

**(2) Application No: DOC/2016/0004**

**Heart of England, Meriden Road, Fillongley, CV7 8DX**

**Discharge of conditions 7 (landscaping scheme), 8 (in part) (archaeological work), 9 (in part) (bricks, tiles, surface and facing materials), 10 (window and door joinery), 11 (exterior lighting), 12 (energy generation/conservation measures), 13 (tree protection), 14 (boundary treatment), 15 (drainage network and hydro-brake control), 16 (access and car parking details), 17 (refuse storage/disposal) and 18 (crime prevention measures) of the planning permission referenced PAP/2013/0391, for**

**Mr Stephen Hammon - Heart Of England Promotions**

### **Introduction**

This matters related to this discharge of conditions application have twice been referred to the Planning and Development Board, once in response to concerns about the commencement of works without the discharge of conditions, and secondly to report on progress with the resolution of matters identified by interested parties in the processing of the application. The previous reports are included as Appendix A at the foot of this report.

Matters have advanced to the stage where recommendations can now be made.

### **Update**

Since the last report to Board a site visit was carried out during the hours of darkness to ascertain first-hand what the impact of illumination at the site is in terms of the illumination of the proposed advertisements, in terms of the reported illumination of the existing buildings and in terms of assessing the likely impact of the lighting scheme proposed in discharge of the planning condition. The photographs below illustrate the current situation, with the colour changing illumination of the buildings.

The building in the foreground would be demolished as a consequence of the hotel redevelopment but the conference centre building to the rear of it would remain. It is proposed that the colourwash lighting would be retained. Retrospective permission is sought for its retention as a consequence of the discharge of the lighting condition.

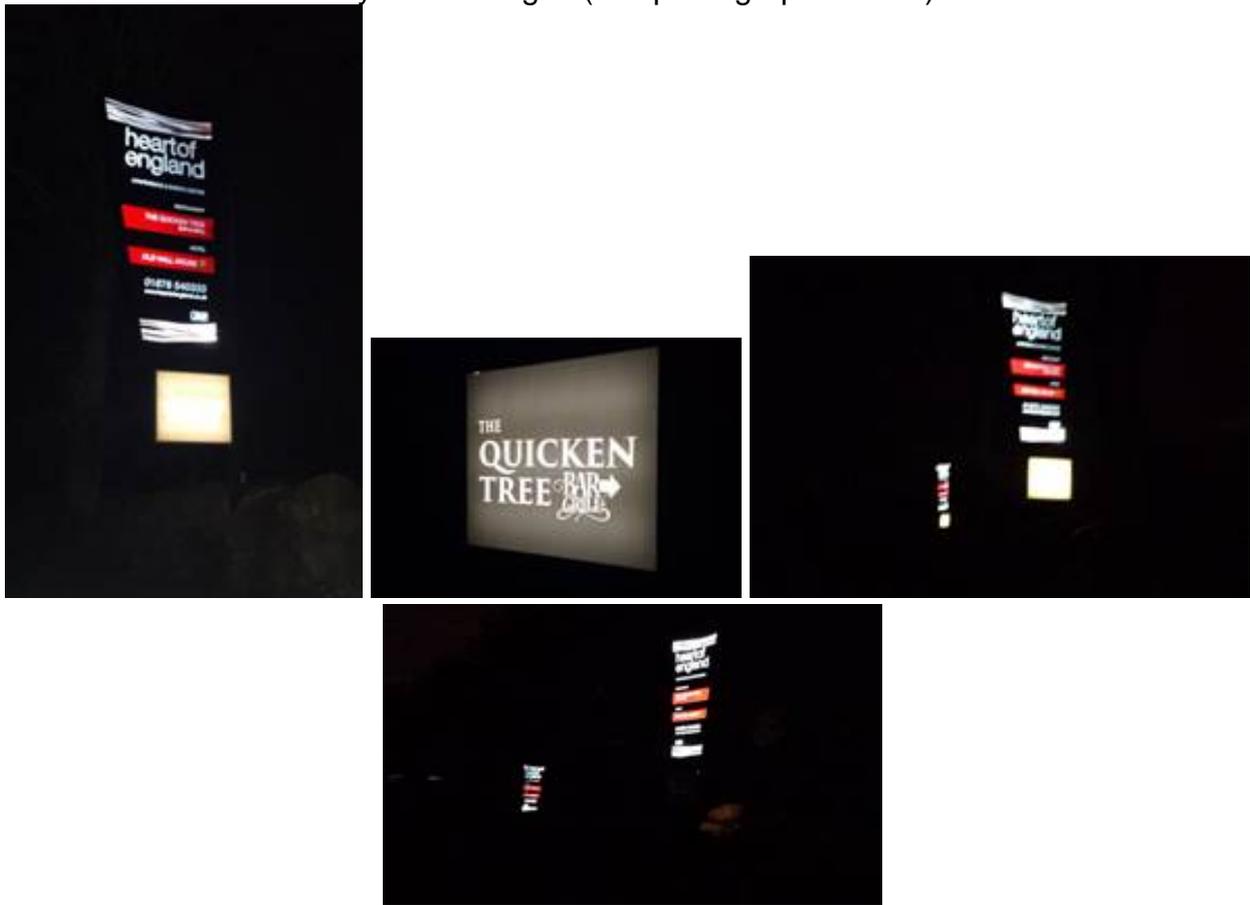




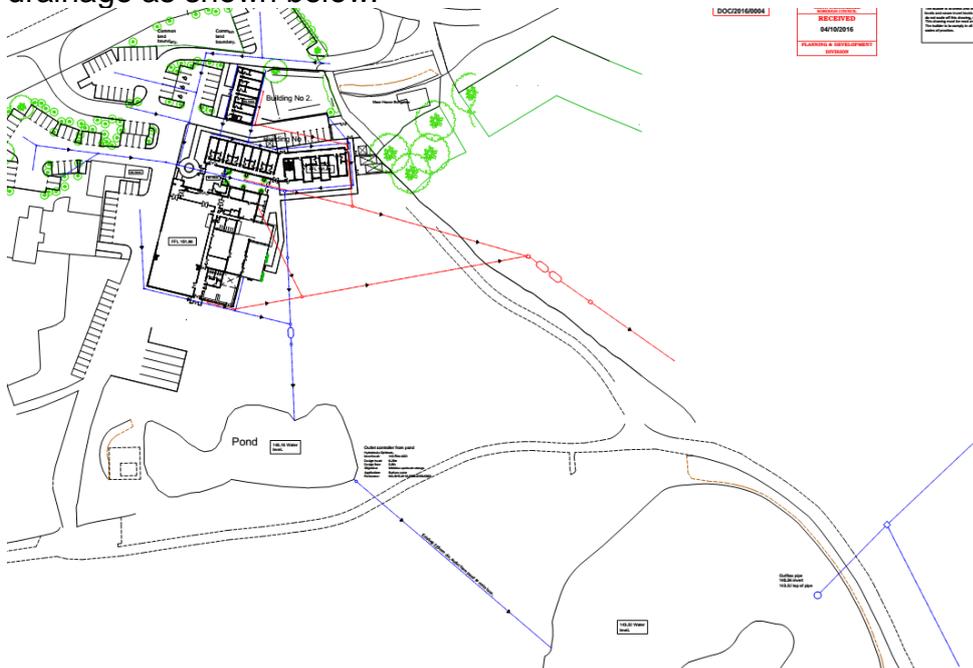
Additionally, the recently constructed footbridge has been fully illuminated (see photographs below). It is spot lit from a number of sources and has LED illumination along both handrails. It is proposed in a separate application to retain this structure for use in association with the proposed hotel and to allow an alternative access to the restaurant. These illumination sources are not shown on the lighting plan, nor are detailed in any of the specifications or the assessment.



The night visit was helpful in ascertaining that the site sits at a location which is particularly dark. There is no street lighting or lighting from other buildings. In this location sources of illumination particularly stand out. This is evident in the effect of the illumination of the recently erected signs (see photographs below).



The applicant has also submitted an overall drainage scheme for surface water drainage as shown below:



Condition 12 required the approval of both energy conservation and energy generation measures. Whilst the energy conservation measures are clear the energy generation measures set out in the applicant's statement were far less clear. The accompanying Statement sets out that a biomass boiler would be installed in the south-east corner of the 'Coney Grove' field, west of the old farm pond, where it can be screened to the east and south by existing mature hedgerows and is well away from the setting of the listed Old Fillongley Hall. The boiler and flue would be painted dark green or dark brown, to blend with the surroundings and could be covered by a simple flat canopy supported on timber corner posts. The wood fuel would be stored in and around the agricultural/forestry building. It was suggested that 'the precise arrangement can be negotiated prior to the commencement of the hotel development'.

Whilst, in principle a biomass boiler may be an appropriate solution for energy generation in association with the hotel and conference centre development, the applicant has been advised that the mechanism of the discharge of a condition cannot be used to approve a significant development that would require planning permission in its own right. He has been advised that the correct course of action would be to apply for, and obtain planning permission for the biomass and then seek to discharge the condition.

The applicant has been advised that the biomass application would need to be accompanied with full details of how vehicular access would be achieved for the maintenance and fuelling of the boiler, including details of any new roadways and hard surfaces, the mechanism for relaying the energy to the buildings it would serve, the size and kilowatt capacity of the system, the height of any associated flue and the dimensions and appearance of any housing/cover or adjoining log store. The applicant's report suggests that the existing forestry building could be used inside and out for associated wood storage. It is uncertain how this would fit with the companion application for the use of that building for primarily D2 use.

The applicant has therefore requested that the condition be considered in part, as it relates to energy conservation. This will require the future submission of an application for the full discharge of the condition as it relates the energy generation element as well.

The applicant has entered into a dialogue about the details of a required Travel Plan but he has indicated that he will submit a separate Discharge of Conditions Application at a future date. He has also indicated that other outstanding 'pre-occupation' conditions concerning fume extraction, air conditioning, foul sewage disposal and any additional external signage (including on the new buildings) will be submitted for discharge at a later date.

## **The Proposal**

Discharge of conditions 7 (landscaping scheme), 8 (in part) (archaeological work), 9 (in part) (bricks, tiles, surface and facing materials), 10 (window and door joinery), 11 (exterior lighting), 12 (energy generation/conservation measures), 13 (tree protection), 14 (boundary treatment), 15 (drainage network and hydro-brake control), 16 (access and car parking details), 17 (refuse storage/disposal) and 18 (crime prevention measures) of the planning permission referenced PAP/2013/0391

## Development Plan and Other Relevant Material Considerations

Members will be aware that the relevant policies of the Development Plan in respect of this application are NW10 (Development Considerations) and NW12 (Quality of Development) of the Core Strategy 2014. The National Planning Policy Framework of 2012 is also a material planning consideration.

### Observations

The reports in Appendix A contain detailed consideration of the matters surrounding each of the conditions, including a setting out of representations and consultation responses received and should be read as an integral part of this report and should provide a complete picture of the consideration of the various conditions.

### Condition 7 (landscaping scheme)

The landscaping scheme has been revised to take account of the revisions to the layout of the car park. The scheme now proposed is illustrated below



New ornamental tree planting in the car parking areas will consist of one third each of wild cherry (25 x *Prunus avium*), field maple (26 x *Acer campestre*) and rowan or mountain ash (24 x *Sorbus aucuparia*), plus two holly on the north-west boundary of the north car park. A total of some 81 trees is to be planted, including seven on the common land and six in the courtyard between the hotel and the Conference Centre. This is an appropriate number, mix and distribution of trees.

It was previously proposed to site a sculpture feature on the open land at the site entrance. This has been revised to propose a focal point feature fountain in the forecourt in front of the hotel/Conference Centre main entrance. (As the area previously identified has now had to be allocated for parking bays displaced by the common land and it was considered that it would be inappropriate to relocate it on the common land.) The fountain would comprise a glass sphere, out of and over which water would flow down into a saucer shaped bowl. The 'Aqualens' design is by Allison Armour of West Sussex and examples are shown below.



This is considered to be a much more appropriate siting and such a feature is not uncommon at hotel premises. This aspect of 'hard landscaping' may be supported.

#### **Condition 8 (in part) (archaeological work)**

The applicant initially presented an argument to suggest that this condition should be set aside, however, later commissioned and submitted a Written Scheme of Investigation prepared by Archaeology Warwickshire.

Fillongley Parish Council comments that it does not think that the requirements of this condition are unreasonable.

This condition requires a written brief to be agreed for an evaluation to be carried out and for the final report to be deposited with the Warwickshire Museum. The brief has been agreed by the Museum and thus there can be a partial discharge of this condition.

#### **Condition 9 (in part) (bricks, tiles, surface and facing materials)**

The details proposed in this regard and the consideration of the materials is set out in fill in Appendix A. The materials identified are deemed to be appropriate and this condition may be discharged.

#### **Condition 10 (window and door joinery)**

The details proposed in this regard and the consideration of the proposals is set out in fill in Appendix A. The materials and styles identified are deemed to be appropriate and this condition may be discharged.

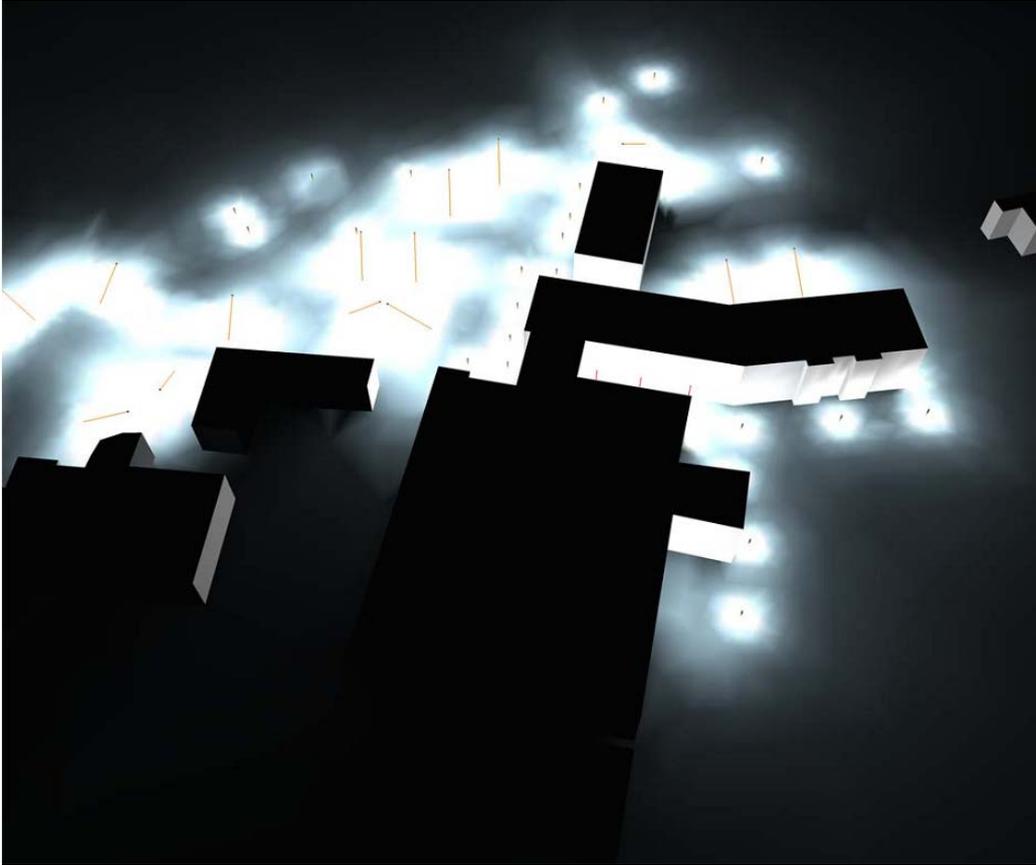
### Condition 11 (exterior lighting)

The lighting scheme when first presented sought to brightly illuminate the external areas of the site. Officers indicated that they would be unable to support such an approach in this 'dark skies' rural location. The illustrations below show how the lighting scheme has evolved.

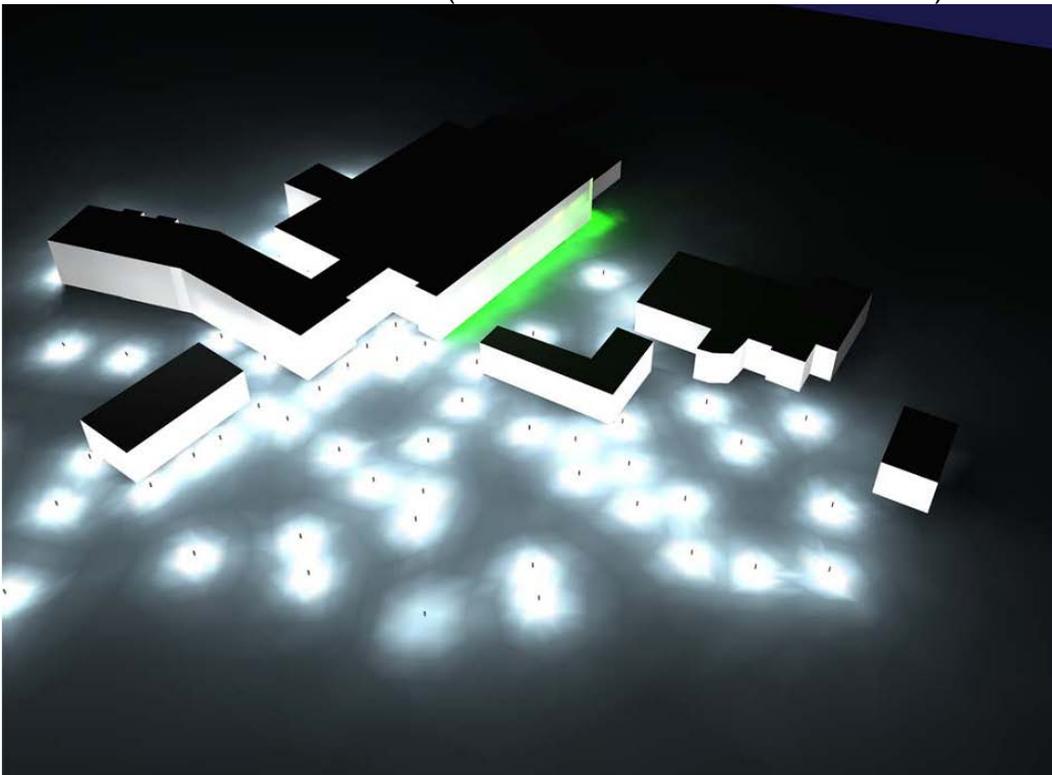
The scheme as first proposed:



The scheme as first revised:



The scheme as further revised (Current scheme for determination):



This proposes the installation of the following:  
 59 (No.) x 21 watt LED illuminated bollards,  
 8 (No.) x 16 watt LED wall mounted lights and  
 17 (No.) colour changing RGB floodlighting affixed to the conference centre building

The layout would be as shown below:



The proposal initially sought the installation of 4m high lighting columns and then 3m high lighting columns. It now proposes the installation of low level lighting in illuminated bollards. This is indeed an improvement; however, it is the overly large number of lighting installations that is a cause for concern. It is accepted that at a premises which operates into the evening and is visited by members of the public, exterior lighting will be required for the safe functioning of the site. However, in a countryside location such as this, it is important that the level of lighting is kept to the minimum necessary for site identification and for the safe movement of vehicles and pedestrians.

A total of 84 exterior lighting units are sought. Often the lighting units are sought in close proximity to each other, two or three bollards are proposed where one would serve the purpose. The quantity of lighting appears more for decorative purpose or to create an attention grabbing impact.

The exterior lighting would clearly operate in conjunction with the use of the buildings which will also provide a source of illumination from the interior use of the buildings. So too will they be in addition to the illuminated advertisements which have been positioned on both road frontages (not recognised as a lighting source on the lighting plan or illustration of the lighting effect) and in addition to the illumination that has been installed on the footbridge and associated signs at the footbridge. This context suggests further that the level of illumination proposed in discharge of the condition is excessive.

The applicant expresses a belief that the proposal conforms with Government guidelines on lighting in rural areas and that the amount of lighting emitted within the site will be well below the amount recommended. In this respect it is necessary to recognise that there are differing grades of sensitivity to light in rural locations. Some locations in, or near, villages, or in locations where there are streetlights, can accommodate lighting without undue harm to character

The installation of quantity of lighting sought is still too great for this location, more than that which would be required for the safe night time use of the public areas. It would be harmful to the visual amenity and rural character of this part of the Warwickshire countryside.

The Council's Adopted Supplementary Planning Guidance – A Guide for the Design of Lighting Schemes, September 2003, contains relevant guidance. In respect of lighting at commercial development the guidance sets out that all lighting should have a clear purpose. The use of lights simply to create a presence at night is not supported. It further sets out that consideration of the design of the overall site should seek to minimise the use of lighting. It is not considered that the advanced scheme is still orientated to creating a presence rather than one which seeks to minimise the use of lighting.

The use of changing coloured light washing the frontage of the conference centre building is a lighting solution which is alien to a rural location. The buildings are adapted former farm buildings. Such lighting would not be found in a farmyard context, nor, would such lighting have been found in the environs of the Fillongley Old Hall, a grade II listed building. It is a lighting solution which would be more commonplace in highly commercial parts of urban areas.

The coloured lighting on the conference centre building, though less prominent than the lighting on the storage building (to be demolished) would nevertheless be visible from other public land, namely, from Meriden Road and public footpaths (acknowledging that visibility from public footpaths is likely to be limited to times of dusk, as there is likely to be very limited, if any, use of public footpaths in the hours of darkness).

The illuminated front elevation of the Conference Centre building directly faces the front elevation of the Old Hall, with only a walled front garden and a car parking area separating the two. The buildings are separated by a distance of only 43 metres with no structures, other than a relatively low boundary wall, separating the two. The lighting will have a direct impact on the setting of the listed building. That harm

Given the commercial changes that have taken place around the listed building in recent years, the impact on its setting will be less than substantial. This level of harm does weigh against the proposal and must be balanced against the public benefits that would arise from the development. In this case the public benefits are very limited, if any. The appellant would argue that the lighting contributes to the commerciality of his business and that it therefore contributes to the economy, to employment and the recreational opportunity afforded by the conference centre.

Limited weight should be attached to such an argument as the lighting is not imperative to the success of the enterprise. The balance here is that the less than substantial

harm to heritage assets is not outweighed by the public benefits of the proposal and this points to the potential refusal of permission for the retention of the lighting.

It is however necessary to then have regard to any other material considerations in this decision. The alien form of the lighting in this rural location, the distracting nature of the non-static illumination, the attention seeking colour changing feature and the brightness of the light in this dark skies rural location all combine to make the lighting inappropriate and harmful such that there are no material considerations which outweigh the harm to the setting of the listed building.

Whilst there is an acknowledged need to have some illumination of the approved car parking areas, it is important that the lighting is a sympathetic balance between the usability of the site by visitors and the impact of lighting on the dark skies, rural location. It is considered that the scheme seeks an overtly bright environment rather than one which has a low level of subtle lighting sufficient to allow reasonable safe use of the area. The lighting scheme cannot be supported.

### **Condition 12 (In part - energy conservation measures only)**

The proposal that has been presented is for the installation of energy conservation and energy efficiency measures only. It includes:

- Installation of energy consumption monitoring equipment
- Use of low energy lighting and light sensors/photo-sensors
- Use of good thermal insulation in the construction of the new buildings
- Use of thermostatic controls
- Measures for water conservation
- Controls on the use of air conditioning
- Use of energy efficient appliances and energy conscious use of such appliances

These are reasonable measures and may be accepted in respect of energy conservation. The remaining part of the condition (energy generation) will be the subject of a future application for the discharge of the remaining part of the condition.

### **Condition 13 (Tree Protection)**

The conifer trees already removed were in line with the 2016 permission. The new tree planting within the proposed landscaping scheme will compensate for the loss of former tree cover and the site frontage (beyond the applicant's ownership) is bordered by existing trees which will continue to afford some screening and softening of the site. It is not considered that there is meaningful action that can be taken in respect of this condition.

### **Condition 14 (boundary treatment)**

The details proposed in this regard are set out in full in Appendix A. The boundary treatments identified are deemed to be appropriate and this condition may be discharged.

### **Condition 15 (drainage network and hydro-brake control)**

The Lead Local Flood Authority confirms that that the information provided demonstrates that the proposals would suitably drain the site. As such, it offers no objection to the discharge of Condition 15 in relation to surface water.

### **Condition 16 (access and car parking details)**

The condition requires the full details of the provision of the access, car parking, manoeuvring and service areas, including surfacing, drainage and levels.

As detailed above, the proposed parking layout has been amended and additional detail has been provided in respect of drainage. This detail is acceptable to the drainage authority. The detail submitted in respect of this discharge of the detailing of steps, surfacing and kerbs and edging are also acceptable.

### **Condition 17 (refuse storage/disposal)**

The details proposed in this regard are set out in fill in Appendix A. The refuse storage and disposal arrangements are deemed to be appropriate and this condition may be discharged.

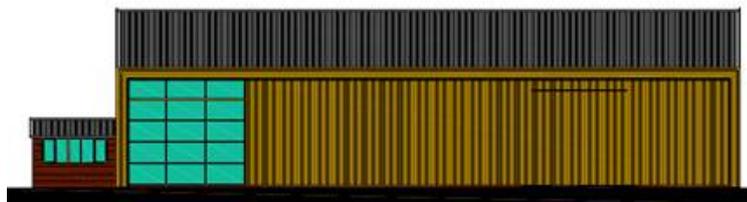
### **Condition 18 (crime prevention measures)**

The details proposed in this regard are set out in fill in Appendix A. The crime prevention measures identified are deemed to be appropriate and this condition may be discharged.

### **Unauthorised Development**

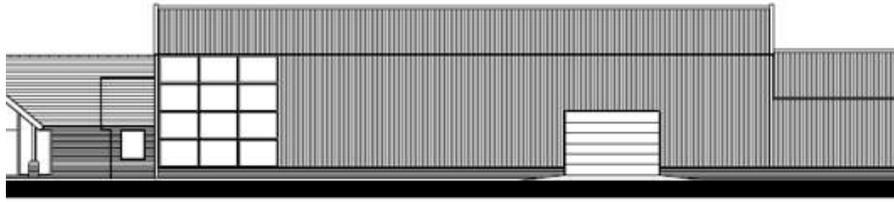
The majority of the lighting detailed in the discharge of conditions application is proposed lighting, however, the coloured changing lights on the existing buildings are in situ presently. This lighting is unauthorised. It is more than de-minimis. The lighting units are numerous and are fixed to the exterior of the buildings.

The 2014 permission which authorised the re-cladding of the building did not authorise the incorporation of lighting fixtures – see elevation drawing below:



North West elevation.

The 2016 permission for the hotel and conference centre extensions made no reference to the incorporation of lighting fixtures – see elevation drawing below:



Given that the 2014 permission was implemented, it is likely that the lighting was installed sometime after September 2014. It is therefore unlikely that there could be a claim of lawfulness by virtue of the passage of time.

The colour changing lighting is harmful to the character and appearance of the rural area and is alien in character to Fillongley Old Hall, a Grade II listed building, to the extent that it is harmful to its setting.

It is recommended that it is expedient to pursue enforcement action to secure the removal of all of the external lighting installed on north-west elevations of the conference centre building and the storage building. This is notwithstanding that the building will be demolished if the hotel redevelopment is fully implemented, as there remains a possibility that the permission may not be implemented and the retention of the lighting would cause the identified harm to the character and appearance of this rural area if retained.

### **Report Implications**

Because of the right of appeal against any Enforcement Notice there is a risk that the Council could, if unsuccessful, have an award of costs made against it. The applicant too will incur accost if the requirements of the Notice are to be carried through. This is not considered to be material and would not outweigh the visual harm now caused.

### **Recommendation**

1. That the following conditions be discharged and that the submitted details be approved as follows:

#### **Condition 7 (landscaping scheme)**

The drawing numbered 'Drg 01 Rev C A1 Site plan' and the Landscaping Scheme & Tree Planting Specification received by the Local Planning Authority on 25 August 2016.

#### **Condition 8 (in part) (archaeological work)**

The Written Scheme of Investigation prepared by Archaeology Warwickshire dated April 2016 and received by the Local Planning Authority on 7 June 2016.

#### **Condition 9 (in part) (bricks, tiles, surface and facing materials)**

Wienerberger's Blended Red Multi Gilt Stock Bricks

Marley Eternit's Hawkings Clay Plain Tile Colour Staffordshire Blue.  
Cedar Board Vertical cladding  
Red brick block paving  
Black bitumen macadam

**Condition 10 (window and door joinery)**

Drg 01 A1, Drg 02 A1, Drg 03 A1, Drg 04 A1, Drg 05 A1, Drg 06 A1, Drg 07 A1 and Drg 08 A1 received by the Local Planning Authority on 12 January 2016.

**Condition 14 (boundary treatment)**

The sandstone wall details plan received by the Local Planning Authority on 23 March 2016.

The drawing numbered 333/215/PC13/14/16/06 showing the acoustic fence on the site boundary surrounding the bin/service area received by the Local Planning Authority on 25 February 2016.

**Condition 15 (drainage network and hydro-brake control)**

Drg 01 Rev C A1 Drainage layout  
Drg 04 Rev A A1 Overall drainage schematic  
Surface Water Drainage modelling note  
Received by the Local Planning Authority on 4 October 2016

**Condition 16 (access and car parking details)**

The external works site plan (drawing 333/215/PC13/14/16/01, Revision A) showing the positions of proposed kerbs and edging details, as received by the Local Planning Authority on 25 August 2016.

The Drawing 333/215/PC13/14/16/02 showing the steps giving access to the Hotel Building No. 2 from the North Car Park, the Technical details for the steps and flanking walls and the Drawing 333/215/PC13/14/16/04 showing typical kerb, edging, bitumen macadam and block pavior details, as received by the Local Planning Authority on 12 January 2016.

**Condition 17 (refuse storage/disposal)**

The waste and recycling operation method statement received by the Local Planning Authority on 12 January 2016.

**Condition 18 (crime prevention measures)**

The Crime Prevention and Security Measures Document received by the Local Planning Authority on 12 January 2016.

2. That the following details be refused of the discharge of conditions for the reasons given:

### **Condition 11 (exterior lighting)**

The proposed lighting is too numerous and intrusive in a rural, dark skies, location. It would be harmful to the visual amenity of the Green Belt and to the rural character of the area. The colour changing lighting is alien in character to Fillongley Old Hall, a Grade II listed building, to the extent that it is harmful to its setting. The scheme would be contrary to the provisions of the Council's Adopted Supplementary Planning Guidance – A Guide for the Design of Lighting Schemes, September 2003 which seeks to avoid the use of lights simply to create a presence at night and which seeks to seek to minimise the use of lighting and contrary to the provisions of Policies NW10, NW12 and NW14 of the North Warwickshire Core Strategy Adopted October 2014.

3. That in respect of the Condition 13 (tree protection) the Council recognises non-compliance with the requirements of the condition, but considers that it is not expedient to pursue formal enforcement action:
  
4. That the Solicitor to the Council be authorised to issue an Enforcement Notice requiring the removal of the coloured lighting and flood lighting installed on the north west elevation of the conference centre building and on the existing storage building.

## BACKGROUND PAPERS

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

Planning Application No: DOC/2016/0004

Background Paper No	Author	Nature of Background Paper	Date
1	Lead Local Flood Authority	Consultation Response	25/10/16
2	Warwickshire County Council Highways Authority	Consultation Response	2/9/16 24/10/16
3	Applicant's Agent	Correspondence re lighting, energy generation and Travel Plan	3/11/16
4	McHugh	Representation	24/11/16

*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: DOC/2016/0004**

**Heart of England, Meriden Road, Fillongley, CV7 8DX**

**Discharge of conditions 7 (landscaping scheme), 8 (in part) (archaeological work), 9 (in part) (bricks, tiles, surface and facing materials), 10 (window and door joinery), 11 (exterior lighting), 12 (energy generation/conservation measures), 13 (tree protection), 14 (boundary treatment), 15 (drainage network and hydro-brake control), 16 (access and car parking details), 17 (refuse storage/disposal) and 18 (crime prevention measures) of the planning permission referenced PAP/2013/0391, for**

**Mr Stephen Hammon - Heart Of England Promotions**

**Introduction**

Members received a report concerning matters related to the premises known as The Heart of England Conference and Events Centre in Part Two of the agenda of the August meeting of the Planning and Development Board. Amongst other matters, a position statement in respect of this Discharge of Conditions application was reported. Members have requested that it be reported back to the following Board for determination.

**Position Update**

The applicant's agent has been notified that the Board wishes to determine the application at the September meeting. He has been advised that if the identified matters of concern have not been addressed, consideration will be given to refusing the discharge of certain of the conditions.

The applicant's agent has been supplied with a copy of the August report appendix which set out, in detail, the consideration of the Discharge of Conditions Application. For ease of reference, this has been reproduced below in full as Appendix One below.

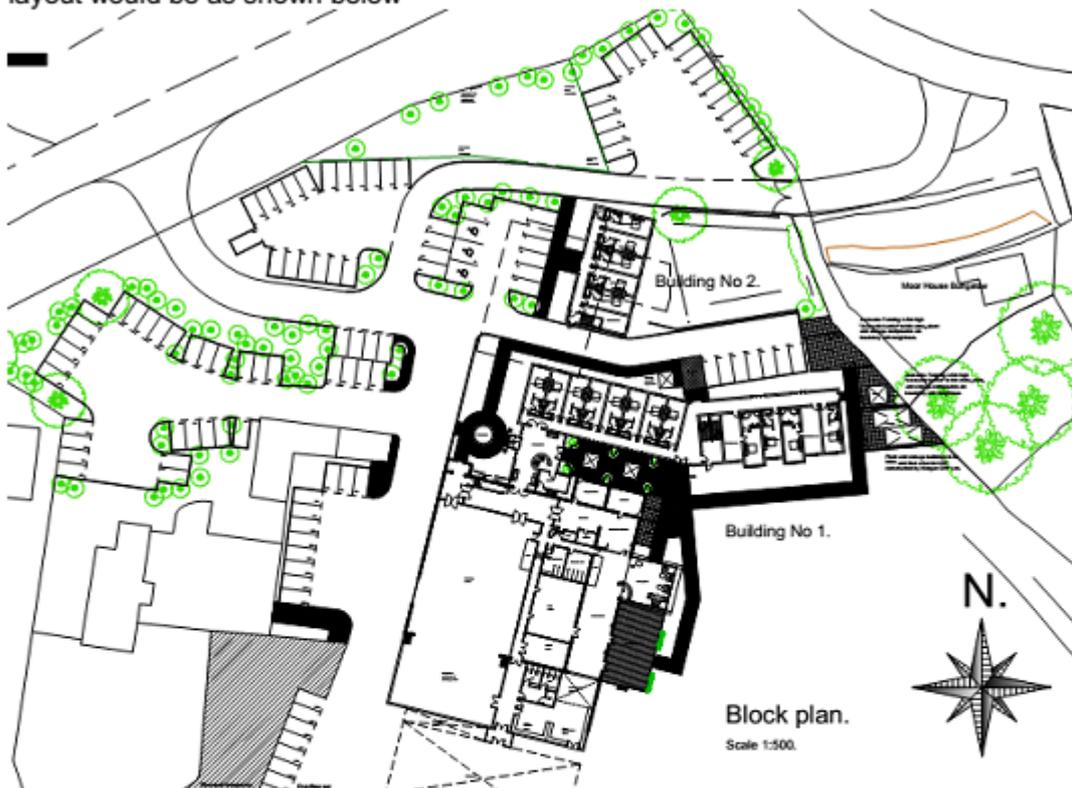
The applicant's agent was offered an opportunity to address the outstanding matters/concerns and offer an update.

He has responded explaining that the delay relates to matters surrounding the claim that part of the site is common land. He indicates that there was no point in submitting revised details until the final layout of the carpark had been established.

He indicated that he had finished the drainage layout (and supplied copies). The layout was being forwarded to the applicant's consultants for checking prior to submission. No formal submissions have yet been received and it is assumed that the matter is still with the applicant's consultants.

It was further advised that work was progressing on a lighting layout and all other matters were in hand.

A Non-material minor amendment application has recently been received (though it is not yet valid, pending receipt of the application fee). The amendment seeks a revision to the layout of the car park relating to the planning permission for the erection of hotel and conference centre extensions. The revised layout seeks to avoid the provision of car parking spaces on land recently established as part of Common Land. The revised layout would be as shown below



### Observations

In light of the explanation from the applicant that the information requested in respect of the discharge of conditions has been held up pending resolution of the car park layout and the Common Land issue, together with his assurance that matters are in hand to address all identified matters, it is considered expedient to allow some additional time ahead of determining this Discharge of Conditions application. It would however, be reasonable to allow the opportunity to be time limited. To allow for consideration of the non-material minor amendment, including consultation associated with it, and re-consultation on revised drawings associated with the discharge of conditions, it would be reasonable to limit the opportunity to no more than six weeks.

### Recommendation

That the application be reported back to Board for determination after the passage of six weeks.

**The Application to Discharge Conditions**

<b>Reference No</b>	<b>DOC/2016/0004</b>
<b>Location</b>	Heart of England Meriden Road Fillongley CV7 8DX
<b>Application Type</b>	Approval of Details Required by Condition(s)
<b>Proposal</b>	Discharge of conditions 7 (landscaping scheme), 8 (in part) (archaeological work), 9 (in part) (bricks, tiles, surface and facing materials), 10 (window and door joinery), 11 (exterior lighting), 12 (energy generation/conservation measures), 13 (tree protection), 14 (boundary treatment), 15 (drainage network and hydro-brake control), 16 (access and car parking details), 17 (refuse storage/disposal) and 18 (crime prevention measures) of the planning permission referenced PAP/2013/0391

**Development Plan and Other Relevant Material Considerations**

Members will be aware that the relevant policies of the Development Plan in respect of this application are NW10 (Development Considerations) and NW12 (Quality of Development) of the Core Strategy 2014. The National Planning Policy Framework of 2012 is also a material planning consideration.

**Representations**

Two representations have been received in respect of the discharge of these conditions - one from a local resident and one from Fillongley Parish Council.

The representation from the occupier of a nearby dwelling raising the following concerns: - the car parking area uses a "hideous conglomeration of large rocks", that were used for the development of the beach, and supposedly sourced from site. The rocks are unsightly, untidy and not in keeping with the surrounding countryside.

The area being used to form the car park appears to have expanded beyond the original boundary.

The rocks have now had a liquid such as (sour-milk) poured over them to encourage the growth of fungi, which will take years for it to grow.

The illumination of the area is very brightly lit, far too many lights, with illuminated signage and flags. We were told the lights would be facing down into the car park, avoiding the spread of the lighting. This causes light pollution. Mr Hammon likes to be noticed, and this brightly lit, "monstrosity", that is out of character with the area, has certainly achieved this for him.

The comments forwarded by Fillongley Parish Council will be set out in the commentary for each of the conditions below.

## Observations

### Condition 7 – Landscaping

This condition follows on from the hotel permission which did include the removal of the roadside frontage of conifers. These have now gone and the condition seeks a replacement scheme. Following initial concerns about the adequacy of the landscaping proposals a revised plan has been submitted.

Any trees which die to be replaced in the next planting season.



Fillongley Parish Council comments in respect of the introduction of a 'sculpture shown on the initial landscaping scheme at the centre of the lawn to the east of the main vehicular entrance from Meriden Road'. They consider it to be inappropriate as it would cause detriment to the rural nature of the location and visual amenity. It also suggests that it would be a potential impediment to drivers causing a highway safety issue. It further suggests that the positioning of the feature would be outside the redline boundary for the application.

The applicant is seeking a balance between effective screening as well as making sure that his premises are readily visible from the road. It is considered that the mix of species is now acceptable here and the scheme does now provide an effective balance between the differing interests.

### Condition 8 – Archaeology

The applicant initially presented an argument to suggest that this condition should be set aside, however, later commissioned and submitted a Written Scheme of Investigation prepared by Archaeology Warwickshire.

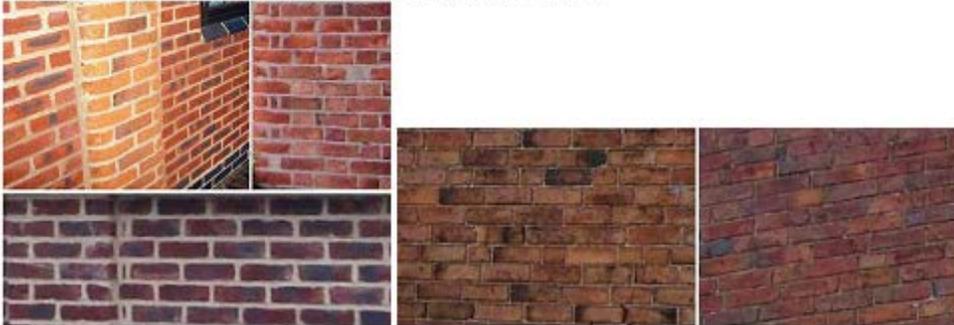
Fillongley Parish Council comments that it does not think that the requirements of this condition are unreasonable.

This condition requires a written brief to be agreed for an evaluation to be carried out and for the final report to be deposited with the Warwickshire Museum. The brief has been agreed by the Museum and thus there can be a partial discharge of this condition.

Condition 9 – Facing Materials (in part) (bricks, tiles, surface and facing materials)

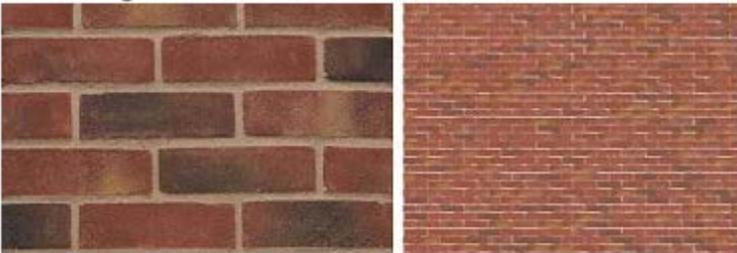
The proposal for the use of materials is as follows:

Existing variety of bricks in the Old Hall and office.



The proposed brickwork is shown below:

Wienerberger's 'Blended Red Multi Gilt Stock'



The existing variety of bricks in the Old Hall and office are shown below:



The proposed tile is shown below:



*Marley Eternit's 'Hawkins' Clay Plain Tile, 'Staffordshire Blue' colour*

The following examples of block paving materials are suggested in respect of pathways and courtyards.



In respect of the proposed conference centre extension the following is proposed:

This will be faced with cedar board vertical cladding, to match the existing building, on the west and south elevations. The east elevation is to be faced in a reddish-brown brick, selected to match the brickwork of the existing restaurant as closely as possible. The proposed roof covering would be 'Big 6'/Profile 6 ridged fibre-cement sheeting, painted in a 'Flint Grey' colour (BS 4800/5252, 00 A 09), to mimic the profile of the existing asbestos cement sheeting. This is readily available from Marley Eternit and other suppliers. A typical example is illustrated below.



The car parking areas and main driveways:

The car parking areas and main driveways will be surfaced in black bitumen macadam (tarmac) in the conventional manner, with the bays and other markings delineated in white and yellow paint.

Fillongley Parish Council comment: The brickwork proposed seems out of keeping with the older parts of Fillongley Hall. The poor renovations/extensions to the Listed Building should not be used as a precedent. Given the extent of the elevations a Tumbled stock brick such as Olde Woodford Red Multi, Retro Barn Stock, Retro Cottage Stock or Whitby Red Multi Rustica may be more appropriate. It suggests that samples are constructed on site for review by the planners to enable an informed decision; given the scale of the development this would not seem unreasonable.

The bricks are considered to be an appropriately blended mix, sufficiently similar to existing materials at the site and a red brick material traditional in this part of Warwickshire.

The proposed tile is considered to be an appropriate tile which is also traditional in this part of Warwickshire.

The suggested colours/blends for the block paving materials would be satisfactory and the tarmac surface for the car park is a standard appropriate surface solution.

The materials are felt to be sufficiently in-keeping with the rural character of the area and a reasonable match with existing buildings at the site. It is considered that the applicant can be advised that these materials are found to be generally acceptable but that the discharge of the condition will be subject to the caveat that samples be constructed on site for final agreement. The applicant has indicated a willingness to construct samples on site ahead of use. This can happen and should the materials be found to differ from expectations a more suitable alternative can be agreed.

#### Condition 10 – Window and Door Joinery

Condition 10 reads:

No development shall be commenced before details of all new windows and doors to be used to have been submitted to and approved by the Local Planning Authority in writing. The approved joinery detail shall then be installed and maintained as such at all times thereafter.

The details submitted confirm the use of stained timber materials and simple styling.

Fillongley Parish Council comments that it would suggest a sample of windows and doors including proposed stains are installed within a sample wall on site for approval by planners to enable an informed decision; given the scale of the development this would not seem unreasonable. Drawings currently state 'All windows to receive 2no. min. coats of stain to Local Authority approval.' and 'All ironmongery to be approved with Local Authority prior to fixing.' FPC would suggest this condition cannot be discharged until this is resolved.

The condition can be discharged.

#### Condition 11 – Exterior Lighting

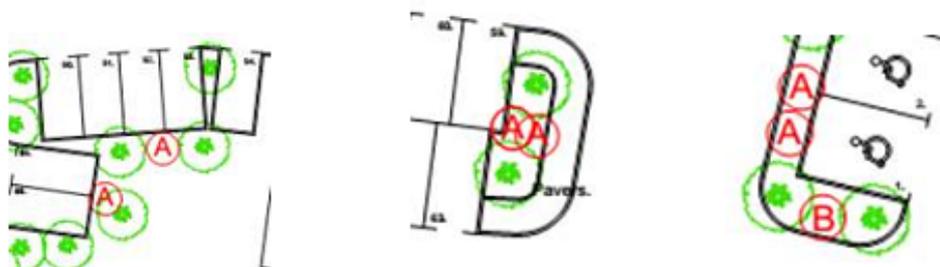
The current version of the lighting proposal is shown below. It would comprise a combination of 4m high lighting columns (15 in total), illuminated bollards (30 in total) and wall mounted LED luminaire (10 in total)



The initial lighting proposal was found to be unacceptable because of the number, height and degree of luminance from the proposed lighting. A revised scheme was presented. However, necessary information about the details of the lighting sources, its luminance and coverage were omitted from the revised proposal. There was also no corresponding revision to the lighting impact assessment.

A request for more than a basic revised lighting proposal and clarification of the details of the proposal has been made but no response has been received.

The proposal contains several instances where two 4m tall lighting columns are proposed in very close proximity to each other (see examples below). There is no immediate reason for this. It appears that in all of these instances a single column could suffice. A request has been made for a reduction in the number of columns accordingly, or where no reduction is proposed, a clear explanation of the necessity for multiple columns. No revised plan or explanation has been received.



Fillongley Parish Council comments as follows:

5 metre lighting columns are inappropriate for this rural location; the same fittings could be mounted on shorter columns; FPC would suggest a maximum of 3m.

Deciduous trees should not be used to 'break up and contain light spread' as inherently this is ineffective during the winter months when the lights will be required more frequently.

Lighting levels in excess of 30 lux are inappropriate for this rural location. CIBSE LG6 would suggest 10 lux is more adequate and arguably 5 lux would be more than adequate (see Gloucester Gateway Service Station, Stroud District Council where 5 lux is acceptable for a motorway service station forecourt.)

Fittings with an upward lighting component (such as type C) **should not be used** in this rural location due to light spill.

The aesthetics of the fittings selected are not in keeping with the rural location and are more industrial and chunky. Either sleek minimalist fittings such as 'Iguzzini Quid' (or similar) or fittings with a nod to the rural location such as the RAGNI wooden column mounted lights (or similar) would be more appropriate.

Fifteen (number), 4 metre high, 15 lux lighting installations are considered too intrusive for this countryside setting and a level of illumination far higher than is necessary for the reasonable functioning of the site during the hours of darkness.

The proposed luminance of the lighting installations is of concern. Lux levels of up to 15 would be inappropriate and unjustified in this rural setting. Guidance from the Institute of Lighting Professionals indicates that 15 Lux would be the level for main road lighting. It indicates that 5 Lux would be the average for a residential street. It is considered that the level of lighting in this rural location should not exceed that of a residential street (5 Lux). A request for a justification of the Lux levels has received no response. The proposal as presented would be harmful to the character and appearance of this rural location and the submitted lighting proposal may not be supported.

#### Condition 12 – Energy Generation/Conservation Measures

Condition 12 reads:

No development other than demolition shall be commenced before details of a scheme for the incorporation of energy generation and energy conservation measures has been submitted to and approved by the Local Planning Authority in writing. The approved measures shall then be installed and maintained as such at all times thereafter.

The proposal that has been presented is for the installation of energy conservation and energy efficiency measures only. It includes:

- Installation of energy consumption monitoring equipment
- Use of low energy lighting and light sensors/photo-sensors
- Use of good thermal insulation in the construction of the new buildings
- Use of thermostatic controls
- Measures for water conservation
- Controls on the use of air conditioning

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- Use of energy efficient appliances and energy conscious use of such appliances

Fillongley Parish Council comments as follows:

The statement provided in no way addresses the condition. NW 11 states 'New development will be expected to be energy efficient in terms of its fabric and use. Major development will be required to provide a minimum of 10% of its operational energy requirements from a renewable energy source subject to viability. Smaller schemes will be encouraged to seek the introduction of renewable energy and energy efficiency schemes at the outset to avoid costly retrofit.'

No scheme is given for the incorporation of energy generation.

Details of energy conservation measures are limited and qualitative only and do not enable a considered review.

FPC suggest this needs re-submitting complete with Building Regulations Part L 2A calculations to enable proper consideration. Starting on site would be foolhardy without Part L 2A calculations in place as these can dictate construction e.g. wall thicknesses etc. together with the efficacy of systems. We believe Dynamic Thermal Simulation would be required for this complexity of building and systems.

This application is for a large scale commercial development. It should reasonably be built in a sustainable manner such that it incorporates both energy generation and energy conservation measures. The submission to date deals only with energy conservation matters and proposes only routine conservation measures as would be required through the building regulations or through the normal operation of an efficient business. The omission of energy generation measures presents a case for refusal.

#### Condition 13 – Tree Protection

The conifer trees already removed were in line with the 2016 permission as described above. The new tree planting within the proposed landscaping scheme will compensate for the loss of former tree cover and the site frontage (beyond the applicant's ownership) is bordered by existing trees which will continue to afford some screening and softening of the site. It is not considered that there is meaningful action that can be taken in respect of this condition.

#### Condition 14 – Boundary Treatment

Condition 14 reads:

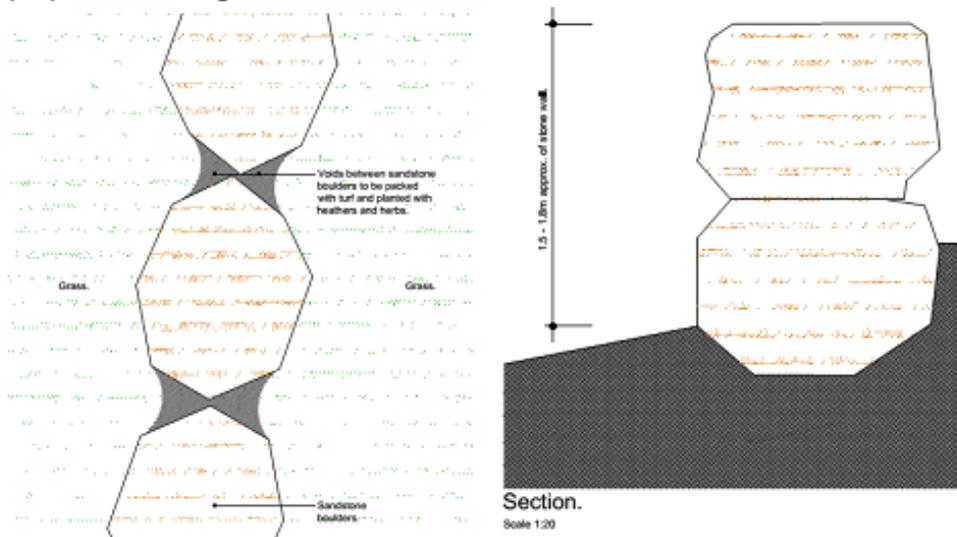
No development shall commence until details of any walls, gates, fences and other means of permanent enclosure and/or boundary treatment to be erected have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be implemented only in accordance with the approved details and maintained as such at all times thereafter.

There are two key elements to the boundary proposals – the treatment of the site frontage and the treatment of the enclosure of the bin/service area.

In respect of the latter an acoustic fence is proposed on the site boundary surrounding the bin/service area (as shown below). The Environmental Health Officer confirms that this is an appropriate solution and this element of the proposed boundary treatment may be supported.



In respect of the site frontage a low level sandstone front boundary wall is shown on the proposed drawings.





These works have commenced ahead of the issue of a decision on the Discharge of Conditions application – see photo below.



This has given rise to objections from the local community. However it is considered that this is an acceptable solution. The stones are naturally occurring in the area and they will attract natural green vegetation. It is low and set well back from the road, behind trees and not creating a visual dis-amenity.

The wall is not visually prominent in long views towards the site:



4/27

Nor is it unduly prominent in close up views:



It is considered that this is far better than wooden fencing or a palisade fence. It is thus considered to be worthy of support.

#### Condition 15 – Drainage Network and the Hydro-brake Control

Condition 15 reads:

Prior to the commencement of the development a detailed plan of the drainage network and hydro-brake control referred to in the Flood Risk Statement shall be submitted to and approved in writing by the Local Planning Authority.

Fillongley Parish Council asks for confirmation that a class 1 separator is proposed and indicates that there would need to be calculations confirming discharge rates in order to sign off scheme.

Two consultees, the Lead Local Flood Authority and the Environment Agency, object to the discharge of this condition.

The Environment Agency indicates that it does not recommend that conditions relating to surface water run-off are discharged as the submitted documents have not demonstrated that the development is safe from surface water flooding from itself or shown that it does not increase flood risk elsewhere.

The Lead Local Flood Authority also indicates that it requires the submission of the surface water drainage matters, namely:

The means of disposing of surface water - Full drainage details should be submitted including the following:

- Proposed drainage layout details
- Calculations showing suitability of the drainage and attenuation proposals
- The proposed allowance for exceedance flow
- Overland flow routing
- Allowances for climate change

The applicant has been requested to address these objections but has not responded.

It is considered that the discharge of this condition should be refused.

#### Condition 16 – Access and Car Parking Details

Condition 16 reads:

No development shall commence until full details of the provision of the access, car parking, manoeuvring and service areas, including surfacing, drainage and levels have been submitted to and approved in writing by the Council.

Fillongley Parish Council suggests that vehicle tracking modelling would be required in order to confirm adequate provision and therefore discharge condition.

The proposed parking layout generally accords with the layout shown on the drawings approved under in the original application. The additional detail submitted in respect of this discharge of conditions application is confined to the detailing of steps, surfacing and kerbs and edging. Whilst the submitted details appear acceptable, no details of surface water drainage proposals or levels have been received. The condition cannot therefore be discharged in full.

#### Condition 17 – Refuse Storage/Disposal

Condition 17 reads:

No development shall commence on site until details of a scheme for the storage and disposal of all refuse and recycling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall detail the storage locations, provide detailed drawings of storage vessels or compounds and the methods and time limits for the collection or dispatch of waste materials. The approved scheme shall be implemented in full at all times thereafter.

Fillongley Parish Council offers no comment other than to state that compliance with hours of use will be key to protecting residential amenity.

The applicant has submitted a waste and recycling operation method statement. It makes provisions for the private collection of wastes on Mondays at 10am and the nomination of a dedicated employee as a Recycling Co-ordinator or Champion. The reasonable weekday hour for waste collection is acceptable. The statement does not specify an evening limit on the use of the external bin store area. It is considered necessary to limit the use of this area at night because the disposal of wastes, including bottles etc. could give rise to noise disturbance to the adjacent dwelling, even with the installation of acoustic fencing. In discharging this condition it would be proposed to specify that the external store could not be used between the hours of 22:00 hours and 07:00 hours on any day.

#### Condition 18 – Crime Prevention Measures

Fillongley Parish Council indicates that advice from the local Crime Prevention Officer will be key to complying with the condition.

The Police Architectural Liaison Officer has no objection to the measures submitted in response to this condition. It can be supported.

## BACKGROUND PAPERS

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

Planning Application No: DOC/2016/0004

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	12 1 16 1 4 16 12 8 16
2	Police Crime Prevention Officer	Consultation Response	29 1 16
3	Environmental Health Officer	Consultation Response	25 2 16 9 3 16
4	Warwickshire County Council Highways Authority	Consultation Response	4 2 16
5	Planning Archaeologist, Warwickshire Museum	Consultation Response	11 4 16 7 6 16
6	Environment Agency	Consultation Response	18 4 16
7	Lead Local Flood Authority	Consultation Response	26 4 16 29 6 16
8	Fillongley Parish Council	Representation	1 3 16
9	Mc Hugh	Representation	8 6 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: MIA/2016/0038**

**Application No: MIA/2016/0038**

**Heart of England, Meriden Road, Fillongley, CV7 8DX**

**Non material amendment to PAP/2013/0391 dated 27/01/2016 proposing the re-arrangement of car park layout to exclude the recently confirmed area of common land within the site's north-west boundary, for**

**Mr Stephen Hammon**

**The Site**

The site forms part of the land and buildings at the land holding now known as The Heart of England Conference and Events Centre.

**The Proposal**

The application seeks a non material amendment to the planning permission referenced PAP/2013/0391 dated 27/01/2016. The amendment proposes the re-arrangement of car park layout to exclude an area of land recently confirmed as an area of common land within the site's north-west boundary.

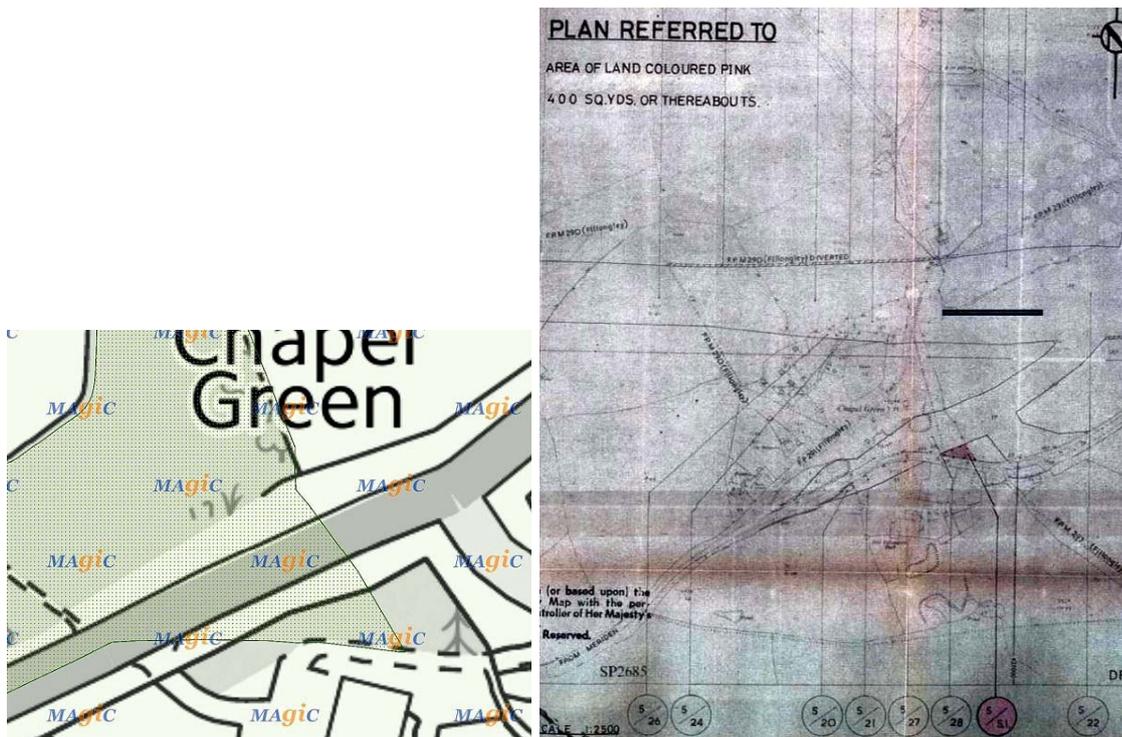
The plan below shows the approved car parking layout with the applicant's assessment of the extent of the common land marked upon it in yellow. The applicant indicates that he derives the location and extent from a study of historic mapping.



The plan extract below shows the alternative car parking layout now sought.



The maps below have been used to derive the location and extent of the common.



The applicant advises that the car parking has been rearranged in such a manner that it has been possible to keep it within the limits previously proposed and approved. The northernmost parking area, east of the common, has been reordered and the spaces formerly shown within the common land area have been moved to the area on the east side of the main entrance drive (which will involve the removal of most of the

current grass embankment on that side). It has not proved necessary to push the car parking area any further south into the open land beyond the building complex.

The common land will be planted with grass; the seven trees shown on the common near the site boundary will be of the same kinds and planted to the same specification as approved in the original application in this locality.

The applicant considers that that the new stone wall performs the same function as the original fence – and forms a more adequate screen and barrier than the post-and-rail fence would have done now that the conifer screen has been removed.

### **Relevant Policies to the Amendment Concerned**

North Warwickshire Core Strategy (October 2014): NW10 (Development Considerations) and NW12(Quality of Development)

### **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework - (the “NPPF”).

### **Consultations**

Warwickshire County Council Highways Authority – Offers no objection to the revised parking layout but points out that the overlay of the proposed layout over the highway extent and the common land (below) appears to show that parking spaces 36-40 are still located on top of common land. The Highway Authority notes that that the parking layout can be easily amended so that the same number of parking spaces can be retained but it nevertheless objects to the minor amendment as currently shown.



The Highway Authority also notes that Building No. 2 is over land maintainable at public expense. A separate permission from the Highway Authority is required to build within the highway extent.

## **Representations**

Fillongley Parish Council - No objection.

Corley Parish Council - If it is intended to remove any encroachment onto common land this is welcomed. The Parish Council queries whether the extent of the car park under construction is authorised and expresses concern about the extent of the car park, its lack of screening and the effect of light within the car park.

One local resident suggests that the amendment is acceptable, particularly if the applicant states they are to plant more trees to the same types and specification of the original species.

## **Observations**

The main considerations with this minor amendment are the effect that the change would have on vehicular and pedestrian safety within the site; the effect on the quantity of car parking and the effect on the character and appearance of this part of the site frontage.

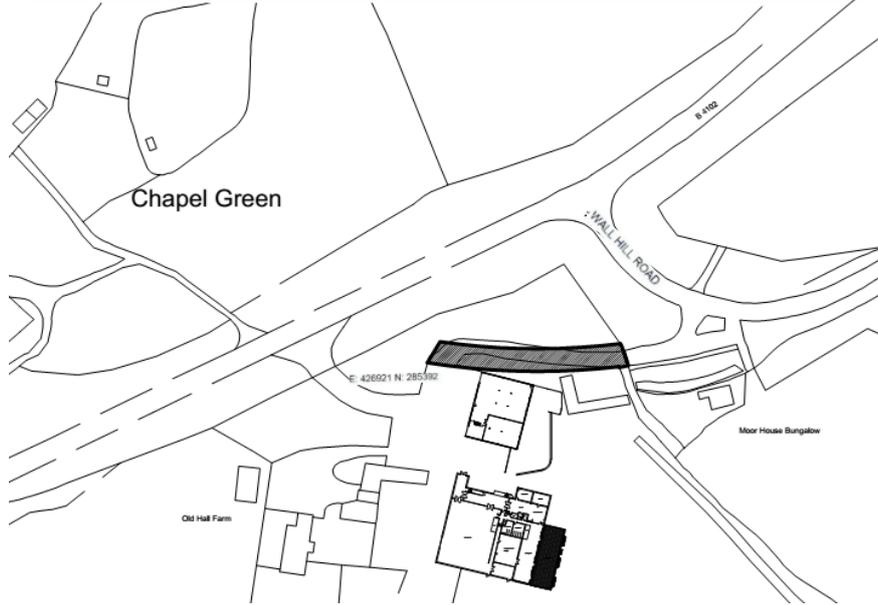
The revised car parking layout may be supported because it manages to achieve the same quantity of parking without compromising on highway or pedestrian safety and without requiring an overall greater extent of land for car parking.

The approved development has authorised a change in the character and appearance of this site frontage. The felling of the aged conifer boundary has inevitably opened up the frontage. The avoidance of development on the identified wedge of common land will not noticeably alter the character or appearance of the frontage beyond the change that would have occurred in the approved layout. Indeed, it affords an opportunity to plant the land to soften the appearance of the site.

In respect of the difference of opinion about the precise extent of the common, this is not a matter which should dictate determination of this minor amendment application. The disputed strip of land is extremely narrow impacting on less than half of the length of four car parking spaces. The applicant persists in his belief that he has correctly identified the extent of the common. If he later is proven to be incorrect he would need to seek a further application for a non-material minor amendment.

In respect of the Highway advice that Building No. 2 is approved to be constructed over land maintainable at public expense. The applicant initially disputed this fact, however, it appears that he has now conceded the matter to be true because the Council has recently been notified that The Heart of England has made an application to the Department of Transport for a stopping up order. The application relates to the land shown below and is the subject of a current consultation which invites the receipt of representations until 6 January 2017.

**7-HIGHWAY AT COVENTRY IN THE BOROUGH OF NORTH WARWICKSHIRE**



This is not material to the determination of this application for a minor amendment.

It is considered that the minor amendment may be supported.

**Recommendation**

That the amendment be **GRANTED**.

For the avoidance of doubt, condition 2 of Planning Permission PAP/2013/0391 shall now read as follows:

2. The development hereby approved shall not be carried out otherwise than in accordance with the following:

Plans numbered 233/21/AS04 Rev. A 'location plan' and 233/21/SK202 'proposed section' received by the Local Planning Authority on 26 January 2016.

Plans numbered AS02 Rev H 'proposed block plan and elevations' and AS01 Rev I 'proposed site plan' received by the Local Planning Authority on 4 August 2016.

The plan numbered Sk203 'gates to patio area' received by the Local Planning Authority on 9 February 2015

The plans numbered 233/21 /AS03 REV D 'proposed floor plans' and 233/21 /SK200 'sections' received by the Local Planning Authority on 7 November 2014

The plan numbered CP01 A2 'car parking' received by the Local Planning Authority on 14 February 2014

The plan numbered 233/21/09 'existing storage building plans and elevations' received by the Local Planning Authority on 19 September 2013

The plan numbered 233/21/07 Rev. A 'existing conference centre floor plan and elevations' and the tree survey and tree survey plan received by the Local Planning Authority on 18 September 2013

The plan numbered 233/21/10 'existing site plan' received by the Local Planning Authority on 22 August 2013.

#### REASON

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

This approval is subject to all of the other conditions contained in the Decision Notice ref: PAP/2013/0391 dated 27 January 2016.

## BACKGROUND PAPERS

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

Planning Application No: MIA/2016/0038

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	4/8/16
2	Warwickshire County Council Highways Authority	Consultation Response	7/10/16 28/11/16
3	Corley Parish Council	Representation	13/9/16
4	Fillongley Parish Council	Representation	21/9/16
5	J Hooke	Representation	2/9/16

*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.*

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**(4) Application No: PAP/2016/0414**

**Heart of England, Meriden Road, Fillongley, CV7 8DX**

**Change of use from agriculture/forestry to mixed use agriculture/forestry with D2 (assembly and leisure), for**

**Mr Stephen Hammon - Heart of England Promotions**

### **The Site**

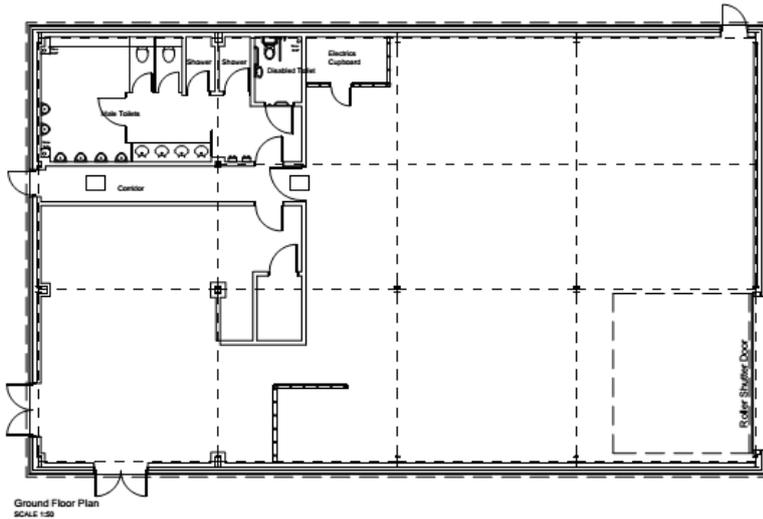
The site forms an existing building which is approved for forestry purposes. It is situated at the edge of the woodland at the land holding now known as The Heart of England Conference and Events Centre – see plan extract below. The building lies adjacent to but not within an area of land that is authorised to be used for specified outdoor recreational uses.



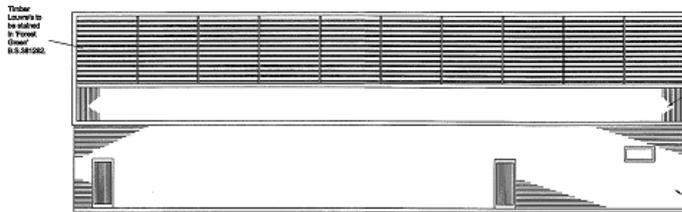
### **The Proposal**

The proposal seeks to change the use of the building from forestry use to a mixed use of agriculture and forestry together with D2 (assembly and leisure) use.

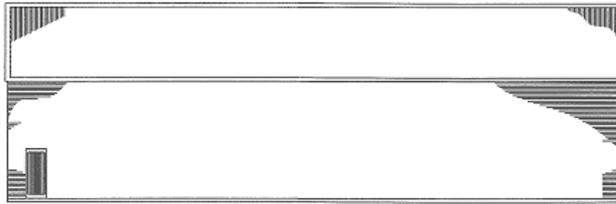
The applicant presents the plan below to show the 'Existing Layout' of the building.



This building was originally approved as permitted development but was subsequently the subject of an application for a non-material minor amendment which approved the introduction of toilets for use by forestry staff. The approved layout is as shown below. This differs from the layout now shown as the 'Existing Layout' of the building.



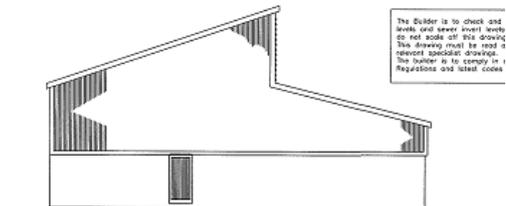
Elevation A



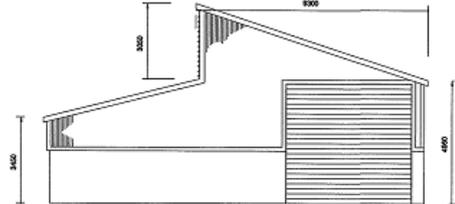
Elevation C



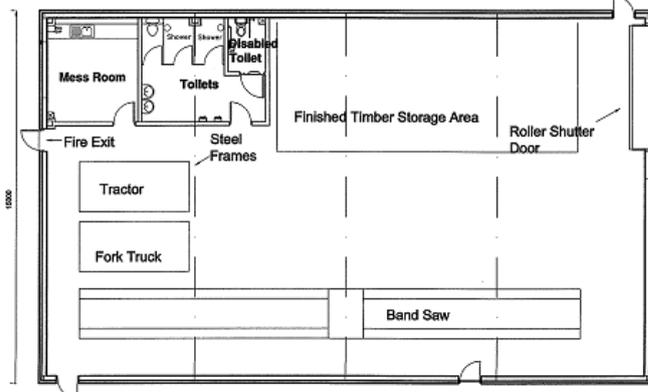
Elevation C



Elevation B



Elevation D



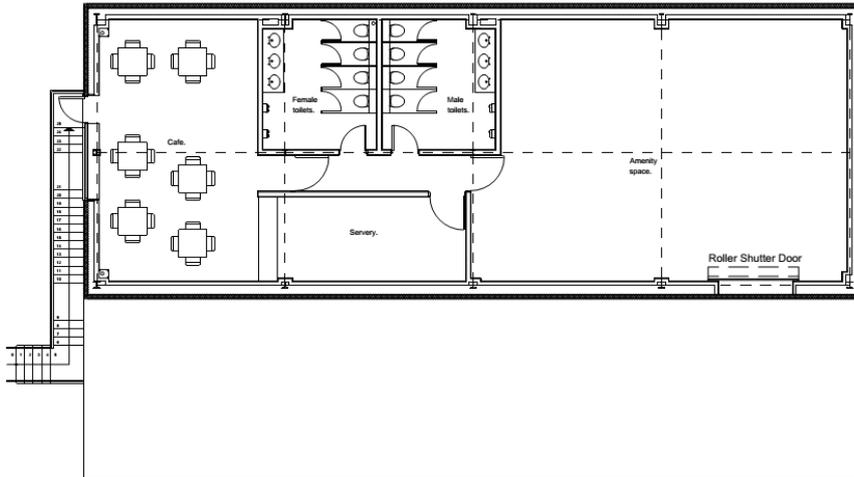
Plan

NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
APPROVED  
Jun 09, 2011  
100 100 100 100 100 100  
SUBJECT TO CONDITIONS  
ON NOTICE

NOTE: IF DRAWING PROVIDED  
FOR THE PURPOSES OF THE  
PLANNING ACT 2008  
THIS DRAWING IS NOT TO BE  
USED FOR ANY OTHER PURPOSES  
WITHOUT THE WRITTEN  
CONSENT OF THE ARCHITECT

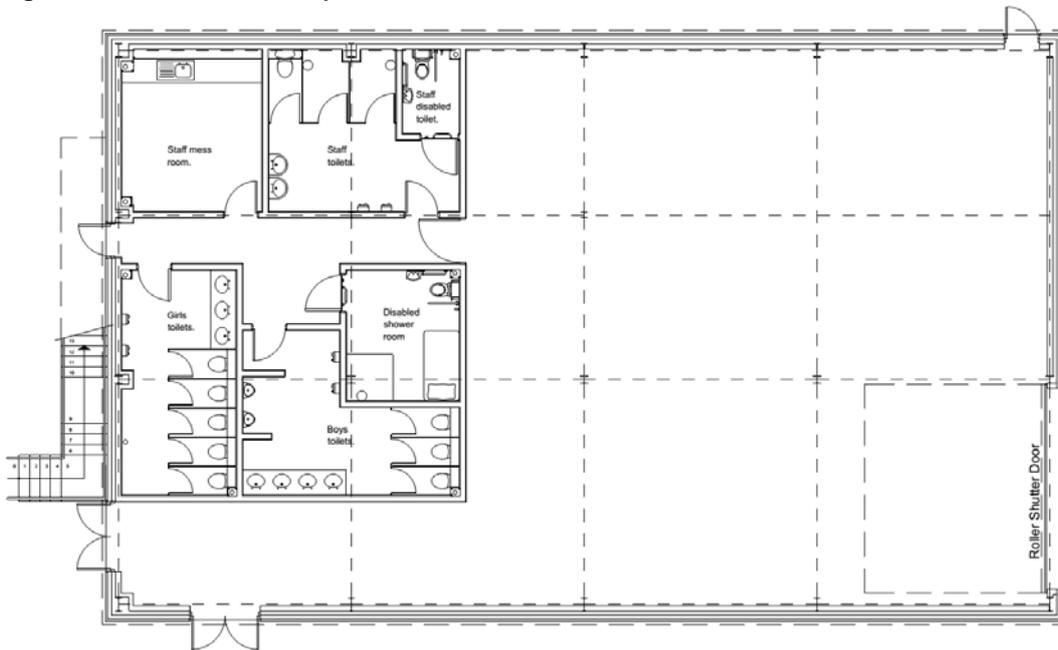
The proposal seeks to introduce an upper storey into the building which would be accessed via a newly constructed external stairway. The upper storey would be laid out as shown below with 4 male and 4 female toilets, a table and chairs seating area

described as 'café' and a servery, occupying one half of the space, and the remaining half is described as 'amenity space'.



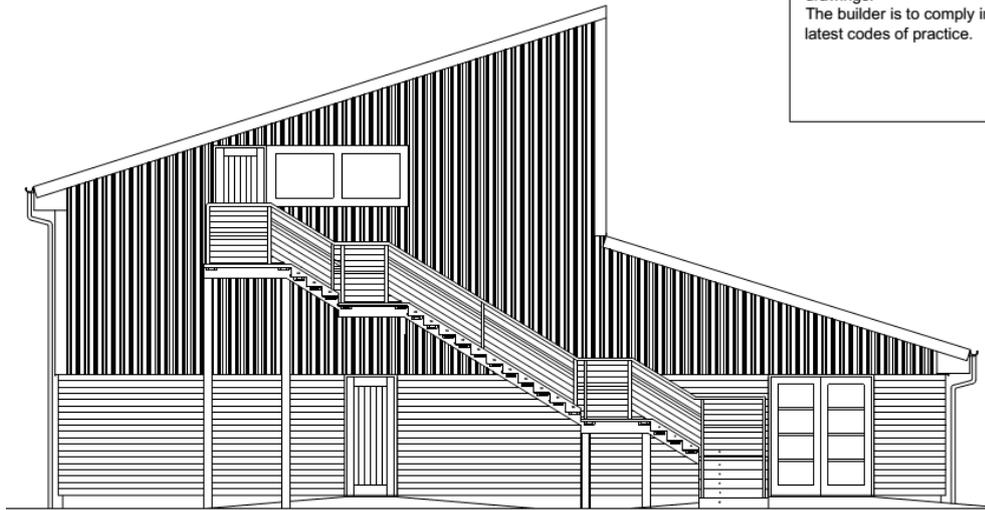
First Floor Plan

The proposed ground floor layout shows the staff toilets and mess room (as they were approved in the non-material minor amendment layout), five girls toilets, three boys toilets with a urinal and a disabled shower room. The use of the remainder of the space is unspecified on the plan, but given the description of development and the content of the Design and Access Statement it is assumed that this is the space available for the agricultural and forestry use.



Ground Floor Plan

Only one elevation of the building has been supplied:



Side Elevation  
Scale 1:100

The current appearance of the building is shown in the photographs below:



Photographs showing the existing front elevation



Photograph showing the existing side elevation

It is stated that the use of the building will be consistent with the existing permitted hours for outdoor recreational use at the site; 08.00 to 18.00 Mondays to Fridays and 09.00 to 18.00 Saturdays, Sundays and Bank Holidays.

The applicant indicates that part of the ground floor will continue to be used for storage of agricultural equipment and for forestry/woodland management operations during the winter season. The remainder of the building will be used in connection with the approved leisure use at Heart of England. They will enable educational visits to recommence as these facilities can be used for schoolchildren. It is also stated that it will be used as a reception for woodland/outdoor activities as many of the woodland activities mean the clients get dirty, and rather than them coming into the main building, they can get clean within this building. Beverages will also be provided as an ancillary use.

## Background

The application building was approved as a building for forestry purposes as permitted development at appeal.

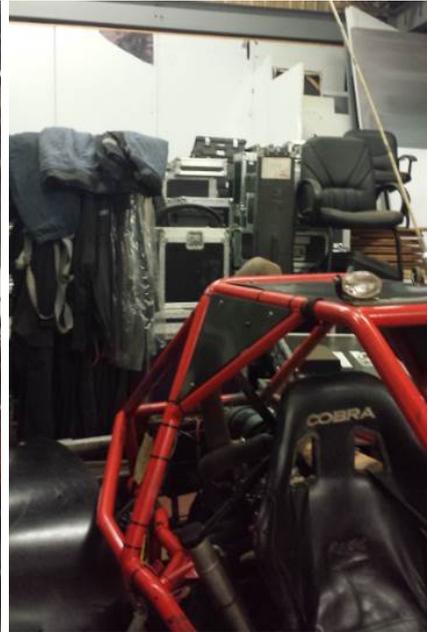
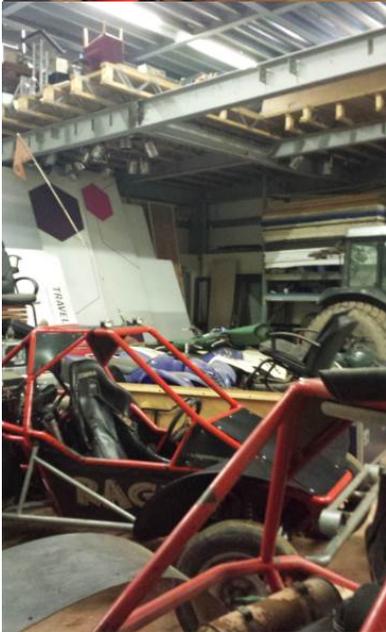
When constructed it was not built in accordance with approved plans. The changes included the incorporation of two upper storeys and the addition of an external balcony.



An Enforcement Notice was served requiring that the building be constructed to the approved design and external appearance. A subsequent appeal against the Enforcement Notice was unsuccessful and the Enforcement Notice was upheld. The appeal decision is attached as **Appendix A**.

The unauthorised use of the building commenced as a cafeteria. When the works to remove the upper storey and the balcony were carried out as required by the Enforcement Notice, the use as a cafeteria ceased.

Though the building was approved for use as a forestry building it is rarely used for such purpose. It is presently in use for storage purposes in association with the recreational use of the land and buildings. A recent inspection of the premises shows that it is used for storage of off-road vehicles and buggies, pa equipment, chairs, model full sized horse, racks of outdoor clothing, grounds maintenance equipment such as grass cutters and small tractors. There was no visible evidence of the building being used for any forestry or agricultural purpose. A partial upper storey had been re-installed and was being used for generic storage of goods. The photographs below give a flavour of the storage use.



The land surrounding the building is not being used for any forestry or agricultural purpose. The land adjacent to the forestry building is being used for the open storage of large vehicles used in association with the recreational use of the site and/or for off-site hire purposes (fire engine, truck mounted slide, play vehicle, American taxi cab).



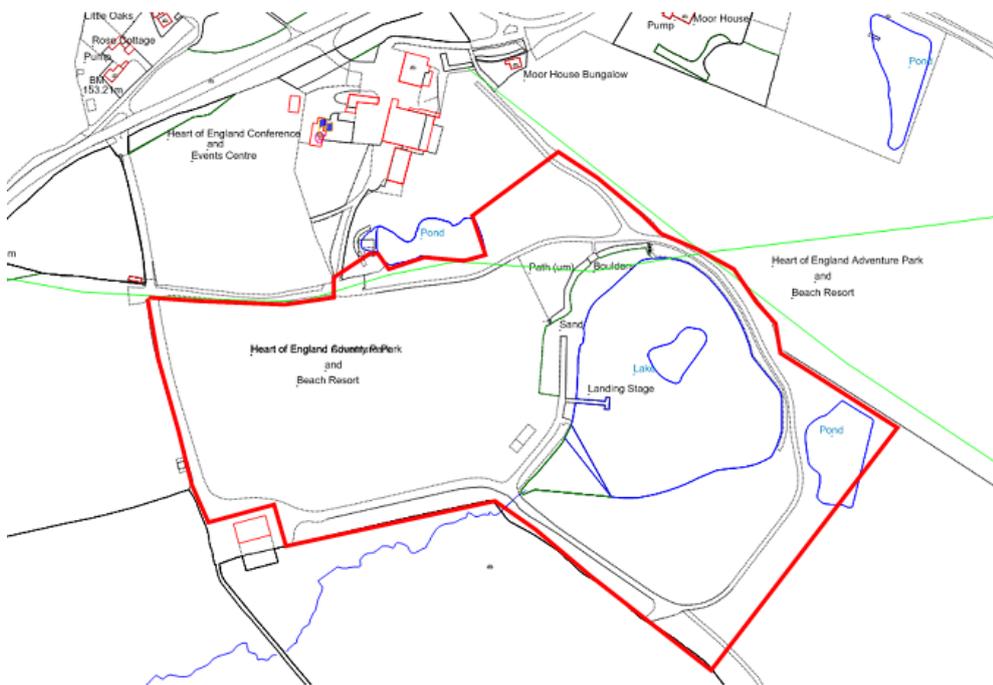
The land to the rear of the forestry building has been enclosed within palisade fencing and is being used as a storage compound. No planning permission exists for a storage compound. It contains a mobile home that was the subject of an Enforcement Notice when it was occupied residentially on another part of the land holding. It also contains items used in the recreational use of the site, including trains and trailer carriages, deck chairs and barrels.



The building, and the land immediately surrounding it, are not authorised for use for recreational purposes. The forestry building was expressly excluded from the red line of

the permission which allowed the recreational use of open land at the site – see reproduced red line below.

**PAP/2007/0503**



The aerial images below show the incremental growth in the scale of the use of the land surrounding the forestry building for unauthorised storage depot type use in association with the recreational use of the land and the hire of recreational goods and vehicles.



2007 Imagery prior to the construction of the forestry building



2010 Imagery (showing unauthorised café balcony)



April 2013 Imagery



April 2015 Imagery



April 2016 Imagery

### **Development Plan**

North Warwickshire Core Strategy (October 2014) - NW1 (Sustainable Development); NW2 (Settlement Hierarchy), NW3 (Green Belt), NW10 (Development Considerations), NW12 (Quality of Development), NW13 (Natural Environment) and NW17 (Economic Regeneration)

### **Other Relevant Material Considerations**

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

## **Consultations**

Warwickshire County Council Highways Authority – The council identifies that the biggest concern is that the secondary vehicular access to the site, is included within the red lined outline. The access on the western side of the site is not considered suitable for an intensification of use because of concerns about visibility splays. However, Section 4.6 of the Statement says all visitors will arrive and leave via the main access. The Highway Authority would recommend a condition to secure this. According to the submitted Planning Statement the proposed change of use will not result in an increase in movements, but then it goes on to say school visits can recommence. So there will be some extra movements, but most likely by coaches or minibuses, so the impact on the highway may be minimal. And this use may be permitted anyway. There is a concern that the amenity area on the first floor could be used for other activities. But, because the operating hours do not extend beyond 18:00 it is unlikely that the building could be used for functions. But during the day it could be used for other uses such as conferences, meetings, etc., which could result in extra vehicle movements. As such, the Highway Authority would recommend a condition so that the building can only be used for D2 use in association with the permitted outdoor and forestry activities. Therefore, the Highway Authority's response is one of no objection subject to the following conditions: 1. Access to the site from the public highway for the purposes of D2 use shall only be from the main access fronting Meriden Road (B4102) located approximately 100 metres from the junction with Wall Hill Road (C63). 2. The building shall only be used for D2 use in association with the permitted outdoor and forestry activities.

Environmental Health Officer - Due to the recent history of the Heart of England site, if amplified music or speech takes place inside the building then during this activity I would recommend that all doors and windows shall be kept closed except for access and egress.

## **Representations**

Fillongley Parish Council comment as follows - This building has already been the subject of a number of applications (retrospective and otherwise) and the Councils concerns remain the same as before. The structure was completed as an agricultural building but appears not to have been used for that purpose. The applicant has already been instructed to remove the trappings and fittings that change the building from essentially a barn into a café, shower and toilet facility and play area. This application seeks to reinstate that which he has already been told to remove and the application should be refused for all the same reasons that it was refused before. Overwhelming all of the applicants plans, is the fact that he bought a site in the Green Belt and doesn't seem to understand what is acceptable and not. The Parish Council believe that this is inappropriate development in the Green Belt. For the facility to be utilised to capacity (justifying the cost), there will be an increase in traffic (likely parking on the field area, again impinging on the green belt), increase in light pollution as in addition to lighting on the inside and outside of the building it is inevitable that there will follow an application to "light the way"; there will be an increase in noise which will also further destroy the

amenity of the neighbours. Sound and light travel far in the countryside and the amenity of neighbours has been eroded and continues to deteriorate.

Corley Parish Council expresses concern about the harm that would result to the woodland and the wildlife to which it affords a habitat. If granted, noise, light and physical presence will result in destruction of the ancient woodland.

Representations are received from four local residents raising the following concerns:

- Permission has previously been refused for the use of this building as a café.
- The building was initially granted as an agricultural building but it was initially constructed, as a restaurant with 2 storey's and numerous showers and toilets that were clearly for campers use. All of these matters were unauthorised.
- The proposal would be contrary to a previous enforcement notice and appeal decision changing it back to its permitted use (for which the applicant never intended it to be used).
- This site has become more developed over the years and now has PP for a large hotel. The offices and conference centre have all the facilities needed and the hotel being purpose built, will have too.
- The situation of this building is very close to the ancient woodland and will be a source of light and noise pollution.
- Given that the current restrictions on the site are by and large often NOT adhered to and permissions continue to be sought retrospectively, this will be another cause of distress to animals, habitat, neighbours and livestock.
- If granted the applicant will 'just do as he likes' without regard for local people. He has a track record of doing so and causing noise disturbance and highway danger.

## **Observations**

The site lies in the Green Belt. The proposal is for the change of use of an existing building. Planning policy for the Green Belt is set out in the National Planning Policy Framework. It identifies (para 88) that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It goes on to set out that the construction of new buildings will be inappropriate development unless fitting within identified exceptions (para 89) and that certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt (para 90). Amongst these forms of development it identifies the re-use of buildings provided that the buildings are of permanent and substantial construction. However this is conditional.

Given that this is a building of permanent and substantial construction and the proposal is for its re-use for another purpose the development is potentially not inappropriate. It is however necessary to assess whether in this instance the development would accord with the conditions – preservation of the openness of the Green Belt and not conflicting with the purposes of including land in Green Belt.

In terms of assessing whether the development would preserve the openness of the Green Belt, the history of the construction, adaptation and use of this building and the use of associated land is very material to the consideration of its impact.

It has been established through applications and subsequent appeals that the appropriate use of this land, in order to protect the openness and rural character of the area, and the residential amenity of people living locally, is for low key outdoor recreational pursuits. This is illustrated by the conditions and limitations placed on the use of the open land at the site by the planning permission 2007/0503. That permission seeks to ensure that the land remains open and free from permanent buildings and structures. Furthermore, when the land was used for an unauthorised beach themed park, two different Planning Inspectors recognised that the aim was to achieve recreational uses whilst limiting harm to the landscape and encroachment into the countryside.

The Council's long standing objective has been to keep built development grouped around the former farm complex, which now forms the main complex of conference centre and events buildings. The construction of a forestry/agricultural building on open land was as a distinct exception because it had a functional locational requirement to be adjacent to the woodland. The construction of a building at this location for recreational purposes would not be supported because of the resulting harm to the landscape and encroachment into the countryside.

The findings of the Inspector who considered the appeal relating to operational development changes to this forestry building are material. He considered three matters - whether the building constituted inappropriate development within the Green Belt; the implications of the development for the openness of the Green Belt and the character and appearance of the area, and, after finding the development to be inappropriate development, whether the harm to the Green Belt by reason of its inappropriateness or any other harm was clearly outweighed by other considerations.

He identified that the appeal building had been erected in an isolated position some distance from the main building complex and adjacent to the woodland covering the southwest part of the holding.

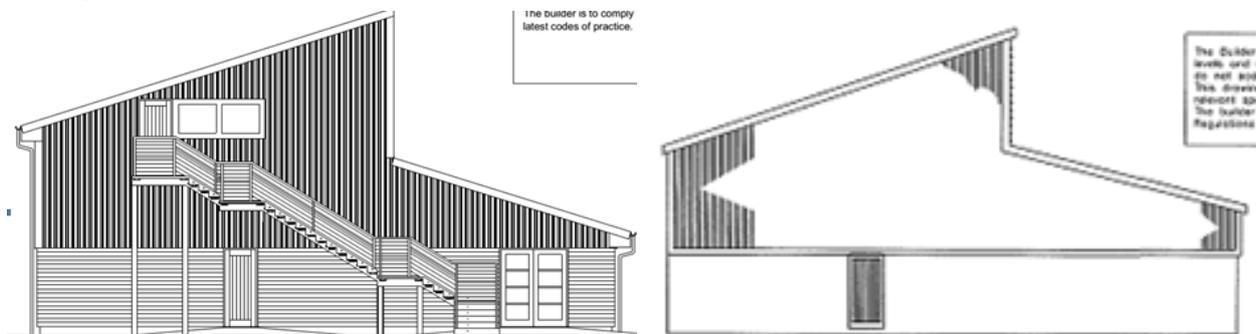
The approved drawing (106/23/3/C/rev A) indicated the agricultural storage and forestry activities would be accommodated within a single storey clear-span building. The approved layout included space for a forklift truck and tractor, a band saw and work space, a finished timber storage area, a small mess area and a disabled toilet. Whilst he bore in mind that the Inspector who allowed the appeal in 2005 was satisfied that the building before him was required to serve the forestry operation on the site, he found it difficult to escape the impression that the majority of the accommodation which was then provided was more akin to a visitor's centre and educational facility than an agricultural/forestry building. This impression was reinforced by the fixtures and fittings installed in the building, the decorative standard which had been employed, together with the broad staircases leading to these floors and the large outdoor terrace that has been provided. He was not persuaded that a building of that design and configuration was required for the purposes of agriculture or forestry.

The Inspector shared the Council's concerns that the design and configuration of the building was generally inappropriate for forestry or agricultural purposes. The subdivided layout of the building, the position of the staircases and the visitor, educational and office facilities that have been provided are likely to render the building unsuitable for forestry/agricultural use; at the very least, they would limit its ability to function effectively for such purposes. In the context of policies ENV2 and ECON7 of the North Warwickshire Local Plan 2006 and PPG2, he found the development to be inappropriate development in the Green Belt.

Though the current proposed internal layout differs a little from the layout considered by the Inspector, it still presents a layout which would significantly limit the opportunity to use the building effectively for forestry or agricultural purposes. The greatest proportion of the building would be given over to D2 uses and to visitor toilet facilities. The claim that this building will be used for a mixed purpose appears disingenuous. This will be expanded on below.

The Inspector went on to identify that although the footprint and bulk of the building were unchanged from the approved building, the revised design had a far more assertive character than the approved structure. This was mainly due to the upper floor terrace and associated balustrade which dominated the main façade and, to a lesser extent, the insertion of the upper floor windows. The Inspector found that the building generally conveyed the impression of a large pavilion with an upper floor viewing platform, rather than a forestry/agricultural building. He identified that the building was readily seen from the footpath routes in the vicinity and from the western site entrance and that it had a dominating and intrusive presence despite the backcloth of woodland and the gently sloping landform. The use of green cladding and timber boarding on its elevations was not sufficient to successfully assimilate it into this isolated rural location. Even allowing for the provision of the approved landscaping (never implemented), he concluded that it harmed the visual amenity of the Green Belt.

Though this current proposal does not seek to reintroduce a balcony, it does seek the addition of an exterior staircase to reach the proposed café and amenity hall. Such a staircase would be of a design and appearance not normally found on an agricultural or forestry building. The approved plain elevation would have a resultant significant change in character and appearance.



It is also reasonably predictable that the building would be adorned with signage to advertise the function and name of the building, as happened previously, and as currently displayed in respect of the sign advertising toilets. The use of such advertisements would further illustrate a change in character.

Furthermore, the character of the usage of the site will alter as a result of the proposed change of use. Experience has shown that the building became a 'honey pot' locality when used for café/visitor attraction purposes. Coaches and other vehicles were routinely parked alongside, particularly during bouts of wet weather. The Inspector who upheld the Enforcement Notice in respect of the beach recognised that though parking use is intermittent it can be highly intrusive in the landscape. He considered that the impact of schoolchildren's transport could not be discounted – buses and coaches parked outside the building complex add to clutter and intrusion.

The harm to visual amenity identified by the Inspector would be comparable to the current proposal when having regard to the introduction of new openings, addition of and external staircase, the inevitable addition of signage and change in the character of use of the building and its immediate surrounds from the formerly (approved) plain functional forestry building.

The outdoor recreational use of the site has repeatedly operated beyond the controls and limits of the planning permission. This has included the operation of overnight camping and endurance events. It is known that the application building has been used in association with those events as an amenity building. There is a reasonable prospect, based on past experience and knowledge of the applicant's future aspirations for the site, that the building would be used beyond the hours of operation stated in the application. The night time or overnight use of the building by the public would lead to a requirement for outside lighting which would represent a further intrusion into the countryside and reinforces the view that this location is inappropriate siting for the introduction of a café/visitor attraction.

The above leads to the conclusion that the development would be contrary to paragraph 81 of the NPPF because it would cause harm to the visual amenity of the Green Belt.

Having concluded the building constituted inappropriate development in the Green Belt, the Inspector identified that inappropriate development is, by definition, harmful to the Green Belt. He sought to assess whether there were any material considerations in favour of the building that might clearly outweigh the harm caused to the Green Belt. He rejected tourism, employment and recreational use of woodland as not being of sufficient weight to amount to very special circumstances which would outweigh the harm.

In upholding the enforcement notice the Inspector found that the retention of a single storey clear-span building was necessary to ensure that there was adequate opportunity to function effectively for agriculture and forestry purposes.

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this instance there are considered to be a number of material considerations which weigh against the proposal.

- The building was constructed under claim that it was required for forestry purposes in association with the woodland at the site. There is sound reason to believe that the erection of this building for forestry purposes was a purposeful deception from the outset. There is much evidence to support this contention.

- The building from the outset was not used for forestry purposes. It was constructed and used for the purpose that is now sought in this planning application. Upon first construction it was not built as a forestry building, it was intentionally built differently with a balconied café and was then subsequently used as such. It was used for purposes associated with the recreational use of the land – a café and customer toilets.
- It is six and a half years since the building was first erected. With the exception of a single occasion when the Planning Inspector visited the building in relation to the Enforcement Notice appeal, officers have never seen the building in use for forestry purposes. On the occasion when the Inspector visited, a full forestry cutting operation took up the ground floor, complete with band saws/cutting and finishing equipment and a PPE dressed workforce. The operation gave the appearance of being 'staged'. That level of forestry activity has never been witnessed before or after.
- The toilets that have been installed are primarily for use by customers. There is a sign on the exterior of the building above the access door advertising the availability of male/female/disabled/baby changing toilets. There has been a failure to alter the unauthorised toilets to accord with the layout of the staff facilities claimed to be needed for forestry workers.
- The applicant has claimed that the building is required in association with agricultural use. This is highly questionable. Officers have never witnessed any agricultural use of this building in association with the land within the applicant's holding. Officers have seen grounds maintenance and grass cutting equipment. In the context of the site being extensively used for recreational purposes, this is reasonably considered a storage use in association with grounds maintenance but it is not an agricultural use. When questioned about the nature of agricultural business, the appellant referred only to the maintenance of the land.
- The storage use of this building and the land which surrounds it is extensive and unauthorised. The storage does not relate to either agriculture or forestry, it relates to the recreational use of the site and the applicant's off-site recreational events/hire business. Whilst at the outset the storage use of the building, there is a prospect that it could have been claimed to have been not material, the scale of the use has escalated and is now persistent and of a very significant scale. Indeed, the building was so full to capacity on the last visit by officers that there would have been no space whatsoever available for forestry use.
- The applicant's claims in relation to forestry requirements have been many and varied, at times there have been claims that the requirements are substantial and at other times lesser so. It appears that the description of forestry needs varies substantially to meet the circumstances of whatever proposal is being presented. The current application now details that the forestry use of the building will not only be limited to a small part of the building, but it will also be limited to the winter season October to March (specified in the Design and Access Statement) for the maintenance of the woodland only.

The above leads, reasonably, to the conclusion that the erection of the building in the first instance was probably a deception and was inappropriate development in the Green Belt.

The grant of planning permission for an alternative visitor centre use would also run the risk that it would lead to a new proposal for a replacement, more functional, forestry building. This would add to the encroachment of built form into the countryside, harming the openness of the Green Belt.

The applicant takes the view the proposed change of use is appropriate development because it will provide facilities for outdoor recreation. He argues that openness will be preserved because the only proposed external change is the external staircase and that it has been designed to match the existing building. The building as it stands is as allowed at appeal in 2004 (though this is an incorrect assertion) and that the Inspector at the original prior approval appeal found that the development would not affect the openness of the Green Belt.

For the reasons set out above, the Council does not concur with this view and finds that the development is inappropriate development in the Green Belt.

If the Council should take such a different view, the appellant argues the following special circumstances:

- the change of use will enable educational visits to resume at the site
- the change of use will facilitate the smooth running of the woodland recreational activities, providing health and safety benefits the agricultural/forestry use will remain and will be kept completely separate from the D2 elements of the building
- it will strengthen the offer at Heart of England, which provides local jobs and brings visitors to the area and is supported by the NPPF objectives of securing economic growth in order to create jobs and prosperity and supporting a prosperous rural economy.

The site may offer educational visits without the change of use of the application building. The main complex already affords opportunities for congregation and welfare/toilet facilities.

There is no express planning permission for the use of the woodland for recreational purposes, indeed, the use of the woodland for certain recreational uses (off-road driving and paintball games) is expressly prohibited by an extant enforcement notice. The applicant seeks to rely on a claim of a 'fall back' position from an enforcement notice relating to the use of the woodland to argue that the otherwise unrestricted recreational use of it is permitted. This 'fall back' position is very much disputed. To permit the use of a building to facilitate a use of land that the Local Planning Authority deems to be unauthorised, would be a highly inappropriate course of action.

Given the identified harm to open countryside and the availability of facilities within the main building complex on the site, it is reasonable to conclude that there are no very special circumstances sufficient to outweigh the substantial weight that is given to the harm to the Green Belt.

It is considered that the application should be refused.

### **Current Unauthorised Use**

The consideration of the issues surrounding this application have highlighted that there is strong evidence to show that the building and surrounding land, including the rear compound, are in use for purposes other than the authorised agricultural use or forestry use. It is evident that the use is an unauthorised use for storage purposes associated with the Heart of England Conference and Events Centre's use of the land holding as a Conference and Events Centre and in association with the recreational use of open land.

The storage activity is within and beyond the building and the locality functions essentially as a depot. The use leads to substantial visual intrusion and harm to the openness of the Green Belt. It is not a use which would be supported if a retrospective planning application was presented.

The development would not preserve the openness of the Green Belt and would be harmful to the visual amenities of the Green Belt. As such it would be contrary to the provisions the National Planning Policy Framework. No very special circumstances are believed to exist which would outweigh the identified harm to the Green Belt. The harm to visual amenity would be contrary to objectives of protecting and enhancing the quality and character enshrined in Policies NW12 and NW13 of the North Warwickshire Core Strategy.

Authority is sought for the service of an enforcement notice to cease the unauthorised storage and parking uses, together with the removal of the fenced compound as it is an integral element of the unauthorised change of use. The use would revert to the former authorised use of agriculture or forestry.

### **Report Implications**

Financial Implications:

Because of the right of appeal against the Notice there is a risk that the Council could, if unsuccessful, have an award of costs made against it.

Legal and Human Rights Implications:

There is a right of appeal against the issue of an Enforcement Notice and any subsequent criminal proceedings, the applicant will have an opportunity to argue his case at any such appeal or in court.

The requirements of the notice will cause the operator to have to make alternative provisions for the storage of the goods and vehicles, however, the applicant has previously recognised the need to find an alternative storage solution, following the grant of planning permission for the redevelopment of the site with a hotel. He has previously acknowledged that off-site storage will need to be sourced.

## Sustainability and Environment Implications:

The unauthorised use adversely affects the openness of the Green Belt and the character and appearance of the countryside. This harm outweighs any economic advantages that are brought about by the unauthorised use.

## Links to the Council's Priorities

This action aligns with the Council's priorities of protecting and improving the environment; defending the countryside and the openness of the Borough.

## Recommendation

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

"The development would not preserve the openness of the Green Belt and would be harmful to the visual amenities of the Green Belt. As such it would be contrary to the provisions the National Planning Policy Framework, March 2012. No very special circumstances have been shown which would outweigh the identified harm to the Green Belt and other harm. In this regard the harm to visual amenity would be contrary to the objectives of protecting and enhancing the quality and character of the local environment enshrined in Policies NW12 and NW13 of the North Warwickshire Core Strategy Adopted October 2014"

2. That the Solicitor to the Council be authorised to issue an Enforcement Notice requiring the cessation of the unauthorised storage and parking uses within the building and surrounding land, together with the removal of the fenced compound as it is an integral element of the unauthorised change of use. The use would revert to the former authorised use of agriculture or forestry.



## Appeal Decision

Hearing held on 9 February 2010

Site visit made on 9 February 2010

by **Nigel Burrows BA MRTPI**

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

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Decision date:  
12 March 2010

### Appeal Ref: APP/R3705/C/09/2113979

#### The building at Heart Of England Ltd, Old Hall Farm, Wall Hill Road, Fillongly, Coventry, CV7 8DX.

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Heart Of England Promotions Ltd against an enforcement notice issued by North Warwickshire Borough Council.
- The Council's reference is CMP/2008/0217.
- The notice was issued on 27 August 2009.
- The breach of planning control as alleged in the notice is the erection of a building not in accordance with the plan number 106/23/3/C/revA approved on 16 May 2008 under reference 1093/2004. In particular:
  - i) the construction of a block of male and female toilets; showers and disabled toilets measuring some 9 by 10 metres, on the ground floor of the building;
  - ii) the provision of a first floor;
  - iii) the construction of a stair case giving access to the first floor;
  - iv) the construction of a cantilevered platform, together with a handrail over a lower pitched roof, extending the full length of the building;
  - v) the construction of a steel super structure on the south eastern side elevation, matching its height and width, and extending some 5 metres from that elevation.
- The requirements of the notice are undertake works to the building such that it accords with the plan 106/23/3C approved on 16 May 2008 under reference 1093/2004, a copy of which is attached to this Notice. In particular:
  - > remove the toilet block as described in 3(a) above and replace it with that shown on the approved plan
  - > remove the internal staircase and the first floor
  - > remove the cantilevered platform together with its hand rail, and
  - > remove the external side super structure as described in 3(v) above.
- The period for compliance with the requirements is three months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) and (f) of the Town and Country Planning Act 1990 as amended.

#### **Summary of Decision: The appeal is dismissed and the enforcement notice is upheld with corrections**

#### **Procedural Matters**

1. At the hearing the appellant and the Council submitted applications for costs against each other. These costs applications are the subject of separate decisions.
2. The Council refused an application in 2004 for prior approval under the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) in relation to the erection of a steel framed building on the site for agricultural storage and forestry use. A subsequent appeal was allowed in 2005 subject to conditions. At the hearing the representatives of the parties were unsure whether prior approval had been sought under Part 6 of Schedule 2 of the GPDO (Agricultural Buildings and Operations), or Part

- 7 (Forestry Buildings and Operations). However, paragraph 12 of the Inspector's decision infers that he dealt with the prior approval application under Part 7. I have borne this in mind when considering the current appeal against the enforcement notice.
3. In May 2008 the Council evidently approved amended plans and other details of the development, including drawing number 106/23/3/C/revA. The building which has been constructed does not accord with the approved drawing. Paragraph 3 of the enforcement notice describes the breach of planning control and makes particular reference to certain deviations from this drawing. The appellant indicates the structure on the south eastern side elevation of the building (cited in part (v) of the allegation) has been removed. To this extent, the notice appears to have been complied with.
  4. The submissions for the appellant contend the building is lawful and the internal rearrangement of the structure is not development for the purposes of S.55 of the Act. However, the appeal has not been lodged on grounds (b) or (c). It is clear that material departures from the approved drawing have occurred, including the internal layout of the building. It should be borne in mind that development which is purportedly carried out under Class A, Part 7 of the GPDO is subject to the condition that where prior approval is required, development should be carried out in accordance with the details approved. In any event, despite the Council's concerns about the use of the building for purposes associated with the appellant's leisure park, the notice is directed against the operational development that has occurred. At the hearing it transpired this was because the use of the building had not commenced at the time the notice was issued.

#### **The ground (a) appeal and deemed application**

5. The ground (a) appeal and the application deemed to have been made under section 177(5) of the Act is for the development alleged in the enforcement notice, in other words, for the erection of a building not in accordance with drawing 106/23/3/C/revA.
6. With this in mind, I consider there are three main issues in this case. The first is whether the building constitutes inappropriate development within the Green Belt. The second is the implications of the development for the openness of the Green Belt and the character and appearance of the area. Thirdly, if the building is found to be inappropriate development, whether the harm to the Green Belt by reason of its inappropriateness or any other harm is clearly outweighed by other considerations.
7. The development plan includes the 'saved' policies of the North Warwickshire Local Plan (2006). Policy ENV2 defines the extent of the Green Belt as shown on the Proposals Map and applies Planning Policy Guidance Note 2 'Green Belts' (PPG 2). Policy ECON7 indicates that agricultural and forestry buildings will be permitted provided certain criteria are met; amongst other things, it should be demonstrated they are required for the efficient long-term operation of the holding, no existing buildings are suitable for the purpose and the new buildings should not cause visual intrusion in the landscape. Core Policy 3 seeks to protect or enhance the natural and historic environment.
8. I have taken into account the relevant national planning policies cited by the parties including PPG 2 and Planning Policy Statement 7 'Sustainable Development in Rural Areas' (PPS 7), which sets out the Government's policies for sustainable economic growth and diversification in rural areas whilst maintaining effective protection and enhancement of the environment.

#### *Issue 1: The Green Belt*

9. Old Hall Farm comprises a Grade II listed farmhouse and a range of traditional and modern farm-type buildings located in open countryside within the Green Belt. There is an extensive planning history on the site including permissions for the recreational use of some of the land and buildings. The indications are that about 15.5 ha of the land is used for recreational purposes (including the lake), 17.07 ha is in agricultural use and
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27.09 ha comprises woodland. The facilities within the main building complex on the site include a conference and events centre. A lake has been permitted for recreational purposes. The outdoor activities include boating, quad biking, paint-balling and 'haglander trips'. A 'land train' is available to transport visitors around the site.

10. The appeal building has been erected in an isolated position some distance from the main building complex and adjacent to the woodland covering the southwest part of the holding. The Council does not allege that its siting is materially different to that originally approved. Drawing 106/23/3/C/revA indicated the agricultural storage and forestry activities would be accommodated within a single storey clear-span building. The approved layout included space for a forklift truck and tractor, a band saw and work space, a finished timber storage area, a small mess area and a disabled toilet.
  11. The building, as constructed, incorporates three floors of accommodation. The ground floor layout incorporates a lobby area, male and female toilets (with about 16 cubicles in total plus shower facilities). The remainder is evidently used for forestry purposes and to store plant and equipment; this area can be accessed by a large roller shutter door. The first floor contains a well equipped catering facility and food counter. The remainder is laid out with tables and about 45 chairs plus other seating areas; a TV screen and children's play equipment are provided. The second floor contains a meeting area; the remainder is used for office purposes, apparently by the 'Head Ranger' and 'Education Ranger'. Access is available to a large outdoor terrace.
  12. Paragraph 3.4 of PPG 2 indicates the construction of new buildings inside a Green Belt is inappropriate unless it is for certain purposes, including agriculture and forestry. At the hearing it was confirmed the appellant does not seek to argue the building should be considered in the context of the second indent of paragraph 3.4 which, amongst other things refers to essential facilities required for outdoor sport and recreation.
  13. The submissions for the appellant infer the whole of the land is in mixed use albeit this appears to be disputed by the Council. In any event, the lawful use of the land is not a matter before me in relation to this appeal. The appellant indicates the appeal building is used for agricultural and forestry purposes and by the Park Rangers for office purposes; they work on conservation projects in the woodland and also have a school delivery programme which involves children visiting the woodland, lake and grounds. The appellant's stance is the changes to the design of the building are essential to its agricultural and forestry use in the widest sense, including the sustainability of the land and the woods; the appellant derives support from the Government's vision for the future of forests and their use, which also gives encouragement to woodland activities.
  14. I have borne in mind the Inspector who allowed the appeal in 2005 was satisfied that the building before him was required to serve the forestry operation on the site. Be that as it may, it is difficult to escape the impression that the majority of the accommodation which has now been provided is more akin to a visitor's centre and educational facility than an agricultural/forestry building. This impression is reinforced by the fixtures and fittings installed in the building, the decorative standard which has been employed, especially on the upper floors, together with the broad staircases leading to these floors and the large outdoor terrace that has been provided. In the context of paragraph 3.4 of PPG 2, I am not persuaded that a building of this particular design and configuration is required for the purposes of agriculture or forestry.
  15. The appellant's intention is to plant another 10,000 trees under the Forestry Commission's Woodland Grant Scheme; a contract has recently been issued. Licences to fell are also likely to be issued for the thinning of the woodland. It is argued that major changes to the woodland will take place in the next few years; therefore, the existing building will be required. The appellant also contends that activities such as school visits, cycling, rambling, orienteering and survival courses are incidental to the woodland use and require the facilities within the building. However, I do not consider
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that facilities associated with these activities could reasonably be regarded as incidental to, or otherwise part and parcel of a forestry or agricultural use of the building. I appreciate there may be a requirement for a building to support traditional forestry activities on the land such as the felling and extraction of timber and its stockpiling prior to removal from the site. Nevertheless, I share the Council's concerns that the design and configuration of the building is generally inappropriate for forestry or agricultural purposes. The subdivided layout of the building, the position of the staircases and the visitor, educational and office facilities that have been provided are likely to render the building unsuitable for forestry/agricultural use; at the very least, they would limit its ability to function effectively for such purposes. Although a small roller shutter door gives access to the first floor, this does not set aside my concerns.

16. As I have already indicated, the appellant does not seek to argue the building provides essential facilities for outdoor sport and recreation in the context of paragraph 3.4 of PPG 2. As matters currently stand, there is no compelling evidence to demonstrate the various facilities provided within the building are essential for these purposes.
17. I therefore conclude the building constitutes inappropriate development in the Green Belt. It conflicts with the objectives of policies ENV2 and ECON7, and with PPG 2.

*Issue 2: Openness and Character and Appearance of the Area*

18. At the time the notice was issued the building incorporated a steel structure on the south eastern side elevation. According to the Council the footprint of the building was increased by about 19%; as such, it was likely to have had some implications for the openness of the Green Belt. However, the side structure has subsequently been removed. The Council does not allege the overall footprint or bulk of the existing building is materially different to that shown upon drawing 106/23/3/C/revA.
19. Nevertheless, although the footprint and bulk of the building reflect that shown on the approved drawing, it has a far more assertive character than the approved structure. This is mainly due to the upper floor terrace and associated balustrade which dominate the main façade and, to a lesser extent, the insertion of the upper floor windows.
20. To my mind, the building generally conveys the impression of a large pavilion with an upper floor viewing platform, rather than a forestry/agricultural building. The building is readily seen from the footpath routes in the vicinity and from the western site entrance. I saw that it has a dominating and intrusive presence despite the backcloth of woodland and the gently sloping landform. The use of green cladding and timber boarding on its elevations is not sufficient to successfully assimilate it into this isolated rural location. Even allowing for the provision of the approved landscaping, I conclude it harms the visual amenity of the Green Belt, contrary to paragraph 3.15 of PPG 2.
21. I further conclude it conflicts with policy ECON7 which requires that buildings should not cause visual intrusion in the landscape, and with the aim of Policy 3 to protect or enhance the natural environment.

*Issue 3: Other Considerations*

22. I have concluded the building constitutes inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt. The submissions for the appellant have not sought to advance any specific arguments in favour of the building that might clearly outweigh the harm caused to the Green Belt.
  23. The appellant has drawn my attention to policy EC7 of Planning Policy Statement 4 (Planning for Sustainable Economic Growth'), which addresses planning for tourism in rural areas. However, it is difficult to see how this policy supports the erection of a building that is purportedly required for forestry/agricultural purposes. The hearing was told there have been constant battles with the Council over a number of years to
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develop and expand the enterprises on the site. The hearing was informed the business employs about 25 full time and 75 part time workers. Furthermore, investment in the business has continued notwithstanding the downturn in the global economy.

24. The appellant also derives support from documents published by the Forestry Commission and DEFRA, which give general encouragement to the recreational use of woodland, set out policy for ancient and native woodlands and give guidance on the sustainable management of forests and woodlands. Reference is made to the Government's 'Delivery Plan 2008-2012: England's Trees, Woods and Forests'. The Council indicates that planning permission has not been granted for recreational use of the woodland and, moreover, it is considering the expediency of enforcement action.
25. I have taken into account the considerations put forward by the appellant. Nevertheless, I find that none of these considerations, individually or collectively, clearly outweigh the harm caused by the inappropriateness of the development in the Green Belt and its adverse impact on visual amenity. Consequently, there are no very special circumstances that would justify the grant of planning permission in this case.

#### *Summary*

26. I consider the objections to this particular building could not be overcome by any reasonable or appropriate planning conditions. In view of my conclusions on the main issues, I conclude the ground (a) appeal and deemed application should not succeed.

#### **The ground (f) appeal**

27. There are some minor typographical errors in the requirements of the notice set out in paragraph 5. The works to the building should accord with drawing number 106/23/3/C/revA. The toilet block is actually described in 3(i) of the allegation. The representatives of the parties agreed the errors could be corrected without causing injustice to the appellant. I share this view and I shall correct the notice accordingly.
28. The manner in which the Council has prepared the enforcement notice against the building, including the formulation of its requirements, indicates that its purpose is to remedy the breach of planning control in accordance with section 173(4)(a) of the Act.
29. The appellant argues the requirements of the notice are excessive and the objections to the building could be overcome by removing the exterior works that do not accord with the approved drawing; the structure on the southeast side elevation has already gone. However, the internal arrangements of the building also deviate from this drawing. Although the requirements of the notice do not specifically refer to the second floor and associated staircase, the appellant is required to undertake works to the building so that it accords with drawing 106/23/3/C/revA. This indicated the agricultural storage and forestry activities would be accommodated in a single storey clear-span building. As I have already indicated the subdivided layout of the building, the staircase positions and the various facilities which have been provided are likely to render the building unsuitable for forestry/agricultural use, or limit its ability to function effectively for such purposes. In my view the requirements of the notice are not unduly onerous. They do not exceed what is necessary to remedy the breach of planning control or satisfy the purpose in section 173(4)(a). The appeal on ground (f) fails.

#### **Conclusions**

30. I have taken into account all the other matters raised in the representations and at the hearing, including the appellant's concerns about the way in which the Council has dealt with planning matters on the site, but I find they do not alter or outweigh the main considerations that have led to my decision. For the reasons given above, I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the deemed application.
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**Formal Decision**

31. I direct that the enforcement notice be corrected by:-

- (i) Deleting from the first line of paragraph 5 the words '*the plan 106/23/3C*' and replacing them by '*drawing number 106/23/3/C/revA*'.
- (ii) Deleting '*3(a)*' from the fourth line of paragraph 5 and inserting '*3(i)*'.

32. Subject to these corrections I dismiss the appeal, uphold the notice, and refuse planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

*Nigel Burrows*

INSPECTOR

## BACKGROUND PAPERS

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

Planning Application No: PAP/2016/0414

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	15/7/16
2	Corley Parish Council	Representation	13/9/16
3	Environmental Health Officer	Consultation Response	21/9/16
4	Warwickshire County Council Highways Authority	Consultation Response	7/10/16
5	Fillongley Parish Council	Representation	21/9/16 17/10/16
6	J Gillian	Representation	21/9/16
7	M Gibson	Representation	30/9/16
8	D Park	Representation	3/10/16
9	J Burrin	Representation	5/10/16

*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.*