

## **Agenda Item No 5**

### **Planning and Development Board**

**6 March 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](http://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, 3 April 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/](http://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](mailto: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/2016/0199**

**Land to the rear of 145, Coleshill Road, Hartshill, CV10 0PG**

**Erection of 72 residential dwellings with proposed new vehicular access, landscaping and other associated infrastructure works, for**

**Westleigh Partnerships Ltd**

#### **Introduction**

This application was reported to the Planning and Development Board at its meeting in October 2016 when the Board resolved to approve the application subject to the objections received from the Highways Authority and Warwickshire Wildlife Trust being withdrawn and subject to the signing of a Section 106 Agreement with the draft Heads of Terms contained within the report.

It is not proposed to include matters already referred to in the earlier reports of October 2016 and May 2016 and copies of these reports are included at Appendix A.

#### **Amended Proposal**

The application remains for the erection of 72 dwellings. Amended plans have been submitted, showing the omission of six 2 bed dwelling and in their place are six 3 bed dwellings.

The amended plans also show the requirement to remove some of the earth from the site due to the revised layout of the housing scheme and owing to the requirement for the Ecological enhancements and retention of existing trees on the site. As such there will be 2.900 cubic metres of sub-soil cut to be removed from the site which equates to 223 loads.

The applicant also wishes for the following Section 106 Agreements to be amended:

- Bus stops – the applicant's agent considers that a cost of £12.000 is excessive for a pair of bus stops and suggests a contribution of £7.500.
- Improvements at B4114/B4112 – WCC has requested a contribution of £30.000 towards a Casualty Reduction Scheme at this junction. This is the junction at Church End, Ansley. The applicant's agent suggests a figure of £12.000 is more reasonable based on the evidence they have submitted with their Transport Assessment.
- Open Space Contribution – a figure of £45.470.04 is requested towards public open space and habitat enhancement in Ansley Common and along the Bar Pool Brook in Hartshill. The applicant's agent suggests that this figure should be incorporated wholly into the Biodiversity Offsetting enhancement Management Plan as the plan includes works both on and offsite in Ansley Common and along a stretch of the Bar Pool Brook.

## **Consultations**

Highways Authority – They confirm that they have no objection to the revised proposal provided the following conditions are imposed on any consent granted relating to the need for a construction Management Plan and that the scheme is laid out as per the submitted plans. They request a contribution towards Sustainable Travel Packs.

Warwickshire County Council's Flood Risk Management Officer – They confirm that they have no additional comments to make on these amendments

Warwickshire Police – They confirm that they have no objection to these amendments however they do recommend that enhancements are included in the scheme to reduce anti-social behaviour and crime.

Warwickshire Wildlife Trust – they confirm that they continue to object in principle due to the loss of a Local Wildlife Site and priority habitat that will occur. However, they state that if the Council is minded to grant planning permission then they are satisfied that the proposed mitigation set out in the ecological reports is satisfactory regarding protected species and conditions are required on this. With regards to the Biodiversity Offsetting Scheme and Management Plan proposed then they confirm that this is suitable to offset the on-site loss of habitats. As the applicant does not own the land then this element will be best achieved through using the Section 106.

Severn Trent Water Ltd – They confirm that they have no objections to the proposal subject to a note on the planning consent.

## **Representations**

Ansley Parish Council – They confirm that they have no objections to the amended plans to replace two bedroomed homes with three bedroomed homes.

Hartshill Parish Council – They confirm that they continue to object to this proposal as the minor amendments now put forward do not address the Parish Council's concerns. They strongly object to the proposal to remove the contributions towards bus stops, highway improvements and open space.

Two letters of objection received from local residents following a consultation exercise on these amended plans. The objections relate to a new entrance onto Ansley common and the pressures already along this stretch of road with in street parking and HGV's using this road. These issues also relate to the surface water and foul water drainage issues in the area.

## **Development Plan**

North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development), NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW16 (Green Infrastructure) and NW22 (Infrastructure).

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport), and TPT6 (Vehicle Parking).

### **Other Material Planning Considerations**

National Planning Policy Framework 2012

Draft Local Plan Consultation Document 2016

### **Observations**

Members have already confirmed that they are minded to approve this residential scheme subject to the Highways Authority and Warwickshire Wildlife Trust removing their original objections.

Amended plans have now been submitted in response to the objections received. Amendments are also proposed in response to the viability of this affordable housing residential scheme now hanging in the balance due to the reduction in units being provided, the larger area of on-site public open space being provided and the amount of Biodiversity Offsetting required.

### **Highways**

The Highways Authority has indicated that they now have no objections to this proposal subject to the imposition of planning conditions. This response of “no objection” includes the applicant’s proposal to reduce the amount of Section 1056 money required for the Casualty Reduction Scheme in Church End and the provision of bus stops. This response of “no objection” is also in response to the amended proposal to export some of the material from the site rather than use all of the material within the site.

One of the conditions recommended by the Highways Authority is the submission of a Construction Management Plan. The detail submitted within this Plan will regulate this earth movement activity with regards to issues such as the hours of operation and the need for wheel cleaning to be provided on the site.

Saved Policy TPT3 of the North Warwickshire Local Plan 2006 states that development will not be permitted unless its siting, layout and design makes provision for safe and convenient pedestrian and vehicular access and circulation. It is considered that there are no Highways objections to this amended proposal.

### **Biodiversity Offsetting**

Warwickshire Wildlife Trust has indicated that they maintain their “objection in principle” to the redevelopment of this site. However, they acknowledge that the Biodiversity scheme as submitted with this amended proposal will enhance the site and the land in its immediate vicinity. The proposal is to enhance the Biodiversity value of the public open space adjoining the site as bounded by the Bar Pool Brook. This land is owned by the Borough Council.

Policy NW15 (Nature Conservation) in the Core Strategy states that development should help ensure that there is a net gain of biodiversity by avoiding adverse impacts first then providing appropriate mitigation measures and finally seeking positive enhancements wherever possible. Warwickshire Wildlife Trust has confirmed that they are satisfied that the Biodiversity Offsetting Scheme and management plan proposed is suitable to offset the on-site loss of habitats. However, they state that as the applicant does not own the land on which the habitat enhancement works will take place, there will need to be a legal agreement between the Council (as landowner) and the applicant (as the delivery body).

The Section 106 Agreement will include the details of this Biodiversity Offsetting Scheme to be delivered on the adjoining land. In view of the Biodiversity Offsetting Scheme required, the applicant has presented a case on the viability of this affordable housing proposal through the high costs associated with this Biodiversity Offsetting. The original proposal was for a proportion of the Off-site Public Open Space contribution to be used for this Biodiversity Offsetting of the Council owned land. The applicant is now seeking approval for the whole of this contribution to be used by them to deliver this Biodiversity Offsetting scheme.

This amended scheme will result in the increase in the Biodiversity value of the Council owned public open space which is a benefit to the locality. There will also be an area of public open space which is a benefit to the locality. There will also be an area of public open space provided on this residential development which will be linked to the existing public open space. As such, it is considered that the full use of this Section 106 money for public open space can be spent on the Biodiversity Offsetting scheme as this scheme relates to the enhancement of existing public open space and the provision of new public open space.

As stated above, it is recommended that the detail of the Biodiversity Offsetting scheme is included in the Section 106 Agreement to ensure that this scheme is delivered both on-site and off-site. This will include:

- The submission of a Construction Environment Management Plan for Biodiversity;
- The implementation of the Landscape and Ecological Management Plan both on-site and off-site.
- Details of how the Habitat and Biodiversity Management Plan will be implemented and its ongoing management including the monitoring and remedial actions identified in the plan.

A Sensitive Lighting Scheme to protect bats is sought to be provided as part of a planning condition

### **Substitution of House Types**

The amended plans submitted show the omission of six 2-bed dwellings and in their place the erection of six 3-bed dwellings. It is not considered that the substitution of these house types will have a detrimental impact on the design of the development proposed and will not impact on the amenity of the occupiers of the surrounding properties. Policy NW10 (9) states that the development should avoid and address unacceptable impacts upon neighbouring amenities and Policy NW12 states that all development proposal must demonstrate a high quality of sustainable development that

positively improves the individual settlements character. It is considered that the amended scheme will continue to comply with Policies NW10 (9) and NW12 in the Core Strategy 2014.

## **Conclusions**

In conclusion, it is recommended that the amended proposal is supported subject to the signing of a Section 106 Agreement and subject to the imposition of planning conditions.

## **Recommendation**

That the amended scheme be approved subject to the signing of a Section 106 Agreement and subject to the additional conditions listed below being imposed on the consent granted in addition to those conditions already recommended in the report attached at Appendix A.

## **Additional Conditions**

1. No development shall commence on site until a Construction Management Plan which must contain and Construction Phasing Plans, details to prevent mud and debris on the public highway, and a HGV Routing Plan has been submitted to and approved in writing by the Local Planning Authority. Development shall only take place in full accordance with the Construction Management Plan hereby approved.

### **REASON**

In the interests of highway safety.

2. Prior to the first occupation of any of the dwellinghouses hereby approved, the access arrangements shall be implemented, constructed and laid out in accordance with Drawing number 40010 001AB received by the Local Planning Authority on 5 January 2017.

### **REASON**

In the interests of highway safety.

3. Prior to occupation of the dwellings hereby approved, a lighting design strategy for bats shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall:
  - a.) Identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance; and
  - b.) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the bats using the woodland habitats.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy.

### **REASON**

In order to provide a lighting scheme for light-sensitive biodiversity.

### **Additional Notes**

1. For the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to Severn Trent Water Ltd under Section 106 of the Water Industry Act 1991. Copies of the current guidance notes and application form can be found on their website or by contacting tel: 0800 7078 6600
2. Severn Trent Water advises that although their statutory sewer records do not show any public sewers within the area that has been specified, there may be sewers that have been recently adopted under The Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss this proposal.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0199

Background Paper No	Author	Nature of Background Paper	Date
1	Applicant's Agent	Amended plans and information	17/1/17
2	Applicant's Agent	Biodiversity Management Plan	24/1/17
3	WCC Lead Flood Authority	Consultation	17/1/17
4	Mrs Line	Objection	24/1/17
5	Ansley Parish Council	Consultation	23/1/17
6	Warwickshire Police	Consultation	18/1/17
7	P Binfield	Objection	16/11/17
8	WWT	Consultation	31/1/17
9	Highways Authority	Consultation	2/1/16
10	Highways Authority	Consultation	30/1/17
11	Hartshill Parish Council	Consultation	30/1/17
12	Applicant's Agent	Amended Site ownership plan	20/2/17

*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.*

**General Development Applications**

**(#) Application No: PAP/2016/0199**

**Land to the rear of 145, Coleshill Road, Hartshill, CV10 0PG**

**Erection of 72 residential dwellings with proposed new vehicular access, landscaping and other associated infrastructure works, for**

**Westleigh Partnerships Ltd**

**Introduction**

This application was reported to the Planning and Development Board at its meeting in May 2016 when the Board resolved to undertake a site visit. This has now taken place and the matter is referred back to the Board for determination. The previous report is attached at Appendix A and a note of the site visit is attached at Appendix B.

It is not proposed to include matters already referred to in the earlier report again, but it should be treated as an integral part of the overall consideration of this application.

The applicant has now forwarded the draft Heads of Terms for a Section 106 Agreement. These include:

- 40% of the units to be affordable housing comprising of 85% of the units as socially rented and 15% for shared ownership.
- £105,183 towards education provision in Hartshill.
- £46,479.04 towards public open space and habitat enhancement in Ansley Common and along the Bar Pool Brook in Hartshill
- £30,000 towards a Casualty Reduction Scheme at the junction between the B4114 Nuneaton Road and the B4112 Birmingham Road at Ansley
- Provision of a pair of bus stops on Coleshill Road (B4114) to serve the new development of £12,000.

**Consultations**

Environment Agency – They confirm that they have no objections to the proposed development but wish to make comments on the previous land uses of the site which have the potential to cause ground contamination. As such a planning condition seeking a preliminary risk assessment is recommended along with a site investigation scheme.

Warwickshire County Council's Arboriculturalist – He confirms that the mature Oak trees and the woodland should be retained for arboricultural reasons in the interests of amenity.

Warwickshire County Council's Flood Risk Management Officer – Although he originally objected to this proposal, following the receipt of additional information he now offers no objection to this scheme. A planning condition is suggested to ensure that an assessment of the hydrological and hydrogeological context of the development is submitted to the Council for approval.

Environmental Health Officer – Confirms that the proposed development is traversed by two former railway lines which can be the source of contamination. As such it is recommended that a site investigation is carried out to identify the location and extent of any contamination on the site.

Warwickshire Police - The Crime Prevention Designer confirms that there are no objections to the proposal. However, he does require that boundary fencing is at least 2 metres high where it adjoins public open space to ensure that the residents do not become victims of crime or anti-social behaviour.

Warwickshire Fire and Rescue Service – They confirm that they have no objection to the development subject to the imposition of a planning condition relating to the need to provide a scheme for the provision of adequate water supplies and fire hydrants.

Warwickshire Wildlife Trust – The Trust originally objected to this development due to the loss of a Local Wildlife Site and National Priority Habitat and an overall loss of biodiversity. As such, they recommend that a decision regarding this application is deferred until the protected species surveys have been completed and can be used to inform decision making. They object to the loss of woodland habitat along the disused railway which is identified by Natural England as Priority Habitat listed on Schedule 41 of the NERC Act (2006). The woodland has a key role in providing a connected corridor for wildlife and in particular bats. Through the use of WCC's Biodiversity Impact Assessment calculator, for the original plans, there is a significant loss to biodiversity resulting from this development. They also require full survey reports for any protected species using the site. Comments on the amended plans are awaited.

Warwickshire County Council's Infrastructure Team – They request the following Section 196 Contributions: Sustainable Travel Packs; contribution towards a Casualty Reduction Scheme at the junction between the B4114 Nuneaton Road and B4112 Birmingham Road in, Ansley; provision of a pair of bus stops on Coleshill Road (B4114); contribution towards library services in Hartshill; and, contribution towards education in particular primary school places at Michael Drayton and Nathaniel Newton.

Borough Council's Housing Officer – Confirmation is given that the site is being promoted as 40% affordable instead of the original 100% affordable, but has no objections to this. The site is subject to HCA funding, and so the affordable housing provision cannot be part of a Section 106 Agreement.

County Ecologist – He confirms from the original plans submitted that the Biodiversity Offsetting has been calculated at a loss of 12.78. This is mainly due to the removal of semi-natural broad-leaved woodland, a habitat of high distinctiveness which equates to a habitat loss of 1.62 hectares. As such a financial contribution is required. In addition to this a slow worm has been found and so a CEMP condition should be imposed on any approval.

Highway Authority – It objected to the original proposal in that the Road Safety Audit Stage 1 as submitted focused on the site layout rather than the access arrangements. As such a Road Safety Audit of the access arrangement was required. Concerns are raised about individual plots shown within the site. Amended plans have been submitted along with the amended Road Safety Audit to address these concerns. Amended comments from the Highways Authority are awaited.

Warwickshire Museum – It confirms that the site lies within an area of archaeological potential. Areas of former quarrying activity are less than 300 metres to the north and a

former mineral railway runs through the western side of the site. A Scheduled Bronze Age round barrow is located 800 metres to the north as is the site of a Saxon Burial. However, few remains pre-dating the medieval period have been identified within the vicinity of the site. As such they recommend that archaeological work is undertaken as part of a planning condition should permission be granted.

## **Representations**

Ansley Parish Council – It has considered the amendments made to the scheme but feels that it does not materially alter the original objection. As such, the Parish Council confirms that it objects to this application as the numbers are not in line with the Core Strategy. It would be minded to support an application for fewer homes as long as they include a good mix of housing to reflect the needs of the area, which should include low cost affordable starter homes and old people's bungalows.

Hartshill Parish Council – The Council requests that the following observations be taken into account to refuse this application: the number of dwellings proposed is excessive compared with the size of the site; 76 dwellings will generate at least 76 vehicles entering and exiting onto an already busy Coleshill Road; 76 more families will put a further strain on the services in Chapel End and Hartshill.

Atherstone Civic Society – It confirms that it has no objections to the proposal. However, it is concerned that the development proposed is intensive and includes no significant green space or recreation area. The site has ecological value having been left to re-colonise after the previous industrial use. It considers that the houses proposed are bland 'off the peg' designs which will not enhance the area. It also highlights concerns about congestion around Hartshill and the junction with Chapel End. There are also concerns raised about the possibility of flooding.

Eight letters of objection and three letters of representation have been submitted from local residents raising the following issues:

- The highway network around the site cannot cope with the traffic likely to be generated from this housing scheme.
- The services and schools around the site cannot cope with additional people.
- Not enough bungalows are included on the scheme for the older population.
- The site is used by bats, frogs, toads, a water vole, hedgehogs, foxes and muntjac deer along with a variety of bird species.

## **Observations**

### **Introduction**

The site lies outside of the Development Boundary for Hartshill and Ansley Common. However Policy NW2 in North Warwickshire's Core Strategy states explicitly that residential development for local service centres such as Hartshill and Ansley Common will be considered where sites also adjoin the development boundary as is the case here.

The consultation report highlighted the key issues which would need to be addressed during the determination of this application. This report will consider each of these issues:

## **1) Sustainability**

Policy NW2 in the Core Strategy seeks to develop a broad distribution pattern for development, with the majority of development being directed to the main towns. Hartshill with Ansley Common are together identified as one of the five Local Service Centres. These Local Service Centres provide important local services and facilities. Policy NW5 allocates strategic housing numbers to named settlements. This Policy states that a minimum of 400 houses will be directed towards the settlement of Hartshill with Ansley Common.

The whole of the site has thus now been identified as a preferred housing allocation for Hartshill/Ansley Common in the Council's Draft Local Plan. The only sizeable housing scheme to be approved to date in the area is the recent approval for Chapel End Social Club for 14 dwellings and so the minimum requirement of 400 houses in Hartshill with Ansley Common has yet to be delivered.

The housing scheme proposed includes a vehicular access into the site from Coleshill Road. To encourage occupiers to use public transport services along Coleshill Road, the Section 106 Agreement includes a contribution towards the provision of bus stops outside of the site on Coleshill Road. Pedestrian links are provided to Coleshill Road and into Hartshill via the Bridleways Housing Estate. These links provide convenient pedestrian access to the schools in Hartshill; to the shops and services in Chapel End and to the recreational facilities at Hartshill Hayes Country Park and Snowhill Recreation Ground. These pedestrian linkages comply with the requirements of Core Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities.

As such it is considered that the site proposed is in a sustainable location being located adjacent to a Local Service Centre and that it complies with the settlement hierarchy as laid out in Policy NW2 and the criteria in Policy NW10.

## **2) Highway Infrastructure**

Following objections raised by the Highways Authority, the applicant has submitted a Road Safety Audit Stage 1 for the vehicular access onto Coleshill Road. In order to achieve the required visibility splays from this access, the terraced properties of 143 and 145 Coleshill Road have been provided with off-street parking within the site and so within the rear residential curtilage of number 145. Car parking and visitor parking is also provided within the site for the new dwellings proposed to front onto Coleshill Road. The vehicular access has been engineered to be 5.5 metres wide along its length with 2 metre footways either side. All these measures will reduce the need for vehicles to park around the vehicular access point onto Coleshill Road. The Road Safety Audit Stage 1 concludes that the proposed access into the site is safe. Amended comments are awaited from the Highways Authority to confirm that they agree with the conclusions of this Audit.

With regards to the internal layout proposed, each property has a dedicated car parking space with many of the units having two spaces. There are also a number of visitor spaces proposed. Each unit also has access to a secure bike store or a private rear garden for storing bikes.

The private drives are intended to be engineered so that large vehicles such as the refuse collection vehicles and fire engines can use the drives without damaging the subsurface. Turning areas are also provided at the end of each drive. Bin stores are provided for the apartment blocks and temporary bin stores are provided at the end of each private drive.

The Highways Authority has no objections to the increase in traffic along the Coleshill Road as a result of this scheme. Improvements to the junction with Plough Hill Road are already being sought by residential schemes submitted to Nuneaton and Bedworth Borough Council along Plough Hill Road. The Highways Authority has requested a contribution towards a casualty reduction scheme at the junction between the B4114 Nuneaton Road and the B4112 Birmingham Road in Ansley.

As already mentioned the Highways Authority has also requested a contribution towards the provision of a pair of bus stops outside of the site to encourage occupiers of the proposed dwellings to use the public transport service along Coleshill Road. This bus service provides an hourly service into Nuneaton. There are further bus services available in Chapel End and Hartshill which provide a more frequent service into Atherstone and Nuneaton. These contributions will ensure that the proposal complies with Policy NW10 (5) of the Core Strategy which encourages sustainable forms of transport focussing on pedestrian access and provision of bike facilities.

As such, subject to the Highways Authority confirming that they have no objections to the proposal, it is considered that the amended scheme complies with Policy NW10 in the Core Strategy and saved policies TPT1, TPT3 and TPT6 in the North Warwickshire Local Plan 2006.

### **3) Potential Wildlife Site**

Warwickshire Wildlife Trust object to the loss of woodland habitat along the disused railway which is identified by Natural England as Priority Habitat listed on Schedule 41 of the NERC Act (2006). The woodland has a key role in providing a connected corridor for wildlife and in particular bats. Through the use of WCC's Biodiversity Impact Assessment calculator, the original plans show a significant loss to biodiversity resulting from this development. The County's Ecologist also expresses concern regarding the loss of semi-natural broad-leaved woodland, a habitat of high distinctiveness.

Paragraph 118 of the NPPF states that when determining planning applications, Local Planning Authorities should aim to conserve and enhance biodiversity by applying the principle of if significant harm resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

Amended plans have been submitted which propose the retention of the woodland along the brook along with the retention of mature oak trees. The County's Ecologist agrees that there is scope to enhance this area of retained woodland to a 'good' condition through requiring a management plan and through introducing measures such as fencing and sensitive lighting to ensure that the disturbance from the adjacent housing is limited. The Ecological Appraisal submitted by the applicant recommends that where woodland and mature scattered trees are removed then these trees should be replaced at site level with extra heavy standards on a 1:1 ratio. Such species suggested include beech, English Oak and field maple. If 1:1 replacement is not possible within the development footprint, the report recommends that compensation should be made through a process of biodiversity offsetting. A financial contribution

towards habitat creation and maintenance on the adjoining Council owned land along the brook and within the recreational land in Ansley Common will also contribute to the loss of habitat across the whole of the site.

Survey reports for protected species using the site have been submitted. A slow worm has been found on the site along with bats using the site so appropriately worded conditions are suggested.

As stated earlier in the report, the whole of the site has been identified as a preferred housing allocation for Hartshill/Ansley Common in the Council's Draft Local Plan. The amended plans submitted show the retention of more semi-natural woodland habitat along the Barpool Brook. This has resulted in the number of residential units proposed being lowered to 72 units and more apartments being proposed which involve a smaller built footprint and no curtilages. Funding towards further habitat creation along the opposite side of the Barpool Brook and in the recreation ground in Ansley Common is also proposed. As such it is considered that in accordance with the requirements of the NPPF, significant harm to biodiversity is reduced through the retention of some of the semi-natural habitat and mitigated through the enhancement of areas adjoining the development site.

#### **4) Surface Water Drainage Issues**

An amended Flood Risk Assessment has been submitted following an initial objection received from Warwickshire County Council's Flood Management Team. The proposal includes a new surface water drainage system to be constructed to convey surface water runoff from the adopted highway, residential properties and private impermeable areas to the outfall. Surface water runoff will be attenuated within the piped network for storms up to and including 1 in 30 year event with a flood risk level set at 300mm below the cover level. Attenuation for storms up to and including 1 in 100 year plus 30% climate change events will be provided within the piped network and offline attenuation. Discharge from the surface water drainage system is to be controlled by a hydrobrake flow control to mimic existing greenfield conditions. Greenfield runoff rates have been calculated using WinDES as 1 in 1 year – 6.3 l/s; 1 in 30 year – 14.9 l/s; and, 1 in 100 year–19.5l/s.

Foul water effluent is to be discharged into the adopted Severn Trent Water combined water system in Coleshill Road. To ensure the quality of runoff leaving the site is treated to a suitable level as required by the Environment Agency, a number of sustainable drainage features will be incorporated into the development in accordance with Ciria Report C697 "The SuDS Manual."

The Flood Management Team has responded to the amended details by confirming that as the surface water outfall is proposed to be a new headwall constructed in the bank of the Bar Pool Brook adjacent to the development which will have a hydrobrake fitted, they have no objection to the proposal. They request that a planning condition is imposed on any consent granted.

Based on the above it is considered that the proposal complies with Policy NW10(12) in the Core Strategy in that the development will protect the quality and hydrology of ground or surface water sources so as to reduce the risk of pollution and flooding, on site or elsewhere.

## **5) Topography and residential amenity**

A site topographical survey has been undertaken by the applicant that confirms that levels on site range from 115.890m AOD to 123.520m AOD with levels generally falling from the west where the elevated railway embankment is located to the south towards Coleshill Road and to the east towards the section of open watercourse.

The proposal is to remove the former railway embankment and distribute the material across the site lifting levels in the lower areas along the northern and eastern boundaries most. Lifting the levels in these areas will reduce the risk of flooding from the Bar Pool Brook which was highlighted by the Environment Agency surface water and reservoir flood mapping.

The proposal to increase the levels to the south and east of the site will lift the levels to those comparable to the surrounding area. The exception to this is the Bridleways Housing Estate to the north which will still be elevated compared to the development site.

In view of the variations in levels at the site, the height of a four storey apartment in this northern location will be comparable in height to the dwellings at the Bridleways Housing Estate. This boundary is already heavily wooded with mature trees which block direct views into the site. A vegetated wildlife corridor is also proposed along the banks of the Bar Pool Brook having a maximum width of 55 metres and a minimum width of 7 metres. As such there will be no significant loss of privacy or loss of light from the proposal for the residents to the north of the site.

With regards to the residents to the south and west of the site along Coleshill Road, the units are all orientated to have their rear gardens backing onto the rear gardens of these existing residential properties. In view of the distances involved between dwellings there will be no significant loss of privacy or loss of light from the proposal for the residents to the south and west of the site.

As such the proposal complies with Policy NW10 in the Core Strategy 2014.

## **6) Ground Contamination**

The Pollution Control Officer confirms that further investigatory work will be required on the site as former railway lines can be a source of contamination and there is mention in the Phase 1 report regarding some waste stored (possibly flytipped) on the land. A planning condition is suggested which includes the need for additional testing of the site once it has been stripped. As such the "before commencement" part of the condition will require them to be able to carry out the stripping work. It is recommended that the stripping work is carried out in accordance with a Materials Management Plan. The Environment Agency also requests a similar worded condition in order to protect the water environment from ground contamination.

## **7) Affordable Housing**

Policy NW6 requires that 40% of the dwellings shall be affordable units. The proposal has been submitted with 40% of the dwellings as affordable units - 85% of these being socially rented units. A planning condition is suggested to ensure that 40% of the units is affordable units whilst enabling the site to still benefit from a grant from the HCA.

The preferred developer for this site is Waterloo Housing and their intention is to deliver 100% of the units as affordable housing units on the site with 30 units being offered for shared ownership and the remainder being offered as socially rented units. However, the applicant has asked that the scheme be considered against the policy provision of 40% of the units being affordable units in case the site is developed by another housebuilder.

## **8) Design**

Through the submission of amended plans, the layout has been redesigned with its emphasis on looking north over the retained landscaping. Connections have been provided through the site to the existing paths which surround the site. The dwellings have been re-orientated to look out over the northern edge to provide surveillance and security over this area which should encourage the areas to be used responsibly. The amount of adopted tarmac highway has been reduced to lessen the dominating appearance of highways and to retain more trees.

The design of the housing is contemporary relating to the period in which it is being developed. The apartment block includes balconies and render panels to add interest and break up the monotony of brickwork. The two storey dwellings also have brickwork detailing. Amended plans have been requested to add false dormers along the eaves, string courses between each unit and door canopies on all housing units. The use of dual aspect units helps to add interest to the street scene along the access road into the site. Two focal buildings are proposed at prominent nodes in the site being the entrance to the site and the possible entrance from the adjoining land.

A condition is suggested requiring the submission of details of materials and screen fencing. Overall it is considered that the scheme complies with Saved Policies ENV12 and ENV13 in the Core Strategy.

## **9) Access to services and education**

A number of the objections received raise concerns about the pressure on the existing services in the area from the occupiers of these units. The Draft Section 106 Agreement includes contributions towards primary school places in Hartshill and towards open space provision in the area. There have been no objections raised by the NHS regarding the provision of medical services in the area.

## **Conclusions**

The scheme involves the redevelopment of this vacant parcel of land adjoining the settlements of Hartshill and Ansley Common. The whole of the site has been identified as a preferred housing allocation for Hartshill/Ansley Common in the Council's Draft Local Plan. The only sizeable housing scheme to be approved to date in the area is the recent approval for Chapel End Social Club for 14 dwellings and so the minimum requirement of 400 houses in Hartshill with Ansley Common has yet to be achieved.

The scheme has been redesigned to retain a large area of vegetation including mature trees along the Bar Pool Brook. The housing has been redesigned to be of a more contemporary design. It is considered that subject to the Highways Authority having no objections to the scheme and subject to the signing of the Section 106 Agreement and the imposition of planning conditions then the scheme can be supported.

## Recommendation

- A) That subject to the Highways Authority confirming it has no objections to the scheme and subject to the signing of the Section 106 Agreement on the basis as reported here, planning permission be granted and the following conditions be imposed on any consent granted:

## Conditions

- 1) Standard time condition
- 2) Approved Plans
- 3) No development shall take place until detailed surface and foul water drainage schemes for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, have been submitted and approved in writing by the local planning authority in consultation with Warwickshire County Council. The scheme shall be subsequently implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall include:
  - a) Assessments of the nature of SuDS proposals to be used.
  - b) Infiltration testing, in accordance with BRE 365 guidance, to be completed and results submitted to demonstrate suitability (or otherwise) of the use of infiltration SuDS.
  - c) Evidence that the discharge rate generated by all rainfall events up to and including the 100 year plus 40% (allowance for climate change) critical rain storm has been limited to the site-specific greenfield runoff rates for all return periods.
  - d) Evidence of the condition, dimension and capacity of Bar Pool Brook at the proposed outfall location to ensure that the proposed discharge rates can be accommodated and does not present undue risk to the proposed and surrounding developments.
  - e) Demonstrate detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details of any attenuation features, and outfall arrangements. Calculations should demonstrate the performance of the drainage system for a range of return periods and storm durations 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.
  - f) Demonstrate that the surface water drainage system(s) are designed in accordance with CIRIA C753.
  - g) Demonstrate the proposed allowance for exceedance flow and associated overland flow routing.
  - h) Evidence from Severn Trent Water will be required granting approval of discharge of sewerage to their assets including discharge rate and connection points.
  - i) Provide a Maintenance Plan to the Local Planning Authority giving details on how the entire surface water system shall be maintained and managed after completion for the life time of the development. The name of the party responsible, including contact name and details, for the maintenance of all features within the communal areas onsite (outside of individual plot boundaries) shall be provided to the Local Planning Authority

## REASON

To ensure that a satisfactory drainage scheme is implemented on site.

- 4) No works shall take place until an assessment of the nature and extent of contamination has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by suitably qualified and experienced persons, shall be based on a Phase I Assessment carried out for the site which has been previously agreed in writing with the local planning authority. The investigation must be carried out in accordance with the British Standard for the investigation of potentially contaminated land, and shall assess any contamination on the site, whether or not it originates on the site. Moreover, it must include:
- (i) A survey of the extent, scale and nature of contamination;
  - (ii) An assessment of the potential risks to:
    - Human health;
    - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
    - Adjoining land;
    - Groundwater and surface waters;
    - Ecological systems; and,
    - Archaeological sites and ancient monuments.

## REASON

To protect and enhance the water environment and in view of the interests of public health.

- 5) Should any contamination be found during the site investigation as required in condition number 4, a remediation method statement report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures before development begins. The remediation shall be verified in accordance with a verification plan submitted as part of the remediation method statement and a verification report shall be submitted within three months of completion of the remediation.

## REASON

To protect and enhance the water environment and in view of the interests of public health.

- 6) 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 Local Planning Authority.

- 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 Local Planning Authority
- c) An Archaeological Mitigation Strategy document (including a WSI for any archaeological fieldwork proposed) shall be submitted to and approved in writing by the Local Planning Authority. 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

In view of the site lying within an area of archaeological potential.

- 7) No development shall take place (including any demolition, ground works, site clearance) until a method statement for the rescue and translocation of slow worm from the construction site has been submitted and approved in writing by the local planning authority. The content of the method statement shall include the:
  - a. Purpose and objectives of the proposed works;
  - b. Detailed design and/or working method necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
  - c. Extent and location of proposed works shown on appropriate scale maps and plans;
  - d. Timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
  - e. Persons responsible for implementing the works;
  - f. Initial aftercare (where relevant);
  - g. Disposal of any wastes arising from works.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

#### REASON

In order to protect the Biodiversity on the site.

- 8) Before the commencement of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval.

#### REASON

In view of the loss of mature trees and woodland as part of the proposal and in the interests of the amenity of the area.

- 9) The scheme referred to in Condition No 8 shall be implemented within six calendar months of the date of occupation of the first house for domestic purposes. 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 view of the loss of mature trees and woodland as part of the proposal and in the interests of the amenity of the area.

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

#### REASON

In the interests of public safety from fire and the protection of emergency fire fighters.

- 11) The development hereby permitted shall not be commenced until details of how the affordable housing provision on the site, shall be owned and managed by a Registered Social Landlord. These details shall be submitted to the local planning authority for approval in writing and shall include a minimum of 40% of the total residential units being affordable housing units of which no less than 85% of these units shall be socially rented units with the remaining being shared ownership. Only the approved details shall then be implemented on site.

#### REASON

To ensure that a mixture of housing tenures is achieved on the site.

- 12) No development shall be commenced before samples of the:-  
(a) facing materials  
(b) facing bricks  
(c) roofing tiles  
(d) surfacing materials  
(e) screen wall facing bricks

to be used have been submitted to and approved by the Local Planning Authority in writing. Only the approved materials shall then be used.

#### REASON

In the interest of the residential amenity of the area.

- 13) Highway Conditions

- B) That the County's Arborculturalist be instructed to inspect the trees to be retained on site with a view to issuing a Tree Preservation Order for the site.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0199

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11/4/16
2	Environment Agency	Consultation	10/5/16
3	County's Arboricultural Officer	Consultation	10/5/16
4	County's Flood Risk Management Officer	Consultation	14/4/16
5	County's Flood Risk Management Officer	Consultation	28/6/16
6	Atherstone Civic Society	Letter	4/5/16
7	Pollution Control Officer	Consultation	19/4/16
8	M Carpenter	Comments	16/4/16
9	Warwickshire Police	Consultation	15/4/16
10	Fire and Rescue Service	Consultation	4/6/16
11	Warwickshire Wildlife Trust	Consultation	5/5/16
12	I Roper	Objection	14/5/16
13	J Howle	Objection	24/5/16
14	J Keaerns	Objection	20/4/16
15	Ecological Assistant	Consultation	14/7/16
16	Pollution Control Officer	Consultation	14/7/16
17	S Wilkinson	Committee Report	16/5/16
18	Highways Authority	Consultation	14/7/16
19	Housing Officer	Consultation	23/8/16
20	Dr Griggs	Comments	27/4/16
21	C Sharp	Objection	4/5/16
22	S Hutt	Objection	10/5/16
23	Hartshill Parish Council	Objection	5/5/16
24	139 Coleshill Road	Objection	4/5/16
25	WCC Infrastructure Team	Consultation	May 2016
26	Warwickshire Wildlife Trust	Consultation	28/6/16
27	Ansley Parish Council	Objection	18/9/16
28	Highways Authority	Consultation	23/8/16
29	J Cheesman	Objection	18/9/16
30	Housing Officer	Consultation	22/9/16

31	Warwickshire Police	Consultation	20/9/16
32	C Noon	Objection	22/9/16
33	Atherstone Civic Society	Comments	21/9/16
34	Warwickshire Museum	Consultation	22/9/16
35	Local Plans Officer	Consultation	26/9/16

*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.*

**Application No: PAP/2016/0199**

**Land to the rear of 145, Coleshill Road, Hartshill, CV10 0PG**

**Erection of 72 residential dwellings with proposed new vehicular access, landscaping and other associated infrastructure works, for**

**Westleigh Partnerships Ltd**

### **Introduction**

The receipt of this application is reported to the Board in view of its significance to the settlements of Hartshill and Ansley Common, such that Members can understand the proposal and the issues involved prior to its determination at a later meeting. Consultations and notifications are underway and responses will be reported to the Board in due course when the application is reported for determination. These consultations include local residents as well as the usual range of Agencies and infrastructure providers.

The application is also reported to Board for determination because one of the land owners is a Borough Councillor.

A recommendation is also made for Members to undertake an accompanied site visit as the majority of the site is not accessible to the public.

### **The Site**

The site comprises some 1.73 hectares of green-field land to the north of Coleshill Road. The site is mainly woodland at the peripheries with overgrown grassland within the remainder of the site. The Bar Pool Brook bounds the site to the north with the residential development known as the Bridleways lying to the north of the Brook. To the east and south of the site are established fence lines which delineate the residential gardens of the properties along the Coleshill Road. To the west of the site lies the former railway embankment/line which is largely overgrown and is set some 2 metres above the remainder of the site. There is a gradual slope towards the brook to the eastern parameters of the application site of one metre and along the length from the front of the site to the far north a level change of approximately two metres. There is also approximately one metre difference between the street level and the front of the site along Coleshill Road, although at the access point the site is level with the adjoining highway.

There is a vehicular access onto Coleshill Road alongside number 145.

The site adjoins the development boundary for Hartshill and Ansley Common and is within a safe walking distance of the local shops, post office, GP surgery and schools. There is a bus stop within 140 metres of the site along Coleshill Road where the number 41 bus service provides access to Nuneaton and the surrounding villages at a frequency of one service per hour.

The larger outline site is illustrated at Appendix A.

## The Proposal

The proposal relates to a full planning application for the erection of 76 dwelling houses accessed from one single vehicular access onto Coleshill Road. A mixture of one storey and two storey units are proposed ranging from two-bedroomed flats and two-bedroomed bungalows to two, three and four-bedroomed houses. The proposal is for 40% of these units to be affordable housing.

A small area of open space is shown alongside the Bar Pool Brook. Landscaping is shown within the site and on its periphery. Levels on site vary with the former railway embankment which runs along the western boundary being elevated above the site. It is proposed to remove the former railway embankment and distribute the material across the site lifting levels in the lower areas along the northern and eastern boundaries. It is stated that lifting the levels in these areas will reduce the risk of flooding from the Bar Pool Brook which was highlighted on the Environment Agency surface water and reservoir flood mapping.

The plans submitted assume that boundary retaining will be required to a maximum retained height of one metre along the western boundary which includes the gardens in Ansley Common, to a maximum retained height of 450mm along the northern boundary with the gardens in Coleshill Road, and, boundary retaining alongside the boundary with property number 145 Coleshill Road.

A substantial amount of supporting documentation has been submitted with this application which includes:

- Planning Statement
- Design and Access Statement
- Arboricultural Implications Study
- Preliminary Ecological Appraisal
- Phase 1 Site Appraisal
- Flood Risk Assessment
- Section 106 Draft Heads of Terms
- Engineering Layout Drawing
- Landscape Proposal Plans
- Topographical Survey

The following Draft Heads of Terms are submitted:

- 40% affordable housing provision which equates to 30 affordable dwellings on site, with the full break down of the affordable housing to be provided on site as follows:

<b>Dwelling Type</b>	<b>Shared Ownership</b>	<b>Rented</b>
1 bed	0	6
2 bed	5	11
3 bed	2	4
4 bed	0	2

- Other possible financial contributions that may be required by statutory consultees towards:

Education  
 Health Services  
 Public Open Space  
 Biodiversity Off-setting  
 Public Transport

## Development Plan

North Warwickshire's Core Strategy Adopted October 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW16 (Green Infrastructure) and NW22 (Infrastructure).

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenity), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

## Other Material Planning Considerations

National Planning Policy Framework 2012 (NPPF)

The Council's Draft Pre-Submission Site Allocations Plan 2014

## Observations

The site lies outside of the Development Boundary for Hartshill and Ansley Common. Policy NW2 in North Warwickshire's Core Strategy states that residential development for local service centres such as Hartshill and Ansley Common will be considered where sites adjoin the development boundary. The site has been identified as a preferred housing allocation for Hartshill/Ansley Common in the Council's emerging Local Plan Site Allocations Plan

The proposed development of this green field site highlights the following key issues which will need to be addressed:

- 1) **Sustainability** - That the sustainability of the site is assessed to ensure that residential development is appropriate for this site and that such a development scheme will be easily assimilated into the neighbouring settlements of Hartshill and Ansley Common.
- 2) **Infrastructure** - That the existing infrastructure is able to accommodate this level of development in this location. In particular, there is an issue that the proposed development scheme may impact on the highway safety of road and pedestrian users along Coleshill Road and with the junction onto Plough Hill Road. The proposal involves the creation of an upgraded vehicular access onto Coleshill Road. Policy NW10 and Saved Policies ENV14 and TPT3 stress the importance of ensuring that the vehicular access to the site is safe and the need to

demonstrate that priority is given to pedestrians, cyclists and those using public transport.

- 3) **Potential Wildlife Site** - The proposal involves the loss of a green field site and a large amount of vegetation. The proposed development will require the removal of much of the site's grassland and woodland areas, including the felling of several mature trees. The trees along the eastern boundary of the site are protected by a Tree Preservation Order. The site has also been designated as a potential wildlife site and Policy NW15 (Nature Conservation) states that Sites of Local Importance for Nature Conservation will only be permitted where the benefits of the development outweigh the nature conservation value of the site and the contribution it makes to the Borough's ecological network.
- 4) **Surface Water Drainage Issues** – The site includes a brook where there have been local reports of flooding along its length. A Flood Risk Assessment has been submitted with the application. The proposal is to raise the ground levels alongside the Bar Pool Brook.
- 5) **Topography** – The former railway embankment/line is set some 2 metres above the remainder of the site. There is a gradual slope towards the brook to the eastern part of the application site of one metre and along the length from the front of the site to the far north a level change of approximately two metres. There is also approximately one metre difference between the street level and the front of the site along Coleshill Road. It is proposed to remove the former railway embankment and distribute the material across the site lifting levels in the lower areas along the northern and eastern boundaries. These alterations in levels on the site need to be assessed to ensure that the development scheme does not have a detrimental impact on the surroundings area. The Drainage Authorities will also have comments on the raising of the land adjoining the Bar Pool Brook.
- 6) **Ground Contamination** – The site lies within an area of previous coal mining. As such, the stability of the land will need to be assessed. There is also the potential for the land to be contaminated from previous uses. A Phase 1 Site Appraisal has been submitted investigating the former uses of the land.
- 7) **Residential Amenity** - The proposed development scheme has the potential to impact on the residential amenity of neighbouring properties by virtue of overlooking, loss of privacy and disturbance due to traffic. Policy NW10 seeks to ensure that development proposals avoid and address unacceptable impacts upon neighbouring amenities through overlooking, overshadowing, noise, light, fumes or other pollution.
- 8) **Affordable Housing** - The proposed development scheme does include an affordable housing provision of 40% of the dwelling houses as required under Policy NW6 (Affordable Housing Provision). The provision includes rented housing as well as shared ownership. The mix of housing types and tenures will need to be agreed with the Housing Officer.

## **Recommendation**

That the application be noted and that Members agree to undertake a site visit.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0199

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant's Agent	Application Forms, Plans and Statements	8/4/2016

*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.*

Revision	Date
A	27.03.2013
B	27.03.2013
C	17.03.2014
D	17.03.2014
E	24.05.2015
F	25.08.2015
G	19.03.2015
H	29.09.2015
I	08.10.2015
J	02.11.2015
K	11.12.2015
L	09.02.2016
M	18.02.2016
N	20.02.2016
O	18.02.2016
P	03.03.2016
Q	11.03.2016
R	29.03.2016

- Schedule**
- A 2049 Headers
  - B 2049 Headers
  - C 2049 Plans
  - D 2049 Plans
  - E 2049 Plans
  - F 2049 Plans
  - G 2049 Plans
  - H 2049 Plans
  - I 2049 Plans
  - J 2049 Plans
  - K 2049 Plans
  - L 2049 Plans
  - M 2049 Plans
  - N 2049 Plans
  - O 2049 Plans
  - P 2049 Plans
  - Q 2049 Plans
  - R 2049 Plans

- Revisions**
- C Estimated road amended
  - D Road layout amended
  - E Estimated and parking
  - F Layout updated, also enclosed
  - G Layout updated, also enclosed
  - H Layout updated, also enclosed
  - I Lists re-located, parking
  - J Lists re-located, parking
  - K Car parking to plots 32-35
  - L E units, revised and relocated
  - M Units 20-23 & 7-76 revised
  - N House type names amended
  - O Parking layout, turning layout
  - P Pumping station, locations
  - Q Minor layout amendments
  - R Minor layout amendments
  - S Minor layout amendments
  - T Site Boundary amended

- Notes**
- 1. E units, revised and relocated
  - 2. Units 20-23 & 7-76 revised
  - 3. House type names amended
  - 4. Lists re-located, parking
  - 5. Car parking to plots 32-35
  - 6. Pumping station, locations
  - 7. Minor layout amendments
  - 8. Minor layout amendments
  - 9. Minor layout amendments
  - 10. Site Boundary amended

**Architects - Project Managers - Quantity Surveyors**  
 130 New Walk  
 Leicester LE1 7JA  
 Tel: 0116 204 5900 Fax: 0116 204 5901  
 email: design@pcc.co.uk www.pcc.co.uk

Project	Coleshill Road
Client	Westleigh
Site	Site Layout
Scale	4000 @ A0
Date	28.08.2013
Drawn	NP
Checked	RAW

**Notes**

- 1. E units, revised and relocated
- 2. Units 20-23 & 7-76 revised
- 3. House type names amended
- 4. Lists re-located, parking
- 5. Car parking to plots 32-35
- 6. Pumping station, locations
- 7. Minor layout amendments
- 8. Minor layout amendments
- 9. Minor layout amendments
- 10. Site Boundary amended



Member Site Visit 15 June 2016

PAP/2016/0199 – Land to the rear of 145 Coleshill Road, Hartshill

Present:

Cllrs Davey, Humphreys, Phillips, Simpson, Sweet, A. Wright  
S. Wilkinson

The site visit started on Coleshill Road. Members looked at the vehicular access proposed onto Coleshill Road. They then walked into the site along the proposed vehicular access. Members viewed the site alongside the rear gardens of the properties in Coleshill Road. They looked across the site to the properties on the Bridleways development in Hartshill and looked at the vegetation along the Bar Pool Brook.

Members then looked across the site towards the railway embankment along the properties in Ansley Common. Due to the heavy rainfall occurring at the time Members did not walk further into the site. They were encouraged to drive to Laurel Drive and observe the site from the railway embankment when the weather has improved.

SMW 16/06/2016

**(2) Application No: PAP/2016/0213**

**Land South of Gardeners Cottage, Pooley Lane, Polesworth,**

**Outline application (access only) for residential development, for**

**Mr K Holloway - N P Holloway And Son**

**Introduction**

This application was referred to the Planning board at its February meeting, but determination was deferred to enable Members to visit the site. This has now occurred and the matter is referred back to the Board for a decision.

The previous report is attached at Appendix A for convenience.

A note of the site visit will be made available at the meeting.

**Recommendation**

That the recommendation as set out in Appendix A be agreed.

## General Development Applications

(#) Application No: PAP/2016/0213

Outline application (access only) for the residential development of up to 40 dwellings for

Mr K Holloway

### Introduction

This application is reported to the Planning and Development Board at the discretion of the Head of Development Control in view of the objections received and in view of two recent appeal decisions which are relevant to the determination of this application.

### The Site

The proposed development site lies to the north of the housing development known as The Lynch off the B5000 on the west side of Polesworth. The site is bound by Gardeners Cottage to the north; the Coventry Canal and public footpath AE16 to the east, the Lynch to the south and Pooley Lane to the west. The settlement of Polesworth lies to the east of the site and the M42 is further to the west.

The site measures some 2 hectares and is bound by mature hedgerows along its northern and western boundaries with a landscaped buffer to its eastern boundary. The gardens of the properties on The Lynch form its southern boundary.

The outline of the site is shown at Appendix A.



## **The Proposal**

The scheme relates to the development of this field with residential units. It is submitted in outline format but with details of the vehicular access from Pooley Lane. The Masterplan submitted with the proposal includes the extent of a development plateau along with the access off Pooley Lane and landscaped areas. The indication in the plans submitted is that the site can accommodate up to 40 dwellings.

The following documentation has been submitted with the application:

- A Design, Access, Heritage and Planning Statement
- A Preliminary Ecological Appraisal
- A Flood Risk Assessment with surface drainage calculations
- Surface Water Storage Calculations
- An Access Layout
- An Archaeological Heritage Assessment
- A Reptile Survey

The proposal would be the subject of a Section 106 Agreement with the following draft heads of terms suggested by the applicant:

- 40% of the units to be affordable housing with 85% of these as socially rented units and 15% as shared ownership.
- £85,814 towards public open space in Polesworth
- Works to resurface the public footpath AE16 with a bound material and to install street lighting from the site to the B5000
- Maintenance and management of woodland areas and hedgerows within the site.
- Maintenance and management of the surface water balancing pond.

## **Development Plan**

The Core Strategy 2014 - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW4 (Housing Development), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment), NW15 (Nature Conservation), NW16 (Green Infrastructure), NW19 (Polesworth and Dordon) and NW22 (Infrastructure)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV4 (Trees and Hedgerows); ENV6 (Land Resources), ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

## **Other Material Planning Considerations**

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

The Draft Local Plan for North Warwickshire – 2016

Appeal Reference: APP/R3705/W/15/3136495 - St Modwen

Appeal Reference: APP/R3705/W/16/3149573 - Ansley

## **Consultations**

Inland Waterways Association – It confirms that it objects to the proposal. It recognises that the landscaped buffer will be retained between the site and the canal. However, the topography of the site means that it rises away from the canal and so the development will be prominently visible from the Coventry Canal. It considers that this development will extend a finger of built development into the presently open countryside and so diminish the attractiveness of the canal's rural setting for recreational and tourism uses.

Environmental Health Officer – No comments to make on the application other than about the proximity of housing in the northern corner of the site which is close to an area of land being used for the training of heavy plant operatives.

Warwickshire (Public Rights of Way) – It confirms that there is no objection to the scheme. However, as the Right of Way AE16 runs through the site there is a need to ensure that the balancing pond and none of the vegetation proposed encroaches on this path. This footpath needs to remain open at all times. A request is made for a contribution towards the maintenance of footpaths in the area.

Warwickshire Museum – It confirms that the proposed development lies within an area of archaeological potential and it is probable that the field has been in an agricultural use since at least the medieval period. A number of Roman and medieval period finds have been found in the area. As such they confirm that an archaeological evaluation should be undertaken on the site before the application is determined. This archaeological evaluation was undertaken and the Planning Archaeologist re-consulted.

Warwickshire Fire and Rescue Service – It requests that a planning condition regarding the provision fire hydrants on the site is imposed.

Warwickshire Wildlife Trust – The Trust confirms that the Preliminary Ecological Appraisal is suitable for determining this application and this Appraisal shows that the woodland and majority of the hedgerow will be retained and protected. A reptile survey has also been submitted. With regards to Biodiversity then at present there is a loss of 49% of the biodiversity of the site. This is due to the loss of low value improved grassland. Conditions are suggested if the application is approved.

Highway Authority – The County Council confirms that it has no objection to the proposal. Pooley Lane is a private road owned by the applicant. Because of this it does not have a speed restriction placed on it. There is a need for the new junction into the site to incorporate 'y' distances of 70 metres as a minimum in the interests of the users of Pooley Lane. Pooley Lane does not have any footways or street lighting. As such the Section 106 Agreement should ensure that the public footpath AE16 linking the site to the B5000 is surfaced with a bound material and street lighting is installed.

Warwickshire County Council's Flood Risk Management Officer – He confirms that there is no objection to the proposal subject to the imposition of a planning condition relating to the design of the surface and foul water drainage schemes.

Warwickshire County Council's Infrastructure Team – It requests monies towards Sustainable Travel Packs and Library Services.

## **Representations**

Polesworth Parish Council – It wishes to raise the following questions related to the maintenance of the public footpath; the potential to rebuild the collapsed wall at The Lynch and whether Pooley Lane is wide enough to cope with the additional traffic.

Nine letters of objection have been submitted from local residents raising the following issues:

- The site is located within the Meaningful Gap and residents see the protection of this gap between the two settlements as being very important.
- Pooley Lane is a narrow road without any footpaths or street lighting. This highway network cannot cope with the traffic likely to be generated from this housing scheme.
- The services and schools around the site cannot cope with additional people.
- This site lies outside the Development Boundary for Polesworth and is not a preferred site as identified in the Site Allocations Plan.
- The site is important for nature conservation and is used by a variety of bird species.
- The site is in close proximity to the historic building of Pooley Hall.

## **Observations**

### **a) Introduction**

There have been two recent appeal decisions in the Borough which need to be taken into account during the determination of this proposal. They are material to the determination of this case. The first appeal decision relates to the issue of whether the Borough has a 5-year housing land supply. The second appeal decision relates to the wording of Policy NW19 and the weight to be given to its wording in respect of retaining the separate identities of Polesworth and Dordon and Tamworth and to maintain a meaningful gap between them.

This report will assess this proposal against the Development Plan policies in the Core Strategy and the weight to be given to these policies as a result of the conclusions made by the Inspectors when determining these two appeal decisions.

### **b) The Principle of Development**

The site lies outside of the Development Boundary for Polesworth. Policy NW2 in North Warwickshire's Core Strategy seeks to develop a broad distribution pattern for development with more than 50% of the housing and employment requirements being provided in or adjacent to the Market Towns outside of the Green Belt and their associated settlements. Polesworth with Dordon is identified as one of these Market Towns.

This proposed site is adjacent to the development boundary for Polesworth which includes the existing development known as The Lynch. As such, the proposal accords with this Policy.

There is a public footpath which runs through the site and links it to Polesworth town centre via Tamworth Road. The Section 106 contribution sought is to surface this footpath and install street lighting to ensure that occupiers can use this path for direct access to the bus services along Tamworth Road and for the shops, services and schools in Polesworth. These pedestrian linkages comply with the requirements of Policy NW10 (4) and (5) to promote healthier lifestyles for the community to be active and to encourage sustainable forms of transport focussing on pedestrian access and provision of bike facilities.

As such it is considered that the site proposed is in a sustainable location being located adjacent to a Market Town outside the Green Belt and complies with the settlement hierarchy as laid out in Policy NW2 and the criteria in Policy NW10.

The site has not been identified as a preferred housing allocation for Polesworth in the Council's Draft Local Plan. This is because the site is located within the area of land identified as a Meaningful Gap between Polesworth and Dordon and Tamworth as identified in Policy NW19 of the Core Strategy. The Council has developed guidance to inform the implementation of Policy NW19 and the draft Local Plan. Following public consultation and modification this Meaningful Gap Assessment was adopted by the Council in August 2015 as guidance to inform the implementation of Policy NW19. This guidance shows the site to be located within Area 2 due to its higher sensitivity to development impact as it follows the broad, eastern corridor of the M42. The guidance further goes on to say that small scale very limited development may be able to be accommodated in this area.

As this proposal is for the development of the majority of the site for up to 40 housing units, it would not be classed as being small in scale and so would be contrary to the guidance informing Policy NW19. However, this is where Members need to be made fully aware of the implications of the two recent appeal decisions on housing land supply and the wording of Policy NW19 before making a decision on this application.

Policies NW2 and NW19 are policies which control the supply of housing. Paragraph 49 of the NPPF states that:

*“Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”*

Accordingly, the Council must demonstrate that it has a five year land supply for its Development Plan to be considered up to date and for the relevant policies controlling the supply of housing to carry significant weight.

In the Ansley appeal decision the Inspector gives weight to the more recent housing need evidence from 2015 for the Coventry and Warwickshire housing market area (CWHMA) 2011-2031, which shows that the Council's objectively assessed need has increased to 4740, which includes allowance for an economic uplift in both the Coventry and Warwickshire Housing Area as well as the neighbouring Greater Birmingham, Solihull and Black Country housing market area. Furthermore, the Council has agreed to accept an additional 540 dwellings redistributed from Coventry and Warwickshire thus its total housing requirement is 5280. It is acknowledged that this new requirement is set out in policy LP6 of the emerging North Warwickshire Local Plan.

As such the Inspector found that the Council's housing need would increase from that advocated in Core Strategy policy NW4. Whilst it is acknowledged that the Core Strategy is just two years into adoption, the 2015 evidence is significant and new, irrespective of the age of the development plan and therefore it should form the basis of calculating the housing requirement.

Therefore the Inspector found that on the evidence before them, the Council's five year housing supply figure is closer to a 3.5 years supply.

The Council will be producing a revised housing land supply figure in March 2017 which will include the two large sites which were discounted by the Inspector the one in Ansley and the Old Holly Lane application in Atherstone. This should result in the Council's housing land supply being closer to 5 years rather than 3.5 years. However, it is unlikely to show that the Council does have a 5 year housing land supply.

Bullet point 4(1) of paragraph 14 of the Framework is engaged because the Council cannot demonstrate that it has a five year supply of housing at this moment in time. This is reinforced by the fact that the Council is not progressing its Draft Site Allocations Plan and Draft Development Management Plan such that there have been delays in bringing forward housing sites through a Local Plan to meet the housing requirement.

Paragraph 14 of the Framework states that a presumption in favour of sustainable development exists and should be seen as a golden thread running through decision-taking. This paragraph states that Councils should:

- Where the development plan is absent, silent or relevant policies are out of date, grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

As such there is a presumption that the principle of residential development is accepted in this sustainable location at the present time. However, the test that needs to be fulfilled in accordance with paragraph 14 is whether the adverse impacts of granting a planning permission here for housing would significantly and demonstrably outweigh the benefits.

The main impacts of approving a residential development site in this location are:

- The impact on the meaningful gap between Polesworth and Dordon; and
- the impact on the character and appearance of the area.

### **c) The Meaningful Gap**

The maintenance of a strategic gap between Polesworth and Dordon and Tamworth has been a longstanding planning policy objective for the Council, and is very important locally. This is undisputed and is referred to in Core Strategy Policy NW19. It states that proposals *"...to the west of Polesworth and Dordon must respect the separate identities of Polesworth and Dordon and Tamworth and maintain a meaningful gap between them."*

At the St Modwen appeal, the Inspector found that there was no definition of what constitutes a 'meaningful gap' within the Core Strategy, or any other adopted development plan document. Instead, a judgement is required based on the evidence available, which includes the Council's 2015 *Meaningful Gap Assessment* ('MGA').

As already identified in this report, the MGA identifies the application site within Area Two.

The Inspector determining the St Modwen appeal stated that although the MGA has been subject to consultation and is a material consideration used to support the emerging Local Plan, the starting point is the adopted Core Strategy. In the Core Strategy the relevant test is whether or not a meaningful gap would be maintained to the west of Polesworth and Dordon and Tamworth.

The land to the south of this site is not located within the Meaningful Gap as this contains the development known as The Lynch. The fields between Pooley Lane and the motorway will remain undeveloped and so there is an argument that the development of this site will extend the development along this side of Pooley Lane but will ensure that there is a defined gap between the proposed development and the open fields to the west of Pooley Lane.

Draft Policy LP5 in the emerging *North Warwickshire Local Plan* includes a third criterion that all new development in the 'gap' should be small in scale, not intrude visually into the gap, or physically reduce its size. However, the plan is only at the draft stage and consultation is still on-going. Bearing in mind that they may be subject to change, the Inspector in the St Modwen appeal did not give Policies LP5 and LP2 any significant weight in reaching their decision.

Therefore, when assessing the proposal against the wording of Policy NW19 in the adopted Core Strategy, development on this site will still maintain a meaningful gap between the west of Polesworth and Tamworth. This is coupled with the fact that Policy NW19 is not a housing delivery policy and thus has moderate weight, whilst the Council cannot demonstrate a five year housing land supply.

#### **d) The impact on the character and appearance of the area**

The proposed site is an enclosed field. From Tamworth Road the site itself is obscured by the development known as The Lynch. From the Coventry Canal the site is obscured by the mature boundary trees and hedges along the Canal and along the public footpath to the east. However, in view of the topography of the site which steeply slopes away from the Canal up towards Pooley Lane, the site is visible from the village of Polesworth. At present, views from Polesworth towards the west are of open countryside. The development plateau as proposed would involve dwellings being built along Pooley Lane and so these would be clearly visible when viewed from Polesworth.

In comparison, although the adjoining development at The Lynch has been constructed on this steep slope, the development has only been built half way up this slope and does not extend up to Pooley Lane. The property along Pooley Lane in this location is a bungalow and in virtue of its height there are limited views of The Lynch development and this bungalow from Polesworth.

The Inland Waterways Association object to the proposal on the upper reaches of this site due to the potential for this development to obscure views from the Canal into the attractive open countryside. Indeed, this was also one of the reasons why the site was

not allocated as a preferred site in the Draft Local Plan as it is a prominent site in the landscape due to its topography.

Public Right of Way AE16 runs alongside the eastern boundary of the site, and from here this is an attractive field which positively contributes to the overall rural character and appearance of the area. The site is surrounded by expansive open countryside to the west.

The loss of open countryside land and an attractive field would amount to harm to the character of the area. Policy NW12 of the Core Strategy is predominately a design policy and states that all development proposals must demonstrate a high quality of sustainable design that positively improves the individual settlement's character, appearance and quality of an area. The policy is relevant to the determination of the proposal and there would be some conflict with it for this reason.

Being an elevated site its loss would be widely felt. As such it is considered that the development plateau shown on the Masterplan and the indication that the proposal would accommodate 40 dwellings would cause a significant level of harm to the character and appearance of the village and to the landscape character and visual receptors. This harm would be significant.

The applicant's agent has indicated that they wish to work with the Council in order to design a residential scheme which reduces these impacts on the character and appearance of the area to a more acceptable level. They propose to amend the scheme to:

- i) Include the entire landscape buffer alongside the Canal which is within their ownership to be included in the planning application site boundary. Planning conditions can then be imposed on this buffer as well as Heads of Terms in the Section 106 Agreement to ensure that the trees and hedgerows in this location and around the site are protected and enhanced and that these areas are maintained in the future.
- ii) Reduce the development plateau being applied for so that a buffer strip is incorporated into the scheme along Pooley Lane. This will also compensate for the loss of hedgerow required in order to achieve visibility splays of 70 metres. A large area of land to the north and north-west of the site will become a landscaped area and so is excluded from any development. This will also address the concerns being raised by the Environmental Health Officer with regard to noise from the neighbouring commercial uses as well as address the concerns raised regarding the loss of biodiversity. Any impacts on the setting of Pooley Hall which is a Listed Building will also be lessened.
- iii) Lower the levels of the site towards Pooley Lane but excluding this buffer strip.
- iv) Reduce the numbers of units being applied for in recognition of the reduction in the development plateau. A more suitable number would appear to be 30 dwellings.

It is the opinion of Officer's that if these amended plans are submitted then this will reduce the impact of development on this site on the character and appearance of the countryside in this locality. Although there will still be an impact, it is considered that the weight to be given to this impact could lessen to moderate. Members are invited to decide whether, on balance, the Board can support an amended scheme.

## **e) Highway Infrastructure**

The Highways Authority has no objections to the increase in traffic along Pooley Lane or at its junction with the B5000 Tamworth Road as a result of this scheme. They acknowledge that Pooley Lane is a private highway which is not maintained by the Highway Authority. They do raise concerns that although the speed limit on this private road is 30mph, this is not so evident in ways that it would usually be in a publicly maintained highway as the road does not have repeater speed limit signs or street lighting. As such, they recommend that a condition is imposed to ensure that the visibility splays from the new access onto Pooley Lane are a distance of at least 70 metres.

Concerns are also raised about Pooley Lane's lack of street lighting and footways making it unattractive for pedestrians and cyclists to use. They do, however, recognise that the majority of pedestrians will use public footpath AE16 as being the quickest route into Polesworth and Pooley Country Park. As such, improvements to this footpath are required before any of the dwellings are occupied to provide for surfacing in a bound material and street lighting for its length from its whole length within the development site up to the public highway of the B5000 Tamworth Road.

As such, it is considered that an amended scheme here showing an increase in the visibility splays and improvements to public footpath AE16 will mean that the proposed scheme complies with Policy NW10 (Development Considerations) in the Core Strategy and Policies TPT1, TPT3 and TPT6 in the North Warwickshire Local Plan 2006.

## **f) Loss of Biodiversity**

Warwickshire Wildlife Trust raises concerns about the loss of biodiversity through the development of this site. Through the use of WCC's Biodiversity Impact Assessment calculator, the original plans show a loss to biodiversity of 1.72 biodiversity units resulting from this development. This is as a result of the loss of poor improved grassland.

Paragraph 118 of the NPPF states that when determining planning applications, Authorities should aim to conserve and enhance biodiversity by applying the principle of if significant harm resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, then planning permission should be refused.

The amended plans being sought from Officers will reduce the amount of land which is developed. These areas of land can be planted to outset the loss of this poor improved grassland habitat. There is also the possibility of planting mature native trees such as beech, English Oak and field maple in these areas.

The Trust also recommends that planning conditions are imposed on the need for a construction environment management plan, a Landscape and Ecological Management Plan and a Lighting Design Strategy for light-sensitive biodiversity. Compliance with these conditions will protect the biodiversity value of this site.

As such it is considered that in accordance with the requirements of the NPPF, significant harm to biodiversity is reduced if the development plateau is reduced in area to allow these areas to be set aside for biodiversity enhancements and through the retention and management of the existing vegetation on the site.

### **g) Impact on the Archaeological Value of the Site**

Concerns have been raised by the Planning Archaeologist at Warwickshire County Council regarding the potential for the site to contain Roman remains. The site lies approximately 170 metres from Pooley Hall which is a Listed Building and its eastern boundary adjoins the Coventry Canal which is a heritage asset and Polesworth Conservation Area which is some 300 metres away.

Following these concerns, an Archaeology Report has been submitted by the applicant. The Report concludes that although the site is within a sensitive heritage location, development on this site will not greatly affect the significance of these known heritage assets. The amendments to the scheme as recommended in the character and landscape section to reduce the amount of built development to the north and north-west of the site will lessen the impact on the setting of Pooley Hall and on views from the Canal and the Conservation Area.

The Archaeology Report acknowledges that it is possible that the site contains as yet unidentified earth fast archaeological remains from previous occupation of the site. As the application is submitted in outline and so there is flexibility on where the development can take place on the site, it is recommended that a planning condition is imposed requiring a programme of archaeological works to be undertaken on site before the submission of any reserved matters applications. This works will include a geophysical survey followed by a programme archaeological trail trenching.

As such it is considered that amendments to the scheme as proposed by the applicant will address any concerns raised about the potential for development on this site to impact on the setting of the heritage assets in the locality.

### **h) Residential amenity**

With regards to the residents to the north and south of the site, the application is submitted in outline format and so any reserved matters application can ensure that the units are all orientated to have their rear gardens backing onto any rear gardens of these existing residential properties. The proposal to reduce the levels on site will reduce the impact on the residents at The Lynch. The proposal to reduce the development plateau to the north and north-west will also reduce the impact on the residents at Gardeners Cottage.

As such it is not considered that there will be a significant loss of privacy or loss of light from the proposal for the residents to the north and south of the site. The proposal thus complies with Policy NW10 (Development Considerations) in the Core Strategy 2014.

### **i) Affordable Housing**

Policy NW6 (Affordable Housing Provision) requires that 40% of the dwellings shall be affordable units. This can be required through a Section 106 Agreement whereby 40% of the dwellings are affordable units with 85% of these units being socially rented units.

### **j) Access to services and education**

A number of the objections received raise concerns about the pressure on the existing services in the area from the occupiers of these units. Warwickshire County Council has not asked for any contributions towards education from this proposal. A contribution is required towards the provision and improvement of open space in Polesworth. There

have been no objections raised by the NHS regarding the provision of medical services in the area.

## **Conclusions**

The scheme involves the development of this field in the open countryside and within an area of land categorised as the Meaningful Gap between Polesworth and Tamworth. As discussed, although Policy NW2 encourages the development of land adjoining the development boundaries of the Market Towns outside of the Green Belt, there are other policies in the Core Strategy which the development of this site conflicts with. The weight given to these other policies in this report has been substantial and so normally this application would need to be considered for refusal.

However, Members have been made aware of the implications of the two recent appeal decisions in the Borough and how they impact materially on the determination of this application. Whilst the Council cannot demonstrate a five year housing land supply, there is a presumption to approve sustainable development without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

It is considered that the development plateau shown on the Masterplan and the indication that the proposal would accommodate 40 dwellings would cause a significant level of harm to the character and appearance of the village and to the landscape character and visual receptors. This harm would be significant.

As indicated in the report the applicant's agent wishes to work with the Council in order to design a residential scheme which reduces these impacts on the character and appearance of the area to a more acceptable level. It is the opinion of Officers that if these amended plans are submitted then this will reduce the impact of development on this site on the character and appearance of the countryside in this locality. Although there will still be an impact, it is considered that the weight to be given to this impact could lessen to moderate. Members are invited to decide whether, on balance, they can support an amended scheme. This amended scheme will then be reported back to the Planning and Development Board at a later meeting.

## **Recommendation**

That the Board is minded to support an amended scheme being submitted on this site and that the matter be reported back to an early meeting of the Board for a determination. The amendments should:

- i) include the entire landscape buffer alongside the Canal which is within their ownership in the planning application site boundary. Planning conditions can then be imposed on this buffer as well as in the Heads of Terms in the Section 106 Agreement to ensure that the trees and hedgerows in this location and around the site are protected and enhanced and that these areas are maintained in the future.
- ii) reduce the development plateau being applied for so that a buffer strip is incorporated into the scheme along Pooley Lane. This will also compensate for the loss of hedgerow required in order to achieve visibility splays of 70 metres. A large area of land to the north and north-west of the site will become a landscaped area and so excluded from any development. This will also address the concerns being raised by the Environmental Health Officer with regard to

noise from the neighbouring commercial uses as well as address the concerns raised regarding the loss of biodiversity. The impacts on the setting of Pooley Hall which is a Listed Building will also be lessened.

- iii) Lower the levels of the site towards Pooley Lane but excluding this buffer strip.
- iv) Reduce the numbers of units being applied for in recognition of the reduction in the development plateau. A more suitable number would appear to be 30 dwellings.

## BACKGROUND PAPERS

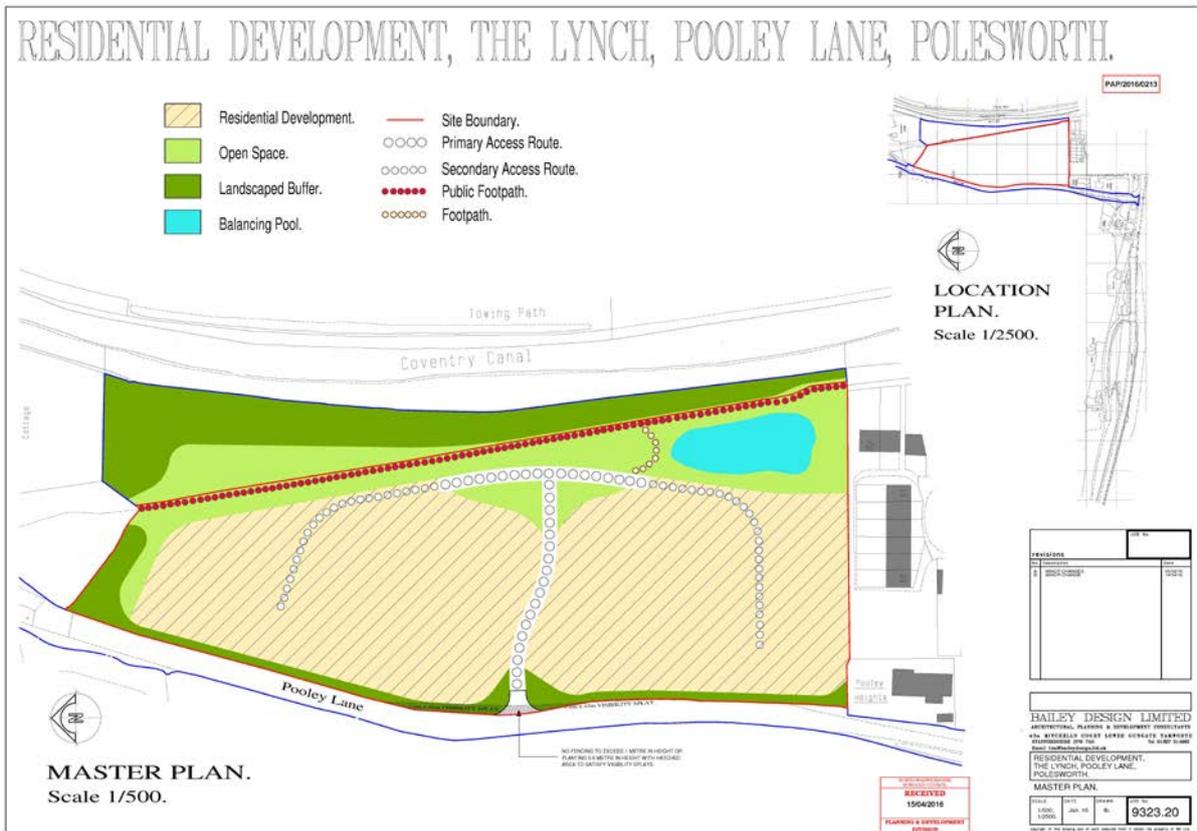
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

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Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/5/16
2	Press Notice	Atherstone Herald	9/6/16
3	R Clark	Objection	18/6/16
4	L Smith	Objection	16/6/16
5	S Lea	Objection	2/6/16
6	T Owens	Objection	7/6/16
7	B Coley	Objection	10/6/16
8	L Taft	Objection	13/6/16
9	Inland Waterways	Objection	3/6/16
10	Pollution Control Officer	Consultation	9/6/16
11	Planning Archaeologist	Consultation	8/6/16
12	Fire Officer	Consultation	8/6/16
13	Wildlife Trust	Consultation	7/6/16
14	Agent	E-mail	27/6/16
15	Highways Authority	Consultation	30/6/16
16	G Smith	Objection	11/7/16
17	WCC Flood Risk Officer	Consultation	4/7/16
18	Planning Archaeologist	Consultation	3/8/16
19	Polesworth Parish Council	Consultation	8/7/16
20	S Wilkinson	Letter	8/8/16
21	J Price	Objection	27/6/16
22	WCC Infrastructure Team	Consultation	27/6/16
23	Snr Pollution Control Officer	Consultation	27/6/16
24	WCC Rights of Way	Consultation	16/6/16
25	M Williams	Objection	22/9/16

*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.*



**(3) Application No: PAP/2016/0278**

**Blackgreaves Farm, Blackgreaves Lane, Lea Marston, B76 0DA**

**Single storey extension to shooting lodge, for**

**Mr Guy Breeden - Lea Marston Shooting Club Limited**

### **Introduction**

This application was referred to the February meeting of the Board but determination was deferred pending a Member site visit. That visit has now taken place and a note of that will be made available at the meeting.

The matter is thus referred back to the board for a decision.

A copy of the previous report is attached at Appendix A.

### **Recommendation**

That planning permission be Granted subject to the conditions set out in Appendix A.

## APPENDIX A

**Application No: PAP/2016/0278**

**Blackgreaves Farm, Blackgreaves Lane, Lea Marston, B76 0DA**

**Single storey extension to shooting lodge for**

**Mr Guy Breeden - Lea Marston Shooting Club Limited**

### **Introduction**

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

### **The Site**

The site lies within the Green Belt and is accessed from Blackgreaves Lane. It is situated adjacent to Blackgreaves Farm. The lane runs along the northern boundary of the site, with a cricket ground and a golf course to Lea Marston Hotel on the northern side and agricultural land to the south. There are residents to the west in converted barns of the original Blackgreaves Farm. The site is well established for clay pigeon shooting. The context of the site in relation to where the shooting lodge extension is proposed and the immediate surroundings is illustrated at Appendix A and an aerial view of the site is below:



## **The Proposal**

This is a single storey extension to the existing building, to be constructed in timber, with timber windows and slate tiles to the roof. The proposal would extend the existing building and would provide an opportunity to remove the existing storage containers on the site. The application presents the opportunity to bring the site under planning control.

## **Background**

The existing shooting lodge was approved in July 2012. Both the fishing pools and clay pigeon shoot are lawful uses. A number of steel storage containers still exist at the site. These appear to have been present for a number of years. The reason for the extension is to provide additional accommodation for an induction and training room and office which are considered to be essential to the health and safety of the use and for the secure storage for equipment.

Photos of the existing arrangement at the site are available at Appendix B.

## **Development Plan**

The Core Strategy: - NW1 (Sustainable Development); ENV3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) NW16 (Green Infrastructure) and NW17 (Economic Regeneration) Saved Policies of the North Warwickshire Local Plan 2006 - ENV13 (Building Design)

## **Other Material Planning Considerations**

The National Planning Policy Framework 2014 - (the "NPPF")

## **Consultations**

**Highway Authority** – No objection subject to conditions for access improvements; the provision of a turning area and for a limit of 100 visitors per day.

**Environmental Health Officer** – There are conditions attached to a Noise Abatement Notice affecting the site as set out in the observations section below. It may well be a good idea to require design appropriate shooting stands (including a noise survey he must agree the results of with us to prove the design works to reduce the noise) and regularise the position of them so that they are further away from the properties to the west.

**Police Architectural Liaison Officer** – No objection.

## **Representations**

Lea Marston Hotel – The numbers attending this shoot have raised from around 4,000 to now some '15,000 shoots per annum. The noise of shotguns firing is increasingly detrimental to our golf, spa and leisure business and it would be highly desirable to have bunding and noise reduction measures carried out as part of this development.

**Lea Marston Parish Council** – The parish council object to the development as it is not appropriate development in the Green Belt. Additionally, the Parish has received numerous longstanding complaints about breaches of the conditions of the shoot and the operators, who also happens to be the developer and about a failure to maintain soundproofing provision to limit the noise of this activity. This failure to comply with conditions has a direct impact on the amenity of local residents and businesses.

**Observations**

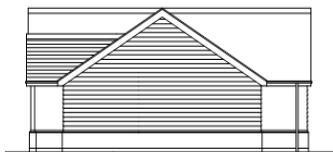
The main consideration is the effect of the extension to the existing shooting lodge on the visual and residential amenities of the area and openness of the Green Belt.

**a) Design and existing use**

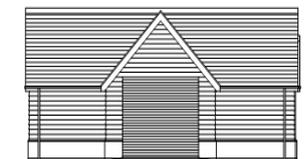
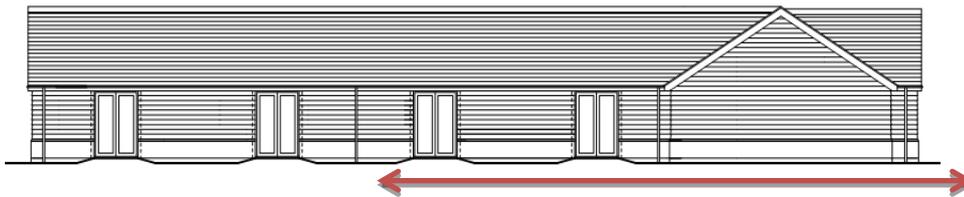
The proposed extension to the lodge measures 18.5 metres in length and 7.5 metres in width at its narrowest point and 10.5 metres in width at its widest point. The eaves height is 2.4 metres and the ridge height is 4.8 metres. In terms of the design then the scale of the building and use of materials would complement the existing building.

The size of the extension equates to 556m<sup>3</sup> in volume, the scheme has been reduced during the application process and is smaller than the original scheme submission which was for an extension of around 300m<sup>3</sup> and for a further detached store building equating to 500m<sup>3</sup>. The reduction to the scheme is an improved design and retains the built form in one place rather than buildings being spread around the site. Half of the floor space of the extension would be for the secure storage of the clays, traps, and ammunition and gun store.

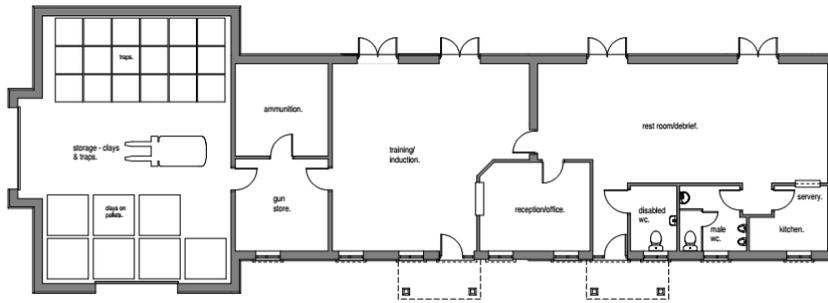
The appearance of the extension to the shooting lodge is illustrated below by the red line:



Front elevation facing into the site



## Rear elevation



PROPOSED FLOOR LAYOUT.

The extension is to facilitate the administration of the clay pigeon shoot, then space for training and induction for users and secure storage of ammunition is necessary at this site, for health and safety requirements. In addition the traps cannot be stored outside, nor can they be stacked, so a certain level of floor space is appropriate to accommodate that need. The outside storage containers would therefore be removed for the provision of an extension.

Whilst the buildings are single storey, which reduces their impact on the landscape, the amount of accommodation provided by these buildings is not considered to exceed that which would be deemed "essential" for the area, given the storage containers would be removed. There would be no repetition of the facilities provided on the site. In terms of design the proposal would therefore not be considered contrary to policy NW12 of the Core Strategy and the appearance of the area can be improved by supplementary landscaping.

### b) Use

The current use is lawful and operates with limited planning restrictions. It could continue to operate without the proposal for an extension. The need for the extension is however for the purposes of operating the use with stringent health and safety requirements for appropriate training and induction as more than half the extension is taken up with secure storage for the equipment already stored on site in inappropriate containers. The planning balance with this application is therefore that of bringing the site under planning control.

The site does however operate under the limits of an agreement under a Noise Abatement Notice. The limitations of the agreement are as follows:

*The shooting is restricted to:*

- a. *Mondays to Fridays 9:30am to 5:30pm with a maximum cumulative duration of 5 hours*
- b. *One of the Mondays to Friday's session per week can run between 2:30pm and 8:30pm with a maximum cumulative duration of 4 hours*
- c. *Saturdays 9:30am to 6pm with a maximum cumulative duration of 5 hours*
- d. *Sundays 9:30am to 3:30pm with a maximum cumulative duration of 4 ½ hours*

*The time limit for installing the Noise Barriers referred to in the Notice is increased to 3 months.*

*For the avoidance of doubt “maximum cumulative duration” means the maximum number of hours shooting in any one day.*

The safety and operational procedures require users to be signed in and licenses to be inspected. Additionally there has to be de-briefing and training. As a consequence there can be an overlap between sessions and so when users have finished with equipment, the next group of users will be waiting to start their session. There is a maximum of 7 users per session. The use employs instructors and office clerks who take the bookings. There is a minimum of 15 employees in full and part time positions. The organisers operate sessions on a daily basis. The Training room will be for up to 75 people with training and health and safety videos being played prior to commencement of shooting. The requirement for a de briefing space and additional toilets is a fundamental requirement so that debriefing can be held at the same time as training.

The demand for the leisure pursuit of clay shooting has given rise to the need for facilities and the site works closely with the governing bodies of clay shooting in the UK (CPSA and The Disabled Shooting Group) for which the improved facilities are essential to meet DDA regulations. Therefore the space required within the extension and exterior footways will have to meet DDA regulations.

The extension would not increase the number of shoots. There are already over 15,000 visits to the shooting ground per annum. The building is to provide welfare for members of the public and club members, of which there are over 1,400 registered. There are already daily limits by hours imposed at which firing can be carried out per day in any case. The numbers of users at the site has never been limited at this site, but can operate only within the hours limited by the Notice.

The NPPF, Part 3, seeks to promote a strong rural economy by supporting economic growth. Paragraph 28 states that to promote a strong rural economy, plans should support the sustainable growth and expansion of all types of business and promote the development and diversification of agricultural and other land-based rural businesses. Policy NW17 is consistent with the NPPF which states that the Council will give full consideration to proposals to diversify the economic base of farming and the rural economy. The use of the site does allow for employment opportunities and so has an economic advantage for the rural economy.

The NPPF, Part 8, seeks to promote healthy communities. Paragraph 73 requires access to open spaces and opportunities for sport and recreation can make a contribution to the health and well-being of communities. Though the use is not a conventional sport, it does promote access to recreation and the outdoors and therefore complies with the notion of promoting healthy communities.

In order to control the use of the site a condition limiting the use of the extension to facilities ancillary to the clay pigeon shooting will be required, as well as a condition limiting the use of the floor space to that set out by the proposed plan to prevent any other use or conversion of the building creeping in.

### **c) Green Belt**

The site is in the Green Belt. The visual impact of a proposal is of critical importance to the assessment of the proposal within the Green Belt.

The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence, the Green Belt serves five purposes. The five purposes are set out in paragraph 80 of the NPPF and are dealt with in turn as follows:

- *To check urban sprawl* – This development is a relatively discrete development contained within the site boundary which is defined by the existing use, which would not have a significant impact on urban sprawl. The surrounding countryside remains open.
- *Prevent neighbouring towns merging* – This proposal would not result in merger of any settlements in the Borough.
- *Safeguarding the countryside from encroachment* – The site is already in use with the existing building and informal hardstanding for vehicular parking with storage containers it already has some urban features and it is seen as having an urbanising influence. The extension to the existing building would further develop the site, but the planning balance is that no further encroachment would occur in the countryside as the planning balance is that the storage containers would be removed. The application proposal presents the opportunity to gain planning control of the site.
- *Preserve the setting of historic towns* – This element is not engaged by this development.
- *To assist in urban regeneration by recycling derelict land* – The proposal does not recycle derelict land but will remove the storage containers.

As with previous Green Belt policy, inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances with exceptions listed at paragraph 89. The Green Belt exception that applies to the proposed extension is as follows:

- *provision of appropriate facilities for outdoor sport, 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.* - It is considered that the site is already in use with the existing building, parked vehicles and storage containers and lawful land use for clay pigeon shooting. This already has partial urbanising effect and this is the lawful use of the site and the sport of clay pigeon shooting can only be conducted in a countryside location, making this a sport that requires access to the countryside. The proposed extension therefore facilitates access to the countryside for a controlled sport that could not otherwise be carried out in urban locations for obvious safety and amenity reasons.

To assess the actual harm to the Green Belt and the impact on the purposes of including land within the Green Belt then is no definition of “openness” in the NPPF or indeed the Core Strategy. The application site is presently an open space beyond the existing structures being the existing containers and lodge, with existing informal hardstanding at the entrance and a loose surface for vehicular parking. The site is largely surrounded on its northern boundaries by landscaped hedgerow which offers some screening from Blackgreaves Lane.

The existing farm to the north west of the site is some distance away, though the overall setting has an open character, the nature of the recreational use, (aside from the buildings) does retain an open character for clay pigeon shooting and fishing at the

existing pond. The site would be developed with the new extension. This can have an impact on the present open character.

The weight attributed to harm on openness by the extension rests on the planning balance and regard is given to the following material considerations:

- This is that the use will continue to operate to the limits of the existing arrangement at the site with or without the proposal for an extension. In terms of the necessity of the extension then further regard is had to the following as material considerations:
- The main focus is on the need to store clays at the site.
- The main focus is also to keep fire arms secure.
- It is also necessary to ensure proper de-briefing/ introductory training is carried out.

The planning balance over green belt harm is that the application presents the opportunity to re-visit the planning conditions and control the use of the site into the future. Drawing the above considerations together, it is considered that the proposal is an appropriate facility for outdoor sport and recreation, subject to conditions to control the use.

Overall therefore it is not considered that the proposals materially conflict with the purposes for including land within the Green Belt. The actual harm caused by the proposal is limited on the openness of the Green Belt particularly with the removal of the storage containers.

#### **d) Other Harm - Landscape Character and Visual Impact.**

The landscape character of the area is defined by open countryside being set within the Tame Valley Wetlands, generally regarded as a low-lying landscape visually contained by wetland vegetation. This flat highly modified river corridor landscape has been worked in the past for sand and gravel, resulting in a new wetland landscape. Slightly elevated above the flood meadows is the settlement of Lea Marston and Marston. The area contains scrub and wetland vegetation, elsewhere land uses include infrastructure links such as the M42 and rail lines pass through the area, which means that urbanising influences occur locally rather than throughout the landscape, there is the small ancient woodland of Dunton Woods to the south west of the application site.

Following gravel extraction, few areas of traditional landscape remain and further pressure from HS2 approximately 600 metres to the west of the site would also have an urbanising effect. Though the immediate surroundings appear to be attributed to leisure pursuits encouraging access to the countryside, this is noted by the golf course north of the site at Lea Marston Hotel.

The site is relatively self-contained visually. This is assisted by existing landscaping along the boundary. As a consequence the impacts from further afield are considered to be minor there is considered to be only a limited impact on the landscape of the surrounding area by the extension proposed and the landscape character is not materially worsened by the extension, beyond the extent at which the site already operates. The area earmarked for the extension is informal hardstanding and so there would be no removal of scrub. Further landscaping can be considered as the design and management of new and enhancement of existing recreational facilities should reflect the character of existing landscape features and hence more planting can be

achieved around the site. There is not a SSSI or a SINIC nearby the application site. Thus the proposal would not be considered to be contrary to policies NW13 or NW16 of the Core Strategy.

In terms of visual impacts of the proposed built form then the proposed extension is of a low height with a horizontal design, it would not result in an urbanising influence beyond that of the present storage containers. Its finish would be in timber which has a rural appearance. It is considered that there would be no adverse impact from the perspective of the nearest neighbours to the site due to distance and particularly to intervening hedgerow. It is thus a localised impact rather than affecting the wider views of the landscape.

In terms of other neighbours amenities then comments relating to the noise from the use generated by clay pigeon shooting has been raised. However the site is already in use, the popularity of the site has already increased and operates within the limits already set in place by Environmental Health. A planning condition which is compatible to these limits set by Environmental Health will be applied on a permission notice. The previous planning permission at the site did not limit operational hours of the use. This should continue to control disturbance to neighbours.

It is also noted that noise barriers have to be included at the site as part of the requirements of the notice enforced by Environmental Health and so a conditional requirement of the application could relate to the details and siting of the noise barriers. It is unlikely that an earth bund would be necessary as this would amount to an engineering operation, an earth bund would have to be high to take any effect which would also have to be weighed on green belt harm. Limitations within the notice by Environmental Health would be the controlling factors at this site in terms of noise control.

#### **e) Heritage Matters**

The nearby heritage asset is a listed building close to the site at Blackgreaves Farm. This is approximately 110 metres from the site. The proposed development would not directly impact on the architectural or historic interest of the asset, but its setting could be affected by the visual impact of retaining the storage containers in situ as per the present arrangement on site. The benefits for the proposal is that it brings the application site under planning control by removing the storage containers and encouraging planting through a landscaping scheme that would make a material difference to enhancing the setting of the listed building.

#### **f) Highways**

The increase in the number of visitors using the site has resulted in highway comments. It is proposed that highway conditions be applied to any permission. The request for conditions would result in a tarmacked surface within the site. This can too result in an urbanising effect as discussed above, however there is a balance in providing a safe access to the site where the current access arrangement would not be compliant with the number of visitors using the site. This application has therefore resulted in the opportunity of controlling the site from a highways perspective.

However the condition required by highways requesting a limit of 100 customers per day would be difficult to enforce, particularly as the site is already operational with more than 100 customers a day using the site. This condition would not therefore be necessary and it is considered sufficient on highway safety that the requirements of the

other highways conditions are satisfactory. Overall, the increase in traffic generation is considered not to have any measurable effect upon general traffic volumes or road safety, indeed given that some of the activities have been taking place for some time, to some extent the impact of the development is already on the network. There is a large area available on site for parking vehicles which is considered more than adequate to accommodate all the vehicles that visit the site. No off-site parking is likely to take place.

#### **g) Health and safety**

Public safety is necessary and it is understood that training of safety officers is paramount to the safety of the members and the general public, users of the shooting ground and surrounding facilities.

The site is a high security area. Car park lighting is only used when the car park is in use. The lighting around the building is a low level LED source and acts as a deterrent, along with the security cameras preventing any break-ins or attempted robberies. The high level of security is a requirement of the firearms licensing authority and police. A condition can be applied to assess security lighting scheme at the site, as any lighting must be angled so as to avoid glare and light pollution. Similarly there should be no shooting taking place with the assistance of vehicle headlights. Car park lighting should not therefore be relevant here as the use of the site could not apply to clay pigeon shooting outside of daylight hours and therefore no additional lighting would be required around the site, with the exception of security lighting around the building which should be on a sensor and not permanently illuminated.

In terms of the wider area and community then the site is nearby a golf course on Blackgreaves Lane and near the North Warwickshire Cycle Way along Haunch Lane and footpaths. Though regard is given to public safety by non-users given the proximity of the golf course and public footpath, the use is already operational regardless of the proposal for an extension, the position of the shooting stands do face south and in the direction of the footway, but this is presently operational. A note reminding the applicant relating to the safety of users of the public footway can be added as a note on the permission.

#### **Conclusion**

The shooting lodge already exists; clay pigeon shooting is an existing use at the site. The proposal for an extension to the lodge will be to the same height and material appearance as the existing. As discussed above there is aesthetic benefit in the proposal, provided that all steel containers can be removed from the site with no substantial impact on the green belt. The weight given to Green Belt harm is limited. There are also material considerations that weigh in the balance for supporting the application particularly given the use at this site is already operational. There is an economic benefit and the site promotes access to the countryside. The design and appearance is acceptable. The proposal is thus in accordance with saved NW10, NW12, NW13, NW16 and NW17 of the Core Strategy and national policies as set out in the National Planning Policy Framework.

## Recommendation

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

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

### REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 9118.20 and 9118.21 received by the Local Planning Authority on 18 August 2016.

### REASON

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

3. The development hereby permitted shall be ancillary to the principal use of the site as a clay pigeon shoot and fishing/angling purposes, and for no other purposes within class D2 of the Use Classes Order 1987 (as amended).

### REASON

To prevent unauthorised use of the building.

4. The storage and floor area used for clays and traps, ammunition store, training room and office identified within the extension hereby approved shall not be used for any other storage purposes or uses and the floor plan shall be retained in the layout approved by Condition 2 at all times.

### REASON

To ensure there is capacity for storage within the building so as to prevent outside storage and to define the limits of the floor space to prevent conversion and unauthorised use of the building.

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

### REASON

In the interests of the amenities of the area and openness of the Green Belt and to prevent encroachment into the Green Belt arising from displaced storage equipment.

6. The existing storage containers shall be removed from the site prior to completion of the extension hereby approved, to the written satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area and to protect the openness of the Green Belt.

7. No development shall be commenced before details of the facing bricks of the brick skirt, timber cladding, and roof tiles have been submitted to and approved by the Local Planning Authority in writing. The approved materials shall then be used.

REASON

In the interests of the amenities of the area.

8. No development shall commence until a landscaping scheme has been submitted to the Local Planning Authority for approval 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 amenities of the area.

9. On Mondays to Fridays shooting shall only take place between the hours of 09.30am and 17.30pm with a maximum cumulative duration of five hours on any one day. Only *one* of the Mondays to Friday session per week shall operate between 2:30pm and 8:30pm with a maximum cumulative duration of four hours. On Saturdays shooting shall only take place between the hours of 09.30am and 18.00pm with a maximum cumulative duration of five hours. On Sundays shooting shall only take place between the hours of 09.30am and 15.30pm with a maximum cumulative duration of four and a half hours.

REASON

To define the limits of the consent and in the interests of the amenities of neighbouring occupiers and land uses.

10. A major event which might attract in excess of 50% more participants than would normally use the shoot shall not be staged more than once in any 28 day period.

REASON

In the interests of the amenities of the area.

11. A register of all dates, times and number of attendees shall be maintained and be made available for inspection by the Council on request.

REASON

To ensure the use is operating within the limits of the consent stipulated by Conditions 9 and 10 and in the interests of the amenities of the area.

12.No shooting shall take place with the assistance of vehicle assisted headlights.

REASON

In the interests of the amenities of the area.

13.Notwithstanding the requirements of Condition 2, no development shall commence until a noise survey and details of the design, height and sound absorption properties and position of existing and/or proposed noise barriers to the shooting stands have been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area and reducing noise transmission.

14.No development shall commence until details of the design and location of external security lighting and CCTV installation have been submitted to and approved in writing by the Local Planning Authority. External lighting shall be angled 0-degrees to the horizontal so no glare shall occur on the public highway.

REASON

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

15. Notwithstanding the plans submitted the development shall not be occupied until the existing vehicular access to the site has been widened to a width of 6.5 metres for a distance of 15.0 metres, as measured from the near edge of the public highway carriageway. The access to the site shall be surfaced with a bound material for a distance of 20.0 metres, so as to reduce material transfer on to the public highway. The vehicular access to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway. No gates shall be hung within the vehicular access to the site so as to open within 7.0 metres of the near edge of the public highway carriageway.

REASON

In the interests of highway safety.

16. The development shall not be commenced until a turning area and parking areas have been provided within the site so as to enable general site traffic and construction vehicles to leave and re-enter the public highway in a forward gear and to park off the public highway. Such areas shall be retained for the duration of the works.

#### REASON

In the interests of highway safety.

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

#### REASON

In the interests of highway safety.

### **INFORMATIVES**

1. The applicant is reminded on the time restrictions and limitations that operate at the site as per the notice between Mr. Breedon and North Warwickshire Borough Council, enforced by Environmental Health as follows:

The shooting is restricted to:

Mondays to Fridays 9:30am to 5:30pm with a maximum cumulative duration of 5 hours. One of the Mondays to Friday's session per week can run between 2:30pm and 8:30pm with a maximum cumulative duration of 4 hours.  
Saturdays 9:30am to 6pm with a maximum cumulative duration of 5 hours  
Sundays 9:30am to 3:30pm with a maximum cumulative duration of 4 ½ hours.

2. The Environmental Protection Act 1990 provides for either a Local Authority or the owner/occupier of premises to abate and/or prevent recurrence of noise amounting to a nuisance under the terms of Sections 80 & 82 respectively. Furthermore, a Local Authority is empowered to act where satisfied noise amounting to nuisance is likely to occur, and it is a statutory requirement for Authorities to cause the areas over which they have jurisdiction to be inspected for the purpose of determining how such powers should be exercised.
3. Permanent works (such as the construction of barriers for controlling noise or the erection of other structures) require planning permission, and advice can be obtained from the Local Planning Authority.
4. This permission does not approve any advertisements. A separate application is required to regularise adverts at the site. The applicant/landowner is advised to contact the Local Planning Authority for further advice on advertisement applications on 01827 715341.
5. Permanent works (such as the construction of barriers for controlling noise or the erection of other structures) require planning permission, and advice can be obtained from the Local Planning Department.

6. Shoot organisers should be aware of their duties to employees and others under the Health and Safety at Work Act 1974, having specific regard to occupational noise and safe shooting practice. The discharge of a firearm within 15.2m of the centre of a highway may constitute an offence under the Highways Act 1980.
7. The applicant/landowner is advised that the regular build-up of lead from shot falling onto land could lead to additional health problems in the longer term. The advice of the Local Water Authority and Environmental Health Department should always be sought by applicant/landowner before changing the land back to pasture or grazing.
8. Organisers should note that the public have a right to use such highways, footpaths, bridleways and waterways unfettered and must ensure the safety of users and must avoid any likelihood of falling shot or clays becoming a danger to the public.
9. In order to warn members of the general public that some shooting noise may be experienced, all footpaths within 1 kilometre radius of the shoot are recommended to have signs displayed by the organisers indicating the existence of the shoot.
10. A 'major event' might be a regional, national or international competition, or any other event which might attract in excess of 50% more participants than would normally use the shoot. In such cases, notification to surrounding occupiers of land and to the local authority should be regarded as essential and additional measures to reduce the impact on noise sensitive premises should normally be taken as required by Condition 10.
11. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through 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

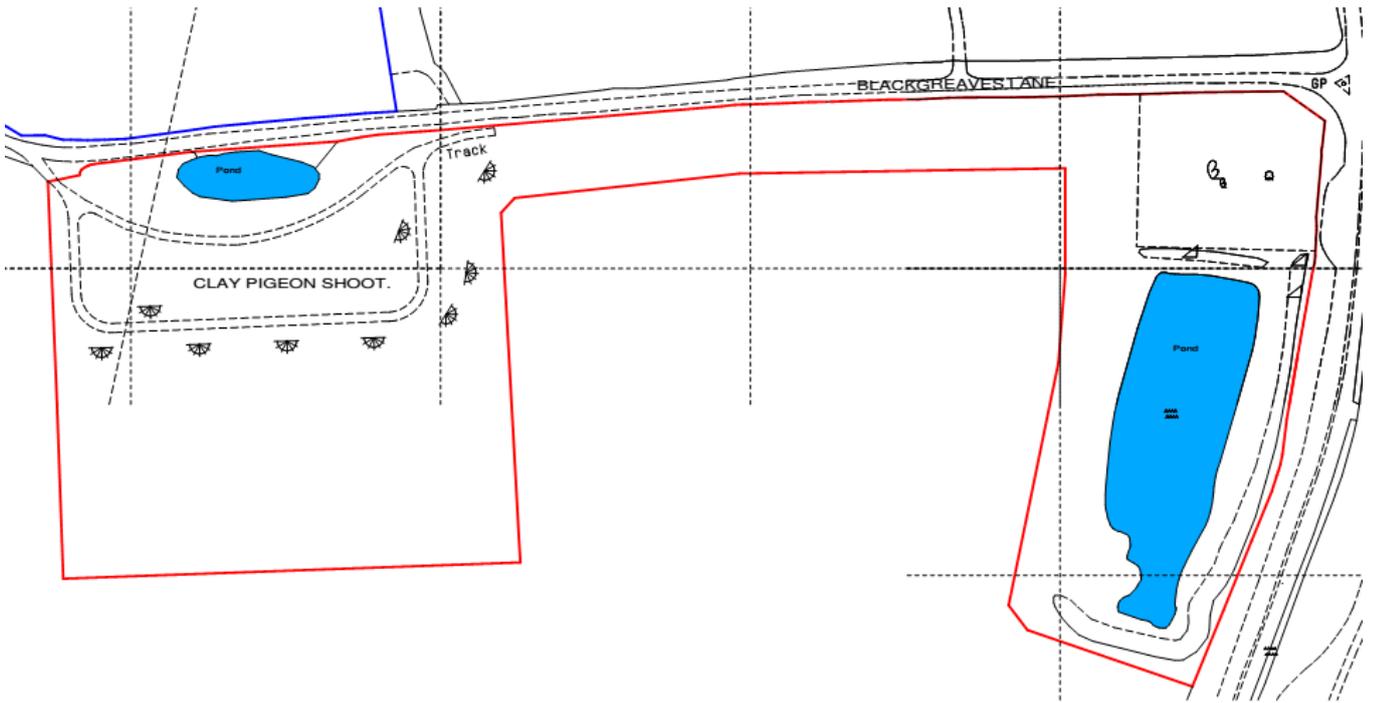
Planning Application No: PAP/2016/0278

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	13/5/16
2	WCC Highways	representation	25/5/16
3	WCC Museum		3/6/16
4	Lea Marston Hotel		6/6/16
5	NWBC EHO		8/6/16
6	Police architectural liaison officer		21/7/16
7	WCC Highways		20/10/16
8	Lea Marston PC		13/12/16
9	NWBC EHO		26/1/17
10	Agent to Case Officer	e-mails	17/8/16
11	Agent to Case Officer		18/8/16
12	Agent to Case Officer		27/7/16
13	Agent to Case Officer		26/7/16
14	Agent to Case Officer		17/6/16
15	Agent to Case Officer		14/7/16
16	Agent to Case Officer		25/8/16
17	Agent to Case Officer		3/1/17
18	Case Officer to agent		27/7
19	Case Officer to agent		17/6/16
20	Case Officer to agent		13/7/16
21	Case officer to agent		7/7/16
22	Case officer to agent		26/1/17

*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





DESIGNATED AREA FOR CAR PARKING.

PROPOSED SHOOTING LODGE EXTENSION.

STORAGE BUILDING - CLAYS, TRAPS, GUNS & AMMUNITION.

DESIGNATED AREA FOR CAR PARKING.

- ACCESS TRACK.

- DENOTES SHOOTING STANDS.

## Appendix B

Photos of the site



Existing storage containers with Blackgreaves farm in the background





Existing containers and hardstanding used for car park



Existing lodge used for induction and briefing and hardstanding for parking.



Access to the site from Blackgreaves Lane



Aerial view showing existing location of shooting stands and existing shooting lodge and hardstanding for parking area.

#### (4) Application No: PAP/2016/0572

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

Erection of 6 dwellings, for

Mr David Turnbull - Turnbull Property Developments

#### Introduction

The application is brought before the board, following member request given the issues related to the development and the level of public interest.

#### The Site

This is an area of land between the A51 (Tamworth Road), Pear Tree Avenue and Jubilee Court. The application site relates to a site area of approximately 0.4 acres (0.16 hectares) which was formerly occupied by the vacant former Kingsbury Health Centre. This was a flat roofed single storey brick built structure dating from the latter half of 20th Century. The site is essentially flat and contains boundary vegetation. To the south is a residential dwelling; to the north is a row of shops with dwellings above, and to the east and west are non-residential buildings. The various health services previously accommodated within the building have now relocated to other sites within the district.

The site has nearby access to public transport and a range of services and facilities. A parade of shops lies directly to the north, with an adjacent large car park and the Kingsbury Community and Youth Centre to the east. To the south of the site the area is essentially of a residential nature. To the east of the site is a car park which serves the commercial and public buildings in the area. To the south east is a further public car park. Below is a streetscene image of the site before it was demolished, as taken off [www.google.co.uk](http://www.google.co.uk)



## **The Proposal**

It is proposed to construct six new dwellings with associated parking. The proposal is for two detached four bedroom dwellings and two pairs of three bedroom semi-detached dwellings. The density of the site would be 37.5 dwellings per hectare.

Each dwelling will have two off road parking spaces, with access off Pear Tree Avenue. The site will contain planting, but no details have been provided. An existing path to the rear of the site under the land ownership of the applicant is being proposed to be diverted to rear of the dwellings. The dwelling will contain a mix of brick, roof tiles and render materials.

The site slopes slightly up from Tamworth Road, however the proposal site will be almost level from plot 1 to plots 6. The scheme has been revised slightly following highway comments and officer suggestions. It now shows six dwellings against the seven as originally submitted. The relevant plans can be viewed in Appendix 2.

The general layout and proposed appearance of the dwellings is set out elsewhere in this report

## **Background**

The application site was a former health centre and the health uses of the building have been incorporated onto other nearby facilities and as part of the George Eliot Hospital in Nuneaton. The planning lawful use of the site was D1. A separate earlier application was determined covering the demolition of the buildings.

## **Development Plan**

North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy); NW4 (Housing Development); NW5 (Split of Housing Numbers); NW6 (Affordable Housing Provision); NW10 (Development Considerations); NW11 (renewable energy and energy efficiency) and NW12 (Quality of Development)

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policy 2 (Development Distribution), ENV6 (Land Resources); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG4 (Densities), TPT2 (Traffic Management and Traffic Safety); (TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

## **Other Relevant Material Considerations**

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

National Planning Policy Guidance 2014

## **Representations**

Objections have come from neighbours and there is also a petition with 38 signatures from neighbours in the immediate area and in Kingsbury, which contains comments as set out in full in Appendix 3.

- Concern over the number of dwellings and loss of a footpath at the rear of the site. The footpath which did lead to the pelican crossing has now disappeared and the land incorporated into the gardens for the houses.
- The parking will be off Pear Tree Avenue and thus will cause issues to an already busy road with traffic using it to access the shops at Jubilee Court and the car park on Pear Tree Avenue. At present there are double yellow lines on this section of both roads, Parking for the number of homes planned could become an issue for parking for the shops and increasing the hazard.
- There is limited vision when turning into or out of the junction of Pear Tree Avenue and Tamworth Road and a building on the corner of the junction will make it even more dangerous than it currently is.
- Pear Tree Avenue does not get gritted in bad weather and vehicles slide into the path of traffic on the Tamworth Road. If vision is restricted even more, this could become a major issue for drivers;
- The plans suggest that the current footpath leading to the shops may be taken out, causing difficulties for people wishing to use the disabled parking bays;

Kingsbury Parish Council – It refers to the following matters:

- Whilst not against the building of properties on this site, it raises concerns about the application and the public rights of way/footpaths. There is a path that is an access from the car park through past Lloyds Chemist to the shops and Jubilee Court. This should remain open during construction. The path through from the car park needs to be kept in a safe state for users to access the chemist and other shops etc. Part of the path has been damaged when the building came down. This should be repaired.
- A further public path has been completely removed. It ran in front of the old clinic. These paths are public rights of way by common use and have been there since the early 1970s. This one should be re-instated.
- As far as the application for the houses is concerned, there are concerns about the safety of car users and pedestrians using the entrance into Pear Tree Avenue. The road goes up on an incline and is a busy junction with visibility being difficult to see what is coming along Coventry Road when pulling out. Adding driveways so close to the junction is going to result in poor visibility and confusion for drivers when indicating to turn into Pear Tree Avenue, and then suddenly breaking to access a driveway.
- It considers that seven properties on this site is too many to accommodate with the close proximity to the junction, as all driveways exit directly onto Pear Tree Avenue.

In respect of the revised scheme of six dwellings:

- The reduction to six houses, whilst welcome, still leaves a close succession of dropped kerbs along Pear Tree Avenue and safety issues at this junction.
- The new application still shows what the applicant describes as a re-routed footpath even though the previous one is a well established public right of way. There are established procedures for diverting a footpath such as through a magistrates court, not merely digging it up.
- The footpath should be rebuilt in its original location and not enclosed or obstructed during construction work.

## Consultations

Warwickshire County Council as Highway Authority – No objection following changes to the scheme.

Environmental Health Officer - This site is surrounded by public houses and function rooms and therefore as a precautionary measure acoustically treated glazing and ventilation needs to be incorporated into habitable rooms should permission be granted. Details will need to be submitted for approval by the local authority prior to development. Construction should be restricted to between 08:00 to 18:00 during weekdays and 08:00 to 13:00 on Saturdays.

Western Power Distribution - No objection to the planning application but there is WPD network apparatus on the site.

Severn Trent Water – No objection subject to conditions and notes

## Observations

The proposal for six additional dwellings within Kingsbury does accord with the Council's Core Strategy 2014 and the relevant saved policy in the Local Plan. The starting position is therefore a presumption that the application can be supported.

Kingsbury is within a Category 3B settlement with a development boundary as covered by policy NW2 of the Core Strategy. The site is within the development boundary. As members are aware that new dwellings are required between 2011 and 2029 with some 3650 dwellings need to be constructed, however the Council does not have a current 5 year land supply and the need for dwellings here would help meet the need for house building in the borough. The draft Local Plan 2016 sets out the need for 5280 dwellings. This is therefore sustainable development and should thus be approved in principle

As the proposal here is for six dwellings. Policy NW6, sets out that 20% should be affordable. However under recent changes to national guidance, sites under ten dwellings are not required to provide any off site contribution.

The site is on the edge of a residential area which also contains a mix of commercial, and public houses. It is adjacent to the main road that runs through Kingsbury and is visible from the public realm. The main impact is upon 31 Coventry Road, which is to the opposite side of the application site, and has a side facing gable wall. The proposed dwellings will have views into the garden of No.31. The separation distances from the front of the proposed new dwellings to the side of No.31 are around 20 metres, and this is considered to be an acceptable distance. It is considered on balance the proposal would not cause an adverse amenity impact on this neighbour beyond what they might reasonably expect to enjoy.

To the rear of the site is a row of shops which has rear access points facing the application site with residential units above. The separation distance is around 30 metres to the proposed built form. It is considered on balance the proposal would not cause an adverse amenity impact on these neighbours beyond what they might reasonably expect to enjoy. The east of the site contains a public car park related to the shops and public building opposite the application site. The siting of new dwellings is not considered to lead to unacceptable harm. To the west of the site is a public house

and to the north-west is a pedestrian crossing. The development is not considered to harm these buildings or the public parking area.

The users of the highway footpaths surrounding the site are not considered to be harmed, and a new pedestrian crossing point is proposed close to the A51 on Pear Tree Avenue. The existing rear footpath is proposed to be revised in its location, and thus maintaining a link from the rear of the shops to the front of the shops and to the pedestrian cross over the main A51 road.

To protect nearby buildings any approval, can attach conditions to control openings, overlooking, amenity and privacy. In general the siting is considered to be acceptable and would not lead to adverse amenity impacts.

Representations have made over noise during construction, however building work would only be for a limited period and construction hours can be controlled by condition and through Environmental Health legislation. Overall the proposal is not considered to result in a loss of amenity, privacy or loss of light that would result in an unacceptable impact upon the neighbouring properties. The proposal complies with the Core Strategy and paragraph 17 of the NPPF.

It is material that the Highway Authority has not raised an objection to the proposal. A traffic survey has been undertaken and the parking revised. The proposal will create a new dropped kerb which would serve all 6 dwellings and lead to 12 off road parking spaces. The parking is in accordance with parking standards. New crossing points are proposed onto Pear Tree Avenue. Highways are satisfied that the impact of the development on the junction of Pear Tree Avenue and Tamworth Road is acceptable.

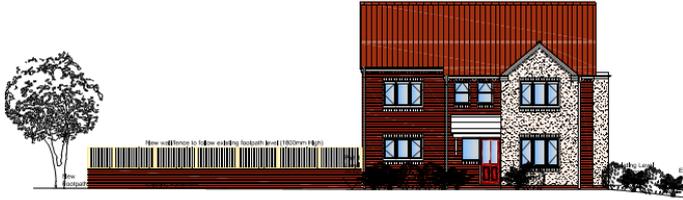
Pear Tree Avenue will continue to have double yellow lines thus limiting non-residential traffic from parking to the front of the site. Off Pear Tree Avenue, two public car parks are noted, which serve the shops and public buildings. The scheme would not lead to off-site parking, apart from visitors needing spaces, to which the local area has spaces, such as public car parks.

Members will be aware that a highway refusal has to show “severe” harm and there is not the technical evidence submitted with the objections to sustain such a position.

The proposed dwellings are sited within a residential and commercial area and the site is currently vacant. The junction of Pear Tree Avenue and Tamworth Road is highly visible within the public realm. The design and appearance of the new dwellings would be different to the surrounding two storey dwellings. However it is not considered to carry weight to support a refusal. Below is the street view from Pear Tree Avenue and the A51.



PROPOSED STREETSCENE (PEAR TREE AVENUE) 1:100@A1



PROPOSED STREETSCENE (TAMWORTH ROAD) 1:100@AI

Plot one on the road junction has two frontages (shown above), and with a gable feature, windows designs and different materials. It will lead to a modern design with good architectural features. The area is a mix of old and new dwellings. The proposal will lead to a modern design, contemporary design considering the surrounding architecture and design features.

Core Strategy policy NW12 sets out that developments should demonstrate a high quality of sustainable design that positively improve the individual settlement's character; appearance and environmental quality of an area. In this case the scheme is considered to comply with NW12.

The comments and objections received with the application have raised the issue of the footpath to the north of the site. The scheme will result in the diversion of an existing footpath. It has been set out the former path had been used for 40 years, and therefore a legal claim can be made. However this is a separate legal issue. The proposal will form a new footpath close to the line of the former path. Below is an extract of the site plan showing the previous footpath which runs through plots 1-3 gardens and the proposed revision. This issue is not considered material to the application and should not lead to refusal. The footpath to the side of Jubilee Court will be retained as the plan below shows.

### 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 plans numbered T346 (BR) 003 Rev D, and T346 (BR) 002 Rev D received by the Local Planning Authority on 20 January 2017 and the plan numbered T346 (BR) 001 Rev H received by the Local Planning Authority on 10 February 2017.

### REASON

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

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

REASON

In the interests of the amenities of the area.

4. Before the occupation of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval.

REASON

In the interests of the amenities of the area.

5. No development shall commence until details have been provided and approved in writing with regards to the following:

- acoustically treated glazing and ventilation which should be incorporated into all habitable room windows on the development site.

REASON

To ensure that acceptable noise levels within the dwellings and the curtilages of the dwellings are not exceeded in the interests of residential amenity

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

REASON

In the interests of the amenities of the area.

7. No development shall commence until full details of the provision of the access, car parking and manoeuvring areas, including surfacing, drainage and levels have been submitted to and approved in writing by the Council. No building shall be occupied until the areas have been laid out in accordance with the approved details. Such areas shall be permanently retained for the purpose of parking and manoeuvring of vehicles, as the case may be, and shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.

REASON

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

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

#### REASON

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

9. No development whatsoever within Class A, B and C of Part 1 and no works to the front under Class A of Part 2, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall not commence on site.

#### REASON

In the interests of the amenities of the area.

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

#### REASON

To protect the privacy of the occupiers of adjoining properties.

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

#### REASON

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

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

#### REASON

In the interests of the amenities of the area.

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 0800 nor after 1800 Monday to Friday, before the hours of 0800 not after 1300 Saturdays and no work on Sundays or recognised public holidays.

REASON

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

14. No development shall commence on the six dwellings until the proposed new footpath as shown on drawing number T346 (BR) 001 Rev H has been laid out and constructed in full, allowing pedestrian access between Tamworth Road to Jubilee Court, running to the north of the gardens of plots 1 to 6. The footpath shall remain open at all times during construction and after construction when the buildings become residential dwellinghouses. The footpath shall contain low level lighting and retained at all times.

REASON

In the interests of the amenities of the area.

15. Notwithstanding the plans submitted, access for vehicles to the site from the public highway (Pear Tree Avenue) shall be via a continuous dropped kerb footway crossing fronting the site between Plot 1 and Plot 6, to be constructed prior to first occupation to the specification of the Highway Authority.

REASON

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

16. No dwelling shall be occupied until the existing pedestrian dropped kerb footway crossing adjacent the junction with Tamworth Road has been moved to a position whereby the Highway Authority is satisfied, and the existing dropped kerb crossing closed-off, and footway and full height kerbs reinstated to the satisfaction of the Highway Authority.

REASON

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

17. In order to maintain the necessary visibility splays from the vehicular accesses to the site, no structure, tree or shrub shall be erected, planted or retained within 4.4metres of the near edge of the public highway carriageway fronting the site along Pear Tree Avenue, exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

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

18. The development shall not be commenced until a visibility splay has been provided to the vehicular access to Plot 1 looking right towards Tamworth Road, passing through the limits of the site fronting the public highway, with an 'x' distance of 2.4 metres and 'y' distance of 25.0 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

#### REASON

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

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

#### REASON

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

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

#### REASON

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

#### Notes

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

2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at [www.communities.gov.uk/publications/planningandbuilding/partywall](http://www.communities.gov.uk/publications/planningandbuilding/partywall).

3. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues and by suggesting amendments to improve the quality of the proposal, along with meetings and negotiations. As such it is considered that the

Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

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

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

6. The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:  
[www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

7. Whilst Western Power Distribution does not have an objection to the planning application, it must be highlighted that there is WPD network in situ on the site named above. WPD would advise that any/all work carried out in the vicinity of the equipment must be done so in accordance with HSG(47) - Avoiding Danger from Underground Services. If a disconnection or diversion is required, this must be applied for in the usual manner. A plan of the site indicating WPD assets has been previously sent to the agent during the application. Please note that this plan is indicative, and its accuracy cannot be guaranteed.

8. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.

Should you require any further information please contact us on the telephone number or email - Tel: 024 7771 6843 (reply to email: [net.dev.east@severntrent.co.uk](mailto:net.dev.east@severntrent.co.uk))

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

10. The felling of trees should be undertaken by a competent tree surgeon in accordance with BS3998-2010 Tree work- Recommendations.

11. 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.

12. Highways have set out that Lamp Column no.1 may require moving, on Pear Tree Avenue. All costs involved in moving the column will be at the applicant's/developer's expense.

13. Condition numbers 16 and 17 require works to be carried out within the limits of the public highway. The applicant/developer must enter into a [Minor] Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works. The applicant/developer should note that feasibility drawings of works to be carried out within the limits of the public highway which may be approved by the grant of this planning permission should not be construed as drawings approved by the Highway Authority, but they should be considered as drawings indicating the principles of the works on which more detailed drawings shall be based for the purposes of completing an agreement under Section 278. An application to enter into a Section 278 Highway Works Agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant/developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less ten days, notice will be required. For works lasting longer than 10 days, three months notice will be required.

14. With regards to conditions 4 and 12, the south parts of the site to the plot 1 and 6, as defined as low level planting facing onto the junction of Tamworth Road and Pear Tree Avenue, and to the Pear Tree Avenue and the public car park should contain landscaping and low level posts, so to stop vehicle parking and maintain highway safety and retain site landscaping.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0572

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	5/10/2016
2	Western Power	Consultation response	31/10/16
3	Cllr Reilly	Application comments	3/11/2016
4	NWBC Environmental Health	Consultation response	10/11/2016
5	WCC Highways	Consultation response	15/11/2016
6	NWBC Environmental Health	Consultation response	15/11/2016
7	Cllr Moss	Application comments	16/11/2016
8	NWBC Environmental Health	Consultation response	17/01/2017
9	Cllr Moss	Application comments	6/2/2017
10	Kingsbury Parish Council	Consultation comments	21/11/2016
11	Severn Trent Water	Consultation response	25/11/2016
12	WCC Highways	Consultation response	23/12/2016
13	NWBC Green Spaces Officer	Consultation response	6/01/2017
14	WCC Highways	Consultation response	9/1/2017
15	Kingsbury Parish Council	Consultation response	2/2/2017
16	WCC Highways	Consultation response	10/2/2017
17	Case officer	Email to agent	8/11/2016
18	Agent	Email to case officer	11/11/2017
19	Case officer	Emails to Cllr Simpson and Sweet to arrange meeting	14/11/2016 – 28/10/2016
20	Case officer	Email to agent	22/12/2016
21	Agent	Email to case officer	22/12/2016
22	Agent	Email to case officer	22/12/2016
23	Case officer	File note of site meeting	18/1/2017
24	Agent	Email to Case officer / WCC Highways	30/1/2017
25	Neighbour – 11 Meadow Close	Representation	3/11/2016
26	Neighbour – 17 Wright Close	Representation	8/11/2016
27	Petition – 38 signatures	Representation	22/11/2016
28	Neighbour – 11 Meadow Close	Representation	27/1/2017
29	Case officer	Email consultation to Councillors	10/2/17

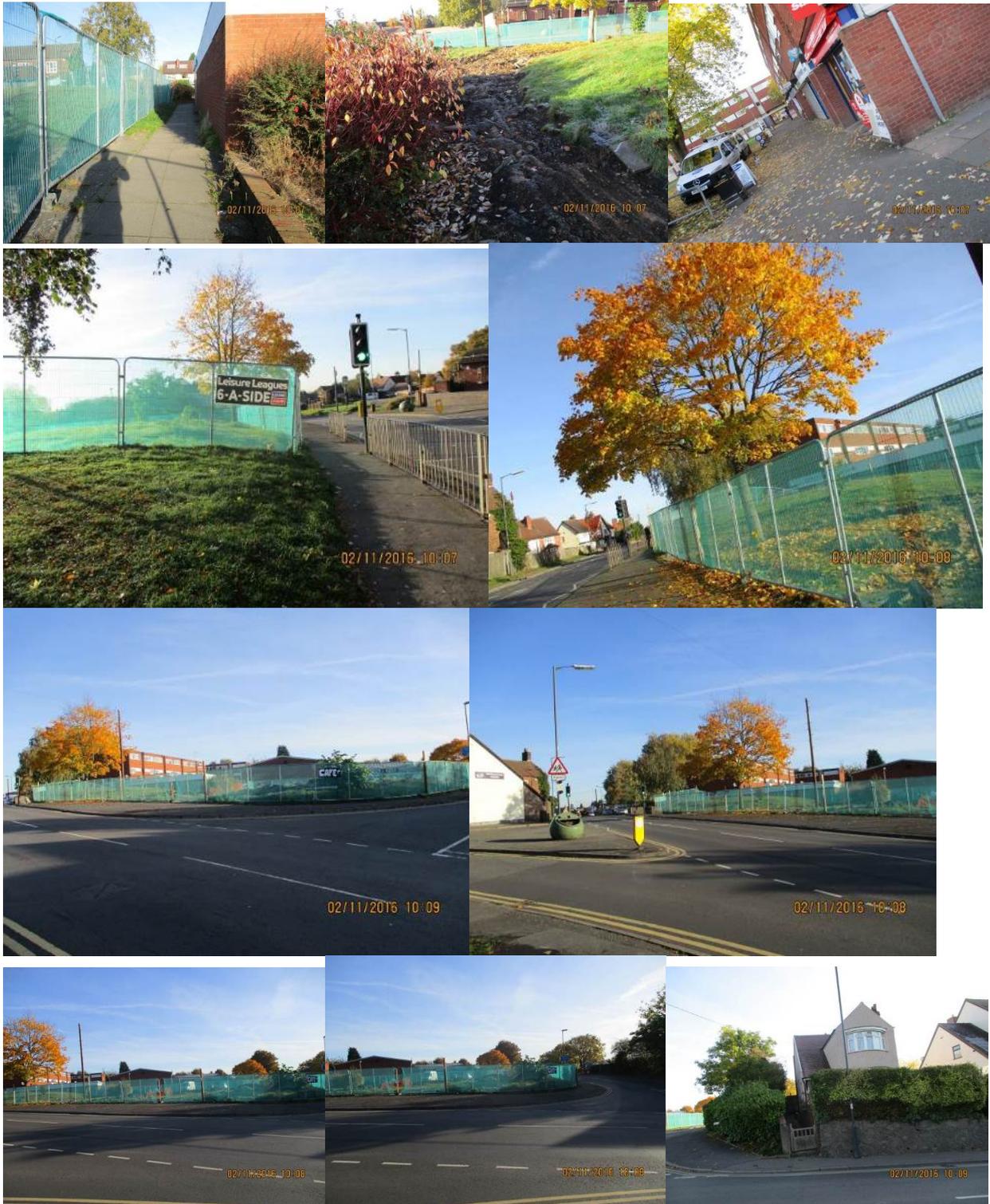
30	Cllr Moss and Jenns	Emails to case officer requesting P & D consideration	12/2/17
31	Case officer	Emails to Councillors to arrange meeting	13/2/17 – 15/2/17
32	Case officer	Email to agent	15/11/2016
33	Case officer	Email to NWBC Env Health	15/11/2016
	Cllr Jenns	Email to case officer	15/11/2016
34	Case officer	Email to Cllr Jenns	16/11/2016
35	Case officer	Email to agent	16/11/2016
36	Cllr Reilly	Email to case officer	16/11/2016
37	Case officer	Email to Cllr Reilly	16/11/2016
38	Case officer	Email to agent	21/11/2016
39	Case officer	Email to agent	22/11/2016
40	Case officer	Email to agent	9/12/2016
41	Agent	Email to case officer	12/12/2016
42	Agent	Email to case officer	13/12/2016
43	Case officer	Email to WCC highways	13/12/2016
44	Case officer	Email to Cllr Moss	13/12/2016
45	Cllr Moss	Email to case officer	13/12/2016
46	Case officer	Email to agent	13/12/2016
47	Case officer	Email to Cllr Jenns and Reilly	13/12/2016
48	Agent	Email case officer	13/12/2016
49	Case officer	Email to WCC Highways	14/12/2016
50	Case officer	Email to Councillors	14/12/2016
51	Case officer	Email to Cllr Reilly	15/12/2016
52	Cllr Moss	Email to Case officer	16/12/2016
53	Case officer	Emails to Agent and Councillors	20/12/2016
54	Case officer	Emails between case officer, agent and Councillors	20/12/2016
55	Case officer	Emails between WCC highways, agent and case officer	22/12/2016
56	Case officer	Emails between agent, WCC highways, Councillors and case officer	3/1/2017
57	Cllrs Reilly and Jenns	Emails to case officer	4/1/2017
58	Case officer	Emails between WCC highways, agent and case officer	9/1/2017
59	Case officer	Emails between WCC highways, agent and case officer	12/1/2017
60	Case officer	Email to agent	17/1/2017
61	Agent	Email to case officer	17/1/2017
62	Case officer	Emails to Councillors, agent and WCC highways related to revised plans	20/1/2017
63	WCC Highways	Email to case officer	24/1/2017

64	Cllr Reilly	Email to case officer and Councillors	25/1/2017
65	Case officer	Emails between applicant, case officer and WCC highways	1/2/17 – 30/1/2017
66	Case officer	Email to agent	2/2/17
67	Agent	Email to case officer	2/2/17
68	Case officer	Email to Parish Council	3/2/2017
69	Case officer	Emails of Councillors, Case officer and agent	6/2/2017
70	Case officer	Emails between case officer, agent and WCC Highways	9/2/17
71	Case officer	Emails between case officer, agent and Councillors	10/2/2017
72	Case officer	Email to Councillor Solicitor	10/2/2017
73	Case officer	Email to agent	10/2/2017
74	Agent	Email to case officer	10/2/2017
75	Case officer	Email to agent	14/2/2017
76	Agent	Email to case officer	14/2/2017
77	Case officer	Email to agent	14/2/2017
78	Case officer	Email to WCC footpaths	21/2/2017

*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.*

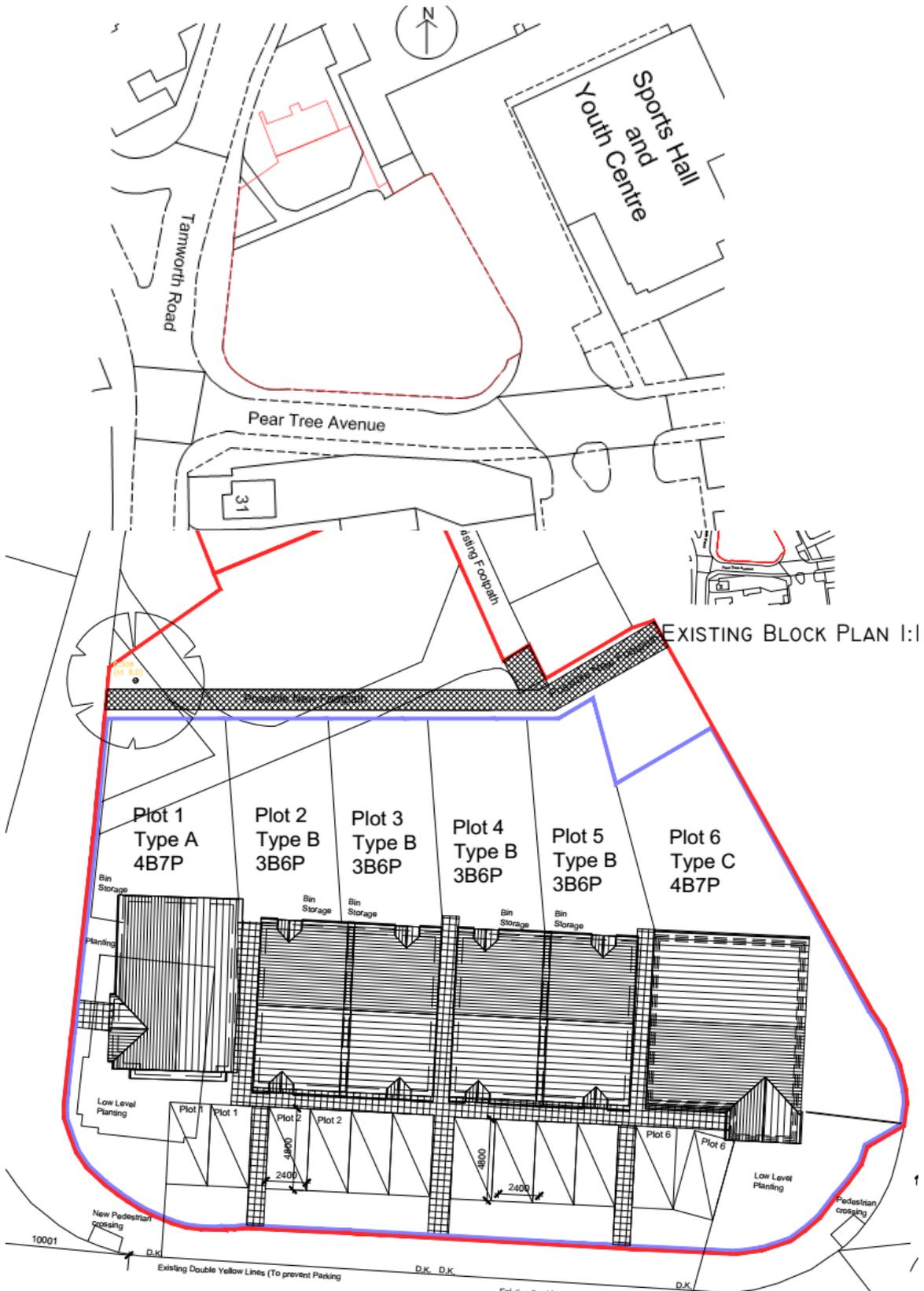
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

**Appendix 1 – Photos of the site**





**Appendix 2 – Plans related to the application**



PROPOSED SITE LAYOUT 1:100@A1

revision date details  
1 26.10.2016 RED LINE BOUNDARY TO SITE PLAN UPDATED.



PROPOSED STREETSCENE (PEAR TREE AVENUE) 1:100@A1

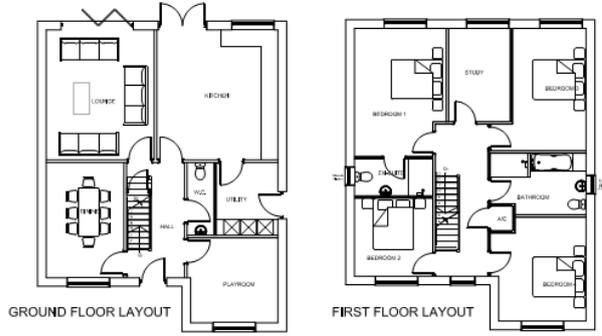
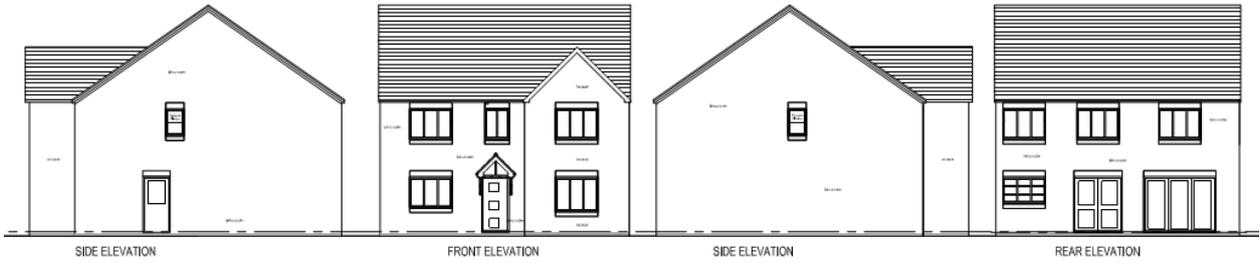


PROPOSED STREETSCENE (TAMWORTH ROAD) 1:100@A1

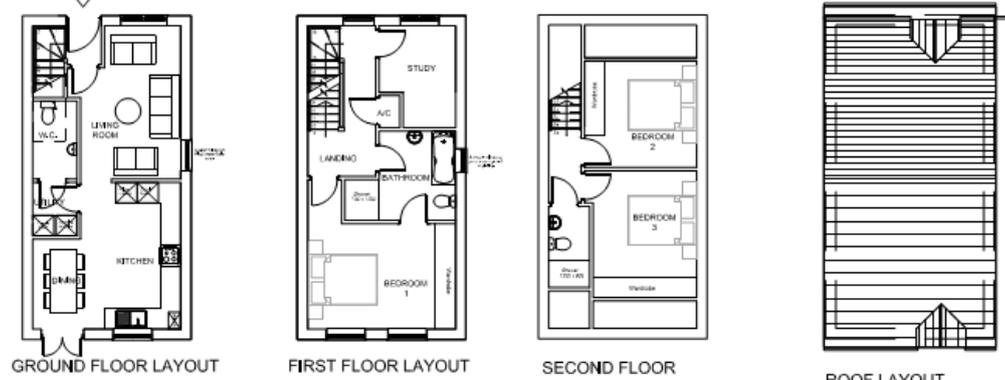
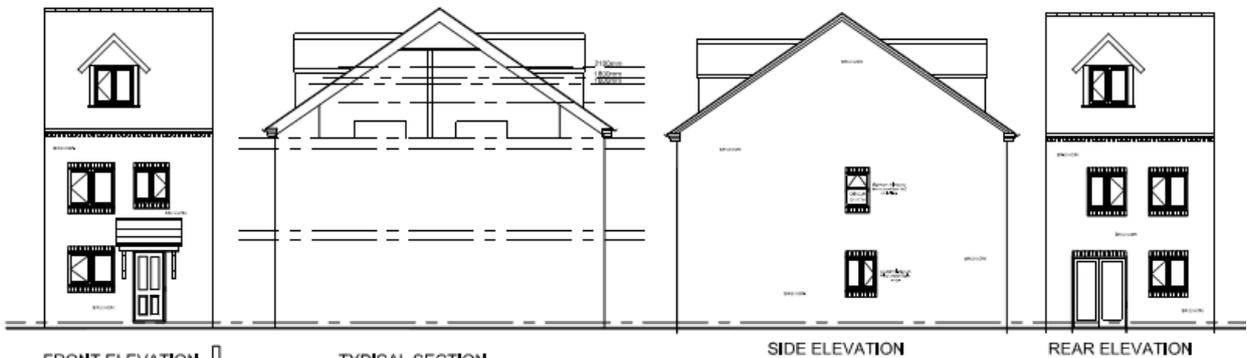


PROPOSED PLOT 1 1:100@A1





PROPOSED PLOT 6 1:100@A1



PROPOSED PLOT 2,3,4,5 1:100@A1

### Appendix 3 – objection letter signed by 36.

We the undersigned wish to register our objection to the proposed housing development on the site of the former Health Centre in Kingsbury. Our reasons are as follows:

1. The plans appear to show removal of the pedestrian footpaths across the site and from the car park at the rear of Jubilee Court around the side of the pharmacy to the shops.
2. There will be disruption to the lives of residents and to trade at the Jubilee Court shops during construction, as has been the case during the demolition of the former Health Centre when, for example, the footpath at the side of the pharmacy was temporarily blocked.
3. The proposed development, at the junction of Pear Tree Avenue and the main A51, is likely to cause traffic problems and a risk of serious road accidents. Traffic turning in to Pear Tree Avenue would be hindered by vehicles entering and leaving the proposed houses. Pedestrians walking past the houses would also be put at risk.
4. Although the proposed development includes two parking spaces at each house, this would almost certainly be insufficient. Many households nowadays, especially those with teenage children, have more than 2 cars, and of course they also receive visitors. This will lead to vehicles being parked either on the road outside the houses, causing an additional hazard at the busy A51 junction, or on the small car park at the rear of the shops, where it is already often difficult to find a parking space and to manoeuvre in and out, and where there is already a degree of friction and dispute over the use of parking bays by residents of the nearby flats.

**Appendix 4 – WCC highways comments to the revised 6 dwelling scheme, related to the no objection**

- The number of proposed dwellings has reduced from 7 to 6. The result of this is that the vehicle access for Plot 7 is no longer required, so there will not be a dropped kerb crossing for vehicles on the radius of the bellmouth junction, on the eastern side of the site.
- The manoeuvring area for Plot 1 has been simplified, the result of which is acceptable to the Highway Authority. Vehicles will be able to enter the highway in accordance with guidance and should not block the visibility splays. So objection reason 1 has been overcome.
- Further studies were carried out at the junction of Pear Tree Avenue with Tamworth Road. It showed that during the peak AM period on the highway network, the period when there should be most conflict with vehicles manoeuvring out of the proposed dwellings, there were 3 occasions when 2 vehicles were waiting to exit Pear Tree Avenue. The vehicles had to wait at the junction for a total of 84 seconds, which equates to 2.33% of the hour monitored.
- The queue at the junction was no greater than 2 vehicles. Therefore, the risk of conflict with manoeuvring vehicles around the junction is considered low, as is the effect on the capacity of the junction. The final reason for objection is the angle of the footway fronting the site. After speaking with the Minor Works Team, who would overlook the construction of the dropped kerbs, it may be possible to have a section of the footway abutting the boundary more level than the rest of dropped kerb. As such, the levels on the dropped kerb section may not be as severe as to cause those with mobility issues a problem.

**(5) Application No: PAP/2016/0605**

**Land to the rear of 6-20, Spon Lane, Grendon,**

**Outline application for residential development for 9 dwellings and access, for**

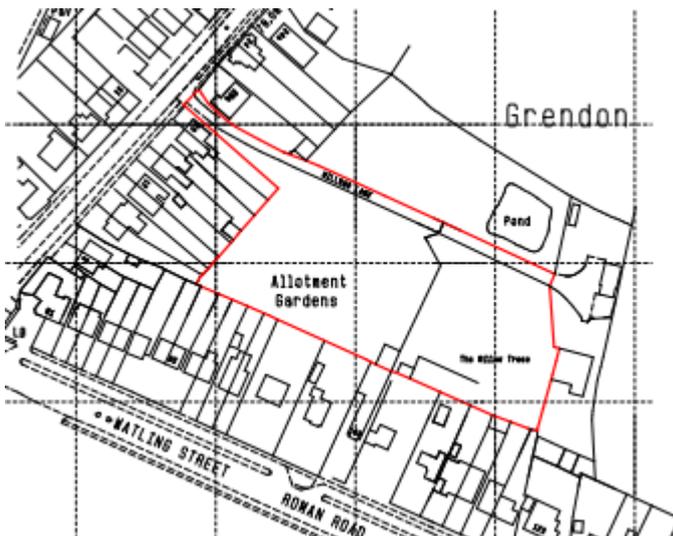
**Mr Stephen Gayton**

**Introduction**

The application is reported to Board in light of receipt of representations and the history of the application site.

**The Site**

The site is bordered to the south by the rear gardens of properties on Watling Street; to the west by the rear gardens of properties on Spon Lane. A recently constructed dwelling and a recently permitted dwelling lie to the east on land that was formerly a builder's yard site. Agricultural land lies further to the east. A site with planning permission for the erection of four dwellings lies to the north on the opposite side of Willows Lane. Development has commenced. A large housing development by Bellway Homes is currently under construction on land lying beyond, further to the north. The site boundary of the site is as shown below.



The photographs below illustrate the site





It comprises an allotment site in part (not currently used) and open land described as a paddock which appears to be used for some quasi residential uses associated with surrounding dwellings.

### The Proposal

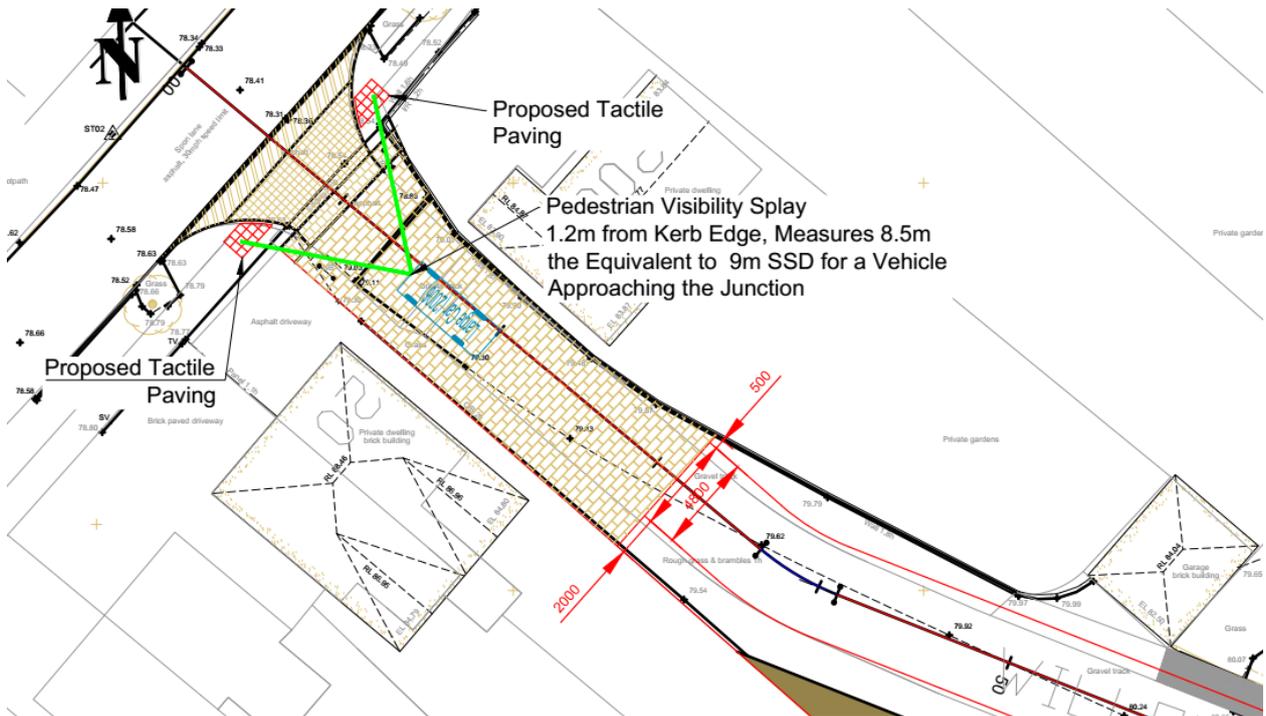
Outline application for residential development for 9 dwellings, with the details of access to be approved, and the matters of scale, layout, appearance and landscaping to be matters reserved for later approval.

The illustrative plan below has been submitted.

-  Residential Development.
-  Site Boundary.
-  Open Space.
-  Footpath.
-  Landscaped Buffer.



The proposed access arrangements at the junction with Spon Lane are shown below:



## Background

Planning applications have been submitted at the application site on two previous occasions – 2014 and 2015. On both occasions the applications were withdrawn ahead of any decision being reached.

In July 2014 an outline application was made on this site proposing 21 dwellings and access improvements. Following concerns being raised about the access proposals and the loss of allotment land, the application was withdrawn in November. The applicant indicated that he would seek to address the concerns and re-present the application at a later date.

The application was resubmitted in October 2015. Initially it proposed 20 dwellings but was later revised to reduce the number to 14 and to introduce an area of open space. There were enduring concerns about the access arrangements and just before the Planning and Development Board were scheduled to consider a report on the application it was again withdrawn.

## Development Plan

The North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV6 (Land Resources); ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON1 (Industrial Estates) and TPT6 (Vehicle Parking)

## **Other Material Planning Considerations**

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

The National Planning Practice Guidance 2014 – (the “NPPG”)

The North Warwickshire Local Plan Draft for Consultation August 2016

The New Homes Bonus (NHB) would apply to these applications.

## **Consultations**

Warwickshire County Council Highways Authority – Objects to the application for the following reasons:

1. The NMU visibility splays from the pedestrian crossing points are not considered to be in accordance with guidance.
2. The level changes from the existing footway, through the pedestrian crossing points and into the site do not appear suitable for all NMU.
3. The proposed pedestrian access point into the site from the northern side of the bellmouth should be removed. Pedestrian movements should be directed across the bellmouth to utilise the apparent segregated footpath on the southern side of the access.

Additionally the Highway Authority comments as follows:

Drawing number DWG-05 Rev A has been submitted for consideration. The access to the site for vehicles and pedestrians will be constructed as a bellmouth. The gradients shown on the drawing have been agreed with the Highway Authority for a private road. The Highway Authority would not adopt the access road as public highway.

At a Non-Motorised User (NMU) crossing point the visibility splays are measured to the nearside (DMRB TA 90/05 Figure 3.3). The proposed visibility splays have been measured to a point approximately 2.2 metres from the apparent kerblines. Where the splay meets the nearside of the apparent kerblines is approximately 4.4 metres. The proposed splays do not appear to provide intervisibility between NMU crossing the bellmouth and those travelling within the access.

Environmental Health Officer – Advises that as health concerns have been raised by a nearby resident he would suggest that a dust management plan is submitted for approval by the local authority prior to development, should permission be granted. He also recommends that construction activity is restricted to the standard hours of 0800 to 1800 during weekdays and 0800 to 1300 on Saturdays.

Environmental Health Officer (Pollution Control) – Due to the former use of the site as an allotment gardens she advises that she would require an intrusive site investigation to be carried out for the proposed development and recommends appropriate conditions for the eventuality that planning permission is granted.

## Representations

The Parish Council has written querying the legality of the application in terms of the completion of ownership certificates, raising concerns that previous applications have been turned down for highway safety reasons on the grounds of the exit on to Spon Lane being too narrow, it states that current application shows it to be much narrower. It also indicates that the Parish Council understands that there has been a ruling that Mrs. Reid's chronic illness must be taken into account and it indicates that it backs that the matter should be taken into account.

24 letters have been received with the following format:

FAO: Erica Levy /Jeff Brown  
Planning Department, N.W.B.C, Council House  
South Street, Atherstone CV9 1DE

RE: PAP/2016/0605– Land to the rear of 6-20 Spon Lane

Dear Erica Levy,

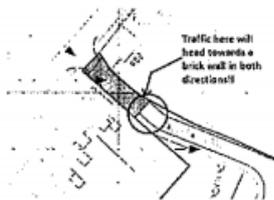
16<sup>th</sup> November 2016

This does not form part of any petition nor should it be classed as "pro forma". It outlines my further points of objection to the above application *as an individual* and as such should be treated as an individual letter.

**A: All previous applications for this same site have been proven unsupportable on various levels. This latest proposal offers no improvements to alleviate concerns previously expressed. Such as, pedestrian safety, lack of infrastructure and traffic problems.**

**B: The proposed access to this site remains too narrow to support any further housing and raises serious concerns of this becoming a very dangerous junction & as such, traffic from this site during construction and after. It will be a serious safety issue for children and vulnerable residents on a current "No Through" road.**

**C. The proposed bellmouth construction and traffic route is once again very clearly dangerous.** Traffic flow to & from the site heads directly towards a brick wall at an angle that does not meet with the actual access to the public highway.



**D: The red line of the application once again does not include all the land required to form the access. This is a crucial part of National Information Requirements within the government planning guidelines. Once again making this application invalid.**

**E. In October 2015 WCC Highways objected with 4 clear reasons as to why this access and the development would be unsuitable.** This is in addition to all previous objections made by WCC Highways. The Highways issues cannot be overcome by the applicants by simply proposing a lower number of houses.

**F.** Again information regarding trees on the site are inaccurate in the answers provided in the application. It seems a common thread that information is confused on repeated applications here.

**G: The council must consider equality issues in this application.** The indicated pedestrian access within the site do not seem to be adequate. In particular, children, the elderly and disabled will have some difficulty navigating a dangerous road with no street lighting or proper pedestrian refuge points. Once more it also proposes a new bellmouth which would remove the ability for a disabled driver to access their property!

**H:** The proposal will have a seriously negative impact on the character of the local area and offers no benefit to the community being of such low density.

**I: This site is not within the proposed future development sites as detailed within the Adopted Local Plan (Core Strategy).** Therefore is not required to meet the needs of the area moving forward. This Local Plan is adequate to meet the future housing needs in line with Government guidelines. There are also already many Brownfield sites available for extra housing within the local area. I believe these to be far more suitable than this Greenfield site.

**J:** \_\_\_\_\_

Twelve further letters of objection have been received raising the following matters:

- The development would have an adverse impact on the Reid family.
- The increase in traffic using Spon Lane and The Willows would cause harm to safety.
- There is very poor visibility for cars exiting Willows Lane
- Parked cars worsen visibility difficulties.
- There appears to be no path (as there is no room for a path) from Spon Lane along Willows Lane to the site. It is not safe for pedestrians to walk on Willows Lane with the extra car movements.
- The wall adjoining the narrow lane is a side wall to the property at 20A Spon Lane and the owners of that property fear that vehicular movements alongside it would present a danger. There is not even a kerb next to the wall to prevent cars hitting the wall. Any crash into the wall could cause a fatality.
- There is a real threat to the pedestrian who will have to cross this junction and there is a lot more pedestrians who use Spon Lane now they have built additional houses further along Spon Lane. The ability of pedestrians to safely cross this junction with poor visibility is questioned.
- Rear access will need to be maintained to property on Watling Street.
- The site is beyond the current development boundary and is not allocated for development in the emerging plan.
- Is there adequate infrastructure to support the scale of development in the settlement?
- Previous concerns of the highway authority have not been addressed. There is insufficient room between the adjacent houses to design an estate road to serve the proposed number of new dwellings, even those relating to the latest further reduced number.
- It appears from the submitted access plan that no account has been taken of the change in levels across the access from 20 to 20A. Partly as a result of this and partly because of the proposed access works generally, the proposals will inevitably impact on the boundary of 20 Spon Lane the proposals cannot be carried out without the agreement of the owner of that property. Agreement will not be given and the way forward would be for agreement to be reached between the applicant and the owner to purchase the whole plot, demolish no. 20 and form a proper road junction instead of the constant attempts to tinker with a sub-standard access.
- The owner of 20 Spon Lane claims that the submitted plan is incorrect in respect of the representation of the front boundary and north-eastern corner – where it adjoins Willows Lane - of the property at 20 Spon Lane.
- Mrs Reid is a disabled blue badge holder and the proposed (revised) junction design would still make it impossible for the family to park outside their own home. Now that this application proposes to remove any parking from a blue badge holder, the proposal is contrary to the equality policies that the Council should consider in all matters.
- The development offers no benefit to the community being of such low density.
- There are asbestos materials on the site.
- The red line of the application does not include all the land required to form the access and make contact with the side fence of a neighbouring property meaning that notice should have been served, both matters making the application invalid.
- There is no justifiable reason to grant permission on this plot of land. There are sufficient brownfield sites in the Grendon and Baddesley Ensor area to satisfy housing need and the local plan without the need to build on Greenfield.

- The Council has a 5 year supply of housing land, the proposals are not in accord with the Development Plan. The NPPF makes it very clear that applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. There are no material considerations to weigh against the Development Plan in this case and the adverse impacts of, and deficiencies in, the application proposals far outweigh any perceived benefits.
- The reduction in the number of dwellings offers no improvement as it does not alter the fundamental problem they face which is the inevitable effects of dust and dirt on Mrs Reid's health which will be generated by building works in close proximity.
- The proposals amount to a density of only some 13 dwellings per ha. This is approximately half of the proper density even to begin to make efficient residential use of the land. A different approach to gaining access could secure a more efficient use of land.
- The ecology survey is not sufficiently extensive and bat populations have not been investigated.

Specifically in respect of Mrs Reid, the following comments are made:

## **6. Health Factors and Public Sector Equality Duty**

Mrs Reid's personal circumstances have been extensively documented in a variety of correspondence with the LPA including emails and previous letters of objection. The inevitable detrimental effects of the proposed development on Mrs Reid's health are now well known and should be regarded as a material planning consideration in the determination of this application as elaborated below. It was also confirmed by a barrister's response in the report to the June meeting of the Planning Board that he stated it should indeed be a material consideration as quoted below :-

7. I advise that the health needs of Mrs Reid are capable of being a material consideration and that the failure of the Council to have regard to them could give rise to an allegation that it made an error of law (for example by disregarding the public sector equality duty). I therefore advise that the Council have regard to the personal circumstances of Mrs Reid as a material consideration. This should be addressed explicitly on the face of the officer's report to members (or the delegated report).

---

**JACK SMYTH**

**No 5 Chambers**

**31 May 2016**

In addition, now that this application proposes to remove any parking from a blue badge holder, the proposal is contrary to the equality policies that the Council should consider in all matters.

In specific terms, the Council is presumably aware that Section 2.7.1 of the Disability Discrimination at 2005 which was incorporated into the 2010 Equality Act requires highway and planning authorities to have due regard to six principles, one of which is particularly important in the present context, that steps must be taken to take account of disabled persons' disabilities even where that involves treating such persons more favourably than other persons. This clearly indicates that Mrs Reid's medical condition must be given significant weight in the assessment of the acceptability or otherwise of further residential development in this immediate area, where from recent experience locally, the construction of which is known to exacerbate her health problem,. The commencement of development of the 4 dwellings recently permitted behind no. 20A initially generated some dust which resulted in Julie Reid being admitted once again to hospital for a short period due to a drop in lung function. Mrs Reid is still undergoing health monitoring at home. This is similar to the situation when the nearby larger site of Bellway Homes began in 2015 at which time Mrs Reid lost over one third of her new donor lung capacity. The family have suffered enough and for their sake, a degree of "positive discrimination" to which they are legally entitled, should be exercised.

Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty. This states that :

*"A public authority must, in the exercise of its functions, have due regard to the need to....eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it".*

In the context of the present application, Mrs Reid's situation is one of greater disadvantage compared to other residents also adversely affected by the proposals. In order to equalise her "opportunities" with those other residents and protect her interests, Mrs Reid should be afforded the appropriate degree of "positive discrimination" to which

we have referred earlier to remove this disadvantage and ensure that the proposals do not detrimentally affect her or her family.

Previous suggestions made that Julie Reid could or should wear a protective mask when at home surrounded by development works are not very helpful. The whole point about this legislation is to seek to reduce her disadvantage and put her in some sort of equilibrium with others. Mrs Reid should not have to make concessions such as wearing what is effectively protective clothing even in her own home in order to enable others to benefit.

## **Observations**

### **a) The Principle of Development**

The site lies outside, but adjacent to, the development boundary for Baddesley Ensor and Grendon as defined by the Development Plan. The development boundary adjoins the whole length of the southern and western boundaries of the site and housing development has been approved or is under construction to the north and east. Policy NW2 of the North Warwickshire Core Strategy (Adopted October 2014) indicates that the settlement is a Category 3A settlement. Here, the policy indicates that, development will be permitted in "or adjacent to" development boundaries that is considered to be appropriate to its place in the settlement hierarchy. Development comprising 9 dwellings would thus both be appropriate to its place in the settlement hierarchy.

Policy NW5 of the North Warwickshire Core Strategy identifies that a minimum figure of 180 houses will be directed to settlement. The Council's Preferred Options for Site Allocations – Pre-draft Submission 2014 identified sites in excess of this number (216 dwellings). The application site is not amongst the allocations.

The Emerging Local Plan identifies a potential housing requirement of 9070 dwellings in the plan period. The Plan continues to identify the settlement as a Category 3 settlement (a Local Service Centre) and allocates land for 98 new dwellings in the settlement. The application site is not amongst the allocations.

The settlement has a range of services and facilities and is well linked to public transport routes. This was the relatively recent finding of the Planning Inspector who allowed the development of another site off Spon Lane where 85 dwellings were allowed. The overall view is that these proposals do constitute sustainable development and that it aligns with the Development Plan. The presumption is thus in favour of the grant of a planning permission on this site.

It is necessary therefore to assess the specifics of the proposals in terms of their impacts, such as highway, amenity, ecology impacts, to establish whether there are any adverse impacts of, or deficiencies in, the application proposals that outweigh the NPPF objective of “significantly boosting the supply of housing”.

#### **b) Housing Land Supply**

At very recent appeal (APP/R3705/W/16/3149572) the Planning Inspector found that, on the evidence before her, the Council could not evidence a five year housing supply, she found that it was closer to was close to 3.5 years supply. There is nothing to suggest that the supply has altered to the level that the Council can show a five year supply since that decision.

Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. At that appeal, the Council accepted therefore that in these circumstances Core Strategy policies NW1, NW2, NW4 and NW5 are would be relevant housing policies treated as out-of-date.

The NPPF advises us that local planning authorities should seek to boost significantly the supply of housing and that housing applications should be considered in the context of the presumption in favour of sustainable development. The absence of a five year housing supply weighs significantly in favour of the proposal.

#### **c) Amenity and Density**

The site is of an adequate extent to enable the provision of 9 new dwellings with good standards of residential amenity for occupiers of new dwellings. Surrounding dwellings have good sized rear gardens and development on the application site is unlikely to result in such levels of overlooking or loss of privacy that the refusal of planning permission would be justified. Indeed, the site is large and it is likely that the proposed new dwellings would themselves stand in good sized plots. Occupiers of property have no entitlement to views across the property of others. Concerns about loss of views cannot therefore be substantiated as a reason for the refusal of planning permission.

The site is surrounded on all sides by existing dwellings or new dwellings under construction and in the near vicinity of a major road. The loss of this site to development is unlikely to have any significant impact on the darkness of skies in the locality.

Concern is expressed that the development would not be an efficient use of land, achieving a density which is approximately half of the proper density to make efficient residential use of the land. It is recognised that the reduced density is a direct consequence of the constraints presented by the accessibility of the land. It is not considered that it would be reasonable to seek to resist the application on these grounds. Arguably, the lower density development of the land would be of more benefit than leaving the land as a 'trapped' area of land with residential development surrounding it on all sides.

There are no significant amenity based reasons that weigh against the proposal.

#### **d) Drainage and Flooding**

Severn Trent Water has offered no objection in principle to the development of this land. It would require the submission of detailed drainage plans for the disposal of surface water and foul sewage as a requirement of a condition of any planning permission.

The LLFA was consulted on a previous application at this site objected to the application on the basis that the proposed surface water strategy fails to incorporate sustainable drainage principles and required the submission of a FRA and sustainable drainage strategy. The applicant has responded by querying whether the matter may be dealt with by condition, on the basis of his confirmation that they intend to incorporate a sustainable drainage scheme within the open space, including attenuation ponds, swales, etc. as well as permeable paving throughout the development and that French drains and water butts will be provided in the residential areas. The observations of the LLFA are awaited. The LLFA confirmed that the matter could be dealt with as a condition. The reduction in house numbers would not change this stance and hence there are no significant flooding or drainage based concerns that weigh against the proposal.

#### **e) Highway Safety**

The access arrangements are of significant concern to those who object to the planning application. The route travels between two existing dwellings and the dimensions available for the creation of a two way carriageway with adequate visibility and safe arrangements for pedestrians are very constrained. Furthermore, the properties which border the access route are situated close to the boundary of the application site and have boundary treatments which either currently constrain the access arrangements or could, by exploiting permitted development rights, further constrain the access arrangements.

Because of the present vehicular access arrangement the occupiers of 20 Spon Lane have elected not to erect a boundary fence all along the side boundary of their land. The side fence presently stops approximately two fence panels short of the back edge of the public highway footpath. There would be nothing to stop the occupiers of the property installing a new one metre high boundary wall/fence. This would have the effect of impeding visibility for drivers using Willows Lane, particularly in respect of pedestrians using the footways.

The occupiers of 20A Spon Lane have a wall and railings which are supplemented with bamboo canes (see photo). This wall serves as something of an impediment to sight of pedestrians using Spon Lane for drivers of vehicles using Willows Lane.



In an attempt to address concerns raised previously about access provisions the developer has successively reduced the scale of development sought (primarily in terms of housing units rather than site area).

Though the reduction in number of dwellings enables the access requirements to be adjusted, the Highway Authority does not find the access arrangements yet sufficiently meet necessary standards and it continues to object to the application.

The Highway Authority's concerns primarily relate to pedestrian safety for mobility impaired and those with children in pushchairs. There are essentially four aspects to its concern.

1. Pedestrians walking along Spon Lane and crossing the Willows Lane junction would have inadequate visibility. The Highway Authority deems the visibility splay to be below standard for a Non-Motorised User (NMU). It advises that the preferred 'X' distance (setback) for NMU is 2.0 metres (DMRB TA 90/50), however, in this instance an acceptable 'X' distance would be 1.5 metres (agreed on based on the potential number of vehicles approaching this junction). The real concern here is that the proposal is for a further departure, providing an 'X' distance of only 1.2 metres from both crossing points. The Highway Authority Officer finds this deviation unacceptable, particularly given that there is likely to be a significant footfall across the junction from residents of housing further along Spon Lane seeking to reach shops, education and public transport links, this reduced level of visibility is deemed unsafe.
2. The access design necessitates that pedestrians entering or exiting Willows Lane will have to walk in a shared surface at the junction, albeit only for a short distance. This is of concern particularly for NMU.
3. The change in levels across the access from 20 to 20A, the levels at the frontages of those adjacent properties and the proposed carriageway/footway provisions would result in a contorted manoeuvre for mobility impaired/pushchair users entering or leaving the site. It would highly likely mean navigating across different surfaces and gradients.

The Highway Authority advises that 'changes in horizontal alignment should normally be via simple circular curves, rather than straight sections with occasional sharp curves' and 'At corners and junctions, the internal corners of footways should be splayed to assist the passage of wheelchairs and pushchairs. Surface undulations, steps and gaps may cause problems for people with mobility or sensory impairments' (source: Sections 4.2 and 4.3 of DRMB TA 90/05), and that 'Excessive cross-fall causes problems for people pushing prams and can be particularly difficult to negotiate for people with a mobility impairment, including wheelchair users.' and 'Surfaces used by pedestrians need to be smooth and free from trip hazards.' (source: Manual for Streets (MfS) Sections 6.3.28 and 6.3.31):

The proposed footways into the site appear to be no wider than 1.2 metres, will not be laid out as simple curves and will be located next to the tactile pedestrian crossing points. As such, there could be a multitude of level and surfacing changes over short lengths of the access.

4. Those with mobility issues may find the footways either side of the access difficult to traverse as movement in and out of the site would have to be over the dropped tactile crossing points. This is particularly of relevance here given that the tactile paving would be immediately to the front of a property occupied by a resident known to have mobility impairment. The tactile paving combined with acknowledged changes in levels could cause particular and unusual difficulties.

Planning Practice Guidance identifies that to achieve good design, planning should promote access and inclusion and that an inclusive environment is one that can be accessed and used by everyone. It should promote safe, connected and efficient streets with streets being designed to be functional and accessible for all, to be safe and attractive public spaces and not just respond to engineering considerations. The advice from the Highway Authority suggests that the proposal would contravene this guidance.

The applicant's Highway Consultant expresses the view that the NPPF test has to be whether the cumulative transport impact as a result of a development is "severe". He argues that in his opinion there would be no risk to life or limb as a result of permitting this development. He indicates that he is entirely satisfied with the latest plan and he flags up that if the application is refused solely on highway grounds then there is likely to be an appeal with an application for costs on the grounds of unreasonable behaviour. He argues that the Highway Authority's concerns amount to spurious grounds.

The Highways Authority indicates that since 2015 it has consistently raised concerns about the visibility splays for pedestrians / NMU's crossing the proposed bellmouth access. The issue was discussed in a meeting 01 December 2015, and was seen to be the hardest issue to overcome. It still appears to be the sticking point. It points out that in regard to the NPPF, Section 32 states that plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people'. It does not believe that the current proposals achieve this.

Though the Highway Authority maintains the view that the access works would present a material harm, sufficient to constitute a severe impact, it is apparent that the Highway Authority and the applicant's Highway Advisor have engaged in a debate about what constitutes relevant guidance. It is further understood that no Road Safety Audit or Risk Assessments have yet been undertaken. It would be appropriate to have this level of assessment before reaching a definitive position on the highway safety aspects of the proposed junction. Furthermore, given the specific concerns raised in respect of the

disabled near neighbour, it would be appropriate to ask the Highway Authority for its assessment of the proposed junction arrangements in relation to its Public Sector Equality Duty and the provisions of the Disability Discrimination Act, it would be appropriate to make this an integral part of the Risk Assessment.

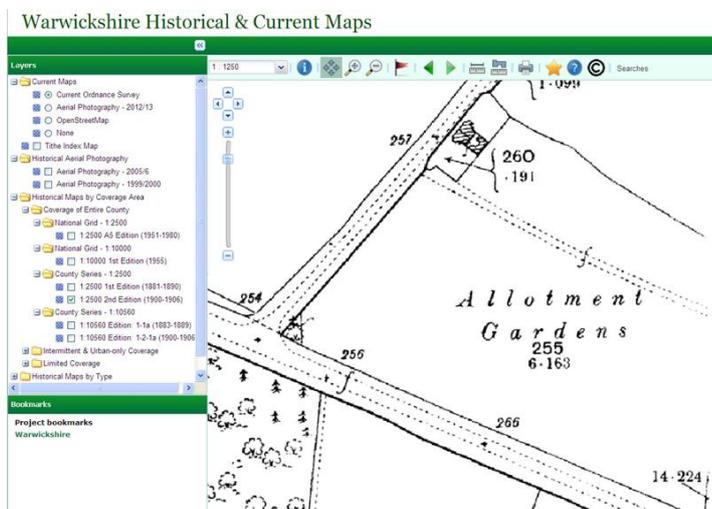
It would be appropriate to defer determination of this application until such time as this level of assessment has been undertaken.

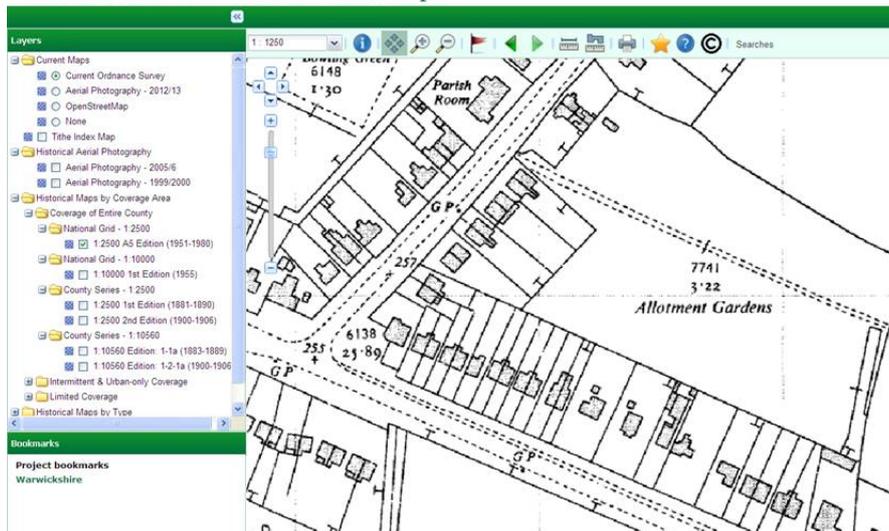
### f) Affordable Housing

Policy NW6 of the North Warwickshire Core Strategy Adopted October 2014 sets out policy in respect of affordable housing. It indicates that for schemes of between 1 and 14 inclusive units 20% affordable housing provision will be provided. This will be achieved through on site provision or through a financial contribution in lieu of providing affordable housing on-site (calculated using the methodology outlined in the Affordable Housing Viability report or subsequent updated document and is broadly equivalent to on-site provision). However, since policy adoption, Government Guidance has identified that there are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale development. This follows the order of the Court of Appeal dated 13 May 2016, which give legal effect to the policy set out in the written ministerial statement of 28 November 2014. It sets out that contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floorspace of no more than 1,000 square metres. Though the application seeks only 9 dwellings, the site area is very large for the number of dwellings. There is a high probability that gross floorspace will exceed 1,000 square metres. This however will not be apparent until the reserved matters stage of the application. If the application is supported it would be appropriate to attach a condition requiring the submission of a scheme for the provision of affordable housing in the eventuality that the scheme proposes gross floorspace of 1,000 square metres or more.

### g) Other Matters

The application site is, in part, an allotment garden. It has a very long history of such use. It is shown on the 1900-1906 map and 1951-1980 map as such – see map extracts below.





The Council has undertaken an audit of green spaces which included an audit of allotment land in each settlement. The Audit (dated 2008) established that the settlement of Baddesley Ensor and Grendon had an under supply of allotment land, although there are other allotment sites in the settlement.

The NPPF sets out the following:

73. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

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

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

Given the specific needs assessment that has been undertaken and the finding of an existing under provision, as well as the value attributed to the allotments by local people, the applicant was asked to show how the loss of allotments here would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location if the current allotments are to be built on.

The applicant has submitted evidence to show that the allotments are not statutory allotments. That issue has never been in contention. It is agreed that they are not statutory allotments.

The issue is that the development of this land would lead to a loss of allotments/allotment opportunity. The application has been revised in recognition of the loss of the allotment land to provide a fairly substantial area of open space, though not

of an equivalent size to the allotment land, nevertheless are reasonably large area that can be accessed by occupiers of both the proposed dwellings and, potentially, others living in the area. Given the presence of other allotment opportunities in the settlement, the date of the Green Spaces Audit and the provision of compensatory open space, it is deemed unlikely that a reason for refusal based on the loss of allotment land could be sustained.

The Council's Environmental Health Officer advises that the proposed development is on land which comprises turn of the century (last century) allotment gardens. Allotment practices are known to have the potential for contamination of the land with regard to use of asbestos containing materials, heavy metals, PAH contamination and hydrocarbon contamination as a minimum. As a consequence there is a recommendation in the event that permission is granted for the development that a site investigation is carried out on the land. This matter can be addressed by conditions and there are no ground condition matters that would suggest against the grant of planning permission.

The County Archaeologist advises that it is probable that this site has been in agricultural use since at least the medieval period. Whilst there are no known pre-medieval features known from the immediate vicinity of the site (other than the Roman Watling Street which runs to the south), this may be due to a lack of previous archaeological investigations across this area, rather than an absence of activity during the pre-medieval periods. There is the potential for the proposed groundworks to disturb archaeological deposits, including structural remains, boundary features and rubbish pits, associated with the occupation of this area during the medieval and later periods. The archaeologist does not object to the principle of development, but considers that some archaeological work should be required if consent is forthcoming. This should take a phased approach, the first element of which would include a programme of trial trenching. There is no archaeological reason that the site could not be developed for housing.

The agent acting on behalf of the Reid's suggests that, notwithstanding the submitted amendments, the application still refers to access as the only matter applied for at this stage. He argues that the 'new' housing area, along with the landscaped buffer are still technically only "indicative". The application still only relates to access. It does not include landscaping and if permission is granted, it is at least possible that subsequent proposals will be submitted to develop the whole site to maximise its potential. This is a matter which could be clarified by a condition of any outline consent. It would be appropriate to attach a condition defining the developable area and specifying the maximum number of dwellings. Similarly, for reasons relating to the loss of the allotments, it would be appropriate to condition the requirement for the area of open space and defining its extent.

In respect of the ecology of the site, the Warwickshire Wildlife Trust advises that the surveys are adequate to inform decision making for this site. As no Great Crested Newts or reptiles were found, there is a very low risk of an offence resulting from this development. She notes however that the ecologist has recommended some working practises which should be followed as a precaution and she suggests that it would be advisable to include that these be followed as a condition if planning permission is granted.

No matters in respect of the use of the site as an allotment, ground conditions, archaeology or ecology present any issues that weigh against the proposal that could not be addressed by appropriate conditions.

## **h) Both Applications – Land Ownership Issues**

In the course of determining the application, the owners of 20A and 20 Spon Lane have queried the accuracy of the ownership Certificates served with the applications.

Officers are satisfied that correct notice has been served on those with an ownership interest in the application sites. If the application proposal relies on land that is not presently in the ownership of the applicant it does not preclude the Planning Authority from granting a planning permission, it would be a matter for the developer to secure rights to the land before he was able to implement the planning permission.

An objector takes the view that the submitted plans still do not show all the land necessary to carry out the development in the red line of the application site, ie. - the necessary visibility splays should be included in the red line of the application site. Officers are satisfied that the red line is of an appropriate extent. The land required for visibility is in the public domain and within the control of the highway authority and all 'owners' of any part of the application *in the terms of Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015* have been served notice.

## **i) Interim Conclusions**

Notwithstanding the presumption in favour of sustainable development and the benefits derived from the provision of needed housing, for the highway safety concerns set out above, it is considered that (subject to confirmation by a Road Safety Audit and Risk Assessment) the proposals on this site are unlikely to be supported.

## **j) Effect of the Proposed Development on the Health of Mrs Reid**

It is however further necessary to address whether the decision should carry an additional reason for refusal based around the health concerns identified in respect of Mrs Reid.

The considerations in respect of the general principle of development here have not changed substantially since the matter was presented to Members last year. The considerations in respect of the current access arrangement will be the subject of later consideration.

Mrs Reid occupies 20 Spon Lane, an extended semi-detached house which lies immediately adjacent to the south western side of Willows Lane where it meets Spon Lane. Mrs Reid has the condition cystic fibrosis and, as a consequence has had a double lung transplant. The lung transplant has left her immune-compromised. Medical evidence has been supplied on a confidential basis to support this.

The family believes that the Council should accept they have a duty of care for a person with a serious health condition and argue that the family health considerations should be a material consideration in the determination of the planning application.

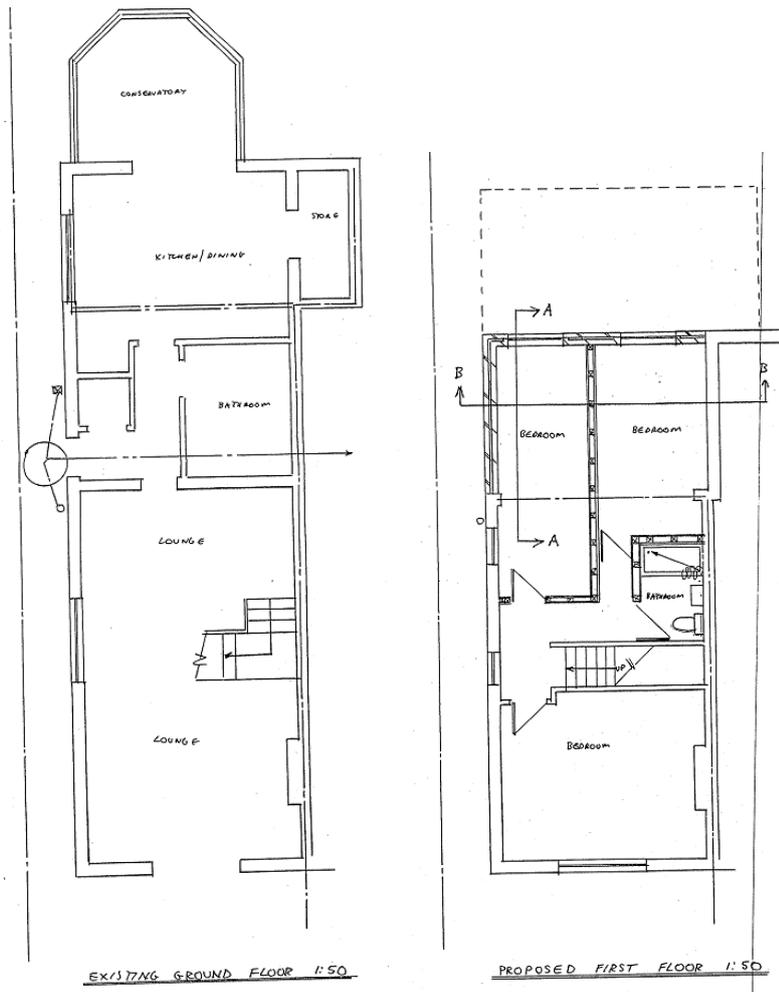
Counsel advice has previously been sought in respect of the extent to which the health considerations of Mrs Reid will be a material consideration in the determination of the planning application. That advice is reproduced in full in the appendix to the previous application, reproduced as Appendix A of this report.

In brief, the advice is that as a matter of principle, personal circumstances are always present in the background to the consideration of the character of land use, but may sometimes be given direct effect in development control as an exceptional or special circumstance, and that the health needs of Mrs Reid are capable of being a material consideration. The weight to be attached to any given material consideration is a matter for the decision maker. Being a relevant material consideration, however, does not necessarily make it a determinative matter. Even if the Council concludes that the construction period upon permission would cause material harm to the health of Mrs Reid, it does not follow that the application should be refused. This is but one matter in the weighing scales and will have to be weighed against the various benefits of the proposal.

The concerns principally relate to the effect of the construction phase on Mrs Reid's health due to the probable increase in airborne particles, but also to disturbance from future use of the land for housing. Concern is also expressed about the effect on the current car parking arrangements enjoyed by the family, the effect that the development may have on Mrs Reid's ability to park her car on the frontage of her property and the effect that changed parking arrangements would have on her health because of increased walking.

Counsel advice indicates that judging the impact on Mrs Reid will require an appraisal of the particular characteristics of her home.

- The internal layout of the property is as shown below:



- The images below show the rear of Mrs Reid's home. It has been extended with a two storey rear extension (sometime between Sept 2008 and Sept 2011) and has a single storey kitchen extension which extends beyond the two storey element, with a glazed conservatory beyond. The rear garden is fully enclosed with a tall close boarded fence. The rear garden does not contain any trees or tall vegetation that might be a barrier to the movement of dust or particles.



- Though the lounge to the property is at the front, the kitchen/dining/conservatory will be, to a degree, be used as living accommodation. The lounge and kitchen also contain windows facing the access route.
- Construction traffic would pass along the side of the property and the dwellings would be constructed to the rear of it.
- The distance between the edge of the developable area and the rear of the ground floor conservatory would be approximately 45 metres.
- The Council's Environmental Health Officer advises that the prevailing wind direction will generally be from the south west. Therefore the general prevailing wind direction will be away from, rather than towards, Mrs Reid's property.

- In respect of the proposed development, Mrs Reid's consultant comments as follows:

The newly proposed site is located at the back and side of her property and consists of 20-21 houses within a densely populated area with all construction access needing to utilise only one way in/out which is past Julie's front door (positioned at the side) via a single width road between her and her neighbour's property. Escaping the dust and toxins will be nigh on impossible by either entrance or exit to the house.

Taking away her ability to park close to her house might in fact force her to have to remain in her house which will be detrimental to her health when she needs to be able to be taken out for clinic, hospital and doctors' appointments on a regular basis. Having wheel chair access is also highly likely to be necessary at some point to ensure she can enter and exit her house with minimal discomfort to herself.

- the character of the locality is semi urban, the property fronts a reasonably busy 'D' road and is only 100m distant from the A5 trunk road. The baseline of the locality is site not a quiet rural location.

There is clearly some evidence to support the risk to Mrs Reid's health and enjoyment of her property from the proposed development, primarily in the short term whilst the permissions are implemented. However, advice from Counsel is that this needs to be weighed against the mitigation that may be possible and the benefits of the proposal.

There is plainly a very great public interest in providing much needed housing. Increasing the supply of housing has been at the forefront of the government's planning reforms in recent years. Many people in the borough are disabled and may be aggravated by building work, however, in the normal course of events one would not expect that their sensitivity would be a cogent and defensible ground to prevent development.

It is recognised that Mrs Reid may be obliged to alter her pattern of behaviour by, for example, avoiding relaxing in her garden during busy days of construction work (when the wind is blowing in an unfavourable direction). However, the impact could be mitigated by a sympathetic construction management plan and good communication between the house builders on the ground and Mrs Reid so that she can be warned when particularly "dusty" activity is to be undertaken and planning undertaken so that this activity occurs when it is less likely to affect her. The Council's Environmental Health Officer recommends that a planning condition be attached to any planning permission to make this a formal requirement. He also recommends that construction activity is restricted to the standard hours of 0800 to 1800 during weekdays and 0800 to 1300 on Saturdays.

The consultant does not conclusively state that the development 'will' be meaningfully harmful to her health, he asserts that she could be at risk of contact with dust and toxins whilst entering and exiting the house. He does not assert that risks will extend to life within the dwelling. Furthermore, he indicates that if the ability to park near the house is lost then it could leave her housebound and at risk of being unable to attend medical appointments. For the reasons set out below, it is not definitive that the grant of planning permission would result in the inability to park at the dwelling. The consultant's letter suggests a possible unfamiliarity with the dwelling in that he refers to the future likelihood of requiring wheelchair access to the dwelling. The levels and constrained proportions of the frontage to the property may make the provision of wheelchair access very difficult to achieve.

The Council has been advised that in order to give significant weight to this matter, there would have to be concrete and cogent evidence that the building work would give rise to unacceptable harm to the health of Mrs Reid (after one has taken account of sympathetic management and good consultation). The fact that for a number of days, or indeed weeks, she has to stay in doors with the windows shut to prevent the ingress of dust is unlikely to be sufficient to justify the refusal of permission. Mere inconvenience is not enough. The fact the claimant's convalescence could be aided by living in a peaceful ambience devoid of building work is again not enough.

The Council was advised by the applicant at the time of the previous application that the Reid's had been offered the value of their house plus 10% but that the offer had been refused. The Council was advised that the Reid's were seeking the value of their house plus a 25% uplift. Mr Reid strongly denies this claim.

In dialogue about how to reconcile the proposal with the identified health issue, officers have attempted to broker the idea that the developer could be requested to facilitate a temporary rehousing of Mrs Reid, and her family if appropriate, during the construction phase. Mr Reid has confirmed that this would not be agreeable to him, as there would be uncertainties about the state of Mrs Reid's health at that time and the disruption could be lengthy.

One of the matters that concerns the occupiers of 20 Spon Lane is that the proposed access arrangements would interfere with the current vehicular access arrangements to the frontage of the property. The current arrangement involves driving onto the frontage at an angle, leaving Spon Lane at the position of Willows Lane and parking sideways across the front drive. This is illustrated in the photographs below.



The occupiers of 20 Spon Lane have argued that the application proposal would interfere with their long established access arrangements and that an inability to park at the front of the property would have adverse health consequences for Mrs Reid. It is correct that the proposed access arrangements would not be compatible with the present access arrangements, however, the position in respect of the current arrangements is that the Highway Authority has confirmed that the current arrangements are not expressly authorised and a decision has been taken that they cannot be supported retrospectively. It is not possible to resist the proposed access arrangements on the basis that they would interfere with the present access arrangements, irrespective of the implications for the occupiers of the existing property.

There remains a possibility that Mr and Mrs Reid could claim a prescriptive right to the access arrangement given that they, and former owners of the property, claim to have enjoyed the same access arrangements for a twenty year period.

Mr and Mrs Reid advise that they have submitted an application for a new vehicle crossing which is at right angles to the public highway. It is understood that an approved contractor has yet to be appointed, a fee has yet to be paid and a prescribed form has yet to be submitted by the contractor. The Highway Authority indicates that, providing that these steps are undertaken, it sees no impediment to the grant of permission for the crossing. The matter is however undetermined at this stage, the works have not been implemented and the potential change in circumstances in this respect is not a material consideration in the determination of this application at this stage.

In conclusion, whilst the health of Mrs Reid is a material consideration, it is not a factor which should be afforded overriding weight in respect of the principle of development on the application site. The matter will however be reviewed in light of the Road Safety Audit and Risk Assessment which is proposed to be sought from the Highway Authority.

### **Recommendation**

That the determination of the application be deferred for the purpose of requesting that the County Council undertake the following:

- A Road Safety Audit
- A Risk Assessment, incorporating an assessment of the proposed junction arrangements in relation to the County Council's Public Sector Equality Duty and the provisions of the Disability Discrimination Act.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0605

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	25 10 16 6 12 16
2	Revd R Chamberlain	Representation	17 11 16
3	S Baker	Representation	20 11 16
4	P Baker	Representation	20 11 16
5	J Lees	Representation	21 11 16
6	C Lees	Representation	21 11 16
7	P Swift	Representation	28 11 16
8	P Openshaw	Representation	30 11 16
9	A Bazylińska	Representation	30 11 16
10	C Salmon	Representation	8 12 16
11	W Reid	Representation	13 12 16
12	C Marshall	Representation	6 1 17
13	J Marshall	Representation	6 1 17
14	24 individuals	Pro forma representation	14 12 16

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

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

**General Development Applications**

**a) Application No: PAP/2015/0587**

**Land to the rear of 6-20, Spon Lane, Grendon, CV9 2QG**

**Outline application - residential development 14 dwellings & access, for**

**Mr Stephen Gayton**

**b) Application No: PAP/2015/0691**

**Land To The Rear Of 20a Spon Lane, Grendon, CV9 2PD**

**Residential development of 4 no: 4 bedroom dwellings and attached garages**

**Mr Daniel Swift**

**Introduction**

The applications are reported to Board at the request of the Local Member and at the discretion of the Head of Development Control, given that they are located on adjoining sites; due to the receipt of representations and given that one of the applications is for major development.

The proposals, because of their proximity and shared issues, are dealt with here in one covering report, but as two separate applications. In these circumstances, Members will be asked to determine each application separately.

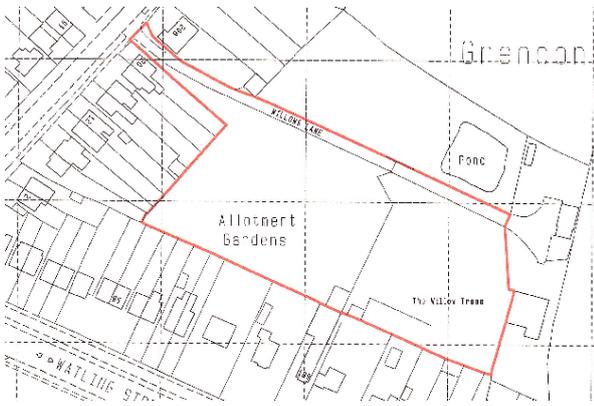
**The Sites**

In general terms the sites are situated on the east side of Spon Lane, accessed from an unclassified vehicular route, known as Willows Lane, which runs between numbers 20 and 20A Spon Lane.

**Site 1 - PAP/2015/0587**

The larger site is known as 'land to the rear of 6 to 20 Spon Lane'. It is partly described as a former allotment garden and partly described as paddock. It will be referred to in the report for ease of reference as 'Site 1'.

Site 1 is bordered to the south by the rear gardens of properties on Watling Street; to the west by the rear gardens of properties on Spon Lane. Two recently constructed dwellings lie to the east on land that was formerly a builder's yard site. Agricultural land lies further to the east. A site with planning permission for the erection of two dwellings (to be referred to as 'Site 2') lies to the north on the opposite side of Willows Lane. This land is the subject of a current application for the erection of four dwellings (also considered in this report). A large housing development by Bellway Homes is currently under construction on land lying beyond, further to the north. The site boundary of Site 1 is as shown below.



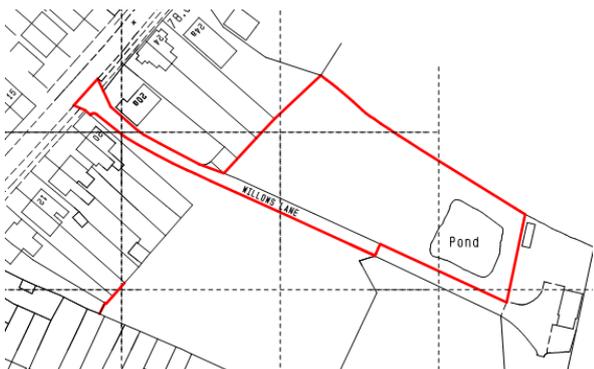
The photographs below illustrate the site



### Site 2 - PAP/2015/0587

The smaller site is also accessed off Willow Lane and will be referred to in the report for ease of reference as 'Site 2'. It is currently vacant land. It was formerly screened with Leylandi and hedgerow boundaries but the screening has been cleared and the site is now open, contained by temporary Herring fencing. The former arable field to the north of the site is under construction as a housing estate. The allotments land which forms part of site 1 is situated to the south on the other side of the lane.

The site area is approximately 0.21 ha and is shown below.



The interior of the site is rough grass with a pond (taken before the removal of the conifer boundary hedge).



The images below show the adjacent housing under construction.



The aerial image below shows both sites:



The photograph below shows Willows Lane looking towards its junction with Spon Lane.



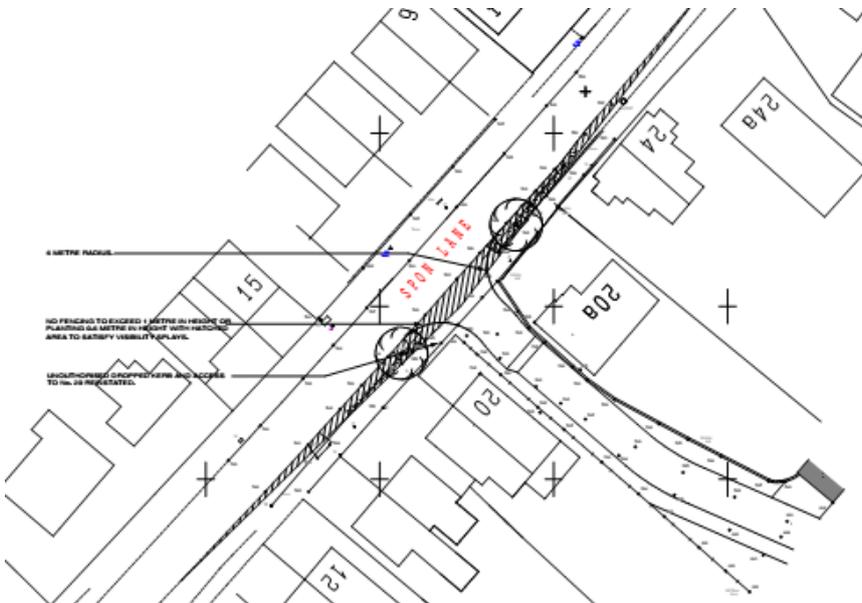
## The Proposals

### Site 1 - Outline application - residential development 14 dwellings and access

This is an outline application proposing the development of the site with 14 dwellings. All matters are reserved with the exception of access arrangements which are sought in detailed form. There is no illustrative layout but the schematic plan shown below identifies the developable area.



The proposed access arrangements are as shown below



### Site 2 - Residential development of 4 no: 4 bedroom dwellings and attached garages

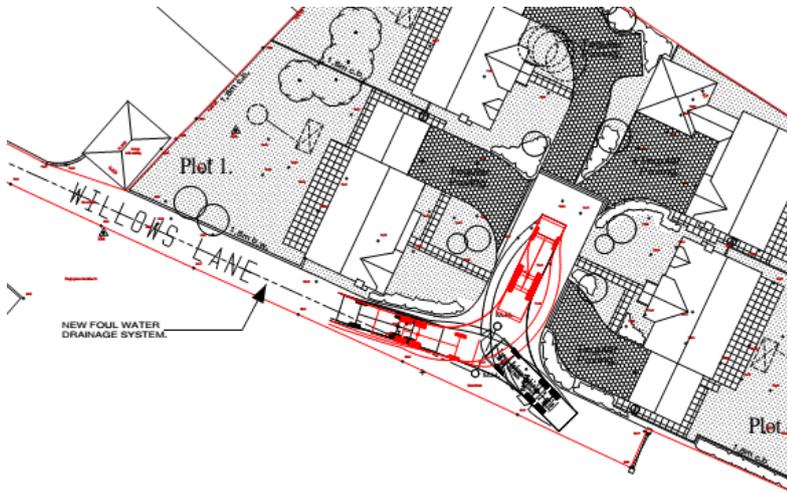
This is a full detailed planning application proposing the erection of four detached dwellings with garages. The site layout is as shown below:



The illustrations below show the variety of house types proposed. All are substantial two storey dwellings with attached double garages.



The illustration below shows that the site is accessible by a large vehicle, including refuse disposal vehicles.



**Background**

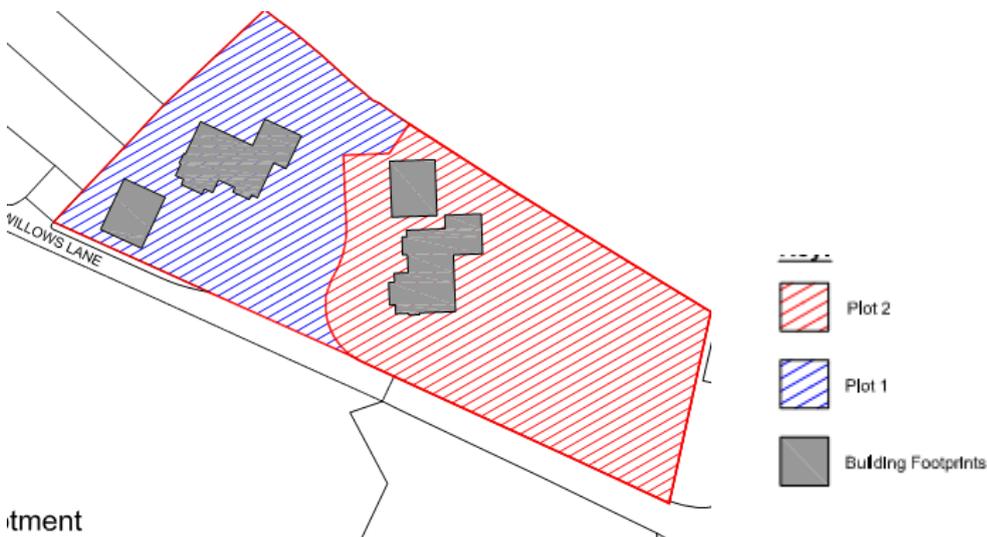
**Application No: PAP/2015/0587 – Site 1**

In July 2014 an outline application was made on this site proposing 21 dwellings and access improvements. Following concerns being raised about the access proposals and the loss of allotment land, the application was withdrawn in November. The applicant indicated that he would seek to address the concerns and re-present the application at a later date.

The application was resubmitted in October 2015. Initially it proposed 20 dwellings but was later revised to reduce the number to 14 and to introduce an area of open space. It is on this basis that the application is now to be determined.

**Application No: PAP/2015/0691 – Site 2**

Outline planning permission was granted in 2014 for the erection of two dwellings at the site. Approval of reserved matters then followed in September 2014. The approved details are shown below. The approved scheme included the retention of the on-site pond and its incorporation in the rear garden of Plot 2.





The current application seeks to increase the number of dwellings from 2 to 4.

## **Development Plan**

The North Warwickshire Core Strategy 2014 – NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW5 (Split of Housing Numbers), NW6 (Affordable Housing Provision), NW9 (Employment), NW10 (Development Considerations), NW11 (Renewable Energy and Energy Efficiency), NW12 (Quality of Development), NW13 (Natural Environment), NW14 (Historic Environment) and NW15 (Nature Conservation)

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV6 (Land Resources); ENV8 (Water Resources), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ECON1 (Industrial Estates) and TPT6 (Vehicle Parking)

## **Other Material Planning Considerations**

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

The National Planning Practice Guidance 2014 – (the “NPPG”)

The Council’s Preferred Options for Site Allocations – Pre-draft Submission 2014.

The New Homes Bonus (NHB) would apply to these applications.

## **Consultations**

### **Application No: PAP/2015/0587 – Site 1**

Environmental Health Officer – No objection subject to conditions.

Warwickshire Museum – No objection subject to conditions.

Severn Trent Water – No objection subject to conditions.

Lead Local Flood Authority – The County Council has indicated that it required a Flood Risk Assessment and Drainage Strategy. This was communicated to the applicant. Following a reduction in the amount of development sought and the introduction of an area of open space, the applicant queried whether the matter could be dealt with by condition, on the basis of his confirmation that he intends to incorporate a sustainable drainage scheme within the open space, including attenuation ponds, swales, etc. as

well as permeable paving throughout the development and French drains and water butts provided in the residential areas. The observations of the LLFA are still awaited.

Warwickshire County Council as Highways Authority – The County objects to the application for the following reasons:

1. It has not been demonstrated that a large refuse vehicle as used by North Warwickshire Borough Council can enter and leave the site using a forward gear.
2. It has not been demonstrated that a large vehicle waiting in the access to the site can be passed by another vehicle entering the site.
3. It has not been demonstrated that the visibility splays from the necessary pedestrian tactile crossing points can be maintained.
4. Pedestrian access into the site is not considered suitable.
5. It has not been demonstrated that the bellmouth can be constructed in accordance with guidance.
6. With the loss of the pedestrian crossing on the A5 the location of the site is considered less sustainable, and potentially contrary to the Warwickshire Local Transport Plan 2011 -2026.

### **Application No: PAP/2015/0691 – Site 2**

Environmental Health Officer – No objection subject to conditions.

Warwickshire Wildlife Trust - The surveys are adequate to inform decision making for this site. As no Great Crested Newts or reptiles were found, there is a very low risk of an offence resulting from this development. Good working practises should be a conditional requirement of any planning permission.

Warwickshire Museum – The proposal is unlikely to have a significant archaeological impact, therefore, no comments.

### **Representations**

#### **Application No: PAP/2015/0587 – Site 1**

**a) Letters of objection have been received from 18 correspondents** which raise the following concerns:

- The development will cause overlooking, loss of privacy and will impact on the peaceful enjoyment of neighbouring homes and gardens.
- Loss of open views of the countryside
- Loss of dark skies and light pollution at night.
- This area is prone to flooding and damp and the development of this green field site would enhance these problems. There has been localised flooding in the general area of Spon Lane as well as problems of sewerage capacity resulting in the backing up of effluent into private gardens. If these issues have not been resolved it is possible that drainage of the site could exacerbate them to the obvious detriment of the locality.
- The site was used by villagers to grow their own fruit and vegetables, until the previous planning application for this site was submitted and they were told they could no longer plant there.
- There is no need for additional housing in the village. The development at Dairy Farm is adequate to meet housing need.

- If there is felt to be an unmet housing need it should be delivered on brownfield sites such as the Sparrowdale School/former waste disposal sites.
- The access serving the site is inadequate in width and overall design to cater for the additional traffic which would be generated by the additional dwellings. The track already serves the residential and commercial traffic generated by 'Willow Trees' and will also serve the 2 new dwellings granted planning permission at the rear of 20a to 24a Spon Lane.
- The objectors concur with the detailed concerns of the Highway Authority; the highway arrangements for servicing the development would be unacceptable.
- The revised access is now skewed at the entrance. Cars/trucks entering Willow Lane would have to dangerously veer to the left towards the brick boundary wall of 20A Spon Lane.
- The additional traffic would cause a hazard on Spon Lane and on the A5.
- Cars parked on Spon Lane will interfere with access to and from Willows Lane and will obstruct visibility.
- Spon Lane and Willows Lane are not suitable for emergency vehicles.
- The application site incorporates land owned by others. The submitted plans still do not show all the land necessary to carry out the development, ie. in this case the visibility splays, outlined in red, and the application should not have been validated. The application does not address or acknowledge the existence of the 2 trees on the Spon Lane frontage within the visibility splays which are technically part of the application site.
- The absence of an up to date ecological and arboriculture assessment was criticised. Even following the submission of some ecology surveys important issues such of trees and ecology have still not been fully addressed. No bat survey appears to have been undertaken. The ecological study is incomplete in that the study area omits the grassed area abutting Willows Lane, most which was also used as allotments.
- Notwithstanding the submitted amendments, the application still refers to access as the only matter applied for at this stage. The 'new' housing area indicated along with the landscaped buffer are still technically indicative and appear to have been introduced to placate residents' concerns about development immediately at the rear of their houses. The application still only relates to access. It does not include landscaping and if permission is granted, it is at least possible that subsequent proposals will be submitted to develop the whole site to maximise its potential.
- The scheme would need to make provision for access to maintain the rear boundaries of adjacent properties.
- The adopted Local Plan Proposals Map, the application site is outside the settlement boundary of Grendon and is identified as countryside.
- More than 50% of the site is private allotments, currently unused. They are not statutory allotments but that does not mean that they have no protection. Policy NW13 'Natural Environment' of the Council's adopted Core Strategy of 2014 refers to the protection from development of 'Green Infrastructure'. This is stated to include non-statutory allotments and private gardens.
- The Council's monitoring report of 31 March 2015, sets out the situation on the Borough Council's 5 years' housing land supply. It is clear that using the Sedgfield method of calculation which in this case includes sites from the Warwickshire Local Investment Plan to achieve the required 20% flexibility, that the Council has a 7.6 year supply of housing land. The application site is not therefore presently required in order to fulfil the Council's housing land requirements.

- The site is not identified as a preferred option in the Draft Site Allocations Plan. Sufficient other land has been identified to meet the housing numbers for the settlement.
- Grendon and Baddesley Ensor are categorised as a 'Local Service Centre' in the Local Plan and land to accommodate a total of 180 dwellings was required to be allocated in the plan period. Consequently, the land to the rear of 12-24 Spon Lane was submitted to the Borough Council as a potential development option site in the request for sites for consideration. However, the land was not included in the final list of preferred options. It has been ascertained that the required number of dwellings can be obtained on other sites in the settlement designated as 'preferred options'.
- The Council has just issued another 'call for sites' letter to ascertain the current availability of potential housing land. This has been prompted largely by the housing shortfall in certain other West Midlands authority areas nearby, ie. Birmingham, Coventry and Tamworth. The extent to which North Warwickshire will have to accommodate a proportion of this shortfall is as yet unknown. Much more work and negotiation has to take place before the numbers can be reconciled and this will take some time. This problem should, however, not be taken as a reason to make any pre-emptive decisions by the applications process on the suitability of a site which has only recently been deemed to be less suitable for development in the monitoring report.
- The recently adopted Core Strategy and 2015 Monitoring report are not absent or silent on the matter of housing numbers and preferred options for sites to accommodate the dwellings which are known to have to be accommodated. Any other housing numbers and appropriate sites are as yet unknown and planning application decisions are not to be made on speculation of what may be needed.
- The development is contrary to planning policy and it is contended that the adverse impacts of, and deficiencies in, the application proposals far outweigh any perceived benefits which such proposals may be deemed to have.

#### **b) Mr and Mrs Reid, 20 Spon Lane**

The occupiers of 20 Spon Lane, Mr and Mrs Reid and their daughter, have written several times in respect of the proposed development. Their concerns are set out below:

Mrs Reid has the condition cystic fibrosis and, as a consequence has had a double lung transplant. The lung transplant has left her immune-compromised. Cystic fibrosis, (CF), is a chronic and progressive condition which is both incurable and life shortening. It mainly affects the lungs and digestive system, causing susceptibility to chest infections and difficulty maintaining weight. Medical evidence has been supplied on a confidential basis to support this.

Mr Reid advises that Mrs Reid's condition is such that she will always be in decline. It is also the nature of such transplants and the heavy medication associated with them. Mrs Reid's consultant confirms that dust (construction/poor quality air) has an effect on all people's lungs and environmental factors can influence patient's health and lung function. Given the delicate situation that Mrs Reid is in following her transplant, she will need to be very meticulous about her environment and on-going healthcare. She is being treated for deterioration in lung function which, in 2015, necessitated a period of further hospitalisation and treatment. She will always be immuno-compromised due to the medication needed to prevent fatal organ rejection.

Mr Reid advises that the timing of the organ deterioration coincided with a nearby housing development, the Bellway site, which has also generated a large amount of dust. He argues that she should not be subjected to undue stress or the physical effects of development. The inhaling the smallest amount of dust generated by building works could be harmful to Mrs Reid's condition.

It is suggested by Mr Reid that his wife would be expected to wear a surgical mask if there was any construction/demolition nearby. Given that their house and garden would border the building site on 2 sides there be no escape from it. Having to take these precautions around her own home would be unacceptable.

The reduction from 20 to 14 dwellings and the inclusion of a landscaped buffer between the proposed new houses and those existing properties fronting Spon Lane does not address the Reid's concerns as it does not alter the fundamental problem they face which is the inevitable effects of dust and dirt on Mrs Reid's health which will be generated by building works in close proximity.

Mr and Mrs Reid are concerned that the time taken to determine the application has been lengthy and that this delay is a cause of distress to him and his family.

The Reid's make the following detailed comment respect of the access and parking arrangements:

- The Reid's currently access their drive at an angle of 45 degrees across the "bellmouth" of Willows Lane as the front of the property is not deep enough to accommodate a vehicle at right angles without overhanging the footway. The revised junction design would be likely to make it more difficult for them to park outside their own home, something which they and their predecessors have enjoyed for many years. The plans now offer no parking whatsoever in the vicinity of the house for Mrs Reid, a registered disabled Blue Badge Holder.
- The removal of the ability for her to park close to her property infringes on her rights. Mrs Reid's consultant confirms that she has already lost over 1/3 of her new lung function and has many other associated illnesses that will affect her breathing and mobility in the future with an extremely high probability of the need for wheelchair usage and oxygen, it is now even more important that both the parking area and vehicle crossing in front of the house are retained.
- The revised highway design is more problematical than before given that in order to try to avoid the use of the corner of their front garden, the bell-mouth has been moved across the junction which has the effect of 'skewing' the entrance to the site itself, away from the required 90 degrees. This contrived 'adjustment' of the site entrance adversely affects the trajectory of vehicles – and particularly larger ones - entering the site from Spon Lane to the detriment of proper manoeuvring of the vehicles and will therefore adversely affect highway safety. It also fails to show the back edge of the footway which is still likely to encroach on the Reid's property.
- An early version of the application (when it proposed 20 dwellings) included an illustrative layout which made alternative parking provision for 20 Spon Lane with a new garage situated at the rear of the property's garden. This was in recognition of the conflicting access arrangements. The scheme has since been revised and no longer contains a proposal to erect a garage for use by occupiers of 20 Spon Lane, however, in respect of the proposed garage, Mr and Mrs Reid commented that he did not wish for such a garage in exchange for the ability to park immediately in front of their property given the need to minimise the

distance Mrs Reid has to walk to the car. The garage was indicated at the foot of the garden some 35 metres from the house, too far for Mrs Reid to be able to walk comfortably and safely at one time.

- The Reid's consider that they may exercise their permitted development rights to erect a wall, fence or other means of enclosure on their land adjacent to the proposed highway. This would severely affect visibility for pedestrians, especially small children, a situation exacerbated by the rising gradient of Willows Lane, notwithstanding the height limits imposed by the Order. This reinforces the argument that there is insufficient room between the adjacent houses to design such an access and estate road to serve the proposed number of new dwellings even those relating to the amended plans.

**c) Grendon Parish Council - Objects to the application as follows:**

- The Agent/Applicant has made no attempt to engage with the Community on this matter, whilst not a statutory requirement it is usual to do so and looks if they have something to hide.
- The Statement that Baddesley/Grendon is planned for a minimum of 180 houses does not ring true. We saw no mention of minimum in our deliberations of the Core Plan. Authorities plan on not only housing requirements, but the facilities and services that go with them. Throwing extra houses in willy-nilly will impact on the balance.
- Grendon already has 85 houses being built by Bellway with minimal facilities. Enough is enough until services are added.
- The statement regarding the Allotments being vacant is invalid. Mr Gayton informed the gardeners he was selling in 2014 and obviously they moved out to pastures new.
- Whilst not a Statutory Registered Allotment, it has been an Allotment since 1935 to our knowledge, and we shall be pursuing this matter.
- On the visibility plan we note the comment "unauthorised dropped kerb and access to No.20" What proof does the applicant have that this is unauthorised. We are aware it has been like this for at least 21 years.
- Spon Lane was laid out well before the general usage of motor vehicles, with a number of houses not having drives. Consequently cars are parked on both sides of the road making general access difficult especially for lorries.
- The addition of 85 houses at Penmire Rise will add to the problem. People from there will not walk to the newsagents but drive, causing even more congestion. We do not need 30+ more cars on this road.
- This is not in the NWBC Development Plan, but perfectly adequate Brownfield Land i.e. the old Sparrowdale School site is available.
- We fully agree with Tony Burrows letter of the 1st October 2014 to E Levy on the unsuitability of Willows Lane as to inadequate width, no passing point, access onto Spon Lane and the visibility for pedestrians while crossing it whilst walking down Spon Lane.
- We now would like to comment on the effect of all this on the owners of No.20, Mr and Mrs Reid. Mrs Reid has had a double lung transplant and parks at the front of their property. The Applicant/Agent is trying to force her to park in a provided garage at the rear and walk. As a registered disabled person does she have any protection in law from this pressure? If she were a bat or a great crested newt, this planning application would be a non-starter.
- the Reid's have spent a considerable amount of money and time adapting the house for her disabilities and should this application be granted, will probably

have to move as she will be unable to cope with the dust generated by the building work.

- We find it unacceptable that such pressure should be put on such a chronically sick person all in the name of financial gain, and for the reasons mentioned, request that you refuse this application.
- Concern regarding volume of traffic leaving and entering the site.
- Visibility splay of entrance may not be adequate.
- Density of site.
- Sewerage and drainage capacity may not be adequate in the area. Properties 46 and 48 Spon Lane were recently flooded after work started on the Bellway site.
- Constant planning applications and wrangles over land access make it impossible for Mr and Mrs Reid to be able to market their property. Materially the application has not changed and is removing the ability for Mr and Mrs Reid to park on their drive.

**d) 161 Pro forma letters** were received in relation to the original proposal as follows:

**A:** The proposed access to this site is too narrow to support this scale of housing and will create a very dangerous junction & as such, traffic from this site during construction and after will be a ***serious safety issue for children and vulnerable residents on a current "No Through" road. There also is no ability to achieve a suitable footpath along a part of the brick wall boundary for 20A Spon Lane, this is also a serious traffic safety issue.***

**B:** Last year's highways report for the previous application on this site, namely PAP/2014/0373 stated that the proposal would create around 200 movements of traffic per day to be added to Spon Lane. This figure would have to be added to the considerable existing traffic, both residential and commercial that is using the small lane at present.

**C:** Previous Highways reports for various sites along Willows Lane, including the one for PAP/2014/0373 (the application used previously for this site) have also indicated that visibility for pedestrians will be an issue. It also stated that cars will possibly stack up along Spon Lane. This will inflict problems on existing users of Spon Lane.

**D:** The road and access do not meet adoptable standards therefore there are no guarantees of any ongoing up keeping of the infrastructure. This will affect not only existing adjacent properties but also any of proposed new dwellings.

**E:** The indicated footpaths do not seem to be adequate for pedestrian needs. In particular, children, the elderly and disabled users will experience difficulty by having to enter Willows Lane before knowing if it is safe to cross Spon Lane. Entering Willows Lane also means navigating an uphill gradient, again causing difficulty to pedestrians in wheelchairs or those with pushchairs etc. who may wish to cross the junction. ***Road signage will also take up some of the footpath space, making them even narrower.!!***

**F:** The loss of this allotment ground remains an issue. It is the loss of a very valuable community amenity dating back many decades as indicated by historical maps of the area. It is currently only overgrown due to allotmenters being told verbally in early 2014 that they should not continue as houses are going to be built. This effectively forced allotmenters from the site.

**G:** The proposal will have a seriously ***negative impact*** on the character of the local area.

**H:** There will be serious loss of privacy to the houses adjacent to the planned dwelling. It ***will*** also affect existing easements and new ones will need to be created. For example the ability to dig up the private road for connecting services and also for 20A Spon Lane should they need to dig the road for the need to repair their wall inside Willows lane should a car damage it. ***This is actually once again an issue to address as the information is incorrect on the application form for this proposal.***

**I:** The traffic calming measures proposed will cause considerable noise and disruption to the adjacent properties. Any added infrastructure such as street lighting will also be an issue for all houses surrounding the site.

**J:** This site is not within the proposed future development sites as detailed within the Adopted Local Plan (Core Strategy) therefore is not required to meet the needs of the area moving forward. This Local Plan is adequate to meet the future housing needs in line with Government guidelines. There are also already many Brownfield sites available for extra housing within the local area. I believe these to be far more suitable than this Greenfield site.

e) **A further 103 pro forma letters** were received in May 2016 in respect of the revised proposal, as follows:

This does not form part of any petition. It outlines my further points of objection to the above application *as an individual*.

**A:** All of my and other objectors previous comments should remain valid to this application, regardless of this re consultation. I require them to still be used in the determination process.

**B:** The latest proposed access to this site remains too narrow to support such scale of housing and does not alleviate concerns of this becoming a very dangerous junction & as such, traffic from this site during construction and after will be a serious safety issue for children and vulnerable residents on a current "No Through" road.

**C:** The amended proposal of March 2015 shows that the geometry of the bellmouth access to be formed is now skewed at the entrance. This does not alleviate vehicle safety concerns but simply adds to it. Vehicles turning here immediately have to veer to the left towards a brick wall of number 20A! For the council to even consider this seems ludicrous!



**D:** In October 2015 WCC Highways objected with 4 clear reasons as to why this access would be unsuitable. This is in addition to all previous objections made by WCC Highways. Most, if not all of the issues remain and seemingly cannot be overcome by the applicants.

**E:** Information provided for this application has been constantly challenged since its first submission for permission in 2014 on PAP/2014/0373. Land ownership certificates, previous/current usage, ecology, statements of trees within the site etc. were all highlighted by objectors yet not addressed by NWBC prior to validating the resubmission as PAP/2015/0587. It appears to be a confusing application with issues regarding its information.

**F:** The indicated footpaths do not seem to be adequate for pedestrian needs. In particular, children, the elderly and disabled. It also does not show the back line of the footpath! Road signage will also take up some of the footpath space, making them even narrower!!

**G:** The proposal will have a seriously negative impact on the character of the local area.

**H:** The submitted Ecology reports indicates that only part of the site was considered in the study. Not ALL land of interest!

**I:** The council must consider equality issues in this application. It seems there is inadequate infrastructure for all user groups and Mrs Reid of 20 Spon Lane is a blue badge holder and registered disabled. The continued need for parking outside her house is imperative! This proposal removes the existing access route for this disabled driver.

**J:** This site is not within the proposed future development sites as detailed within the Adopted Local Plan (Core Strategy). Therefore is not required to meet the needs of the area moving forward. This Local Plan is adequate to meet the future housing needs in line with Government guidelines. There are also already many Brownfield sites available for extra housing within the local area. I believe these to be far more suitable than this Greenfield site.

## **Application No: PAP/2015/0691 – Site 2**

a) **Six letters of objection** have been received raising the following concerns:

- Vegetation which formerly screened the site has been removed.
- Increased traffic using the site would be unsafe.
- Sewage capacity is inadequate.
- The development will exacerbate flooding problems.
- A 1994 application was refused at this site.
- There will be an increased number of pedestrians using Spon Lane as a result of the Bellway homes development. They would come into conflict with vehicles accessing this development.

- The standard of Willows Lane would be unsatisfactory for the number of dwellings now proposed. There will be no separation of vehicles and pedestrians on Willows Lane.
- There is insufficient provision for visitor parking.
- Access for refuse disposal is unsuitable.
- A fire appliance recently experienced difficulty accessing the site.
- Work has already commenced on site clearance. The site clearance could have harmed the ecological value of the site.
- The archaeology of the site should be investigated.
- The owner of adjacent property (20A Spon Lane) indicates that the developer may not rely on any land within his ownership in order to implement any planning permission given.
- The development will cause a loss of privacy.
- Access could cause damage to the adjacent boundary wall.
- Construction activity will cause noise and disturbance.
- The installation of new services could cause damage to an existing wall and garage.
- Significant improvements will need to be made to Willows Lane if more than two extra houses are proposed.

Mr Reid also objects to this application on the grounds that it would have an adverse impact on his wife's health.

**b) 17 Pro forma letters** were received as follows:

In respect of the above planning application I object to the proposal & hereby highlight, *as an individual*, my main concerns which I believe to be very valid planning points of objection to be considered.

**A:** The proposed access to this site is too narrow to support this scale of housing and compromises safety at the junction. As such, traffic from this site during construction and after will be a *serious safety issue for children and vulnerable residents on a current "No Through" road. There also is no ability to achieve suitable footpaths to service an increase in dwellings along Willows Lane, this is a serious traffic safety issue. To have a further increase in housing and/or planned housing along Willows Lane should make provisions for proper infrastructure suitable for all types of road users, including the disabled. Traffic here travels at considerably high levels of speeds*. Road safety and pedestrian safety have been highlighted in recent Highways reports for other applications within Willows Lane. Visibility for pedestrians is hindered by the borders at the access with number 20 Spon Lane and the wall of 20A. An increase to 4 houses will only highlight the safety issues further.

**B:** The new plans show much less room for vehicles within the site than the agreed 2 houses. With 4 houses proposed on this application a larger increase in traffic is expected and this would include delivery vehicles, refuse collection and visitors. No provisions for extra associated parking are indicated. The access and site do not seem adequate to cater for any extra housing. Especially considering the pedestrian safety concerns raised.

**C. Work has already begun on the site:** In recent weeks the ground has been cleared. They also cleared a large amount of trees which screened this site without any regard and set fire to them. This fire lasted 3 days!! This is surely not a professional approach to a construction site and raises issues regarding monitoring of any agreed or future work here.

**D. Fire and Emergency Vehicles:** On November 4<sup>th</sup> 2015 Atherstone Fire and Rescue attended the site when the trees were ripped down and set alight. The Fire Engine had some difficulty navigating Willows Lane due to the tight access and vehicles parked within the lane. This further highlights issues regarding safety and sustainability of this site.

**E. Sustainability:** It is now thought that the allotment site is unsustainable due to Bellway winning their appeal to remove the proposed crossing on the A5. A huge increase in pedestrians is expected with the Penmire Rise development and all facilities are only accessible by crossing a busy main road. These are facilities such as; school, doctors, pharmacy, public house etc.

**F: Two Houses versus 4:** A statement was made when the original application on this site was made. (PAP/2014/0465) It was stated that the applicant did not want the site associated with a larger scheme. This situation has clearly changed given that the applicant on this occasion has now engaged the same agent as for the Allotment site which is still pending.

**G:** The proposal will have a seriously **negative impact** on the character of the local area.

**H: Flooding:** There are still unanswered questions regarding localised flooding in Spon Lane and issues regarding capacity and backing up of effluent waste. These issues were highlighted recently by Severn Trent. To keep adding more and more houses is only likely to increase the risks to the local area and community.

**I:** This site is not within the proposed future development sites as detailed within the Adopted Local Plan (Core Strategy) therefore is not required to meet the needs of the area moving forward. This Local Plan is adequate to meet the future housing needs in line with Government guidelines. There are also already many Brownfield sites available for extra housing within the local area. I believe these to be far more suitable and sustainable than this site.

## **Observations**

### **a) The Principle of Development**

The sites lie outside, but adjacent to, the development boundary for Baddesley Ensor and Grendon as defined by the Development Plan. The development boundary adjoins the whole length of its southern and western boundaries of Site 1 and adjoins the western boundary of Site 2. Policy NW2 of the North Warwickshire Core Strategy (Adopted October 2014) indicates that the settlement is a Category 3A settlement. Here, the policy indicates that, development will be permitted in “or adjacent to” development boundaries that is considered to be appropriate to its place in the settlement hierarchy. Developments comprising 14 and 4 dwellings respectively would thus both be appropriate to their place in the settlement hierarchy.

Policy NW5 identifies that a minimum figure of 180 houses will be directed to settlement. The Council’s Preferred Options for Site Allocations – Pre-draft Submission 2014 identifies sites in excess of this number (216 dwellings). The application sites are not amongst the allocations.

The settlement has a range of services and facilities and is well linked to public transport routes. This was the relatively recent finding of the Planning Inspector who allowed the development of another site off Spon Lane where 85 dwellings were allowed. The overall view is that these proposals do constitute sustainable development and that it aligns with the Development Plan. The presumption is thus in favour of the grant of a planning permission on both of these sites.

It is necessary therefore to assess the specifics of the proposals in terms of their impacts, such as highway, amenity, ecology impacts, to establish whether there are any adverse impacts of, or deficiencies in, the application proposals that outweigh the NPPF objective of “significantly boosting the supply of housing”.

### **b) Housing Land Supply**

Notwithstanding the Core Strategy Policies NW2 and NW5, objectors argue that the development should not be allowed in light of the Council being currently able to demonstrate a five year supply of housing.

The Council's latest figures for Housing Land Supply date from 31 March 2015. A 20% buffer is required to address previous undersupply during the first 5 years of the plan period. The Council can evidence a current 5 year housing land supply of 7.69 years (as of 30 September 2015). This has been tested at appeal and has been found to be sound.

These 5 year housing land supply figures relate to our current Adopted Core Strategy and draft Site Allocations plan (June 2014) housing figures of 3650 (our 3150 Objectively Assessed Need (ONA) figure with an additional 500 from Tamworth).

It is acknowledged that the housing supply position is not static. Through joint Duty to Co-Operate work within the Coventry and Warwickshire Sub-region, there has been agreement made to accommodate some of Coventry City Council's housing requirement due to a shortfall in their capacity to address/deliver their requirement. This is reflected in a recent Memorandum of Understanding (MoU) between the Joint authorities and North Warwickshire which has agreed a figure of 5280, which includes our current OAN, an element of the Coventry shortfall and an element of "economic uplift" to the housing numbers to encourage growth. The Borough's Local Development Scheme (LDS) has been updated to reflect the need to bring forward a revised Local plan to address these increased housing figures.

The updated March 2016 LDS programme includes an Autumn 2016 date (late September/early October) for publication and public consultation of a North Warwickshire Local Plan Submission Draft DPD. This document will include an updated Core Strategy Policy for the new Housing and Employment land requirements/figures, as part of the consultation and document. It will take the 5280 figure as a minimum housing requirement to be addressed by the Plan.

It is likely that, from that point on, the updates for the Five Year Housing Supply will need to reflect the changed housing requirement. However, until the publication of that document, the current Five Year Housing Supply calculations remain based on our current adopted Core Strategy housing requirement and OAN, as noted above, and any other suggestions/assertions would be considered premature.

For further clarification, it should be noted that the MoU noted above deals directly with the housing needs arising from within the Coventry and Warwickshire Housing Market Area (HMA). It does not address any shortfall arising within the Greater Birmingham HMA. Although work to assess the shortfall from the Greater Birmingham HMA is progressing, at this point in time it is not clear to what extent any unmet need will have to be met within Coventry and Warwickshire sub-region and in particular Stratford-on-Avon and North Warwickshire (these two local authorities fall partly within the Birmingham HMA) . At this current stage, therefore, the Five Year Housing Supply calculations (for North Warwickshire) will not take into account or reflect any shortfall arising from Birmingham City's situation.

In conclusion, whilst it is true that housing land supply is never a static position, and will change as housing need is re-assessed, the current position is that the Council can demonstrate that it has a five year housing land supply with a 20% uplift, and, in relation to paragraph 49 of the Framework, relevant policies for the supply of housing can be considered up to date.

However, the NPPF advises us that local planning authorities should seek to boost significantly the supply of housing and that housing applications should be considered in the context of the presumption in favour of sustainable development. Notwithstanding

the current position in respect of the availability of a five year supply of housing land, it is necessary to ask whether the proposal could be regarded as sustainable development such that there would be a presumption in favour of it.

### **c) Amenity**

#### **Application No: PAP/2015/0587 – Site 1**

The site is of an adequate extent to enable the provision of 14 new dwellings with adequate standards of residential amenity for occupiers of new dwellings. Surrounding dwellings have good sized rear gardens and development on the application site is unlikely to result in such levels of overlooking or loss of privacy that the refusal of planning permission would be justified. Occupiers of property have no entitlement to views across the property of others. The concern about loss of views cannot therefore be substantiated as a reason for the refusal of planning permission.

The site is surrounded on all sides by existing dwellings or new dwellings under construction and in the near vicinity of a major road. The loss of this site to development is unlikely to have any significant impact on the darkness of skies in the locality.

#### **Application No: PAP/2015/0691 – Site 2**

The site is of an adequate extent to enable the provision of four new dwellings with adequate standards of residential amenity for occupiers of new dwellings. Surrounding dwellings have good sized rear gardens and development on the application site is unlikely to result in such levels of overlooking or loss of privacy that the refusal of planning permission would be justified. Occupiers of property have no entitlement to views across the property of others. The concern about loss of views cannot therefore be substantiated as a reason for the refusal of planning permission.

The treatment of the boundary with the properties under construction will need to be a substantial one in order to maintain privacy for occupiers of both sets of dwellings. The side elevations of two proposed dwellings will face the properties currently under construction. It is not envisaged that any loss of privacy will result.

Given that the proposed dwellings will have large footprints and sit on relatively small plots and have near residential neighbours, the exploitation of full residential permitted development could have significant adverse effect on neighbouring properties. To retain control in respect of this potential harm it is proposed that if planning permission is granted, residential permitted development for extensions, roof alterations and garden buildings be removed.

### **d) Drainage and Flooding**

#### **Application No: PAP/2015/0587 – Site 1**

Severn Trent Water offers no objection to the application in principle. It would require the submission of detailed drainage plans for the disposal of surface water and foul sewage as a requirement of a condition of any planning permission.

The LLFA has objected to the application on the basis that the proposed surface water strategy fails to incorporate sustainable drainage principles and required the submission of a FRA and sustainable drainage strategy. The applicant has responded by querying

whether the matter may be dealt with by condition, on the basis of his confirmation that they intend to incorporate a sustainable drainage scheme within the open space, including attenuation ponds, swales, etc. as well as permeable paving throughout the development and that French drains and water butts will be provided in the residential areas. The observations of the LLFA are awaited.

Whilst it appears likely that the site will have sufficient capacity to accommodate a sustainable drainage solution, members will be updated on the stance of the LLFA at the Board. The absence of information in this respect may need to form a reason for refusal if an objection is maintained.

#### **Application No: PAP/2015/0691 – Site 2**

The site is below the threshold for consultation with the LLFA. Severn Trent Water offers no objection to the development of the site. In these circumstances there is no evidence to show that the additional two dwellings proposed here would materially impact on any surface or foul water flooding or capacity problems.

#### **e) Highway Safety**

#### **Application No: PAP/2015/0587 – Site 1**

The access arrangements are of significant concern to those who object to the planning application. The route travels between two existing dwellings and the dimensions available for the creation of a two way carriageway with adequate visibility and safe arrangements for pedestrians are very constrained. Furthermore, the properties which border the access route are situated close to the boundary of the application site and have boundary treatments which either currently constrain the access arrangements or could, by exploiting permitted development rights, further constrain the access arrangements.

Because of the present vehicular access arrangement the occupiers of 20 Spon Lane have elected not to erect a boundary fence all along the side boundary of their land. The side fence presently stops approximately two fence panels short of the back edge of the public highway footpath. There would be nothing to stop the occupiers of the property installing a new one metre high boundary wall/fence. This would have the effect of impeding visibility for drivers using Willows Lane, particularly in respect of pedestrians using the footways.

The occupiers of 20A Spon Lane have a wall and railings which are supplemented with bamboo canes (see photo). This wall serves as an impediment to sight of pedestrians using Spon Lane for drivers of vehicles using Willows Lane.



The Highway Authority objects to the scale of development proposed in this application, indicating the following detailed concerns:

- It has not been demonstrated by way of a swept path analysis that a large refuse vehicle, as used by North Warwickshire Borough Council, can access the site.
- It indicates that the access design has altered. An access width of 5 metres may be maintained but it is not laid out at 90 degrees to the public highway. As such, if a wide and / or long vehicle were waiting in the access another vehicle may not be able to pass.
- The pedestrian visibility splays from the crossing points across the proposed bellmouth access are not shown on the submitted drawings. It needs to be shown that pedestrians can see into the access to safely cross and that drivers leaving the site are able to see pedestrians crossing / waiting to cross.
- The proposed layout does not show where pedestrians entering the site will be able to walk. The desire line into the site for pedestrians could be from both directions along Spon Lane. As a bellmouth access is proposed a footway should be provided both sides of the access, and should extend into the site to a suitable point where pedestrians could share the driveway or a footway should continue. Entering the site from the direction of number 20 the footway narrows to approximately 1 metre, which is not wide enough for two people to walk side by side. From the direction of number 20a the footway would be less than 900mm in width and tapers to less than a width of a pedestrian within 3.5 metres of the near edge of the public highway footway. Neither footway access appears suitable.
- To accord with guidance the gradient of the bellmouth should not exceed 1:50. The proposed levels shown on the submitted do not appear to accord with guidance.
- The signalised crossing on the A5 will no longer be provided. As such, pedestrian access to the school, youth club, park, pharmacy, church and public houses located on the opposite side of the A5 may not be so attractive or practical.

The Highway Authority firmly maintains the belief that a bellmouth access is required for this scale of development, not only for maintenance reasons, but for safety also. The levels within the access do not help vehicle braking on the approach to the highway. The straight line within the site does not help reduce speeds either. A chicane feature would need to be installed close to the highway to slow vehicles down, but this could affect the size of vehicle able to access the site or affect other accesses / potential access points. It contends that pedestrian visibility will be compromised even with a dropped kerbed access, especially for those crossing from the front of 20 to the front of number 20a.

Despite several attempts to devise an access layout which meets standards, the applicant has failed to address the Highway Authority's concerns. On this basis it recommends that planning permission be refused.

#### **Application No: PAP/2015/0691 – Site 2**

The Highway Authority takes a different stance in respect of this proposal given its reduced scale. It finds that the submitted drawings adequately show that a large refuse vehicle can enter Willows Lane using a forward gear, turn around and then re-enter Spon Lane using a forward gear. As such, the site should be able to be serviced in accordance with guidance.

The Highway Authority advises that, as a result of many visits to the site, it is apparent that a lot of material transfer is occurring from the access to the site in to the public highway, despite the access having been re-surfaced. So, it advises that the length of bound surfacing within the driveway should be extended by at least 10 metres to prevent the transfer of material. The Highway Authority's response is one of no objection subject to conditions.

#### **f) Affordable Housing**

The Core Strategy Policy NW6 indicates that for schemes of between 1 and 14 inclusive units 20% affordable housing provision will be provided. This will be achieved through on site provision or through a financial contribution in lieu of providing affordable housing on-site. This will be calculated using the methodology outlined in the Affordable Housing Viability report or subsequent updated document and is broadly equivalent to on-site provision.

However, following a recent Appeal Court decision, paragraph 031 of the NPPG has been revised. The revision exempts small sites from affordable housing and play open space contributions where developments of 10-units or less and which have a maximum combined gross floor space of no more than 1000sqm. The updated guidance indicates that the approach in Policy NW6 is now partly out of date.

#### **Application No: PAP/2015/0587 – Site 1**

This application proposes 14 dwellings and will therefore be above the threshold identified in the recent revision to Planning Guidance. The provisions of Policy NW6 will therefore apply. The applicant recognises this and has indicated an acceptance of a condition relating to the need to agree affordable housing measures equating to a 20% provision and the proposal would be policy compliant in this respect.

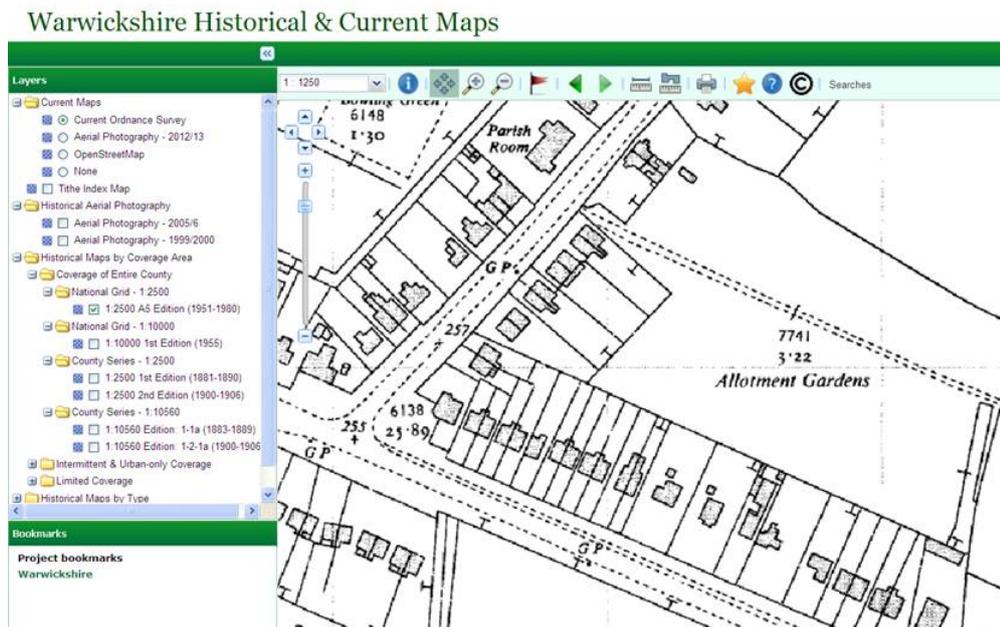
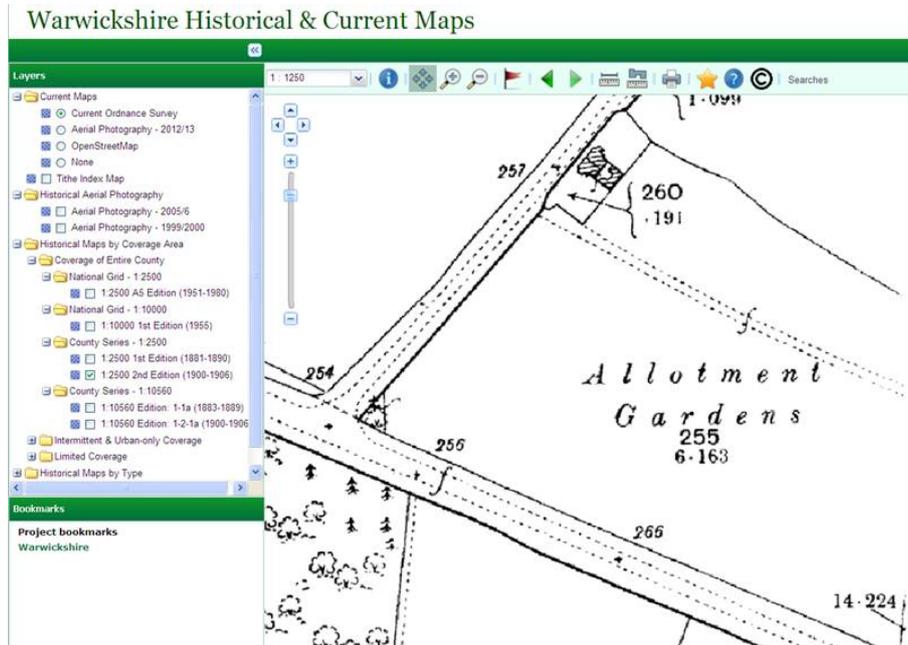
#### **Application No: PAP/2015/0691 – Site 2**

This application proposes 4 dwellings. It is therefore below the 10 dwellings threshold in the new NPPG. The combined gross combined floor area for the four dwellings does not exceed 1,000sqm. The scheme is therefore exempt from the need to provide affordable housing, in accordance with up to date planning guidance. The proposal would be policy compliant in this respect.

## g) Other Matters

### Application No: PAP/2015/0587 – Site 1

The application site is, in part, an allotment garden. It has a very long history of such use. It is shown on the 1900-1906 map and 1951-1980 map as such – see map extracts below.



The Council has undertaken an audit of green spaces which included an audit of allotment land in each settlement. The Audit (dated 2008) established that the settlement of Baddesley Ensor and Grendon had an under supply of allotment land, although there are other allotment sites in the settlement.

The NPPF sets out the following:

73. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning

policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required.

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

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

Given the specific needs assessment that has been undertaken and the finding of an existing under provision, as well as the value attributed to the allotments by local people, the applicant was asked to show how the loss of allotments here would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location if the current allotments are to be built on.

The applicant has submitted evidence to show that the allotments are not statutory allotments. That issue has never been in contention. It is agreed that they are not statutory allotments.

The issue is that the development of this land would lead to a loss of allotments/allotment opportunity. The application has been revised in recognition of the loss of the allotment land to provide a fairly substantial area of open space, though not of an equivalent size to the allotment land, nevertheless are reasonably large area that can be accessed by occupiers of both the proposed dwellings and, potentially, others living in the area. Given the presence of other allotment opportunities in the settlement, the date of the Green Spaces Audit and the provision of compensatory open space, it is deemed unlikely that a reason for refusal based on the loss of allotment land could be sustained.

The Council's Environmental Health Officer advises that the proposed development is on land which comprises turn of the century (last century) allotment gardens. Allotment practices are known to have the potential for contamination of the land with regard to use of asbestos containing materials, heavy metals, PAH contamination and hydrocarbon contamination as a minimum. As a consequence there is a recommendation in the event that permission is granted for the development that a site investigation is carried out on the land. This matter can be addressed by conditions and there are no ground condition matters that would suggest against the grant of planning permission.

The County Archaeologist advises that it is probable that this site has been in agricultural use since at least the medieval period. Whilst there are no known pre-medieval features known from the immediate vicinity of the site (other than the Roman Watling Street which runs to the south), this may be due to a lack of previous archaeological investigations across this area, rather than an absence of activity during the pre-medieval periods. There is the potential for the proposed groundworks to disturb archaeological deposits, including structural remains, boundary features and rubbish pits, associated with the occupation of this area during the medieval and later periods. The archaeologist does not object to the principle of development, but

considers that some archaeological work should be required if consent is forthcoming. This should take a phased approach, the first element of which would include a programme of trial trenching. There is no archaeological reason that the site could not be developed for housing.

The agent acting on behalf of the Reid's suggests that, notwithstanding the submitted amendments, the application still refers to access as the only matter applied for at this stage. He argues that the 'new' housing area, along with the landscaped buffer are still technically only "indicative". The application still only relates to access. It does not include landscaping and if permission is granted, it is at least possible that subsequent proposals will be submitted to develop the whole site to maximise its potential. This is a matter which could be clarified by a condition of any outline consent. It would be appropriate to attach a condition defining the developable area and specifying the maximum number of dwellings. Similarly, for reasons relating to the loss of the allotments, it would be appropriate to condition the requirement for the area of open space and defining its extent.

#### **h) Both Applications – Land Ownership Issues**

In the course of determining the application, the owners of 20A and 20 Spon Lane have queried the accuracy of the ownership Certificates served with the applications.

Investigations with Land Registry found that incorrect ownership certificates were submitted originally in respect of Site 2. When the errors were identified in respect of Site 2 the application was treated as being invalid and placed temporarily on hold. When the correct certificates were received the application was restarted with a new timeframe for determination.

In respect of Site 1, two submitted plans contained an inconsistency, with one showing that the proposed access would, for a small part, encroach onto land owned by Mr and Mrs Reid. The plans were subsequently revised to show no reliance on land in the Reid's ownership. There was therefore no requirement for revised ownership certificates to be completed in respect of Site 1.

Officers are now satisfied that correct notice has been served on those with an ownership interest in the application sites. If the application proposal relies on land that is not presently in the ownership of the applicant it does not preclude the Planning Authority from granting a planning permission, it would be a matter for the developer to secure rights to the land before he was able to implement the planning permission.

An objector takes the view that the submitted plans still do not show all the land necessary to carry out the development in the red line of the application site, ie. - the necessary visibility splays should be included in the red line of the application site. Officers are satisfied that the red line is of an appropriate extent. The land required for visibility is in the public domain and within the control of the highway authority.

#### **i) Interim Conclusions**

For the reasons set out above, it is considered that the proposals on Site 1 should not be supported because of concerns about highway safety, but that the development proposed at Site 2 represents sustainable development and may be supported subject to conditions.

**j) Both Applications - Effect of the Proposed Developments on the Health of Mrs Reid**

It is now necessary to address whether, despite the interim conclusions above there are any circumstances that indicate that the application at Site 2 should be refused and whether the application at Site 1 should carry an additional reason for refusal based around the health concerns identified in respect of Mrs Reid.

Mrs Reid occupies 20 Spon Lane, an extended semi-detached house which lies immediately adjacent to the south western side of Willows Lane where it meets Spon Lane. Mrs Reid has the condition cystic fibrosis and, as a consequence has had a double lung transplant. The lung transplant has left her immune-compromised. Medical evidence has been supplied on a confidential basis to support this.

The family believes that the Council should accept they have a duty of care for a person with a serious health condition and argue that the family health considerations should be a material consideration in the determination of the planning application.

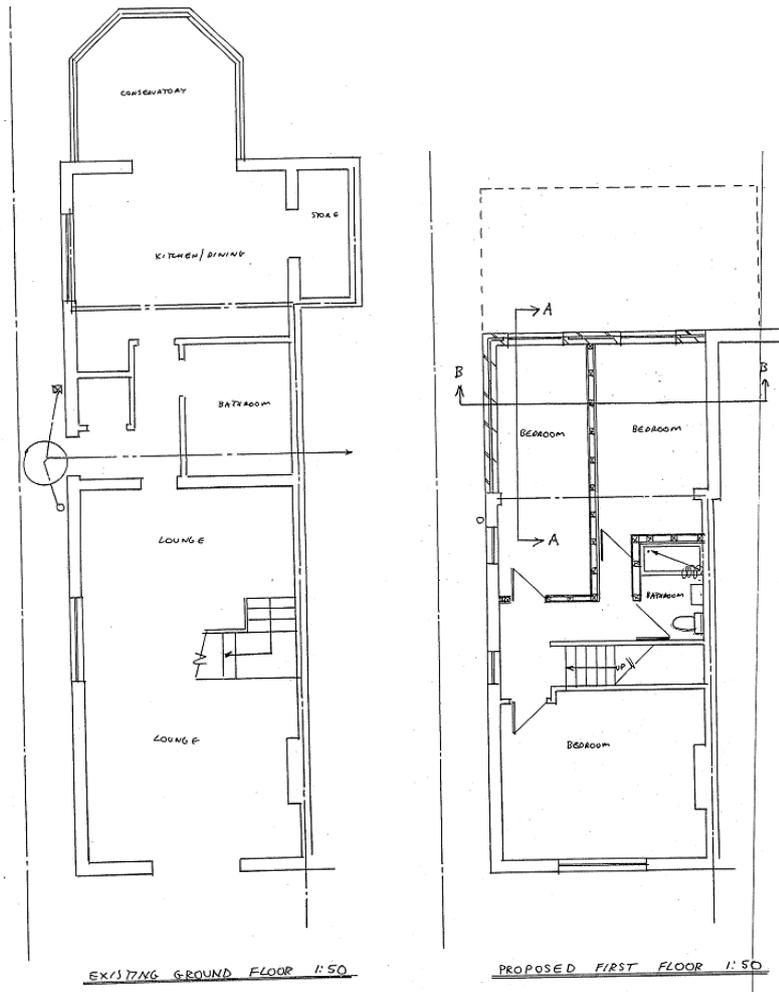
Counsel advice has been sought in respect of the extent to which the health considerations of Mrs Reid will be a material consideration in the determination of the planning application. That advice is reproduced in full in Appendix One of this report.

In brief, the advice is that as a matter of principle, personal circumstances are always present in the background to the consideration of the character of land use, but may sometimes be given direct effect in development control as an exceptional or special circumstance, and that the health needs of Mrs Reid are capable of being a material consideration. The weight to be attached to any given material consideration is a matter for the decision maker. Being a relevant material consideration, however, does not necessarily make it a determinative matter. Even if the Council concludes that the construction period upon permission would cause material harm to the health of Mrs Reid, it does not follow that the application should be refused. This is but one matter in the weighing scales and will have to be weighed against the various benefits of the proposal.

The concerns principally relate to the effect of the construction phase on Mrs Reid's health due to the probable increase in airborne particles, but also to disturbance from future use of the land for housing. Concern is also expressed about the effect on the current car parking arrangements enjoyed by the family, the effect that the development may have on Mrs Reid's ability to park her car on the frontage of her property and the effect that changed parking arrangements would have on her health because of increased walking.

Counsel advice indicates that judging the impact on Mrs Reid will require an appraisal of the particular characteristics of her home.

- The internal layout of the property is as shown below:



- The images below show the rear of Mrs Reid's home. It has been extended with a two storey rear extension (sometime between Sept 2008 and Sept 2011) and has a single storey kitchen extension which extends beyond the two storey element, with a glazed conservatory beyond. The rear garden is fully enclosed with a tall close boarded fence. The rear garden does not contain any trees or tall vegetation that might be a barrier to the movement of dust or particles.



- Though the lounge to the property is at the front, the kitchen/dining/conservatory will be, to a degree, be used as living accommodation. The lounge and kitchen also contain windows facing the access route.
- Construction traffic would pass along the side of the property and the dwellings would be constructed to the rear of it.
- The distance between the edge of the developable area and the rear of the ground floor conservatory would be approximately 45 metres.
- The Council's Environmental Health Officer advises that the prevailing wind direction will generally be from the south west. Therefore the general prevailing wind direction will be away from, rather than towards, Mrs Reid's property.
- In respect of the proposed development, Mrs Reid's consultant comments as follows:

The newly proposed site is located at the back and side of her property and consists of 20-21 houses within a densely populated area with all construction access needing to utilise only one way in/out which is past Julie's front door (positioned at the side) via a single width road between her and her neighbour's property. Escaping the dust and toxins will be nigh on impossible by either entrance or exit to the house.

Taking away her ability to park close to her house might in fact force her to have to remain in her house which will be detrimental to her health when she needs to be able to be taken out for clinic, hospital and doctors' appointments on a regular basis. Having wheel chair access is also highly likely to be necessary at some point to ensure she can enter and exit her house with minimal discomfort to herself.

- the character of the locality is semi urban, the property fronts a reasonably busy 'D' road and is only 100m distant from the A5 trunk road. The baseline of the locality is site not a quiet rural location.

There is clearly some evidence to support the risk to Mrs Reid's health and enjoyment of her property from the proposed development, primarily in the short term whilst the permissions are implemented. However, advice from Counsel is that this needs to be weighed against the mitigation that may be possible and the benefits of the proposal.

There is plainly a very great public interest in providing much needed housing. Increasing the supply of housing has been at the forefront of the government's planning reforms in recent years. Many people in the borough are disabled and may be aggravated by building work, however, in the normal course of events one would not expect that their sensitivity would be a cogent and defensible ground to prevent development.

It is recognised that Mrs Reid may be obliged to alter her pattern of behaviour by, for example, avoiding relaxing in her garden during busy days of construction work (when the wind is blowing in an unfavourable direction). However, the impact could be mitigated by a sympathetic construction management plan and good communication between the house builders on the ground and Mrs Reid so that she can be warned when particularly "dusty" activity is to be undertaken and planning undertaken so that this activity occurs when it is less likely to affect her. The Council's Environmental Health Officer recommends that a planning condition be attached to any planning permission to make this a formal requirement. He also recommends that construction activity is restricted to the standard hours of 0800 to 1800 during weekdays and 0800 to 1300 on Saturdays.

The consultant does not conclusively state that the development 'will' be meaningfully harmful to her health, he asserts that she could be at risk of contact with dust and toxins whilst entering and exiting the house. He does not assert that risks will extend to life within the dwelling. Furthermore, he indicates that if the ability to park near the house is lost then it could leave her housebound and at risk of being unable to attend medical appointments. For the reasons set out below, it is not definitive that the grant of planning permission would result in the inability to park at the dwelling. The consultant's letter suggests a possible unfamiliarity with the dwelling in that he refers to the future likelihood of requiring wheelchair access to the dwelling. The levels and constrained proportions of the frontage to the property may make the provision of wheelchair access very difficult to achieve.

The Council has been advised that in order to give significant weight to this matter, there would have to be concrete and cogent evidence that the building work would give rise to unacceptable harm to the health of Mrs Reid (after one has taken account of

sympathetic management and good consultation). The fact that for a number of days, or indeed weeks, she has to stay in doors with the windows shut to prevent the ingress of dust is unlikely to be sufficient to justify the refusal of permission. Mere inconvenience is not enough. The fact the claimant's convalescence could be aided by living in a peaceful ambience devoid of building work is again not enough.

The Council is advised by the applicant that the Reid's have been offered the value of their house plus 10% but that this offer has been refused. The Council is further advised that they are seeking the value of their house plus a 25% uplift. There may be a good reason why the Reid's turned down the offer. However, the Council would be entitled when reaching its overall view to afford weight to the fact that the Reid's have refused what could be characterised as a reasonable offer to purchase their property.

Furthermore, in dialogue about how to reconcile the proposal with the identified health issue, officers have attempted to broker the idea that the developer could be requested to facilitate a temporary rehousing of Mrs Reid, and her family if appropriate, during the construction phase. Mr Reid has confirmed that this would not be agreeable to him, as there would be uncertainties about the state of Mrs Reid's health at that time and the disruption could be lengthy.

One of the matters that concerns the occupiers of 20 Spon Lane is that the proposed access arrangements would interfere with the current vehicular access arrangements to the frontage of the property. The current arrangement involves driving onto the frontage at an angle, leaving Spon Lane at the position of Willows Lane and parking sideways across the front drive. This is illustrated in the photographs below.



The occupiers of 20 Spon Lane argue that the application proposal would interfere with their long established access arrangements and that an inability to park at the front of the property would have adverse health consequences for Mrs Reid. It is correct that

the proposed access arrangements would not be compatible with the present access arrangements, however, the position in respect of the current arrangements are not clear. The Highway Authority has confirmed that the current arrangements are not expressly authorised and that if they were sought retrospectively they would not be supported because it could not support the angular crossing of the footpath. In these circumstances it is not possible to resist the proposed access arrangements on the basis that they would interfere with the present access arrangements, irrespective of the implications for the occupiers of the existing property. There is however, the possibility that Mr and Mrs Reid could claim a prescriptive right to the access arrangement given that they, and former owners of the property, claim to have enjoyed the same access arrangements for a twenty year period.

By way of completeness, the Highway Authority has indicated that, with some works to increase the depth of the hard surfaced frontage (taking back a small retaining structure at the foot of the front bay window to the property) there is a prospect that there might be support for dropping the kerb across the front of 20 Spon Lane to create frontage parking at the regular 90 degree angle to the highway. It would be for the occupier of that property to present an application for the alternative parking solution.

In conclusion, whilst the health of Mrs Reid is a material consideration, it is not a factor which should be afforded overriding weight and for the reasons set out in this report would not be a robust and defensible reason for refusal.

#### **k) Overall Conclusions**

##### **Application No: PAP/2015/0587 – Site 1**

The highway safety problems associated with the proposed development are of such weight that they demonstrably outweigh the benefits of the development. It is considered that the proposal may not be supported.

##### **Application No: PAP/2015/0691 – Site 2**

Though the health circumstances of Mrs Reid a material consideration in the determination of this application, they are of insufficient weight, in light of possible mitigation, to override the National Planning Policy Framework presumption in favour of sustainable development. There are no identified adverse impacts that would significantly and demonstrably outweigh the benefits of the development. It is considered that the proposal may be supported subject to conditions.

#### **Recommendations**

##### **a) Application No: PAP/2015/0587 – Site 1**

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

1. It has not been shown that safe and convenient vehicular and pedestrian access can be formed to service the proposed development. The development would be contrary to Policy NW10 of the North Warwickshire Core Strategy 2014 and to Paragraph 32 of the National Planning Policy Framework, March 2012
2. Dependent on the outcome of consultation with the Lead Local Flood Authority, a second reason for refusal relating to the absence of Flood Risk Assessment may be an appropriate further reason for refusal.

**b) Application No: PAP/2015/0691 – Site 2**

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

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

**REASON**

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 9312.10, 9312.12 and 9312.13 received by the Local Planning Authority on 9 November 2015 and the plan numbered DWG-01 Refuse Vehicle Swept Path Analysis, incorporating site layout, received by the Local Planning Authority on 11 February 2016.

**REASON**

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

3. No dwelling shall be occupied until the existing access to the site for vehicles has been surfaced with a bound material for a distance of 10.0 metres in to Willows Lane, as measured from the near edge of the existing bound surface, in accordance with details to be approved in writing by the Local Planning Authority in consultation with the Highway Authority. The vehicular access to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.

**REASON**

In the interests of safety on the public highway.

4. No building shall be occupied until the parking and manoeuvring areas have been laid out in accordance with the approved details. Such areas shall be permanently retained for the purpose of parking and manoeuvring of vehicles, as the case may be.

**REASON**

In the interests of safety on the public highway.

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

**REASON**

In the interests of safety on the public highway.

6. The development shall not be commenced until parking and turning areas have been provided within the site so as to enable general site traffic and construction vehicles to park off the public highway and to leave and re-enter the public highway in a forward gear. No vehicle associated with the development shall park on the public highway fronting the site.

REASON

In the interests of safety on the public highway.

7. The development shall be carried out in full accord with the provisions of the Construction Environmental Management Plan received by the Local Planning Authority on 24 March 2016.

REASON

To protect the amenities of occupiers of nearby residential property.

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

REASON

In the interests of the amenities of the area.

9. Before the commencement of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval.

REASON

In the interests of the amenities of the area.

10. The scheme referred to in Condition No 10.1 shall be implemented within six calendar months of the date of occupation of the first house approved under reference 9 for domestic purposes. 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 amenities of the area.

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

REASON

In the interests of the amenities of the area.

12. Before the development commences a scheme for the construction of the foul and surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

#### REASON

To prevent pollution of the water environment and to minimise the risk of flooding on or off the site.

13. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences/hedges to be erected. The approved screen walls/fences shall be erected before the building(s)/dwelling(s) hereby approved is/are first occupied and shall subsequently be maintained. 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.

14. The development shall be carried out in full accord with the precautionary construction practices and recommendations contained within the Newt and Reptile Surveys received by the Local Planning Authority on 4 May 2016.

#### REASON

In the interests of the protection of protected species.

#### Notes

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>

3. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions; seeking to resolve planning objections and issues, suggesting amendments to improve the quality of the proposal and through meetings and negotiations. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

## BACKGROUND PAPERS

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

### Planning Application No: PAP/2015/0587 (Site 1)

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	14 9 15 12 10 15
2	Environmental Health Officer	Consultation Response	7 10 15
3	Milan and Michelle Gugleta	Representation	12 10 15
4	W Reid	Representation	9 10 15 23 10 15 12 11 15 16 2 1 23 5 16 25 5 16
5	Serena Baker	Representation	20 10 15
6	Sebastian Wisniewski	Representation	19 10 15
7	Grendon Parish Council	Representation	20 10 15 12 1 16 11 5 16
8	V Lees	Representation	20 10 15
9	J Lees	Representation	20 10 15
10	C Haynes	Representation	26 10 15 16 5 16
11	P Baker	Representation	26 10 15 21 5 16 27 10 15 23 5 16
12	S Baker	Representation	26 10 15 21 5 16 23 5 16
13	P Openshaw	Representation	27 10 15
14	C Marshall	Representation	26 10 15 25 5 16
15	J Marshall	Representation	26 10 15 25 5 16
16	Various	161 Pro forma representations	16 10 15
17	J Carbutt	Representation	22 10 15
18	Rev Chamberlain	Representation	28 10 15 18 5 10
19	L Moss	Representation	2 11 15
20	Miss Reid	Representation	2 11 15 24 5 16
21	J Nicholson	Representation	19 5 16
22	Various	103 Pro forma representations	24 5 16

23	S Hawken	Representation	26 5 16

**Planning Application No: PAP/2015/0691 (Site 2)**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Environmental Health Officer	Consultation Response	7 1 16 24 3 16
3	Warwickshire Wildlife Trust	Consultation Response	1 2 16 4 5 16
4	Warwickshire County Council Highways Authority	Consultation Response	20 1 16 17 2 16
5	Planning Archaeologist, Warwickshire Museum	Consultation Response	11 1 16
6	Various	17 Pro forma representations	Various
7	W Reid	Representation	29 12 15
8	J Reid	Representation	29 12 15
9	S Baker	Representation	4 1 16
10	P Baker	Representation	4 1 16
11	C & J Marshall	Representation	5 1 16
12	J Lees	Representation	6 1 16

*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 1**  
**IN THE MATTER OF LAND AT THE REAR OF 6-20 SPON LANE, GRENDON**

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**ADVICE**

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**Introduction**

1. I am asked to advise North Warwickshire Borough Council (“the Council”) in respect of a planning application for 14 dwellings and associated open space on Spon Lane. The site has previously been used for allotments and quasi domestic paddock/garden use.
2. I am asked to advise on a single aspect of the application: how the Council ought to approach the issue of the interests of Mrs Reid.
3. She lives in close proximity to the application site at 20 Spon Lane. She is in very bad health. I am instructed that she is disabled within the meaning of the Equality Act 2010. The nature of her ill-health is not straightforward but, put simply, she has had a double lung transplant and is susceptible to increased particles in the air which could harm her breathing. Advice has been received from the Council’s Environmental Health Department that the construction of the proposed development will result in an increase in air particles notwithstanding that the applicant can be required to agree a construction management plan to reduce the emission and extent of dust. The Environmental Health Officer is of the view that once completed the development may represent an improvement with regard to air particles.
4. In determining the planning application, I am asked whether, and to what extent, the adverse health impact the development may have on Mrs Reid is a material consideration.

**Advice**

5. As a matter of principle, personal circumstances are always present in the background to the consideration of the character of land use, but may sometimes be given direct effect in development control as an exceptional or special circumstance ([Great Portland Estates plc v Westminster City Council \[1985\] A.C. 661](#)). The relevance of personal circumstances has arisen as an issue in particular in cases involving gypsies. The proposition that personal circumstances may be a relevant consideration in planning decisions was confirmed as well established in [South Bucks District Council v Porter \(No 2\) \[2004\] 1 W.L.R. 1953](#).
6. It is trite and long-established law that the range of potentially relevant planning issues is very wide and that, absent irrationality or illegality, the weight to be given to such issues in any case is a matter for the decision maker.
7. I advise that the health needs of Mrs Reid are capable of being a material consideration and that the failure of the Council to have regard to them **could** give rise to an allegation that it made an error of law (for example by disregarding the public sector equality duty). I therefore advise that the Council have regard to the personal circumstances of Mrs Reid as a material consideration. This should

be addressed explicitly on the face of the officer's report to members (or the delegated report).

8. The weight to be attached to any given material consideration is a matter for the decision maker. It is not for me to judge what weight the Council should give to this one issue. I simply observe that the issue, whilst relevant, may not be determinative. Even if the Council concludes that the construction period upon permission would cause material harm to the health of Mrs Reid, it does not follow that the application should be refused. This is but one matter in the weighing scales and will have to be weighed against the various benefits of the proposal.
9. I am not told whether the Council can demonstrate a 5 year supply of housing sites. This will have a bearing on how determinative this particular consideration is in the final planning balance. If the Council cannot demonstrate a 5 year supply of housing, by operation of para 14 of the Framework those policies for the supply of housing would be out of date and the application should be approved unless the adverse effects of doing so would demonstrably and significantly outweigh the benefits ("the tiled planning balance"). If the Council can demonstrate a 5 year supply of housing, a conventional planning balance should be adopted.
10. I recognise that the impacts on the health of Mrs Reid could be significant, in the short term, whilst the permission is implemented. She may be obliged to alter her pattern of behaviour by, for example, avoiding relaxing in her garden during busy days of construction work (when the wind is blowing in an unfavourable direction). However, the impact could be mitigated by a sympathetic construction management plan and good communication between the house builders on the ground and Mrs Reid so that she can be warned when particularly "dusty" activity is to be undertaken and planning undertaken so that this activity occurs when it is less likely to affect her.
11. Judging the impact on Mrs Reid will require an appraisal of the particular characteristics of her home. The Council will have to have a clear idea of the proximity and relationship of Mrs Reid's property to the application site. Is there any intervening vegetation? What is the predominant wind direction? Does Mrs Reid's garden and living quarters of the house face the application site?
12. There is plainly a very great public interest in providing much needed housing. Increasing the supply of housing has been at the forefront of the government's planning reforms in recent years. Many people in the borough are disabled and may be aggravated by building work. Many people with tinnitus or serious mental health problems may find their symptoms exacerbated by repetitive and invasive construction noise. In the normal course of events one would not expect that their sensitivity would be a cogent and defensible ground to prevent development.
13. It seems to me that in order to give significant weight to this matter, there would have to be concrete and cogent evidence that the building work would give rise to unacceptable harm to the health of Mrs Reid (after one has taken account of sympathetic management and good consultation). The fact that for a number of days, or indeed weeks, she has to stay in doors with the windows shut to prevent the ingress of dust is unlikely to be sufficient to justify the refusal of permission. Mere inconvenience is not enough. The fact the claimant's convalescence could be aided by living in a peaceful ambience devoid of building work is not enough.

Assertion is insufficient: detailed medical evidence from Mrs Reid' treating clinicians will be needed. The Council would have to have good evidence that the building work is likely to meaningfully harm her health. In the absence of this, it seems to me that only limited weight can be afforded to this consideration. If the Council cannot demonstrate a 5 year supply of housing sites, it makes it even more difficult for it to sustain a reason for refusal upon this basis.

14. I am not expert in the area of respiratory medicine, but it seems to me unlikely that the building work envisaged would cause an unacceptable risk to the health of Mrs Reid. Every day of the year, hundreds if not thousands of people with respiratory problems live and work in towns and cities with dust particles (of differing identities and concentrations). I would be surprised if straightforward mitigation could not be adopted by Mrs Reid (for example, *in extremis* the use of a face mask when relaxing in the garden) to mitigate the impact to an acceptable level. Frankly, if Mrs Reid's was so precarious I would not have expected her to have been discharged from hospital.
15. I am instructed that the Reids have been offered the value of their house plus 10% but that this has been refused. They are seeking the value of their house plus a 25% uplift. There may be a good reason why the Reids turned down the offer. However, the Council would be entitled when reaching its overall view to afford weight to the fact that the Reids have refused what could be characterised as a reasonable offer to purchase their property. Further, the character of the locality is plainly relevant. The area is semi urban and (I am told) their property fronts a reasonably busy 'D' road and only 100m distant from the A5 trunk road. This is not a case where the application site is found in a quiet rural idyll.
16. In addressing this issue of Mrs Reid's health, it would be open to the Council to consider alternative sites.
17. In [R. \(Mount Cook Land Ltd\) v Westminster City Council \[2004\] 2 P. & C. R. 405](#), the Court of Appeal summarised the case law in the following way:
  - a) In the context of planning control, a person may do what he wants with his land, provided his use of it is acceptable in planning terms.
  - b) There may be a number of alternative uses from which he could choose, each of which would be acceptable in planning terms.
  - c) Whether any proposed use is acceptable in planning terms depends on whether it would cause planning harm judged according to relevant planning policies where there are any.
  - d) In the absence of conflict with planning policy and/or other planning harm, the relative advantages of alternative uses on the application site or of the same use on alternative sites are normally irrelevant in planning terms.
  - e) Where an application proposal does not conflict with policy, otherwise involves no planning harm, and, as it happens, includes some enhancement, any alternative proposals would normally be irrelevant.
  - f) Even in exceptional circumstances where alternative proposals might be relevant, inchoate or vague schemes and/or those that are unlikely or have no real possibility of coming about would not be relevant or, if they were, should be given little or no weight.

18. In [R. \(Langley Park School for Girls Governing Body\) v Bromley London Borough Council \[2010\] 1 P. & C. R. 10](#), Sullivan L.J. observed that where there are no clear planning objections to a proposal development, alternative proposals, whether for an alternative site or a different siting within the same site, will normally be irrelevant. However, where there are clear planning objections to a proposed development, the more likely it is that it will be relevant, and may in some cases be necessary, to consider whether that objection could be overcome by an alternative proposal.
19. In [South Cambridgeshire District Council v Secretary of State for Communities and Local Government \[2009\] P.T.S.R. 37](#) the Court of Appeal ruled that the burden was not on the applicants to show that they had done all that reasonably could be done to find a site that catered for their needs but that no such site was available. Rather, as indicated above, the relevance of alternative sites would depend on all the circumstances.
20. In short, it would be open to the Council to consider alternative sites if that is considered relevant as a matter of planning judgment. However, there is no requirement to. The applicant is not obliged to demonstrate that there is no other site available in the vicinity. This does not appear to be a case where one could reasonably expect the applicant to “go the extra mile” to demonstrate the absence of alternative sites.

## **Conclusion**

21. In short I advise that the health of Mrs Reid is a material consideration and should form part of the determination of the application. However, it is unlikely to be a factor which should be afforded significant weight. From what is before me, I am doubtful that a reason for refusal on this basis would be robust and defensible. It seems to me that this is an issue which could be dealt with properly and robustly by communication between Mrs Reid and the applicant to agree a condition which mitigates the impact and gives Mrs Reid the legally binding reassurance that the site will not be built out in a haphazard or disruptive manner, but can be done sympathetically and with restraint. Mrs Reid should be reassured that house builders are familiar with building out sites with care that have sensitive environmental restraints including archaeological remains and species which are protected under the Habitat Regulations (such that it is a criminal offence to disturb them). I see no reason why a similar approach cannot be adopted here.
22. If I can be of any further assistance, please do not hesitate to contact me in Chambers.

**JACK SMYTH**  
**No 5 Chambers**  
**31 May 2016**

**(6) Application No: PAP/2016/0719**

**6, Coventry Road, Coleshill, B46 3BE**

**Change of use from office (use class A2) to delicatessen, cafe and hot food takeaway (use class A1/A3/A5), for**

**Mr A Stickland - Tadjcloe Ltd**

**Introduction**

The application is reported to Board at the request of a local Member concerned about potential impacts.

**The Site**

The site is located in a parade of shops along Coventry Road in Coleshill and lies within the development boundary and opposite the boundary with the Conservation Area. The parade is at the southern end of the Town Centre where Coventry Road joins Parkfield Road. The parade turns the corner here and fronts both roads. It is of modern 1960's design with flats above and parking spaces along the frontage. The context of the site is illustrated in the location plan at Appendix A and the shop within the context of the parade is in the photograph at Appendix B.

**The Proposal**

This is to change of the use an office (use class A2) to a delicatessen, cafe and hot food takeaway (use class A1/A3/A5). The general layout of the use is illustrated in the proposed floor plan and elevations at Appendix C.

**Background**

The uses within the row of shops here are predominantly retail being A1 use class. There are two hairdressers, a dry cleaners, a sandwich shop/cafe, butchers and drinks shops. The existing Chinese take away and betting shop are non-retail uses. The shop units are well established. The office at No. 6 Coventry Road has ceased and this is now a vacant unit. No other prospective office occupier has come forward and thus this application for the change of use of the unit to A1/A3 and A5 has been submitted as an alternative.

The fall-back position is that the Permitted Development Order permits changes of use from A2 to A1 and from A2 to A3 (albeit the latter being subject to prior approval). Therefore the delicatessen use proposed can operate form the unit in any case, as can the café element (subject to a prior notification). As a consequence it is effectively the takeaway element of the mixed use that requires the planning permission.

The hot food takeaway element would be limited to pizzas. The retail element would provide bread (to be baked on the premises) and the provision of delicatessen food types such as cooked meats, pre-prepared meals (lasagne and other pasta dishes), salads, preserves, specialist bread and herbs This would not require planning permission. The main impact is therefore the takeaway use, as the A1 and A3 uses are flexible under the Permitted Development Order.

## **Development Plan**

The Core Strategy 2014) - NW1 (Sustainable Development); NW10 (Development Considerations), NW12 (Quality of Development) and NW20 (Services and Facilities)

Saved Policies of the North Warwickshire Local Plan 2006 - ENV12 (Urban Design); ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation), ECON5 (Facilities relating to the settlement hierarchy) and TPT6 (Vehicle Parking)

## **Other Relevant Material Considerations**

The National Planning Policy Framework (“NPPF”)

Coleshill Neighbourhood Plan – consultation version

Local Plan Draft for North Warwickshire - Consultation August 2016

## **Representations**

Representations have been received from a neighbouring occupier referring to the following matters:

- The butchers at 8 Coventry Road already sell a range of cold meats and pies as well as raw meat. In the same area there are two other food outlets, one of which is a café and delicatessen.
- Customer parking is already a problem and having another food outlet will only increase the problem. There is a parking area in front of the shops which has no time limit on it but no warden to police it.
- The Coleshill High Street is changing.. There are already two food outlets and a family butchers and newly refurbished public house opposite. Business is finding the climate hard at the moment and a further food premises would make that more difficult. There are more than enough hot food shops in the town.
- The effect of litter as well as traffic and late night noise.

Coleshill Town Council - The Town Council objects based on Core Strategy Policy NW20 (too many of this type of food outlet in a small area) and NW14 (effect on the historic environment). In addition, the Council believes that there is a policy on economic viability which is being transgressed.

## **Consultations**

Environmental Health Officer – No objection but details of the proposed odour treatment system will need to be submitted for approval by the local authority prior to development. The extract flue is also in close proximity to residential properties so noise attenuation details will also be required in the ducting. .

Warwickshire County Council as Highway Authority – No objection

## Observations

The main consideration is whether the principle of a mixed use is acceptable and the effect of the use on neighbours amenity and traffic.

The application site is not within the primary retail core, or indeed within the Town Centre Boundary as defined by the saved policies of the Local Plan 2006 and the Strategy 2014. As such the loss of an A2 use is not objectionable in principle. This parade caters for a number of uses, but this particular unit has been vacant. It is therefore considered appropriate for it to be occupied by the applicants business in order to prevent its ongoing vacancy. The Council cannot enforce a preferred use. The proposed mixed use is compatible with the uses in the parade of shops. The proposed use is to be predominantly retail, a café and a takeaway and will not materially affect or reduce other retail services operated here. In any case competition is not a material planning consideration and can be healthy, new businesses should not be stifled unless there are material adverse impacts such as traffic, noise and odour.

The Draft Coleshill Neighbourhood Plan does not mention the parade of shops at Coventry Road as being safeguarded from a saturation of uses such as takeaways. It only mentions the safeguarding of retail units within the Coleshill High Street. The emerging new Local Plan Draft advises (under policy LP21) on the need to safeguard neighbourhood centres but this parade of shops at Coventry Road is not mentioned as one of the safeguarded neighbourhood centres and neither is it located within the Core Shopping frontage zone for Coleshill. Therefore this parade of shops at Coventry Road is suitable for a variety of uses as it is not restricted to retail alone. These consultation documents are not yet adopted and so are not given material weight at present. However they do largely comply with current policy under NW20 of the Core Strategy.

This is the main policy consideration in this case and advises that a '*disproportionate concentration of uses will be avoided*'. An assessment of this has been made.

The applicant considers that the parade of shops at Coventry Road is removed from the High Street and thus the proposed use would not have a detrimental impact on the town centre or the uses of the neighbouring units. He considers that the number and proportion of takeaways in the town centre to the north of the parade of shops is not at "saturation point".

The applicant points out that this parade has nine units with only one takeaway and the remainder in retail use with the exception of the betting shop. Moreover the proposed use does have a retail element. There are also different times of the opening - the existing takeaway being open into the late evening and the sandwich shop being open during the day time. The proposal would be open at compatible hours to the existing uses and not open late into the evening.

The proposed use is thus said to be complementary to the existing uses as it does not offer a repeat of food types already established in the parade of shops and in the unlikely event that the delicatessen element should cease and the A5 pizza takeaway take over, then this would then be subject to planning control in any case. In this respect it is considered to the mixed use can be controlled by condition to prevent a sole use for A5 from being established without a further planning application.

Though the planning system cannot restrict takeaways completely, policy NW20 advises that where there is a local problem then local policies may seek to restrict the number of takeaways. There is not a specific policy limiting the percentage restriction

on takeaways in any given settlement within the borough. In this case the proposed use offers a retail element in the form of the delicatessen (which would not require permission for an A1 use) with the café and takeaway as a secondary element. For all of these reasons it is considered that the proposal is not disproportionate to the existing uses at the parade of shops or in Coleshill, such that the proposal is not contrary to NW20 of the Core Strategy or saved policy ECON5 of the North Warwickshire Local Plan, 2006.

The thrust of the NPPF under paragraph 23 seeks to '*ensure the vitality of town centres; seeking to enhance existing markets and re-introduce or create new ones, ensuring that markets remain attractive and competitive*'. Therefore market forces dictate the need of the town centre environments and in this respect the proposal would be in accordance with the thrust of the NPPF.

One of the main objections to the scheme is the number of existing restaurants and takeaway premises in Coleshill. These are mostly within the defined town centre particularly along High Street. There would not therefore be a conglomeration of such uses if this application were permitted at this parade of shops. Additionally the cumulative impact of having a number of takeaways sited together might well justify a refusal, but only if it can be shown that a further use would itself exacerbate existing adverse impacts to an unacceptable degree. This will need looking at in more detail below, but for the present this is considered to be unlikely given the nature of the proposal; which seeks for a retail element to the use. Additionally the option of leaving premises empty and unoccupied brings a range of different but real adverse impacts.

## **b) Amenity**

This arrangement may pose issues for the installation of ventilation or fume extraction equipment often required with A5 uses. Cooking odours and potential noise issues from extraction units can be dealt with by condition as is normal practice in these cases. Therefore environmental health has requested details of this installation by condition. Otherwise there is no objection raised by Environmental Health.

The proposal will lead to a new rear external flue being installed, as shown on the plans in Appendix 3. The flue will be an external vertical pipe. The height of the flue is controlled by Environmental Regulations which state that the top of the flue must be at least one metre above existing windows on the building, and as the building has first and second floor uses and windows; the flue has to exceed the roof eaves height to comply.

The final details of the flue and the extraction system can be conditioned in respect of their design. The applicant is proposing to use a modern extraction system which is designed to neutralise cooking odours. Such a system will be necessary here. Given the type of takeaway on offer then there is no deep fat frying involved, cooking facilities are limited to ovens and a cooker range and so the cooking odours are not likely to be poignant compared with other types of takeaways.

A concern raised by objectors is the potential increase in noise from customers. In terms of noise disturbance then the existing use of the shops has an element of noise from traffic and car doors closing, until closing hours of these shops. These shops are well established and it is not considered that the proposal would add further noise issues provided it does not open after the closing times of the existing businesses. Thus the amenity of the neighbours would not be affected beyond the amenity issues

generated by the existing uses. There would be no deliveries associated with the take away use and this would be limited by condition.

The opening times are proposed from 0900 hours until 2130pm Monday to Saturday with no opening on Sundays. The takeaway element would open later at 1130 hours until 2130. This is generally consistent with opening times at the parade of shops and is not too late into the evening.

Litter is not likely to be an issue given the type of use and take away proposed. The majority of users to the take away will take their purchase away from the site.

Overall there is not considered to be an amenity issue beyond how the uses already operate at the parade of shops such that the proposal is not considered contrary to policy NW10 of the Core Strategy.

### **c) Highways**

One of the other objections from the neighbouring properties is that the proposal would probably lead to an increase in vehicle numbers. The premises is already a commercial unit, it could attract numbers of car born customers regardless of whether the use proposal is introduced or not. Indeed a Tesco Express or similar shop could operate here without the need for any planning application, and this could lead to significant car born custom. However this is not considered to be a reason for refusal. The Highway Authority does not object.

### **d) Design**

The proposal does not alter the appearance of the shop front or alter that of the area. The conversion will be limited to the ground floor area of the unit only and there is limited space for the café element in any case. Signage would be assessed under a separate application for advertisement consent. Thus there are no design considerations associated with the use, except for the extraction unit, which is a common feature associated with these type of uses. In any case the extraction unit would be located at the rear of the premises and is not therefore visible from the street scene.

The proposed flue would egress the rear kitchen from within the rear service yard and then exit, extending up the rear elevation of the three storey element of the property so as to finish just below the existing ridge. This installation would not be visible from the street scene along Coventry Road or from views in and out of the Conservation Area. An appropriate condition can cover its exact colour.

The proposal does not alter the front elevation of the building thus there would be no harm brought about by the use. The general design of the parade of shops is neutral to the setting of the Conservation Area. Thus there is no harm on the Historic Environment required by policy NW14 of the Core Strategy.

### **e) Other Matters**

Competition between different businesses is not a material planning consideration.

Although a take away and a sandwich shop already exist along the parade of shops; then a cumulative impact of having a number of takeaways sited together may well

justify a refusal, but only if it can be shown that a further use would materially exacerbate existing adverse impacts arising directly from such uses.

The assessment is that the majority of the units are in retail and so there is no overall retail loss along the parade of shops, which are relatively independent from town centre uses and therefore as the proposal offers a retail use which is likely to result in more footfall to the parade of shops. The takeaway use is subordinate to the main retail use and there would not be considered a saturation of takeaways along the parade of shops by the introduction of the mixed use. The café element is very minor with just one bench seat and three small tables and is an ancillary element to the main retail use. A condition limiting the consent to a mixed use and not the takeaway alone will be applied.

In terms of health requirements then the NPPF also seeks to promote healthy communities. The Core Strategy recognises that poor health and obesity is an issue throughout the borough. In this respect as the proposal is required for an A1 use with a takeaway then customers have the choice of whether they purchase healthy goods related to the delicatessen or that of a takeaway.

In any case supermarkets and corner shops offer different types of foods and the consumer has a choice. Alternatively customers could purchase a pizza from a supermarket regardless of whether the takeaway operates or not. The health considerations are still the same and therefore it is the consumer's choice. The proposal would not be considered to impact on health any further than the choice that is already offered within the settlement.

Overall, the proposal would not be considered to result in an adverse impact on these existing businesses given it would provide a slightly different type of food on offer. A further material consideration is that the proposal provides the opportunity for employment providing two-full time and four-part time posts then there is also an economic advantage for the unit being re-occupied. This is a material consideration which also carries weight to the outcome of this application.

## **f) Conclusion**

The beginning of this section indicated that the principle of this use at these premises was sound unless there were identifiable and clear adverse impacts arising directly from the proposal which would materially worsen the situation. It is accepted that the proposal will introduce change and that will inevitably itself introduce different impacts. However these, in planning terms, are not considered to be so adverse as to warrant refusal. On balance therefore, the application is recommended for approval, but subject to conditions. These in particular will relate to control over the use; the opening hours and the extraction flue.

## 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 10582-01 Rev B and the planning statement received by the Local Planning Authority on 16 December 2016 and the supporting statement received by the Local Planning Authority on 16 February 2017.

### REASON

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

3. The floor plan shall be laid out in general accordance with drawing 19582-01 Rev B. The unit shall not be operational until the areas have been laid out in accordance with the approved details.

### REASON

In the interests of highway safety.

4. There shall be no opening for business purposes of the A1 and A3 use of this permission other than between 09.00 hours to 21.30 hours on Mondays through to Saturdays and the A5 use between 11.30 hours until 21.30 hours Mondays through to Saturdays. There shall be no opening on Sundays or public bank holidays. There shall be no opening whatsoever outside of these specified times.

### REASON

To prevent disturbance to the occupiers of nearby properties.

5. The use hereby approved shall not commence until details of noise attenuation and odour abated kitchen extraction system is submitted and approved by the Local Planning Authority in writing. These details must contain details of any proposed methods of minimising noise and odour i.e. noise attenuation of fan motors, filtration/treatment of odours, (the stack height should be at least 1 metre above the roof height to aid odour dispersion). The drainage serving the kitchen shall be fitted with a grease separator or other means of grease removal.

## REASON

In the interests of the amenities of the area.

6. The specification details on the extraction system, specifically the silencers for noise control and filtration for odour control required by Condition 5, shall be installed prior to the first opening of the use to the satisfaction of the Local Planning Authority.

## REASON

In the interests of the amenities of the area.

7. The use hereby approved is limited specifically to A1, A3 and A5 (mixed use) as per the floor plan layout required by Condition 3 and specifically not the A5 use alone and should the A1 element of the use cease then the mixed use shall hereby be discontinued.

## REASON

In the interests of defining the limitations of the consent in recognition that the A1 use is the primary use with ancillary A3 and A5 use.

8. There shall be no delivery service associated with the takeaway use.

## REASON

In the interest of the amenities of the area.

## Notes

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

2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at [www.communities.gov.uk/publications/planningandbuilding/partywall](http://www.communities.gov.uk/publications/planningandbuilding/partywall).

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

erection of any such advertisements, and provide you with application forms.

4. Any alterations to the shop front or any part of the building are likely to require planning permission. You are advised to contact the Local Planning Authority before carrying out of any work.

5. This development may be affected by the provisions of Food Safety, Health and Safety and / or Licensing Legislation. You are therefore advised to consult the Regulatory Division, Old Bank House, 129 Log Street, Atherstone – 01827 715341 or e-mail [foodsafety@northwarks.gov.uk](mailto:foodsafety@northwarks.gov.uk).

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

## BACKGROUND PAPERS

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

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	16.12.17
2	Local Member	Representation	4.1.17
3	Mr Murray	Representation	5.1.17
4	Mr Jones	Representation	10.1.17
5	Coleshill Town Council	Representation	12.1.17
6	NWBC EHO	Consultation reply	16.1.17
7	Case Officer to Agent	email	8.2.17
8	Case Officer to Agent	email	14.2.17
9	Agent to Case Officer	email	14.2.17
10	Agent to Case Officer	email	14.2.17
11	Case Officer to Agent	email	16.2.17
12	Agent to Case Officer	Supporting statement	16.2.17
13	Agent to Case Officer	email	16.2.17
14	WCC Highways	Consultation reply	20.2.17
15	Case Officer to Agent	email	22.2.17

*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.*

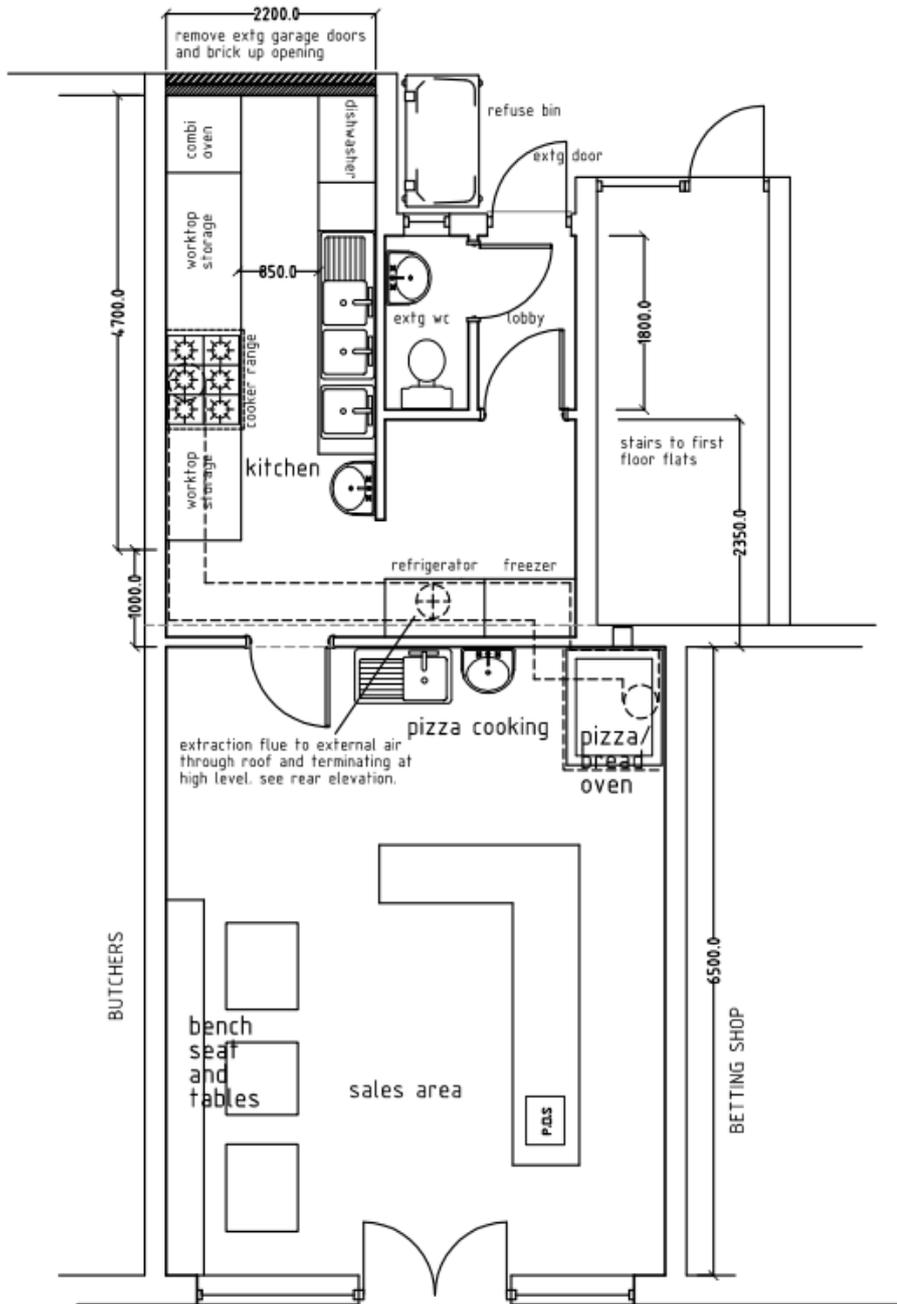


Appendix B

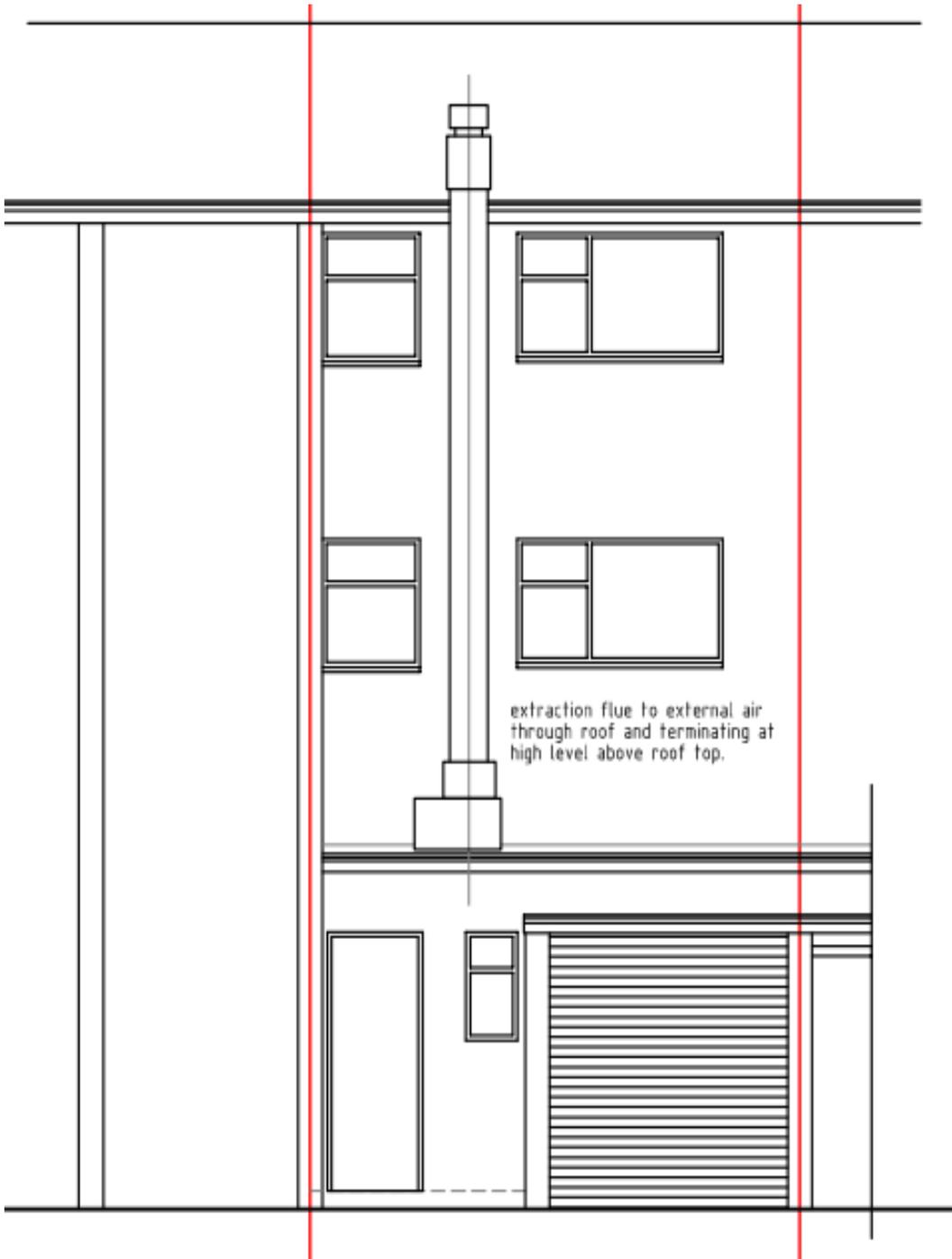
Unit 6



# Appendix C



Proposed floor plan



Proposed elevation

**(7) Application No: PAP/2017/0032**

**Rowan Centre - Circles Network, North Street, Atherstone, CV9 1JN**

**Erection of supported living facility and conversion of existing building into 16 supported living flats with associated Community Room, for**

**HBP Group Ltd**

**Introduction**

The application is reported to Members at the discretion of the Head of Development Control in view of the heritage interest in the site.

**The Site**

The Rowan Centre is at the north-east corner of the junction of North Street and the Ratcliffe Road about a hundred metres north of Long Street close to the centre of Atherstone. It faces Ratcliffe Street and has three gabled rear extensions. To the north is the Rowan Youth and Community Centre and the Atherstone College building. To the east is a former Chapel and its Sunday School now converted to a care home. To the south is the residential street of North Street with both two and three storey housing directly at the rear of the pavement. To the west is Ratcliffe Road with a residential frontage of detached houses set behind a service road. There is an existing access off North Street.

The Centre itself used to be a primary school before its last use as a community centre. It is a tall red brick Victorian building with a steep tiled roof and highly fenestrated elevations typical of a school use. It probably dates from the 1880's. It has an unusual tall brick and tile bell tower and is surrounded by brick walling.

The site is owned by the County Council.

A general location map is attached at Appendix A.

**Background**

The former Chapel and its Sunday school is immediately to the east. Both are Grade 2 Listed Buildings. The Chapel dates from 1827 and is constructed in red brick with a flemish bond and a slate roof. It has a moulded rendered cornice and parapet at the front with brick dog-tooth corncicing on its sides. There are round-arched iron windows to its front and at first floor level on its sides with gauged brick arches throughout. The door is a double leafed with a fan light.

The attached Sunday School dates from 1837 and is at the rear. It is a brick and slate roof construction at right angles to the chapel. It has segmented cast iron windows.

A further Grade 2 Listed Building at numbers 15/17 North Street is about 100 metres to the east along North Street. This is a three storey residential building dating from the early to mid-19<sup>th</sup> Century with a central carriage entrance and three storey wings at the rear.

The application site as a whole is within the Atherstone Conservation Area.

The site of the Listed Buildings and the boundary of the Conservation Area is also shown on Appendix A.

## **The Proposals**

It is proposed to convert the Rowan Centre and to add a new three storey linked block between the building and the chapel close to the site's northern boundary. The third storey of this block would be within a mansard roof with slopes to match that of the school. This would provide supported living accommodation. The conversion would give rise to five units through sub-division and the insertion of stair wells, with the remainder being in the new block. There would be staff accommodation as well as a community room which would be made available for wider use. Three existing buildings would be demolished - two stores and a temporary classroom – together with a canopy over a ramped access.

All vehicular access would be through the existing access. The layout however does provide for continuation of the existing access into the community centre to the north which is to be retained. The existing pedestrian gate in North Street would be retained. This would be supplemented by ramped access to the main entrance of the building because of the site levels. Ground levels of the car parking area would be adjusted to provide access and the glazed link would also require a similar adjustment in ground levels.

Fifteen car parking spaces are proposed. It is said that due to the dependency of the extra care users, a reduced requirement is proposed in respect of the units thus allowing visitor space. The applicant points out that the site is close to the town centre.

Plans at Appendices B and C illustrate the layout and the elevations of the new block as well as in the context of the street scene.

The application is accompanied by several documents.

A Preliminary Ecology Survey concludes that the site has limited ecological value. However the building has the potential to roost bats and further survey work would be needed at an early stage.

A Tree Survey shows that there are trees around the two road frontages to the site. Of these there are four more significant trees ones – birch, sycamore and rowan.

Archaeological comments from the Warwick Museum point out that the site has potential and therefore fieldwork should be carried out as a planning condition

A Design and Access Statement indicates how the proposed built form, the layout and its appearance were arrived at.

This also includes a description of a consultation event held on two occasions in January 2017.

A Heritage Assessment describes the likely impact on the heritage assets affected by the proposal.

## **Development Plan**

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

Saved Policies of the North Warwickshire Local Plan 2006 – ENV4 (Trees and Hedgerows); ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation) and ENV16 (Listed Buildings)

## **Other Material Planning Considerations**

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

The Atherstone Conservation Area Designation Report

The Draft Atherstone Conservation Area Appraisal

## **Observations**

Perhaps the most significant issue in dealing with this proposal will be the impact of the proposed new building on the heritage assets in the area – the Conservation Area and the two nearby Listed Buildings. This should be looked at in respect of the impacts on the setting of the Listed Buildings and on the character and appearance of this part of the Conservation Area.

Other impacts need to be considered such as the access and parking arrangements as well as the potential for loss of residential amenity.

In these respects it is considered that Members would benefit from site visit prior to determination.

## **Recommendation**

That the receipt of the application is noted and that a site visit be undertaken prior to determination.

## BACKGROUND PAPERS

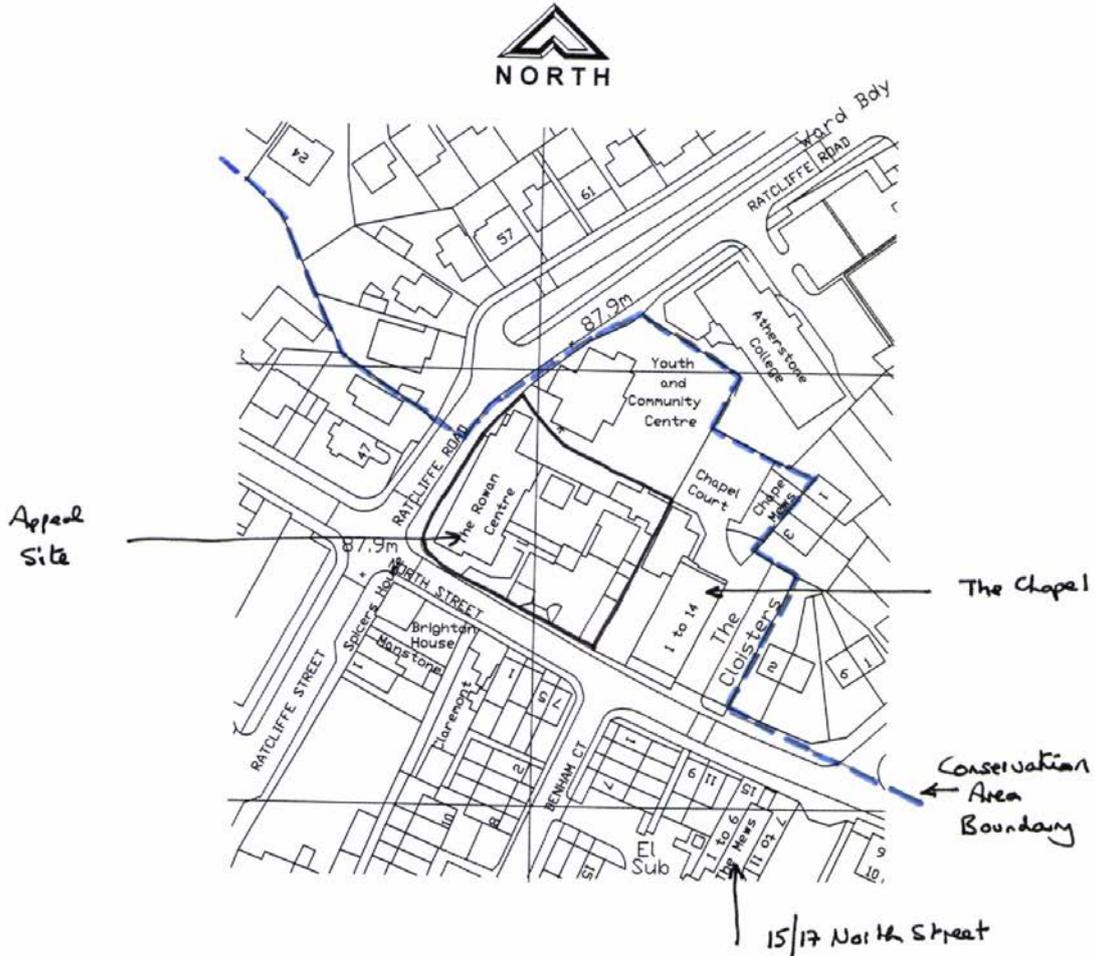
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2017/0032

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	26/1/2017

*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.*

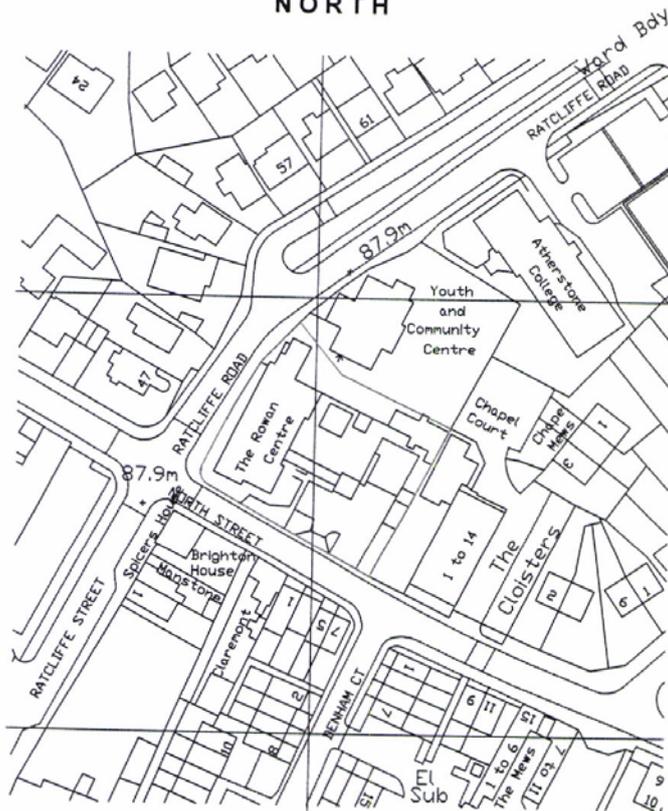


NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
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25/01/2017  
PLANNING & DEVELOPMENT  
DIVISION

Client  
**Midway Health Group**  
Project  
**Midway Atherstone**  
**Atherstone, Warwickshire**

Drawing  
Location Plan  
Date  
July 2016  
Job No - Dwg No - Rev  
16039 - LP  
Drawn by  
OS Map  
Scales  
1:1250 @ A4

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BB5 1LN  
T: 01254 232007  
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E: info@email-idc.co.uk  
W: intelligentdesigncentre.co.uk



**(8) Application No: PRE/2016/0245**

**Hall End Business Park, Watling Street, Dordon, B78 1SZ**

**Application under Section 257 of the Planning Act to divert public footpaths AE49 and AE57 for**

**Hodgetts Industrial Developments (Tamworth) Ltd**

**Introduction**

Members will recall that the December Board agreed to make Public Path orders in respect of both of these footpaths given that planning permissions require their diversion. A copy of that report is attached at Appendix A. Those Orders have now been placed on formal deposit and consultation is underway with an expiry date of 16 March.

No objections were received during the period of informal consultation. In order to prevent delay – the next available Board is not until the 3 April – should there be no objections during the formal notice period, the Board is recommended to take the position as set out below.

**Recommendation**

- a) That provided there are no objections received arising from the formal deposit of these Orders and that no modifications are required, the Board formally refers the Orders to the Secretary of State as unopposed Orders for his consideration.
- b) If objections are received or there are representations made that warrant modification, the matter be referred to the next available Board meeting.

**General Development Applications**

**(#) Application No: PRE/2016/0245**

**Hall End Business Park, Watling Street, Dordon, B78 1SZ**

**Application under Section 257 of the Planning Act to divert public footpaths AE49 and AE57 for**

**David Hodgetts**

**Introduction**

As can be seen from the description above this is not a planning application. Members will be aware that most diversions of public footpaths are sanctioned by the County Council as the Local Highway Authority. In some cases however diversion can be ordered by the Local Planning Authority. This is usually the case if the grant of a planning permission involves such a diversion. This is the case here.

**The Site**

The Hall End Business Park is currently being developed to the south of the Watling Street just to the east of the Birch Coppice estate. Planning permissions were granted for the redevelopment scheme in April 2014 and the details of the first phase were approved earlier this year.

The site extends south from the A5 and involves the re-working of the levels to provide three development plateaux. The approved layout is shown at Appendix A.

There are two public footpaths affected by this development. At the time of consideration of the planning application, the Board did not consider that there would be material harm to these footpaths as reasonable alternative routes were available. The County Council did not object just pointing out that the paths needed to be diverted formally.

The Path AE57 runs south from the A5. It meets the highway here just the east of the existing Hall End Farm site and immediately to the west of the playing field. It continues in a southern direction for about 250 metres. It then turns south-west for about 140 metres before branching into two. The AE57 continues in a south westerly direction into the Birch coppice estate. The other continues southwards now taking the number AE49, again running into the Birch Coppice estate.

The lines of these two new routes are shown at Appendix B.

**The Proposal**

The proposed diversions really affect their routes at the southern end of the new development. Rather than having the routes running through the development plateaux here, they are proposed to be diverted around their perimeters – the AE57 along the northern boundary of plot 3 and the AE49 around its southern edge.

The proposed lines are also illustrated at Appendix B.

## **Consultations**

The Trail Riders Fellowship – No objection.

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

Open Spaces Society – No objection

Byways and Bridleways Trust – No objection

British Horse Society – No objection

Ramblers Association – No objection

Cycling UK – No comments received

Dordon Parish Council – No comments received.

## **Observations**

It is considered that it is necessary to divert these two paths in order to enable development to be carried out in accordance with planning permission PAP/2013/0272 and dated 11 April 2014.

The diversions proposed are considered to be reasonable in respect of their routes in them not being too long or too complicated such that users of the two paths are not significantly inconvenienced. They also do not interfere with the re-development of the site or the activities and uses permitted.

It is noteworthy that no objections have been received from those Agencies and Bodies with a direct interest in the two paths.

In these circumstances it is considered that a Public Path Order can be made under Section 257 of the 1990 Town and country Planning Act.

If this is agreed by the Board, then an Order can be made and time is then given for a period of formal consultation. At the end of this formal period of consultation, the Order is forwarded to the Secretary of State for confirmation. If these are no objections this then becomes an unopposed Order. If objections are received, he can call a Public Inquiry to assist in him making a decision on that opposed Order.

## **Recommendation**

- a) That a Public Path Order be made as described in this report and that it then be the subject of a period of consultation. Upon expiry, the Order then be referred to the Secretary of State if it is an opposed Order.
- b) Members will be advised of the outcome of that referral and the matter brought back to the Board for final confirmation or otherwise.

## BACKGROUND PAPERS

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

Planning Application No: PRE/2016/0245

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	17/10/2016
2	Trail Riders Fellowship	Consultation	10/11/16
3	British Horse Society	Consultation	8/11/16
4	WCC Highways	Consultation	8/11/16
5	Ramblers Association	Consultation	3/11/16
6	Open Spaces Society	Consultation	3/11/16
7	WCC (Public Rights of Way)	Consultation	2/11/16
8	Byways and Bridleways Trust	Consultation	3/11/16

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