

Agenda Item No 4

Planning and Development Board

6 November 2017

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

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

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 11 December 2017 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.

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General Development Applications

(1) Application No: PAP/2017/0104

Land 260m South East Of Northbound, Smorrall Lane, Corley,

Change of use of land to HGV parking incorporating associated infrastructure and works, for

Welcome Break Group Ltd

Introduction

This application was reported to the last Board meeting but determination was deferred. The Board was keen to engage with the applicant to explore further whether there was scope and opportunity to review operational and management issues on the existing site, together with additional potential mitigation measures. As a consequence, a meeting has been held with representatives of the applicant company and the Board's Vice-Chairman and the Opposition Planning Spokesperson.

The applicant's response to that meeting is attached at Appendix A.

The main written report from the last meeting is attached at Appendix B but this is without its' Appendices.

Matters Arising

The meeting looked at three areas.

The first was whether the existing service area could supply additional HGV parking space either through re-arrangement of the existing area or through exchanging the present HGV and car parking areas. It was clear from the diagrams viewed; the explanations given and from the Member site visit that the overall conclusion on this matter was that the present service area as a whole is too small for existing demand and certainly for future demand. The particular circumstances of the use of this service area only compounded the matter. The proposed re-arrangements would simply not provide the minimum number of spaces required.

The second was to explore further mitigation. Members will be aware from the previous report that bio-diversity off-setting was required. This was discussed and it was considered that this would be best to include two areas – the triangular shaped southern “tip” of the site and along the rear gardens on the properties fronting Bennetts Road North. In respect of the latter area, then this could also be provided with a new hedgerow along its “outside” northern boundary. An additional plan has thus been provided – see Appendix C.

The final area was to look how best to manage the proposed extension. A Management Plan could be conditioned and this would contain measures such as the turning off of lights at weekends; the means of closing the access into the site at weekends, CCTV arrangements and how “emergencies” could be managed.

Observations

The matters raised above have not altered the overall recommendation to the Board. The first one has only added weight to that recommendation and the other two have added substance of the overall proposal. As a consequence it is considered that the deferral has led to an enhanced scheme.

Recommendation

That the recommendation as set out in Appendix A be agreed but with the following alterations:

Condition 3 – Reword this condition so as to read:

“For the avoidance of doubt the HGV parking area hereby approved shall only be open for use between 0800 hours on Monday morning and 1800 hours on Friday evening. There shall be no use of the site for HGV parking between 1800 hours on Friday evening and 0800 hours on the following Monday”

REASON

In the interests of the residential amenity of nearby properties

Condition 5 – The list of plans needs to be amended to include the latest one showing the additional planting/bio-diversity measures.

Condition 6 – Reword this condition so as to read:

“There shall be no occupation or use of the HGV park hereby approved until such time as Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall govern the operation of the parking area and specifically include measures to cover the following matters:

- a) How the car park will achieve and maintain the “Park Mark” safer parking award standard as assessed by the Warwickshire Police in respect of the security of the parking area;
- b) The measures to be followed to ensure closure of the access into the park between 1800 hours on Friday evening and 0800 hours on the following Monday morning,
- c) The measures to be followed to ensure that the lighting of the park is not used during the same as hours as set out above,
- d) The measures to implement CCTV coverage of the HGV parking area and how they will be monitored,
- e) The measures to be adopted if a “blue service” requires emergency access to the parking area,
- f) The measures and timetable for the remarking of the existing HGV parking area on the northbound side of the service area and

- g) A contact for complaints or concerns about the use of the HGV park to be reported.

REASON

In the interests of the residential amenities of neighbouring properties.

Condition 8 – To be reworded so as to refer to the additional areas to be included

Condition 11 - To be omitted in light of the amended plan received.

Condition 12 – To be reworded so as to include reference to the additional areas

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0104

Background Paper No	Author	Nature of Background Paper	Date
1	RHA	Letter	28/9/17
2	Applicant	E-mail	2/10/17
3	R Oakes	Objection	6/10/17
4	J & G Venables	Objection	6/10/17
5	J Galloway	Objection	9/10/17
6	Head of Development Control	Letter	10/10/17
7	Applicant	E-mail	16/10/17
8	T Goddin	Objection	16/10/17
9	Meeting	Note	19/10/17
10	Applicant	E-mail	23/10/17

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.

Brown, Jeff

From: Jennifer Smith <jennifer@smithjenkins.co.uk>
Sent: 23 October 2017 14:26
To: Brown, Jeff
Subject: Planning Application at Corley Services
Attachments: 1735-17-03B Landscape Mitigation Plan (2).pdf

Dear Jeff

Following our meeting on Thursday 19th October with Members of the Planning Board, I am emailing you to follow up on some of the points raised, and to clarify Welcome Break's position. The key themes of our discussion related to landscaping (including mitigation), biodiversity off-setting, security, future growth of the site including the changes that might be required for autonomous vehicles, existing capacity, and future management of the site.

In addition, we will supply to you a plan showing the electricity lines that run across the site, as requested at the last Planning Board meeting (this will follow).

I will take each matter raised at the meeting in turn:

Existing site capacity: the site currently has capacity for 60 vehicles within the existing HGV parking area. In addition, there is an abnormal load bay that must be made available but is generally used to provide 4 additional HGV spaces. We have been asked by local residents to assess whether there would be additional capacity by swapping the car park and HGV park locations. We demonstrated to you at our meeting that the HGV parking area is larger than the existing car park. The car park, with extension into the surrounding grass areas and removal of some landscaping could only accommodate 48 HGVS, 12 fewer than the existing area. We would also have safety concerns about locating the car park where car drivers would have to cross the main arterial road to enter the amenity building.

We have also produced a layout that shows how the re-arrangement of the existing HGV park could provide 77 spaces (17 more than currently laid out) however this has not been the subject of a road safety audit nor have the spaces been tracked to see if an HGV could enter and leave the site safely. We have reservations about whether the layout is workable in practice. The increase in the number of HGVs on the site would only work by diverting all HGV traffic through the HGV parking area and incorporating the circulation road within this space. This has the potential to cause the backing up of HGVs through the site, and when combined with cars could present a road safety problem for vehicles leaving the M6.

To re-arrange the existing HGV parking area to provide 77 spaces would not meet the current Circular 02/2013 requirements for HGV parking spaces at Corley MSA. The Circular sets out a minimum requirement of 99 spaces (based on 2016 data) and would therefore still require the provision of 22 additional spaces to meet the minimum requirement. This would also not allow for any growth or any unmet need that arises due to the nature of the M6, the number of HGVs on the motorway or the need that arises in this location due to the route choice available on the SRN.

I agreed with Members that the existing HGV park would benefit from white line painting, and I will discuss this with Welcome Break.

Future Growth: we were asked about whether the site could accommodate future growth in HGV traffic, and changes around autonomous vehicles. The number of spaces has been calculated based on the current requirement, plus a growth allowance based on recognised transport models plus the current unmet need for spaces. The growth allowance takes a reasonable proportionate growth based on the Government's forecast

growth in HGV traffic which ranges wildly between 10% and 40%. The allowance for growth is to 2027 (projecting 10 years forward).

In terms of autonomous vehicles, this does not mean driverless vehicles but the provision of vehicles that do more and therefore reduce driver error. Drivers will still be required to stop and rest. If autonomous vehicles form into vehicle 'trains' to undertake a trip, they will require sufficient space to come together and also separate. The advantage of sites like Corley, especially with the extended HGV provision, is that these formations can be made here because there is space to do so.

Biodiversity Off-Setting: It was not set out clearly to Members at the last board meeting but the WWT had requested an additional condition be placed on any planning permission to secure biodiversity off-setting in land owned by Welcome Break. The amount required would be equal to 0.5 hectares of land. Welcome Break are happy to accept this condition. In addition, we have suggested that some of this off-setting planting be used to provide a buffer between the rear gardens of properties at Bennets Road North (those that are immediately adjacent to the application site) and the application site. This can be done easily and would enhance the **security** of residents. It is proposed to do this as part of the wider landscaping scheme for the site.

Landscaping: I attach a proposal as discussed with Members which shows the proposed location of the buffer. This would be secured on the north side with a fence. The fence would protect the area of planting from encroachment by the roaming horses but also would provide an additional security measure which Welcome Break have offered to alleviate local residents' concerns.

We discussed more generally landscaping with Members, and explained where possible we have tried to retain all the existing tree and hedgerow planting around the edge of the site. This planting will be supplemented with native, local species to enhance these field boundaries. This has been recognised by the WWT as beneficial. The inclusion of the pond in the scheme will also allow for positive ecological benefits.

Management: We feel that it would be beneficial to have an additional planning condition added to any permission issued which would set out the requirement for a management plan for the site. This would be similar to a construction management plan or any other plan that would manage the site when operational. This would include matters such as barrier control to the entrance to the site; the lights being turned on/off at weekends; procedures in an exceptional event; and the operation of CCTV cameras in the site.

Last week Transport Focus identified that Corley north services were in the top 3 services in the country. Welcome Break are keen to continue to improve and invest in Corley MSA, and this development is part of that on-going commitment to the site.

If you need any additional information from me, please let me know. I will send the plan for the over head power lines separately.

Kind regards
Jennifer

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(2) Application No: PAP/2017/0104

Land 260m South East Of Northbound Motorway Services Area, Smorrall Lane, Corley,

Change of use of land to HGV parking incorporating associated infrastructure and works, for

Welcome Break Group Ltd

Introduction

The receipt of this application together with a summary of the proposals was reported to the September Board meeting. It is now reported for determination following the Board's decision to visit the site. Apart from the site itself, Members included a night time inspection of the existing HGV parking area and its surrounds together with viewing the site from the higher ground to the south.

For convenience the initial sections of the report below include the content of that earlier report. A note of the site visits will be circulated at the meeting.

The Site

The site is an area of some 2.08 hectares of grazing land immediately to the south-east of the northbound half of the Corley Motorway Services on the M6 Motorway. There is further pasture land to the south before the rear gardens of the residential frontage in Bennetts Road North is reached. A public footpath – the M327- runs around the southern boundary of the present service area and overhead electricity transmission cables also cross the site. The site boundaries are marked with fences and hedgerows including mature trees and a small watercourse within a ditch. The other half of the service area – southbound – is on the opposite side of the Motorway. There is scattered housing on this side. Bennetts Road North and Smorrall Lane – to the north of the Motorway – join at a bridge, crossing the Motorway to the west of the service area.

The northbound area comprises car parking areas at its eastern end as well as an existing 60 space HGV park at its western end and the usual built facilities. It is open twenty four hours and is lit.

The present HGV parking area is 190 metres from the nearest residential property in Bennetts Road North. The closest HGV parking to existing residential property would be 115 metres.

The site rises slightly over three metres from the Motorway to the houses in Bennetts Road North.

A location plan illustrating most of these features is at Appendix A, and photos of the site are at Appendix B. Appendix C is a selection of wider views towards the site.

The Proposal

a) Description

The scheme is for the change of use of land to provide an additional HGV parking area incorporating associated infrastructure and works. This would provide 82 spaces of which 12 would be reserved for oversized vehicles. All access into this extended area would be via the existing circulatory system within the service area. This would involve the loss of trees and a length of mature hedgerow, but the existing boundary hedgerows around the site would be enhanced – a ten metre landscaped buffer is shown to include new banking. The extreme south-west part of the site tapers towards Bennetts Road North, but it is not to be used for parking or would it be hard surfaced. It too would be planted around its boundary and it would be retained as pasture.

The scheme will also include floodlighting to the parking area. This would involve twelve 15 metre lighting columns located around the site together with four 10 metre columns where the site joins the existing service area.

Surface water drainage would be to a new balancing pond at the northern end of the site from which discharge would be to the adjoining water course and thence to the Breach Brook on the other side of the motorway.

It is proposed that the development would only be operational during the week and therefore be closed at weekends.

The proposed layout and landscaping plans are attached at Appendices D and E. There is also a series of cross sections at Appendix F.

b) Supporting Documentation

The application is accompanied by several supporting documents.

A Flooding and Drainage Statement concludes that the proposals would not cause adverse impacts. It is within Flood Zone 1 where new development is deemed to be appropriate. There is a watercourse ditch that runs along the south-eastern site boundary which passes in culvert under the Motorway to discharge into the Breach Brook to the north. A Flood Risk Assessment has been undertaken and the applicant's report concludes that the development would not worsen the wider catchment area because of the attenuation measures proposed – the balancing pond at the north of the site which would "catch" the run off for the hard surface and then control discharge into the watercourse referred to above.

An Ecological Appraisal describes the site as improved grassland with hedgerows, fences, scattered trees and a stream with some mixed woodland. It concludes that there would be loss of bio-diversity here, but that the boundary landscaping and tree planting together with the new balancing pond would compensate and improve diversity. There were no badger setts found on the site and the enhanced hedgerow planting would assist in retaining bat foraging habitat.

An Archaeological Assessment concludes that the potential of the site is low but that pre-construction trenching would be useful.

A Landscape and Visual Assessment describes the overall Service Area as lying within a "bowl" of lower lying ground with distinct ridge lines to the south (Corley Rocks); the north (Breach Oak Lane), to the west (towards Fillongley) and the land falling away towards the east (towards Bedworth). The site itself is in the "Corley Hills and Valleys" area as described by the North Warwickshire Landscape Character Appraisal. The Assessment concludes that overall in terms of impact on the character described in the Appraisal there would be minor to negligible impacts. In terms of impact on visual amenity the Assessment concludes that the impact would be higher in that there would be adverse impacts but these are described as being minor and localised. This is because of the setting of the site being well contained visually, and in landscape terms because of the local topography and existing uses.

A Noise Impact Assessment concludes that because of the cumulative impact of the proposed extension on the existing noise environment there would be minor impacts, but that these would fall within existing recognised guidelines.

A Lighting Impact Assessment concludes that there would be little likelihood of light spillage beyond the site.

A Transport Assessment has been submitted. This is the major piece of supporting documentation as it sets out amongst other things, the reasons behind the proposal. In general terms this is summarised as being a pressing need for the development which has triggered the applicant to re-assess the requirement for parking across the site. The current HGV parking area – northbound – is marked out for 60 HGVs or any other vehicle which is larger than a standard car or small van that would otherwise park in the main car park. It is said that due to the over-whelming demand for spaces at the site, HGVs try and park in other locations, both within the site and on the exit slip road to the motorway. This causes highway safety issues. There are also times (mainly overnight) when HGVs enter the site, circulate and leave because they are unable to find a parking space. There is also a highway safety issue which relates to driving times for HGV drivers. Significant survey work of the site has been undertaken and based on this and the long term increase in traffic on the highway network, the applicant concludes that there is substantial need for the provision of additional HGV spaces at the site.

This overall case is supported by evidence submitted with the Assessment. This looks at a variety of different sources of data.

Firstly it points out that the HGV traffic numbers nationally are expected by the Department of Transport to rise on average by 22% up to 2040. During 2006 to 2015 the increase along the M6 in the vicinity of the site was 13%.

Secondly, the actual site survey work using traffic counters and CCTV coverage shows that the site has insufficient space to even accommodate existing demand. This evidences that the site is presently over capacity both during the day and during the night. On occasions as many as 70 HGV's entered the site between 2200 and 0700 hours – the peak period for parking – circulated the existing parking area and then left the site unable to find a space. This figure excludes HGV's that entered, re-fuelled and then left again. The survey work also showed that the lack of capacity led to unauthorised parking around the site. As many as 50 unauthorised spaces are being "created" by parking on the circulatory internal roads, the egress slip road, its' hard shoulder and in refuge bays. The report concludes that as many as 20 hazardous incidents occur on a daily basis as a consequence. This "unauthorised" parking is said to be a result of HGV driver hours' requirements – eg. drivers not being able to continue because they have or will have met their required driving time periods.

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Thirdly the survey showed that this service area has a large percentage of HGV usage with between 39% and 47% of entering vehicles being HGV's. These figures are on Mondays through to Wednesdays and are greater than most other service areas. At weekends, the figures drop to 18%. This is said to reflect the geography of the motorway network and the location of Corley in particular. The report describes that the M6 suffers from congestion in the West Midlands and that there are often significant delays. These are advised through the advanced directional overhead signage. HGV drivers, it is said, are likely to make a decision at Corley, based on that signage, whether or not to stop at Corley. These decisions will be determined by likely journey times and the need to take a break based on the legal journey time requirements for HGV drivers (a 45 minute break every 4.5 hours as well as overnight stops). Distances to the next service areas are all close to or exceed this distance. Citing journey times from Dover and Felixstowe the assessment concludes that Corley is on the 4.5 hour limit from Dover and 3 hours from Felixstowe. As a combination of these factors, it is said that Corley becomes a major "decision" point for HGV drivers.

Fourthly, the HGV parking requirement calculation from Annex B in the Department of Transport's Circular 02/2013, shows that the site's current provision of HGV parking is 35 spaces below what it should be based on 2016 M6 northbound daily HGV flows. Taking into account HGV traffic growth projections, the facility would have a shortfall of 47 spaces by 2027 - hence the additional 82 spaces now being proposed.

Finally the assessment looks at alternatives. It is pointed out that there are no realistic alternatives in respect of the Corley site. The north bound Watford Gap HGV park on the M1 to the south (24 miles to the south) was found on average to be 74% at capacity during the night, but because of the constrained nature of the site it is unable to expand. The HGV parking at Hilton Park on the M6 north (29 miles from Corley) has less space than at Corley and is regularly "full". The Dordon service area on the M42 north (17 miles) is at 80% capacity during the night but its use is in doubt because of the disruption likely to be caused by the HS2 construction. Hopwood Park on the M42 south is 24 miles from Corley and was 80% at capacity during the night, but off-site on-street parking was also taking place as well as use of the coach park. Norton Canes on the M6 Toll it is agreed is underused. Alternative truck stop locations were also assessed – the Lincoln Farm stop on the A452 at Balsall Common; the PJM stop on the A46 at Baginton and the Rugby truck stop on the A5. All were considered to be too far off the strategic road network and also would cause increased HGV traffic on other roads – particularly the A5 and A452. The Assessment also looked at a proposed new service area at Junction 1 on the M6 at Rugby, but the report concludes that does not presently have a planning permission and that it is the subject of an objection from both relevant highway authorities - Highways England and the Warwickshire County Council. It is also said not to be located at the critical decision making point of drivers, being too far to the east in driving time and in mileage vis-à-vis the Birmingham conurbation.

A Road Safety Audit is also submitted which concludes that the proposal is satisfactory.

The applicant has also responded to objector's suggestions that the existing layout within the present service area could be laid out more efficiently thus gaining additional HGV parking spaces. They put forward two alternatives. The applicant considers that these would result in greater road safety issues for all road users and materially impact on the functioning of space for delivery and service vehicles attending the amenity building.

For the benefit of Members, Appendix G contains much of the background to the above and it is taken from the Transport Statement. Appendix H is the response by the applicant to the objector's comments, amongst other things, on the suggested alternative layouts.

Background

There have been a number of proposals for minor development at the service area in the last two years - an extension to the amenity building to provide enhanced wash room facilities and the provision of a Starbucks drive-thru' coffee shop. The fuel filling station has also been refurbished.

In 2008, Welcome Break applied for planning permission to extend the HGV parking area from the current provision of 60 spaces to provide a further 75 spaces on the same site as the present application (planning application reference PAP/2008/0658). This application was refused planning permission because that application was insufficiently evidenced such that there were no clear circumstances overriding Green Belt and other harm. This decision was not appealed. The applicant considers that he has now addressed the outstanding matters raised by the refusal.

Reference is made in the supporting documentation to the Department of Transport's Circular 02/2013. This is a material planning consideration too. It sets out the Government's policy of spacing service areas no more than 28 miles apart or a 30 minute travel time, whichever is the lesser. It also sets out policy on proposed HGV parking provision - this is related to the % of HGV traffic actually using the Motorway. This forms the basis for the extent of the current application.

Driver's Hours and Tachograph rules are also a material planning consideration here. In essence these state that after a period of no more than 4.5 hours, a driver must immediately take an uninterrupted break of at least 45 minutes. There are alternatives to the 45 minutes, but only on dividing it up with two and two and a half hour drive times. The maximum daily driving limit is 9 hours a day and 56 hours in a week.

Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW15 (Nature Conservation)

The Warwickshire Local Transport Plan 2011- 2026

Saved Policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design), ENV15 (Nature Conservation), ENV16 (Listed Buildings) and TPT5 (Sustainable Freight Movement)

Other Material Planning Considerations

The National Planning Policy Framework 2012 - (the "NPPF")

National Planning Policy Guidance 2016

Circular 2/2013 from the Department for Transport: "Strategic Road Network and Delivery of Sustainable Development "

Drivers Hours and Tachograph Rules (GV 262) (DVSA 2016)

North Warwickshire Landscape Character Appraisal 2010

Consultations

Warwickshire County Council as Highway Authority – No objections.

Warwick Museum – It requested additional information which was provided and as a consequence there is no objection in principle subject to a pre-commencement condition for evaluation work.

National Grid - No objection

Warwickshire Police – No objection

Environmental Health Officer - No objection. The earth bund and close board fence would mitigate noise so as to comply with national guidelines. However the details of the type of fencing should be conditioned to an acoustic close board fence with sufficient height. There is unlikely to be a detrimental air quality impact.

Highways England – No objection to the technical detail of the proposals. It also considers that the proposed development would alleviate HGV parking pressures at the Service Area. The findings of the applicant's Transport Assessment show that the proposed development would alleviate HGV parking pressures at this Service Area and that the current provision is below that advocated by Government guidance.

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

Warwickshire Wildlife Trust – No objection but there was concern about a potential bat roost in an oak tree and that no overall bio-diversity assessment had been undertaken. Survey work has revealed no bats roosting in the tree. An Assessment was also undertaken showing a positive impact because of the enhancements proposed on site. Further off-setting should also be considered.

Warwickshire County Council as Highway Authority - No objection following additional information being provided.

The Council's Tree officer – No objection

Representations

Corley Parish Council – It objects referring to the following matters:

- The Parish Council does not contest that there may be a requirement for some additional capacity but the application submitted and the scale of what is being proposed, is unacceptable.
- The proposal has been revised throughout the process and the revisions have not allayed objections.

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- The Parish Council would suggest the alternatives are fully investigated before any decision is taken as this may have a fundamental effect on what is actually required. Reference is made to the proposed site at Rugby.
- Based on the above, the 'special circumstances' required to use Green Belt Land have in no way been met and this in itself warrants the application to be refused.
- Residents who live nearby would be subject to considerable light, noise and emission pollution and would be subject to considerable loss of amenity in their homes and gardens and face increased security risks.
- HGV's will not walk to the MSA Building to use the facilities as its too far.
- The existing site layout could be better revised.

Twenty two letters from local residents raise the following issues:

- Green Belt – the scheme encroaches onto Green Belt land before exhausting the alternatives within the main site.
- If approved there will be pressure for later extensions in the future.
- The land is a buffer between the Motorway and residential housing. This buffer helps to ease noise, smell and pollution. This site will bring lorries even closer to the housing.
- Current use of land is for horses.
- The scheme suggests that 'Active management' will see this HGV park closed at weekends. This approach to the existing car parking areas which are very under used at night could provide more than enough overflow parking for HGVs overnight on weekdays, if the will existed to implement such measures, and would only require modification of car park entrances and some active signage.
- Noise from HGV reversing alarms.
- Proposal would de-value the residential properties.
- The site as proposed is too large
- Impact from lighting to the HGV area.
- Security threat to dwellings on Bennetts Road North.
- HGV driver using the field as public loo, which could increase with no facilities on the application site.
- The existing motorway noise is constant and the proposal would make the situation worse.
- The Noise Assessment shows that the current noise levels are at best marginal for those of us that have to sleep in the adjacent properties, and measurements were not taken on a wet winter night when tyre noise from the main carriageway is at its highest and the HGVs in the current lorry park leave engines running in order to generate heat and power for the drivers in their cabs. This assessment shows that there will be an increase in noise, this is of course a theoretical model and cannot model real circumstances. The reality is that recommended noise levels will be frequently exceeded.
- The previous application for a slightly smaller scheme was refused on the grounds of being inappropriate development within the green belt and has the situation changed?
- There has also been a noticeable increase of littering along Bennetts Road North by people walking to the MSA for work since the previous set of developments on the site.
- There are no public transport services available for workers at the sites outlets and facilities.
- Impact on local wildlife.
- Possible impact upon the public footpath.

- Proposed landscaping will take 10-20 years to mature and is currently not adequate during summer or winter. Previous on site development has not replaced lost vegetation.

Observations

a) Green Belt – Appropriate or Not Appropriate Development

The site is in the Green Belt. As Members are aware there is a presumption of refusal for proposed new development here in the case where that development is considered not to be appropriate. This is because inappropriate development is harmful to the Green Belt by virtue national planning policy as set out in the NPPF. The first issue therefore is to establish whether this proposal is appropriate or not appropriate development. The NPPF again provides the means of doing so. Taken as a whole the development here is considered to be a material change of use of land – that is from agricultural to one of an HGV parking area. The applicant agrees, as the application description is that of a change of use of land. That change of use also involves building operations – the lighting columns and the boundary fences. Changes of use are not appropriate development in the Green Belt according to the NPPF and the erection of the lighting columns and fences would not fall into one of the exceptions identified therein in respect of the construction of new buildings. As a consequence the proposal here would be treated as not being appropriate development. However before coming to that conclusion it is important that Members consider an argument put forward by the applicant that this development is “local transport infrastructure”. The reason this is put forward is that if this is the case, then the NPPF recognises that such developments might be appropriate development. Unfortunately there is no definition of this term in the NPPF. However the advice to Members is that it is not. There are two reasons for this. Firstly and of substantial weight, is the fact that this is not “local” infrastructure. It is being put forward in terms of a meeting a national or regional need with no local connection at all. The local community will not use the facility nor will it be of community benefit in transport terms. It does not enhance or promote local transport provision. Secondly, much of the evidence from appeal decisions suggests that this term has taken to apply to facilities such as town “Park and Ride Schemes” and/or Parkway Stations. Nevertheless even if it is treated as such it still cannot be automatically deemed to be appropriate development, as such schemes still have to show preservation of the openness of the Green Belt and no conflict with the five purposes of including land within the Green Belt. These two conditions therefore need to be explored further.

There is again no definition of “openness” in the NPPF. In planning terms however it has generally been taken to mean “the absence of development”. The site is presently an open field, a wholly open space adjacent to the existing service area, which has a very firm physical and visual boundary and provides an open space between the service area and housing further to the south. It also connects to other open countryside to the east and to the west. However it is also within a shallow valley which means that it is not visible over a wider geographic area; it is also an extension to an existing built area, rather than being a separate or free-standing site and it has to be seen in the context of the Motorway itself, the road bridge and the overhead line and pylons. The new development would not introduce new buildings here but there would be a significant extension of the service area with all of its associated vehicle and human activity and with the additional lighting columns. Parked HGV's whilst not being buildings as such, would necessarily however introduce a third dimension in terms of height and continuity to the concept of openness. When all of these elements are put together, it is

considered that the development would not preserve the openness of the Green Belt and thus it would have an adverse impact. However that impact would be to cause moderate harm to openness because of the setting of the site as described above.

In looking at the five reasons for including land within the Green Belt, then it is considered that there would be conflict with the third purpose – that of safeguarding the countryside from encroachment. This is because of the cumulative impact of the proposal taken together with existing developments and the importance of the countryside gap between these various elements.

As a consequence it is concluded that the two conditions identified above would not be satisfied even if it were accepted that the development constituted "local transport infrastructure". The proposal is thus by definition not appropriate development in the Green Belt.

Apart from establishing definitional harm, Members will also need to assess the degree of actual harm to the Green Belt dependent upon the nature of the proposal. This has already been explored above by looking at the impact on openness and on the five purposes of including land within the Green Belt. When taken together it was concluded that there would be moderate actual harm to the Green Belt.

As a result of this overall assessment it is confirmed that the proposed development is not appropriate development in the Green Belt and thus there is substantial definitional harm to the Green Belt, but that the degree of actual Green Belt harm was moderate. As such the presumption of refusal remains. In these circumstances it is necessary for the applicant to put forward those planning considerations which when put in the final balance against the harm caused, would clearly outweigh that harm such as to amount to the very special circumstances to warrant overriding the presumption of refusal. However before looking at these considerations, Members will be aware that they also have to establish whether there is other non-Green Belt harm caused. If there is, then that has to be added to the "harm" side of the final planning balance.

b) Other non-Green Belt Harm

There are several impacts that need to be considered here.

Landscape Character - Looking first at the impact of the character of the landscape, then the applicant has properly drawn attention to the fact that the site lies in the "Church End to Corley Hills and Valleys" landscape character area in North Warwickshire. It is against the description of the landscape in this area that the Board will have to assess the impact of the proposal.

The key characteristics of this area are described in the Appraisal as, "an elevated landscape of low rounded hills, steep scarps and small incised valleys combining hilltop woodlands and tree cover with an intricate and small scale character punctuated by numerous scattered farms and hamlets. These settlements are linked by a network of lanes which link to the nearby urban areas. The southern and eastern part of this area is however marked by the M6 motorway and lines of pylons which give this section many suburban elements."

The applicant has considered the potential impact of the development on this landscape. It is agreed that because the site itself is within a valley, there would be no impact on the wider landscape character area as any impacts would be confined to the valley and its environs. The applicant looks at these more "local" impacts from a

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number of locations around the site. Importantly they include the higher ground around the site, particularly the rising ground towards the south. It is agreed that this is where the most significant landscape impacts would occur. However a combination of distance, topography and intervening vegetation provide a high degree of physical and visual separation between the site and that higher ground. Moreover the mitigation proposed in the way of perimeter landscaping is significant as it reinforces one of the characteristics of this landscape area – “woodlands and tree cover”. Additionally as reported above, this valley does exhibit identified features such that the valley is marked by the “suburban” elements more so than practically all of the other valleys within the landscape area. In this regard it is agreed with the applicant that the sensitivity of the landscape to change in this particular part of the landscape area is less than in other parts. This would tie in with the Appraisal's description. As a consequence it is considered that the key characteristics of this landscape area, when taken as a whole, would not be materially affected by this proposal. This same conclusion would apply to the particular part of the area identified as having “suburban elements”. The proposal is not a stand-alone or new free standing development. It is an extension of a much larger built form of development and thus can be better “absorbed” into the landscape without substantially altering the landscape character of this particular valley.

Overall therefore it is agreed with the applicant that this proposal would have a minor impact on landscape character, thus causing limited harm.

Visual Impact – The applicant's assessment considers this from a variety of different locations around the site. Again these included viewpoints to the south – the footpaths in particular – and also from the rear of residential property along Bennetts Road North. There would be some visual harm caused as much by the size of the proposal such that it would be partially visible from a number of these locations. However much of the potential impact from these locations is mitigated through the location of the site being adjacent to an existing and very similar development; the topography of the setting of the site, the existing significant tree and woodland character of the surrounding area, the existing overhead lines and pylons together with the existing on-site lighting columns. The fact that no buildings are proposed and that there is to be substantial additional new perimeter landscaping are strong mitigating factors. It is agreed that these features all carry weight and that cumulatively in general terms, they would give rise to a conclusion that visual harm here is less than significant.

In more detailed terms, then it is important to consider several different aspects here. From the point of view of the driver then there would be negligible visual impact from those on the Motorway itself. Those using Bennetts Road North and Smorrall Lane would have much of their visibility of the site obstructed by trees or built development. The additional lighting columns would perhaps be the only visible new feature. The same would apply to drivers on the surrounding network. However in all instances these would be very transitory impacts.

There would be far greater impact to those using the surrounding public footpath network. Again the features referred to above would mitigate visual impact and these would be transitory. There would however be far greater impact to the users of the immediate footpaths between Bennetts Road North, the existing service area and the site itself. If the path through the site is diverted, then that would benefit visual amenity as walkers would pass around the site protected eventually by the new perimeter planting. If it is not, then there would be significant visual impact. However walkers in this area are already subject to the presence of the existing service area and the Motorway, so overall the degree of visual impact would not overall be significant.

The impact on local residents would be greater because of proximity and because the impact would be permanent. However it is the weight given to this impact that is important. All of the mitigation matters referred to above are relevant here as well. In particular it is material that the application site extends to the north by the side of the existing service area, away from the existing residential frontage to Bennetts Road North. Additionally the ground levels are generally equivalent and there is significant additional perimeter landscaping proposed. The cross sections illustrate this. It is also agreed that the southern section of the site extends closer to some houses in Bennetts Road North and that there would be additional lighting columns included. However, taking all of these factors into account it is considered that the level of harm to visual amenity would be minor. This conclusion does not relate to lighting impacts which will be considered separately below. As far as occupiers of residential property further afield then the issues are far more do to with whether the internal features and functioning of the site itself would be visible from the higher ground and secondly the impact of additional lighting, which as indicated will be dealt with separately below. It is not considered that there would be direct visibility into the site from these more distant properties. This is because of the separation distances; the low incline of the slopes, the degree of existing intervening tree and woodland cover and the proposed perimeter planting.

Overall therefore it is considered that in terms of impact on visual amenity there will be an adverse impact but that this would be minor and localised.

Highways – It should be made clear that this section will only be looking at the highway engineering parts of this proposal rather than the matters raised in the applicant's Transport Assessment supporting the proposal. That will be looked at later in the report.

It is of substantial weight that neither the Warwickshire County Council as Highway Authority or Highways England have objected to the geometry of the layout; the adequacy of the access arrangements into the site from the present service area or the capacity of the service area slip roads to accommodate additional HGV movements. As a consequence it is concluded that there is no highway harm caused.

The public footpath that runs along the present southern boundary can be diverted if requested by the applicant if a planning permission is granted. This would be under Section 257 of the Planning Act 1990. It is agreed that a reasonable alternative could be found. The footpath network here has already had to be adjusted to accommodate both the Motorway and the service area.

Flooding – The site is in Flood Zone One where new development is deemed to be appropriate. Nevertheless the applicant has carried out a Flood Risk Assessment as well undertaking a study of how surface water can best be disposed of. This is critical given the nature of the application – a large area of hard surfacing. It is of substantial weight that the Warwickshire Flood Authority has not raised an objection to the proposal to introduce a balancing pond with the necessary discharge arrangements into the adjoining water course. It is also significant that Highways England has not objected to this proposal either, given that this watercourse is culverted under the motorway. As a consequence it is concluded that there is no harm caused by the proposal.

Archaeology and Heritage – The site contains no heritage assets. The closest Conservation Area is in Fillongley (3 km distant to the west) and the closest Scheduled Ancient Monument is Burrow Hill Fort (900 metres distant to the south). The closest Listed Buildings are at Holly Farm some 500 metres to the south-east on Bennetts Road North and Corley Hall, some 400 metres to the southwest on Rock Lane.

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In respect of the Conservation Area then there will be no impact or harm on its setting given the separation distance and the intervening topography. The Warwick Museum has not raised any issue with the potential impact on the Fort given the separation distance and that the Fort is very much a hill-top feature rather than a valley one. Holly Farm is a Grade 2 18th Century farmhouse dating from 1725. Its significance lies in the retention of architectural characteristics of its age and representative of its past use. There would be no harm directly caused to this significance or to the setting of the building which is to some degree already compromised by the overhead lines and the motorway with its service area. There would thus be less than substantial harm caused here. Corley Hall is a grade 2 star early 16th Century house with later 17th Century additions. Its significance lies in the retention both internally and externally of extensive architectural characteristics of its age and evolution as well as reflecting its significance in the local community as an important property. There would be no direct impact on the architectural significance of this asset. Its setting, like Holly Farm, is already compromised, but in this case there is significant built development between the site and Corley Hall such that any impact is less than substantial.

On-site evaluative work shows low possibility of archaeological features and as such a pre-cautionary approach can be taken with a pre-development planning condition if a planning permission is forthcoming.

As a consequence it is considered that overall there would be less than substantial harm caused to local heritage assets by this proposal.

Ecology – The applicant's assessment concluded that there would be no ecological harm caused by the proposal. It is of substantial weight that the Warwickshire Wildlife Trust has not objected to the proposal. The existing value of the site is limited to the boundary hedgerows and trees and these will be retained and significantly enhanced by the proposals thus enhancing bio-diversity and retaining wildlife corridors. The addition of the balancing pond is seen as a positive benefit. The survey work also showed that no protected species were to be put at risk. The closest Ancient Woodlands to the site are Bob's Wood, 750 metres to the south-west of the southern end of the site and Many Lands Wood some 500 metres to the north east of the northern edge of the site. These are not affected by the proposals because of the separation distances. As a consequence it is concluded that no harm would be caused by the proposal but to the contrary, there may be some bio-diversity benefit.

Warwickshire Wildlife Trust has also requested that the applicant consider bio-diversity off- setting related to the proposal. He has agreed to this and it is proposed to cover this by a condition for a scheme on land owned by the applicant adjacent to the Motorway Service Area.

Residential Amenity – It is considered that the impact on residential amenity is the matter that has most affected the local community in terms of potential harm. There are three elements to this – noise; lighting and air quality. Each will be looked at in detail.

The applicant has submitted a Noise Impact Assessment. It sets out the methodology behind establishing the existing ambient noise levels; the background to the assessment of predicted noise levels and the accepted guidance on how to assess the impact between the two, if any. It is of significant weight that the Council's own Environmental Health Officers were engaged in scoping this assessment, such that the criteria used and assumptions made were common ground. The Assessment therefore includes a range of agreed receptors or "survey points"; survey work over a relevant

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and agreed period of time, inclusion of noise coming from HGV's idling, manoeuvring and reversing, night time assessments, worst case scenarios as well as agreed noise measures. It concludes that noise level changes would be "minor" and within national guidelines. This is because of the higher ambient noise environment even in the night time; the separation distances, particularly as the site extends away from existing housing, the mitigation measures and that the park would not be used as weekends.

The Council's Environmental Health Officers agree with this overall conclusion. However in view of there still being minor impacts, they have asked for an acoustic fence to be included in the proposal running around the southern and eastern boundaries – the "open" boundaries - so as to supplement the already proposed bund and new landscaping. The applicant has agreed to the inclusion of the fence. The absence of an objection from the relevant officers here carries substantial weight. Development Plan policy NW10 (9) says that development should not cause "unacceptable impacts" arising amongst other things from noise. The NPPF says that planning decisions should "mitigate and reduce to a minimum adverse impacts arising from noise from new development including through the use of planning conditions". It is considered that in these circumstances there is no demonstrable evidence with which to defend a refusal reason based on potential adverse noise impacts.

Turning next to the issue of lighting, then again details are provided. This shows twelve 15 metre columns around the perimeter of the site with four ten metre columns around the new access from the existing service area into the site. All of the lighting sources would be set at an angle horizontal to the ground. The levels of lighting would range from 25 lux - immediately under the columns - to 20 lux throughout the car park and 10 lux around the perimeter. With the angle of the luminaries being horizontal to the ground therefore, light spillage would be confined to a few metres around the perimeter of the site. So that Members can compare lighting levels, the greatest level of lighting at the JLR site at Baxterley with which Members are familiar, is 50 lux. The bulk of that site's lighting is at 5 lux.

Again it is of significant weight that the Council's Environmental Health Officers do not object to the lighting proposals. It is acknowledged that there will be additional lighting; that it would be over a wider area than presently and that the downward light will be visible. As a matter of course, there will be a greater impact, but a refusal reason would have to demonstrate "unacceptable impacts" according to Policy NW10 (9) of the Core Strategy. There is no supporting technical evidence to defend a potential refusal here using this policy. The NPPF says that developments, "should limit the impact of light pollution on local amenity". That has been done here through the use of the minimum number of lighting columns and the minimum lighting levels to secure health and safety and security concerns together with substantial perimeter landscaping.

In terms of Air Quality then the Environmental Health Officers are satisfied that the thresholds for air quality will not be breached. This is because the levels arising from the M6 itself do not do so; the separation distances with the bulk of the parking extending away from existing housing, the HGV's using the site are already mobile using the M6 and thus would not be additional traffic, the HGV park not being used at weekends, and that the situation of starting; idling and turning of vehicles already occurs without air quality thresholds being exceeded.

As a consequence it is considered that the residential amenities of neighbouring occupiers will be affected because there will be additional impacts. That however is considered to amount to limited harm given the evidence that is available. The lack of an objection from the Environmental Health Officer is thus of substantial weight here,

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Members are reminded that a refusal reason will need to be accompanied by the appropriate technical evidence to show demonstrable harm, if it is to be defended in any appeal proceedings.

c) The Level of Harm

As a consequence of this assessment of harm, it can be concluded that there is substantial "definitional" Green Belt harm because the proposal is not appropriate development, but that the actual level of Green Belt harm is moderate. There is no highway or flooding harm; minor landscape and visual amenity harm, less than substantial harm to heritage assets and limited harm to residential amenity. This therefore constitutes the harm side of the planning balance.

d) The Applicant's Planning Considerations

The applicant has set out those planning considerations which he puts forward for the other side of the planning balance. These will now be identified and weight will once again be attributed to them.

The first of these is the site specific shortfall of HGV parking spaces required to meet existing demand alongside future growth forecasts for HGV traffic on the Motorway network. It is not necessary to repeat the arguments set out above within the applicant's supporting Transport Assessment. These set out the national growth predicted as well as that experienced recently; actual survey work of the northbound service area itself looking at numbers and driver behaviour as well as Government guidance on motorway parking provision. This consideration is supported by a strong relevant evidence base and thus it is considered that this carries significant weight.

The second of the considerations is the very specific circumstances affecting this service area due to driver choice; route choice and traffic delays. These are set out above and are based on actual evidence and are peculiar to this particular service area because of its location on the regional motorway network and its location vis-s-vis other suitable parking areas. This consideration is also supported by a strong relevant evidence base and it too carries significant weight.

The third of the considerations is the question of alternatives that might not involve a Green Belt site. The applicant's Assessment has looked at the relevant existing service areas on the motorway network associated with this service area and studied their capacity and potential for expansion; alternative non-motorway HGV parking areas and the re-arrangement of the existing parking provision within the service area to accommodate additional HGV spaces without the need for extension. It is considered that this analysis is relevant and robust and has been undertaken appropriately. It thus should carry significant weight.

In conclusion it is considered that cumulatively these considerations carry substantial weight.

e) The Planning Balance

The final assessment the Board has to make is to conclude which side of the balance has the greater weight. However the NPPF makes it explicit that if the applicant's considerations and any other benefits are to amount to the very special circumstances necessary to outweigh the total harm caused, then those considerations have to "clearly" outweigh the level of harm. Here the overall level of harm is set out in section (c) above and the applicant's considerations are set out in section (d).

The "test" set out in the NPPF for Members to assess this balance is to decide whether the applicant's case "clearly" outweighs the total level of harm caused. It is considered that it does and there a number of reasons for this,

Firstly, the actual level of Green Belt harm caused is "moderate". This is due to a combination of the existing topography of the site itself, its setting, the nature of the surrounding built form and activity and the content of the proposal with it being an extension to an existing large site and with it containing no new buildings. If this were a free-standing proposal or a proposal for a new HGV park and new amenity buildings elsewhere in the Green Belt, then the conclusion on Green Belt harm would be different.

Secondly the overall level of non-Green Belt harm too is not considered to be high. There would be change if this proposal is allowed, but that is not a reason for refusal. The existing site and its setting already experience the impacts of the M6 Motorway and the service area. The issue is whether this proposed extension would materially worsen or add to the impacts already experienced. The technical evidence on these impacts does not suggest that this would be the case.

Thirdly the applicant's case is substantial. It is supported by actual evidence of the use of the current service area and national guidance on HGV parking provision and predicted growth in the use of HGV's. This shows a site that is frequently under "stress" resulting in consequential highway safety concerns. Reasonable alternatives have been explored and appropriate evidence submitted to show that there are issues with these. It shows that these carry little weight as reasonable alternatives. The crucial or key factor here is the particular circumstances that apply to this service area. If the application was for an HGV extension without this site-specific evidence, then the weight to be given to it would be less. That evidence is sound and based on actual events and survey work. It is supported in general terms by Highways England. As a consequence it is sufficient to show that there are unusual circumstances occurring at this particular site.

Fourthly, the applicant has addressed the three refusal reasons set out in the earlier 2008 decision. Those reasons were essentially around the conclusion that the case at that time was not made. These were not prohibitive of the proposal under all circumstances. It is considered that the applicant has now provided a full case. Indeed the growth of HGV traffic since 2008 and the increased "stress" of this particular site will have worsened during that time.

As a consequence of these reasons it is considered that there is a clear "gap" between the moderate Green Belt harm caused together with the minor non-Green Belt harm caused and the substantial weight that is given to the applicant's case. Very special circumstances have thus been shown.

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 permitted by this planning permission shall be carried out strictly in accordance with the approved Flood Risk Assessment (FRA) CMSA-BWB-EWE-XX-RP-EN-0001_FRA, Sustainable Drainage Statement CMSA-BWB-HDG-XX-RP-RP-0002_SDS, and Surface Water Strategy CMSA-BWB-HGR-XX-DR-EN-201_Surface Water Strategy. In particular the development should be carried out according to the following mitigation measures detailed:

- 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 6.6 l/s for the site.
- Provide provision of surface water attenuation storage as stated within the FRA of 749m³ and/ or in accordance with 'Science Report SC030219 Rainfall Management for Developments'. The storage pond should be designed in accordance with plan CMSA-BWB-HGR-XX-DR-202_Pond Cross Sections.
- Surface water is to be provided via a minimum of two trains of treatment using the proposed above ground drainage features within the drainage design.

The mitigation measures shall be fully implemented prior to use of the development and subsequently in accordance with the timing and phasing arrangements embodied within the scheme.

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.

3. For the avoidance of doubt the HGV parking area shall only be open between 08:00 Monday morning until 18:00 Friday Evening inclusive and shall not be open any other times on Friday evening, Saturday and Sunday until 08:00 hours on Monday and shall specifically not be open at any other times on Friday evenings, or at any time on Saturdays and Sundays.

REASON

To protect the amenities of nearby residential properties.

4. The lighting scheme shall only be controlled by light sensors and the lighting shall be directed downwards at all times.

REASON

To protect the amenities of nearby residential property.

5. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered CMSA-BWB-GEN-XX-DR-TR-107 S2 REV P1; CMSA-BWB-GEN-XX-DR-TR-106 S2 REV P1; CMSA-BWB-HLG-XX-M2-C-1300 S8 REV P1; Landscape and visual Impact Appraisal Doc ref NO. 1735-17-RP01 dated 24

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February 2017, including the Appendices with Landscape mitigation Plan - 1735-17-03A and Illustrative Landscape Sections plan - 1735-17-04, received 1 March 2017, to CMSA-BWB-HGR-XX-DR-EN-202 S2 REV P1; CMSA-BWB-GEN-XX-RP-TR-0002_RSA1-DTR (Road Safety Audit Stage 1); CMSA-BWB-GEN-XX-RP-TR-0001_RSA1- (Road Safety Audit Stage 1); CMSA-BWB-HGR-XX-DR-EN-201-S2 REV P2 (Surface water strategy) ; CMSA-BWB-HGR-XX-DR-EN-202-S2 REV P1 (Pond Cross Section), received 31 May 2017, and to CMSA-BWB-GEN-XX-DR-TR-105 S2 REV S2; CMSA-BWB-GEN-XX-DR-TR-110 S2 REV S2, received 4 August 2017

REASON

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

Pre-Commencement Conditions

6. No development shall commence until details to demonstrate how the car parks on site will achieve and maintain 'Park Mark,' Safer Parking Award status, have been submitted to and approved in writing by the Local Planning Authority in agreement with Warwickshire Police. The car park shall not be brought into use until the approved measures have been implemented in full, and shall thereafter be retained

REASON

To prevent crime and protect those people using the car park in accordance with paragraph 69 of the NPPF

7. No development and subsequent use of the development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority 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.
- Provide a plan for the management of exceedance flows, including routings.
- Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including levels, gully locations 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 and implement a maintenance plan to the LPA giving details on how surface water systems shall be maintained and managed 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 commence until details of the earth bund and acoustic close board type fence as shown as part of the Landscape and visual Impact Appraisal Doc ref NO. 1735-17-RP01 dated 24 February 2017, including the Appendices with Landscape mitigation Plan - 1735-17-03A and Illustrative Landscape Sections plan - 1735-17-04, received 1 March 2017 have been provided and approved in writing by the Local Planning Authority

REASON

To protect the amenities of nearby residential property.

9. No development shall take place until:

a) a Written Scheme of Investigation (WSI) for a programme of archaeological evaluative work shall be submitted to and approved in writing by the LPA.

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

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

The development, and any archaeological fieldwork post-excavation analysis, publication of results and archive deposition detailed in the Mitigation Strategy document, shall be undertaken in accordance with the approved Mitigation Strategy document.

REASON

To ensure the recording of any items of archaeological interest.

10. No development shall commence until a Tree Survey to fully assess the trees that are firstly upon the site and secondly those that will be affected by the development of the site as per the specifications provided with the submitted application. The survey should use BS5837:2012 Trees in relation to design, demolition and construction-Recommendations, has been submitted and approved in writing by the Local Planning Authority

REASON

To ensure the work is carried out to accepted arboricultural practices to the long term well being of the trees.

11. Prior to the commencement of development, a biodiversity offsetting scheme shall be submitted to and approved in writing by the Local Planning Authority. The Biodiversity Offsetting scheme shall provide appropriate compensation for a Biodiversity Impact Assessment score of 0.57 Biodiversity Units. The scheme shall be sited on land owned by the applicant adjacent to the Corley Motorway Service Station. The approved scheme shall be set out in the next available planting season and maintained in accordance with the approved written scheme.

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REASON

The purpose of ensuring that the Development shall not result in a Biodiversity Loss in accordance with the National Planning Policy Framework.

12. No development shall take place on site until a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.

REASON

To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features of communal public, nature conservation or historical significance.

Other Conditions

13. 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 0700 nor after 1900 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

REASON

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

14. All planting, seeding or turfing comprised in the approved details of landscaping 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.

Notes

1. National Grid have set out the following, given the overhead wires that run through the site:
- National Grid's Overhead Line/s is protected by a Deed of Easement/Wayleave Agreement which provides full right of access to retain, maintain, repair and inspect our asset.
 - National Grid requires 3D drawings to be provided at the earliest opportunity (DWG, DGN or DXF)
 - Statutory electrical safety clearances must be maintained at all times. National Grid

recommends that no permanent structures are built directly beneath our overhead lines. These distances are set out in EN 43 –

- Technical Specification for "overhead line clearances Issue 3 (2004) To view EN 43 – 8 Technical Specification for "overhead line clearances Issue 3 (2004).

http://www.nationalgrid.com/uk/LandandDevelopment/DDC/devnearohl_final/appendixIII/appIII-part2

- The statutory minimum safety clearance is 7.6 metres to ground and 8.1 metres to a normal road surface. Further detailed information can be obtained from the Energy Networks Association's (www.energynetworks.org.uk) Technical Specification E-43-8 for "Overhead Line Clearances", Issue 3 (2004)

- Any changes in ground levels which are proposed either beneath or in close proximity to our existing overhead lines would serve to reduce safety clearances. Safety clearances to existing overhead lines must be maintained in all circumstances.

- To view the Development Near Overhead Lines Document.

<http://www2.nationalgrid.com/WorkArea/DownloadAsset.aspxid=23713>

- To view the National Grid Policy's for our Sense of Place Document.

<http://www2.nationalgrid.com/UK/Services/Land-and-Development/A-sense-of-place/>

- The relevant guidance in relation to working safely near to existing overhead lines is contained within the Health and Safety Executive's (www.hse.gov.uk) Guidance Note GS 6 "Avoidance of Danger from Overhead Electric Lines."

- Plant, machinery, equipment, buildings or scaffolding should not encroach within 5.3 metres of any of our high voltage conductors at the point where the conductors are under their maximum 'sag' or 'swing' conditions. Overhead Line profile drawings should be obtained using the above contact details.

- If a landscaping scheme is proposed as part of the proposal, we request that only slow and low growing species of trees and shrubs are planted beneath and adjacent to the existing overhead line to reduce the risk of growth to a height which compromises statutory safety clearances.

- Drilling or excavation works should not be undertaken if they have the potential to disturb or adversely affect the foundations or "pillars of support" of our towers. These foundations extend beyond the base of the tower. Pillar of Support drawings should be obtained using the contact details above.

- Due to the scale, bulk and cost of the transmission equipment required to operate at 275kV or 400kV we only support proposals for the relocation of existing high voltage overhead lines where such proposals directly facilitate a major development or infrastructure project of national importance which has been identified as such by government.

- To promote the successful development of sites crossed by existing overhead lines, and the creation of well-designed places, National Grid has produced 'A Sense of Place' guidelines, which look at how to create high quality development near overhead lines and offer practical solutions which can assist in avoiding the unnecessary sterilisation of land in the vicinity of high voltage overhead lines.

- Further information regarding our undergrounding policy and development near transmission overhead lines is available on our website at: <http://www.nationalgrid.com/uk/LandandDevelopment>

2. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to

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ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

3. 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>

Police advice further to condition 3, sets out the following;

Secure boundary fence around HGV park - I would recommend a 2.4m weldmesh fence securing the boundary around the HGV park site, with appropriate landscaping against it. The reason for 2.4 m weldmesh, is that it is visually permeable, so does not look offensive and can blend in with any planting, with the height deterring offenders trying to scale over it. If persons are determined to commit crime they will have to drive/ walk onto the HGV park through controlled access point.

HGV / Coach Parking areas - Because of the size of some of these vehicles and drivers needing to manoeuvre into tight areas, they can easily reverse and nudge lamp columns / CCTV columns. Over time such nudging moves the columns so the lighting and CCTV are not covering the area where they should be. Such columns should be set back if there is room, or a nudge kerb or similar fitted so that when such large vehicles reverse, they know when to stop. This greatly reduces maintenance of such columns and prevent light heads directing light skyward rather than down at the ground.

Safer Parking Award - I would look for a condition for the site to be designed to, achieve and maintain the Safer Parking Award. This will help to provide protection for HGV drivers and their loads,

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

5. 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.

7. 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:

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www.gov.uk/government/organisations/the-coal-authority

8 Public footpath number M327 passes close to the site. Care should be taken, particularly during construction works, to ensure that this route is kept open at all times.

9. 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 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/2017/0104

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	1/3/17
2	22 Neighbour representations	Consultation responses	22/3/17 – 13/7/17
3	NWBC Tree officer	Consultation response	10/8/17
4	WCC Archaeology	Consultation response	16/3/17
5	National Grid	Consultation response	17/3/17
6	Police	Consultation response	20/3/17
7	NWBC Environmental Health (pollution)	Consultation response	21/3/17
8	Highways England	Consultation response	23/3/17
9	NWBC Environmental Health (noise)	Consultation response	30/3/17
10	WCC FRM	Consultation response	3/4/17
11	Warwickshire Wildlife Trust	Consultation response	3/4/17
12	Corley Parish Council	Consultation response	10/4/17
13	NWBC Environmental Health (noise)	Consultation response	11/4/17
14	WCC Highways	Consultation response	12/4/17

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15	National Grid	Consultation response	13/4/17
16	WCC FRM	Consultation response	2/5/17
17	Corley Parish Council	Consultation response	8/6/17
18	NWBC Environmental Health (noise)	Consultation response	14/6/17
19	Highways England	Consultation response	16/6/17
20	NWBC Environmental Health (noise)	Consultation response	10/7/17
21	WCC Highways	Consultation response	13/7/17
22	WCC Highways	Consultation response	1/8/17
23	WCC FRM	Consultation response	16/8/17
24	Press notice	Consultation	13/3/17
25	Case officer	Email to Councillors	14/3/17
26	Cllr Simpson	Email to case officer	18/3/17
27	Case officer	Emails to agent	22/3/17 – 24/3/17
28	Case officer	Email to agent	24/3/17
29	Agent	Email to case officer	24/3/17
30	Case officer	Email to agent	27/3/17
31	Neighbour and case officer	Exchange of emails	27/3/17
32	Case officer	Email to agent	30/3/17
33	WCC footpaths and case officer	Exchange of emails	31/3/17
34	Case officer	Email to agent	31/3/17
35	Case officer	Email to agent	3/4/17
36	Case officer and agent	Exchange of emails	4/4/17 and 6/4/17
37	Case officer	Email to NWBC Env Health	6/4/17
38	Case officer	Email to agent	7/4/17
39	Case officer and agent	Exchange of emails	2/5/17 and 11/5/17
40	Agent	Additional information	28/5/17
41	Case officer	Email to agent	31/5/17
42	Case officer and parish council	Exchange of emails	1/6/17 and 31/5/17
43	Case officer	Email to WCC FRM	1/6/17
44	Case officer	Email to agent	8/6/17
45	Case officer and parish council	Exchange of emails	13/6/17
46	Case officer	Emails to agent	14/6/17
47	Case officer	Email to agent	20/6/17
48	Case officer	Email to neighbour	27/6/17
49	Case officer	Email to agent	27/6/17
50	Neighbour	Email to case officer	27/6/17
51	Agent	Email to case officer	2/7/17
52	Case officer	Email to agent	3/7/17
53	Case officer	Email to NWBC Env Health	3/7/17
54	Case officer	Email to NWBC Env Health	5/7/17
55	Case officer and agent	Exchange of emails	10/7/17 and 11/7/17

56	Case officer	Email to agent	11/7/17
57	Case officer	Email to WCC highways	13/7/17
58	Case officer	Emails to agent	13/7/17 and 18/7/17
59	Case officer	Email to agent	4/8/17
60	Case officer	Re-consultation letters	7/8/17
61	WCC Highways	Consultation	21/9/17
62	Warwickshire Museum	Consultation response	20/9/17
63	Case officer	Email to agent	20/9/17
64	Case officer and Agent	Exchange of emails	20/9/17
65	NWBC Tree officer	Consultation response	10/8/17
66	NWBC Env Health Officer	Comments	10/8/17
67	Case officer	Emails to agent	11/8/17
68	WCC FRM	Consultation response	15/8/17
69	Case officer	Email to WCC ROW	16/8/17
70	Case officer	Email to H E	17/8/17
71	Highways England (H E)	Email to case officer	17/8/17
72	Agent	Email to case officer	21/8/17
73	Case officer	Email to NWBC tree officer	21/8/17
74	Case officer	Emails to agent	21/8/17 - 24/8/17
75	WWT	Consultation response	30/8/17
76	Case officer	Email to agent	30/8/17
77	Neighbour comments	Consultation response	30/8/17
78	Case officer	Emails to agent	30/8/17
79	Agent	Email to case officer	4/9/17
80	Case officer, agent, WWT and WCC Ecology	Exchange of emails	11/9/17 - 12/9/17
81	Case officer	Email to WCC footpaths	19/9/17
82	Agent	Email to case officer	21/9/17
83	Case officer	email to agent	21/9/17
84	WCC highways	Consultation response	21/9/17
85	Case officer and agent	Exchange of emails	26/9/17
86	Case officer	Email to neighbour	26/9/17
87	Case officer	Email to agent	26/9/17
88	WWT	Email to case officer	26/9/17
89	Case officer	Email to WWT	27/9/17
90	Case officer	Email to agent	27/9/17

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.

(2) Application No: PAP/2017/0415

Austrey House, Orton Lane, Austrey, Atherstone, CV9 3EA

Construction of agricultural field digestate storage reservoir for

William Corbett Farms Ltd

Introduction

The application is brought before the Board following a local member request concerned about amenity issues.

The Site

This is a substantial farm holding centred on a farmstead with a large range of farm buildings on the north-east side of Orton Lane about a kilometre south-east of the edge of Austrey and the same distance from Orton-on-the-Hill. It stands in open countryside but there is a pair of semi-detached houses just to the north-west some 200 metres distant and further dispersed equestrian and residential properties between it and Austrey. The land rises quite steeply from the lane behind the farm culminating in a significant scarp. There is a scatter of trees and hedgerows in an otherwise arable landscape. The lane rises up the slope to give access to Orton-on-the-Hill where there is a prominent group of trees as well as the spire of the parish church. The farm complex extends some way back from the lane and there is a significant number of agricultural buildings concentrated here behind the farm house together with a storage yard and recently completed AD tanks.

The site's general location is at Appendix A and photographs are at Appendix B.

The Proposal

It is proposed to construct a digestate storage reservoir/lagoon. The application proposes the formation and construction of a rectangular shaped lagoon in the field adjacent to and immediately to the east of the bund bounding the site of the two existing AD tanks. The lagoon would be part of the digester process before the liquid fertilizer is spread on to the land.

The general layout and associated works are illustrated at Appendix C.

The floor of the proposed lagoon is 77 metres in length by 35 metres in width essentially on a north-north-east to south-south-west axis. It would be "cut" into the slope such that the excavated material would be used for the surrounding bunds. Because of this "cut" the height of the bunds varies from one to 5 metres in height. The bunds would be graded accordingly with the largest having a flat top. The overall capacity of the lagoon would be 10,700 cubic metres. A fence and hedgerow is proposed to be placed along the top of the surrounding bunds.

There is an operational Anaerobic Digester plant operating from the site. This is presently being fed with 20,000 tonnes of crop material per year, sourced from the farm holding along with an additional water input of 3,000 tonnes of rainwater harvested from the farmstead. In addition to the production of electricity and bio-methane, there is a resultant 18,000 tonnes of liquid digestate which is being used as liquid fertilizer on the farm holding.

This fertilizer is utilised on the farm as a substitute for imported chemical fertilizers. It is most effectively applied during the growing season – March to September. Because of the effectiveness of the operation the existing current storage on-site is not sufficient to fully utilise the product efficiently over the growing season – in short more is being manufactured than can be presently stored. The proposed lagoon is thus needed to store this additional material.

As a consequence, there could be a new benefit. At present the liquid material is taken to the surrounding fields on the holding with tractors and tankers. From the lagoon, a different technology can be used. This is to pump it to the fields as required through a new pipe network, thus obviating vehicle movements on local roads.

An Air Quality Technical Statement was submitted with the application. This can be viewed in Appendix D. The main conclusion of the statement sets out that the lagoon would not have a significant odour impact.

A further report was submitted entitled “Site Investigation and Lagoon Design” and this provides more detailed technical specifications for the proposed lagoon. An extract is at Appendix E.

Background

There have been various farm buildings permitted at the farm – the most recent being for the AD plant comprising the two domes presently on site.

Consultations

Environmental Health Officer – No objection. There have been no complaints made to the Council in respect of the current AD plant and equipment or arising from the spread of digestate onto the land.

Representations

A letter of objection has been received from a resident of Orton on the Hill. The main concerns are:

- Impact on the village Conservation Area
- Potential for concentrated unpleasant odours over long periods.
- Risk of pollution to watercourses
- Whether there is to be fencing around the lagoon
- The Air Quality Statement does not allay fears
- Crop and animal waste should only be stored on site.

A full copy of the comments made is at Appendix F with the applicant’s response at Appendix G and the objector’s further comments in response at Appendix H

During the course of the application there have also been references made to the by-product of the AD plant currently operational at Merevale Lane near Baxterley. The applicant's response to this comparison is at Appendix I.

Austrey Parish Council – No comments received

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV10 (Energy Generation and Conservation); ENV13 (Building Design); ENV15 (Conservation) and ECON7 (Agricultural Buildings)

Austrey Neighbourhood Plan 2017 – Policies AP3 and AP4 (Environment, Landscape and Wildlife)

Other Material Planning Considerations

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

Observations

Introduction

The site lies within open countryside in a wholly agricultural setting. Saved policy ECON7 says that new agricultural buildings and structures are acceptable in principle in such a location particularly if they are required for the efficient long-term operation of the farm holding and that there are no existing buildings suitable for the purpose on the site. New buildings and structures are generally to be located within an existing group and the overall design should not cause adverse visual and landscape impacts.

The siting of the lagoon proposal is close to existing farm buildings and does not lead to a new built form. Landscaped bunds and irrigation ponds are regular features on farm holdings and in this respect the general form of this proposal is no different. The lagoon is located where it is operationally required and linked to the adjoining AD plant. Of necessity it is “cut” into the surrounding contours but there is no overall major or adverse landscape impact. The predominant openness of the landscape character here would be retained along with the dominance of the scarp slope in that landscape. In other words the landscape here is “big enough” to absorb this new feature. It is agreed that the lagoon would be visible but that would be largely restricted to the roads on the higher slopes to the east. The footpath is some distance away to the south west and the lagoon would very much be “read” against the backcloth of the rising slope. The impact would not be major or adverse.

It is however recognised that the lagoon could be better screened and so the hedgerow and wooden fences around it are welcome mitigation features and additional tree planting can also be required by planning condition.

In overall terms therefore it is considered that with these mitigation measures the proposal can be supported in principle, as there would be no significant harm to the relevant Development Plan policies – including those of the Neighbourhood Plan – and there is not the evidence available to identify that level of harm.

Additionally the proposal would satisfy the Development Plan policies in respect of waste disposal and management as well as those dealing with renewable energy and energy conservation.

Notwithstanding this general level of support there are other planning considerations to assess and Members will have to explore whether these would give rise to significant harm and that there is the evidence available to demonstrate that level of harm.

Neighbour Amenity

It is noteworthy that there has only been one objection from a local resident. The matters raised in the objection are relevant considerations and need to be assessed. These are looked at below, but in general terms it is not considered that there is an overall objection based on demonstrable adverse impact to residential amenity.

Heritage Impact

The heritage assets here are the listed parish church at Orton on the Hill and that village's Conservation Area.

The significance of the church lies in its architectural and historic characteristics and attributes which will not be directly affected. In this case however the Church has substantial landscape significance due to the predominance of its location; its setting and appearance in the surrounding landscape. That setting is not confined but wide ranging. The church is a substantial feature in the landscape with its spire extending up beyond surrounding tree cover and commanding attention as it is set on the highest ground. It is not considered that this significance would be adversely affected by the proposed lagoon because of the separation distances; the low level of the lagoon against the openness of the landscape and the extensive scarp slope. The spire will still retain its overall dominance when viewed from afar. The conclusion is that the proposal would cause less than substantial harm to the significance of this asset in terms of the guidance set out in the NPPF.

The Orton Conservation Area which is some 1.3 km distant from the lagoon. It extends into the village to the north west of the Church. The significance of this asset lies in the recognition of the particular scale and appearance of the rural architectural and historic characteristics of the village. None of this significance would be directly affected by the proposal. Whilst odour issues might have an impact on the ambience of the setting of the Area, it is worth noting that this is a rural area where such conditions do prevail from time to time. The impact of the proposal is considered to be less than substantial.

As a consequence the overall impact of the proposal on heritage assets is considered to be less than substantial

Odour and Pollution

It is material that the Council's Environmental Health officer does not raise an objection to the proposal, based upon the evidence and reports provided with the application.

The recent commencement in operating the AD plant has already led to the spreading of material on adjoining fields over the past few months. This has not led to complaints and indeed as stated by the objector, some rural smells are to be expected in this rural setting particularly at some times of the year. Additionally the nature of the digestate here is materially different to that arising from food waste as explained more fully in the applicant's response – particularly in the comparison with the Merevale AD operation. The issue here therefore is not the spreading of the digestate, but its collection for periods in a large lagoon. The technical report submitted with the application clearly concludes that there would not be a material adverse impact and that conclusion based on the technical evidence submitted has been endorsed by the Council's own Environmental Health Officer. There is thus not the technical evidence available to demonstrate significant harm – the test set out in the NPPF. Members will be aware of the importance of this from similar issues elsewhere in the Borough.

The impact on local water courses arising from either leakage or overflow is covered by the applicant. In respect of these issues, then it is noteworthy that the proposed specification goes beyond Environment Agency recommendations.

Highways

There are no adverse highway impacts – indeed the proposal will yield some benefit in removing tractor movements if the pipework network suggestion is followed through.

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 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 numbers 5405/7 and Report on site Investigation and Lagoon Design Report of April 2017 by Key GS, Report Number 17-137-R-001, including the contained plan titled 'Digestate Lagoon Proposed Design, drawing number 17-137-D-001 Rev 01 received by the Local Planning Authority on 31 July 2017, to the plan numbered 5405/6 received on 2 August 2017 by the Local Planning Authority, and to the Air Quality Technical Statement dated 16 June 2017 (AQ103844r1) received by the Local Planning Authority on 12 September 2017.

REASON

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

3. For the avoidance of doubt the development hereby approved shall be used wholly in association with William Corbett Farms Ltd and shall not be used by any other farm holding or business.

REASON

In the interests of highway safety and the visual and environmental interests of the area.

4. The bunds to the lagoon once constructed shall be grass covered in the first available season and retained at all time, unless agreed in writing by the Local Planning Authority. hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. Only the approved measures shall then be installed on site.

REASON

In order to reduce the risks of flooding and pollution.

5. The lagoon reservoir shall only contain materials from the Anaerobic Digester and Austrey House Farm, unless agreed in writing by the Local Planning Authority

REASON

In the interests of the visual amenities of the area.

6. The monitoring and reporting procedures set out in the Odour Management Plan approved under PAPA/2015/0259) shall take effect immediately the lagoon reservoir approved becomes operational and maintained at all times.

REASON

In the interests of the visual amenities of the area.

7. Before the commencement of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval. For the avoidance of doubt landscaping shall include vegetation and fencing. The landscaping scheme when approved shall be implemented within six calendar months of the date of occupation of the premises for business purposes, and in the event of any tree or plant failing to become established within five years thereafter, each individual tree or plant shall be replaced within the next available planting season to the satisfaction of the Local Planning Authority.

REASON

In the interests of the visual amenities of the area.

Notes

1. 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.

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0415

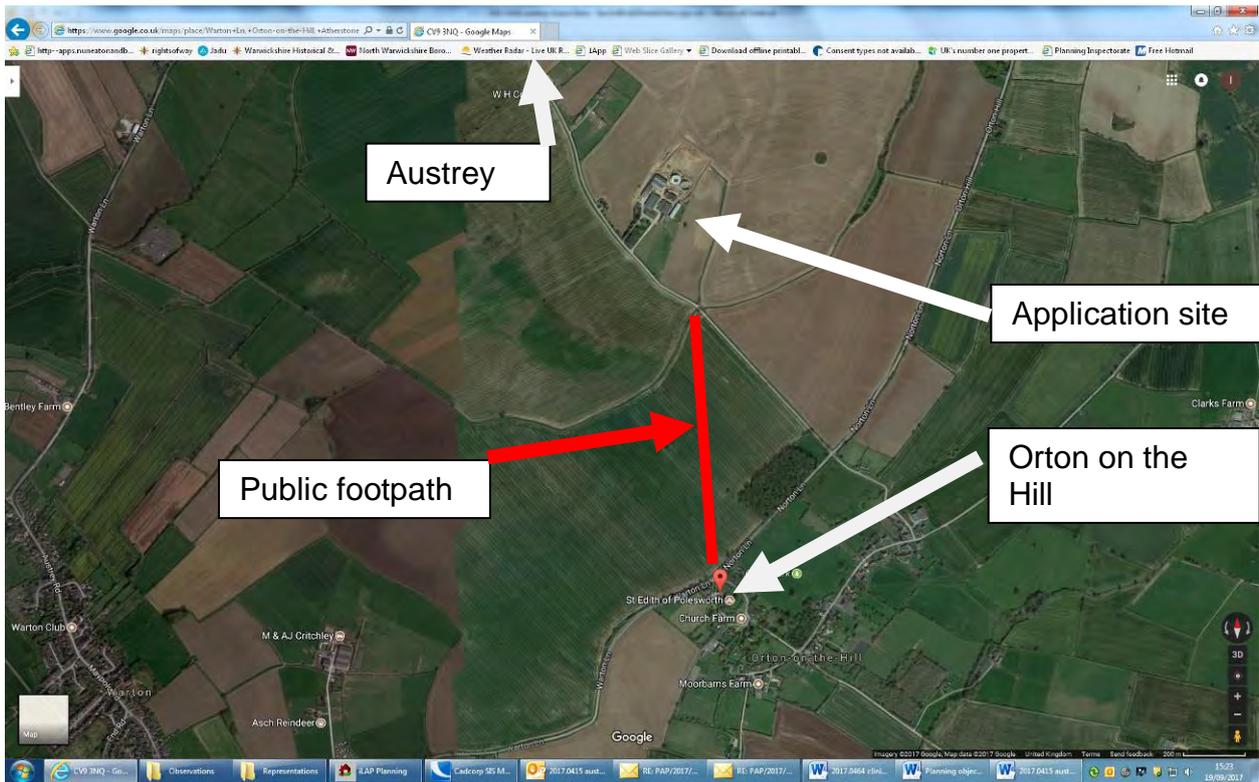
Background Paper No	Author	Nature of Background Paper	Date
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7	Case officer	Email to agent	23/8/17
8	Case officer and neighbour	Email exchange	24/8/17
9	Case officer	Email to agent	11/9/17
10	Case officer	Email to agent	11/9/17
11	Agent	Email to case officer	13/9/17
12	Case officer	Email to agent	13/9/17
13	Case officer	Email to NWBC Env Health	13/9/17
14	Case officer	Email to neighbour	13/9/17
15	NWBC Environmental Health and case officer	Email exchange	15/9/17
16	Agent	Email to case officer	15/9/17
17	Case officer and neighbour	Email exchange	19/9/17
18	Case officer`	Email to agent	20/9/17
19	NWBC Environmental Health and case officer	Email exchange	21/9/17
20	Applicant	Email to case officer	25/9/17
21	Case officer	Email to applicant	26/9/17
22	Case officer	Email to agent	3/10/17
23	Case officer	Email to NWBC Env Health	3/10/17
24	NWBC Env Health	Email to case officer	3/10/17
25	Case officer	Email to agent	3/10/17
26	Agent	Emails to case officer	5/10/17
27	Case officer	Email to Councillor Humphreys	6/10/17
28	Case officer	Email to agent	13/10/17
29	Case officer	Email to agent	24/10/17

30	Applicant	Email to case officer	1/10/17
31	Case officer and Councillors	Email exchanges	20/9/17 – 3/10/17
32	Case officer and agent	Emails exchanges	24/10/17 – 25/10/17

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.

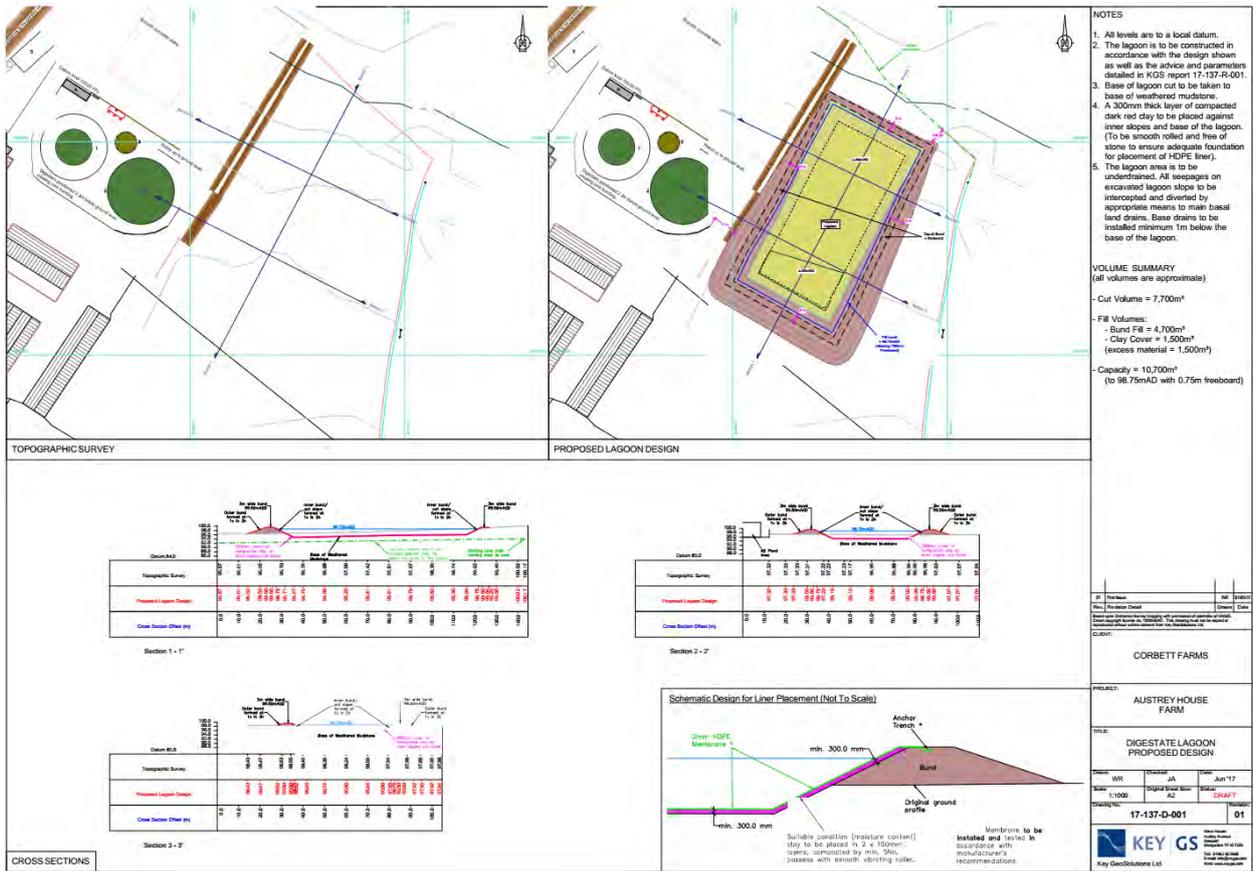
A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.

Appendix A –Location Plan



Appendix B – Site photographs



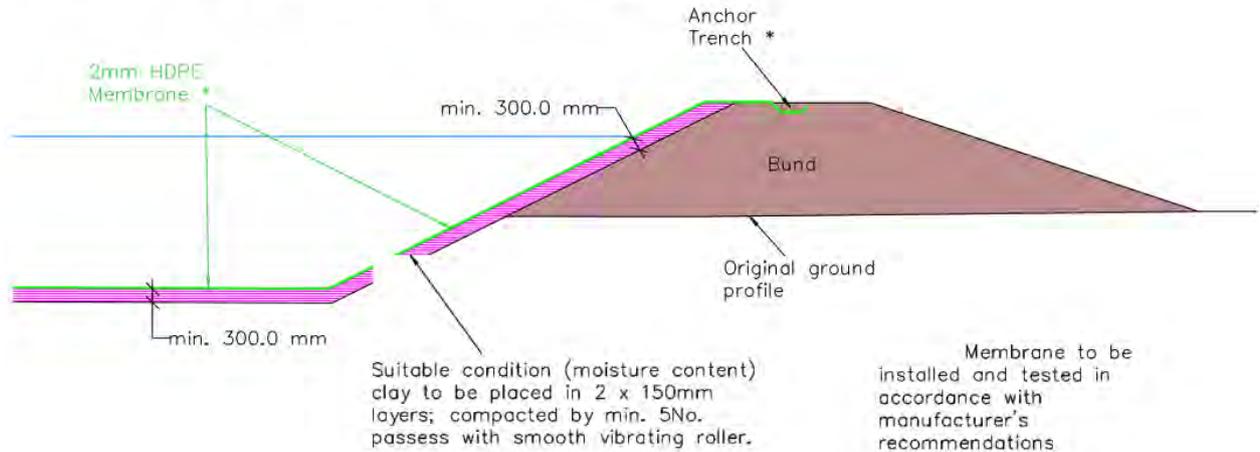


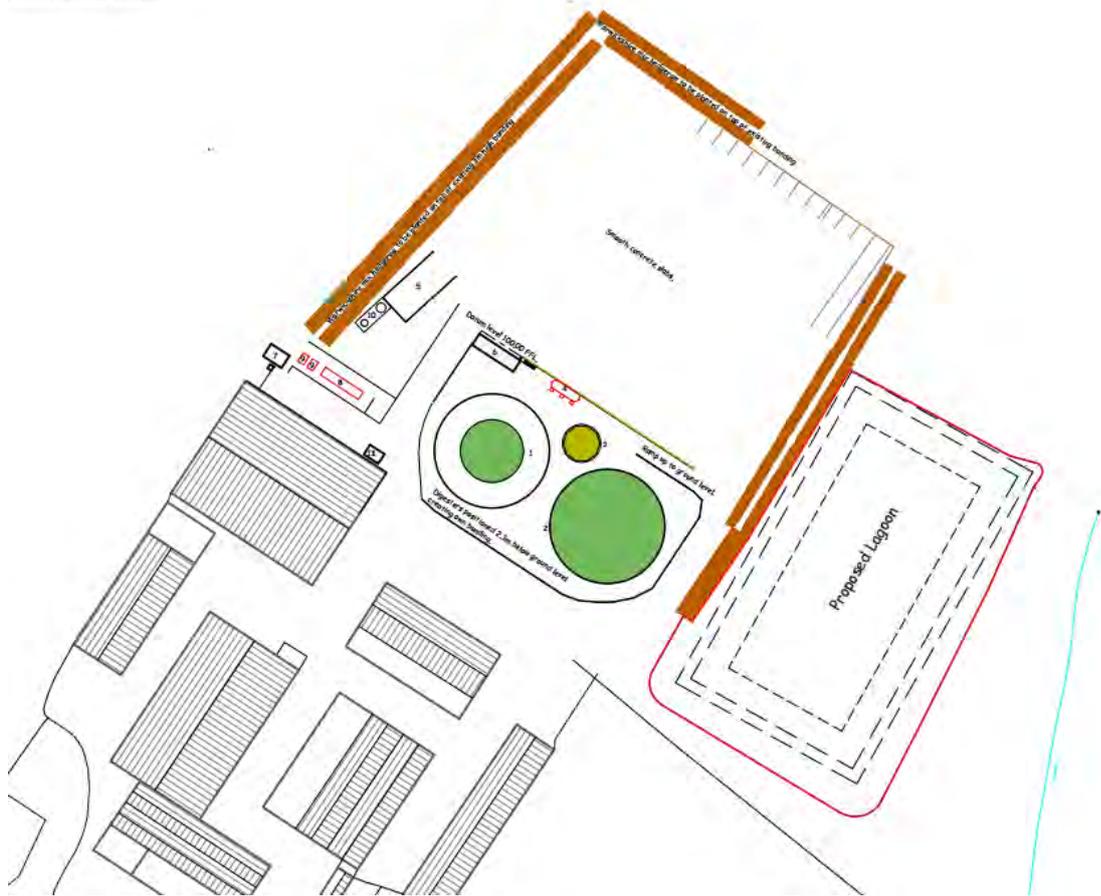
- NOTES**
- All levels are to a local datum.
 - The lagoon is to be constructed in accordance with the design shown as well as the advice and parameters detailed in KGS report 17-137-R-001.
 - Base of lagoon cut to be taken to base of weathered mudstone.
 - A 300mm thick layer of compacted dark red clay to be placed against inner slopes and base of the lagoon. (To be smooth rolled and free of stone to ensure adequate foundation for placement of HDPE liner).
 - The lagoon area is to be underdrained. All seepage on excavated lagoon slope to be intercepted and diverted by appropriate means to main basal land drains. Base drains to be installed minimum 1m below the base of the lagoon.
- VOLUME SUMMARY**
(all volumes are approximate)
- Cut Volume = 7,700m³
 - Fill Volumes:
 - Bund Fill = 4,700m³
 - Clay Cover = 1,500m³ (excess material = 1,500m³)
 - Capacity = 10,700m³ (to 98.75mAD with 0.75m freeboard)

Client	CORBETT FARMS
Project	AUSTREY HOUSE FARM
Title	DIGESTATE LAGOON PROPOSED DESIGN
Scale	1:1000
Sheet No.	17-137-D-001
Revision	01

KEY GS
Key GeoSolutions Ltd

Schematic Design for Liner Placement (Not To Scale)





1. AIR QUALITY TECHNICAL STATEMENT

1.1 Introduction

The AD facility was granted planning permission in September 2015 and is now fully operational. It is understood that the proposals for this application comprise the development of a digestate lagoon in the east of the site to allow for increased storage of the digestate prior to spreading on the surrounding farm. As the digestate lagoon will be an open source, there is potential for odour impacts at sensitive receptor locations in the vicinity of the site. This Technical Statement discusses the potential for odour as a result of the proposals.

1.2 Potential Sources

It is understood that the existing AD facility currently operates using biomass feedstock in the form of maize silage, grass silage, rye and water and is transferred using a tractor and a trailer during typical harvest periods prior to unloading within the silage clamps. Once full, the clamps are covered using a protective sheet to minimise emissions and preserve the feedstock throughout the year.

The feedstock is then digested within the AD plant in completely sealed tanks and the biogas produced as a result of the AD process is piped to a biogas dome prior to combustion with an engine for the generation of electricity. It is understood that the exhaust gases are dispersed via a dedicated stack.

The digestate from the AD plant process is considered as a valuable and nutrient rich biofertiliser and is currently stored within a concrete storage tank. The addition of the digestate lagoon will allow for increased storage during the closed period, for spreading on the land. Furthermore, the proposed digestate lagoon will also store any dirty water run-off from the site.

1.3 Discussion

As previously mentioned, REC Ltd completed an Odour Assessment for the existing AD facility. This report identified a number of sensitive receptor locations which had the potential to be impacted as a result of odour emissions from the AD plant. The report concluded that impacts were predicted to be not significant as a result of the proposals with EA odour benchmark values of 1.5oug/m³ achieved at all locations. When considering the potential impacts as a result of the proposed digestate lagoon, the nature of the feedstock is based only on crops and therefore contains little or no sulphur content. Therefore any emissions from the resulting digestate will contain and little or no sulphur compounds and in particular hydrogen sulphide. Therefore any odours are likely to be distinguished as neutral/vegetative and would not be considered as offensive or strong in nature.

Based on the above, it is not considered that the proposed digestate lagoon would lead to a significant odour impact and as such, should not be viewed as a planning constraint.

Appendix E – Site Investigation Report by KEY GS

Submitted with the application is a site investigation report, by KEY GS, and sets out the following:

4.1 *Design Parameters*

Based on the above constraints / assumptions and the results of the classification testing, a design for the digestate lagoon has been undertaken.

The below summarises the parameters used in the proposed lagoon design; a drawing showing plans and cross sections through the design is included in this report as drawing reference 17-137-D-001.

- Outer bund slopes are to be formed at a gradient no steeper than 1v in 3h.
- Inner bund slopes and inner cut slopes are to be formed at a gradient no steeper than 1v in 2h.
- The bund to have a minimum crest width of 3m.
- The crest of the bund is to be formed at a level of 99.5m above local datum (mAD).
- The base of the lagoon is to slope gently to the south, and be formed at a level of between c.95mAD and 96mAD.
 - This level is to coincide with the base of the weathered bedrock.
- The inner slopes and the base of the lagoon are to be covered in a minimum 300mm thickness of compacted dark red clay (weathered mudstone).
 - This clay barrier is to form the foundation surface on which the lagoon liner is to be installed.

4.2 *Volume Summary*

The following summarises the construction volumes required for the proposed digestate lagoon:

- Cut Volume = c.7,700m³.
- Fill Volumes:
 - Bund Fill Volume = c.4,700m³
 - Clay Cover Volume = c.1,500m³
 - (excess material = 1,500m³).
- Lagoon Capacity = 10,700m³ (to 98.75mAD with 0.75m freeboard).

5.1 *RECOMMENDATIONS*

Following the site investigation at Austrey House Farm and the subsequent lagoon design the following recommendations are made.

- The lagoon is to be constructed in accordance with the design shown on drawing reference 17-137-D- 001, as well as the advice and parameters detailed within this report.
- The lagoon area is to be under-drained. All seepages on the excavated lagoon slopes are to be intercepted and diverted by appropriate means to the main, basal, land drains. The basal land drains are to be installed a minimum 1m below the base of the lagoon.
- A low permeability clay barrier is to be placed on the base and inner slopes of the lagoon.
- The clay is to be of a suitable condition (moisture content) and free from stones,

be placed in 2No. 150mm thick layers; compacted by minimum 5No. passes with a smooth vibrating roller.

- In addition to the clay barrier, it is proposed that a minimum 2mm thick HDPE liner is installed and tested to manufacturer's recommendations.

Appendix F - Neighbour comments

Having reflected on the documents supporting the above planning application I wish to express my comments regarding the same.

My concerns are centred upon three particular issues which are:

- Impact on protected vistas protected by way of the adopted conservation plan for Orton on the Hill
- Potential for concentrated unpleasant odours emanating from lagoon over long periods
- Risk of pollution to water course

Impact on protected vistas

The Design and Access Statement seeks to suggest the 'visual impact' will be 'relatively insignificant' and 'should be of no concern to members of the public who happen to catch a glimpse of the installation. (Paragraph 8.2)

At present the application makes no reference to the potential of any protective fencing that may be found necessary to be erected around the lagoon once a risk assessment is undertaken.

The open aspect of the site, coupled with the depth of liquids and level of freeboard proposed, might suggest that fencing may inevitably be required to protect from unauthorised access and which in turn will necessarily will alter the impact on the landscape.

Whilst it is understood that such a proposal is not yet muted the potential must surely be considered at this time.

Notwithstanding introduction, or otherwise, of a fence the topography of the area and lack of hedgerows at field boundaries means that the proposed lagoon would clearly be seen from an adjacent public footpath, which is immediately opposite the site, as well as from publically accessed areas close to the site.

Coupled with the present massing of buildings and other structures that comprise Austrey house Farm the overall impact must be considered detrimental to the requirements to protect the vista from the conservation area of Orton on the Hill.

Reference to the adopted Orton on the Hill conservation area plan will clarify the specific vistas noted in that document. A copy of the Appraisal Plan is herewith attached.

Potential for concentrated unpleasant odours

The Design and Access Statement refers to an 'Air Quality Technical Statement' having been submitted with the planning application. (Paragraph 8.3)

Unfortunately a copy cannot be found on the planning portal and thereby specific comment on the same cannot be made on the subjective assessment stating that the odours 'would not be considered offensive or strong in nature'.

However by evidence of the pungent odours being given off by the liquids, currently created by the anaerobic digestion process, being spread over fields adjacent to my property I would strongly query the assertion there is not an issue to address.

Whilst the spraying of this liquid fertiliser creates only a temporary adverse effect and one that should be anticipated in a rural setting, it is not evident that the lagoon will not be the source of a continuous malodour of greater concentration.

If such a situation were allowed to occur then it would certainly impact on the enjoyment of my current amenity.

Risk of pollution to water course

As noted in the Design and Access Statement (paragraph 3.6) it is evident that that the applicant may deviate from an approved design without regard to due planning process.

Whilst it is understood that retrospective approval was subsequently granted, there remains the risk of a similar situation may arise should permission be granted for the present application.

Accordingly it would be appropriate to ensure some safeguard be instituted, by way of requiring third party inspection of the works in progress, in order to ensure compliance with the technical requirements laid down in Key Geosolutions Limited report.

I am concerned that failure of the competency of the clay or 2mm HDPE liner, due to poor preparation or by adopting changes in specification to the lagoon construction could have an adverse impact on the adjacent spring and water course as well as have the potential to cause an increase in malodour in the area.

On separate but connected matter, maintenance of the 750mm freeboard must be considered as integral to the safe working of the lagoon and as such, in the event planning approval be granted, I would ask that a condition be placed to the effect that the full 750mm freeboard be maintained.

Appendix G - Agent response to neighbour comments

1. "Impact on Protected Vistas and the Conservation Area of Orton on the Hill".

The lagoon will require a boundary fence around it for protection from trespass. As highlighted in the proposal, the requirement is for "agricultural" purposes and as a result will have a boundary fence installed as would any other agricultural enclosure. Such a fence will be constructed in a traditional manner and have no adverse impact on the surrounding area. The materials will be in keeping with the other fencing around the agricultural property and will be of a structure and type as used in traditional farming. It will not exceed the PD limit of 2m in height. The correspondent's concerns can only be assumed to be confusing the lagoon's design and construction with "industrial" installations, which may have "heavy duty" barriers or even walls. If the fencing proposed required express permission, it would have been included in the application.

In response to the correspondent's paragraph:-

".....the topography of the area and lack of hedgerows at field boundary means that the proposed lagoon would clearly be seen from an adjacent public footpath, which is immediately opposite the site, as well as from publicly accessed areas close to the site."

The closest public vantage point to the site is Orton Lane to the south. This public highway has a 60mph speed limit and has a 10ft high thick hedgerow immediately adjacent and which virtually blocks all views. The road at its closest point is 250m from the site.

The footpath in question crosses a 300 acre field to the south-west. The footpath at its closest point is over 380m from the site. The topography of the area dictates that the site is only visible from the path further than 600m away. The topography of the locality also means the surrounding landscape is significantly higher than the existing farm which is at "ground" level. This results in there being no visual impact. The point on the footpath where it would be possible to view the surface of the lagoon, ie. above the farm's ground level, would be in excess of 1000m from the site.

Furthermore, all these distances assume an unobstructed view. The nature of the cropping in that field means it is growing arable crops. These include wheat, maize, oil seed rape and rye, which can grow in excess of 10ft high. For periods of the year no view of the site at all can be obtained from the footpath as the crop obscures it. For example the current crop of maize through which the footpath passes has obscured any view of the site and is currently over 11ft high. At the times when this is the case the nearest vantage point would be the road along the top of the hill, which is 1.3km from the site. The mention of other publicly accessed areas can only be as a result of trespass as all surrounding areas are owned by the farm and where public access is strictly restricted. The only public vantage points are from the road to Warton which is subject to a 60mph speed limit and unsuitable for recreational purposes, i.e. walkers.

The correspondent also makes reference to the Conservation Area of Orton on the Hill. At its closest point, however, the Conservation Area is 1.3km from the site, and in a different county (Leicestershire). The Conservation Area rightly focuses on the village properties and features and its function is to protect the traditional village character, concentrating on building features, type and typical aspects of traditional village scenery. It does not seek to control development in the surrounding area or villages. The area of protection centres round the village green and church, shielded from the proposed site by the local topography and mature vegetation. None of the designated features would be affected by the development. The properties within the area do not overlook the site, and there is no visual impact on them. There is no reference to "vistas" from Warton Lane in the Conservation Area Management Plan, only a mention of panoramic views to open countryside to the west from the traffic island at the entrance to the village.

In the Conservation Area Appraisal, the vistas in question are from the elevated road on top of the hill (Warton Lane). These vistas encompass the whole horizon and all the countryside to the north and west of the village including Tamworth, many villages and thousands of acres of countryside. The proposed relatively small scale ground level development at a distance of 1.3km from the road will become part of the general vista from the village as is Austrey House Farm itself. The approved digestate tanks and associated apparatus are significantly more visible than the proposed lagoon which will be seen in the context of the tanks and the whole associated group of farm buildings. The conclusion has to be that the lagoon by its nature would have no impact on this Conservation Area.

2. “Potential for concentrated unpleasant odours”

The correspondent has raised concerns regarding alleged offensive odours from the anaerobic digestion process and its storage.

The odour assessment was submitted with the planning application and consists of a report submitted by an expert in odour control, Charlotte Smith a senior air quality consultant with REC Ltd. The report clearly states that in their expert opinion the lagoon will have no associated odour risk.

The correspondent makes mention of the current odours affecting “my property”. The recent spreading of material was for the purposes of managing the limited storage available currently. As described in the planning application spreading at this time of year does not make best use of the material as it is best utilised by the growing crop in spring, which is the whole reason for the application. Material has been spread as an organic fertilizer around the site over the past 6 months. However, this is the first complaint relating to odour that has been brought to our clients’ attention.

Any odour from spreading is temporary and very localised. The material is in the form of liquid slurry and contains only organic vegetative plant material which has little odour as it contains no ammonia as found in animal manures. This would be very hard to describe as “pungent” especially from any public areas. However in this application, the spreading is not in question. The issue is whether the lagoon would be a source of “continuous malodour of greater concentration”. The odour report addresses this concern and the expert opinion is that it will not.

3. “Risk of pollution of water courses”.

This again has been addressed in the application with the commissioned report from Key Geo Solutions. Their expert opinion has been specifically sought as they work closely with, and are considered experts in their field by, the Environment Agency. The material being stored has no hazardous properties being completely organic and farm based. However the decision to propose the installation of a 2mm HPDE liner as designed by the experts at Key Geo Solutions was to go above and beyond all recommendations of the Environment Agency in line with required containment. The correspondent appears not to understand the process fully, which due to its high cost and intricate technical requirements must and will be, carried out by a professional installer.

The correspondent’s reference to para. 3.6 of the Design and Access Statement relating to an enforcement investigation into the implementation of the planning permission for the digester tanks and that somehow this implies that the current application if permitted will not be properly carried out is wholly misleading. The unique circumstances of that original situation were fully explained in the subsequent application to regularise the development as built, which in all respects - including visual - was an improvement on the one permitted and of course, was also approved by the Council. As effectively stated in the above paragraph, the installation proposed in this application will be carried out to the letter of the design. There would be no point or advantage to anyone in doing otherwise.

The freeboard by its nature is a freeboard. Should the installation have not have required an extra buffer of 750mm (free board), it would not of been included in the application. The freeboard is therefore intended by its description as a freeboard and is an integral part of the design. The design and capacity have been calculated by experts at Key Geo Solutions to include this.

Appendix H – Neighbours additional comments in response to Agents comments

Fencing:

In the planning application there was no mention of a fence around the lagoon, indeed the application form specifically stated that the proposed boundary treatment was only to be the bund

After my comments the applicant now states that a fence would be incorporated but suggests my concerns may have been 'confused' by having considered 'industrial' installations with 'heavy duty' barriers etc.

The simple fact is that the application was misleading, suggesting that the only visual impact would be effectively be undulations at ground level due to the earthworks required to construct the lagoon.

The plain fact is that the lagoon must be delineated by a protective fence and thereby offers a different picture to that offered in the flawed application.

Impact on protected vistas:

The Agent's response to the siting and visibility of the proposed lagoon is, at best, a skewed version of the true situation.

I do not wish to enter into wasted dialogue on the matter other than to say that the site is clearly visible from Orton Lane, Norton Lane and the public footpath opposite the site.

Despite the current seasonal crop of 3m high maize the site is evident on the footpath for the majority of the year and indeed always whenever maize is not being grown.

This area hosts many walkers, horse riders, cyclists as well as sightseers who all enjoy the protected vistas.

To suggest otherwise is a nonsense easily disproved by any impartial visitor to the area.

Potential for unpleasant odours

It is important, once again, to avoid misunderstanding. The Agent is seeking to suggest I have made a 'complaint' by my reference to the malodour caused when the liquids were spread over the adjacent field.

I did not and do not complain about odours which naturally emanate from traditional farming methods.

I noted these were temporary aberrations which are to be expected in a rural environment.

My concern was with regard to the storage and disturbance of the material in the lagoon over twelve months of the year not simply a few weeks of spreading the fertiliser.

Nonetheless I am grateful for sight of the Air Quality Assessment, produced by REC Limited, which goes a good way to allaying my concerns.

However, as a layman I do find it odd that experience of the malodours when the material is being sprayed on to the field is somewhat at odds to that expressed by the experts.

A more pertinent aspect is that the report refers to smells when the 'feedstock is based only on crops' as being 'likely to be distinguished as neutral/vegetative'.

I would hope that, if planning permission were to be granted, it would be on the condition that the lagoon will only be permitted to take waste from a crop based process and not one that might use animal waste in the process.

To do otherwise would, by inference of the specialist's report, likely lead to unacceptable odours being generated.

Risk of pollution to water courses

The Agent suggests I may not be conversant with the process of constructing a lagoon. I think I can easily allay his fears by advising I am well versed in such building techniques and have many years' experience at a senior level of the construction industry.

It is for that very reason I was concerned to ensure that the Planning Authority consider the potential impact of a poorly constructed lagoon and might seek to recommend that an impartial inspection of the works should be required.

I have made my point over the applicant's adherence to Planning Approvals and do not feel the Agent has added to that argument. Such matters are for the Planning Authority to address, I was simply drawing attention to the risks involved.

With regards to the matter of freeboard my only concern was to try and mitigate the potential, by accident or intent, on the Applicant's behalf to over fill the lagoon and thereby possibly destabilise the structure.

However I recognise that is not an easy matter to address when considering the application.

Appendix I – Merevale Lagoon context information from Agent

The current application proposal is completely different to the installation at Merevale. That one is an industrial plant operated by BiogenGreenfinch used as a commercial plant for processing food waste and other organic materials which would historically have been destined for landfill or incineration. Such plants can and do, process feed stocks such as sewage, waste food, animal by-products, offal and abattoir material.

Merevale processes 45,000 tonnes of food waste each year for which they are paid a “gate fee”, i.e. they are paid for every tonne of waste that comes through the gate. I am advised that this food waste can consist of any material in any condition. The odour from the plant and from the spreading of liquid is due to this waste. The liquid (digestate) from the process is required by legislation to adhere to the PAS110 regulations for waste, to restrict the impact on the environment and human health. . Owing to its volatile character and unpleasant odour, it is also required to be pasteurised prior to being spread on the land. The odour is a result of the organic matter and volatile compounds found in the waste before, during and after the process. Consequently, all food waste sites are renowned for having associated unpleasant odours.

The material used in the Corbetts’ AD plant is all farm sourced plant material from crops. The digestate from the process contains none of the organic matter and volatile compounds that readily produce odour and as a consequence, digestate from their AD facility is virtually odour-free, is stable and rich in nutrients.

Unlike the odour produced at Merevale, the odour from the Corbetts’ form of digestate is characterised as being below the European standard (BSEN13725:2003) detailing as a consequence, no generic European Odour Unit (OUe) has been ascribed to the material. This has been explained in the application odour report.

The Corbetts’ existing plant has a secondary digester and does not use food waste or poultry manure, only crop material, so the odour is minimal. It is worth stating that the originally permitted application for this plant included an open storage tank. As you know, and for the reasons I explained in the recently approved application to regularise the change in the scheme as implemented, the open storage tank was not built. The plant was commissioned in June 2016. Since that time (some 15 months), as far as the Corbetts are aware, the production and spreading of digestate on their 1000 acres surrounding the site has not generated any complaints.

As we have stated before in this context, there will inevitably be some limited odour released in the mixing and spreading process, but it will be of short duration, very localised and certainly significantly less than that generated by the spreading of animal manures which my clients would be perfectly entitled to carry out. In fact, virtually all dairy farms have animal slurry “lagoons”. However, that is not the Corbetts’ method or intention. They have invested heavily in the new technology to improve fertilization methods both for the farm and for the environment. They are the future of farming and deserve to be given every support.

(3) Application No: PAP/2017/0417

Boat Yard, Slacks Avenue, Atherstone, CV9 2AR

Change of use from commercial boatyard premises to land and moorings for outdoor recreation, with erection of indoor classroom and one residential mooring, for

Mrs Jacky Gordon

Introduction

The application is reported to Board for determination because the applicant is a Member of North Warwickshire Borough Council. The Councillors professional name is Dr JS Chambers and she is one of the Ward Members for the Dordon ward.

The Site

The application site comprises a former commercial boatyard which is situated on the southern side of the Coventry Canal in Atherstone. It has vehicular and pedestrian access from Slacks Avenue. The northern boundary of the site is the canal, with the towpath on the opposite side, with a public park beyond. The bounds of the site are shown by the red line on the site location plan below:



The access from Slacks Lane is shown in the photographs below:



Photographs of the interior of the site are shown below:



The Proposal

This is to change of use from a commercial boatyard premises to land and moorings for outdoor recreation, with the erection of an indoor classroom and one residential mooring. The applicant advises that the use is specifically for young people's outdoor recreation.

The applicant indicates a desire to redevelop the site as an ecologically sound outdoor recreational and education amenity for school aged children and young people between the ages of 9 – 16.

She advises that the amenity aims to offer:

- water based activities such as canoeing, raft building, fishing
- nature and wildlife studies (land and water)
- environmental arts projects
- gardening
- physical activity e.g. badminton, judo, yoga
- hydroponic growing area, solar heat and waste management
- occasional overnight camping
- indoor classroom with WIFI access & drinks shack
- An outdoor social and learning area with fire pit and benches.

The applicant advises that a “not for profit” Community Interest Company registered as Ruby’s Yard (CIC) was set up in 2015 to prepare bids and raise funds, to build partnerships, develop a business plan and manage the amenity once planning permission is granted, conditions of use agreed and then formalised in the form of a tenancy agreement with the applicant.

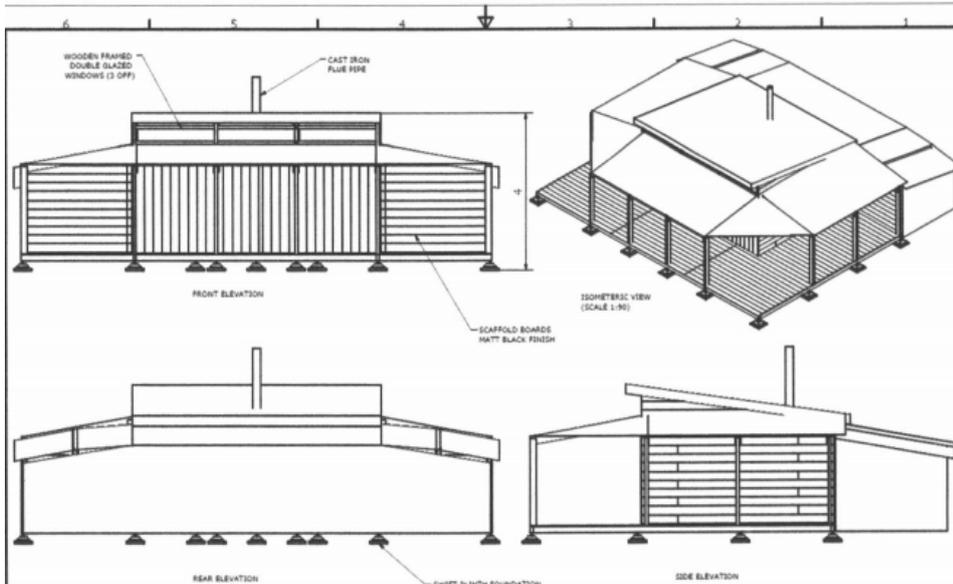
She advises that the ideas for the use evolved thorough discussions with Warwickshire Community and Voluntary Action (WCAVA), the Canal and Rivers Trust (CRT), NWBC (Community Development Officers), Queen Elizabeth and other schools, local councillors and voluntary sector organisations providing services for young people.

It is proposed to site two buildings on the following site layout:

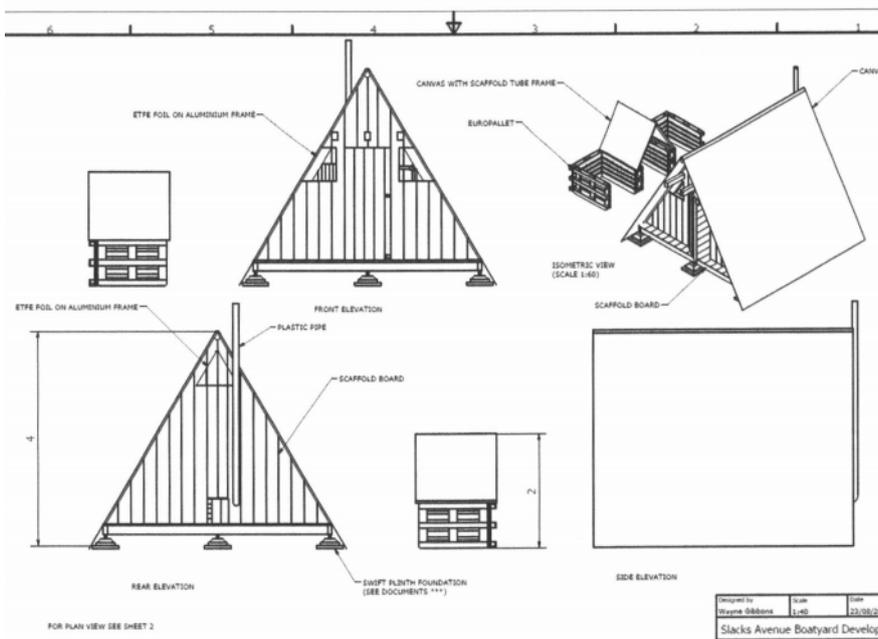


The buildings would have the following appearance:

Appendix 1 - Main Building

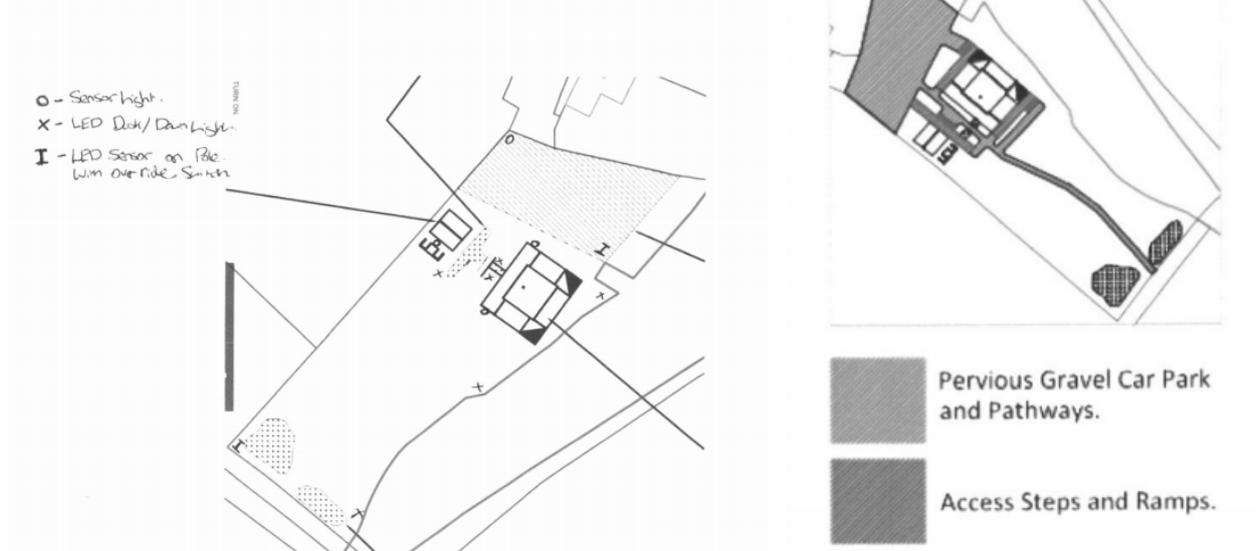


Appendix 1 - Toilet Plan



The use would operate during hours of darkness, therefore a low level of lighting is proposed as shown below. It would also require the laying of hard surfaces for parking and pathways, also shown below:

Appendix 2 – Electrics Plan



The applicant advises that as this will be a new amenity, it is difficult to assess what the demand and frequency of use, however she initially anticipates the site being available for use 3 times a week, open between 1 April and 31 October between 8 am and 8 pm. So that groups can also enjoy and learn from the experience of overnight camping the application also seeks to use the site for up to 8 weekends a year during this same period (excluding Sunday after 4 pm).

Organisations using the site will access the site along Slacks Avenue by car or minibus. Access on foot by young people to the woods and paths beyond the site will be via the gate at the rear of the site.

When not in use as an outdoor amenity for young people, the site may also be used with the agreement of the CIC for the purposes of outdoor recreation by residents of Slacks Avenue.

The application seeks the use of the canal side as a residential mooring to provide 24 hour security for the site, to manage access to the site by different organisations, to ensure that it is properly maintained (grass cutting, toilet composting, cleaning buildings and undertaking repairs) to essentially have someone who will provide a “ caretaker “ role.

The boat would be a maximum size of 66 feet (20.2 metres) moored alongside the concrete mooring area which already has an electricity and water supply. The applicant advises that the mooring agreement will specify that no domestic paraphernalia accumulates on site, ensure effective disposal of waste and rubbish, and that it is only used for residential purposes.

Background

The site has a lawful use as a boatyard. The images provided by the applicant show how it was formerly used.

How the site used to be (2000 – 2004)



North Warwickshire
Borough Council



Development Plan

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment) and NW18 (Atherstone)

Other Relevant Material Considerations

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

Consultations

Inland Waterways Association – No objection; it notes that the Coventry Canal is a historic waterway and a valuable amenity and recreational corridor providing leisure boating, walking, angling, cycling and nature conservation benefits to the area. The former hire-boat business has long since moved to larger and purpose built premises and the site is probably now too small for a commercial boatyard, as well as having access problems and potentially noise impacts on neighbours. Therefore a change of use is justified and an alternative canal based use is preferred to what might otherwise become just yet another canal-side housing site. The range of community based and environmentally responsible uses described in the comprehensive Ruby's Yard Planning Design & Access Statement, along with the site improvements already carried out, form a commendable and attractive proposition which IWA is pleased to support. The residential mooring will ensure proper supervision and security for the site and is an appropriate use at the former boatyard.

Environmental Health Officer – Recommends that a Phase 1 ground investigation is conducted due to the sites previous industrial use.

Warwickshire County Council as Highway Authority - No objection.

Canal and River Trust – It notes that the main issues relevant to the Trust as statutory consultee on this application are:

- a) Impact on the structural integrity and water quality of the canal due to the drainage proposals.
- b) Impact on the biodiversity of the waterway corridor.
- c) Impact on the character and appearance of the waterway corridor.

It offers no objection subject to conditions necessary to address these matters.

Warwickshire County Council Rights of Way Team – Advises that Public footpath AE88 runs adjacent to the southern boundary of the application site. The Rights of Way team has no objection to the proposals.

Representations

The Atherstone Civic Society offers no objection and notes that this looks to be an exciting and commendable proposal. The Civic Society is supportive of this application in so far that it is an enhancement to that approach to Atherstone along the canal. It considers that it will be an asset to the town and the young people of the area. It queries the approach to the selection of materials in the construction of the buildings

One letter has been received from a nearby resident expressing concern that the boatyard was asked to move because of difficulties with noise and traffic down a quiet road. They express the view that the proposed use will reintroduce potentially worse noise and traffic and introduce the use on weekends. They highlight present difficulties with cars using the lane to turn, particularly drivers using satnav to reach the golf course.

One letter of support has been received from a local resident, expressing the opinion that this will be an excellent use of the land. It will be beneficial for the local community and provide opportunities for children/young people to explore nature and experience different activities.

Observations

The site lies outside, but immediately adjacent to, the development boundary for Atherstone. It also lies adjacent to the Coventry Canal. In this context, the site is in a sustainable location and is potentially suited to canal related uses. The main considerations will be the impact of the use on the amenity of the area in terms of visual appearance and character, noise and disturbance, the highway impact and whether technical constraints such as drainage arrangements and ground conditions can be satisfactorily addressed.

The site also has a lawful use as a commercial boatyard. Proposals for change of use can properly be considered having regard to differences in impact between an operational boatyard and the proposed use.

The proposed use has an association with the adjacent canal as the recreational use would capitalise on its canal side location providing water based activities such as canoeing, raft building, fishing. These uses would be an appropriate canal activity in a location close to the town and are supported by representative groups within the town and by the canal interest bodies. They would have the benefit of being likely to be more neighbourly than the former lawful boatyard use, likely to generate lower volumes of traffic and types of vehicles more suited to the limited access arrangements past neighbouring dwellings. Though there may be some noise associated with young people enjoying recreation on the site, it is likely that the volume and character of noise would be less harmful than that which could be generated by boat manufacture or repair/maintenance.

In terms of design and appearance, there will be an improvement to the appearance of the site brought about by the demolition of the existing structures. Though the proposed buildings are of an unconventional design, it is considered that, with the use of appropriate materials, they will not cause any harm to the character or appearance of the locality. The buildings are to be designed and operated in a sustainable way. The uncertainty expressed by the Atherstone Civic Society about the choice of materials can be addressed with the use of a condition which requires the submission of material samples ahead of the commencement of development.

The site is visible from the canal and by people using the towpath and the recreation area opposite. It is therefore important that the site remains of a tidy and attractive appearance. Conditions relating to boundary treatment and prohibition of the use of open land for storage of materials will be appropriate.

The applicant offers limitations on operation that will help minimise impacts on neighbouring properties – hours of operation limits and seasonal operation only. It is considered that the limits to exclude early morning and late night use and to limit overnight activity to no more than 8 weekends would reach a satisfactory balance between achieving beneficial use and protecting residential amenity.

In terms of highway safety the Highway Authority notes that the proposed development may not result in more vehicle movements associated with the site, especially as the site will not be used all year round, and post development should result in less movements by HGV's, which apparently has been a problem in the past. Car parking provision appears to be reduced, but the available parking appears to be in accordance with the adopted Local Plan, and will still be able to accommodate at least 2 minibuses and 2 cars according to the documents provided. However, based on the measurements of the proposed hardstanding more than 4 vehicles should be able to park on site, and still provide a turning area. As such, reliance on on-street parking may not be required. The permanent mooring should not be an issue, as it should not generate many (if any) vehicle movements per day. The Highway Authority concludes that the proposed development should not have a severe impact on the public highway network.

The proposed plan indicates parking areas adjacent to the waterway and it should be ensured that a robust barrier is provided to prevent vehicles from accessing the waterway corridor or entering the canal itself. This can be addressed by condition.

The residential mooring is reasonably required in order to ensure proper supervision and security for the site and is an appropriate use at the former boatyard. The mooring is close to amenities (shops, schools) and within walking distance of the town and will have no adverse visual impact on heritage or other listed buildings nearby. The applicant advises that the mooring agreement will specify that no domestic paraphernalia accumulates on site, ensure effective disposal of waste and rubbish, and that it is only used for residential purposes, nevertheless it will be appropriate to attach a condition prohibiting the use of land adjacent to the mooring as garden land and specifying the maximum size of any boat moored.

In terms of impact on the structural integrity and water quality of the canal due to the drainage proposals, the drainage methods of new developments can have significant impacts on the structural integrity, water quality and the biodiversity of waterways. It is important to ensure that no contaminants enter the canal from foul or surface water drainage. The proposals for recycling toilet and grey waste water on site are welcomed though the submission does not include any detail on the construction/operation of the drainage systems and it therefore cannot be determined if they are 'fit for purpose' and will not result in any adverse impact to the structural integrity or water quality of the canal. It needs to be demonstrated that the systems can accommodate the full extent of the use proposed and that they are managed and maintained appropriately to ensure they operate as intended. A suitably worded condition can address this matter.

In terms of impact on the biodiversity of the waterway corridor, developments can have an adverse impact on the ecology of the waterways. The Canal and River Trust advises that waterside lighting affects how the waterway corridor is perceived, particularly when viewed from the water, the towpath and neighbouring land, for example waterside lighting can lead to unnecessary glare and light pollution if it is not carefully designed. Any lighting should not provide flood lighting to the canal corridor to show consideration for bats. This matter can also be addressed by a suitably worded condition.

With appropriate controls, it is considered that the development would be sustainable development, achieving the social, environmental and economic dimensions of sustainable development. The application may be supported subject to conditions.

Recommendation

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

- 1) Standard three year condition
- 2) Specified plans – Location plan, block plan, main building plans and elevations, toilet block plans and elevations, the electrics plan and access plan received by the Local Planning Authority on 10 August 2017
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.

REASON

To ensure that risks from land contamination to the proposed end users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 4) The residential mooring hereby approved shall not be occupied other than by a person or persons employed to perform the caretaking responsibilities of the approved recreational use of the land and shall be limited to a boat not exceeding 20.2 metres in length.

REASON

In the interests of the amenities of the area, to restrict occupation to that necessary for the operation of the adjacent use of land and to ensure that the residential use is commensurate to the caretaking needs of the approved recreational use of the land.

- 5) The residential mooring hereby approved shall not be limited to the canal mooring only and shall not change the use of any land on the canal side to residential use. The land adjacent to the mooring shall expressly not be used for garden or residential amenity purposes.

REASON

In the interests of the amenities of the area.

- 6) The recreational use of the land and buildings shall be limited to operation between 08:00 hours and 20:00 hours only, between the dates 1 April until 31 October in any calendar year. There shall be no operation at any other times.

REASON

In the interests of residential amenity.

- 7) As an exception to the hours of operation specified in condition 6 above, the recreational use of the land and buildings may additionally be used for up to eight weekends between the dates 1 April until 31 October in any calendar year. A weekend shall constitute, and be limited to, the hours between 20:00 hours on a Friday until 16:00 hours on a Sunday. A record of the weekend operation of the site shall be maintained and made available to the Local Planning Authority upon request.

REASON

In the interests of residential amenity.

- 8) Prior to the commencement of development details of foul and surface water drainage shall be submitted to and agreed in writing by the Local Planning Authority and thereafter fully implemented in accordance with the agreed details.

REASON

This detail needs to be provided prior to commencement to ensure that foul and surface water from the site are disposed of in a safe and appropriate manner in order to protect the integrity of the waterway structure and water quality in accordance with policies NW10 & 13 of the adopted North Warwickshire Core Strategy 2014.

- 9) Prior to the occupation of development details of the proposed external lighting for the development shall be submitted to and approved in writing by the Local Planning Authority, including details of the lighting units, their housing and levels of luminance. The lighting shall thereafter implement in accordance with the agreed details.

REASON

The lighting at waterside developments should be designed to minimise the problems of glare, show consideration for bats and other wildlife within the canal habitat corridor and unnecessary light pollution should be avoided by ensuring that the level of luminance is appropriate for the location, is sustainable and

efficient, and protects the integrity of the waterway infrastructure in accordance with Policy NW 13 of the adopted North Warwickshire Core Strategy 2014.

- 10) Prior to the first use of the development hereby approved details of the boundary treatment to the Coventry Canal and to 18 Slacks Avenue shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of any soft landscaping works and provision of a robust barrier to prevent vehicles entering the waterway. Thereafter the scheme shall be implemented in accordance with the approved details prior to the development hereby permitted being first used.

REASON

To ensure the satisfactory appearance of the development and minimise the impact on the integrity of the canal and safety of waterway users in accordance with Policy NW12 of the adopted North Warwickshire Core Strategy 2014.

- 11) Prior to the commencement of development samples of the proposed wall and roofing materials of the approved buildings, showing material type, colour and texture, shall be submitted to and approved by the Local Planning Authority in writing. The development shall thereafter be implemented in accordance with the approved materials.

REASON

In the interests of the amenities of the area.

- 12) The use hereby approved shall not be used for any purpose, including any other purpose in Class D2 (Assembly and Leisure) of the Town and Country Planning (Use Classes) Order 1987, (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification other than for outdoor recreation with an indoor classroom

REASON

In recognition of the circumstances of the site and so as to prevent the unauthorised use of the site.

- 13) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no change of use shall take place on the site in accordance with Class T, Part 3 of Schedule 2 to that Order.

REASON

In recognition of the circumstances of the site and so as to prevent the unauthorised use of the site.

14) The open land within the curtilage of the site shall not be used for the storage, display or sale of anything whatsoever.

REASON

In the interests of the amenities of the area.

Notes

1) The applicant/developer is advised to contact the Works Engineering Team on 0303 040 4040 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

2) The applicant /developer is advised to contact Keith Johnston, Estates Surveyor on 07710 175 119 in order to ensure that any necessary agreements in relation to restrictive covenants on the site are obtained.

3) The applicant/developer is advised to contact Carl Nicholls, Fisheries and Angling Manager on 07710 175067 to discuss any requirements regarding fishing/angling licences.

4) Public footpath AE88 runs adjacent to the southern boundary of the application site. Public footpath AE88 must remain open and unobstructed at all times.

5) 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.

6) 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).

7) The developer is reminded that the Control of Pollution Act 1974 restricts the carrying out of construction activities that are likely to cause nuisance or disturbance to others to be limited to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no working of this type permitted on Sundays or Bank Holidays. The Control of Pollution Act 1974 is enforced by Environmental Health.

8) In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues and suggesting amendments to improve the quality 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/2017/0417

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	1/8/17
2	Atherstone Civic Society	Representation	18/8/17 7/9/17
3	Inland Waterways Association	Consultation Response	21/8/17
4	Canal and River Trust	Consultation Response	1/9/17 19/9/17
5	Environmental Health Officer	Consultation Response	5/9/17
6	Warwickshire County Council Highways Authority	Consultation Response	7/9/17
7	Rights of Way Warwickshire County Council	Consultation Response	19/9/17
8	12 Slacks Ave	Representation	24/8/17
9	10 Slacks Ave	Representation	30/8/17

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/2017/0467

52, New Street, Baddesley Ensor, CV9 2DN

Construction of new dormer bungalow with associated access and parking, for

Mr and Mrs Gilbert

Introduction

This application is brought to the Board in accordance with the Council's adopted Scheme of Delegation, because the applicant is employed by North Warwickshire Borough Council.

The Site

52 New Street is a detached property on the west side of New Street within a wholly residential frontage. It has a large back garden and is surrounded by other residential property. The Baddesley Ensor Social club adjoins the site to the south.

The Proposal

It is proposed to construct a new dormer bungalow with associated access and parking at the rear of the garden aligning with other residential properties in Bakers Croft.

Plans of the site and the design of the bungalow are at Appendix A.

Background

Members will recall visiting this site not long ago in connection with an outline application for three houses. This was refused planning permission. A subsequent approval was granted for two.

Representations

None received

Development Plan

The Core Strategy 2014 – NW2 (Settlement Hierarchy); NW10 (Development Considerations 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 Relevant Material Considerations

National Planning Policy Framework

Observations

Since 1998, there have been outline planning approvals granted here for 1, 2 and 3 houses. So there is no objection to residential development in principle given this history and that the site is within the development boundary for Baddesley Ensor.

This application is for a single dormer bungalow with an open plan living/dining/kitchen space, utility, bathroom and toilet and two ground floor bedrooms and two bedrooms and a bathroom within the roof space at first floor. Three car parking spaces are provided.

The property sits behind 52 New Street and aligns with the properties at 26 Bakers Croft and 5 Bowling Green Close. The garden to each of the properties is considered adequate for the private amenity of both of the properties (52 New Street and the application site).

The proposal is not considered to have an adverse impact on the property given the previous approvals on this site. No neighbours have objected to the proposal; although one neighbour has expressed concerns relating to the drainage route. The location of the proposed dwelling would prevent the extant permissions being erected should this application be taken up.

The proposed materials are to match the host dwelling and are considered to be in keeping with the style of the existing dwelling house and that of the surrounding area.

The existing access is proposed to be used, therefore there is no impact on the highway, the addition of one dwelling is not considered to result a significant increase in traffic generation on the highway. There is a bus stop outside the adjacent Social Club and the village general store is located close by on New Street. The site is therefore considered to be in a sustainable location.

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 7586/100, 1000-531/150A and 1000-531/250A, received by the Local Planning Authority on 22 August 2017; and the plan numbered 1000-531/155A and the Acoustic Fencing Details, received by the Local Planning Authority on 25 October 2017.

REASON

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

3. The new works shall be carried out with facing brickwork and smooth white or cream render walls, with a plain tile roof. All brickwork and roof to miles are to closely match the colour and texture of those use on the existing dwellinghouses at 52 New Street and 26 Bakers Croft.

REASON

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

4. No additional opening shall be made other than shown on the plan hereby approved, nor any approved opening altered or modified in any manner, unless details have first been submitted to, and approved in writing by, the Local Planning Authority.

REASON

To protect the privacy of the occupiers of adjoining properties.

5. No development whatsoever within Classes A, B, C, D, E and F, 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, and to protect the amenity of neighbours.

6. The access and parking arrangements shall not be carried out other than in accordance with the details shown on drawing number 1000-531/150A and shall be maintained as such at all times.

REASON

In the interests of highway safety and to ensure adequate off-street parking and manoeuvring provision for the proposed dwelling house.

7. The existing access from New Street shall be used for access to the proposed development and no other access shall be used.

REASON

In the interest of highway safety.

8. There shall be no construction vehicles associated with this site parked on the Public Highway within New Street, for the duration of the construction works.

REASON

To avoid further congestion to the highway, and obstruction of the bus route.

9. No development shall take place until full details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority. These details shall include, as appropriate, proposed finished levels or contours, means of enclosure, car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials and minor artefacts and structure (eg furniture, play equipment, refuse or other storage units, signs, lighting, external services, etc). Soft landscape details shall include planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetables. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with the timetable agreed with the Local Planning Authority. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved.

REASON

To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

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. The developer is reminded that the Control of Pollution Act 1974 restricts the carrying out of construction activities that are likely to cause nuisance or disturbance to others to be limited to the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays, with no working of this type permitted on Sundays or Bank Holidays. The Control of Pollution Act 1974 is enforced by Environmental Health.
4. 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:

<https://www.gov.uk/government/organisations/the-coal-authority>

5. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.

For further information and advice on radon please contact the Health Protection Agency at www.hpa.org.uk. Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on (024) 7637 6328 for further advice on radon protective measures.

6. Surface water from the development will drain to a new soakaway to be located a minimum of 5 metres from any new or existing building and at least 2 metres from any boundary and shall be constructed in accordance with Approved Document H.3
7. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through 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/2017/0467

Background Paper No	Author	Nature of Background Paper	Date
1	The Agent	Application Forms, Plans and Statement(s)	22/08/2017
2	The Agent	Application Plans	23/10/2017

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



Existing dwellinghouse from site.



Proposed site



Site Layout Plan



Proposed Front Elevation



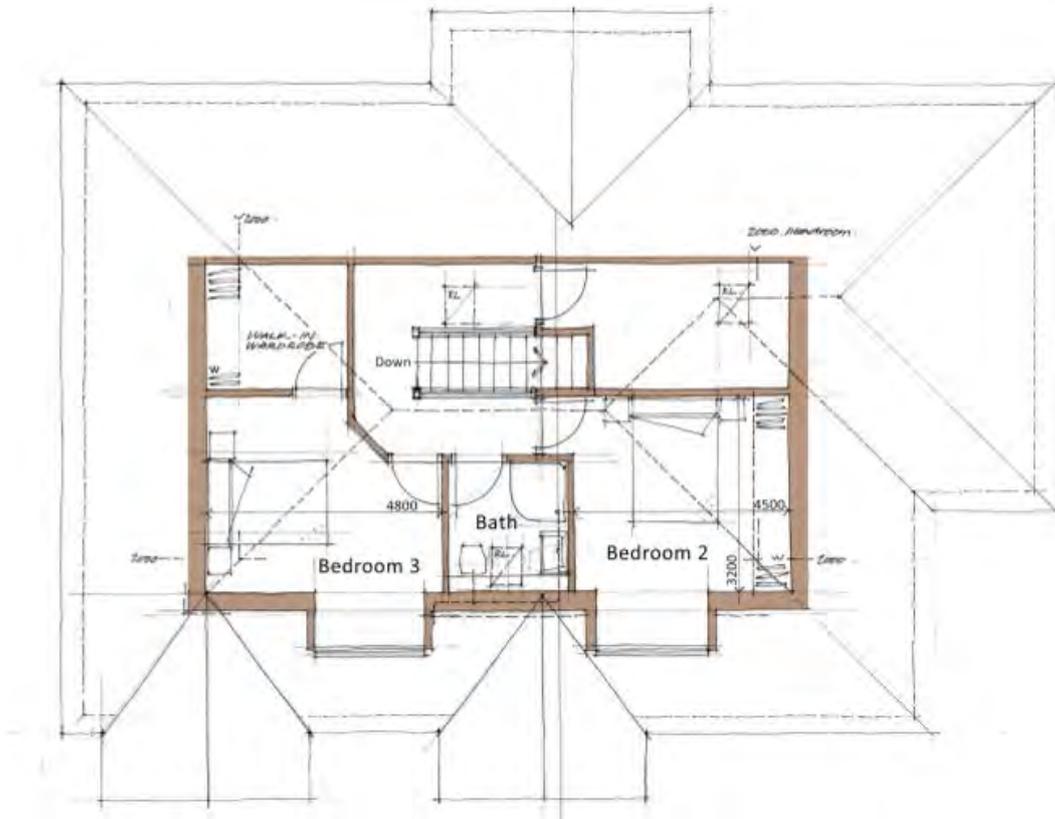
North Facing Side Elevation



South Facing Side Elevation



West Facing Rear Elevation



Proposed First Floor Plan (within the roof space)



Proposed Ground Floor Plan

(5) Application No: PAP/2017/0517

Moor Farm Stables, Wall Hill Road, Corley, CV7 8AP

Reducing the overall height of the existing building by 1.5 metres (in accordance with recommendation from the Planning Board), for

Mrs L White

Introduction

These premises have been the subject of a planning history which has involved the Board on several occasions. Members have also visited the site.

The premises are also the subject to an outstanding Enforcement appeal.

It is for these reasons that the matter is reported to the Board for determination.

The Site

This is an established equestrian centre on the north side of Wall Hill Road just to the west of the hamlet of Corley Moor. It lies some 400 metres south of the M6 Motorway and just west of the junction of the road with Common Lane. Moor Farm comprises a range of former brick built agricultural buildings together with a Grade 2 listed farmhouse. There is open countryside around this group of building together with a series of equestrian paddocks. The Red Lion Public House is on the opposite side of the road to the vehicular access into the site. There is currently an existing indoor riding arena running north/south parallel to the Wall Hill Road ranging from 11 to 15 metres back from the road. It is however on higher ground to the road here which is in a cutting.

There are residential properties on the other side of the road.

The general location is seen in Appendix A.

The Proposals

The present indoor riding arena measures 68 by 21 metres and is 7.5 metres to its ridge. It is constructed in timber wall cladding and grey plastic roof sheeting. The proposals are to remove the existing roof covering and construction completely and then to re-instate the roof construction and covering with a pitch reduction of some 4 degrees, reducing its overall height by 1.5 metres throughout the length of the whole building.

The proposal as described in the header above includes reference to a recommendation to the Board. Members are reminded that that recommendation was not agreed in that planning permission was refused and that this led to a dismissed appeal and the subsequent issue of an Enforcement Notice.

The proposed alterations are shown at Appendix B.

Background

A detailed planning permission was granted for an indoor riding arena at this location within the Moor Farm equestrian centre in late 2014. It was approved as being 65 metres by 21 metres and 6 metres to its ridge. Timber materials were to be used for the walls with grey plastic roof sheeting. The entrance was to be on its northern side. In order to reduce its impact, there was to be some “cut” and “fill” using the natural slope of the land, such that its eastern end would be set down by 1.5 metres into the slope, but its western end would be then be set at a higher level than the surrounding ground by 1.5 metres. Appendix C illustrates the approved plans.

The building that was then erected was not in accordance with the approved plans. In short it was constructed without the “cut” and “fill” taking place and as a result it is taller than it would have been by 1.5 metres and it was some three metres longer. The resultant building is as described above. Additionally the building had had all of its windows removed from the four elevations and there was a consequential increase in the number of roof lights. Two security lamps were also added to either side of the main entrance in its northern elevation.

In light of the breach of planning control, a retrospective application was submitted to retain the building as constructed. This was refused planning permission. The Notice is at Appendix D which clearly refers to significant Green Belt harm being caused with other considerations not clearly outweighing that harm in the final planning balance. An appeal was lodged against this refusal but this was dismissed – see Appendix E. As a consequence, the Council served an Enforcement Notice requiring the demolition of the whole building. An appeal has now been lodged against the issue of this Notice. Accepting that the appeal decision actually refused permission for the retention of the building, the applicant’s appeal is solely based on the view that the Notice requirements are excessive. It is argued that lesser measures would resolve the Council’s objections, namely the reduction in height of the overall building by 1.5 metres. The Enforcement Notice appeal has yet to be commenced by the Planning Inspectorate.

As Members are aware, when the Enforcement Appeal was lodged with the Planning Inspectorate, a report was brought to the August meeting of the Board in order to seek instructions in respect of the appellant’s case for lesser measures. That report was dealt with in the private and confidential section of the meeting following legal advice. Because this current application has now been submitted, that report becomes a material planning consideration of significant weight and it can now be disclosed. It is attached at Appendix F. Members will recall that the recommendation as set out therein was agreed by the Board.

Representations

At the time of preparing this report two objections had been received from local residents on the grounds that the reduction in height will make little difference given that the approved plans were for a building “sunk” into the ground.

If others are received up to the date of the meeting, they will be reported verbally.

Development Plan

The Core Strategy 2014 – NW1 (Sustainable Development); NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW14 (Historic Environment)

Saved Policies of the North Warwickshire Local Plan 2012 – ENV4 (Trees and Hedgerows); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV16 (Listed Buildings) and ECON7 (Agricultural and Equestrian Buildings)

Other Material Planning Considerations

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

The National Planning Practice Guidance 2014

North Warwickshire Landscape Character Appraisal 2010

Observations

a) Introduction

Members will be aware of the longstanding planning history associated with this building as described above. Whilst the Board is reminded that it should consider the current application afresh as a separate or new planning proposal and on its own merits, its conclusions are likely to be materially affected by this history. This is because the weight to be given to that history is substantial. The reasons for this are that there has been a relevant planning appeal decision and the issue of an Enforcement Notice. In effect these provide the starting point for consideration of the current application. Indeed the applicant’s own proposed description recognises this in part as it proposes alterations to an existing building – albeit that it is an unauthorised building.

It is therefore proposed to deal with the proposed changes to the existing building and to assess what impacts they have on the relevant planning considerations. For instance, do they cause lesser or greater Green Belt harm or other harm, and how might the conclusions thus reached affect the overall planning balance?

The starting point is that there is an approval here for an indoor riding arena and the Council’s objective is to secure the implementation of the approved scheme. The current building on site is un-authorized and a Planning Inspector has concluded that it causes significant Green Belt harm with insufficient planning benefits to outweigh that harm. In order to achieve the Council’s objective, it has issued an Enforcement Notice requiring demolition of the existing building, because it is a materially different building to that approved.

b) Green Belt

The Inspector concluded that the existing building does not visually or spatially, preserve the openness of the Green Belt and that the degree of harm so caused is significant. The building therefore is not appropriate development in the Green Belt because it does not satisfy the terms of one of the exceptions in the NPPF in respect of new buildings in the Green Belt not necessarily being inappropriate.

In order to overcome this significant Green Belt harm as found by the Inspector, the applicant is proposing a 1.5 metre reduction throughout the whole building. Rather than being 7.5 metres tall it would be 6 metres tall – the roof pitches reducing from 15 degrees to 11 degrees. It is therefore necessary to assess whether this change would lessen the degree of harm caused on the openness of the Green Belt. It is considered not. This conclusion is founded on the following two reasons. Firstly, it would still be taller than the approved building by 1.5 metres because of the “cut” and “fill” associated with that scheme – its height would still be exaggerated because of the loss of this work. Secondly, the site is on high ground and is very visible in the landscape generally over a wide area – a point particularly highlighted by the Inspector. He did not look at the individual dimensions of the building, as it was considered as a whole. The overall mass of the building was found to be harmful. It is agreed that the “mass” will alter as a result of this proposal, but both visually and spatially the building, even as amended, would still not preserve the openness of the Green Belt. It thus remains inappropriate development in the Green Belt.

Whilst there might be some lessening of harm to openness by virtue of the reduction in height, that is compromised by the size of the whole building and its location on high ground. The actual degree of that harm remains as significant.

For completion, the proposed change would not alter the previous conclusions reached on the impact of the changes on the five purposes of including land within the Green Belt.

c) Other Harm

The Inspector found that there was no other significant harm arising from the existing building. It is not considered that the proposed changes would materially change this conclusion. The reduction in height would assist in reducing the impact on nearby residential amenity and on overall visual amenity. The proposed changes have no additional highway, drainage, ecology or heritage impacts. As such in overall terms there would no additional other harm caused by the proposed change.

d) The Harm Side of the Balance

The building is presently un-authorized and causes significant actual Green Belt harm but with no other significant harm. The proposed amendment is not considered to change this overall conclusion.

e) The Applicant’s Case

The applicant has always maintained that the case for the building is the beneficial impact that it has in supporting, expanding and enhancing the business opportunities of a well-established and regarded facility that is meeting local as well as wider social, educational and recreational needs. It has a significant degree of support. It has been argued throughout that the cost of demolition and replacement with a building to the approved dimensions or the cost of reducing the height of the roof in full or in part would materially jeopardise the financial position of the business.

This argument was placed in front of the Inspector dealing with the appeal to retain the existing building but found no substantial support to the extent that it did not outweigh the total harm caused by the building, to amount to a very special circumstance.

The applicant is responding to both the appeal decision and to the Enforcement Notice. That response is to persuade the Council that the planning balance has altered with this proposal. The applicant's case and the planning considerations put forward remain as before - it is therefore the harm side of the balance that this application seeks to address. The proposal is seeking changes to the building to secure a reduction in the level of actual Green Belt harm, so as to result in the final balance between the two sides being far more weighted in favour of the benefits, such that they would clearly outweigh that harm.

f) The Planning Balance

It has been concluded above that the proposed changes would not alter the degree of actual Green Belt harm and thus the overall balance should remain as set out in the Inspector's decision. The applicant's case is not of sufficient weight to "clearly" outweigh the level of harm caused by the inappropriateness of the development.

Recommendation

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

"It is considered that the building as proposed is not appropriate development in the Green Belt because it adversely impacts on the openness of the Green Belt. The considerations put forward by the applicant are not considered to amount to the very special circumstances necessary to clearly outweigh the level of harm that is caused. The proposal therefore does not accord with Policies NW3 NW12 and NW13 of the North Warwickshire Core Strategy 2014 and Section 9 of the National Planning Policy Framework - 2012".

BACKGROUND PAPERS

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

Planning Application No: PAP/2017/0517

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	20/9/17
2	J and D Park	Objection	21/10/17
3	J Hooke	Objection	23/10/17

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.



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Date: 18 May 2016

The Town & Country Planning Acts
The Town and Country Planning (Listed Buildings and
Conservation Areas) Act 1990
The Town & Country Planning (General Development)
Orders
The Town and Country Planning (Control of
Advertisements) Regulations 1992 (as amended)

DECISION NOTICE

Major Full Planning Application

Application Ref: PAP/2016/0091

Site Address

Moor Farm Stables, Wall Hill Road, Corley, Coventry, CV7 8AP

Grid Ref: Easting 427668
Northing 285169

Description of Development

Retain equestrian indoor practice arena

Applicant

Mrs Liz White

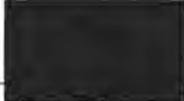
Your planning application was valid on 12 February 2016. It has now been considered by the Council. I can inform you that:

Planning permission is **REFUSED** for the following reason:

1. The proposal is considered not to be appropriate development in the Green Belt because it adversely impacts on the openness of the Green Belt and has adverse visual and residential amenity impacts. This is due in particular to its height. The considerations put forward by the applicant are not considered to amount to the very special circumstances of sufficient weight to clearly outweigh the level of harm caused. The proposal therefore does not accord with Policies NW3, NW10, NW12 and NW13 of the Core Strategy 2014.

INFORMATIVES

1. The Local Planning Authority has worked positively with the applicant in this case so to understand the planning issues arising and the potential impacts of the proposal, thus meeting the objectives of the NPPF.

Authorised Officer: 

Date: 18 May 2016

Page 1 of 2



APPEALS TO THE SECRETARY OF STATE

(1) If you are aggrieved by the decision of the Local Planning Authority, you can appeal to the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.

(2) If you want to appeal against your local planning authority's decision, then you must do so within 6 months of the date of this notice.

(3) Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, or online at www.planning-inspectorate.gov.uk and www.planningportal.gov.uk/pes.

(4) The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

(5) The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

(6) The Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

NOTES

1. This decision is for the purposes of the Town and Country Planning Act only. It is not a decision under Building Regulations or any other statutory provision. Separate applications may be required.
2. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <http://www.northwarks.gov.uk/planning>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <http://www.northwarks.gov.uk/contact>).
3. Plans and information accompanying this decision notice can be viewed online at our website <http://www.northwarks.gov.uk/planning>.

Authorised Officer: _____

Date:

18 May 2016

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Appeal Decision

Site visit made on 24 January 2017

by **Andrew Owen BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 February 2017

Appeal Ref: APP/R3705/W/16/3163176

Moor Farm Stables, Wall Hill Road, Corley Moor, Corley CV7 8AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mrs Liz White against the decision of North Warwickshire Borough Council.
- The application Ref PAP/2016/0091, dated 12 February 2016, was refused by notice dated 18 May 2016.
- The development proposed is the erection of an equestrian indoor practice arena.

Decision

1. The appeal is dismissed.

Preliminary matters

2. The development was described originally as retrospective and from my site visit it was clear that the indoor practise area had already been erected, completed and was in use.
3. Planning permission was granted for the erection of an indoor practise arena in 2014¹. That arena was to be positioned roughly in the same position as that now built, but was to be shorter in length and height than that now built and partly set into the ground.

Main Issues

4. The main issues are:
 - whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the 'Framework') and development plan policy;
 - the effect of the proposal on the living conditions of the occupiers of neighbouring properties in respect of their outlook;
 - if the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

¹ PAP/2014/0533

Reasons

Inappropriate development

5. The site is within the Green Belt. The explanatory text to Policy NW3 of the North Warwickshire Core Strategy (NWCS) advises that there is a general presumption against inappropriate development in the Green Belt. Paragraph 87 of the Framework is clear that inappropriate development is harmful to the Green Belt. I can therefore give substantial weight to Policy NW3 as it accords generally with the advice in paragraph 87 of the Framework.
6. Paragraph 89 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. However, it adds that an exception to this is the provision of appropriate facilities for outdoor sport or outdoor recreation as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
7. It is not disputed by the parties that the development is a facility for outdoor sport or recreation, but the Council consider that it is not an appropriate facility as the building is around 1.5 metres taller than that granted planning permission. I do not consider the extra height means the building is necessarily not an appropriate facility, as it provides the same function as the arena previously permitted.
8. It is agreed between the parties that the five purposes of the Green Belt as listed in paragraph 80 of the Framework are not affected by the proposal, and I have no reason to come to a different view. The remaining consideration as to whether the development is not inappropriate is whether the building preserves the openness of the Green Belt.
9. There is a row of trees that runs along the boundary of the site with Wall Hill Road. Supplementary planting has been provided to help thicken up this vegetation and provide a better screen. However, during the winter months as was the case at the time of my site visit, the building does appear prominently from Wall Hill Road and I do not consider the additional planting, even when fully grown, would be likely to mitigate its prominence completely.
10. Moreover I saw that the building is visible from a number of longer distance viewpoints, such as from along the footpath which flanks the south side of the M6 motorway and from points to the north along the B4102 which runs between Fillongley and Meriden. From these locations the building is set against the backdrop of trees and seen in the context of other farm buildings, and I note some planting has been provided just in front of the building which may help to lessen the visual effect in time. Nonetheless the size and height of the arena make it visually conspicuous.
11. I recognise the Landscape and Visual Impact Assessment assesses the impact of the development as low. However this assessment is not directly comparable to an assessment of the effect on openness as required by the Framework. Overall, taking account of short and long distance views, I consider the building does not preserve openness visually.
12. Furthermore, the effect of the development on openness includes a spatial impact as well as its visual impact. Due to its scale, height and partly elevated position, the building dominates the site. Therefore the spatial openness of the site, and the Green Belt, is compromised.

13. As such, I consider the development, visually and spatially, does not preserve the openness of the Green Belt and, furthermore, that the degree of harm is significant. The proposal is inappropriate development. Paragraph 87 of the Framework says inappropriate development is, by definition, harmful to the Green Belt and shall not be approved except in very special circumstances. It is therefore necessary for me to consider whether any other harm is caused by the proposal and then balance the other considerations against the totality of that harm.

Living conditions

14. There are a small number of properties opposite the site on Wall Hill Road which directly face the development. Although the building does appear prominently from these properties it is separated from them by the width of the road and the vegetation on the site and on the highway verge. As such its impact on these properties is softened. Whilst, as set out above, I consider the building does not preserve visual openness in this vicinity, I do not consider it harms the living conditions of these neighbouring residents. Therefore the development accords with Policy NW10 of the NWCS which seeks to ensure development avoids unacceptable impacts on neighbouring properties.

Other considerations

15. I note the Council considered the building granted planning permission would not have been inappropriate in the Green Belt. However the building on site is materially larger in terms of its length and its height and, because it is partly elevated, appears significantly higher. As such I give little weight to the extant permission. Similarly although the building has no windows facing the neighbouring properties, I do not consider this is necessarily an advantage of the development as the previous proposal was considered acceptable by the Council.
16. The timber walls do appear striking as they are new, but they will weather over time and this would help the building to blend in with its context. Also the building does appear to be well constructed and generally has an agricultural design. However these factors do not address the size of the building which is the main source of its effect on openness. As such I give limited weight to this consideration.
17. The evidence presented does suggest that the erection of the building different from that granted permission was a genuine mistake by the appellant. Furthermore, substantial evidence has been provided to demonstrate that the cost of removing the existing building and constructing the building which has planning permission would be such that the business would no longer be viable, and would lead to its closure.
18. It is clear from the level of support for the scheme, that the stables provide a valuable facility for many sections of the community including children, the disabled and elite equestrians. I also accept that paragraph 28 of the Framework does lend support to the growth of businesses in rural areas. However I have no evidence to suggest that the removal of the existing structure alone and the subsequent absence of any indoor arena, which may be the consequence of my decision, would necessarily result in the closure of the business. As such, after careful consideration of this matter, I give it only moderate weight.

19. Furthermore whilst I recognise the advantages to the business of the indoor arena over the other outdoor arenas on site, there is little evidence to demonstrate that the building is required to be the size it is and that a smaller building such as that already consented, would not suffice. As such I give limited weight to this matter.

Planning Balance and Overall Conclusion

20. The Framework advises that the Government attaches great importance to Green Belts and that substantial weight should be given to any harm to the Green Belt. I consider that the development causes significant harm to the Green Belt by way of its inappropriateness and substantial weight should be given to this harm. Balanced against that are the other considerations identified above.
21. For the appeal to succeed the combined weight of the other considerations must clearly outweigh the harm arising. Whilst the combined weight of the other considerations is considerable, I conclude that it does not clearly outweigh the harm to the Green Belt and therefore there are no very special circumstances to justify the proposal.
22. Consequently, the development conflicts with Policy NW3 of the NWCS and the Framework which aim to protect the Green Belt from inappropriate development, and Policy NW12 and NW13 of the NWCS which require development to protect the character and quality of the environment.
23. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be dismissed.

Andrew Owen

INSPECTOR

Report of the
Head of Development Control

Planning and Development Board
7th August 2017

Enforcement Appeal
Moor Farm Stables, Corley Moor

Summary

This report recommends a response to the appeal lodged with the Planning Inspectorate following the issue of an Enforcement Notice as this address.

Recommendation to the Board

The Council maintains its position in respect of the Notice requirements following the submission of this appeal.

Background

Members will recall this case. Planning permission was granted in 2014 at these stables for an indoor riding arena. The building that was then constructed was materially different to that granted planning permission - in general terms it was three metres taller because it was not built "into the slope of the land". The owner elected to remedy this breach through the submission of a retrospective application to retain the building as built. This was refused planning permission and a subsequent planning appeal was dismissed. The decision letter is attached at Appendix A. As a consequence, the Council served an Enforcement Notice requiring the building to be demolished; the resultant materials removed from the site and the site re-instated, all within six months of the date of the Notice.

The Appeal

The owner has lodged an appeal against the service of this Notice with a request that it be dealt with by way of an exchange of written representations.

The grounds of appeal set out in the submission are that:

- The Notice requirements are excessive and lesser steps would overcome the objection
- The compliance period is too short.

In short the appellant is saying the demolition is an excessive requirement. The reasons are firstly that a planning permission has already been granted for a similar building on this same site. It remains extant until early December 2017. It is thus a material planning consideration of significant weight. Secondly, the reason why planning permission was not granted at appeal was the impact of the building on the openness of the Green Belt. The appellant argues that that could be overcome through a reduction in height of the existing building. In other words the objection could be overcome without complete demolition. Reports from structural engineers suggest that a reduction

of 1.2 metres throughout the length of the building would be feasible. If this is accepted then the appellant argues that this will take some time and effectively limit operations at the site – the building would be out of use for several months. The time period to undertake this work is therefore requested to be at least twelve months, not six months.

It is to be noted that the appellant has not appealed on the grounds that planning permission should be granted to retain the building as built. She accepts the recent appeal decision, but argues that “lesser measures” would suffice to overcome the planning reason for refusal here.

Development Plan

There have been no material changes in circumstance to alter the weight to be given to any of the relevant Development Plan policies applicable to this case since the decision to serve the Notice – ie. Core Strategy policies NW3 (Green Belt); NW12 (Quality of Development) and NW13 (Natural Environment).

There has neither been any change to Government Planning Policy or Guidance relevant to this case.

Observations

This report is brought to the Board in order to consider the Council’s response to this appeal given the grounds on which that appeal has been lodged.

It is important to stress from the outset that the Notice relates to the existing building. This is a different building to that approved in 2014. The differences are:

- The footprint has increased by 63 square metres. It measures 68 by 21 metres and this is due to a 3 metre extension in length at its western end.
- The roof pitch is at 15 degrees as opposed to the 11 degrees as approved
- It has not been sunk into the ground. The approved plan showed this to be as much as 1.5 metres at its eastern end with some filling at the western end. With no “cut” here the whole building is three metres taller.
- There are no windows in the side elevations but additional roof lights have been added to compensate
- Two security lights were added either side of the main entrance – on the north elevation.

These differences are substantial, to the extent that the existing building is considered to be a materially different building to that approved. This conclusion was confirmed by the Inspector in his recent decision. He says that in comparison with the 2014 approval, “the building on site is materially larger in terms of its length and its height and because it is partly elevated, appears significantly higher” – para 15. In planning terms therefore this is a new building. It is also one that does not benefit from planning permission following on from the recent appeal decision. The remedy for this breach of planning control was the issue of the Notice. This is why the Notice requires the demolition of the whole building – the whole building is unauthorised.



The Inspector also looked at the planning merits of this new building. In his decision letter he concludes that the building is "prominent" – para 9; "visually conspicuous" – para 10, "does not preserve openness visually" – para 11, "due to its scale, height and partly elevated position the building dominates the site" – para 12 and "the spatial openness of the site and the Green Belt is compromised" – para 12. He concluded on this basis, that the degree of Green Belt harm is "significant" – para 13. Notwithstanding the planning considerations put forward by the appellant, these were not considered to "clearly" outweigh the level of this Green Belt harm.

So in conclusion we have an unauthorised new building which causes significant Green Belt harm with insufficient planning considerations to outweigh that harm.

The Board is thus asked to consider whether the grounds of appeal would lead to a different conclusion. In effect those grounds are requesting a "compromise" – a building of a scale somewhere between the 2014 approval and that now existing. It is considered that the 2014 permission is a material planning consideration here and that it should carry substantial weight because it is extant. It therefore provides the base-line against which to assess any alternatives.

The "compromise" option put forward in the grounds of appeal would still cause significant Green Belt harm. A reduction in height of 1.2 metres is not material. The appellant says that the existing height is 7.4 metres. A reduction to 6.2 is not material – less than 20%. Moreover the whole building would still be 1.5 metres taller than that approved in 2014. This is because of the "cut" into the slope that was considered to be central to the impact on openness in the 2014 case, not now being achieved. Height here is exaggerated because of the loss of this operation and secondly because of the prominence of the site in the landscape generally, being on high ground and being very visible when viewed from the north in particular. Height is not the sole measure here. The Inspector refers to height, length and scale. The length and scale of the building – even as altered under proposed lesser measures, would still remain on high ground and would still be visible over an extensive area. As a consequence it is considered that the lesser measures would still leave a building that would cause significant Green Belt harm.

The requested extension of the compliance period depends on the Notice requirements. If the lesser measures are not accepted at appeal, then demolition could take place within six months. If they are accepted, then it is agreed that such an operation would take longer than that of demolition. A period of twelve months would be reasonable in those circumstances.

Continuation of the Council's case as set out in the Notice is thus recommended for the reasons set out in this report.

However Members should take account of the impact of such a course on the viability of the appellant's business. Demolition will carry a cost; there may be lost business as a consequence of not having the facility and any possible replacement would lead to additional costs. These matters to a large extent were put to the Inspector dealing with the retrospective planning application. However, the Inspector concluded that he had no evidence to "suggest that the removal of the existing structure alone and the subsequent absence of any indoor arena would necessarily result in the closure of the business" – para 18. He also concluded that whilst the advantages of an indoor arena were recognised, there was no evidence to demonstrate that the building was required to be

the size it is or that a smaller building would not suffice. These conclusions would apply to the lesser measures argument too.

Members are thus recommended to pursue the requirements of the Notice as issued.

Report Implications

Financial and Value for Money Implications

If the Inspectorate agree to the appeal being dealt with by an exchange of written representations then there would be no additional cost to the Council. A Hearing or an Inquiry may involve outside legal assistance. At present the appellant has not indicated that an application would be made for an award of costs against the Council, but given the content of this report, it is considered that there would be strong grounds to defend such an application.

Human Rights and Legal Implications

The appeal procedure is being followed.

Sustainability and Environment Implications

The protection of the Green Belt is recognised in both National planning policy and in the Council's Development Plan.

Contact Officer; JGB 719310

Background Papers

Appeal Papers 20/6/17