

**To: The Deputy Leader and Members of the Planning and Development Board
(Councillors Sweet, Butcher, L Dirveiks, Humphreys, Lea, May, B Moss, Phillips, Sherratt, Simpson, A Stanley, Turley, Watkins, Winter and Wykes)**

For the information of other Members of the Council

This document can be made available in large print and electronic accessible formats if requested.

For general enquiries please contact David Harris, Democratic Services Manager, on 01827 719222 or via e-mail - davidharris@northwarks.gov.uk.

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

PLANNING AND DEVELOPMENT BOARD AGENDA

9 SEPTEMBER 2013

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 9 September 2013 at 6.30 pm.

AGENDA

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

**PART A – ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPERS)**

4 **Planning Applications** – Report of the Head of Development Control

Summary

Town and Country Planning Act 1990 – applications presented for determination

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

5 **Further Proposed Permitted Development Changes** – Report of the Head of Development Control

Summary

The Government is consulting on a fresh round of proposals to remove more proposed changes of use of buildings from the need to submit a planning application.

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

6 **Nuneaton and Bedworth Borough Council – Borough Plan July 2013** – Report of the Assistant Chief Executive and Solicitor to the Council

Summary

This report informs Members of the formal consultation on Nuneaton and Bedworth Borough Council's Borough Plan (July 2013).

The Contact Officer for this report is Dorothy Barratt (719250).

**PART C – EXEMPT INFORMATION
(GOLD PAPERS)**

7 **Exclusion of the Public and Press**

Recommendation:

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

8 **Breaches of Planning Control** – Report of the Head of Development Control

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

JERRY HUTCHINSON
Chief Executive

Agenda Item No 4

Planning and Development Board

9 September 2013

Planning Applications

Report of the Head of Development Control

1 Subject

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

2 Purpose of Report

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

3 Implications

- 3.1 Should there be any implications in respect of:

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

4 Site Visits

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

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site: www.northwarks.gov.uk.
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 14 October 2013 at 6.30pm in the Council Chamber at the Council House.

6 **Public Speaking**

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

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	PAP/2006/0182	4	Land Rear of 29-41 New Road, Water Orton, Warwickshire, Demolition of no: 31B New Road and Erection of 31 Residential Units - Comprising 2 x 1 Bed Apartments, 14 x 2 Bed Apartments, 5 x 2 Bed Dwellings, 8 x 3 Bed Dwellings and 2 x 4 Bed Dwellings	General

(1) Application No: PAP/2006/0182

29 – 41 New Road, Water Orton

Application under Section 106BA of the Town and Country Planning Act 1990 to discharge affordable housing requirements for

Manton Estates Ltd

Introduction

This is not a planning application.

The Growth and Infrastructure Act 2013 introduced changes to Section 106 of the 1990 Town and Country Planning Act. One of these was specifically focussed on affordable housing requirements already contained within existing Section 106 Agreements. An application can now be made for those requirements to be modified or removed from an Agreement. This is one such application.

The Site

This is garden land to the rear of numbers 29 to 41 on the north side of New Road in the centre of Water Orton. The houses all front New Road and have large rear gardens extending back to the Birmingham-Derby railway line. The whole area is residential in character.

Background

In June 2006 the Council refused planning permission for the residential redevelopment of this site through the construction of 31 new houses. Access was to be obtained from New Road via the demolition of one of the frontage properties. That decision was appealed and planning permission granted in late 2006 following a public inquiry. One of the conditions included in that permission was for a “scheme of affordable housing as part of the development” to be approved by the Council. This was discharged in September 2007 through a Section 106 Unilateral Undertaking.

The Undertaking committed the developer to provide 12 two bedroom dwellings within the development as approved. This represented the full 40% provision required by Development Plan policy at the time. These dwellings would be made available to an agreed Registered Social Landlord as both rented and shared ownership properties. In the event of there being no interest from such a Landlord, then the 12 units would be made available as low cost houses to persons who are in housing need.

The planning permission has been taken up with the demolition of the frontage house and the construction of the access onto New Road. The permission is therefore extant.

The Growth and Infrastructure Act introduced a procedure to “unlock” residential developments which the Government considered were “stalled” because of provisions for the delivery of affordable housing through 106 Agreements. It considered that these requirements were making residential schemes unviable and thus preventing new residential development and growth. The Act therefore introduced a change to Section 106 enabling affordable housing provisions to be modified or removed completely through application to the relevant Local Planning Authority.

The Council on receipt of such an application has 28 days in which to make a decision. In this case the Undertaking is solely to do with affordable housing provision and has no other contributions. As such the Council has to either discharge the Undertaking all together; determine that the requirement is to have effect subject to modification or that it be replaced with a different affordable housing requirement.

In coming to its decision the Council has to have regard to Government guidance.

If the Council does not come to a decision within the 28 days, the applicant has the right of appeal to the Secretary of State.

The Proposal

The applicant has submitted a financial appraisal in order to evidence his request that the Undertaking be removed in its entirety. In short he is saying that the planning permission dates from 2006 and the Undertaking from 2007 when the economic climate was substantially different and particularly in respect of the housing market. The obligation entered into at that time he argues is not tenable today and thus the whole scheme is unviable, leaving the development as a “stalled” scheme.

In support of his application, a full financial appraisal has been submitted using a method favoured by the Council. This is said to show a negative residual land value if the affordable housing provision is included in the development thus making the whole scheme unviable.

Material Planning Considerations

Members will be aware that this change to the Section 106 legislation is in direct response to its objectives of securing economic growth through “boosting” residential development. This is set out the National Planning Policy Framework 2012 (the NPPF) where there is direct reference to the viability of development projects. At paragraph 173 the NPPF states that, “the sites and scale of development should not be the subject to such obligations and policy burdens that their ability to be developed viably is threatened”. To ensure viability, the costs of any requirements, such as the costs of any affordable housing should, “provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable“. In the Housing section of the NPPF there is also reference to housing policies in emerging policy being “sufficiently flexible to take account of changing market conditions”.

Members will be aware too that the Council has a five year housing supply and that it ranges from 4.87 to 5.57 years. These figures assume that this site will be developed as permitted. Should housing, of whatever type, not be delivered on this site then there would be increased pressure to release other housing land elsewhere to accommodate the loss, because the five year figures would be reduced. That land may of course not be land that has been identified in the Council’s Preferred Options.

Members should also be aware that the Council will receive New Homes Bonus as a consequence of the development of this site.

Consultations

The Council's Valuation Officer agrees that the appraisal has been reasonably and properly undertaken and that the assumptions made concerning development costs and anticipated house values are all proportionate to today's situation.

The Council's Housing Officer agrees that the assumptions made in the appraisal in respect of building costs and the values associated with the affordable housing provision are reasonable.

The Council's Director of Finance has looked at the appraisal, and whilst raising reservations, does not consider that these are so strong as to warrant objecting to the removal of the Undertaking.

Observations

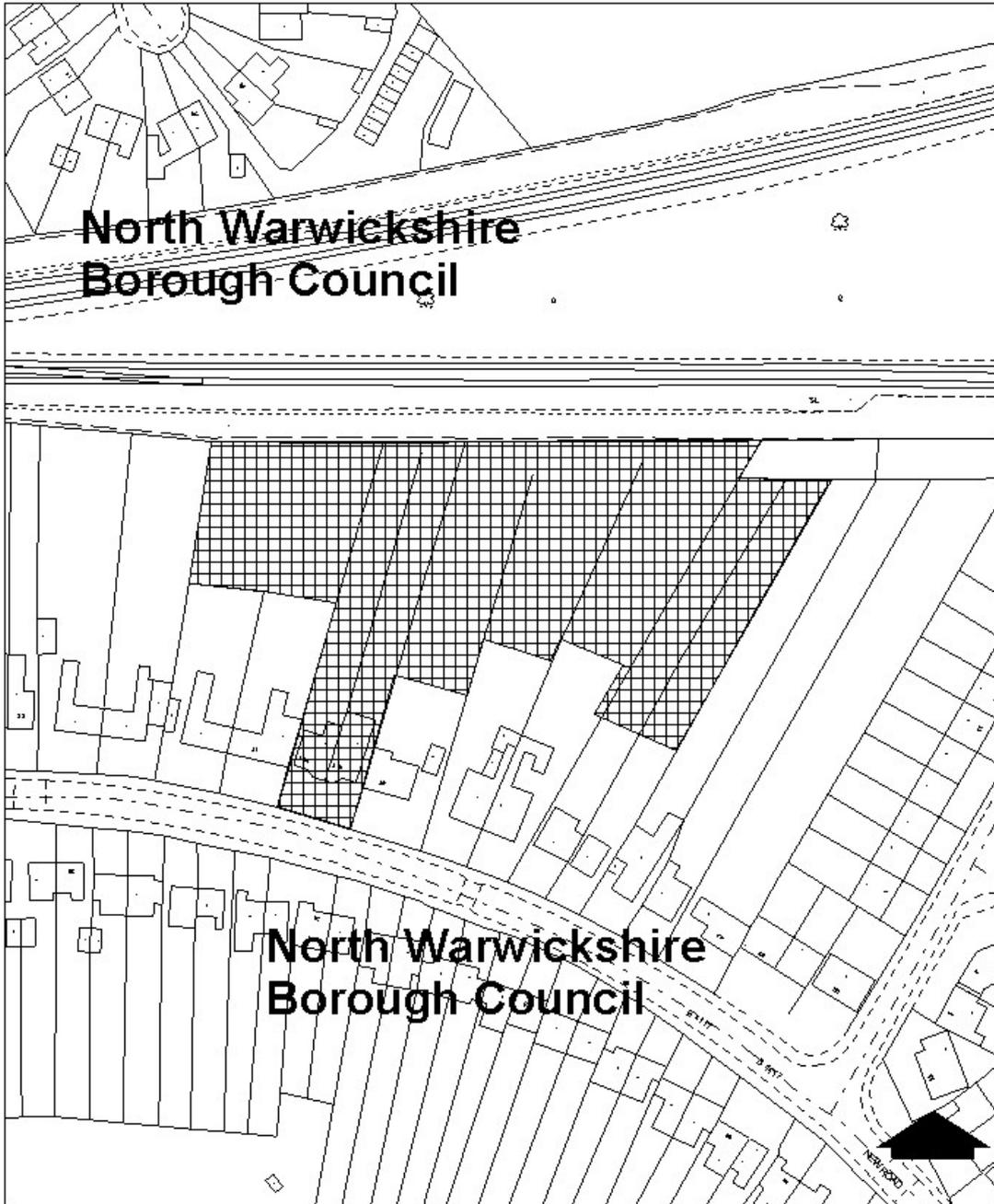
Members should note that the determination of this application rests on Government guidance and NOT on Development Plan policy or the emerging Core Strategy. The determining issue is simply whether the present development becomes unviable with the current affordable housing requirement.

The planning permission dates from 2006 and the Undertaking from 2007. Members will thus appreciate that the housing and economic situations are entirely different today to the time when these were approved. As such it was very much to be expected that an application to review this Undertaking would be made once the new legislation was adopted. It was also anticipated that as the Undertaking required the full 40% affordable provision, that that application would be to re-consider that figure. As it is, the application is for the complete removal of any affordable provision.

Relevant officers other than planning officers have looked at the appraisal and agree that the current provision would make the scheme unviable in today's economic climate. Housing officers agree too that reducing the requirement would result in fewer affordable homes, which would mean that a preferred Housing Partner would be even more unlikely to engage with the scheme. It is thus agreed that on-site provision is more than likely to be unviable in both a financial and operational sense. Moreover it is apparent from the evidence submitted that the development could not "carry" an off-site contribution in lieu of on-site provision. Given the advice of financial and housing officers, it is recommended that this Undertaking in this case can be fully removed.

Recommendation

That the planning permission PAP/2006/0182 may be implemented without compliance with condition 13 and thus the Unilateral Undertaking dated 22 June 2007 be fully discharged.



1:1250
11/03/2006



**North Warwickshire
Borough Council**

Reproduced from the Ordnance Survey Mapping with the permission
of the Controller of Her Majesty's Stationery Office.
© Crown Copyright, North Warwickshire Borough Council - Licence No. 100017910.
Unauthorized reproduction infringes Crown Copyright and may lead to
prosecution or civil proceedings.

Agenda Item No 5

Planning and Development Board

9 September 2013

**Report of the
Head of Development Control**

**Further Proposed Permitted
Development Changes**

1 Summary

- 1.1 The Government is consulting on a fresh round of proposals to remove more proposed changes of use of buildings from the need to submit a planning application.

Recommendation to the Board

That the Council objects to these proposals for the reasons set out in this report.

2 Background

- 2.1 Following on from the very recent introduction of more flexible permitted development rights for house extensions and for some changes of use, the Government has published a further consultation paper. The objective is again to remove the “burden” on business in terms of time and cost arising from the planning process and so introduce further categories whereby no planning applications would be necessary.

3 The Proposals

- 3.1 The Government sees its current proposals as building on the new opportunities that arose earlier this year so as to increase housing supply through conversion of existing non-residential buildings and to enhance the key objective of supporting economic growth. There are five proposed changes:

- i) The change of use of an existing A1 building (a shop) or an A2 building (financial and professional services) to residential use together with limited external alterations to introduce the new use subject to an upper limit of 150 square metres of floor area. This would not apply to Listed Buildings or in Conservation Areas. It would be the subject of prior approval procedures including the impact of its loss on the economic health of the town centre, the need to maintain adequate provision of local services and the potential impact on the local character of the area. It is suggested that emerging Core Strategies would assist in

helping to define “economic health”, “adequate provision” and “local character”.

- ii) The change of use of shops (an A1 Use) to a Bank and/or a Building Society, with no subsequent change to any other A2 Use.
- iii) The change of use of an agricultural building to a residential use together with associated physical development (including demolition and rebuild on the same footprint) to allow that conversion, subject to a limit of three units on any farm holding as a consequence of this change; an upper limit of 150 square metres for any house, but it would not apply to Listed Buildings or in Conservation Areas. A prior approval system would apply in respect of traffic, and noise impacts. There is also a procedure proposed to prevent agricultural buildings being erected under agricultural permitted development rights and then being converted shortly afterwards to residential under these new proposals.
- iv) The change of use of offices, hotels, residential institutions and assembly and leisure uses for registered early year’s childcare provision, subject to prior approval procedures.
- v) The change of use of agricultural buildings to state-funded schools as well as to nurseries providing childcare subject to an upper floor space limit of 500 square metres and prior approval procedures.

4 Observations

- 4.1 These proposals are hardly surprising as they follow on from the recent changes. Interestingly it isn’t clear whether they would only apply for three years as is the case with those earlier changes.
- 4.2 The Board expressed concern previously about the scope and scale of the previous changes and how they might impact on the rural character of the Borough. There are real concerns here too with these latest proposals. Firstly having residential development and/or childcare facilities scattered throughout the Borough is hardly considered to be a sustainable form of development. Secondly, the proposal to convert shops and offices into residential units in towns is hardly encouraging the viability and vitality of existing services and facilities and appears to go against the Government’s own NPPF guidance on “town centre first” or with its support for the Portas Review. The consultation paper itself recognises that this latter proposal is “challenging” and even calls for suggestions as to how there might be a “balance” between not letting shops stay vacant and retaining retail uses within town centres. There are real concerns here in a rural Borough for existing facilities; the vitality of our market towns and accessibility to services. Once again the Government is attempting to promote economic growth through the planning system and without giving due weight to the rural dimension.
- 4.3 As a consequence it is considered that the Council should object to these latest suggestions.

5 Report Implications

5.1 Environment and Sustainability

5.1.1 As the report concludes there could be serious implications on the rural character of the Borough; the viability of its essential services and accessibility to them if these changes are introduced.

5.2 Links to Council Priorities

5.2.1 These proposals would harm the Council's priorities of enhancing and retaining the Council's rural character and supporting local facilities.

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

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

Background Paper No	Author	Nature of Background Paper	Date
1	DCLG	Consultation Paper	August 2013

Agenda Item No 6

Planning and Development Board

9 September 2013

**Report of the Assistant Chief Executive
and Solicitor to the Council**

**Nuneaton and Bedworth Borough
Council – Borough Plan July 2013**

1 Summary

- 1.1 This report informs Members of the formal consultation on Nuneaton and Bedworth Borough Council's Borough Plan (July 2013).

Recommendation to the Board

- a That the draft response to the consultation be approved; and**
- b That any additional comments Members may wish to make are forwarded on to Nuneaton and Bedworth Borough Council.**

2 Consultation

- 2.1 Councillor Sweet has been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

3 Background

- 3.1 Nuneaton and Bedworth BC have published their Borough Plan – Preferred options for consultation which can be viewed at www.nuneatonandbedworth.gov.uk/downloads/200423/planning_policy. The consultation period ran from 5 July to 30 August. As a result of the deadlines for comments a draft letter has been sent and is attached as Appendix A. This was with the caveat that it was subject to this Board's approval and subject to any additional comments Members may wish to add.

...

4 The Borough Plan

- 4.1 The Nuneaton and Bedworth Borough Plan will replace the Council's existing Local Plan which was adopted in 2006 and run up to 2028. The Borough Plan proposes growth of 75 hectares of employment land and 7,900 dwellings.

5 Infrastructure Delivery Plan

- 5.1 There is an Infrastructure Delivery Plan that sits alongside the draft Borough Plan. The IDP refers to schools across Nuneaton and Bedworth but there is no mention of schools provision in North Warwickshire that provide places for those across the boundary.

6 Observations

- 6.1 Officers have met officers from NBBC to discuss the Plan before you. The main issues for this Borough relate to the amount of development being proposed to the north of Nuneaton and the impact this will have on the A5 as well as the impact from development on services and facilities in North Warwickshire such as schools.
- 6.2 In relation to the A5 it is requested that consideration be given to improving the A5 not only for vehicles but also for cycling and walking, particularly if this could be provided close to but off the main carriageway. In addition the Borough Council would like to work with NBBC to maintain and improve the linkages in to and out of the Borough.
- 6.3 NBBC is generally proposing strategic development away from the Borough boundary and so the direct impact will be less. However development could still take place in other areas and as a result could impact on services and facilities within this Borough and in particular on schools. As Members know the schools in North Warwickshire sit around the periphery of the Borough so their catchments extend well beyond the Borough boundary. As a result it is requested that further discussions take place with NBBC to determine a level of contribution to assist in the improvement of these schools either as a result of S106 or through CIL (Community Infrastructure Levy). This would directly benefit those coming to these schools from the Nuneaton and Bedworth area.

7 Report Implications

7.1 Links to Council's Priorities

- 7.1.1 The designation of the Neighbourhood Plan Designation Area will have links to the following priorities;
1. Enhancing community involvement and access to services
 2. Protecting and improving our environment
 3. Defending and improving our countryside and rural heritage

The Contact Officer for this report is Dorothy Barratt (719250).

From: Barratt, Dorothy
Sent: 15 August 2013 17:39
To: 'planning.policy@nuneatonandbedworth.gov.uk'
Cc: Maxey, Steve; Dittman, Mike
Subject: The Borough Plan consultation

Dear Kelly

A report has been drafted and will be presented to both the Planning & Development Board on the 9th September and then the Executive Board on 10th September considering your consultation on the Borough Plan. Unfortunately these dates are outside of your consultation period. I can confirm that the main issues, as we discussed at our meeting, are the impacts of development especially along the A5 and the opportunities to create / improve connectivity along its route as well as the need to discuss contributions (either S106 or through CIL) for schools provision in North Warwickshire. There may be additional comments that Members may wish to make. I will be able to confirm after the two Board meetings their views.

Kind regards

Dorothy Barratt

Forward Planning & Economic Strategy Manager
BA(Hons), DUPI, MRTPI
Chief Executive's Directorate
North Warwickshire Borough Council



01827 719250

Agenda Item No 7

Planning and Development Board

9 September 2013

**Report of the
Chief Executive**

Exclusion of the Public and Press

Recommendation to the Board

That under Section 100A(4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item of business, on the grounds that it involves the likely disclosure of exempt information as defined by Schedule 12A to the Act.

Agenda Item No 8

Breaches of Planning Control - Report of the Head of Development Control.

Paragraph 6 – by reason of the need to consider appropriate legal action

The Contact Officer for this report is David Harris (719222).