of the areas and so as to enhance and protect bio-diversity and ecological interest on the site

10. No development shall take place until a detailed scheme for the provision, transfer and maintenance of all areas of open space as shown on the Master Plan (including a timetable for transfer) has first been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area as well as the health and well-being of existing and future residents.

11. No development shall take place until a Construction Management Plan has first been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of the location of the site compound; working and delivery hours, operational arrangements, measures to secure dust suppression and for the clearance of debris and mud from public highways and points of contact for complaints and concerns to be registered. The approved Plan shall remain in force throughout the whole site during the whole of the construction period.

REASON

In the interests of protecting residential amenity on nearby occupiers.

12. No development shall commence on site, including site preparation and clearance work, until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of understanding the heritage interest in the site

13. No development shall commence on site, including site preparation and clearance work, until a report describing the outcome of the work undertaken under condition (12) together with a schedule of mitigation measures in response to that archaeological investigation has first been deposited with the Local Planning Authority and any mitigation measures arising have first been approved in writing by the Local Planning Authority. Development shall then only proceed in accordance with the approved mitigation measures.

REASON

In the interests of understanding the heritage interest in the site.

14. No development shall take place until a scheme for the provision of adequate water supplies and fire hydrants necessary for fire-fighting purposes (including a timetable for delivery) has first been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved scheme.

REASON

In the interests of public safety

15. Details submitted in respect of the appearance and design of the houses hereby permitted under reserved matters required by condition (1) shall include full details of the acoustic measures to be introduced into their construction so as to reduce the risk noise pollution.

REASON

In the interests of reducing the risks of noise pollution.

16. Highway conditions

Other Conditions

17. No house hereby approved shall be occupied until the site access layout as defined in condition (4) has been constructed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

18 For the avoidance of doubt no structure, tree or shrub shall be erected, planted or retained within the vision splays shown on the approved site access layout plan exceeding, or likely to exceed at maturity a height of 0.6 metres above the level of the public highway carriageway.

REASON

In the interests of highway safety

19 The details required to be submitted under the application for the approval of reserved matters as required by condition (1) for the estate layout and the design of the houses, shall include sufficient space within each residential curtilage for the provision of a storage space for a minimum of three 240 litre wheeled bins. The storage space shall remain permanently available for this purpose.

REASON

To enable effective storage space to be made available for the disposal of household waste and in the interests of the visual amenities of the area.

Notes

1. The Local Planning Authority has worked with the applicant in a positive manner in line with the requirements of the NPPF through encouraging compliance with the requirements of the technical Agencies and in seeking a planning solution through open dialogue.
2. The scheme and details to be submitted under condition (7) shall provide evidence of infiltration testing in accordance with BRE 365 guidance; demonstration that surface water systems are designed in accordance with CIRIA Report C753, evidence to show limitation of discharge rates by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm to the Qbar greenfield runoff rate for the site, demonstration of compliance with Science Report SC030219 and designs and calculations in support of surface water drainage systems including any attenuation system and outfall arrangements (showing performance of the designed 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 in 100 year and 1 in 100 year plus climate change return periods) and provide plans and details showing the allowance for exceedance flow and overland flow

routing (including measures to reduce the impact of exceedance events). The information submitted should also include written evidence of agreement with Severn Trent Water of connections to the existing surface water network and a maintenance plan to show how the entire surface water system is to be managed and maintained after completion for the lifetime of the development.

3. Attention is drawn to Sections 38, 149, 151, 163 and 184 of the Highways Act 1980; the New Roads and Street Works Act 1991, the Traffic Management Act 2004 and all appropriate Codes of Practice. Further advice can be gained from the Warwickshire County Council as Highway Authority.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0156

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	31/3/17
2	Grendon Parish Council	Objection	26/5/17
3	B Mitchell	Objection	15/5/17
4	P Perry	Objection	15/5/17
5	J Nicholson	Objection	12/5/17
6	C Turner-Marshall	Objection	5/5/17
7	W Reid	Objection	1/5/17
8	A Green	Objection	27/5/17
9	D Bowns	Objection	26/4/17
10	A Gray	Objection	8/9/17
11	Mr Walsh	Representation	26/10/17
12	Warwickshire Fire Services	Consultation	2/5/17
13	Warwickshire Police	Consultation	3/5/17
14	Highways England	Consultation	10/5/17
15	Warwickshire Wildlife Trust	Consultation	5/5/17
16	WCC Rights of Way	Consultation	8/5/17
17	Warwick Museum	Consultation	9/5/17
18	Environmental Health Officer	Consultation	22/5/17
19	WCC Public Health	Consultation	18/5/17
20	WCC Highways	Consultation	2/6/17
21	WCC Education	Consultation	
22	WWT	Consultation	15/6/17
23	Warwickshire and West Mercia Police	Consultation	4/7/17
24	Highways England	Consultation	10/8/17
25	WCC Flooding	Consultation	8/8/17
26	Environment Agency	Consultation	17/8/17
27	Highways England	Consultation	8/11/17
28	Highways England	Consultation	24/11/17
29	Warwickshire County Council	Consultation	28/11/17

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.

(11) Application No: PAP/2017/0156

Land South of Dairy House Farm (Phase 2), Spon Lane, Grendon,

**Outline application for erection of residential dwellings with associated access,
for**

Kler Group

Introduction

The receipt of this application is reported to the Board in view of the planning history of this part of Grendon given a past appeal decision.

The Site

This is 6.75 hectares of agricultural land north of the residential frontage to the Watling Street in Grendon and east of the recently completed new residential estate off Spon Lane. It extends northwards to the range of agricultural buildings at Dairy House Farm and its eastern boundary is an unmarked line close to a field hedgerow running from the farm to the Watling Street frontage. This line also marks the route of a public footpath. The land slopes down from the Watling Street northwards with a drop of around ten metres.

The site is illustrated at Appendix A.

The Proposal

This is an outline planning application for residential development with all details reserved for later agreement except that of access which would be via an extension of the existing arrangement serving the newly completed housing off Spon Lane.

Members will be aware that as an outline application no further detail is proposed. However an indication is given of a possible development. This illustrative layout shows a plan accommodating 120 houses incorporating a significant amount of open space, particularly between the eastern extent of the recent housing and that now proposed. This would extend along the rear, northern side of the Watling Street frontage and would include two new separate balancing ponds at the far northern extent close by the existing feature.

The illustration of a potential layout is attached at Appendix B.

The applicant sets out that in terms of a Section 106 Agreement then there is the provision of 40% on-site affordable housing provision and reasonable requests for service and infrastructure provision provided that they meet the statutory requirements and are proportionate to the proposal and to its impacts.

The application is accompanied by a large amount of supporting documentation.

A Landscape and Visual Impact Assessment refers to relevant local planning policy; the Council's Landscape Character Assessment, its' Green Space Strategy and to the National Planning Policy Framework. It describes the agricultural nature of the site itself but points to the residential built form on two sides of the site and the large agricultural

4/201

buildings at Dairy House Farm. It refers to the public footpath – the AE33 running north/south along the eastern site boundary. The site is in the Anker Valley Landscape Character Area but borders the Baddesley to Hartshill Uplands Area. The overall conclusion is that in landscape terms the proposals would have a moderate to minor impact largely due to the self-contained nature of the site and its close proximity to existing residential development. In visual terms the Assessment concludes that there would also be moderate to minor impacts for the same reasons.

A Site Conditions Appraisal concludes that the site is suitable for the proposed development but subject to further investigation to confirm ground conditions and possible ground gas risks. An associated Non-Residential Mining Report shows no adverse impacts.

A Noise and Air Quality Assessment concludes that in respect of noise then acceptable external and internal noise levels would be achieved by future occupiers without recourse to significant noise mitigation measures. Mitigation relating to acoustic glazing and ventilation systems will suffice. In respect of air quality the Assessment concludes that current air quality objectives can be met on the site.

A Heritage Assessment concludes that given the survey work undertaken in connection with the recent development to the west and that there are no nearby designated or non-designated heritage impacts that the harm caused here would be less than substantial.

An Agricultural Land Classification Report concludes that the quality is a combination of Grade 2 (64%) and 3a (36%) agricultural land. As a consequence it is some of the "best and most versatile agricultural land". As such the report concludes that its loss, de facto, would not accord with the NPPF or to Development Plan policy. However the loss is small and would have to be put in the final planning balance. In other words its loss could be outweighed by other planning considerations.

An Arboricultural Report states that the illustrative layout shows the retention of all the site's existing trees and hedgerows and as such there would be no adverse impact.

A Transport Statement concludes that there would be no "severe" adverse impact which is the test set out in the National Planning Policy Framework. However because of the on-going concern about pedestrian access across the Watling Street the Statement logs the need for additional work to be undertaken to look at this issue.

A Flood Risk Assessment states that the site is in Flood Zone 1 but points to fluvial flooding incidents at the River Anker and the Penmire Brook. Based on the assessments and solutions agreed for the recent development to the west it is proposed to capture surface water drainage from the site to discharge to both the existing balancing pond and proposed additional ponds close by. In respect of foul water disposal then the Assessment notes the presence of the Grendon works and the risks associated with those works on the Penmire Brook. Additional work will be needed and options include expanding the capacity of the existing pumping station that serves the recent development or a new pumping station to connect to the existing network or directly into sewers in the Watling Street. The Assessment concludes that a bespoke solution is technically available to the proposal.

A Design and Access Statement describes the setting of the site and how the indicative layout has been arrived.

A Statement of Community Engagement describes how the applicant set up a website for the proposal and undertook a leaflet drop inviting local residents to look at this and make comments. The Statement says that the website had 378 visits and that 21 responses were received. The overall conclusion was that the respondents felt that there was no need for further development; facilities were under strain, the location of services were on the “wrong” side of the A5, no safe pedestrian crossings of the A5 and flooding in the area.

A Planning Statement draws these documents together within the context of national and local planning policy. It particularly draws attention to the five year housing supply situation and to the emerging evidence for residential growth set out in the draft Local Plan for North Warwickshire. It concludes that the Development Plan housing policies are out of date and thus in the absence of significant and demonstrable harm the application should be supported in line with the approach set out in the NPPF.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split in Housing Numbers), NW6 (Affordable Housing Provision), NW 10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV12 (Urban Design), ENV14 (Access Design) and TPT1 (Traffic Assessments)

Other Material Planning Considerations

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

The draft Local Plan for North Warwickshire 2016

The Ansley Appeal Decision 2016 – Reference APP/R3705/W/16/3149572

Observations

Members will be familiar with the general area of this proposal and of course be aware of the 2014 appeal decision that has led to the 85 houses being completed to the west of this current site. Matters have moved on since then with the publication of the draft emerging new Local Plan for North Warwickshire and just as significantly the consequences of the 2016 Ansley appeal decision. The planning balance here will not be straight forward given the background, recent events and the enduring concerns about highways; flooding and service capacity.

Recommendation

That the report be noted at the present time.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0156

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	24/4/17

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.



Red Line shows 6.25 Ha

NORTH WARWICKSHIRE
BOROUGH COUNCIL
RECEIVED
31/03/2017
PLANNING & DEVELOPMENT
DIVISION

Spon Lane Grendon Phase 2 - Site Location Plan

dwg.no: 16.254 (11A) SCALE: 1:2500 (A0) MARCH 2017



(3) Application No: PAP/2017/0333

Old Beretun, Barnes Wood Lane, Whitacre Heath, B46 2EF

Retrospective application for continued use of land and the retention of a summer house and shed, for

Mr & Mrs D Truman

Introduction

The application is reported to Board at the request of a local Member in light of the history of the use of this site.

The Site and the Proposal

The site forms a small parcel of land situated adjacent to a row of buildings converted to dwellings at Barnes Wood Lane and south of a school premises at Yew Tree Cottage.

The location and extent of land is shown below.



The application retrospectively seeks the retention of a chalet/shed building and the use of land as garden land in association with the property known as Old Beretun.

The aerial images below show the change in the use of the land:

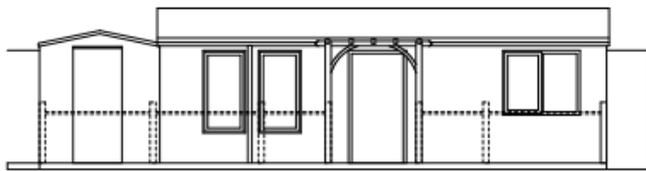


2007



2017

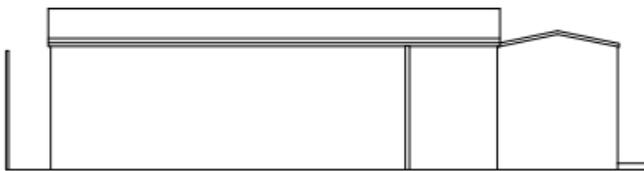
The chalet is shown below.



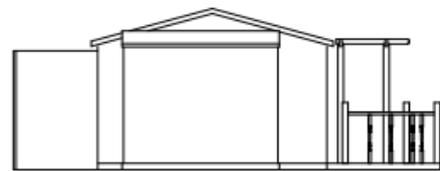
1 : 50 West Elevation



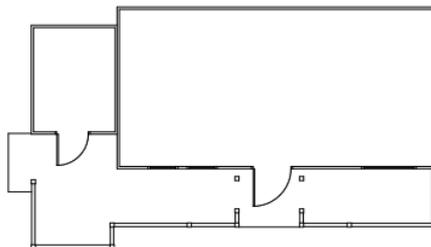
1 : 50 South Elevation



1 : 50 East Elevation



1 : 50 North Elevation



1 : 50 Ground Floor Plan

Background

The planning history for the wider site dates back to 1999. Planning applications 1043/1999; 0134/2000; 14911/2000 and 0580/2003 together, gave consent for the development of nine units for use as holiday accommodation. A subsequent later planning permission changed one of the units to a live/work unit.

On 4 October 2013 planning permission PAP/2011/0395 allowed non-compliance with conditions 3 and 4 attached to consent 1043/99/FAP and conditions 3 and 4 attached to consent 0134/2000/FAP to allow three of the holiday let units to be used as three independent dwelling houses. As part of this planning permission Condition 4 required

land hatched blue on a marked plan named “paddock restored” to be cleared of residential attributes and hard standings and used for agricultural purposes only. The area of land the subject of this application forms part of the area of land shown hatched blue on the plan referenced at Condition 4.

The Google Earth image dated 2013 shows that the application site the subject of this submission was largely occupied by hard standing and delineated by an existing boundary demarcation when planning permission PAP/2011/0395 was granted.

The applicant advises that Mr and Mrs Truman (the applicants of this application) purchased the parcel of land to the north of Old Beretun (the site now the subject of this application) in December 2011. The applicants have stated that the summer house and shed were erected on the site approximately 3.5 years ago (at the end of 2013/beginning of 2014).

The applicant argues that the application form for planning application PAP/2011/0395 shows that the then applicant submitted a Certificate A to confirm he was the sole owner. However, when the Council granted planning permission PAP/2011/0395 on 4 October 2013, a large section of the blue hatched area of land was no longer within the ownership or control of the applicant. Conditions which require works on land not controlled by the applicant, or that require the consent of another person fail to meet the tests of reasonableness and enforceability. In light of the evidence to demonstrate that all of the land shown hatched blue on the “paddock restored” plan was not wholly owned, it is submitted that Condition 4 of planning permission PAP/2011/0395 is not a lawful planning condition.

Development Plan

The Core Strategy 2014 - NW3 (Green Belt); NW10 (Development Considerations) and NW12 (Quality of Development)

Other Relevant Material Considerations

The National Planning Policy Framework 2012 – (the “NPPF”)

Representations

Two letters of support have been received indicating:

1. The land in question being part of a wider site has been used for residential use for many years, the adjoining land being an allotment and was formally brown field site. Although a clause was attached to the approved consent for residential use, the condition was unenforceable as it stated that the land must be reinstated before any residential occupation took place. It was overlooked that unit 1 was already being used as a residential property.
2. The shed referred to has been tastefully erected and enhanced by the planting of small trees and shrubs.
3. It cannot be seen and is completely in keeping with the surroundings.

One letter of objection has been received from the Parish Council indicating:

“Whilst the application site has been used as residential curtilage i.e. as a garden by the current land owners (the applicants) and the former owner, no planning applications to change the use of the land from paddock to residential curtilage have been submitted until now. Its authorised use is therefore paddock land.

This site lies within the Green Belt. Paragraph 89 of the NPPF states that the construction of new buildings in the Green Belt is inappropriate development subject to exceptions. The applicants argue that the use of the land and the use of the summer house should be regarded as an exception because it provides appropriate facilities for outdoor recreation in accordance with bullet point 2 of paragraph 89. This exception however has a proviso - that the construction of buildings for outdoor recreation should preserve the openness of the Green Belt and should not conflict with the purposes of including land within it. In our opinion "openness" means that the land within the Green Belt should remain free from development. With the erection of the summer house and shed, the openness of the Green Belt has been reduced here. It has altered the rural character of this rural landscape to one of a domestic nature. It does form a visual intrusion thus causing harm to the Green Belt. Paragraph 80 of the NPPF sets out the five purposes of the Green Belt. The one that is relevant to this application is that the Green Belt should assist in safeguarding the countryside from encroachment. In our view, the use of the land as a garden and the erection of the summer house and shed have resulted in encroachment into the countryside, which is unacceptable and contrary to the NPPF.

Overall, we are of the opinion that the land should revert back to a paddock from its existing garden use and that the retention of the summer house and shed should be refused because they are inappropriate development, which is harmful to the Green Belt. If planning permission is refused we would ask that enforcement action is undertaken to remove the buildings. If planning permission is granted, we would ask that permitted development rights are removed to allow some level of control over the future development of the land.”

Observations

The application retrospectively seeks the retention of a chalet building and the use of land as garden land in association with the property known as Old Beretun.

The NPPF at paragraph. 87 states that: “As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

The Parish Council correctly identifies that Paragraph 89 of the NPPF states that the construction of new buildings in the Green Belt is inappropriate development subject to exceptions.

Case law has established that a material change in the use of land is not covered under paragraph 89. The other forms of development that are also not inappropriate (specified in paragraph 90), whilst this should not a 'closed list', does not include the material change of use of land. As a consequence there is no scope to conclude that a material change of use is, by definition, appropriate to a green belt.

Whilst the development does not fit within the identified exceptions, it is necessary to consider whether there are any very special circumstances here that suggest that an exception to policy may be considered.

The applicants argue that the use of the land and the use of the summer house should be regarded as an exception because it provides appropriate facilities for outdoor recreation in accordance with bullet point 2 of paragraph 89. It is considered that this is a misinterpretation of the guidance as this refers to public outdoor recreation rather than to private recreation in the form of the recreational enjoyment of private gardens in dwelling houses. However, notwithstanding this, the following circumstances are relevant.

The site with its summer house and shed sits within a cluster of existing development. In visual terms the outbuildings are low key and there is no ready public access to this area of the site. The chalet structure is low level and not clearly visible from the wider area. Even in close proximity, its roof is only just visible above the boundary close boarded fence – see image below.



The parcel of land is not extensive and is visually contained by existing trees, vegetation and land used by neighbours as garden – see images below





Neighbouring properties have similar structures on adjacent land and the adjacent land is of a very comparable character and appearance – see image below:



The existing curtilage is particularly small, largely in the form of a public courtyard/parking area. It would not be unreasonable to have a larger area of private amenity space with the dwelling. The arrangement would be equivalent to the land available to neighbouring properties.

The land forms a small pocket in an area now used for domestic purposes. The land, if not used for domestic purposes would have no other meaningful use. It is too small and isolated to be used for any productive agricultural or countryside purpose. The aerial photography below shows the approximate position of the land relative to the neighbouring uses. The land sits within a strong defensible boundary and against a backdrop of development on adjoining land.



The argument presented concerning the lack of enforceability of the condition attached to the previous permission requiring the reversion of this land to paddock appears soundly argued. The ability to enforce the conditions requirements is in doubt, and, given the above presentation of the current circumstances, arguably inadvisable.

It is considered that all of these matters combine to ensure that the development will not impact significantly on the openness of the Green Belt or its visual amenity because its actual harm is negligible. It is considered that the change of use of land and the retention of the existing garden building may be supported subject to conditions.

To ensure future control over the long-term openness of the Green Belt a condition will be appropriate to remove permitted development rights for the erection of further garden buildings and to limit the use of the existing building.

Recommendation

That the application be **GRANTED** subject to conditions:

1. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 935-03B received by the Local Planning Authority on 26 June 2017.

REASON

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

2. No development whatsoever within Class E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

REASON

In the interests of the amenities of the area.

3. The garden and garden building hereby approved shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwelling known as Old Beretun, Barnes Wood Lane, Whitacre Heath, B46 2EF (shown marked blue on the approved plans) as such.

REASON

To prevent unauthorised use of the property.

Notes

1. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through a site meeting and seeking to resolve planning issues. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0333

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26 6 17
2	Nether Whitacre Parish Council	Representation	21 7 17
3	A and N Freedman	Representation	6 6 17
4	Barnes	Representation	24 7 17

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.

(4) Application No: PAP/2017/0431

Boot Hill Methodist Church, Boot Hill, Grendon, Atherstone, Warwickshire, CV9 2EL

Outline application for the demolition of existing church and erection of two dwellings including details of access with all other matters being reserved, for

Tamworth & Lichfield Methodist Church

Introduction

The application is reported to Board at the discretion of the Head of Development Control.

The Site

The site is a small rectangular site of approximately 0.05 hectares on the east side of Boot Hill, within the established settlement of Grendon. The application building sits within a row of terraced housing. Presently, the site comprises the vacant chapel with rear garden space though there is no graveyard. At the rear of the site is Black Riddings wood – which is protected by a tree preservation order. The site is accessed off the cul-de-sac section of Boot Hill which diverts from the main road providing a residential access. The site does not lie within a Conservation Area and is located wholly within the Development Boundary. The context of the application site and its surrounding is at Appendix A.

The Proposal

This is an outline application for the demolition of existing church building and the erection of two dwellings including details of access, with all other matters being reserved including scale, layout, appearance and landscaping for later approval. The only matter for consideration under this application is therefore the principle of development and the safety of the access that would serve 2, 3 bedroom dwellings and off road parking spaces for each dwelling. An illustrative layout plan is at Appendix B and a streetscene plan showing a typical elevation of an indicative development is at Appendix C.

The appearance of the Methodist Church earmarked for demolition is at Appendix D. It is not a protected building under any Conservation Area designation and neither is it listed or locally listed. It is not a designated community asset. It could however be described as a non – designated Heritage Asset, the significance of which will be assessed later in this report.

The retention of this building without any heritage designation is tenuous as the fall-back position here is that a prior notification for demolition of this building could otherwise be forthcoming which allows the Local Planning Authority to consider only the method of demolition and any proposed restoration of the site in order to minimise the impact of that activity on local amenity. As such Members should be aware that the building could be demolished under this procedure, without the need to refer any planning policy considerations to the Council.

Background

A previous planning permission at this site relates to a front porch extension which gained permission in 1982 as well as internal re-decoration carried out around this time. Other than this front extension, there is no previous site history relating to planning applications at the site although at some stage the rear of the building appears to have been extended with a flat roof extension.

There is understood to be a war memorial associated with the chapel. It is part of the church fabric/fitting inscription on the church font in relief in gold coloured lettering on four of the sides. Its inscription reads:

Suffer Little Children To Come Unto Me / To The Glory Of God / In Loving And Grateful Memory Of The Young Men / From This Church Who Gave Their Lives In The Great War / 1914 - 1919. / 1939 – 1945.

Names on memorial being - Hargrave, Sidney, Henney, Frank, Juggins, Harry, and Knight, E Harry.

This memorial is associated with the first and second world wars and though not listed to date, increasingly memorials linked with the World Wars are becoming listed in their own right. The condition of the memorial is good and it is the responsibility of the church to upkeep. It is unsure where the war memorial would be relocated on demolition of the building.

The Chapel dates from around late 1885 and is built in the “Rundbogenstil” (round arch) style, popular with non-conformist chapel designers of that time. It is as a building typical of working class worship at this time and of a design characteristic with its use. The Chapel ceased to be used for worship in 2016 following falling congregations. The decision was taken by the Tamworth and Lichfield Methodist Circuit to reluctantly close the church with the last service carried out in October 2016. There has been little interest shown in the building for community use.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW10 (Development Considerations), NW12 (Quality of Development), NW14 (Historic Environment) and NW20 (Services and Facilities).

Saved Policies of the North Warwickshire Local Plan 2006 - ENV6 (Land Resources); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON12 (Services and Facilities in Category 3 and 4 Settlements), ENV16 (Listed Buildings, Non-Listed Buildings of Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments) and TPT 6 (Vehicle Parking)

Other Relevant Material Considerations

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

The North Warwickshire Local Plan – Submission Version (2017) - LP1 (Sustainable Development); LP2 (Settlement Hierarchy), LP7 (Housing Development), LP15 (Historic Environment), LP23 (Loss of services and facilities), LP31 (Development Considerations), LP32 (Built form) and LP39 (Housing allocations)

Representations

The Tamworth and District Civic Society - Grendon falls within the geographic area of interest of TDCS. We are concerned to see the conservation and enhancement of the village's built and natural heritage and maintenance and continuity of the historic character of the village. We seek to ensure that new development is not detrimental to that, offers good quality design and construction, and are appropriate for its location and surroundings - both from an aesthetic viewpoint and practical considerations such as infrastructure, access, traffic management, and impact on neighbouring properties:

- We have concerns with regard to access, parking, traffic management, and other infrastructure issues at the application site.
- TDCS feels that it more appropriate to retain and convert the existing structure including the option of domestic use.
- The church building, erected in 1885 is a landmark and heritage structure that has been part of Grendon's community for 132 years to date and by its presence contributes to the living history of the village.
- There is documentary evidence of a Methodist community in Grendon from 1879, and this purpose-built place of worship was erected on this site in 1885 and enlarged in 1905 with a schoolroom at the rear.
- There is no evident need for the historic building to be removed. It forms an attractive heritage asset that can enhance the streetscape through sympathetic restoration and conversion.
- Redundant Victorian churches and schools lend themselves perfectly to many forms of re-purposing and conversion, as the national Victorian Society can confirm.
- This building should be considered for restoration and conversion into a dwelling that offers future occupants both history and architectural character.
- We have no objection to removal of the unsightly modern porch extension that disfigures the original attractive frontage of 1885.
- We are under the impression that Grendon village has not been assessed for either a conservation area or a Local List. In the absence of such action, heritage buildings such as Grendon Methodist Church are put at risk of loss, as with this application. This is a serious matter of concern, which we urge the Borough Council to address.
- We hope that the Council will reject the submitted planning application, act to safeguard the history and heritage of the village of Grendon and look to schemes which respect and enhance the historic built environment within the village.

Neighbour Objections refer to:

- Why do you have to demolish our history and heritage?
- The application is out of character for the buildings that surround it. None of the terraced houses have "garages".
- Why can't it be renovated to make flats/apartments for the older generation?
- The Council keep agreeing to more housing but when is the Council going to give us back some facilities?

- We have all the housing that is being built on the land between Spon Lane and Green Lane we will soon be merging into being the "back end" of Atherstone
- There are concerns that maintain or access to the side of neighbouring property will be affected.
- Potential construction issues from noise and disturbance

Consultations

Warwickshire County Council as Highway Authority - No objection subject to the conditions:

Environmental Health Officer – No objection subject to conditions about construction hours.

Tree Officer - No objection.

Observations

It is considered that the main issues relating to the application proposal are the principle of development; the loss of a non-designated heritage asset and the impact of the proposal on design, amenity and highway matters.

a) Principle of Development and demolition of the building

The principle of development at the site for two houses is acceptable, given the site is located within the development boundary of Grendon and within a residential area. It would accord with meeting housing numbers for the settlement which requires a minimum of 180 dwellings for Grendon with Baddesley Ensor, and hence the proposal will provide two dwellings towards this. The site lies in a wholly sustainable location with access to bus routes, shops and local services and the main rural distributor roads. The site is capable of providing two homes with adequate parking and garden space without impacting on neighbour's amenity.

However, the demolition of the Methodist church would have a detrimental impact on the character and local distinctiveness of Boot Hill in view of the quality and design of the building and its contribution to the street scene. The building also has local religious, social and historical links to the heritage of the village. The preference is therefore to retain the building and to support a viable re-use of the building which would secure its future as a non-designated heritage asset.

Though it is also a material consideration that the agent could provide an application for prior notification for demolition of this building and whilst the agent is not likely to follow this procedure at this point, this does not preclude the prior notification procedure from being carried out at this site in the immediate future. Without a designation at this site then the future of the building is precarious.

An alternative use for the building would be preferred both from the point of view in securing the architectural value of the building and to retain a community use for the village. However in the current economic climate and that the other factors have to be considered such as the NPPF and the need for housing, the proposal has to be carefully balanced and considered. The loss of a community facility needs to be fully assessed.

b) Alternative use assessment

Grendon with Baddesley Ensor is a Category 3 Settlement and the existing building being a religious use – falls within a community use. Policy NW20 of the Core Strategy advises that *“the loss of existing services or facilities which contributes towards the functioning of a settlement will only be supported where the facility is replaced elsewhere or it is proven that its loss would harm the vitality of the settlement.”*

In this case the place of worship being a community facility would not be replaced elsewhere in the settlement due to falling congregations; an alternative community use would have to be sought of which there is already a community building in Grendon that is shared with Baddesley.

Emerging policy LP23 of the new draft submission local plan is also in compliance with the NPPF and re-enforces the policy approach by NW20. This policy seeks to help the continued vitality of the smaller settlements by ensuring that vital social and community uses are maintained, or appropriately replaced with other uses which contribute to the functioning of the settlement.

The application is presented with little in the way of assessment of whether the community/social use can be provided to a similar level in an equally or more accessible location elsewhere within the settlement, and nor has there been a marketing campaign. The land and building is not demonstrated to be unsuitable for continued use, but there is equally no evidence to suggest its loss will harm the vitality of the settlement.

In order to address the loss of the building and its community use, the agent has responded to the above by setting out a number of issues. Firstly, the process of prior notification for demolition is material – that without the building being of a community asset or listed, then it follows that prior notification is a relevant and legitimate alternative procedure here that is open to the applicant.

Secondly, the agent has provided a financial option comparing conversion with demolition and re-build – the cost of conversion being substantially higher than demolition and re-build.

Thirdly, the structural integrity of the building is sound, but the cost for conversion is prohibitive, therefore there is no realistic economic alternative besides the residential re-development of the site.

Fourthly, as there is an alternative community facility in the settlement, the loss of this building would not necessarily harm the vitality of the settlement. Often community buildings need to be managed by the community but this can be financially challenging, particularly if the size of the building is not readily re-useable and maintenance and running costs for these type of buildings can be high. The alternative is that the building remains vacant falling into dis-use until a use comes forward which would not be guaranteed.

When viewed in balance, whilst the proposal is contrary to the policies NW20 and merging policy LP23, on the loss of a community building, the building is not a designated community asset. Otherwise, the proposal accords with the advice contained within the Framework for the benefits for providing housing in a sustainable

location. The building could be removed under the process of prior notification. This is a material consideration of weight.

c) Heritage Conservation

The building has retained most of its Victorian fabric and detail, albeit extended with an inappropriate modern front porch extension and a rear flat roof extension. In its heyday it would have been a focal point of the village as a non-conformist chapel. It had strong ties with the mining community and signifies a time when all the villagers would have gone to chapel or church on Sunday. Thus this building is important to the culture and industrial history of Grendon. A similar non-conformist chapel has already been lost at Keys Hill in Baddesley.

It could be viewed that the loss of this building would be harmful to the local distinctiveness of the village; however there is a cost to address the building faults. The building is not protected by the way of it being listed and the Council does not have a list of locally important buildings. The cost of conversion is high and if the building were protected, it is very likely it would stand vacant. The balance is therefore whether there is any public benefit in the re-development of this site.

Paragraph 135 of the NPPF sets out:

'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'.

A balanced judgement here is that the physical loss of the building would be harmful on the settlement given the distinctiveness of the building in the street scene. In terms of assessing the scale of harm, then the assessment on the significance of the building would need to be made in terms of identifying its evidential, historical, aesthetic and communal value.

The evidential value is considered high, given that the building exists, and that members of the congregation still practice the faith in the nearby Grendon Community Centre.

The historical value might be considered to be of medium significance. Although the congregation remain committed to the faith, over the years, the size of the congregation has diminished and, along with many active members beginning to age, the maintenance of the building had become a significant issue. The presence of the church within the street scene is a tangible reminder of the past. However, the building was rarely used by the wider community for other, non-faith, uses. This was probably due to the close proximity of the Grendon Community Centre. Whilst its loss will be felt, it is considered the building's historical value can be adequately recorded by way of a Photographic Record.

The aesthetic value is considered of medium/low significance. The building itself is an attractive, red brick early Victorian non-conformist Chapel, with decorative blue brick detailing and slate roof, round arched windows to front and side, all in apparent good condition. It relates well with adjoining 19th Century terracing. It contributes to the character and local distinctiveness of this area.

The communal value of the building is considered of medium significance. Places of worship within villages, towns and cities historically formed the nucleus of a place. Whilst the modern way of life has seen this significantly diminish, to many in the community, there will be past experiences. The presence of the building will also generate a sense of “place” for some.

Overall, the assessment of significance is not considered to be high enough to warrant retention of the building through way of designation, as the building would not fit the criterion set out under the principles of selection for listing, given it has been extended with an inappropriate front porch and a modern flat roof rear extension. This conclusion has been agreed with the Council’s heritage consultant as the alterations harm the architectural significance of the building. This scale of harm would be considered less than substantial where there is public benefit. In terms of whom the building is now ‘significant’ to, then this would be the existing community who used the building, it would be unlikely to have any significance to the community who had not benefitted from using the building.

Policy ENV16 requires that demolition can only be considered “*if the building or structure is no longer capable of beneficial use, and its fabric is beyond repair; or the proposed replacement or altered building or structure would be of equal or greater townscape and architectural quality than the existing; and the proposed development cannot practicably be adapted to retain any historic interest that the building or structure possesses.*”

Whilst the proposal will not result in a development that contains the same architectural quality for two replacement dwellings, consideration is given that the building cannot be easily reused or adapted without incurring high costs to do so. Given that the building could be demolished under a prior notification procedure which is a route available to the applicants then there is a balance here. There is also the matter to consider that the public interest would also benefit from new housing within the settlement.

Permission could be refused under paragraph 135 of the NPPF, (loss of a non designated heritage asset) and policy NW14. However, it is balanced that a refusal of the application would not safeguard the future of the building given the potential for loss that is faced through uncontrolled demolition.

d) Amenity Issues

The main impact is upon Numbers 27 and 31 Boot Hill. The dwellings would follow a similar building line to the front and would be set back into the site, though there would be no impact on the 45-degree line rule of loss of light. The development, albeit indicative would retain a gap to the neighbouring site at No. 31 and so the impact on No. 31 is less than that on No. 27. There would be party wall issues with the layout given the proximity of the development to No. 2. A gap or a reduced design would be necessary to address any issues in the future.

No.27 has constructed a garden room to the rear elevation with windows immediately on the side boundary. The garden room at No. 27 is also served by windows looking down the garden and is therefore dual aspect. Whilst development proposed would block views from the side facing window, it does have a dual aspect and so would benefit from light to the rear. A preferred design would be to remove the potential for party wall issues.

In terms of privacy issues then no side windows would be proposed and all rear windows overlook rear gardens and so no privacy issues would result from the indicative development.

In terms of disturbance from demolition and re-build then this would be disruptive to the immediate neighbours, though construction can be short term and a management plan might be necessary to ensure that phased development and re-building is limited to avoid unnecessary disturbance on the neighbour's amenity.

The occupiers of a development must also benefit from a good standard of amenity, it is possible that two dwelling here has good sized rear gardens and that occupiers of the development would not suffer from loss or privacy or loss of light in relation to the proximity of immediate neighbouring properties

The NPPF sets out in paragraph 17, Core Planning Policies that '....good standard of amenity for all existing and future occupants of land and buildings;'. It is considered that the proposal is acceptable to this part of the NPPF. Overall it is considered as set above the impact on the development will not have an adverse effect upon the privacy, light and amenity and would accord with policy NW10 of the Core Strategy.

e) Design

It is considered that the siting of the two dwellings follows the line of the dwellings on Boot Hill with a set back appearance and so are not therefore dominant, the height of the development is mid-way between the ridge heights of the immediate neighbouring properties. The scale of the development would not be prominent.

The indicative design features of the dwellings are not however characteristic of the existing row of terraces and appear out of character. Whilst the design is only indicative, a design brief would be necessary to introduce sympathetic architectural features for the re-development of the site, taking into account the form and architectural interest of the immediate terraces. The design of the dwellings is not therefore outstanding and a re-design of the two dwellings, taking into account the issues of the neighbouring party wall would be required at reserved matters stage.

f) Traffic and Parking

The Highway Authority has no objection to the scheme on the re-design of the parking following a revised plan. This provides a tandem parking arrangement for two vehicles per dwelling. There would not be any highways safety issues with regards to the layout and provision for parking. The site has access to an existing bus route that serves other settlements with access to both Atherstone and Tamworth and from a transport perspective is wholly sustainable.

g) Ecology and trees

A Bat and Bird Survey has been submitted with the application. The findings are that there is no evidence of bats or birds using the buildings as a place of shelter. There is a roosting opportunity under the ridge tiles and plain tiles of the Church and under the timber fascia boards of the rear part of the Church. These roosting opportunities are of a low to moderate potential for bats. Furthermore, emergence surveys have revealed no bats emerging from the building and activity around the site is low. In terms of mitigation

for bat roosting opportunities then a brick built bat box can be installed on the southern gable apex of the new buildings.

A Tree Survey and Tree Constraints Plan is submitted as an application document. The Tree Survey identifies large mature trees to the east of the site along the boundary with the woodland known as 'Black Riding'. None of these trees are a constraint to development. As can be seen from the Tree Constraints Plan, the proposed development is some way outside the root protection area for any mature trees. A method of working and tree protection can be established such to ensure building materials are not stored within the root protection area. It is therefore considered the proposed development can proceed without causing harm to mature woodland/trees.

If any works are required to the Oak tree then an application will be required, otherwise there was no objection received from the Council's Green Space Officer.

Conclusions

Whilst the loss of a non-designated heritage asset and community building would be harmful to the settlement, the planning balance is that if no other community use comes forward and the building remains vacant then this can also become harmful to the street scene given that an unmaintained building can quickly fall into decline. The building is always under threat of demolition in any case under the prior notification procedure, if it were to be retained without designation.

A community re-use or residential conversion is the preferred option at this site. There have been few attempts to find an alternative community use for the building which is contrary to policies NW20 of the Core Strategy and emerging policy LP23 of the Draft Local Plan. The detrimental impact on character and local distinctiveness of Boot Hill, in view of the loss of a local religious, social and historical building is contrary to saved Policy ENV16. However the cost of conversion is high and no community interest has been forthcoming during the course of the application. The significance of the building is considered to relate more to the evidential and communal value rather than its architectural value and so is not of high significance to warrant its retention and there is a public benefit for two homes to be provided at this site. These matters are also material considerations of weight to consider when assessing the planning balance.

With all matters considered and having regard to Policy NW14 and the requirements of the NPPF for sustainable housing it is considered that loss of the non-designated heritage asset is not of a high significance to justify the withholding of planning permission.

Recommendation

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

1. This permission is granted under the provisions of Article 4(1) of the Town & Country Planning (Development Management Procedure) (England) Order 2010 on an outline approval, and the further approval of the Local Planning Authority shall be required with respect to the under-mentioned matters hereby reserved before any development is commenced:-
 - (a) landscaping

- (b) Design and appearance
- (c) Layout
- (d) Scale

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

2. In the case of the reserved matters specified above, application for approval, accompanied by all detailed drawings and particulars, must be made to the Local Planning Authority not later than the expiration of three years beginning with the date of this permission.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

3. The development to which this permission relates must be begun not later than the expiration of two years from the final approval of all reserved matters.

REASON

To comply with Section 92 of the Town and Country Planning Act 1990.

4. The development hereby approved shall not be carried out otherwise than in accordance with the indicative block and layout plan numbered 482.02 A received by the Local Planning Authority on 27 November 2017, Costing schedule received by the Local Planning Authority on 4 December 2017 and the Planning and Heritage Statement received by the Local Planning Authority on 11 August 2017 and the tree plan and tree report, bat and bird survey, photographic record and plans numbered 3281 A and 4739 99 received by the Local Planning Authority on 7 August 2017.

REASON

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

Removal of development rights

5. No development whatsoever within Class A, B, C, D and E of Part 1, of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995, as amended.

REASON

In the interests of the amenities of the area.

Pre commencement conditions

6. No development shall be commenced before samples of the facing bricks, roofing tiles, facing materials and surfacing materials to be used have been submitted to and approved by the Local Planning Authority in writing, and only the approved materials shall be used.

REASON

In the interests of the amenities of the area.

7. Notwithstanding the requirements of Condition 1, the site shall contain no more than 2 dwellings in total. The dwellings shall be of a height no greater than 8.5 metres to the ridge with eaves detailing that is similar in design to the neighbouring terraced properties and shall include fenestration details of a design characteristic of the traditional terrace properties with either stone or brick arch headers. There shall be no roof dormers or front gables. A service strip shall be incorporated to the side of the property with No. 27 Boot Hill. The site re-development scheme shall be of a high quality with regards to renewable energy, low ecological impact and biodiversity offsetting to balance any construction and occupancy impact and visual appearance.

REASON

In the interests of the amenities of the area.

Other conditions

8. Access for vehicles to the site from the public highway shall not be made other than at the positions identified on the approved drawing, number 482 02A, and shall not be used unless public highway footway crossings have been laid out and constructed in accordance with the standard specification of the Highway Authority.

REASON

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

9. No structure, tree or shrub shall be erected, planted or retained within 2.4 metres of the near edge of the public highway footway exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

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

10. All side facing windows shall be permanently glazed with obscured glass which shall provide a minimum degree of obscurity equivalent to privacy level 4 or higher and shall be maintained in that condition at all times. For the avoidance of doubt privacy levels are those identified in the Pilkington Glass product range. The obscurity required shall be achieved only through the use of obscure glass within the window structure and not by the use of film applied to clear glass.

REASON

To protect the privacy of the adjoining property and to prevent overlooking.

11. No development shall commence until full details of all measures to be installed within the development for the provision of bat roosting boxes as required by the bat survey have first been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be installed.

REASON

In order to retain and enhance the nature conservation value of the site.

12. No construction materials or plant shall be stored within the root protection areas identified on the tree plan and there shall be no works carried out on the Oak tree identified at OS1 unless details are first submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area and the protection afforded to trees.

13. No development including demolition shall take place until such time as a construction method and management statement has been submitted to and approved in writing by the Local Planning Authority. This plan shall include details of the phased demolition of the building and how the site will be laid out during the construction period including areas to be used for the storage of construction materials. The arrangement for deliveries to the site, parking for construction workers, for the minimisation and removal of site waste and the hours of working. The approved construction management plan shall then be implemented at all times.

REASON

In the interests of the amenities of the area.

14. Prior to the occupation of the dwellings hereby approved a bin storage facility capable of holding a minimum of 3 x 240 litre wheeled bins shall be provided within the curtilage of the dwellings. The storage facility shall remain permanently available for that purpose at all times thereafter.

REASON

In the interests of the amenities of the area.

INFORMATIVES

1. 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.

2. 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 www.communities.gov.uk/publications/planningandbuilding/partywall.

3. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. It should also be noted that this site may lie in an area where a current licence exists for underground coal mining. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.

4. The proposed development requires works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team. This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant/developer. The Area Team may be contacted by telephone: (01926) 412515. 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. Application 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.

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 paragraphs 186 and 187 of the National Planning Policy Framework

6. Provision shall be made for finding an appropriate place to re-locate any memorial plaques or church artefacts.

7. There may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).

8. The applicant is encouraged to ensure that any demolition, construction works and deliveries do not cause nuisance to neighbouring properties and their occupiers. It is recommended that works are restricted to between 0730 and 1800 hours on weekdays, and 0800 and 1300 hours on Saturdays, with no demolition, construction works and deliveries on Sundays or recognised public holidays.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0431

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	7/8/17
2	WCC Highways	Consultation reply	18/8/17
3	Neighbour	Representation	23/8/17
4	Agent	E-mail	25/8/17
5	Neighbour	Representation	1/9/17
6	Tamworth District Civic Society	Representation	2/9/17
7	Neighbour	Representation	4/9/17
8	NWBC EHO	Consultation reply	4/9/17
9	Case Officer to Agent	E-mail	5/9/17
10	Case Officer to Agent	E-mail	8/9/17
11	Agent to Case Officer	E-mail	20/9/17
13	Case Officer to Agent	E-mail	22/9/17
14	Case Officer to Agent	E-mail	28/9/17
15	Agent to Case Officer	E-mail	29/9/17
16	Agent	Document/Plans	6/11/17
17	Case Officer to Agent	E-mail	27/11/17
18	WCC Highways	Consultation reply	27/11/17
19	Agent to Case Officer	E-mail	1/12/17
20	Agent to Case Officer	Document/Plans	4/12/17
21	Neighbour	Representation	11/12/17
22	Agent to Case Officer	E-mail	11/12/17
23	Case Officer to Agent	E-mail	12/12/17
24	Agent to Case Officer	E-mail	12/12/17

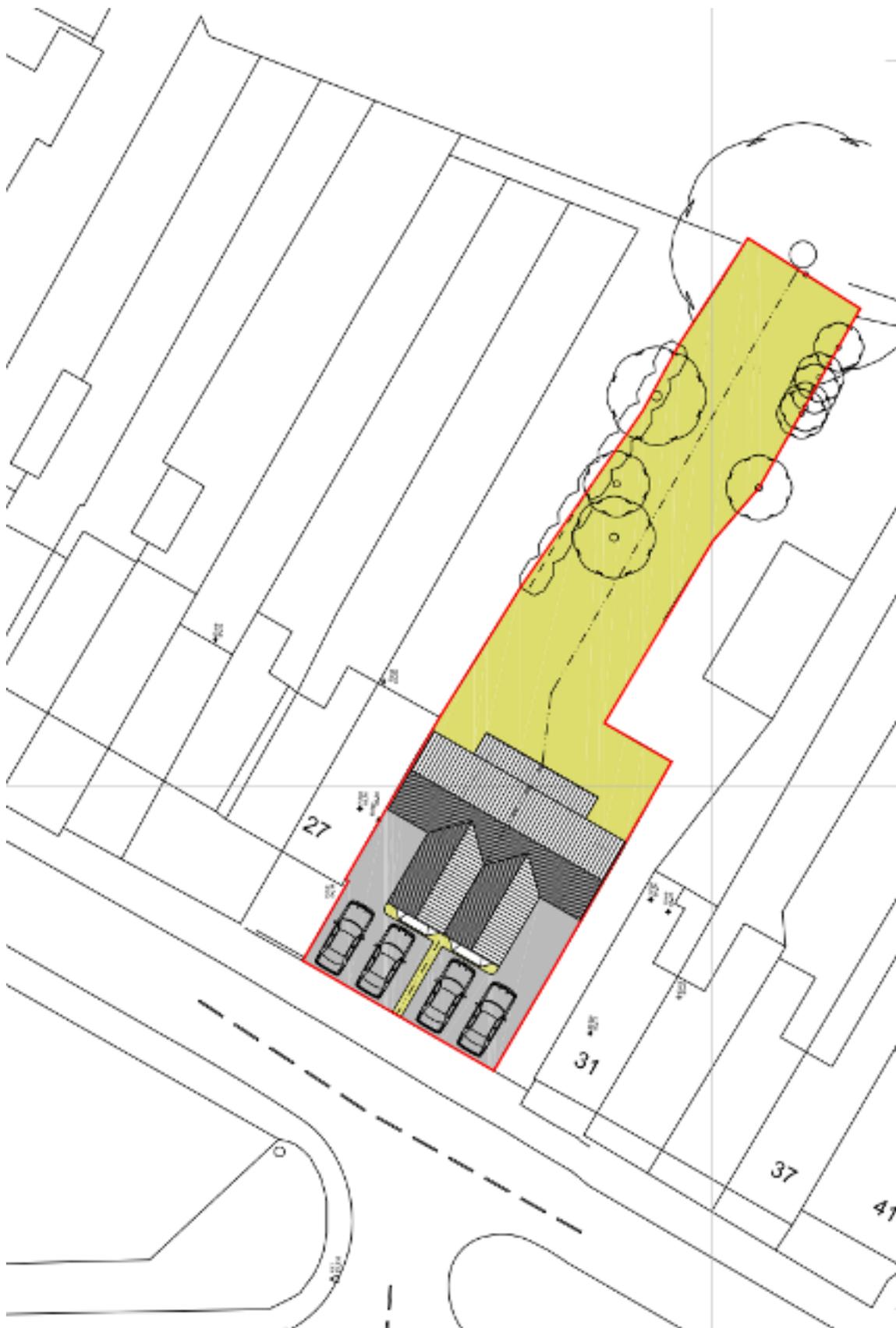
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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



Appendix B



Appendix C



Proposed street scene

Appendix D

Front Elevation and Street scene:







Rear View:



Interior:



(5) Application No: PAP/2017/0465

Clinic And Welfare Centre, Coventry Road, Kingsbury, B78 2LN

Ground floor space for two commercial units covering the following uses; shops (use class A1) and financial and professional services (use class A2), and two one bed first floor apartments (use class C3), for

Mrs Estelle Turnbull

Introduction

The application has been brought to the Board, following a request from a local Member with concerns over car parking.

The Site

This is an area of land adjacent to Tamworth Road, and next to Jubilee Court, which contains a row of shops with residential uses above. The site is surrounded by a mix of commercial properties and residential properties and is sited within the centre of Kingsbury.

The previous use of the site was a health centre which has now relocated. The site has nearby access to public transport and a range of services and facilities. A parade of shops lies to the east, with a nearby large car park and the Kingsbury Community and Youth Centre to the east. To the south of the site the area is essentially of a residential nature. To the south east is a further public car park off Pear Tree Avenue.

The general location is shown at Appendix A

The Proposal

This would provided ground floor space for two commercial units covering the following two uses,shops (use class A1) and financial and professional services (use class A2) with two one bed first floor apartments at first floor. The main openings are to the front elevation with one first floor side and rear facing window.

The building is sited on land to north of a former clinic building, which has been demolished and housing is currently being built. The pedestrian access to the building would be taken off the existing paving path. Materials are proposed to be brick, render and tiles. No parking is provided within the scheme, but the area does contain parking areas. The plans below show the location and layout. In Appendix B full plans can be viewed and there are photographs at Appendix C.



PROPOSED SIDE ELEVATION



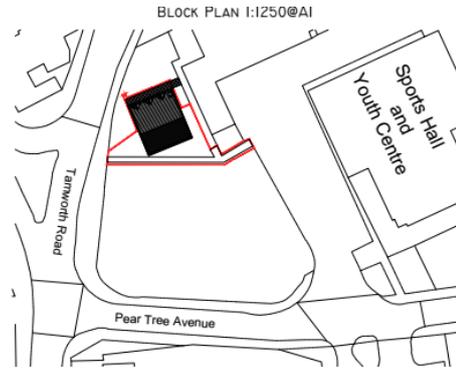
PROPOSED SIDE ELEVATION



PROPOSED FRONT ELEVATION

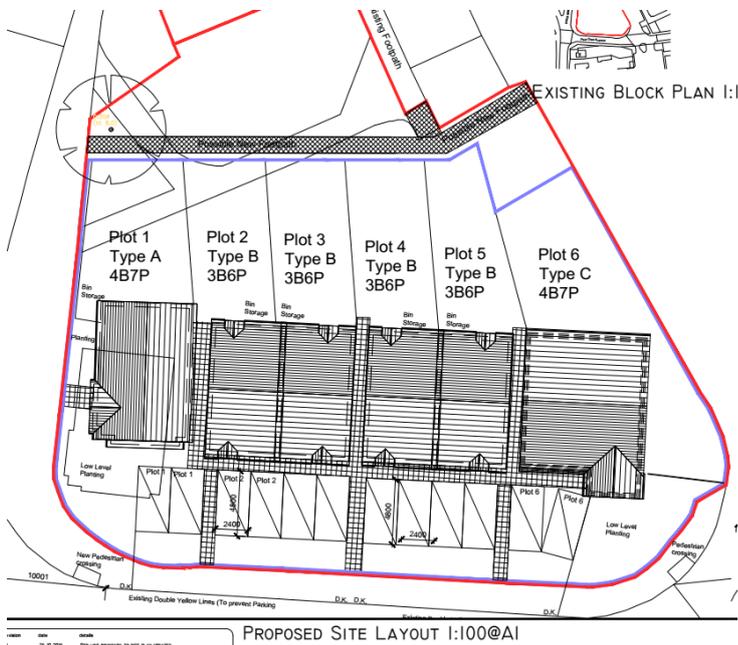


PROPOSED REAR ELEVATION



Background

The application was a former health centre uses of the building. In 2016, the building was granted consent to be demolished and in 2017 consent was given for 6 dwellings on the land to the south of the application site. The site plan is below for information of the 6 dwellings.



Development Plan

North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development) and NW20 (Services and Facilities)

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policy 2 (Development Distribution) and policies ENV6 (Land Resources); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT2 (Traffic Management and Traffic Safety); (TPT3 (Access and Sustainable Travel and Transport), TPT6 (Vehicle Parking), ECON5 (Facilities related to Settlement Hierarchy) and ECON12 (Services relating to category 3 and 4 settlements)

Other Relevant Material Considerations

The National Planning Policy Framework 2012

The Draft Submission Version of the Local Plan for North Warwickshire 2017

Consultations

Environmental Health Officer – No objection but recommends conditions covering construction hours.

Warwickshire County Council as Highway Authority - No objection subject to conditions.

Representations

Two letters have been received referring to the following matters:

- Shortage of parking spaces in the area, which will be made worse when the 6 houses to the south of the application site are finished.
- If proposal leads to a café or restaurant then this could impact upon existing parking problems, which have become worse in recent years in the area.
- The proposal will lead to parking pressures in the area.
- Should be private parking for the site.

Kingsbury Parish Council has raised the following comments:

- Kingsbury Parish Council wishes to confirm concerns regarding delivery/parking access to the proposed shops and to the first floor apartments.
- A major concern is where the delivery drivers would park when delivering stock to the shop, as there are double yellow lines on the main road and the car park at the rear caters for car spaces only. The nearest car spaces to the shop, in the car park, are two disabled spaces, and Councillors would not like to lose either of these. The layout of the car park to the rear is such that a lorry pulling into here would block access into and out of the car park while it was unloading.

Observations

There are several components to this case. In summary as explained below there is no objection in principle to the uses proposed here and the main issues are going to revolve around detailed considerations.

a) Housing

The proposal for two additional dwellings within the development boundary for Kingsbury clearly accords with the Development Plan. Whilst the site is not an identified site there is no objection in principle to what is an infill and windfall site. The scheme does not require any affordable housing as it is below the threshold.

b) The Commercial Uses

It should be made clear that the application as submitted has been altered such that the “commercial” units now only include retail and office uses. These again are entirely acceptable within the centre of Kingsbury where there are similar uses and within a settlement of the status of the settlement in the settlement hierarchy. If permission is granted the Notice will specifically not refer to other uses

c) Neighbour Amenity

The site is on the edge of a residential area and contains a mix of commercial and residential uses. The site is adjacent to the main road that runs through Kingsbury and is visible from the public realm. The proposal is around 20 metres from the new dwellings being built to the rear, which would not result in unacceptable loss of amenity or privacy. To the east side of the site is a row of shops with dwellings above. It is considered on balance the proposal would not cause any additional or material adverse amenity impact on these neighbours, beyond what they presently experience.

The occupiers of the apartments could be affected by the uses below, however conditions can cover opening hours and under separate building regulations, insulation requirements would need to be met. The situation of retail/commercial with residential above is not unique in North Warwickshire, and also provides mixed use living which is encouraged.

To the west of the site is a public house and pedestrian crossing, with dwellings beyond. The development is not considered to harm these buildings. The users of the footpaths surrounding the site are not considered to be harmed. The existing rear footpath is proposed to be revised in its location, thus maintaining a link from the rear of the shops to the front of the shops and to the pedestrian cross over the main Tamworth/Coventry Road.

d) Design and Appearance

The proposed design is in keeping with the surrounding area and general appearance of the street scene. There has been no reference to this issue in dealing with the proposal.

e) Parking

This is the main concern. It is material that the Highway Authority has not objected to the proposal. The County Council considers that visitors travelling to the site by vehicle can make use of the existing parking in the vicinity of the site. There is a public carpark at the rear which serves a community building, shops and residential units. On the opposite side of Pear Tree Avenue, there is also a public car park with time restrictions and to the front is a layby, with short term day time parking restrictions and overnight allowances for vehicles. The site is on a bus route with links to nearby larger settlements.

It is considered that given the existing shops and commercial area, the proposal would not result in a material and thus unacceptable increased level of vehicle movements. Members will be aware of the guidance set out in the National Planning Policy Framework which recommends that refusals should only be contemplated if highway impacts are “severe”. This is not the case here. Moreover the uses now proposed are not those which lead to significant traffic generation – e.g. a takeaway or café use. They are more likely to involve longer term car parking – e.g. office use. Delivery arrangements would be similar to the existing shops in Jubilee Court and given the small floor-space of the units, the number and type of delivery’s expected to be small.

f) Other issues

The footpath route has been considered by the approved proposal for the six dwellings at the rear of the site. A neighbour raised concerns that a café or restaurant use would lead to parking issues in the area, however these uses are no longer part of the scheme. The proposed use can be conditioned, and if alternative uses are proposed a formal application would be required and would be considered on its own merits.

Recommendation

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

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 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered T346 (BR) 200 REV C received by the Local Planning Authority on 24 October 2017.

REASON

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

3. No development shall be commenced before details of all facing materials including facing bricks, render and roofing tiles to be used have been submitted to and approved by the Local Planning Authority in writing. The approved materials shall then be used.

REASON

In the interests of the amenities of the area.

4. Before the occupation of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval. There shall be no occupation of the development hereby approved, until a landscaping scheme has been submitted to the Local Planning Authority, and approved in writing. The scheme shall particularly address the areas around Plots 1 and 6 on the approved plan.

REASON

In the interests of the amenities of the area.

5. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved plan shall remain in operation during the length of construction.

REASON

In the interests of the amenities of the area.

6. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

REASON

To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner.

REASON

To protect the privacy of the occupiers of adjoining properties.

8. Any bathroom windows shall be permanently glazed with obscured glass which shall provide a minimum degree of obscurity equivalent to privacy level 4 or higher and shall be maintained in that condition at all times. For the avoidance of doubt privacy levels are those identified in the Pilkington Glass product range. The obscurity required shall be achieved only through the use of obscure glass within the window structure and not by the use of film applied to clear glass.

REASON

To protect the privacy of the adjoining property and to prevent overlooking.

9. All planting, seeding or turfing comprised in the details of landscaping condition 4 shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

REASON

In the interests of the amenities of the area.

10. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or internal fitting out, shall take place before the hours of 0800 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays and no work on Sundays or recognised public holidays.

REASON

To protect the amenities of the occupiers of nearby properties during the construction period.

11. The footpath as covered by condition 14 of PAP/2016/0572 shall be kept open at times during construction and after construction, so to allow pedestrian access between Tamworth Road to Jubilee Court.

REASON

In the interests of the amenities of the area.

12. Notwithstanding the plans submitted no off-street parking provision shall be provided within the application site.

REASON

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

13. The development hereby permitted shall not commence or continue unless measures are in place to prevent/minimise the spread of extraneous material onto the public highway by the wheels of vehicles using the site and to clean the public highway of such material.

REASON

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

14. Deliveries and collections associated with the construction of the proposed development shall not occur during peak periods on the highway network (08:00 - 09:00 and 17:00 - 18:00) or during periods when children are going to/or being collected from the local schools.

REASON

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

15. The A1 Shop use or A2 Financial and Professional Services on the ground floor shall only be open to the general public between 08:00 and 18:00 hours Monday to Sunday.

REASON

To prevent disturbance to the occupiers of nearby properties.

16. The development hereby permitted shall not commence or continue unless measures are in place to prevent/minimise the spread of extraneous material onto the public highway by the wheels of vehicles using the site and to clean the public highway of such material.

REASON

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

Notes

1. 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.

2. 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 www.communities.gov.uk/publication/planningandbuilding/partywall

3. 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 and by suggesting amendments to improve the quality of the proposal, along with negotiations. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

4. 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.

5. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

6. 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".

7. Wildlife and Countryside Act 1981 - Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act - in respect of a single bird, nest or egg - is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.

8. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.

BACKGROUND PAPERS

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

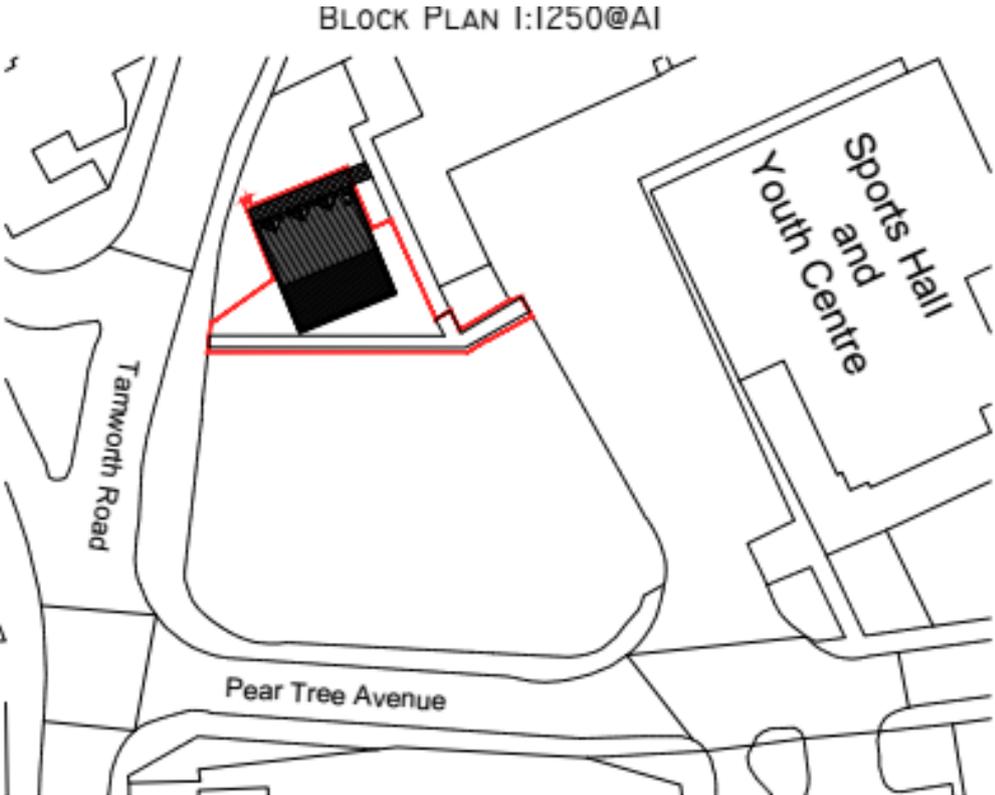
Planning Application No: PAP/2017/0465

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	22/08/2017
2	NWBC Environmental Health	Consultation response	12/09/2017
3	WCC Highways	Consultation response	20/09/2017
4	Kingsbury Parish Council	Consultation response	21/09/2017
5	Councillor Moss	Application comments	30/10/2017
6	Kingsbury Parish Council	Consultation response	02/11/2017
7	Neighbour – Jubilee Court	Representation	21/09/2017
8	Neighbour – Jubilee Court	Representation	03/11/2017
9	Case officer	Email to Kingsbury Councillors	11/09/2017
10	Case officer and Kingsbury Councillors	Exchanges of emails	11/09/17 - 13/09/17
11	Case officer	Email to agent	20/09/2017
12	Case officer	Email to Councillor Moss	20/09/2017
13	Case officer	Email to agent	21/09/2017
14	Case officer and agent	Exchange of emails	21/09/2017
15	Case officer and agent	Exchange of emails	24/10/17 – 25/10/17
16	Case officer	Email to Kingsbury Councillors	24/10/2017
17	Case officer	Email to Forward plans officer	24/10/2017
18	Case officer	Email to Councillor Moss	30/10/2017
19	Case officer and agent	Exchange of emails	30/10/17 – 31/10/17
20	Case officer	Email to Councillor Moss	01/11/2017
21	Case officer	Email to agent	02/11/2017
22	Kingsbury Councillors	Emails	08/11/2017
23	Case officer and agent	Exchange of emails	08/11/2017
24	Case officer	Email to Kingsbury Councillors	08/11/2017
25	Case officer	Email to WCC Highways	10/11/2017
26	Case officer and agent	Exchange of emails	14/11/2017
27	Case officer	Email to Kingsbury Councillors	15/11/2017
28	Case officer and agent	Exchange of emails	22/11/2017

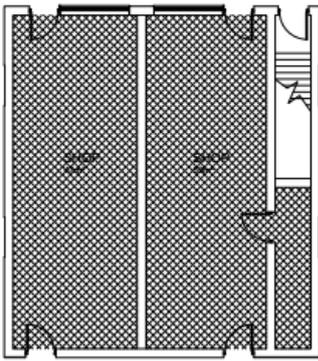
29	Agent	Extension of time email	25/10/2017
30	Agent	Extension of time email	14/11/2017
31	Case officer	File note	10/11/2017
32	Case officer	Councillor consultation emails	17/11/17 – 20/11/17
33	Case officer	Extension of time email to agent	24/11/2017
34	WCC Highways	Consultation response	24/11/2017

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.

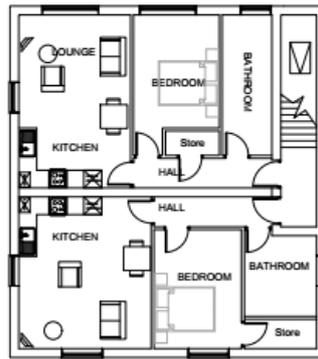
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.



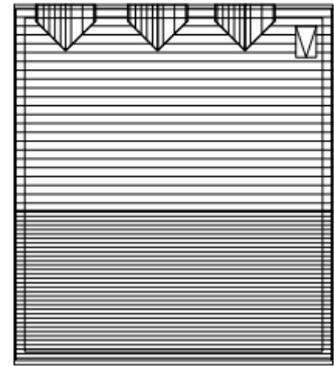
Appendix B - Plans



PROPOSED GROUND FLOOR



PROPOSED FIRST FLOOR



PROPOSED ROOF PLAN



PROPOSED FRONT ELEVATION



PROPOSED REAR ELEVATION



PROPOSED SIDE ELEVATION



PROPOSED SIDE ELEVATION

Appendix C – Photos





(6) Application No: PAP/2017/0496

Copperfields, Dog Lane, Nether Whitacre

Conversion and Extension of garage to an individual dwelling for

Mr and Mrs T Waters

Introduction

This application is reported to the Planning and Development Board as the applicant is a Borough Councillor.

The Site

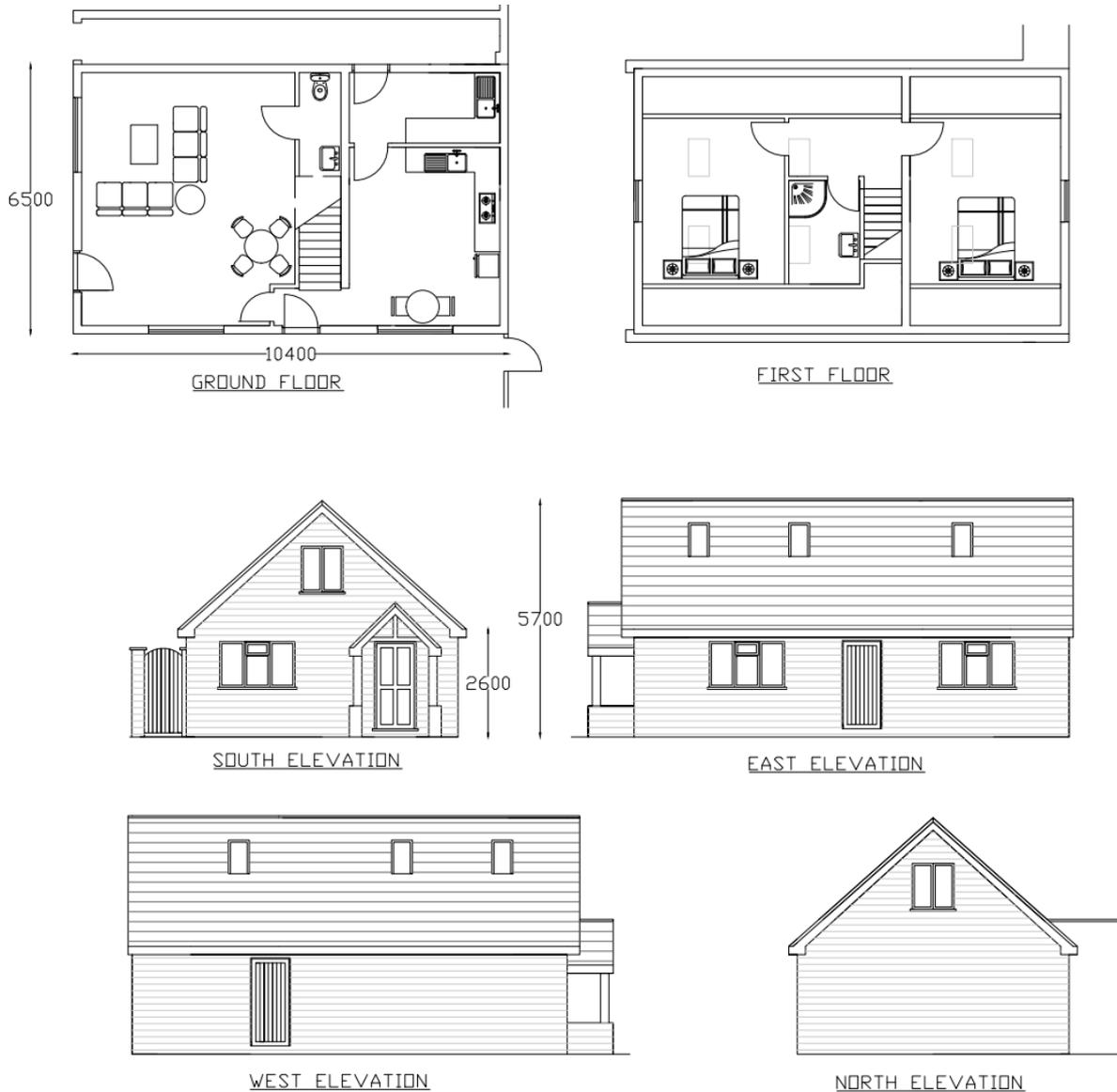
The site comprises a two storey detached residential property on the north side of Dog Lane in Nether Whitacre within its own curtilage. There are other detached and semi-detached properties fronting both sides of the lane in the vicinity, together with other residential property at the rear. This is all surrounded by open countryside. Within the curtilage there is a detached outbuilding set back from the lane and currently used as a garage, office and as a utility room. Access to the whole site is from a single vehicular access onto Dog Lane. A picture of the residential outbuilding is attached below.



The Proposal

The proposal relates to the conversion and extension of this outbuilding to create a separate dwellinghouse. It would have its own curtilage and use the existing access onto Dog Lane. Copperfields would then be accessed via a new access to be created

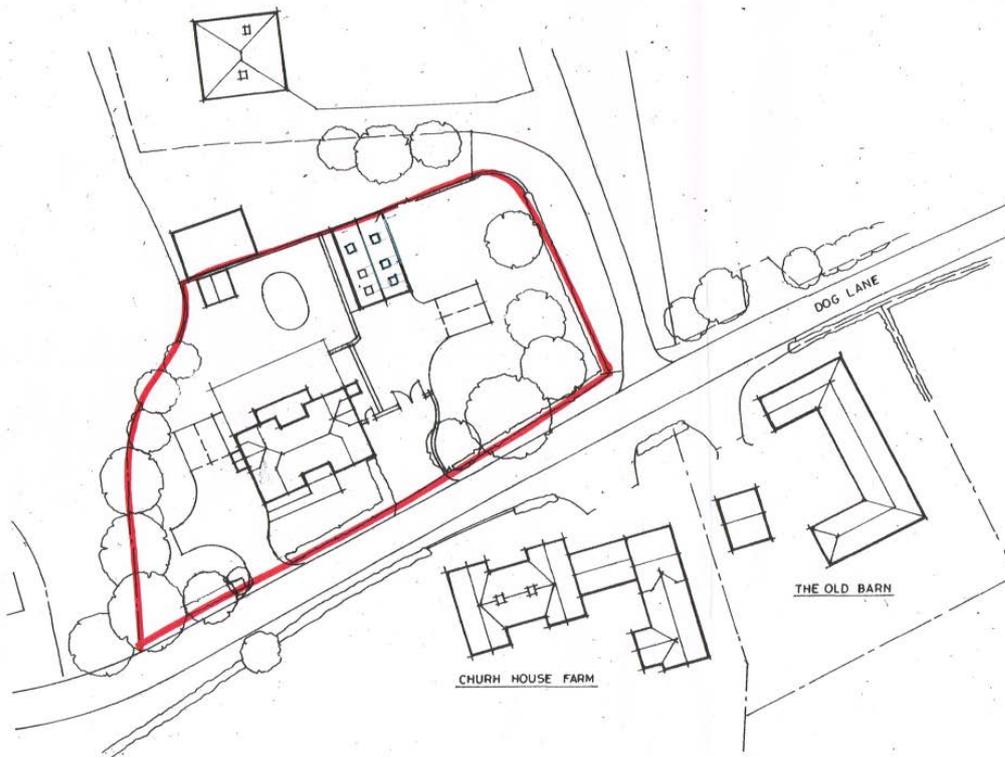
on its other side directly onto Dog Lane. The proposal has been amended since submission through reduction in the size of the extensions. These now amount to an increase of some 35 cubic metres – that is a 14% increase in volume over the existing and an increase of 4% in floor area. The extension involves the removal of a flat roof on the northern section of the building and its replacement with a pitched roof of a height and with materials to match the pitched roof located along the garage part of the building. A porch is proposed on the southern elevation. These proposals are shown below.



The conversion involves the insertion of rooflights in the pitched roof and a new window in the northern elevation at first floor level.

Two car parking spaces are shown as being contained within the new residential curtilage and additional space would be provided to serve Copperfields.

The proposed block plan is attached below.



Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency) and NW12 (Quality of Development)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV12 (Urban Design); ENV13 (Building Design) and ENV14 (Access Design).

Other Material Planning Considerations

The National Planning Policy Framework 2012 (- the “NPPF”)

The National Planning Practice Guidance

The Council’s Draft Submission Version of the Local Plan for North Warwickshire 2017

Representations

Nether Whitacre Parish Council – They objected to the original proposal which involved a large two storey extension involving a 64% increase in floor area. Such an extension it considered would be a disproportionate addition to this building in the Green Belt. Amended comments have been received on the revised proposal and they now confirm that they have no objections subject to the removal of permitted development rights. They do express their concerns about a new vehicular access onto Dog Lane that this proposal will involve.

Four letters of support and two letters of no objection have been received from local residents stating that they do not consider that this change of use and extension will have a detrimental effect on the character of Copperfields or on their properties. They consider that as there is housing on all sides of the site, then such a proposal will not change the character of the green belt. They fully support this proposal for the residents of Copperfields to downsize into a smaller dwelling and still stay in the village. They consider that there is plenty of space for two dwellings within this site.

Observations

The site lies within the West Midlands Green Belt. Policy NW3 (Green Belt) in North Warwickshire's Core Strategy relates to development in the Green Belt and refers to advice given in the National Planning Policy Framework.

a) Appropriate or inappropriate development in the Green Belt

Policy NW3 in the Core Strategy requires an assessment of a proposal in the Green Belt against Section 9 of the Framework (Protecting Green Belt land). As the proposal here is for new building works, this will be inappropriate unless it accords with the exceptions listed in paragraphs 89 and 90. Some of those exceptions are relevant to this proposal.

The first is that the extension and alteration of a building is not inappropriate provided it does not result in disproportionate additions over and above the size of the original building. The proposal relates to the erection of a roof extension above the existing utility room and garden room and the addition of a porch. The proposals represent an increase in volume of some 14% over the existing volume. Saved Policy ENV13 in the Local Plan provides a figure of 30% as being a general rule of thumb when assessing disproportionate additions in the Green Belt. Given the size of the proposed extension relative to the sizes of the original building it is considered that the extensions proposed, would not amount to disproportionate additions over and above the size of the original building.

The second exception in the National Planning Policy Framework is the re-use of buildings. Such re-use will not be inappropriate provided that a building is of permanent and substantial construction; it preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt. The outbuilding is of permanent and substantial construction being currently used as ancillary residential accommodation. Moreover, in terms of size and volume the effect of the proposed built form on the Green Belt's openness would not differ significantly from that of the existing building. In terms of impact on the purposes of retaining land in the Green Belt then the application site is already currently a residential curtilage and this would not alter. It is difficult to see how the five purposes are thus adversely affected. The creation of an additional dwellinghouse on this land could introduce additional built form through permitted development rights which would diminish openness. However this could occur within the existing curtilage presently and so would not make a material impact. Such an issue could be resolved through imposing a condition which restricts permitted development rights, thus mitigating the impact.

It is neither considered that the introduction of an additional dwellinghouse in this location would change the site's character. As discussed above, the land is already being used domestically as residential curtilage. The proposal seeks to use the existing vehicular access onto Dog Lane along with the existing hardstanding area. There are three dwellings located behind the proposed conversion along with a dwelling to the west and a dwelling to the south. Although it is acknowledged that the draft Submission Version of the emerging Local Plan does not include an infill boundary for Nether Whitacre, it is not considered that this conversion would amount to a harmful encroachment of residential development into the countryside, to the detriment of its character. As such it is considered that the proposal would accord with all relevant elements of National Planning Policy Framework relating to the re-use of buildings as described above.

Therefore it is concluded that the proposal would not represent inappropriate development in the Green Belt. The presumption of refusal does thus not apply.

b) The effect of the scheme on the openness of the Green Belt

The proposal relates to the conversion of an existing building with an existing vehicular access and hardstanding. An addition to the building of some 14% is proposed. However, it is not considered the proposal would introduce development which would reduce the openness of the Green Belt to a significant degree both in terms of its visual and spatial aspects and that as a consequence, the actual harm caused here would be limited.

c) Location of housing in rural areas

Paragraph 55 in the National Planning Policy Framework states that "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities." Policy NW1 of the Core Strategy also emphasises the primacy of the promotion of sustainable development and NW2 translates this through a defined settlement hierarchy.

It is considered that because of the lack of facilities and services here including the lack of public transport that this is not a sustainable location for new housing development – a matter endorsed by the settlement hierarchy. This therefore could be a potential refusal reason. It is necessary to assess the level of harm that would be caused and weigh this against the appropriateness of the development in Green Belt terms and its low level of harm on openness. There are strong mitigating factors here. The proposal is the consequence of a conversion of an existing building. This is considered to be acceptable by the Government in the National Planning Policy Framework through the re-use exception; through permitted development rights enabling the conversion of existing agricultural buildings to houses and recent case-law which confirmed that these rights carried greater weight than a settlement hierarchy. The cumulative effect of these matters suggests that they would outweigh the limited harm caused.

Members will be aware of recent housing decisions in Dog Lane. The factors above differentiate this case from these earlier proposals.

d) Conclusion

The proposal is considered to constitute appropriate development in the Green Belt. Furthermore, through the re-use of this domestic building along with a moderate extension the impact on the openness of the Green Belt in this location will be limited. Although the site lies outside any development boundary and lies in an area of low sustainability, it is considered that there are mitigating factors that outweigh the harm caused. As such it is recommended that the proposal is approved subject to conditions including the removal of permitted development rights.

Recommendation

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

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 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered COP.PSL.002 (Location Plan) received by the Local Planning Authority on 30 October 2017 and the Proposed Elevations and Floorplans Drawing received by the Local Planning Authority on 30 October 2017.

REASON

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

3. No development whatsoever within Classes A, B, C and D of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site.

REASON

In view of the circumstances of this case and to ensure that the proposal does not further impact on the openness of the Green Belt in this location.

4. The new works shall be carried out facing bricks and roofing tiles to match the existing building.

REASON

In the interests of the amenities of the area and the building concerned.

5. The building shall not be occupied for residential purposes until the car parking and manoeuvring areas have been laid out and are available for use in accordance with the approved plan and such areas shall be permanently retained for the parking and manoeuvring of vehicles.

REASON

In the interests of highway safety.

Notes:

The Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking amended plans in order to overcome planning issues. As such the Council has met the requirements of paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0496

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant's agent	Planning application forms and plans	13/9/17
2	A Hughes	Letter of support	6/11/17
3	R and V Wright	Letter of no objection	21/9/17
4	J Thompson	Letter of support	25/9/17
5	R and L Pulley	Letter of support	25/9/17
6	Nether Whitacre PC	Objection letter	3/10/17
7	Applicant's agent	Amended plans	31/10/17
8	A Hughes	Letter of support	6/11/17
9	Nether Whitacre PC	No objection	22/11/17
10	Mr Mander	Letter of no objection	24/11/17

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.

(7) Application No: PAP/2017/0519

Land South Of Flavel Farm Bungalow, Warton Lane, Austrey,

Change of use of land to a mixed use site, to continue the equestrian use and add residential use for two Gypsy families. Site to contain two static caravans, two touring caravans, parking for four vehicles with associated hardstanding and water treatment plant, for

Mr James Connors

Introduction

The application is reported to the Planning and Development Board for determination under the Council's adopted Scheme of Delegation at the discretion of Assistant Chief Executive and Solicitor to the Council in view of the public interest in this application.

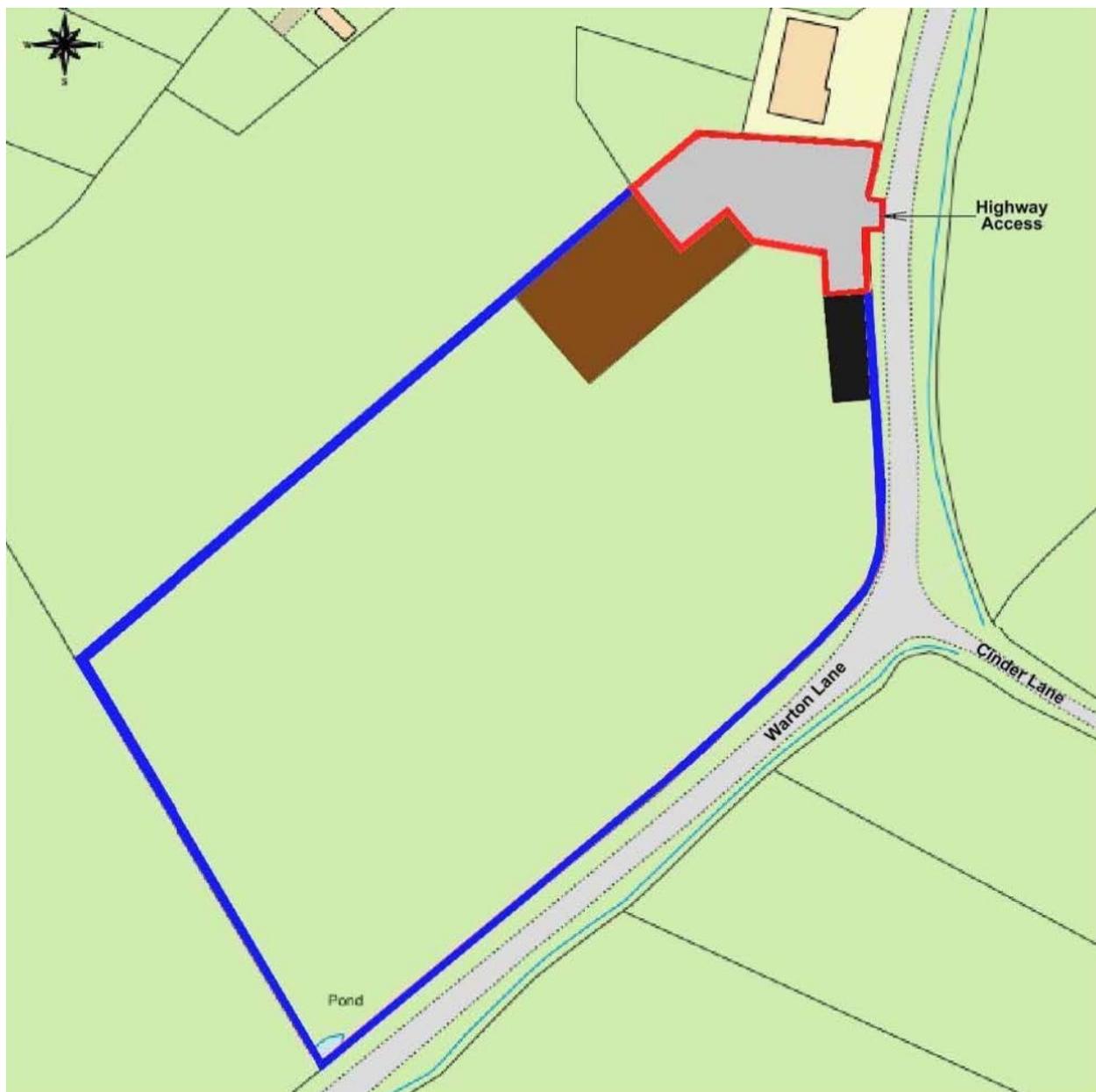
The Site

The site is situated some 500 metres south-west of the settlement of Austrey. It is located outside of any defined settlement boundary and within an area of open countryside. The land has a lawful use for an equestrian use along with a stable block, a store and menage situated in the northern corner of the site.

The application site is part of a wider site which comprises a field measuring some 1.35 hectares. The application site does not include any buildings. Vehicular access to the site is directly onto Warton Lane.

Adjoining the site to the north is a farm complex comprising of a bungalow, saddlery workshop and agricultural/equestrian buildings.

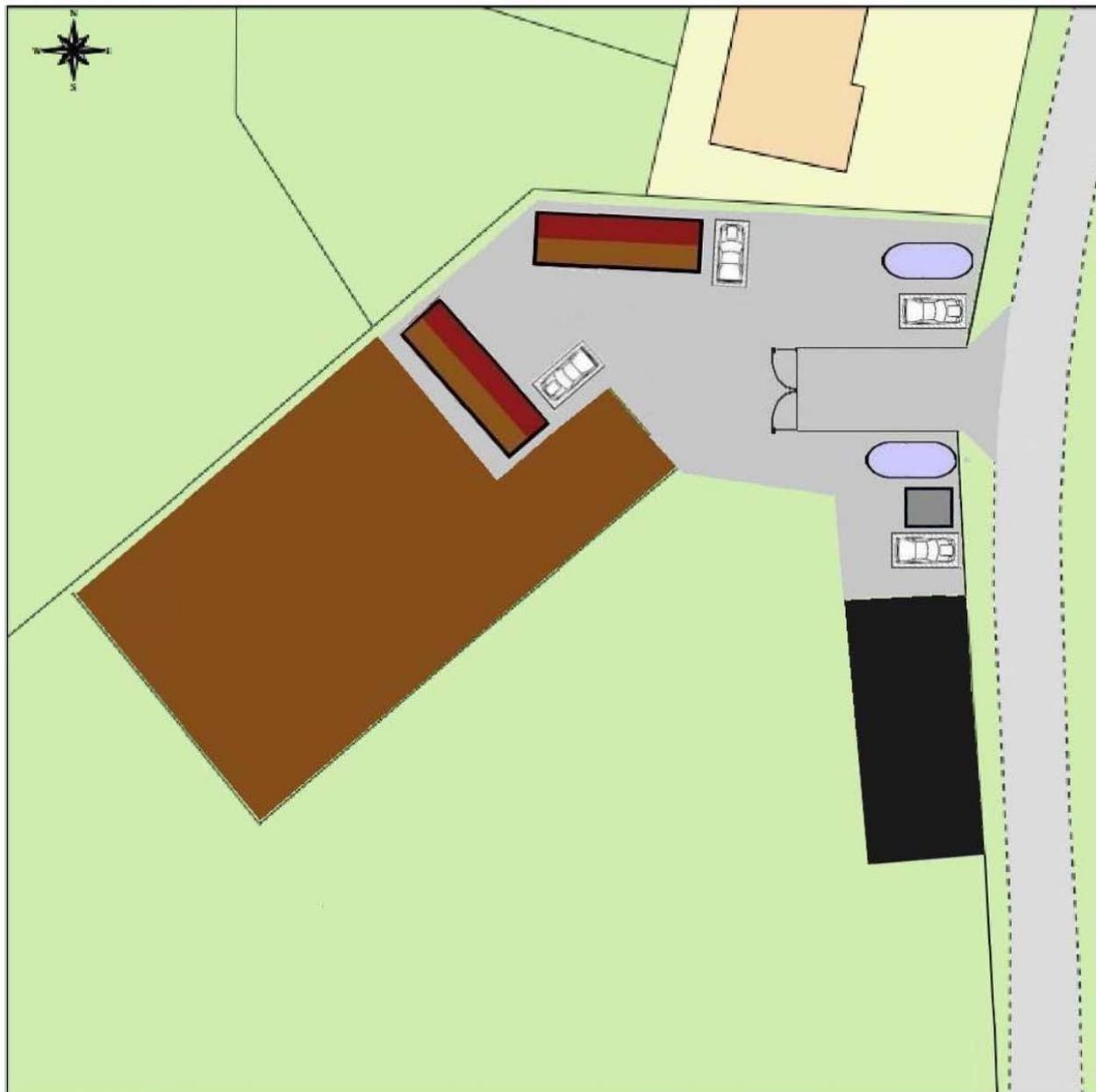
The site plan is shown below.



The Proposal

The proposal is to change the use of the land edged red on the site location plan above for the stationing of caravans for residential purposes together with the construction of an area of hardstanding. The proposal seeks permission for two pitches comprising one static caravan and one touring caravan on each pitch. The statement accompanying this planning application confirms that occupation of these caravans will be restricted to Gypsies and Travellers.

An amended block plan has been submitted during the course of the application showing alterations to the vehicular access as required by the Highway Authority. An amended location plan has also been submitted showing a larger application site which incorporates part of the menage.



Background

Planning permission was granted in 2014 under ref: PAP/2014/0056 for the change of use of this agricultural land to an equestrian use. This permission also included the erection of a barn/stable building measuring some 18.3m x 6.7m x 3m to the eaves and 3.9 m to its ridge. The permission also included the construction of a menage measuring some 40m x 20m and a vehicular access with gates set back 12 metres from the highway.

Permission was granted in 2015 to vary conditions on the above consent to allow for the erection of floodlighting and the construction of a horse exercise walker and car parking area.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW7 (Gypsy and Travellers), NW8 (Gypsy and Travellers Sites), NW10 (Development Considerations) and NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design); ENV14 (Access Design and TPT3 (Access and Sustainable Travel and Transport)

Austrey Neighbourhood Plan 2014-2029: - AP1 (Existing Hedgerows, Ditches and Mature Trees) and AP8 (Sustainable Transport)

Other Relevant Material Considerations

The National Planning Policy Framework 2012 – (NPPF)

National Planning Policy Guidance 2014

Planning Policy for Traveller Sites August 2015 - DCLG

The Gypsy, Traveller and Travelling Show People Accommodation Assessment: North Warwickshire and Nuneaton and Bedworth - June 2013

Draft Submission Version of the Local Plan for North Warwickshire 2017 – LP2 (Settlement Hierarchy); LP6 (Amount of Development) and LP10 (Gypsy and Travellers)

Consultations

Highway Authority – It originally objected to the proposal for the following reasons:

- The proposed access to the site is not considered suitable for an intensification of use;
- The proposed layout and manoeuvring area do not appear suitable for the purpose intended; and,
- It has not been demonstrated that the existing visibility splays from the site are suitable for an increased use of the site.

Following the submission of an amended plan showing alterations to the vehicular access, the Highway Authority confirms that although the amended layout overcomes objection reasons 1 and 2, there is still concern about the intensification of this vehicular access for a residential use. As such it continues to object to this proposal, until a comprehensive speed survey is undertaken which proves that the available visibility splays are adequate.

Environmental Health Officer – If planning permission is granted then a residential site caravan licence will be required and the burning of waste on site should be prohibited.

AD (Streetscape) - An area of hardstanding will need to be provided within the curtilage of the site and next to the public highway, so that refuse bins can be collected.

Representations

Austrey Parish Council – It objects to the proposal. The objection letter is accompanied by a petition signed by 1051 residents who state that they fully endorse the objections being raised by Austrey Parish Council. These objections relate to the following issues:

- Although there remains a requirement for 3 pitches in North Warwickshire, the site is not an appropriate location for this proposal.

- Although it is accepted that Gypsy/Traveller sites can be acceptable in the rural area, the site needs to have a good relationship with sustainable settlements.
- The sight lines at the access point are not adequate and represent a potential safety concern. The visibility splays are just 60m in either direction whereas they should be in excess of 215m. An intensification of this access point would present highway safety issues.
- The site does not benefit from immediate access to methods of sustainable public transport, limiting occupiers of the site to travel by private car, bicycle or by foot. There are no footpaths or pavements that would allow safe travel by bicycle or foot into Austrey.
- Austrey has no immediate access to medical services as the nearest is Polesworth surgery some 3.2 miles away.
- It is accepted that the continuation of the equestrian use is appropriate for a rural setting.
- More suitable locations for Gypsy and Traveller sites are those which are close to settlements higher up in the settlement hierarchy.
- The proposal does not address the potential impact of light spill on the adjacent residential property which could likely emanate from this residential use.
- To walk to Austrey's settlement boundary takes at least 7 minutes and to walk to the sustainable transport connections takes at least 10 minutes along a carriageway with no footpath or pavement.
- This proposal will have an impact on the open, rural nature of the landscape.

Newton Regis, Seckington and No Mans Heath Parish Council – It objects to this proposal for the following reasons. The proposed access to the site is located on a double bend where visibility is limited in both directions. There is no footpath for children to access the school and no street lighting. It considers that the chances of an accident occurring around this access is high and comments that as NWBC has a five year land supply for Gypsy and Travellers, there are no grounds to grant this application.

Shuttington Parish Council – It supports Austrey Parish Council's objection to this proposal. It states that they have Alvecote Travellers' site within their Parish. They ask whether this site proposed will be self-governed or will it be overseen by another governing body? They also question how waste will be processed on site and whether there will be any burning of waste on site? They raise concerns about the use of this vehicular access which is located on a bend where visibility is not good.

Austrey Residents' Association – They strongly object to this application for the following reasons:

- The site is in an isolated rural location and is not within a reasonable walking distance of a settlement boundary.
- There are no public footpaths or street lighting to enable a safe walk to the nearest settlement or to public transport.
- This proposal does not represent sustainable development.
- The site is in an exposed location near the junction of Warton Lane and Cinder Lane where the topography and low level hedgerow will mean that the development will be highly visible to road users.
- Two static and two touring caravans are not sympathetic to the rural location and would be contrary to Policy NW13.

- The use of this access with its poor visibility will be contrary to Saved Policy TPT3.
- The Borough has a land supply in excess of requirements which is a material consideration of substantial weight.
- The Austrey Neighbourhood Plan sets out criteria for further development in Austrey and this application fails to meet this criteria.

85 letters of objection to the proposal have been received raising the following issues:

- Highway safety from the intensification of this substandard access.
- Impact on the rural setting of this countryside location.
- New houses are not allowed in this countryside location, so why are caravans?
- Warton Lane has a lot of traffic on it travelling at speed. This is not a suitable road for walking along to reach the settlement of Austrey.
- Questions raised about the drainage proposed for this residential use.
- Questions about the application form which states that waste will be collected on site.

One letter of support has been received signed by three residents. This states that as residents of Warton, they have recently received a flyer through their door requesting residents to object to this application. They confirm that they wish to register their support for this application as they can see no legitimate reason for opposition. The development is very limited to two families in a location removed from both Austrey and Warton. Given the paucity of suitable accommodation for Traveller families, it is their view that the applicants are to be congratulated for proposing provision and they wholeheartedly reject the implicit racist nature of this leaflet campaign.

Observations

The site lies outside of any Development Boundary and so within an area of open countryside as defined within Policy NW2 in the Core Strategy 2014.

This proposal for additional Gypsy and Traveller pitches in the Borough needs to be assessed against the following issues:

a) Need for Gypsy and Traveller Pitches

Policy NW7 (Gypsy and Travellers) in the Core Strategy allocates the number of pitches required for Gypsy and Travellers in the Borough. This Policy states that between 2011 and 2028, nine residential pitches need to be provided within the Borough. Six pitches have been granted planning permission since 2011. These pitches have been completed. As such the Council can demonstrate a five year supply of deliverable Gypsy and Traveller sites in the Borough. The Borough Council can also demonstrate a five year land supply for housing. However, in light of the technical adjustment made by Government to the NPPF, this prevents Gypsy and Travellers from relying on the lack of a five year supply of deliverable housing sites to show that relevant policies for the supply of housing are not up-to-date. As the Development Plan is not absent or silent in this case, and the relevant Gypsy and Traveller policies in the adopted Core Strategy are not out-of-date, the tilted balance from paragraph 14 of the NPPF does not apply.

In accordance with Policy NW7 there is a need for three additional pitches to be allocated during the Local Plan period. There are no Gypsy and Traveller sites allocated in the Submission Version of the Local Plan 2017. As such there is an unmet need during the Plan period for the provision of three residential pitches within the Borough. It is important to look at this application in more detail to establish whether this proposal will fulfil this unmet need.

Policy NW8 (Gypsy and Travellers Sites) provides a criteria based policy against which to assess windfall sites. This proposal for the change of use for the stationing of caravans has the potential to conflict with Policy NW8 (Gypsy and Travellers Sites) which states that site suitability will be assessed against a number of criteria including:

“The size of the site and number of pitches is appropriate in scale and size to the nearest settlement in the settlement hierarchy and its range and of services and infrastructure, limited to a maximum number of 5 pitches per site.”

A condition specifying the maximum number of caravans is necessary to limit the scale of the development as the description refers to the number of families and this will not be enforceable under the tests laid out in Planning Policy Guidance. The description further goes on to state that the maximum number of static caravans to be placed on site are two and that the maximum number of touring caravans to be placed on site at any one time are two. For the size of the site proposed and its location it is recommended that not more than two pitches are provided on the site. Each pitch should comprise no more than one static caravan and one touring caravan at any one time. As such this proposal would provide two of the three additional pitches required in the Borough during the Local Plan period.

As stated in Policies NW2 and NW8, residential development of this site would be treated as an exception site and so it is necessary that any permission granted is subject to a condition limiting occupancy to Gypsy and Travellers to ensure that such a proposal continues to meet this unmet need. The definition of Gypsy and Travellers is as defined in Government Guidance:

“Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’ educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.”

As stated above, there is an unmet need in the Emerging Local Plan period for the provision of three residential pitches within the Borough for Gypsy and Travellers. This proposal would provide two of the pitches required. This is a material consideration of significant weight in favour of the proposal.

b) Site’s Suitability as a Gypsy Site

Government advice in its Planning Policy for Traveller Sites document states that local planning authorities, when considering planning applications for traveller sites, should consider locally specific criteria to assess applications that may come forward on unallocated sites. Policy NW8 in the Core Strategy provides criteria based policy against which to assess windfall sites. One of the criteria in this Policy states that sites would be permissible inside, adjoining or within a reasonable safe walking distance of a settlement development boundary outside of the Green Belt. The site is 0.5km from the

development boundary of Austrey. Austrey is classed as a Category 4 settlement (Other Settlement with a development boundary) under Policy NW2 in the Core Strategy. It is considered that the site is a reasonable walking distance from the settlement boundary of Austrey being approximately a 7 minute walk.

However, it is important to expand on the policy wording of Policy NW8 - "safe walking distance." Warton Lane is a 'B' classified road with a national speed limit of 60 mph. This road is used by cars, buses and HGVs as the main road into Austrey from Warton, Atherstone and Polesworth. The road does not have any footpaths or pavements and is unlit for the whole of this 0.5km length up to the settlement boundary. The primary school is located within the settlement of Austrey. It is not considered that this stretch of Warton Lane offers safe walking into Austrey particularly for young families or people with mobility issues.

The wording in Policy NW8 further expands on this definition of "safe, reasonable walking distance" by stating that the site should be suitably located within a safe, reasonable walking distance of a public transport service, with access to a range of services including school and health services. As stated above, the development boundary of Austrey is 0.5 km away. It is accepted that the settlement of Austrey does have a primary school, church, public house and a local shop with post office. Although the bus travels along Warton Lane, the nearest bus stop to this site is along Bishops Cleeve which is some 0.77 km away or approximately a 10 minute walk. There are no health services within Austrey with the closest being in Polesworth. The closest secondary school to the site is in Polesworth which is some 7.4km from the site. Again, it is not considered that this stretch of Warton Lane offers safe walking distance to public transport services or to schools and health services in the area.

Policy AP8 in the Austrey Neighbourhood Plan states that any new development should strive to achieve a five minute walkable neighbourhood encouraging the use of sustainable, active transport (walking and cycling). As such it is considered that the location of the application site is not acceptable in principle and in the context of Gypsy and Traveller sites, is not in a sustainable location as any residents here would be highly dependent on private transport. This is a view shared by Austrey Parish Council and by many of the objectors who have written to the Local Planning Authority. Many of the authors of these letters will have direct experience of using Warton Lane for walking and cycling as well as driving along this road or being a passenger on the bus service.

It is considered that the site is not located within a sustainable location in the context of the provision of Gypsy and Traveller sites in the Development Plan. In particular it is considered that the location of this site is contrary to the criteria in Policy NW8 which states that the site should be within a reasonable safe walking distance of a settlement development boundary outside of the Green Belt and within a safe, reasonable walking distance of a public transport service with access to a range of services including school and health services. This is a material consideration of substantial weight against the proposal.

c) Highway Access

Saved Policy TPT3 (Access and Sustainable Travel and Transport) in the North Warwickshire Local Plan 2006 requires that development will not be permitted unless its siting, layout and design makes provision for safe and convenient pedestrian and vehicular access and circulation. Policy NW10 (Development Considerations) in the Core Strategy also states that development should provide for proper vehicular access.

The Highways Authority objected to the original proposal. Following the submission of an amended plan to address some of the issues raised by the Highways Authority with regards to the width of the access road, the manoeuvring area and the position of the gates they have confirmed that they no longer have any objections to the access road being proposed.

However, the Highway Authority confirms that they continue to object to the proposal to intensify the use of this site. They are concerned that the vehicular access granted permission in 2014 for an equestrian use cannot accommodate the additional traffic which would be generated by a mixed use of equestrian and two residential pitches. They consider that the additional residential use will not only generate more trips to and from the site but also result in longer vehicles using the access including towing vehicles. The previous speed survey was carried out three years ago. Since then, planning permission has been granted for additional residential properties in Austrey and Warton. These permissions will not only generate traffic from occupiers of the new dwellings but will also generate construction traffic using Warton Lane.

Warton Lane is a classified road with a national speed limit of 60mph. The Highway Authority maintains its objection to the visibility splays available for this access from and fronting the vehicular access onto Warton Lane. The access is located on the inside of a sharp bend in the road. As such the visibility splays are significantly below the standards required for a 60mph speed limit.

To allow such an intensification of this vehicular access in the absence of an up-to-date comprehensive speed survey has the potential for wholly inadequate visibility splays to be provided onto Warton Lane. This is a view shared by Austrey Parish Council and by a number of the objection letters received by the Local Planning Authority many of whom have been written by people with experience of using this stretch of Warton Lane. As such the proposal would be contrary to Policy NW10 (Development Considerations) which requires development to provide for proper vehicular access and contrary to Saved Policy ENV14 (Access Design) in the North Warwickshire Local Plan 2006 which states that development will only be permitted where vehicular access to the site is safe and the local road network is able to accommodate traffic to and from the development. This is a material consideration of significant weight against the proposal.

d) Impact on the setting of the open countryside

Policy NW13 (Natural Environment) states that the quality, character, diversity and local distinctiveness of the natural environment will be protected and enhanced. The Site Block Plan indicates that the proposal comprises two static caravans and two touring caravans. No utility buildings are proposed for the residential use.

The residential use is shown to be contained within the area of land alongside the access road and the adjoining residential property known as Flavel Farm Bungalow. The remainder of the land (which is the open land to the south west) is shown to continue to be used for equestrian uses. It is considered that the siting of the residential pitches will have a minimal impact on the setting of the open countryside in this location. The height of a caravan is relatively low. Views from the north and the south of the proposal will be set against the built development adjoining the site. Views from Warton Lane will be restricted by the mature hedgerow in place and by the equestrian building located along the eastern boundary with Warton Lane. It is not considered that the proposal will have a detrimental impact on the setting of the open countryside in this location.

e) Impact on neighbouring properties

Policy NW10 (Development Considerations) states that development should avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, fumes or other pollution. The proposed site adjoins a residential property and associated outbuildings. An amended plan has been submitted which sites the caravans further away from the northern boundary with this neighbouring residential property. There is a hedgerow between the site and the neighbouring property. The applicant has agreed to erect a close boarded fence on the outer edge of this hedgerow if required.

In view of the small scale of this development proposed and the re-siting of these caravans it is not considered that this proposal will have an unacceptable impact upon neighbouring amenities for the adjoining residential property.

f) Other Material Considerations

In 2015 a Written Ministerial statement was issued which makes intentional unauthorised development a material consideration to be weighed in the determination of applications. It appears that hard surfacing has been laid on the site where the horse exercise walker previously stood. This new hard surfacing is not lawful. It is not clear whether this unauthorised development was intentional, but even if this were the case, the inclusion of this hardstanding in an area alongside built development and the menage would not adversely affect the character of the area.

There are no personal considerations put forward for this application. As such personal considerations do not need to be taken into account in the overall balance and so a personal occupancy condition or a temporary permission do not need to be imposed.

The site will generate domestic waste arising from these two residential pitches. There are no proposals to store any commercial waste on the site. There is a need to store this domestic waste close to the vehicular access onto Warton Lane and a refuse vehicle would collect such waste from Warton Lane and would not enter the site. The Environmental Health Officer has commented that a planning condition should be imposed to ensure that there is no burning of waste on the site.

The proposal includes the provision of a package treatment plant for the disposal of foul water. Building Regulations will be required for the installation of this plant. It is not considered that such an installation will cause an environmental issue in this location.

Conclusions

Based on the above it is considered that although the site will provide two of the pitches required under Policy NW7 (Gypsy and Travellers), it will not meet all of the criteria as laid out in Policy NW8 (Gypsy and Travellers Sites) for assessing unallocated sites. In particular, the application site is not located within a reasonable safe walking distance of a settlement boundary and is not located within a reasonable safe walking distance of a public transport service. The Highway Authority has also raised objections to the intensification of this vehicular access until it has been demonstrated that the available visibility splays are adequate for the average speed limit of Warton Lane outside of the site as presently it is their professional opinion that the visibility splays are not adequate for the speed of traffic using Warton Lane.

To conclude, although it has been found that the proposal will provide two of the Gypsy and Traveller pitches required in the Borough, it would have little harm on the setting of this countryside location and little harm on the residential amenity of the neighbouring property. Greater weight is given to the substantial harm to the safety of future pedestrian users of Warton Lane and to users of the vehicular access into and out of the site.

Recommendation

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

- 1) Policy NW8 in the Core Strategy 2014 states that sites will be permissible within a reasonable safe walking distance of a settlement development boundary. The proposed site is some 0.5km from the settlement boundary of Austrey and reached along a classified road which is unlit and does not have any footpaths or pavements. It is not considered that this provides a reasonable safe walking distance for pedestrians and in particular, children and those with mobility issues. The proposed site is also some 0.77km from the public transport network and again the majority of this distance is along a classified road which is unlit and does not have any footpaths or pavements. To allow such a proposal would be contrary to some of the essential criteria contained within Policy NW8.
- 2) Warton Lane is a classified road with the national speed limit. The access road into the site is located on the inside of a sharp bend. It has not been demonstrated that the available visibility splays from and fronting the vehicular access to the site are in accordance with the speeds of approaching vehicles. To allow the intensification of this access for a residential use with towing caravans in addition to the lawful equestrian use has the potential to have a detrimental impact on the highway safety of road users of Warton Lane. As such the intensification of this access is contrary to Policy NW10 in the Core Strategy 2014 and to Saved Policy ENV14 in the North Warwickshire Local Plan 2006.

Notes

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, through suggesting amendments to the proposal and through meeting the applicants to overcome reasons for refusal. However despite such efforts, the planning objections and issues have not been satisfactorily addressed. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0519

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	22/9/17
2	Environmental Health Officer	Consultation	28/9/17
3	Waste & Transport Manager	Consultation	28/9/17
4	Senior Pollution Control Officer	Consultation	9/10/17
5	Newton Regis Parish Council	Objection	26/10/17
6	Shuttington Parish Council	Objection	6/11/17
7	Highways Authority	Consultation	6/11/17
8	Austrey Parish Council	Objection and Petition	6/11/17
9	Austrey Residents Association	Objection	3/11/17
10	Agent	Amended block plan	13/11/17
11	Highways Authority	Consultation	23/11/17
12	S Wilkinson	E-mail to Agent	23/11/17
13	Agent	Amended site plan	27/11/17
14	Local Residents	85 objection letters	
15	Local Resident	1 Support letter	

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.

(8) Application Numbers PAP/2017/0522 and 0536

White Horse Inn, 127 Long Street, Atherstone, CV9 1AB

Listed Building Consent and Advertisement consent for illuminated and non illuminated signage together with the painting of the brickwork to the front elevation, for

Mr Billy Allingham - Steamin' Billy Brewing Co Ltd

Introduction

These two applications go hand in hand and are reported to Planning Board at the request of a Local Member concerned about the possible impact on the street-scene

The Site

The site is located both within the Development Boundary and within the Conservation Area for Atherstone. This is an active street frontage with many commercial premises along Long Street given this is a core retail area and shopping frontage, which also has the benefit of retail and eating and drinking establishments. The location of the premises in the context of the street scape is illustrated below:



The Proposals

Listed Building Consent and Advertisement Consent is sought for new illuminated and non illuminated signage as well as Listed Building Consent for the painting of the front elevation.

The details are set out in the sections below.

Background

Planning permission and Listed Building consent has recently been granted for a rear extension and internal improvements to the building to preserve the use of the public house for the benefit of providing a sustainable future use for the building. The building therefore, being an existing public house, already benefits from advertisements to the

front elevation including a fascia sign in the form of sympathetic individually applied lettering and swan neck lighting, coach style lamps, with a frosted advertisement on the windows being traditionally the original frosted panels.

Development Plan

The Core Strategy 2014 - NW10 (Development Considerations): NW12 (Quality of Development) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV15 (Heritage and Conservation) and ENV16 (Listed Buildings)

Other Relevant Material Considerations

The National Planning Policy Framework - (the "NPPF")

A Guide for the Design of Shop Fronts - NWBC February 2003.

Atherstone Conservation Area Designation Report

Representations

Atherstone Town Council – No objection

Atherstone Civic Society – It objects to the proposals. The White Horse Public House is listed as a Grade II Listed Building and within the Atherstone Conservation Area. The 'White Horse' is an historical pub and first known by this name in 1763. The photograph shows the facade which matches its condition which it was recorded for its Grade II listing. The character of Long Street is maintained by a mix of both listed buildings and those which are described as those which of sufficient architectural merit to be making a positive contribution to the townscape. Thus far, the integrity of the conservation area has been generally been maintained. It is dismayed to see the facade of the White Horse having been changed by unauthorised development. Having reviewed this application, Atherstone Civic Society objects to the proposals.

a) Objection to the colour of the wall at first floor.

Dark grey is out of character for the conservation area. White/sandstone/beige for painted surfaces has been adopted in the conservation area to give cohesion to all rendered facades in the town centre. Grey is dark and dismal. This side of the street receives no direct sunlight. It may be argued that this colour has a fashion trend attached to it. This has no place in a conservation area. Dark grey has not been used for frontages. In most cases the natural brickwork has been retained.

b) Hanging sign.

This should be reinstated as per the original. By tradition they should be a graphic and the name of the pub only. It is noted that a signboard between the windows on the upper floor has been deleted. This is welcome. There should be more thought to the signage transfers to the left hand window. With today's computer graphics, the ethos and traditional design of the original etched original window sign could be easily replicated. Its style and profile could be matched with a semi-translucent rear applied

transfer with the name of the brewery. The introduction of the modern pencil style down lighters are not at ease with the traditional look of the pub. Out of preference, I would have preferred to see, say three bowl shaped lights over the door as before rather than the modern down lighters. The proposed design indicates the 'dog' logo, which is too large and out of scale with the window. The Civic Society was supportive of the application for the alterations and extensions to this public house but is concerned about this development. We did remark in that submission that the Grade II listed facade should be fully respected.

An objection has been received from a local resident. The concern is that the lighting will affect residential amenity and that it is not in keeping in a small town.

Observations

The issue relevant to the determination of an application for listed building consent for advertisement including the re-painting of the front elevation of the building is whether the design and appearance of the scheme causes harm and whether there is any public benefit identified. The advertisements and the lighting scheme as well as the paint colour of the building are all in situ following the submission of the applications, hence the scheme is now *retrospective* such that enforcement action would be necessary if the scheme were not considered appropriate to the significance of the listed building and its setting in the Conservation Area.

The Planning (Listed Building and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving a listed building and any features or architectural interest it possesses. The significance of the White Horse, as far as its surviving exterior is concerned, lies essentially in its appearance as a key building, distinctive fenestration and strong form along Long Street; its position directly fronting Long Street gives it particular prominence within this part of the Conservation Area. Therefore advertisements on the building should be sympathetic to the character of the building. Given the existing use of the building then advertisements can be expected Commercial premises reasonably require advertisement to announce the presence of the business. The former and present appearance of the building is at Appendix A.

The details of the replacement signage are described below with images at Appendix B:

Sign A: Fascia sign

- The existing fascia is retained with the individual applied lettering 'White Horse' – given the name of the premises is still the white horse then this continues to be referenced in the fascia sign, which is acceptable.
- The words of the brewery brand known locally as 'Steamin' Billy' are applied in hand written gloss in white on a black background either side of the lettering the 'White Swan'. This is considered to be a subtle addition to the fascia sign and is not in bold lettering.
- The size of the fascia sign is the same as exists and no new sizing has been introduced.
- The design, colour scheme and retention of lettering with minimal additional branding are considered to be acceptable to the fascia sign.

Sign B: Frosted window vinyl

- A single frosted vinyl of the image of a dog which is the logo of the brewery brand is applied to the front window. The window graphic is approximately 750mm high and 450mm in width, it is a simple motif and is acceptable as a frosted image applied directly to the glass. The design is acceptable and subtle as an image and retains the traditional window. It is not considered to be out of scale with the size of the window.
- The historic frosted imagery and writing of a previous brewery brand will not be removed or replaced. It is retained to the existing condition of the window.

Sign C: Two light vinyls

- The existing carriage lamps will be retained and rather than displaying the previous 'M and B' brewery brand, the proposal is to apply the dog logo of the 'Steamin' Billy' brewery brand.
- The frosted vinyl is therefore 200mm high and less than 200mm wide and fits within the size of the existing carriage lamp which is 355mm in width along the top, 370mm in height and 90mm at the bottom of the lamp. This discreet form of advertisement is acceptable to the existing carriage lamps.

Sign D: Hanging sign

- The hanging sign has directly replaced the existing. That sign is now within the extension of the public house as a wall feature.
- The size of the hanging sign replicates that of the former being approximately 1180mm in height and 880mm in width.
- It is designed in a folded aluminium material and painted in white vinyl text. It is applied to the existing bracket and no new modern bracket has been introduced.
- It displays the type of goods on offer at the premises which is extended to food rather than solely that of a drinking establishment. It also displays the name of the pub. Whilst it is unusual to provide this type of information in a hanging sign, there is no other opportunity on the building to advertise what is offered by the premises unless the applicant should wish to introduce menu cases on the front of the building. It is considered that no writing can be applied to the walls of the building itself. Hence the name of the pub and the goods on offer is limited to its display in the hanging sign and the fascia sign.
- On balance this is only considered to be acceptable whereby it replaces the dimensions of the existing sign and is of a subtle colouring being white on a dark background.

Illumination of the signage

- Existing signage on the premises was illuminated, that is the existing hanging sign and the existing fascia sign.
- The existing hanging sign is illuminated by a trough light, the same level of illumination is applied to the replacement hanging sign through the trough light, and materially there is no new illumination to this element.
- The fascia sign was already illuminated by three swan neck lights. These have been replaced by 5 bullet style lights which are a modern version of the traditional swan neck lighting. The bullet lights are slim and illuminate only the

fascia with no light spillage or glare. The level of illumination and design of the lighting is considered to be acceptable given that they replace existing lighting.

- Materially no new lighting method is introduced and it is considered that any alternative lighting source, such as a long trough light above the fascia would also be out of character on the frontage of the building, hence the scheme as presented is an inconspicuous option similar to how the frontage had previously appeared. The level of illumination is considered to be acceptable as is the method of illumination.

Re- painting of the building

The nature of the objection from the Civic Society is understood with regards to the colour scheme. The existing building is brick with a glazed dark red brick to the lower half of the building and the remainder of the frontage of the building was painted brick in white. The colour scheme to the top half of the building has now been painted in a dark grey. The colour scheme has been assessed in relation to the street scene as the colour of the building requires consent as part of the overall renewal scheme to the frontage of the building, including that of the advertisements.

The colour scheme being dark grey introduces a new colour along Long Street, as the majority of buildings are either red brick or rendered in either cream or white. There is one other example on Church Street where a light grey has been introduced. The colour has been assessed and whilst it would have been preferable to retain the white finish, it is considered that the dark grey is not a bright tone and between the two brick buildings does not provide a sharp contrast against the warm tones of the red brick. The point is that the building is not next to a light rendered building where the contrast of the dark grey would have been more discordant.

Choice of colours is to some degree influenced by what has already been established in the area. Whilst the use of intense, dark colours can make a dramatic change to the appearance of listed buildings or properties in Conservation Areas this would be more the case if the building were set within an existing rendered terrace or square, where there are a group of buildings designed in a single architectural form or unit in this instance it would be necessary to observe a single colour or lighter colours such as white or light cream.

As this building is a single architectural unit between two red brick buildings of varying heights then the use of the dark grey is not considered to be discordant. Elsewhere along Long Street, Market Square or Church Street the use of dark paint or renders would likely create an unnatural emphasis where matching colours for semi-detached or terraced properties would be necessary and lighter tones would need to be observed. In respect of this consideration the use of dark paint would not be considered to set a precedent along the street scene. There would be no objection to the use of dark grey and it retains the appearance of the glazed bricks. Other colour options suggested by the agent are available at appendix C for comparative purposes.

The remainder of the observations therefore assess the impact of advertisement on the Heritage Asset.

a) Principle of advertisement

As the site is in use as a drinking establishment with ancillary dining facilities then it is thus entirely reasonable that it requires an advertisement on the premises to announce the presence of the business, it is in the interests of public benefit that the building continues to operate as a functioning building to ensure its up-keep is maintained.

The signs are not brightly coloured and are subtle in white on a dark background, overall the signage is acceptable in colour scheme. The illumination is not too bright. The contents of signs are limited to the name of the premises and the house brand. The lettering is acceptable to the nature of the business, the text being clear and simple. The advertisements are considered to meet the requirements of Section 3 of the Guide for Shop Front Design, 2003. The principle of advertisement being acceptable and carries material weight.

The NPPF advises at paragraph 67 that poorly placed advertisements can have a *negative impact on the appearance of the built and natural environment*. It is considered that the proposal does accord with the requirement of paragraph 67 of the NPPF, as the sign does not have a negative impact on the built environment. The signage and illumination is in keeping given as it is simple and effective to the front elevation of the building resulting in a relatively restrained form of advertisement and not markedly out of keeping with the proportions and appearance of the former frontage. The proposal is considered to meet with the Town and Country Planning (Control of Advertisements) (England) Regulations 2015.

b) Heritage Asset

The signage should be sympathetic to the special architectural character of the building. Given the signage has directly replaced the existing and is an enhancement in terms of the tidy appearance of the building and supports the use of it, it is not considered to detract from the character of the building frontage. Overall the signage is considered to lead to less than substantial harm and replaces existing signage and is therefore considered to be acceptable. It is assessed that there is public benefit as the alteration to the signage is considered to be necessary to raise public interest to encourage the use of the building by announcing the presence of the business which should attract custom and thus safeguards the use of this listed building into the future. Overall the significance of the Heritage Asset, being the special architecture of the building and the importance of the surroundings of the Conservation Area is not considered to be harmed by the advertisements or the colour scheme of the building as assessed above. Therefore is not considered to be contrary to policy NW14 of the Core Strategy.

c) Visual amenity

The premises is located on the main parade of shops as such the amenities of the area is defined by retail and commercial shop fronts, the location of the signage has no impact on the visual amenities beyond the existing shop fronts and provided the illumination is limited to the opening hours of the business there would be no light intrusion towards neighbouring properties.

Recommendation

A) PAP/2017/0536

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

1. The development hereby approved shall not be carried out otherwise than in accordance with the revised plans numbered 17-630 received by the Local Planning Authority on 10 November 2017.

REASON

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

2. The illuminated signage hereby consented shall be of a static, non-intermittent type limited to 200 candelas per illuminated sign and shall only be illuminated during the opening hours of the business.

REASON

In the interests of the amenities of the area.

3. For the avoidance of doubt the perspex sign with motif affixed on the front painted elevation of the building is not authorised by Condition 2 of this permission and shall therefore be removed within one month of the date of this permission to the satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area.

INFORMATIVES

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking for revisions in order to improve the appearance of the proposal. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

B) Application No: PAP/2017/0522

That Advertisement Consent be **GRANTED** subject to the following conditions:

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

REASON

To comply with Regulation 2(1) of the Town and Country Planning (Control of Advertisements) Regulations 2007.

2. No advertisement shall be sited or displayed so as to -
 - (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

REASON

To comply with Regulation 2(1) of the Town and Country Planning (Control of Advertisements) Regulations 2007.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

REASON

To comply with Regulation 2(1) of the Town and Country Planning (Control of Advertisements) Regulations 2007.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

REASON

To comply with Regulation 2(1) of the Town and Country Planning (Control of Advertisements) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

REASON

To comply with Regulation 2(1) of the Town and Country Planning (Control of Advertisements) Regulations 2007.

6. This consent shall be for a limited period of five years from the date of this notice, on or before which date the display shall be permanently discontinued.

REASON

As required by the provisions of the Town and Country Planning (Control of Advertisements) Regulations and in the interests of amenity.

7. The development hereby approved shall not be carried out otherwise than in accordance with the revised plans numbered 17-630 received by the Local Planning Authority on 10 November 2017.

REASON

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

8. The illuminated signage hereby consented shall be of a static, non-intermittent type limited to 200 candelas per illuminated sign and shall only be illuminated during the opening hours of the business.

REASON

In the interests of the amenities of the area.

9. For the avoidance of doubt the perspex sign with motif affixed on the front painted elevation of the building is not authorised by Condition 2 of this permission and shall therefore be removed within one month of the date of this permission to the satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area.

INFORMATIVES

In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking for revisions in order to improve the appearance of the proposal. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0536

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	2.10.17
2	Atherstone Town Council	Representation	20.10.17
3	Neighbour at Warwick House	Representation	26.10.17
4	Atherstone Civic Society	Representation	24.10.17
5	Atherstone Civic Society	Representation	24.11.17
6	Agent to Case Officer	E-mail	5.10.17
7	Agent to Case Officer	E-mail	1.11.17
8	Agent to Case Officer	E-mail	2.11.17
9	Agent to Case Officer	E-mail	3.11.17
10	Agent to Case Officer	E-mail	8.11.17
11	Agent to Case Officer	Revised plan	10.11.17
12	Case Officer to Agent	E-mail	24.10.17
13	Case Officer to Agent	E-mail	3.11.17
14	Case Officer to Agent	E-mail	9.11.17

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.

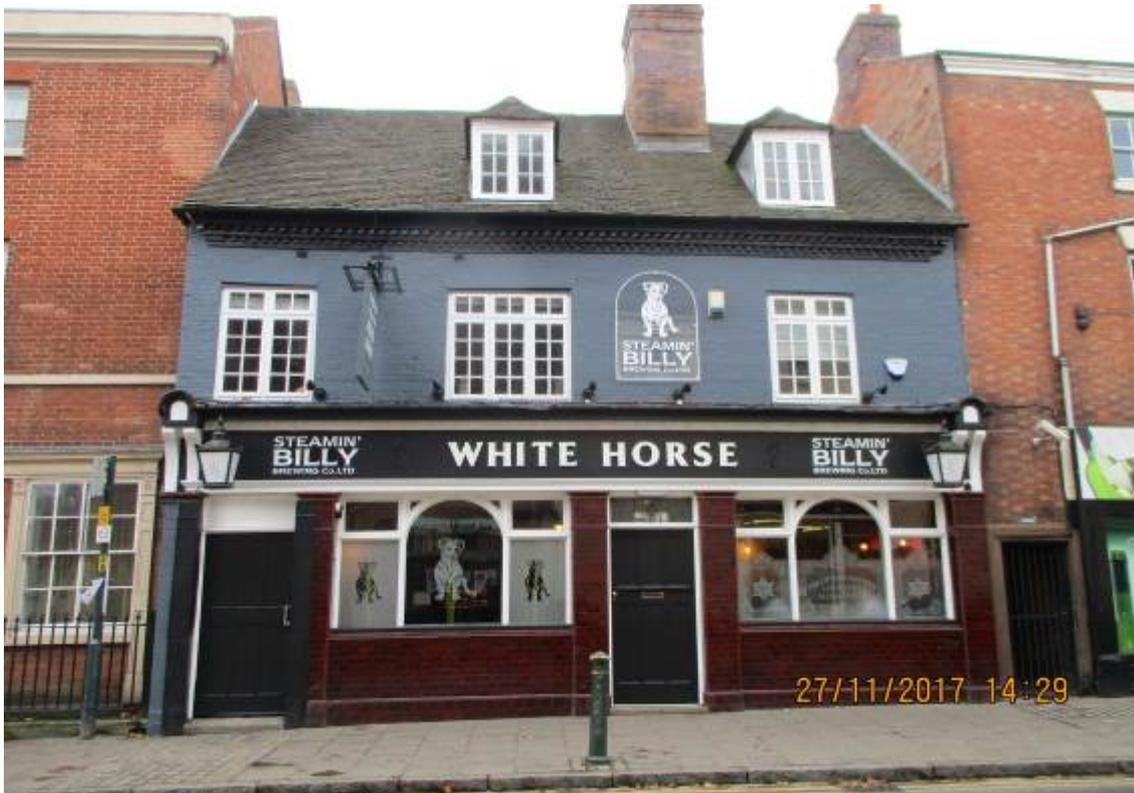
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

Appendix A:



Former Frontage

The design to the frontage of the building will be altered to the fascia sign, hanging sign and method of illumination as well as the colour scheme renewed. This arrangement is currently in situ.



Current appearance.

The Perspex sign on the painted brick would be conditioned to be removed.

Appendix B:

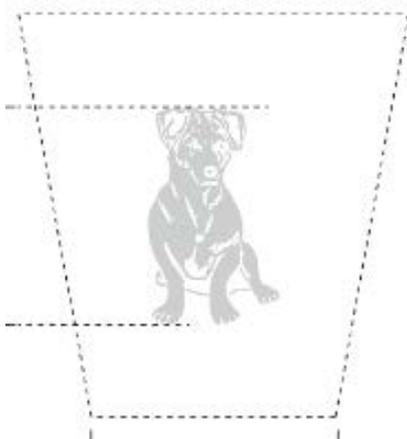
Sign A: Fascia sign with illuminated lighting in the form of 5 bullet lights – a modern version of swan neck lighting – replaces three former swan neck lights.



Sign B: Frosted window vinyl



Sign C: Two light vinyl's to be applied to the coach lamps



Sign D: Hanging sign – replaces former hanging sign which is retained within the public house as a wall feature.



Appendix C – other colour schemes for comparative purposes





- New swing sign
- Handpainted graphic in White
- Walls painted dove slate, Dulux paints
- New LED bullet lights
- Vinyls on existing carriage lights
- Fascia sign with existing letters illuminated via new LED lights and hand painted letters
- Window vinyls



- New swing sign
- Handpainted graphic in White
- Walls painted dark grey, Crown exterior paints
- New LED bullet lights
- Vinyls on existing carriage lights
- Fascia sign with existing letters illuminated via new LED lights and hand painted letters
- Window vinyls



(9) Application No: PAP/2017/0524

The Old School, Nuneaton Road, Ansley, CV10 0QR

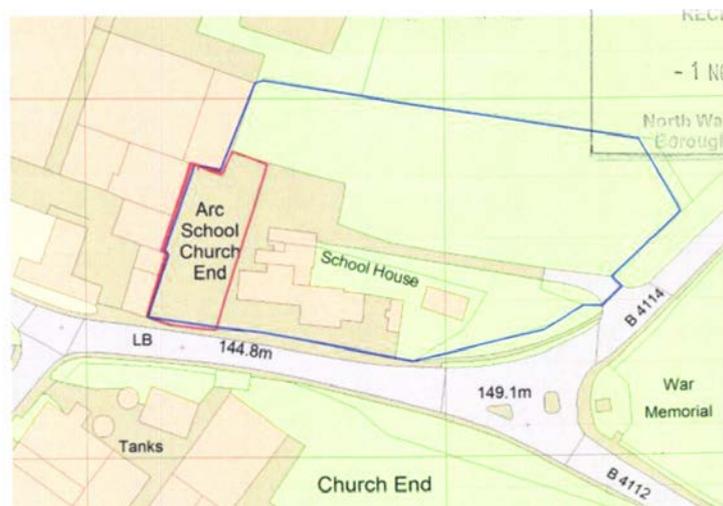
Change of use of land to the west of property to store and sell vehicles, for

Mr Gary Thorn

Introduction

This application follows an enforcement complaint and for this reason the matter is reported to the Board for determination.

The Site



Site Location



Aerial Imagery of Site Context

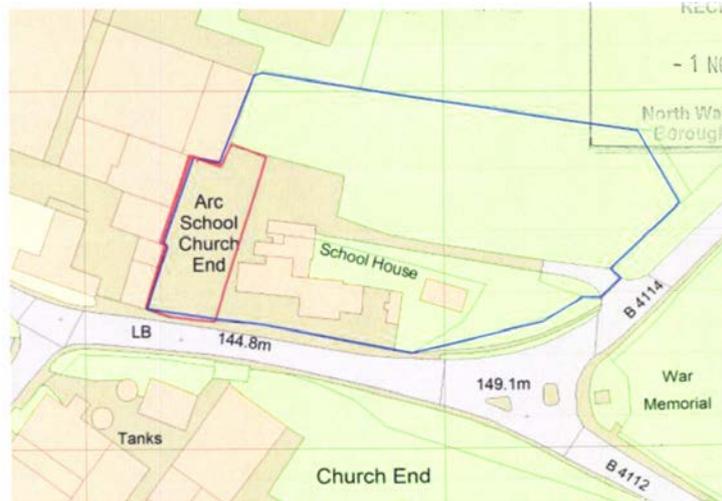
- The site lies within open countryside. Green Belt lies adjacent across the main Nuneaton road to the south boundary of the application site.

- The application site lies outside of a defined development boundary as identified within the North Warwickshire Local Plan, 2006 (as saved) and Core Strategy, 2014.
- The surrounding context is characterised by a small hamlet with a few dwellings and agricultural buildings. Immediately to the east is Manor Farm, containing buildings and open pasture.
- To the front across the road, are further farm buildings.
- Also to the opposite side of the road are dwellings and the Grade II* St. Lawrence Church.
- The main dwelling is prominent within the streetscape.
- The application site comprises a dwelling and was the former location for a school. The change of use to the dwelling was granted in 2015 under planning reference PAP/2015/0650.
- The application site relates to site area of 0.8 hectares including the rear field (former playing field) north of the access to the site.
- Vehicle access is off Nuneaton Road to the east of the site, which is a main road (B4114), and opposite B4112 which goes to Ansley, Arley, Nuneaton and beyond.
- The topography of the site is flat, however the frontage is set higher than the road.
- The south boundary is characterised by a wall and fence with pedestrian access to the footpath.
- The north of the site contains a grass area which was the former grassed playground.

Site visit photos from Enforcement Visit dated 10 August 2017 and Officers Site Visit dated 14 November 2017 can be seen in Appendix A.

The Proposals

- The planning application seeks the retention of the change of use of land to the west of property to store and sell vehicles (Class A1 Use). The application is submitted following an enforcement complaint.
- The land used in association with the proposed business use, would be used to store vehicles which are advertised on websites.
- All vehicles are viewed by appointment only and they would sell cars, vans and larger vans up to 3.5t.
- The application does not seek for any signage advertising the business.
- The majority of appointments are booked between 8.00am and 5.00pm.
- The majority of vehicles to the site are delivered via trade plates or through a recovery vehicle, under 3.5 ton.
- Projection of sales per week is around 2-3 vehicles, with each vehicles attracting on average 2 viewings before a sale is made.



Proposed Block Plan

Background

Relevant Planning Site History

CASE REFERENCE	DEVELOPMENT DESCRIPTION	DECISION
PAP/2015/0650	Change of use from school to dwelling house	Granted 19/11/2015
PAP/2010/0413	Partial repair and rebuilding of existing boundary wall	Granted 08/09/2010

Representations

Ansley Parish Council – The Council has no objection, subject to appropriate conditions. It made the following comments:

“The Parish Council initially had some concerns about the volume of traffic that a business might generate at this location which may be dangerous due to the bend and high speed of traffic. However, we are led to believe by the applicant that this is a very small family business and it is unlikely that they will sell more than 50 cars a year.

The decision of the Council is therefore that whilst we have no objection to the principle of the business, if you are minded to support the application we would like to see some sort of condition to restrict the number of vehicles stored and sold to prevent it becoming a large business and inappropriate use of the greenbelt.”

Consultations

Environmental Health Officer – No Objection.

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

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW10 (Development Considerations), NW12 (Quality of Development) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV14 (Access Design); ECON5 (Facilities relating to Settlement Hierarchy) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

The National Planning Policy Framework 2012 – (the “NPPF”)

Observations

Taking into account planning policy and other material planning considerations, the key consideration in the determination of this application would be the principle of the development and Highways implications.

a) Principle of development

This application is assessed in light of the current development plan. The principle of the proposal would be assessed under Policies NW2 and NW10 of the Core Strategy, 2014. The site lies within an open countryside location outside of a defined development boundary or a Category 5 settlement for the purpose of Policy NW2 of the Core Strategy 2014. Policy NW2 states that development in settlements outside a defined development boundary will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location. Under Saved Policy ECON5 development for additional shopping, entertainment and leisure floor space will not be permitted within these areas. The Policy states within Paragraph 5.39 that within the countryside the creation of new shops or food and drink premises etc. is not sustainable and therefore will not be permitted.

Section 3 of the NPPF sets out guidance for supporting a prosperous rural economy. Paragraph 28 of the NPPF states that, *“planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:*

- *Support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- *Promote the development and diversification of agricultural and other land-based rural businesses;*
- *Support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside*
- *Promote the retention and development of local services and community facilities in villages, such as local shops, meeting places...”*

Policy NW2 states that development in settlements without a development boundary will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location. This is echoed within Paragraph 28 of the NPPF. The proposed business does not fall within any of the mentioned development types.

The neighbouring uses within this context relate to agriculture which is supported through the Development Plan. It is not considered that the car sales business (A1 Use) would be a compatible use within this rural location. Therefore the retention of the retrospective change of use of the land for the storage and sale of vehicles would not accord with Policy NW2 of the Core Strategy, 2014.

Paragraph 28 of the NPPF aims to support the sustainable expansion of all types of businesses in rural areas. However Policy NW10 of the Core Strategy, 2014 states that development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy. Point 1 recommends that development should be targeted using brownfield land in appropriate locations reflecting the settlement hierarchy.

The application is accompanied by a statement from the applicant Mr. Thorn, stating that the vehicles at the site are sold by appointment only. The vehicles are advertised on websites and viewers would view the vehicles by appointment to the site organised through the applicant.

During a site visit by officers dated 14 November 2017, officers noted that there were approx.15-20 vehicles at the site. The applicant stated that a number of vehicles to the east of the site to the rear boundary were private vehicles associated with members of the household. During an Enforcement Site Visit dated 8 August 2017 it was noted that between 20 – 30 vehicles were at the site including scrap cars, two removal trucks and a hydraulic ramp.

b) Impact on Visual Amenity

The storage of vehicles on the land in question is currently to the western boundary of the site within the former playground. The ground is elevated from the road, however a tall wall and fencing partially blocks views into the site from public vantage points along Nuneaton Road. Limited views are obtained into the site from west looking east into the site from the neighbouring property at Manor Farm. Furthermore there would be limited views into the site from the east looking west given the topography and the main dwelling itself; The Old School House.

Currently there is no formal signage advertising with reference to the car sales business at the site or along the main Nuneaton Road. The access to the site is from the main Nuneaton Road from the west of the application site. The land in question where the cars are stored is approximately 10m in distance of the front door of the existing dwelling at the site. With regards to the impact of the proposal on the future amenity of the occupants of the dwelling at the site, any recommendation for approval of the scheme would condition the proposal to the owner of the Old School to prevent the impact on the amenity of future occupants of the site.

Whilst officers have sought to potentially restrict by condition a low-intensity use at the site, additional information following discussion with the Applicant and received in writing dated 15 and 18 December 2017, suggests that in fact the business aspired by the Applicant would exceed a low-key type of business at the site. This would not be considered acceptable in weight of the material planning considerations concerned.

Officers do not consider that the proposal would give rise to an unacceptable impact on the neighbouring amenity at Manor Farm. However it is considered that the views of the vehicles stored at the site, on balance, would have a detrimental impact on the rural character of the area. As such the proposal would be contrary to NW10 of the Core Strategy, 2014.

c) Highways Implications

County Highway Officers have been consulted on the scheme and have responded with detailed feedback - Appendix B.

The existing access to the site for vehicles is considered suitable by Highways Officers for commercial use, able to provide two-way traffic flows and to accommodate single-vehicle transporters or towed car trailers and the ability to turn around within the site to exit front facing.

There are no alterations to the access proposed within this application.



Access from Nuneaton Road to West of Application Site

Highway officers note the visibility splay looking right from the access to the site did not accord with guidance. The applicant has rectified this visibility issue by cutting back vegetation. Highways officers re-visited the site and the splay now measures 61m. Highway officers have taken into consideration the recommended visibility splay and gradient of the carriageway fronting the site and suggests a splay of 80m should be provided given the speed limit of 40mph. They note that the splay is considered significantly below the distance recommended.

It is noted that the use of the application site was once a school which is considered to have generated significantly more vehicular movements per day than the current use at the site. Given that the proposed use would be by appointment only and the proposed use may generate approx. 4 additional vehicle movements per day, Highway officers regard the traffic generation from the use as not significant.

Highway officers have no objection to the scheme based on the supporting statement and subject to a personal restriction for the site should officers recommend the proposal for approval. The statement that accompanies the application does not state a maximum number of vehicles sought.

Based on the above, further information from the Applicant stated that the business would sell a number of cars and vans that would not exceed 3.5 tonnes. In a suggested condition for a recommendation for approval of the scheme, the Applicant stated that the restricted number of vehicles (20 no. max) and opening times would not be suitable. Officers consider that the business aspired by the Applicant is a development type that could not be accommodated. Officers are not satisfied that the continued use of the land in question would not give rise to unacceptable harm on the safety of users of the local highway. The proposal would therefore be contrary with Saved Policy ENV14 of the Local Plan, 2006.

d) Other Matters

There would be no impact to the Grade II* St. Lawrence Church situated on the opposite side of the Nuneaton Road located less than 50m to the south east. It is therefore considered that the proposal would accord with Policy NW12 and NW14 of Core Strategy, 2014.

e) Conclusions

In light of these observations, having considered the relevant planning policies and all other material considerations, it is considered that the proposed development is unacceptable on its planning merits and that the impact on the environment would far outweigh the benefit of supporting the scheme. The proposal is contrary to Policy NW1, NW2, NW10 and NW12 of the Core Strategy, 2014 and Saved Policy ENV14 of the Local Plan, 2006. This application is retrospective following an enforcement complaint; therefore if Board Members are minded to support this recommendation for the application, an enforcement report would need to be brought before Board Members for future determination.

f) Enforcement

Given the recommendation, the Board will also have to consider whether it is expedient or not to authorise enforcement action. This would require the removal of the vehicles stored within the residential curtilage of the dwelling at the site. The compliance period should be six months.

There will be no cost to the applicant here to remove the storage of the vehicles from the area indicated. However it is acknowledged that new premises would be required for the business to continue to operate. The owner has the right of appeal against both a refusal and the issue of any Notice.

Recommendation

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

The siting of the use lies outside of a development boundary defined by the Development Plan it being outside any named settlement and thus within Category 5 for the purposes of NW2 of the Core Strategy, 2014. The proposed business use for the sale of vehicles is not considered to be compatible with the rural uses in the surrounding context and is contrary to Saved Policy ECON5 of the North Warwickshire Local Plan, 2006 and to policies NW2 (Settlement Hierarchy) NW10; (Development Considerations) and NW12 (Quality of Development) of the Core Strategy, 2014.

- b) That authority also be granted to the Assistant Chief Executive and Solicitor to the Council to issue an enforcement notice requiring the removal of the vehicles associated within the business use from the site subject to a compliance period of six months.

Notes

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner. However the planning issues at this site cannot be satisfactorily addressed. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

Appendix A – Site Photos
Enforcement Visit dated 10 August 2017





Case Officer Site Visit dated 14 November 2017





Site Visit Photographs

Appendix B –WCC Highways Comments

Your ref: PAP/2017/0524
My ref: 170524
Your letter received: 06 November 2017



Mr J Brown BA Dip TP MRTPI
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23 November 2017

Dear Mr Brown

LOCATION: The Old School, Nuneaton Road, Ansley
PROPOSAL: Change of use of land to the west of property to store and sell vehicles
APPLICANT: Mr Gary Thorn

The Highway Authority has the following comments to make in regard to your consultation dated 02 November 2017:

The existing access to the site for vehicles is considered suitable for commercial use, able to provide two way traffic flows and to accommodate single vehicle transporters or towed car trailers.

However, the visibility splay looking right from the vehicular access to the site does not appear to accord with guidance. When the site was first visited the splay measured on site was approximately 55 metres, as measured from a setback of 2.4 metres from the near edge of the public highway carriageway. The applicant was present during the site visit and agreed to cut back the vegetation to see if the splay could be improved. The hedge was cut back and the site was visited again. The splay now measures approximately 61 metres. Mr Thorn was present when the splay was re-measured. The speed limit fronting the site is 40mph, so visibility splays of 120 metres are recommended. Taking into account the gradient of the carriageway fronting the site, a splay of 80 metres should be provided if vehicles are approaching the site at 40mph. As such the splay is still considered significantly below the distance recommended.

The site was once a school, which used to generate significantly more vehicle movements per day than the current use of the site. Unfortunately the assessment has

*Working for
Warwickshire*

to be based on the current use class of the site, which is understood to be C3. In mitigation, Mr Thorn stated that his business was not a significant traffic generator, and that all visits to the site are by appointment only. The planning authority could verify this if required based on his sales performance. However, using the figures Mr Thorn provided the proposed use may generate 4 vehicle movements per day. That should not be considered significant.

But, the issue is, if the site is given the use class, rather than the current user, another user may come in and generate significantly more vehicle movements, which then may have a significant impact on the public highway network.

Speaking to Mr Thorn, he would prefer the site to get the use class change without restrictive conditions, but the Highway Authority should only support the application if the operation is run by the occupants of the school house (Mr & Mrs Thorn) running the car sales business as described in the supporting statement. The car sales should not be run by people living off-site nor have employees.

Therefore, the Highway Authority's response to your consultation is one of no objection subject to the following condition:

1. The sale and storage of vehicles from the site shall be carried out in accordance with the submitted statement, and shall be operated by Mr & Mrs Thorn living at the School House within the blue lined outline. If the site is vacated by Mr & Mrs Thorn the site shall return to Use Class C3.

Yours sincerely

Tony Burrows
Highway Control Engineer

Copy to; Councillor Mrs M Bell, - Hartshill & Mancetter, for information only.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0524

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant	Application Form	26/09/2017
2	The Applicant	OS Plan	1/11/2017
3	The Applicant	Covering Letter	1/11/2017
4	Planning Officer	Draft conditions	14/12/2017
5	The Applicant	Correspondence	18/12/2017

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.

(10) Application No: PAP/2017/0533

20, Hawthorn Way, Hartshill, CV10 0XQ

Works to trees protected by a tree preservation order, for

Mr & Mrs Harris

Introduction

The application is referred to the Board for determination as the Council is the owner of the land on which the trees are located.

Members are advised that the Board's remit here is to determine the application as the Local Planning Authority in accordance with planning legislation and the Development Plan, and not as the owner of the trees.

The Site

This is a detached two storey house at the end of a short spur off Hawthorn Way on the edge of the Moorwood Estate in Hartshill dating from the 1990's. There is a rear conservatory. To the side of the property is an area of open amenity space that has a number of trees.

A general location plan is at Appendix A

Background

This amenity area is subject to a Tree Preservation Order referenced TPO 713.030/4 which was confirmed in March 1993. It covers a large number of trees including some that are close to number 20. The application relates to two oak trees that are close to the boundary. These are marked on Appendix A at TG1.

Consent was granted in 2012 for the removal of some branches from one of these trees.

The Proposal

It is proposed to remove the two oak trees adjoining the site boundary as located on Appendix A. The reason for their removal is that the applicant considers that these trees are responsible for root induced clay shrinkage subsidence damage to the house at 20 Hawthorn Way. Damage was identified in January 2015 and the applicant considers that it has worsened since then such that the matter was referred to his Insurers. The damage affects the central section of the house with fracturing occurring internally to the ground floor hall ceiling and around door openings with similar fracturing to the first floor rooms. There is no external damage recorded. The area of damage is shown on Appendix A. By reference to the BRE Digest 251, the applicant considers that the damage can be classified as "slight" – that is to say crack widths of between 1mm and 5mm.

The applicant concludes that this damage is indicative of subsidence and that this appears to be being caused by clay shrinkage. The underlying clay soils beneath the house and the proximity of the trees indicates to the applicant that the shrinkage is root induced. The applicant concludes that this problem is reversible because clay soils will rehydrate in the winter months causing the clay to swell and the cracks to close. The applicant says that the removal of the trees and the associated root systems will thus resolve the matter.

In order to evidence this argument, the applicant has provided technical documents.

A Site Investigation Report was prepared in early 2016 together with an Arborist's report in October 2016. The former undertook a series of boreholes and trial pits on site. The location of these is shown on Appendix A. A CCTV survey of the drainage system was also undertaken but this found no defects to that system. The report concludes that the cause of the subsidence is root-induced clay shrinkage. The clay will shrink with changes in moisture content. Roots have extracted moisture below the depths of the footings, thus causing differential foundation movement. Technical evidence supports this conclusion:

- Conditions necessary for clay shrinkage subsidence to occur related to moisture abstraction by vegetation have been confirmed by site investigation and the testing of soil and root samples.
- The moisture content indicates a reduction in moisture content between a depth of 0.95 and 3 metres which is indicative of desiccation. This is also co-incident with the depth of the root activity.
- Soil suction tests indicate moderate to very severe desiccation between a depth of 0.95 and 2 metres which is co-incident with root activity.
- Level monitoring records significant movement closest to the trees covered by the Order.
- Shear vane readings indicate that the clay is stiff in nature and thus the subsidence is not due to consolidation settlement.
- Pruning or branch removal is not considered to be a long term solution because of the proximity of the trees.
- The level monitoring evidence does not indicate, that other trees not covered by the Order, are responsible because those tree are too far away.

The arborist report agrees that based on these conclusions it would be recommended to fell the two oaks covered by the Order. This would have no adverse heave risk to the property.

The applicant points out that if this action is taken, then superstructure repairs and decoration will only be required to repair the damage, amounting to some £9k in value. If action is not taken, then underpinning would be the necessary solution and this could be of the order of £50k.

The applicant in summary says that established evidential and legal tests pertinent to subsidence damage claims have been met and the evidence confirms there can be no other cause of the movement and associated damage at the rear of the property other than the indirect influence of the subject trees.

Given their proximity to the rear of the property, removal offers the only predictable arboricultural solution in abating their influence. Pruning does not constitute a viable long term alternative solution in restoring stability to the property.

The applicant thus considers that, on the “balance of probability”, the evidence confirms that the oak trees are the cause of the damage to this property. It is said that the trees are thus causing an “actionable nuisance” and the Council should abate that nuisance.

Development Plan

Core Strategy 2014 – NW10 (Development Considerations) and NW13 (Natural Environment)

Saved Policy in the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows)

Hartshill Neighbourhood Plan 2017

Other Relevant Material Considerations

BS3998:2010 – (Tree work : Recommendations)

Representations

Hartshill Parish Council – No response has been received

NWBC Tree Officer – An objection has been lodged. This is based on a technical report commissioned from an appropriately qualified and independent arboriculturalist instructed to review the technical evidence submitted by the applicant.

The Council commissioned report (the “Wharton Report”) has highlighted a number of issues.

- There are apparent contradictions in the root evidence found in the trial pits and bore holes in respect of their diameters and whether the roots are living or not.
- Moisture content information from the bore holes has not been compared with that of a “control” borehole away from the influence of any trees as required by BRE Digest 412. As a consequence the “heave” potential consequent to the removal of the trees has not been calculated or provided.
- The site investigations show that the foundations associated with the dwelling are approximately 550mm in depth although there is no information on the extent and depth of the main foundations for the central areas where the damage has occurred. Guidance from the NHBC (Chapter 4.2) advises that given the height of all of the trees surrounding the site, the foundation for the house should have been specifically designed based on recognition of the soil structure in this location. It has not been established if the foundations here are “site specific” or whether they are built to a standard specification for the house type. The soil structure has not altered since construction and the trees were in situ prior to its construction.

The report makes the following conclusions:

- There is a potential for on-going “heave” should any tree be removed.
- It appears that the building is dropping in height. Due to the likely damp conditions beneath the building, removal of the trees is unlikely to precipitate the structure returning to its original position.
- Given the location of the movement within the building, it is suggested that the internal foundations may not been designed in line with NHBC guidance.

The overall conclusion is that it appears that there is insufficient evidence available to confirm that the root activity is causing seasonal volumetric change to the soil moisture content or that the removal of the trees would firstly not cause significant issues of “heave” or secondly, bring stabilisation to the building. In order to stabilise the foundations, it is suggested that an engineering solution, such as underpinning the central parts of the dwelling would be required.

Clarification of the matters raised by the Wharton report has been sought from the applicant but there has been no response.

Observations

As referred to in the introduction to this report, the Board’s remit here is to determine the application as Local Planning Authority.

The Planning Act says that the Council should protect trees, if “it is expedient in the interests of amenity to make provision for the preservation of trees in their area”. The trees, the subject of this application are included within an Order which is substantial in its geographic area and the number of trees covered. The Order was confirmed in 1993. It was made at the same time as the Council was considering a significant residential development in this part of Hartshill. It was considered that in order to properly plan for this development, significant areas of existing trees should be protected. These were largely on the edge of the development, marking the edge of the settlement and included areas covered by public footpaths, naturally regenerated brown field land and other woodland cover. In other words there was a substantial public amenity value and worth to retaining these trees. They had a material influence on the subsequent layout and design of the residential estate, in particular with the former mineral railway cutting, which runs alongside the application site, as a wildlife corridor to the open land beyond. In order to maintain their presence and amenity value, ownership of significant parts of the land the subject of the Order was transferred into public ownership. Subsequent management of the trees has occurred in order to maintain their longevity. The two trees the subject of this application, are part of this whole and they retain a strong public amenity value. They are readily visible from public viewpoints in an area very accessible to the public; part of the overall design of the layout of the estate, provide a wildlife corridor and are part of a much larger whole marking the natural edge of the settlement. The trees are mature, in good health and have several years’ longevity. As a consequence it is concluded that their retention would maintain the significant strong public amenity value apparent in 1993 when the Order was confirmed.

The Development Plan says that new development should not be permitted if it would result in the loss of trees that make a positive contribution to the quality of the local environment and that the quality, character and local distinctiveness of the natural environment should be protected and enhanced. The reason for such an approach is to

protect the mature trees and rural character of the Borough. These trees were included in the 1993 Order for these very reasons. They make a positive contribution to the quality of the local landscape and to the character of this particular residential estate. That contribution is considered to be significant.

As a starting point therefore, it is concluded that the presumption here should be one of refusal given these conclusions.

It is therefore necessary to see if there are any material considerations that might outweigh this presumption. The applicant is clearly saying that in his view there are – the alleged damage caused by the trees and the likelihood of that continuing.

The evidence submitted by the applicant has been reviewed by the Council's consultant and its own tree officer. They agree that that evidence is insufficient to be given the weight necessary to override the presumption set out above. It is agreed that the evidential test here is one of the balance of probability, but given the significant weight that is given to the public amenity contribution of the trees, it is considered that any evidence in support of their removal should be equally robust. For the reasons set out above it is not considered that it is. This is not about any disagreement that damage is occurring, but that the applicant has not clearly shown that the loss of the trees would not result in more damage; that the differential subsidence is not caused by insufficient regard to the specifications required for the foundations of the house given the underlying soils and the presence of a number of large trees, and that the applicant has not shown that underpinning could be explored as a reasonable alternative. The applicant may have a case for the removal of the two trees, but at present it is considered that it does not have sufficient weight to overcome the planning presumption here.

A recommendation of refusal is thus made below

Other Matters

Members are aware that in some circumstances, there is the potential for a claim of compensation for costs that might be incurred as a consequence of a refusal of consent to undertake works to protected trees. As set out above, it is considered that claim in this particular case can be defended given that compensation would not be payable where the damage is attributable to failure to take steps to avert that damage or to mitigate its extent. In this case the reasonable steps, not yet undertaken, are to investigate underpinning.

In this case the trees are owned and managed by the Council. There is thus a potential for the applicant or his Insurers to claim damages against the Council for the costs or repairs and underpinning. The Council's consultant considers that this could be resisted on the grounds that there are no steps the Council could have taken to prevent the damage incurred. Retaining the trees would allow continued seasonable foundation movement, whilst felling could cause unacceptable heave movements and on-going damage.

The Council is able to revoke a Tree Preservation Order if the trees the subject of the Order are no longer considered to warrant the protection afforded by it. The most common reason for revocation is that the health of the tree is in serious decline. This is not the case here and as indicated above the retention of the trees as a contribution toward public amenity remains of significant weight.

Recommendation

That consent to fell the two oak trees is **REFUSED** for the following reason:

“The trees make a positive and significant contribution to the local environment and to the public amenity of the area due to their maturity; their proximity to publically accessible areas, them being part of a larger area marking the edge of a residential estate, influencing its layout and design as well as being a wildlife corridor. The evidence provided to support the application to fell is insufficient in weight to override the significant amenity value in retaining the trees. This is because it has not been shown that their removal would not cause potential for upward heave movement of the foundations if the trees were removed or that an engineering solution such as underpinning would remove the cause of the damage. Felling is thus not considered to be the most appropriate remedial action. As such the removal of the trees would not accord with saved policy ENV4 of the North Warwickshire Local Plan 2006 or with policy NW13 of the North Warwickshire Core Strategy 2014”.

Notes

In dealing with this application, the Local Planning Authority has met the requirements set out in paragraphs 186 and 187 of the National Planning Policy Framework through undertaking a professional review of the evidence submitted with the application and engaging with the applicant in that respect.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0533

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	5/10/2017
2	NWBC Green Space Officer	Representation	1/12/2017

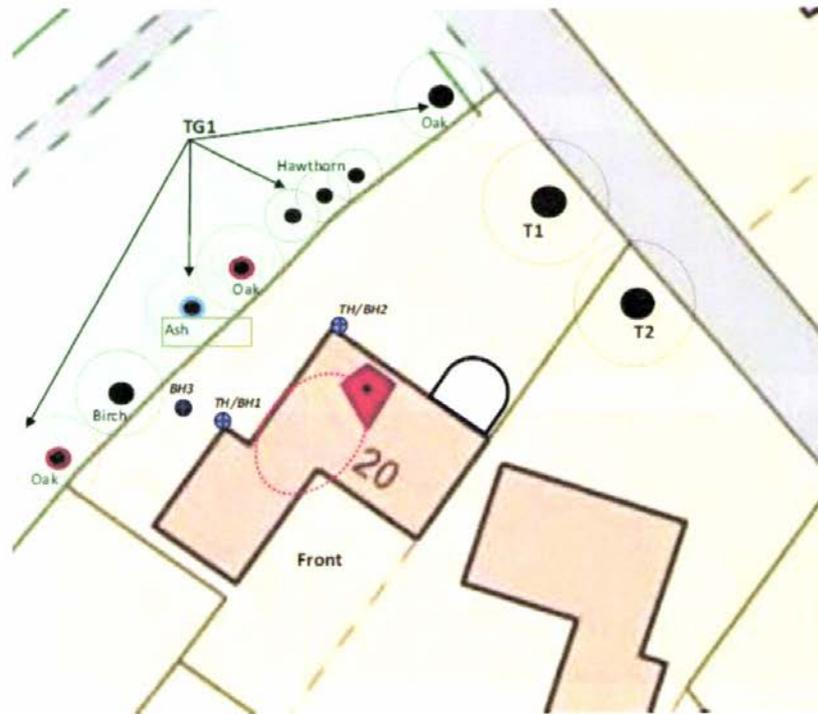
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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Site Plan

This plan is Not to Scale

This plan is diagrammatic only and has been prepared to illustrate the general position of the property and its relationship to nearby trees etc. The boundaries are not accurate, and do not infer or confer any rights of ownership or right of way. Position of utilities is only indicative and contractors must satisfy themselves regarding actual location before commencing works.



Plan not to scale – indicative only

 Approximate areas of damage

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Key:

	Tree: Deciduous		Tree: Conifer		Shrub
	Hedge		Area of Damage		Bore Hole
	Trial Hole		Trial & Bore Hole		Level Monitoring
	Rain Water Manhole		Rain Water Gulley		Rain Water Pipe
	Waste Water Manhole		Waste Water Gulley		Toilet Pipe

Chartered Loss Adjusters

Cartwright House, Tottle Road, Riverside Business Park, Nottingham, NG2 1RT. Tel 0115 943 8260 ■ www.crawfordandcompany.com
 Registered Office ■ Crawford & Company Adjusters (UK) Ltd, 70 Mark Lane, London, EC3R 7NQ ■ Registered in England No 2908444

(11) Application No: PAP/2017/0548

North Warwickshire Borough Council Flats, Long Street and Welcome Street, Atherstone,

Renew windows and external wall insulation, for

North Warwickshire Borough Council

Introduction

The application is brought to the Board given that the Borough Council is the applicant and owner of the dwellings.

The Site

The flats are located along Welcome Street and with a frontage to Long Street – see Appendix A.

The eighteen flats are divided into three, three storey blocks – one facing Long Street and the other two facing Welcome Street. The one facing Long Street has an optician, a dentist and a barbers shop at ground floor. This block is presently faced with a grey render on all four elevations and have some plastic sheeting on its front elevation – see Appendix B

The fronts of the blocks in Welcome Street are faced in tile hanging and timber louvered panels. They have facing brickwork to their side elevations and tile hanging and some yellow plastic sheeting to their rear elevations - see Appendix C.

The Proposals

New external wall insulation is proposed for all of the three blocks. This effectively is to apply new insulation and face it with a rendered finish. All existing windows would also be replaced in like for like upvc.

The block fronting Long Street would have a light cream finish to its front, side and rear – see Appendix B.

The ones facing Welcome Street would be half mid-brown and half cream on their front elevation and rear elevation, retaining the brick side elevations–see Appendix C.

The proposal is part of a scheme to improve energy and thermal efficiency and to assist in carbon reduction. It is part of a UK plan to reduce carbon emissions by 2050 and relates to the existing housing stock. Similar schemes for wall render have been approved within the Borough and a small number of private houses on estates have already has similar works undertaken.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW10 (Quality of Development), NW11 (Renewable Energy and Energy Efficiency) and NW12 (Development Considerations)

Saved Policies of the Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design) and ENV10 (Energy Generation and Energy Conservation)

Other Material Planning Considerations

The National Planning Policy Framework 2012

The Atherstone Conservation Area Designation Report

Consultations

Atherstone Town Council – No objection

Atherstone Civic Society – 'Grey' is at odds with the other colours on the neighbouring buildings. A Yellow/Sandstone would be better to tie in with the adjacent buildings. The panels under the windows are to be covered with the same colour render. If this was the choice would it be an idea to retain the window feature below and pick it out in a complimentary colour. It would be better there was a colour near to a sandstone, rather than yellow it would be more fitting and matching the façade of the Old Swan PH. The flats with the two colours and the darker shade highlighted in an inverted 'L'. I think that this would work if the 'yellow' colour was more of a sandstone shade.

Representations

One neighbour comments that the colour choice for this render is not in keeping.

Observations

a) Introduction

There is no objection in principle to the proposal for external wall render to improve the thermal efficiency of these flats. The proposal will reduce energy consumption, which is in accordance with the thrust of the Council's adopted Core Strategy and in particular policies NW1 and NW11. The saved local plan also encourages energy conservation. The proposal is consistent with the principles and guidance set out in National Planning Guidance to reduce the carbon footprint of homes. The main consideration is therefore the impact on the Conservation Area and on the street scene.

b) Design and appearance

The existing arrangement to the Long Street block is of a grey rendered unit which appears "worn" and doesn't add to the street scene. Whilst it is not presently possible to rebuild the unit or to alter the fenestration design, the new rendered finish would go some way to improving the overall situation. There is a significant degree of rendered units in this part of Long Street and the colours include white, cream and magnolia. The photographs of the existing and proposed appearance of the buildings are illustrated at Appendices B and C.

The Welcome Street alterations would be introduce two different coloured renders so as bring a degree of variety, whilst replicating the existing differentiation of materials. – Appendices C.

c) Heritage Impact

Given the current appearance of the buildings, then the proposed scheme would be considered an enhancement of the character and appearance of the Conservation Area. It does not detract from it and given the existing situation, the scheme would give rise to some betterment and not cause substantial harm. There would however be a public benefit in respect of the better insulation and energy conservation measures so introduced.

Recommendation

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

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 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the photomontage and site location plan received by the Local Planning Authority on 5 October 2017 and the technical information and the classification of reaction to fire performance received by the Local Planning Authority on 16 October 2017.

REASON

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

3. The silicone render finish shall be mid-brown and light cream contrast to the elevations required by the photomontage in Condition 2. The finished render colour shall be maintained. The finish to Long Street shall be in light cream to all elevations.

REASON

In the interests of the amenities of the area and the building concerned.

Notes

1. 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.

2. 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>

3. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre application discussions and quickly determining the application. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0548

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	5.10.17
2	Agent	Technical specifications	16.10.17
3	Neighbour	Representation	16.10.17
4	Atherstone Town Council	Representation	20.10.17
5	Atherstone Civic Society	Representation	26.10.17

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



Appendix B

Long Street flats Existing appearance:



Existing front elevation in light grey



Existing side and rear elevation in grey

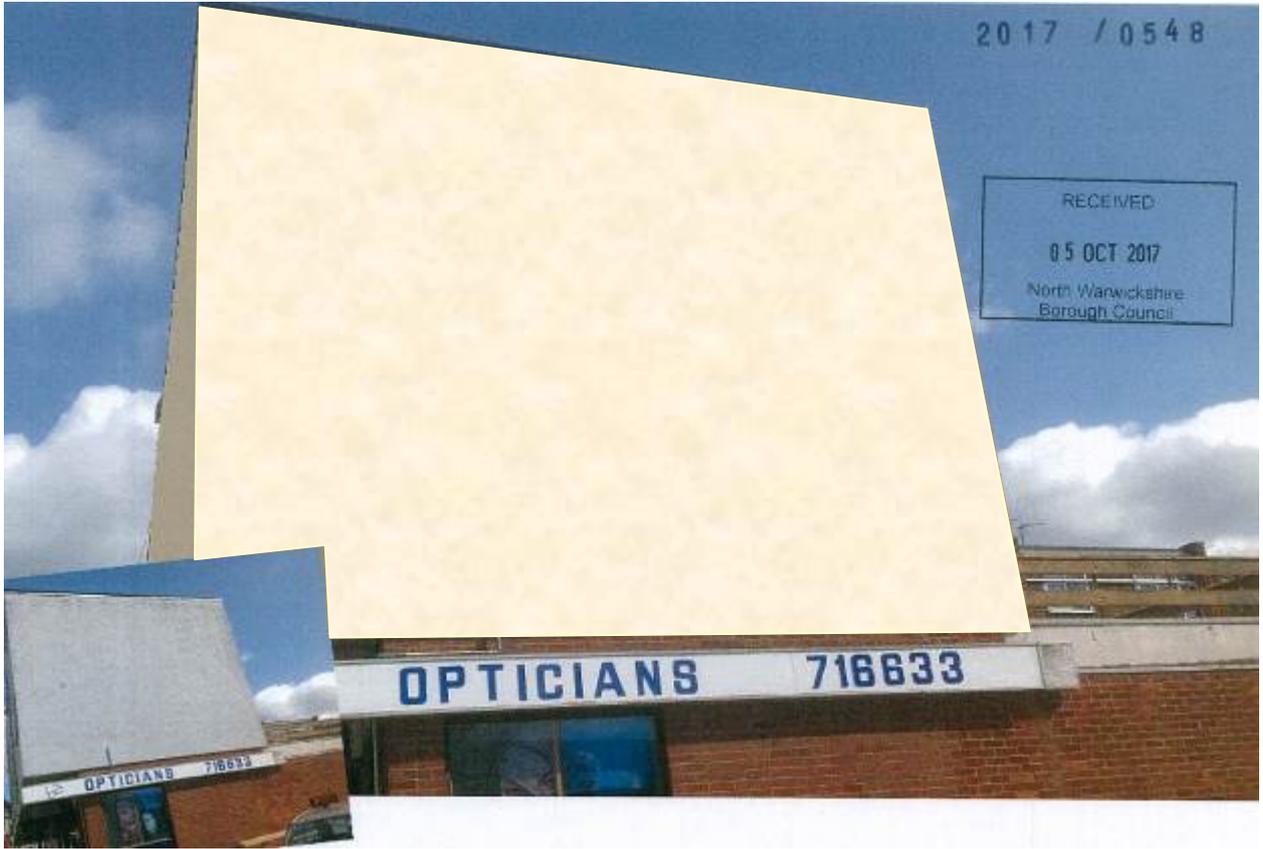
Long Street Flats Proposed:

Rear/front and side elevation of Long Street flats to be finished in a light cream rendered effect insulation:



2017 / 0548

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Appendix C:

Welcome Street Flats Existing:



Existing rear elevation with tile hanging and plastic sheeting



Welcome Street Road Frontage: Existing tile hanging and timber louvre effect.

Welcome Street Flats: Proposed



Proposed rear elevation with a contrast light cream and mid brown rendered effect external wall insulation



Proposed front elevation in contrast cream and mid brown render effect external wall insulation

(12) Application No: PAP/2017/0554

51, Long Street, Atherstone, CV9 1AZ

Retrospective application for change of use from shop to Heritage Centre with small sales area, for

The Friends Of Atherstone Heritage

Introduction

The application is reported to Board as a Local Member has submitted the application on behalf of the applicant.

The Site

The site is located within the Development Boundary, Conservation Area and Town Centre Boundary for Atherstone. It comprises a shop unit on the southern side of Long Street. The location of the site is available at Appendix A.

The Proposal

This is a retrospective application to retain a change of use from a shop to a Heritage Centre with a small sales area and a new shop front design.

Background

The unit was previously used as a retail/commercial space known as Georgina's. The use of the heritage centre has been in situ for a short time and therefore would change the use of the unit from A1 (retail) to D1 (a non-residential institution). The nature of the heritage centre is for the display of goods associated with the industrial heritage of Atherstone, particularly in connection with its hat factories as well as the display of other heritage artefacts attributed to the local area such its mining and canal heritage. The unit also provides a small ancillary sales area with souvenir goods and so retains an element of "retail" use.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW10 (Development Considerations), NW12 (Quality of Development), NW14 (Historic Environment) and NW18 (Atherstone)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV15 (Heritage Conservation), ECON3 (Protection of Existing Employment Sites and Buildings Within Development Boundaries) and ECON5 (Facilities Relating to the Settlement Hierarchy)

Other Relevant Material Considerations

The National Planning Policy Framework 2012 (NPPF)

Representations

Atherstone Town Council – No objection

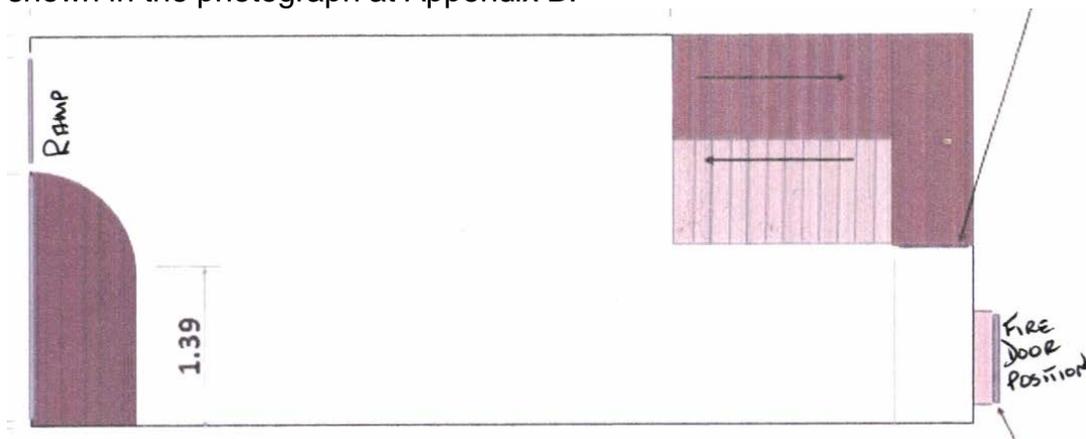
Observations

The site is within the Town Centre Boundary and the Atherstone Conservation Area. The building currently has an authorised A1 use but is already in use as D1. There is no permitted development change from retail A1 to non-residential institution D1, so the retrospective use requires a planning permission. The main consideration is whether the principle of the use is acceptable in a town centre location and whether any implications such as the impact of the use on amenity and the setting of the Conservation Area or whether any design or parking issues would arise.

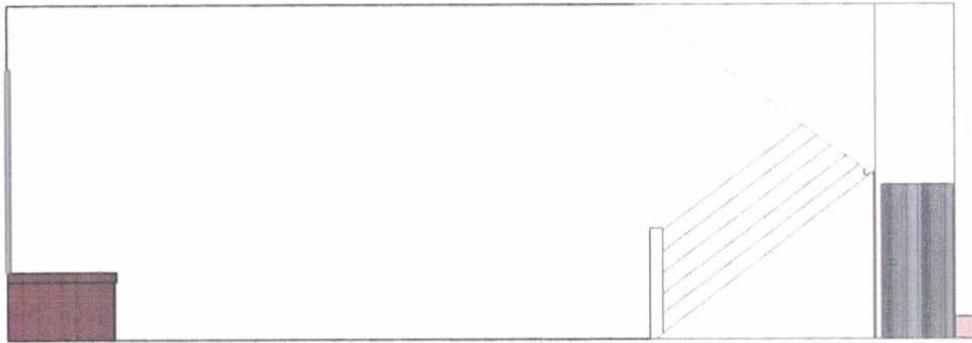
a) Principle

The use does result in the loss of a retail unit within the core retail frontage of Atherstone, and a non-retail use would not normally be supported in the core retail area. However given there are vacant retail units in Atherstone, such as those along Church Street and given there are other D1 uses within the immediate vicinity such as the library and memorial hall for example then it is not unusual that D1 uses should operate within a town centre location. In the case of No. 51 Long Street the Heritage Centre has direct association with a former hat factory which is located directly to the rear of the application site. The principle use is a heritage centre for the display of items associated with the town's industrial heritage as well as North Warwickshire's wider heritage such as mining and canal heritage. The unit will retain an ancillary retail element for the sale of souvenirs.

The use would take up the entirety of the ground floor of the shop floor. The use would extend to the first floor for storage space and for a meeting room. The arrangement to the unit is illustrated below and the former and present appearance of the shop is shown in the photograph at Appendix B.



Ground floor plan



Section plan

The use of the unit as a Heritage Centre with ancillary retail sales is not considered to be detrimental to the functioning of the Town Centre as it is not competitive with other retail uses. Along Long Street there is a vibrant mix of retail and cafes as well as other minor uses such as D1, including the Memorial Hall, library and training/education units. The D1 use in this unit would not be negative on the range or quality of employment sites available in the settlement concerned as Long Street has a thriving retail economy given the variety of uses.

Overall, given the sites location, the nature of its neighbours being a mix of retail, hairdressing, shops and food outlets and in respect that the proposal re-uses a vacant building in a sustainable location, then the principle of the use is entirely appropriate for this site. Moreover in policy terms it would also fully accord with section 2 of the NPPF which amongst other commercial uses seeks for town centres to also provide tourist, cultural and community development in town centres which encourages making appropriate use of vacant buildings.

b) Amenities

The use is not considered to impact on the amenity of the neighbouring occupiers. This is because the neighbouring business uses are not affected by the Heritage Centre as it is not of a use which causes a disturbance. The opening hours generally match those of the uses along Long Street.

c) Conservation and Design

The change of use will facilitate a new shop front which will be beneficial in that the existing modern shop front would be replaced by an improved timber shop front design, where the entrance door would be altered to comply with DDA guidance. Therefore the shop front design will be an enhancement on the Conservation Area. The revised shop front design is available at Appendix C.

d) Vehicular parking

Given that the use is located within the town centre then the requirement for parking to serve the use is not required. The site is located within a sustainable settlement and therefore the majority of users would be locals on foot, who may be using sustainable modes of transport to access the town centre or who may park their vehicles within the designated parking areas within Atherstone.

Summary

The re-occupation of a vacant unit by the Heritage Centre is given significant weight particularly in a town centre with a variety of uses and enables an enhancement to the setting of the Conservation Area particularly with a new shop front design and therefore no harm occurs to the Heritage Asset as there is a public benefit in providing the Heritage Centre for tourism purposes. The change of use is therefore considered to accord with the relevant policies of the Core Strategy and the National Planning Policy Framework.

Recommendation

That the application be **GRANTED** subject to the following conditions

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 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The development hereby approved shall not be carried out otherwise than in accordance with the proposed layout plan, Heritage Statement, site location plan and proposed shop front design details, received by the Local Planning Authority on 6 October 2017.

REASON

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

3. The design of the shop front hereby approved shall be finished in timber and painted in a neutral colour finish.

REASON

In the interests of the amenities of the area.

INFORMATIVES

1. 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.

2. 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 www.communities.gov.uk/publications/planningandbuilding/partywall.
3. The applicant is reminded that an application for the purposes of building Control is also likely to be required and you can contact Building Control on 02476 376144.
4. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.
5. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through discussions seeking to resolve planning objections and issues. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

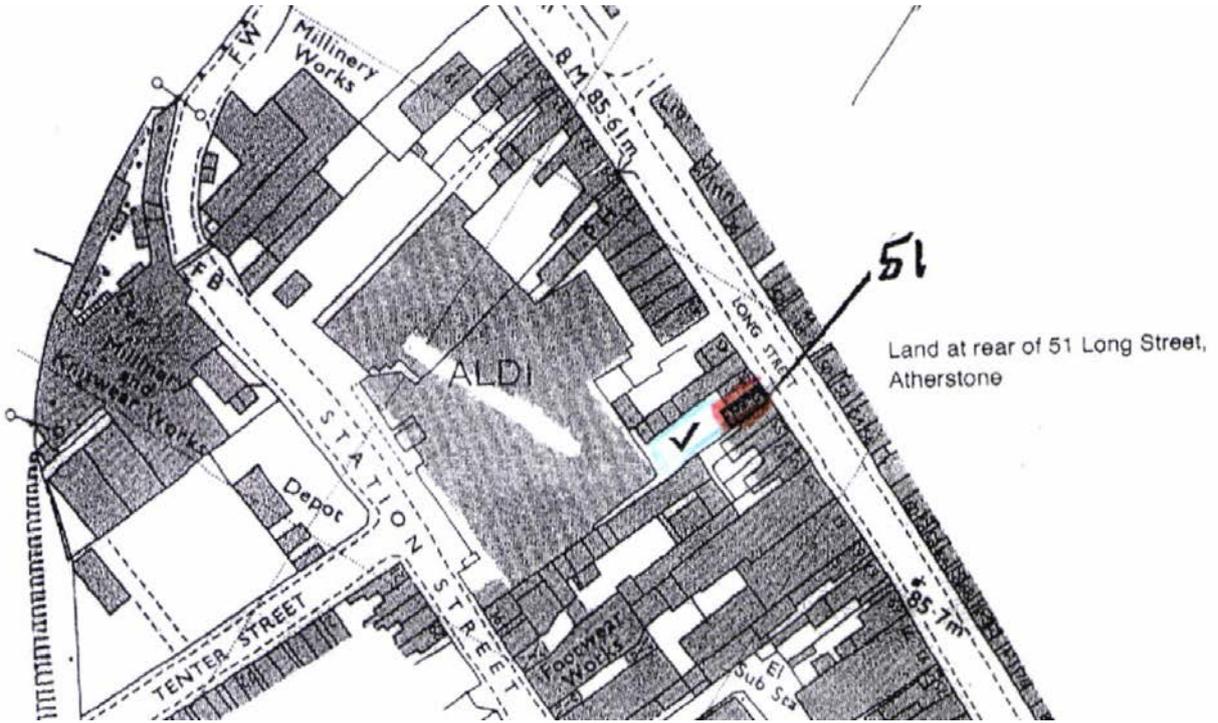
Planning Application No: PAP/2017/0554

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	6/10/17
2	Atherstone Town Council	Representation	16/11/17

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.

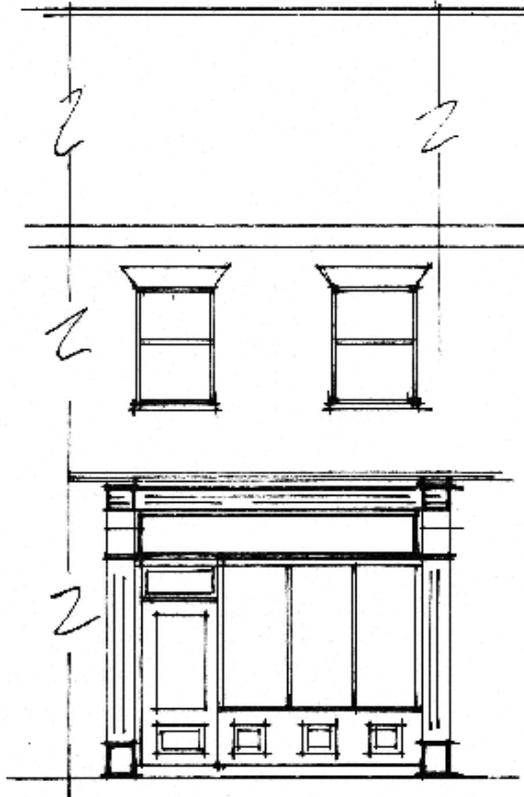
Appendix A



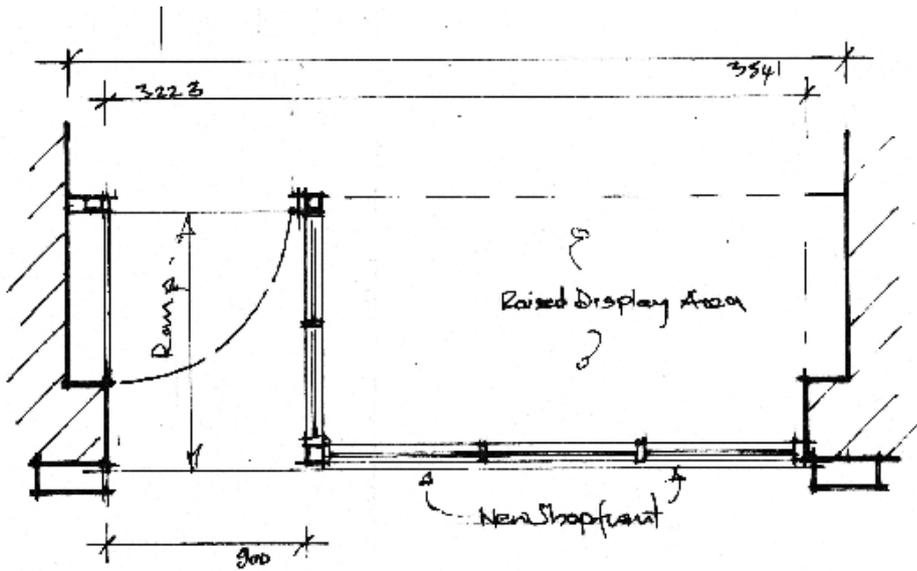
Appendix B



Appendix C



Proposed Shopfront Variation



Proposed Shopfront Plan 1/20

(13) Application No: PAP/2017/0561

Charity Farm, Main Road, Baxterley, CV9 2LN

Retrospective application for change of use for extra caravan storage and erection of CCTV camera, for

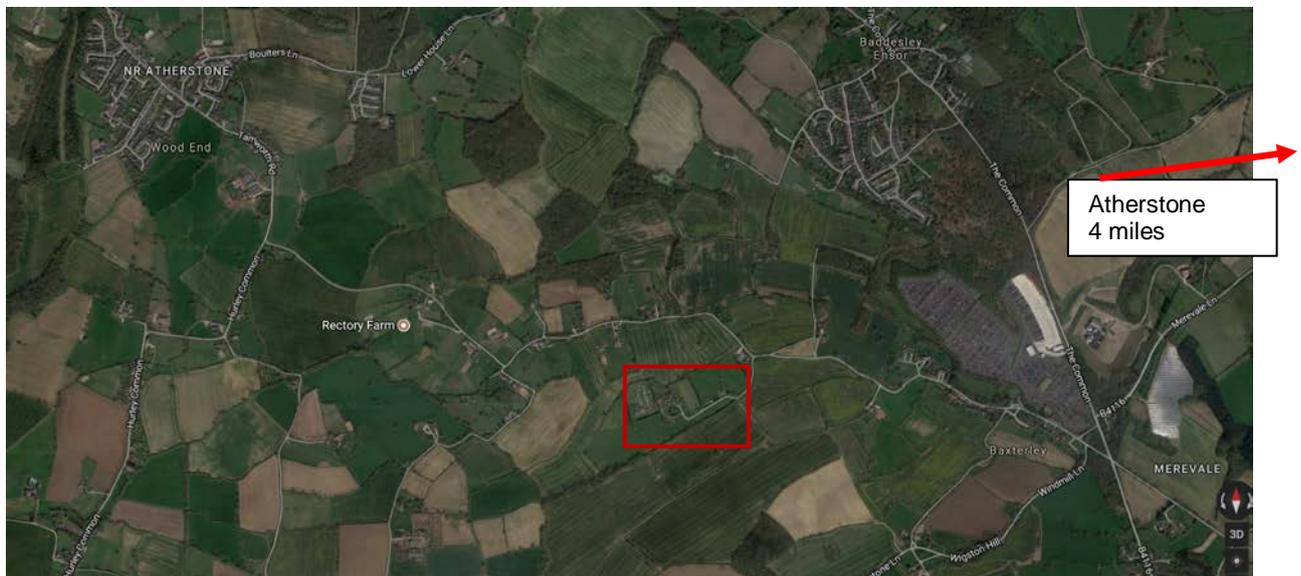
Mrs Ann Broomfield

Introduction

This site has been the subject of a planning history which has involved the Board on several occasions. This application follows an enforcement complaint and for this reason the matter is reported to the Board for determination.

The Site

Charity Farm is an agricultural smallholding of approximately 16 hectares in area, situated approx. 2km west of Baxterley. It is accessed off Main Road which links with the village of Wood End. The site lies outside of a development boundary with the nearest large settlement being Atherstone, some 4km to the east. The area is set within open countryside outside of a defined development boundary, but not within Green Belt. The main complex of Charity Farm is central within the holding and connected via an unmade track to the lane that provides access to Main Road. A public footpath (reference AE80) abuts the northern boundary of the field which this application is subject to.



Site Location

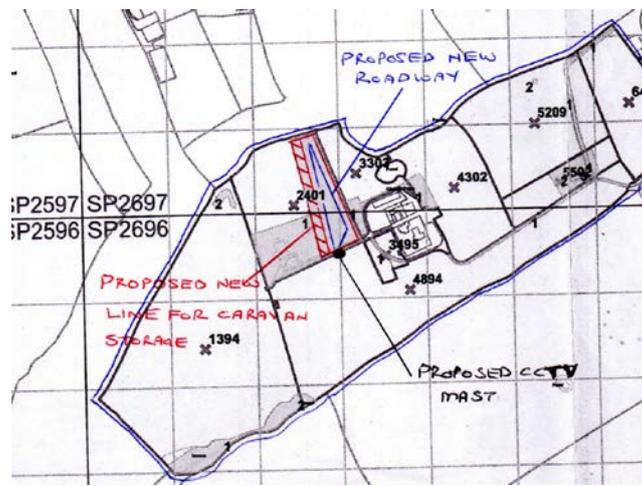
The site comprises of pasture land and many field boundaries characterised by tall hedgerows. Within the centre of the site lies the original Grade II Listed Farmhouse and associated outbuildings, now disused with a replacement modern farmhouse situated to the south. There a number of cabins, barns and collectables within this central area. To the east of the main central area lies a field, bounded by Leylandi along the west boundary and hedgerows to others. Part of this field is used for the storage of containers and caravans. Two hangars lie to the west of the site. A strip of grassed area

lies to the south of the site that was used as an airstrip. To the rear of the two hangars at the west of the site lies a field used for storage of caravans. The caravan storage use within this field was established under the appeal of an enforcement notice allowed in March 2003 under reference APP/R3705/C/02/1096610 following the refusal of planning application reference PAP/2001/7074 and subsequent enforcement action to regularise the site.

Site visit photos of the site can be seen in Appendix A.

The Proposals

The application seeks the retention of the retrospective change of use of land for extra caravan storage, construction of a self-draining roadway and the erection of a CCTV camera mast to a height of 6m. This application is submitted following an enforcement complaint.



Proposed Block Plan

Background

Relevant Planning Site History

CASE REFERENCE	DEVELOPMENT DESCRIPTION	DECISION
PAP/2017/0348 & PAP/2017/0347	Erection of a temporary plant room to house the incoming electric isolators/meters	LBC Granted 24.08.2017 FAP Granted 24.08.2017
PAP/2015/0398	Installation of a 50kw ground mounted photovoltaic array	Granted 17.08.2015
PAP/2012/0555	Retention of additional hangar building for the storage and maintenance of aircraft using the adjacent aerodrome, and change of use of land to provide a connection between the aerodrome and the building	Granted 27.02.2013
PAP/2010/0245	The erection of a building for the storage of recreational light aircraft	
PAP/2008/0622	Variation of conditions No:2 & no: 4 of PAP/2005/5077. Condition no: 2 to allow more than 6 aircraft to be based at Charity Farm at any one time & condition no: 4 to allow one autogyro to use the airfield	Granted 3.02.2010

PAP/2008/0225	Demolition of existing buildings and erection of garage, stable & open store	Granted 26.06.2008
PAP/2005/5077	Change of use of pasture land to airfield	Granted 11.01.2006
PAP/2004/9405	New lobby formed by enclosure of small courtyard	Granted 7.01.2005
PAP/2001/7074	Continued use of land for caravan and container storage.	Refused 19.12.2001 Subsequent enforcement complaint – appealed and allowed.
HIS/1900/8469	Change of use from redundant farm buildings to design and development of technical plastic components.	10.10.1986

The appeal decision and associated report is located at Appendix B

Representations

Baxterley Parish Council – No comments received.

No third part comments have been received

Consultations

Warwickshire County Council as Highway Authority – No objection subject to conditions. The full comments are at Appendix C.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV14 (Access Design); and TPT3 (Access and Sustainable Travel Transport)

Other Relevant Material Considerations

The National Planning Policy Framework – (NPPF)

National Planning Practice Guidance

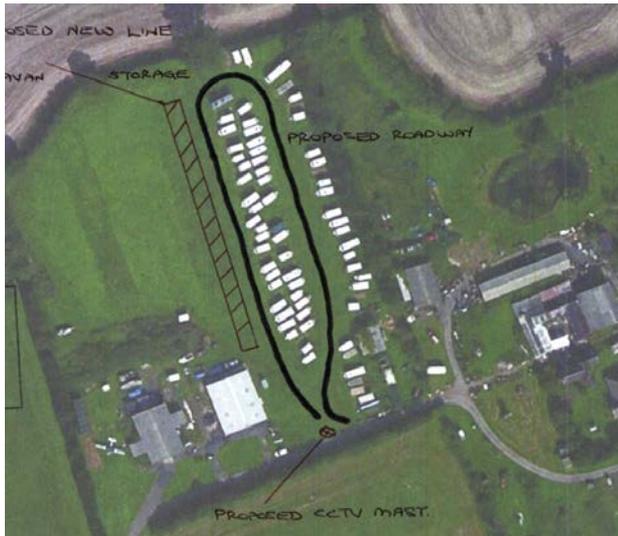
North Warwickshire Landscape Character Appraisal 2010

Observations

Taking into account planning policy and other material planning considerations, the key consideration in the determination of this application would be the principle of the development and the impact upon the character of the area.

a) Principle of development

Planning permission was allowed through appeal made against an enforcement notice (reference APP/R3705/C/02/1096610 see Appendix B) in 2003 for a mixed use comprising agriculture with the storage of caravans and containers restricted to two specific areas of land. The existing storage use is not part of a formal business or farm diversification scheme at the application site. The principle has been ascertained through a breach of planning control and evidence obtained through the appeal that the use was lawful and immune from enforcement action.



Aerial proposed plan for additional caravan storage



APP/R3705/C/02/1096610
This is the Plan Referred to in
the Decision

21 MAR 2003

the Ordnance Survey Mapping with the

Areas approved under Appeal March 2003

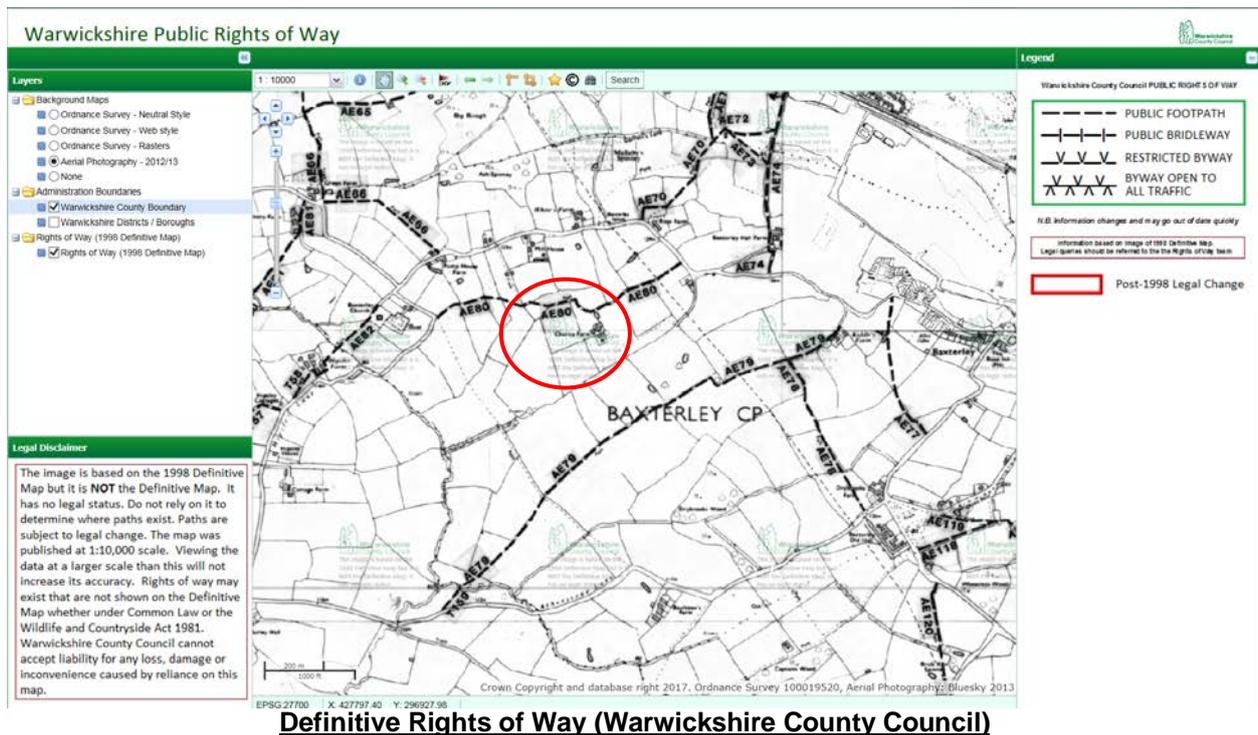
These two specific areas of the application site are shown above (right). The appeal was allowed based on evidence that the storage of vehicles and caravans from since the 1990s could be evidenced during the appeal for a continuous period of ten years and therefore was deemed lawful and immune from enforcement action. It is noted within the report that the storage use was low-key and fluctuated from recollections. The Inspector did not conclude a maximum number at the site that could be stored in the two areas. Officers are satisfied that the existing use at the site is for storage only and that there is not a residential caravan use at the site, which would be subject to density and spacing restrictions.

A further enforcement complaint has been made for the site. This application is in response to this complaint with the use of land outside of the restricted area in question to the rear of the hangar on the west side of the application site.

This application is assessed in light of the current development plan. The principle of the proposal would be assessed under Policies NW2 and NW10 of the Core Strategy, 2014. The site lies within an open countryside location outside a development boundary or a Category 5 settlement for the purpose of Policy NW2 of the Core Strategy 2014. Policy NW2 states that development in settlements without a development boundary will be limited to that necessary for agriculture, forestry or other uses that can be shown to require a rural location. The retention of the retrospective change of use of the agricultural land for the storage of caravans and the proposed self-draining roadway to

serve the existing storage areas would not accord with Policy NW2 of the Core Strategy, 2014.

Paragraph 28 of the NPPF supports sustainable expansion of all types of businesses in rural areas. However Policy NW10 of the Core Strategy, 2014 states that development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy. Point 1 recommends that development should be targeted using brownfield land in appropriate locations reflecting the settlement hierarchy. The expansion of the restricted area for storage is not an appropriate location for the development given the open rural context and contrary to the spatial strategy of the current development plan. Whilst the land in question is not situated within Green Belt, no circumstances have been submitted with the planning application to outweigh the visual harm in the enjoyment of the open countryside of users of the public footpath to the north that abuts the north boundary of the field in question (reference AE80).



b) Impact on visual amenity and rural character

The additional land sought for the change of use for storage purpose and installation of a roadway would not accord with Policy NW12 (Quality of Development). The expansion of the storage area is not considered to improve the character and appearance of the open countryside rural setting and therefore would be contrary to Policy NW12. Furthermore the cumulative impact of the increased storage of caravans within the open countryside would give rise to an unacceptable impact on visual amenity from users of the public footpath to the north reference AE80.

c) Highways Implications

The development would not result in a change to the existing access which currently uses the main access to the farm from Main Road. Warwickshire County Council has considered the development as proposed and is of the opinion that an objection cannot be sustained. It notes that the existing storage use has been in place for circa 14 years in which during that period there have been no recorded collisions between Baxterley

Village and Tamworth Road as a result of a caravan being towed. The comments state that there is visible damage along Main Road, however given that the road is used by farm traffic and given that in some places the road is not wide enough for two-way traffic flows, it would be difficult to ascertain whether the damage is caused by Charity Farm. The comments are appended at Appendix C for further information. Given the lack of a technical objection to the development, it is considered that the development is acceptable in highway safety terms and would therefore comply with Policy TPT3 of the Local Plan, 2006.

d) Other Matters

There is no objection to the proposed erection of the CCTV mast as it is considered to be compliant with Policy NW10 of the Core Strategy, 2014. The erection of the CCTV mast is considered acceptable as it would help to deter rural crime and support the existing use of the area in question.

The application seeks additional space for thirty caravans at the site. Officers consider that given the seasonal use of the storage and that the application has been submitted during winter months, the full use of the land for caravan storage should have reached its potential. No business justification for the requirement of the restricted area to be expanded at this time has been submitted by the applicant

e) Conclusion

In light of these observations, having considered the relevant planning policies and all other material considerations, it is considered that the proposed development is inappropriate on its planning merits and that the adverse impact on the environment would far outweigh the benefit of supporting the scheme. The proposal is contrary to Policies NW1, NW2, NW10 and NW12 of the Core Strategy, 2014. This application is a retrospective one and therefore if Members are minded to support this application, the expediency of the issue of an Enforcement Notice becomes necessary.

f) Enforcement

Given the recommendation, the Board, if it agrees to this, will also have to consider whether it is expedient or not to authorise enforcement action. This would require the removal of the caravans stored outside of the approved area. This would not involve significant or unusual resources. The main issue would be the cessation of the site by several caravan owners and the subsequent need for them to remove vans. A compliance period of six months should be sufficient for this.

There will be no cost to the applicant here to remove the storage of the caravans from the area indicated. In addition it is noted that there is an ample area to accommodate this storage across the two field locations that currently benefit from permission for the lawful storage of caravans and containers. It is considered there would be no cost attributed to moving the caravans and neither would it have any other adverse consequences. As indicated earlier there is no evidence submitted that indicates that an existing business or use would be significantly or financially disadvantaged.

The owner has the right of appeal against both a refusal and the issue of any Notice.

Recommendations

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

By reason of siting, it is considered that the proposed development would harm the visual character of the area and would fail to protect and enhance the open rural character of the area contrary to Policies NW2 (Settlement Hierarchy), NW10 (Development Considerations), NW12 (Quality of Development) and NW13 (Natural Environment) of the North Warwickshire Core Strategy 2014

B) That, for the reasons given in this report, the Assistant Chief Executive and Solicitor to the Council be authorised to issue an Enforcement Notice requiring the removal of the caravans stored outside of the restricted area as given express consent under appeal reference APP/R3705/C/02/1096610 subject to a compliance period of six months.

Notes

Notwithstanding this refusal, the Local Planning Authority has worked with the applicant in a positive and proactive manner. However the planning issues at this site cannot be satisfactorily addressed. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0561

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Form	13.10.2017
2	The Agent	Photograph showing caravans and CCTV	13.10.2017
3	Warwickshire County Highways Authority	Consultation Response	8.11.2017
4	Planning Officer	Correspondence to agent to obtain site location plan and block plan	13.11.2017
5	The Agent	Ordnance Survey Received	16.11.2017
6	Planning Officer and Agent	Correspondence and clarification of red line area	21.11.2017
7	The Agent	Block Plan	27.11.2017

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

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

Appendix A – Site Photos



Existing caravan storage at the site looking north



Existing caravan storage central strip looking north



Unauthorised storage (Right) and hangar in distance looking south.



Eastern extent of field with central strip to right



Rear of unauthorised storage strip with tall hedgerows to rear





Appeal Decision

Inquiry held on 4th and 5th March 2003

Site visit made on 5th March 2003

by **B C Wilkinson** DipTP BEng MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
409 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date **21 MAR 2003**

Appeal Ref: APP/R3705/C/02/1096610

Charity Farm, Main Road, Baxterley

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr K Broomfield against an enforcement notice issued by North Warwickshire Borough Council.
- The Council's reference is ENF52/2001 and 1224/2001.
- The notice was issued on 5th July 2002.
- The breach of planning control as alleged in the notice is the unauthorised change of use of land from agricultural use to use for the storage of containers and caravans.
- The requirements of the notice are to cease the use of the land for the storage of containers and caravans and to remove them from the site.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (d) and (f) of the 1990 Act.

Summary of Decision : The appeal is allowed following correction of the notice in the terms specified in the Formal Decision below.

Procedural Matters

1. In addition to the grounds of appeal cited above it has also been argued that the enforcement notice is invalid. I deal with this before the grounds of appeal.

The Appeal Site

2. The appeal site is an irregularly shaped area of land in open countryside to the south of Atherstone. Much of the land, almost 16 Ha in extent, is down to pasture and many of the field boundaries are tall hedges. Towards the centre is the original farmhouse, now disused and replaced by a modern dwelling close by. Also in this central area are a number of buildings and cabins, some used in connection with the appellant's business and others put to a variety of purposes. A hangar holding several light aircraft stands in a field in the western half of the site, and along the site's southern boundary is a grassed area which has in the past been used as an airstrip. Except for the presence of a windsock I saw no signs, during my site visit, that this airstrip was in current use. In various parts of the site were numerous examples of caravans, containers, vehicle parts, military vehicles, cars and items of what appeared to be scrap metal and machinery.

The Validity of the Notice

3. The appellant suggests that the notice's requirements do not make it clear whether what is needed is to remove the caravans and containers from the site as a whole, that is the area edged red on the plan attached to the notice, or simply from the areas edged blue. The problem arises because the phrase used in Section 5 is "from the site" whereas the area

edged red is defined within the notice as "the land". At the inquiry the Council confirmed that their intention was that the structures should be removed from the whole of the land edged red, but I consider that it is impossible to tell from the notice itself which interpretation is correct. In this respect the notice is unsatisfactory.

4. The notice alleges a change of use of "the areas of land edged blue", but at the inquiry the Council indicated that they felt that this should be read as referring to the whole of the land as defined in the section of the notice headed "The Land Affected". However, if that interpretation is accepted the notice incorrectly defines the use of the site. It is not in dispute that the site as a whole includes lawful elements of not only agriculture, as the notice indicates, but also residential and industrial uses. If the alleged change of use is interpreted as referring solely to the blue-edged areas then the notice means, in my view, that the structures should be moved only from those areas and not from the site as a whole. This would result merely in the removal of the structures from one part of the appellant's land to another which would be contrary to what the Council intended and would, frankly, make little sense in planning terms.
5. On the basis of these matters I am satisfied that the notice is certainly unsatisfactory and may be invalid. I do not intend to decide which, because I take the view that in either case I can, without injustice, alter the notice to limit its effects to the areas edged blue on the plan. This would not alter the nature of the arguments at the inquiry or the relevance of most of the evidence submitted.
6. There is one final matter which it is convenient to mention here, even though it anticipates, to some extent, my determination of the appeal on Ground (d). For reasons given below I consider that the boundaries of the blue areas do not accurately reflect the areas upon which the storage of caravans and containers has taken place. However, both parties at the inquiry agreed that I could, without injustice, correct the plan to reflect this matter.
7. I shall therefore alter the notice in the following respects :
 - i) By changing the definition of "the land" in Section 2;
 - ii) By altering the boundaries of the blue areas in the plan attached to the notice;
 - iii) By making minor changes to the wording of Section 3.

I shall determine this appeal on the basis of the notice as altered.

The Appeal on Ground (d)

8. The appellant purchased and took occupation of the site in 1987 and from the outset he moved onto it caravans and containers, initially to accommodate household effects and the various vehicles and items of machinery he collects as a hobby. When he moved his business to the site in about 1989/90 some containers were also used in connection with this. However he has also related how, from before 1990, he allowed other people to store touring caravans on the site for a small charge, and rented out containers to other people and organisations to use as storage facilities. He maintains that these last two uses of the site have continued since that time without significant break.
9. His evidence was generally supported by evidence given, on oath, by 8 people at the the inquiry. I was told, and I do not doubt, that these were selected to give a cross-section of

the site's use over the period of the appellant's occupation. Whilst different people gave evidence on different aspects of the site's use, almost all of them had clear recollection of caravans and containers being stored on the site for many years. A range of locations for such storage was referred to but there was a degree of consensus that certain parts of the site were regularly used, an area slightly larger than but including the areas edged blue on the enforcement notice plan.

10. Some of these witnesses gave evidence of making regular payments to the appellant for a number of years in respect of the storage of their own touring caravan on the site. Others described their use, on a similar basis, of containers to store equipment. I noted in particular one witness who ran a mediaeval re-enactors' society and had stored his equipment for many years in a container on the appellant's land. Others shared the appellant's interest in flying and had visited and attended several rallies at the site over the years. The evidence given by all of these witnesses remained substantially unshaken by cross-examination and, whilst recollections as to numbers and locations varied, the picture they drew was generally consistent.
11. Letters from several people who did not attend the inquiry gave evidence generally consistent with those who did attend. I noted one from a former employee of the appellant who gave evidence of regular and long term storage of both containers and caravans. The appellant also submitted two documents demonstrating the purchase of containers in 1987 and 1996, and an account for the renting of such a container in 1997.
12. A portfolio of photographs was submitted on behalf of the appellant and gave substantial support to his case. These were taken at a range of dates from 1986 to very recently and a number were aerial photographs taken from light aircraft using the site. Almost all showed caravans and containers on the site, sometimes in considerable numbers. Whilst it was conceded that some of these photographs were taken at the time of rallies, when a number of caravans would be there on a temporary basis, others gave clear evidence of both caravans and containers stored in the same position over a lengthy period.
13. No-one other than the Council spoke against the appellant at the inquiry, but I have seen several written representations opposing the development. Some of these related to planning merits but about three indicated that the site had only been used for the purposes alleged for a few years, certainly less than 10. However, the reliability of recollection of at least two of these representations is undermined by their insistence that no containers were on the site before the mid-nineties, when it is plain from reliably dated photographs that at least some were there before 1990.
14. The Council did not adduce much first-hand evidence as to the site's use, and submitted no significant documentary evidence. Their main evidence was negative, namely that in more than one visit to the site in the early nineties, and possibly before, council officers had never recorded the presence of either caravans or containers. Their arguments against granting an appeal on Ground (d) were based upon two main premises. The first was that the appellant had failed to provide enough firm evidence to demonstrate 10 years use, the second that the witnesses for the appellant gave evidence which was not only contradictory but insufficient to demonstrate the continued use.
15. The appeal site is put to a variety of uses and contains very many vehicles, caravans, containers, items of machinery and a miscellany of other items. Some of these are connected with the appellant's numerous hobbies, some his business, some the former farm,

and the provenance of others is hard to determine. There seems to be little system in the manner in which they are positioned within the site. The appellant indicates that containers tend to be brought to the site only infrequently, but once there remain in the same place for long periods. This is consistent with photographic and other evidence and I see no reason to doubt what he says. On the other hand the number of caravans tends to fluctuate considerably, partly with the seasons but also due to the holding of various kinds of rally on the site. The latter sometimes involve many people staying in caravans on the site for periods not much longer than a weekend.

16. Given this pattern of use it is quite conceivable that different people recalling a period of 10 years or more would tell of different aspects of the site's use, and make differing estimates as to the number of containers and caravans present. It could also explain why an infrequently visiting council officer might not detect or record a systematic change of use of part of the site within the plethora of temporary uses, lawful uses, and vehicles and machinery scattered about the area. Finally it leads to my rejection of the suggestion that there has been a change of use of the site due to intensification. Whilst the numbers of caravans has fluctuated, there is no evidence of an overall increase in the year on year intensity of this use sufficient to be material in planning terms.
17. I recognise that no witness gave evidence to cover all of the necessary factors, and the whole period involved in this appeal. I accept, too, that some of the evidence given may have been coloured by people's liking and respect for the appellant and the numerous charity functions he supports and provides facilities for. Nevertheless I found the evidence in his favour to be generally substantial and persuasive, in contrast to the evidence against which had very little substance. I make no criticism of the Council in this regard because, as I have explained, the circumstances of this site must have made the assessment of its planning status extraordinarily difficult. Nevertheless I conclude, on balance and as a matter of fact and degree, that the site was used for the purposes alleged in the corrected notice for more than 10 years before that notice was served. I am also satisfied, on the basis of photographs and submissions, that the area of this use is slightly more than that indicated on the plan accompanying the enforcement notice.
18. I conclude on the evidence that the appeal on Ground (d) should succeed in respect of those matters which, following the correction of the notice, are stated in it as constituting the breach of planning control. In view of the success on legal grounds, the appeal on the remaining grounds and the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

Formal Decision

19. In exercise of the powers transferred to me, I direct that the enforcement notice be corrected:
 - (i) By the substitution of the plan annexed to this decision for the plan attached to the enforcement notice;
 - (ii) By substituting, in Section 2, the word "blue" for the word "red";
 - (iii) By the deletion, in Section 3, of the words "use for the storage of caravans and containers" and the substitution therefor of the words "a mixed use comprising agriculture and the storage of caravans and containers";

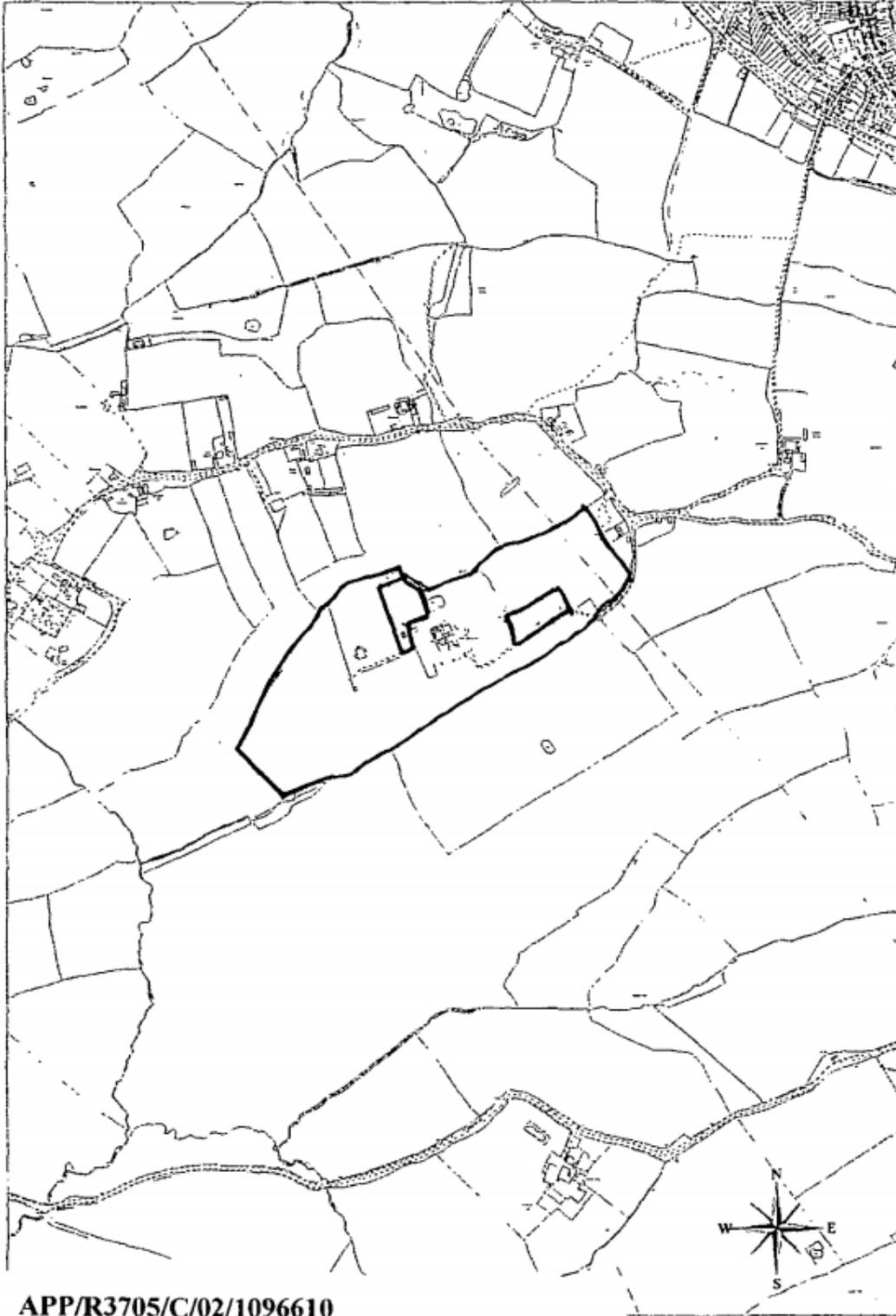
20. Subject to these corrections I allow the appeal and direct that the enforcement notice be quashed.

Information

21. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

A handwritten signature in black ink, appearing to read "B. C. Williams". The signature is written in a cursive style with a horizontal line underneath the name.

Charity Farm, Main Road, Baxterley



APP/R3705/C/02/1096610
This is the Plan Referred to in
the Decision

21 MAR 2003

the Ordnance Survey Mapping with the

Appendix C – WCC Highways Response Received 8th November 2017

Your ref: PAP/2017/0561
My ref: 170561
Your letter received: 24 October 2017



Mr J Brown BA Dip TP MRTPI
Head of Development Control Service
The Council House
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Transport and Economy

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08 November 2017

Dear Mr Brown

LOCATION: Charity Farm, Main Road, Baxterley
PROPOSAL: Retrospective application for change of use for extra caravan storage and erection of CCTV camera
APPLICANT: Mrs Ann Broomfield

The Highway Authority has the following comments to make in regard to your consultation dated 19 October 2017:

According to the details submitted the extra caravan storage has been in place 14 years. During that period there have been no recorded collisions between Baxterley Village and Tamworth Road involving a caravan being towed.

Damage to the verges along Main Road is evident, but as Main Road is used by farm traffic and commercial traffic, and in some places is not wide enough for two way traffic flows, it could be difficult to say the damage was caused solely by the Charity Farm traffic.

In addition, this office does not appear to have received any information providing evidence demonstrating that the caravan traffic has damaged the fabric of the highway.

However, no details of how the site is operated appear to have been submitted. In the interests of highway safety and highway maintenance a management plan should be in place regulating when caravans can be collected and when they can be dropped off. This could prevent drivers with caravans meeting along Main Road where two way traffic flows are restricted.

*Working for
Warwickshire*

Therefore, the Highway Authority's response to your consultation is one of no objection subject to the following condition:

1. Notwithstanding the details submitted, within 6 months of the date on the Decision Notice full details of a management plan controlling the movements of the caravans shall be submitted to and approved in writing by the planning authority, and the site thereafter shall operate in accordance with the management plan.

Yours sincerely

Tony Burrows
Highway Control Engineer

Copy to; Councillor Mr A Jenns, - Kingsbury, for information only.

(#) Application No: PAP/2017/0568

7, Hawthorn Way, Hartshill, CV10 0XQ

Works to tree protected by a tree preservation order, for

Mr Rory Declan Burdett Hammonds - Climbatize Ltd

Introduction

The application is reported to the Board as the tree concerned is located on land owned by the Borough Council

The Site

Number 7 is a detached house within a frontage of similar houses on the south side of Hawthorn Way, a residential cul-de-sac on the Moorwood Estate in Hartshill. It backs onto amenity land owned by the Council which is the subject of a Tree Preservation Order. The Order includes many trees but the one at the rear of number seven is an Ash tree.

A general site location plan is at Appendix A.

The Proposal

It is proposed to prune branches on this Ash tree that overhang the rear garden and greenhouse of number seven. The pruning would be taken back to the branch collar.

Background

There have been no previous planning applications in regards to this tree which was given protection under the Order referenced 713.030/4, confirmed in March 1993.

Development Plan

The Core Strategy 2014 - NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows)

Hartshill Neighbourhood Plan 2017

Other Relevant Material Considerations

BS3998:2010 (Tree work – Recommendations)

Representations

Hartshill Parish Council – No objection

NWBC Tree Officer – No objection

Observations

To understand the reasoning behind the works requested within this application officers visited the site to meet with the applicant to discuss the concerns that have been raised. The tree within the application does protrude over and into the site address. The owner of the site address does have the common law "Right of Abatement" to remove overhanging branches from trees that are not their own. This legal right must follow full approval from the Local Planning Authority (LPA) if the tree is protected by way of Tree Preservation Order or if it falls within a Conservation Area. This application is required to fulfil this obligation. Following the site visit and discussing the specific concerns with the site owner, the works within the proposal are seen to be minimal and of no harm to the tree within the application. It is also seen that the canopy cover in the immediate area will not suffer by the minimal works and as such the works within the application are seen as reasonably necessary and should be granted.

It is considered that the works are reasonably necessary in the interests of prudent management of the tree within the application given its assured protection by way of the Tree Preservation Order and that the works to the tree will not be harmful to the character of the area. The proposal thus accords with policies NW13 and ENV4.

Recommendation

That Consent be **GRANTED** subject to the following conditions:

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

REASON

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

2. The work shall be carried out by a competent Tree Surgeon.

REASON

To ensure the work is carried out to accepted arboricultural practices to the long term wellbeing of the tree/s.

3. For the avoidance of doubt, this permission is only in relation to the tree mentioned within the application (PAP/2017/0568) and located on the site address (Land at the rear of 7 Hawthorn Way, Hartshill, CV10 OXQ). The works shall be confined to the following;

- Prune overhanging branches on an Ash Tree at the back of the garden of No7 Hawthorn Way. Reduce the 1 main branch and other small branches overhanging the garden and greenhouse back to a suitable growth point or branch collar.

REASON

To ensure that works not permitted are not undertaken without prior approval.

Notes

1. The applicant is advised that any works undertaken on the tree are performed to best practise that relate to the standard of works to trees, the work should be carried out in accordance with British Standard BS 3998:2010 Tree work-Recommendations.
2. The applicant is encouraged to ensure that any tree works and deliveries do not cause nuisance to neighbouring properties and their occupiers. It is recommended that works are restricted to between 0730 and 1800 hours on weekdays, and 0800 and 1300 hours on Saturdays, with no demolition, construction works and deliveries on Sundays or recognised public holidays.
3. Wildlife and Countryside Act 1981 - Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act - in respect of a single bird, nest or egg - is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.
4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through site visits, discussions and positively determining the application. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0568

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	20/10/2017
2	Hartshill Parish Council	Representation	10/11/2017
3	NWBC Green Spaces Officer	Representation	4/12/2017

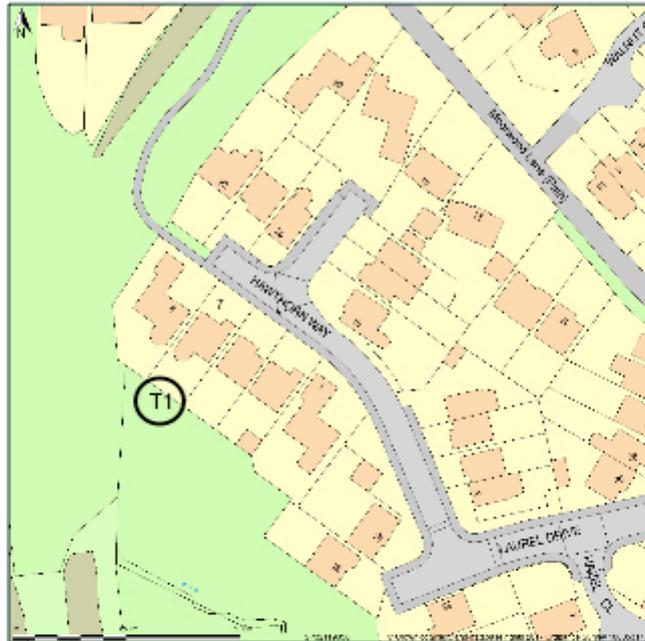
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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.

No. 7 Hawthorn Way, Hartshill, Warwickshire, CV10 0XQ

KEY

T1- Ash
TPO713.030/4.



Site Plan shows area bounded by: 432048.91, 293497.05 432190.33, 293536.48 (at a scale of 1:1250), OSGridRef: SP32119356. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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(15) Application No: PAP/2017/0570

9, Hawthorn Way, Hartshill, Nuneaton, CV10 0XQ

Works to tree protected by a tree preservation order, for

Mr Rory Burdett Hammonds - Climbatize Ltd

Introduction

The application is reported to the Board as the tree concerned is located on land owned by the Borough Council.

The Site

Number 9 is a detached house at the end of a frontage of similar houses on the south side of Hawthorn Way, a residential cul-de-sac on the Moorwood Estate in Hartshill. It backs onto amenity land owned by the Council which is the subject of a Tree Preservation Order. This includes many trees but the one at the rear of number nine is an ash tree.

A general site location plan is at Appendix A

The Proposal

It is proposed to remove two main stems from an Ash tree growing in the woodland area at the rear of number nine whilst retaining one main stem to carry on growing. The Ash tree in question looks to be an old coppice that has been left to grow. Two of the main stems overhang the garden of number 9 and are lean quite heavily over the garden towards the house. The stems of the tree have weak unions which could lead to possible snapping of the stems. There is also possible subsidence to a brick wall in the garden.

Background

There have been no previous planning applications in regards to the tree which was given protection under the Order referenced 713.030/4 and confirmed in March 1993.

Development Plan

The Core Strategy 2014 - NW13 (Natural Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows)

Hartshill Neighbourhood Plan 2017

Other Relevant Material Considerations

BS3998:2010 – (Tree work- Recommendations)

Representations

Hartshill Parish Council – No objection

NWBC Tree Officer – No objection

Observations

To understand the reasoning behind the works requested within this application officers have visited the site to meet with the applicant and to discuss the concerns that have been raised. The tree within the application is one that has formed following the development of unrestricted re-regenerative growth of a previously felled tree. Its formation of three stems conjoined at ground level is one that the applicant has reported has structural integrity concerns by its very nature. Following further inspection these concerns are accepted. The removal of two stems will allow one stem to become the “leader”. This remaining stem will not have the structural concerns noted and will ideally provide canopy cover and amenity value for the future. It is also seen that the canopy cover in the immediate area will not suffer by the loss of the two stems.

It is considered that the works are reasonably necessary in the interests of prudent management of the tree given its assured protection by way of the Tree Preservation Order and that the works to the tree will not be harmful to the character of the area. The proposal is thus in line with policies ENV4 and NW13 as referred to above.

RECOMMENDATION

That the application be **GRANTED** Subject to conditions:

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

REASON

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

- 2 The work shall be carried out by a competent Tree Surgeon.

REASON

To ensure the work is carried out to accepted arboricultural practices to the long term wellbeing of the tree/s.

- 3 For the avoidance of doubt, this permission is only in relation to the tree mentioned within the application (PAP/2017/0570) and located on the site address (Land at the rear of 9 Hawthorn Way, Hartshill, CV10 OXQ). The works shall be confined to the following;
- Remove 2 main stems of an Ash tree growing in the woodland area at the rear of No 9 Hawthorn way, retaining 1 main stem to carry on growing.

REASON

To ensure that works not permitted are not undertaken without prior approval.

Notes

1. The applicant is advised that any works undertaken on the tree are performed to best practise that relate to the standard of works to trees, the work should be carried out in accordance with British Standard BS 3998:2010 Tree work-Recommendations.
2. The applicant is encouraged to ensure that any tree works and deliveries do not cause nuisance to neighbouring properties and their occupiers. It is recommended that works are restricted to between 0730 and 1800 hours on weekdays, and 0800 and 1300 hours on Saturdays, with no demolition, construction works and deliveries on Sundays or recognised public holidays.
3. Wildlife and Countryside Act 1981 - Birds. Please note that works to trees must be undertaken outside of the nesting season as required by the Wildlife and Countryside Act 1981. All birds, their nests and eggs are protected by law and it is thus an offence, with certain exceptions. It is an offence to intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built, or to intentionally or recklessly disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird. The maximum penalty that can be imposed for an offence under the Wildlife and Countryside Act - in respect of a single bird, nest or egg - is a fine of up to £5,000, and/or six months' imprisonment. You are advised that the official UK nesting season is February until August.
4. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through site visits, discussions and positively determining the application. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0570

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	20/10/2017
2	Hartshill Parish Council	Representation	10/11/17
3	NWBC Green Space Officer	Representation	4/12/2017

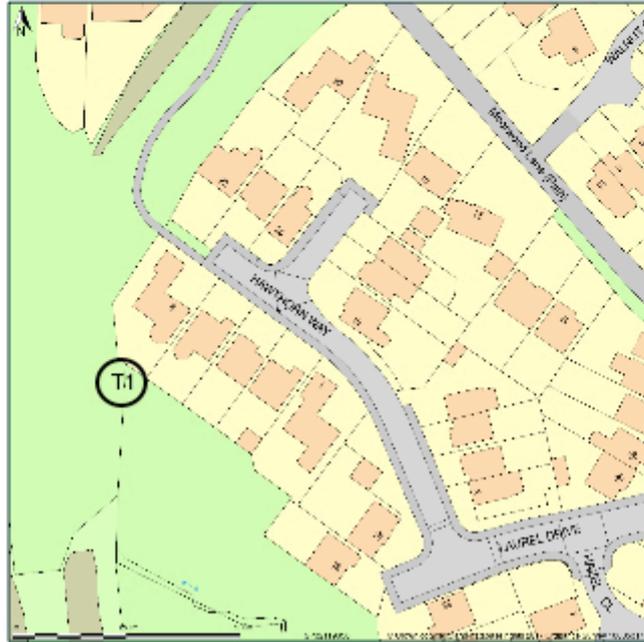
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9, Hawthorn Way, Hartshill, Warwickshire, CV10 0XQ

KEY

T1- Ash
 TPO713.030/4.



Site Plan shows area bounded by: 432048.91, 283497.05, 432190.33, 283536.48 (at a scale of 1:1250), OSGridRef: SP32119356. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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(16) Application No: PAP/2017/0602

Land 160m South Of North Warwicks Sports Ground, Tamworth Road, Polesworth,

Outline - residential development up to 150 dwellings, open space, landscaping, drainage features and associated infrastructure. Detailed approval is sought for principal means of access, with all other matters reserved, for

Ms Zoe Curnow - Taylor Wimpey UK Ltd

Introduction

This application has already been the subject of a pre-application presentation to Members as well as there being local consultation prior to submission through exhibitions in the locality.

It is being reported to Members at this time for information rather than determination. This will provide an opportunity for early consideration of the proposal and its supporting documentation along with an outline of the relevant parts of the Development Plan and other material planning considerations.

The Site

The site extends to some 6.4 hectares of agricultural land bounded on its eastern side by the M42 Motorway – which is in a cutting here - south of the B5000 (Tamworth Road) and immediately east of the residential Stoneydelph area of Tamworth. The North Warwickshire Recreation ground with its playing field, club house and car park, is to the north and there is further open agricultural land to the south. It is generally rectangular in shape and is level throughout its extent with a slight slope towards the south before some residential development is reached in Green Lane with the Relay Park Industrial Estate beyond. It is bounded by field hedgerows with some trees. There is also a frontage of residential development to the north alongside the small cul-de-sac of the former Hermitage Hill. A public footpath – the AE17- runs along its eastern and southern boundary linking this spur road with Stoneydelph.

The site's location is illustrated at Appendix A.

The Proposals

This is an outline application for the erection of up to 150 dwellings. All matters are reserved for later approval except that of access which is proposed off of the spur road referred to above and thence to the B5000.

An illustrative layout is set out on a Master Plan which essentially shows a built area within a green perimeter which would provide the enhanced pedestrian and cycle links into the Stoneydelph area of Tamworth as well as informal open space and a balancing pond as part of the sustainable drainage proposals.

The application identifies the nearest bus stops on the B5000 in the vicinity of the proposed access arrangement (just over 100 metres from the site boundary) and along Chiltern Road; the nearest primary schools of the Three Peaks and Stoneydelph Schools (1.3 and 1.7 km respectively) and the Stoneydelph Health Centre and Pharmacy (1.1 km) . The closest shops are in Stoneydelph (1.4 km).

The application proposes affordable housing provision up to 40% of the total – that would be up to 60 dwellings.

This Plan is attached at Appendix B.

The application is accompanied by a significant amount of supporting documentation. This is summarised below.

An Air Quality Assessment in respect of both the both the construction period and through new traffic generation concludes that the proposal would not breach national guidance.

A Noise Impact Assessment concludes that noise would not be a material consideration in the determination of the application provided that appropriate mitigation measures are taken into account in the design of the new houses.

An Arboricultural Assessment concludes that there are no constraints on the development of the site as a consequence of existing tree or hedgerow cover. No trees will require removal based on the illustrative Master Plan.

A Heritage Assessment points out that there are no designated heritage assets within close vicinity of the site and thus there would be no adverse heritage impacts. However there may be underground interest and thus trial trenching is to take place in line with guidance from the Warwickshire Museum.

An Ecological Impact Assessment concludes that provided standard mitigation measures are followed there would not be any residual significant adverse ecological impacts. The Master Plan would deliver overall enhancement because of the proposed new open space and balancing pond features.

A Ground Conditions Survey finds no unusual or significant features to restrict construction on the site.

A Utilities Assessment describes the existing provision of electricity, gas, foul water and telecomm infrastructure. Consultation with the relevant Agencies reveals that there is residual capacity in the existing gas network but that electricity, water and foul water networks will require reinforcement.

A Flood Risk Assessment and Drainage Statement demonstrates that the site is not at significant flood risk, nor would the development affect surrounding catchments, subject to sustainable drainage measures being implemented. These measures include minimum floor levels and the introduction of surface water attenuation features. The site currently has no foul water connection to public sewers. As indicated above there is likely to be some reinforcement of the existing capacity in this network and a pumping system is likely to be required to connect the site to the network in the Stoneydelph area.

A Transport Assessment concludes that the site is in a sustainable location given its proximity to public transport routes and the existing linkages into the Stoneydelph area. The Assessment concludes that there would be little additional impact on existing junctions.

A Landscape and Visual Impact Assessment concludes that the effect on landscape character would not be significant with effects confined to the site itself rather than the wider geographic area. The visual impact is also said to be self-contained due to the topography of the site; its surrounding boundaries and the overall context. Impacts would be discernible by footpath walkers and the residents of the existing Tamworth Road residents. However these are concluded to be less than significant and would be further mitigated by the additional landscaping proposed.

A Statement of Community Involvement describes meetings with the Trustees of the North Warwickshire Recreational Centre; Polesworth Parish Councillors and local Members together with a public exhibition event at the Recreation Centre. Notification of this last event was given to almost 4000 local residents in Polesworth and Dordon. There were 183 visitors to the exhibition and there were 69 feedback forms completed. Of these the Statement confirms that 65% were returned from people over 50 years of age; that the greatest housing need should be for first time buyers and those with families and that an on-site play area was supported by almost 70% of the visitors. 75% of the respondents opposed or strongly opposed the proposals. The main issues raised were: traffic and access problems; access to facilities and the loss of the Meaningful Gap.

A Design and Access Statement describes how the Master Plan was drawn up using both the opportunities and constraints of the site and its relationship to adjoining land uses and the need for access to facilities.

A Planning Statement draws all of these issues together and places them and the application proposals themselves into the planning policy background at both local and national levels. In essence the applicant's case is that:

- The Council does not have an adequate housing supply and thus the requirements of the NPPF apply.
- In this regard the proposal is sustainable development not causing significant harm.
- The proposal would not jeopardise the objectives sought by the Meaningful Gap.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon), NW20 (Services and Facilities) and NW21 (Transport)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV9 (Air Quality), ENV11 (Neighbour

Amenities), ENV12 (Urban Design), ENV14 (Access Design), TPT1 (Transport Considerations) and TPT3 (access and Sustainable Travel)

Other Material Planning Considerations

The National Planning Policy Framework 2012 – (the “NPPF”)

National Planning Practice Guidance

The draft Submission Version of the Local Plan for North Warwickshire 2017 – Policies LP 5 (Meaningful Gap); LP39 (Housing Allocations) and 39a (Reserve Housing Sites)

The North Warwickshire Landscape Character Assessment and Capacity Study 2010

The Five Year Housing Supply – July 2017

Appeal Reference APP/R3705/W/2015/3136495 - “the St. Modwen Appeal”

Observations

There are some significant planning issues that will need to be assessed in the determination of this application – the weight to be given to the Council’s housing land supply and thus to the engagement of the NPPF; the impact on the Meaningful Gap and whether the application would cause any significant environmental harm either on its own, or when treated cumulatively with other committed and allocated development in the vicinity. The consultation process will provide responses that will inform Member’s assessment of these issues and assist in their determination of the overall planning balance here.

Recommendation

That the report be noted at this time

BACKGROUND PAPERS

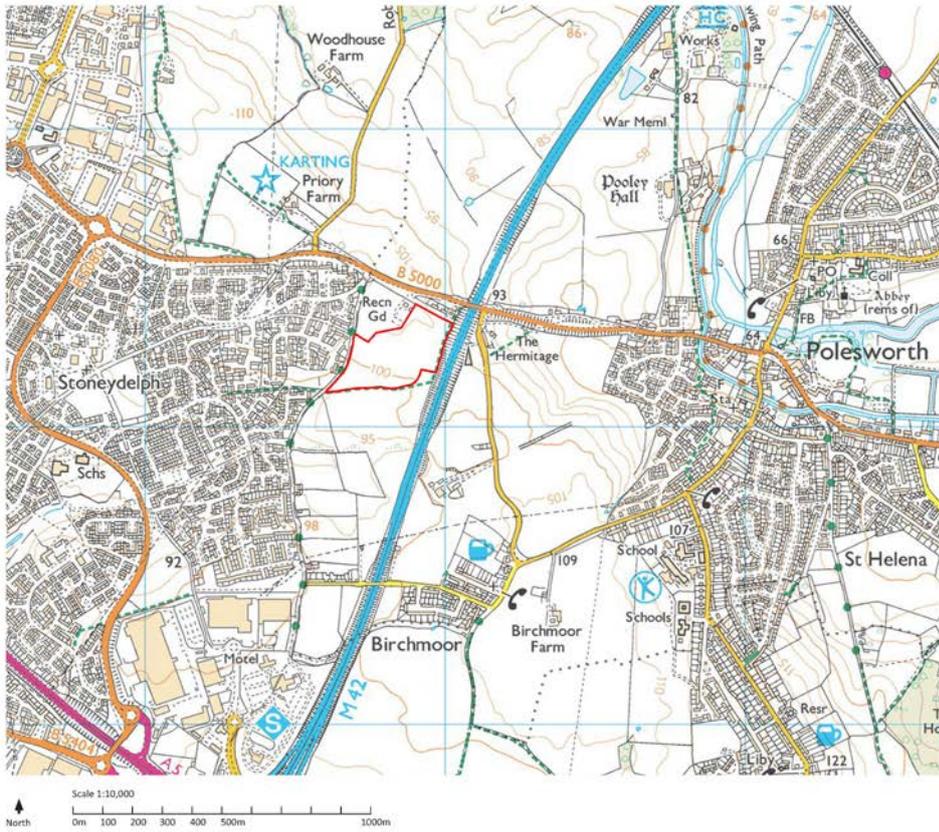
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2017/0602

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	9/11/17

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.



Key:
 Site Boundary

NORTH WADDESBURY
 BOROUGH COUNCIL
RECEIVED
 09/11/2017
 PLANNING & DEVELOPMENT
 DIVISION

Taylor Wimpey

Tamworth Road, Tamworth

Site Location Plan

Draw No: 6348 15 Date: 06.11.17
 Drawn by: CAW Checker: NJ
 Rev by: Rev checker:
 QM Status: Checked Product Status:
 Issue
 Scale: 1: 10,000@ A3



Key:
 Site Boundary
 Existing Trees/Woodland
 Development Land
 Indicative Building Frontages
 Potential Focal Building
 Potential Focal Square
 Proposed Trees and under storey vegetation
 Proposed Primary Road with Grass Verge
 Proposed Secondary/ Tertiary Road
 Proposed Greenspace Network
 Existing Public Right of Way
 Existing Local Cycle Route
 Existing Off Road Footpath/Cycle Route
 Proposed Footpath Linkages
 Infiltration Basin
 Proposed Playspace
 Existing Bus stops

NORTH WADDESBURY
 BOROUGH COUNCIL
RECEIVED
 09/11/2017
 PLANNING & DEVELOPMENT
 DIVISION

Taylor Wimpey

Tamworth Road, Tamworth

Illustrative Masterplan

Draw No: 6348 13 Date: 03.11.17
 Drawn by: CAW Checker: NJ
 Rev by: Rev checker:
 QM Status: Checked Product Status:
 Issue
 Scale: 1: 2000@ A3

NOTE:
 • Red Line Boundary: 6.4ha (15.8 ac)
 • Net Developable Area (excluding greenspace): 4.6ha (11.4ac)
 • Potential Yield: 150 units @32 dph
 • Area of Greenspace: 1.8ha (5.4ac)

Agenda Item No 6

Planning and Development Board

15 January 2018

**Report of the
Head of Development Control**

Planning and Fire Safety

1 Summary

- 1.1 The report provides a summary of the different roles of a number of respective Regulatory regimes. It was prepared as a consequence the Grenfell Tower incident.

Recommendation to the Board

That the report be noted.

2 Background

- 2.1 Since the Grenfell Tower incident there has been a lot of attention given to how fire risk is controlled when planning applications are submitted for planning permission, either to build new structures or to refurbish existing buildings. Many Local Planning Authorities and indeed Planning Committee Members have been asking about roles and responsibilities under different Regulatory legislation. At present these questions have not arisen in the Board's assessment of planning applications, but it is anticipated that there is a strong interest in better understanding the position.

- 2.2 As a consequence of the clear concerns, the Royal Town Planning Institute (RTPI) has prepared a summary note for the benefit of its Members. It is quite understandable that Planning Officers will want to share this with all Councillors, but particularly those that sit on the Planning and Development Board. To this end, that summary note is attached in full at Appendix A.

...

3 Observations

- 3.1 It is not proposed to repeat the content of this note here, but there is need to pick up on a few points.
- 3.2 The paper emphasises the role of the different regulatory regimes in acting separately and not overlapping or straying into each other's remits. Members on the Planning Board are familiar with this basic tenet of their decision making. There have been recent appeal decisions which support the position that that "fire precautions" are not material planning considerations.

- 3.3 However, as the paper says there is some overlap between planning and fire safety. It provides examples of this. The first is that the Board has to assess provision for emergency fire service access and water supply. Members will regularly have seen the consultation responses from the Warwickshire Fire and Rescue Service in the Board reports and the conditions as recommended by that Agency being translated into planning conditions on approvals. The Service receives the weekly planning list and it responds directly where it considers that it has an interest. Members will recall too that on occasion, a specific “fire” issue may arise and officers will then consult with the Service specifically on that issue. The second is the need for close cooperation with Building Control Surveyors – particularly in the use of cladding materials and in fire escape arrangements. Members may be concerned about the aesthetics of a particular cladding material on the street scene, but that preference might not be appropriate under the Building Regulations in respect of fire resistance. Similarly fire escape arrangements often arise when dealing with internal works in Listed Buildings – the compartmentalisation of internal space may well compromise the architectural significance of a heritage building. As always, early discussion and forewarning of these issues is the key to understanding how solutions can be agreed that might necessitate the need for compromise. It may be that Fire Assessment Impacts are required at submission stage in some circumstances, just as Noise or Lighting ones are part of the normal process at present.

4 Report Implications

4.1 Finance and Value for Money Implications

- 4.1.1 Planning decisions have to be made within the remit of relevant planning legislation and consideration of other planning considerations. Provided these decisions are proportionate and reasonable in these circumstances then potential costs awards against the Council or matters of compensation should be capable of defence.

4.2 Legal and Human Rights Implications

- 4.2.1 Council planning decisions are always subject to the right of appeal or to Judicial Review. Legal advice can and is sought if appropriate for the benefit of Members. Equality issues can certainly arise in respect of fire safety – access for the disabled for instance – but appropriate guidance and proportionate responses with legal advice will mitigate implications.

4.3 Environment and Sustainability Implications

- 4.3.1 As described above there is often the need for a balanced decision in respect of planning and fire safety issues. The assessments within this balance should always be made explicit.

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

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

Background Paper No	Author	Nature of Background Paper	Date
1	The RTPi	Summary Note	November 2017

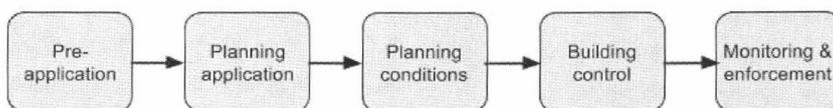
APPENDIX A

Summary: responsibility for fire safety during the development application process in England

Since Grenfell there has been lots of attention on how fire risk is controlled when developers and others apply for permission for building or refurbishment. RTPI has put together this short briefing to clarify who is responsible for what in England.^{1,2,3}

The application process

Each development goes through several stages and consent regimes before it can be completed. This diagram highlights the main ones relevant to this discussion in a simplified form:



Decisions based on fire safety are mostly made at the building control stage.

Building control

The Building Act 1984 tasks building control with “securing the health, safety, welfare and convenience of persons in or about buildings and of others who may be affected by buildings or matters connected with buildings”. This includes fire safety. The applicant can choose to commission either local authority building control, or ‘approved inspectors’, who will first agree that plans meet fire safety legislation and guidance and then ensure that development is completed in line with the requirements of the Building Regulations.

The Fire Service

The fire service can be consulted by both planning and building control to ensure that plans support their fire safety efforts. As far as planning is concerned, this especially relates to access for firefighters, and water supply. They do not however have powers to sign off applications as fire safe.

Planning

Local planning authorities (LPAs) are involved from pre-application consultations to the planning conditions stage. This spans initial discussions between the LPA and applicant to negotiating the final requirements of the planning permission. This involvement largely precedes consideration of fire safety and LPAs have no powers or responsibilities around the fire safety of buildings or materials. However in some circumstances, LPAs may be able to consult with building control and the fire service where considerations around fire safety have planning implications. This might, for example, include access for fire engines or the aesthetic implications of changing materials for example cladding.

¹ This briefing was published in October 2017

² This is advisory only and should not be taken to constitute legal advice. There is some variation around the country in how particular areas manage processes around fire safety and the application process.

³ RTPI is currently developing an equivalent briefing for Scotland