

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

**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](mailto:davidharris@northwarks.gov.uk).

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**20 MAY 2013**

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 20 May 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 Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - March 2013 - Report of the Chief Executive and the Deputy Chief Executive**

**Summary**

This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to March 2013.

The Contact Officer for this report is Robert Beggs (719238).

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

**6 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.**

**7 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**

**20 May 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](http://www.northwarks.gov.uk).

- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 17 June 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/](http://www.northwarks.gov.uk/downloads/file/4037/).

- 6.2 If you wish to speak at a meeting of the Planning and Development Board, you may either:

- e-mail [democraticservices@northwarks.gov.uk](mailto:democraticservices@northwarks.gov.uk);
- telephone (01827) 719222; or
- write to the Democratic Services Section, The Council House, South Street, Atherstone, Warwickshire, CV9 1DE enclosing a completed form.

## Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	PAP/2012/0297	5	<b>Land at Rowland Way, Rowland Way, Atherstone,</b> Residential development for 88 dwellings with associated areas of landscaping and open space	General
2	PAP/2012/0462 and PAP/2013/0119	36	<b>Atherstone Surgery, 1 Ratcliffe Road, Atherstone, Warwickshire,</b> Extensions and alterations to the surgery and existing pharmacy, and revision of parking layout to add 9 vehicle spaces and cycle parking	General
3	PAP/2012/0624	55	<b>River Tame Flood Defence, Bodymoor Heath Lane, Middleton,</b> Construction of the River Tame flood defences, broadly comprising a series of earth embankments and walls on a 6.115ha site at Kingsbury & Lichfield	General
4	PAP/2012/0626	73	<b>Cherry Tree Farm, Atherstone Road, Hartshill, Warwickshire,</b> Erection of new barns for storage purposes, reposition existing stable, enclose existing open sided barn, hard standing for vehicle access	General
5	PAP/2013/0063	79	<b>Hunts Green Dairy Farm, Wishaw Lane, Middleton, Warwickshire,</b> Change of use of two rural buildings to rear of former farmhouse to vehicle storage (cars only)	General
6	PAP/2013/0129	93	<b>Land Adjacent 56, Grove Road, Atherstone,</b> Demolition of existing garages and erection of 2 No. three bedroom dwellings	General
7	PAP/2013/0148	109	<b>Chez Nous, 58a Friary Road, Atherstone,</b> Single storey rear extension	General
8	PAP/2013/0168 and PAP/2013/0169	116	<b>Father Hudson's, Coventry Road, Coleshill,</b> Demolition of existing buildings and proposed mixed residential and commercial development comprising 74 new dwellings; a retirement complex of	General

			39 flats, a new office building, landscaping and ancillary structures (including a pumping station and an electrical substation)	
--	--	--	--	--

9	PAP/2013/0178	138	<b>Hill Cottage, Fillongley Road, Coleshill,</b> Replacement of existing garage/storage building with a single-storey detached building and a detached domestic garage	General
---	---------------	-----	---	---------

10	PAP/2013/0211	158	<b>Mallard Lodge Site, Marsh Lane, Water Orton,</b> Removal of existing B2 and office buildings, storage and car parking. Erection of new industrial building with associated offices partly over existing lake formed due to gravel extraction. Landscaping including car parking and goods delivery area	General
----	---------------	-----	---	---------

## **General Development Applications**

### **(1) Application No: PAP/2012/0297**

**Land at Rowland Way, Rowland Way, Atherstone, CV9 2SQ**

**Residential development for 88 dwellings with associated areas of landscaping and open space,**

**For Redrow Homes Midlands**

#### **Introduction**

This application was reported to the Board on 15 October 2012 in view of the representations received and in view of the application being accompanied by a Section 106 Agreement. Members resolved to approve the application subject to the signing of the Section 106 Agreement with the agreed heads of terms.

The application is reported back to the Board in view of amendments made to the terms of the Section 106 Agreement.

#### **The Site and the Proposal**

The report presented to the Board on 15 October 2012 is appended to this report for background information on the site and the proposal.

#### **Background**

The Board resolved to approve planning permission for this development proposal subject to the signing of a Section 106 Agreement with the agreed heads of terms. Since this resolution was made, Officers have been approached by the applicant regarding a change in work practice of Severn Trent Water Ltd, which is affecting the delivery of this scheme. The original intention was for the Flood Attenuation Area to be owned and managed by a Management Company which would be responsible for the maintenance of the area so that it would function in accordance with the Flood Risk Assessment and the Drainage Strategy approved as part of this scheme. Each resident of the new houses would pay annually to the Management Company so that it performed this function on their behalf.

However, it has now become apparent that Severn Trent Water Ltd has altered its stance on the adoption of Sustainable Urban Drainage Systems (SUDs), such as this Attenuation Area. It will no longer adopt them where the land involved is maintained by a private Management Company. The applicant along with other developers has written to OFWAT expressing concerns about this approach as it is understood that this is the opposite stance to that which is taken by most other Water Authorities. However, in the interim it does mean that at present the drainage system will not be adopted by Severn Trent Water Ltd and so in turn the highway network will not be adopted by Warwickshire County Council. In view of this the applicant is proposing an amendment to the heads of terms of the Section 106 Agreement whereby the

Borough Council purchases this land and covenants to maintain the Flood Attenuation Area in exchange for an initial commuted payment from the applicant.

### **Development Plan and Other relevant material considerations**

North Warwickshire Local Plan 2006 – Saved Policy ENV8 (Water Resources)

National Planning Policy Framework

New Homes Bonus

### **Consultations**

A report is scheduled to be taken to the Community and Environment Board on 21 May 2013 recommending that the Council becomes the owners of this Flood Attenuation Area in exchange for a commuted sum gifted by the developers to maintain this land.

### **Observations**

Saved Policy ENV8 (Water Resources) seeks to ensure that new development has satisfactory surface and foul water drainage systems by requiring, where feasible the use of Sustainable Drainage Systems (SUDs).

In light of the above, the use of SUDs on a site is encouraged, particularly such as on site like this which lies alongside the Innage Brook which experiences flooding issues. Members will be aware of the flooding issues raised by local residents during the consultation process and the assurances they sought from the Council that flooding would not be exacerbated as a result of approving this housing scheme.

If the SUDs system is not adopted by Severn Trent Water Ltd then the highway network within the site will not be adopted by Warwickshire County Council and so it would become a series of private roads. As such, the Council's requirement for the applicant to include an access road into the land to the north could probably not be achieved as this would involve seeking consent from the 88 householders.

The applicants' approach to the County Council and the Borough Council to take on ownership and maintenance of the land was encouraged by Severn Trent Water Ltd as both authorities are deemed to be responsible authorities. As such, Severn Trent Water Ltd would adopt the SUDs system should one of these responsible authorities own and maintain this land. The County Council has rejected such an idea due to lack of resources. However, Officers at the Borough Council have undertaken a project to research the exact costs involved to it in taking on ownership of this land.

The figures calculated reveal that to maintain this land over a 50-year period would involve the Borough Council spending some £275,044.25. The applicant has submitted a Draft Section 106 Agreement which covenants he would:

- layout and complete the Flood Attenuation Area in accordance with the approved Flood Risk Assessment, the Drainage Strategy and the approved Drainage Plan (or any such amended plan);
- construct the gravel path for public use on the On Site Open Space prior to the occupation of the 23<sup>rd</sup> dwelling;
- lay out and complete the On Site Open Space in accordance with the On Site Open Space Specification prior to the occupation of the 75<sup>th</sup> dwelling;
- transfer the On Site Open Space to the Borough Council for the sum of £1.00 (one pound) prior to the occupation of more than 75% of the Dwellings; and
- pay the Borough an On Site Open Space Maintenance Contribution of £275,044 within four months of the offer to transfer the On Site Open Space to the Borough Council.

As Members will be aware the proposal involves many benefits to the community of Atherstone which may not be delivered should the applicants withdraw this planning application. These benefits include:

- the erection of 26 dwellings to be transferred to a Registered Social Landlord;
- the sum of £523,600.00 towards the provision of off-site affordable housing elsewhere in Atherstone;
- the sum of £152,582.55 towards the improvement, enhancement and development of open space and recreation provision of existing open space in the locality of the land.
- In addition, it would attract about £1 million in New Homes Bonus.

In addition to this, by owning and maintaining this Flood Attenuation Area, the Borough Council would have control in ensuring that the area is maintained in accordance with the Flood Risk Assessment, the Drainage Strategy and the Approved Drainage Plan so that flooding levels are not increased elsewhere.

In conclusion it is recommended that the Board agree to amend the wording in the Section 106 as set out herein and that this recommendation is referred to the Community and Environment Board.

## **Recommendations**

- A)** That the Board recommends the Community and Environment Board to accept the contribution and offer to transfer the land to the Council as set out in this report, and
- B)** That subject to the Community and Environment Board agreeing to the terms as set out in this report and to recommendation (A), that planning permission be granted subject to the signing of a Section 106 Agreement covering the heads of terms detailed in this Board report, and to the following conditions:
  - 1) Standard Three year condition
  - 2) Approved Plans condition – Drawing No: 0000/08/02/001 Revision H received by the LPA on 7 September 2012; Site Location Plan received on 13 June 2012; 12115 Drw No: 1 Rev A and 12115 Drw No: 2 both received on 11

September 2012; 0000/08/02/051 Rev A received on 7 September 2012; GIA021100-P1A received on 13 June 2012; GIA021100-P2 received on 15 August 2012; 0000/08/02/015 Rev A received on 17 July 2012; Landscape Masterplan received on 13 June 2012; 5079-P-04 Rev A received on 13 June 2012; House Types: The Broadway, The Cambridge, The Evesham, The Letchworth, The Oxford, The Shrewsbury, The Warwick, The Windsor, The Windsor (Cnr), Single Garage Type 1 and Double Garage Type 2 all received on 13 June 2012; House Type: The Stour – Avon (Atherstone only) received on 21 September 2012; GIA021-004 and GIA021-005 received on 13 June 2012; Drw No: 5079-A-02 received on 13 June 2012; Drw No: 434.9/04 (Ecological Proposals Plan) received on 13 June 2012.

- 3) Prior to the occupation of any of the dwellings hereby approved, details of acoustic glazing and vents, and the locations of acoustic barriers shall be submitted for the prior written approval of the local planning authority. For the avoidance of doubt details submitted shall include solid acoustic timber fencing of adequate mass with no holes or air gaps in its construction along the boundary with Rowland Way and Old Holly Lane and thereafter maintained in accordance with the detail submitted.

#### REASON

In the interests of protecting the amenity of potential residents.

- 4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme or archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

#### REASON

In the interests of protecting and preserving any archaeological artefacts that may be present on the site.

- 5) Notwithstanding the detail provided in The Stour – Avon (Atherstone only) plans, prior to the occupation of plots 19 and 20, one principal double glazed window shall be provided at the first floor level on the side elevation on each of these plots which faces directly onto the shared parking area. These windows shall not be obscurely glazed at any time and shall remain in situ at all times.

#### REASON

To increase the level of surveillance onto this parking area.

- 6) The residential dwellings hereby approved shall not be occupied until visibility splays have been provided to the vehicular access to the site with an 'x' distance of 2.4 metres and 'y' distances of 120 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected,

planted or retained within the splays exceeding, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

REASON

In the interests of highway safety.

- 7) Upon the occupation of the 10<sup>th</sup> residential dwelling hereby approved, the two-metre wide footway link along Gypsy Lane has been provided to the written satisfaction of the Local Planning Authority as shown on Drawing Number GIA021100-P2 received by the Local Planning Authority on 15 August 2012.

REASON

In the interests of the safety of pedestrians using the site.

- 8) Prior to the commencement of the development, details of the measures to be used to prevent mud and debris being deposited on the highway as a result of construction traffic leaving the site (including type, method of operation and control of use) shall be submitted in writing to the Local Planning Authority for their approval in writing. Only the approved details shall then be implemented on the site.

REASON

In the interests of highway safety.

- 9) Prior to the occupation of the 23<sup>rd</sup> residential dwelling hereby approved, the gravel footpath marked "Envisaged gravel footpath" as shown on Drawing Number 0000/08/02/001 Revision H received on 7 September 2012 shall be provided for the whole of its length and made available for use at all times.

REASON

To increase the level of pedestrian access to the open space and land to the north.

- 10) Prior to the occupation of any of the residential dwellings hereby approved, the Flood Attenuation Area shall be constructed in full accordance with a Drainage Plan which shall be submitted to and approved in writing by the Local Planning Authority. Only the approved details shall then be implemented on the site.

REASON

In view of part of the site being located within the floodplain of the Innage Brook.

- 11) For the avoidance of doubt, only the facing bricks, roofing tiles, render mix and block paving detailed in the Materials Plan No: 0000/08/02/015 Rev A

received on 17 July 2012 shall be used during the construction of the residential dwellings hereby approved.

#### REASON

In the interests of the amenity of the area.

- 12) In accordance with the Energy Statement submitted by Redrow Homes on 11 September 2012, prior to the occupation of the 10<sup>th</sup> residential dwelling, a written report shall be submitted for approval in writing by the Local Planning Authority to demonstrate that 10% of the total energy used by the development proposal is generated on the site. Only the approved details shall then be implemented on the site.

#### REASON

To ensure that 10% of the energy used by this scheme is generated on site through renewable energy.

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

#### REASON

In the interests of public safety from fire and for the protection of Emergency Fire Fighters.

- 14) Prior to commencement of the development a ground condition survey of the site shall be undertaken in accordance with the desk study report accompanying the application. Subject to the findings of this report:
- a) a remediation strategy shall be reported to and agreed with the local planning authority in advance of the construction works at the site;
  - b) the remediation should be carried out in accordance with the agreed remediation strategy and validated in accordance with a validation plan previously agreed with the local planning authority in advance of construction works at the site;
  - c) a report of the validation/remediation work undertaken should be submitted to and agreed with the local planning authority prior to construction works.

#### REASON

In the interests of water quality and in the interests of the safety of users of the site.

## Notes

1) Condition 2 requires that the estate roads including footways, verges and footpaths are designed and laid out in accordance with the principles set out in "Transport and Roads for Developments: The Warwickshire Guide 2001" and constructed in accordance with the Highway Authority's standard specification. The applicant/developer is advised that they should enter into a Highway Works Agreement with the Highway Authority made under Section 38 of the Highways Act 1980 for the adoption of roads.

The approval of plans for the purposes of the planning permission hereby granted does not constitute an approval of the plans under Section 38 of the Highways Act 1980.

An application to enter into a Section 38 Highway Works Agreement should be made to the Planning and Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

2) Condition number 7 require works to be carried out within the limits of the public highway. The applicant/developer must enter into a Minor Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works. The applicant/developer should note that feasibility drawings of works to be carried out within the limits of the public highway which may be approved by the Highway Authority, but they should be considered as drawings indicating the principles of the works on which more detailed drawings shall be based for the purposes of completing an agreement under Section 278.

An application to enter into a Section 278 Highway Works Agreement should be made to the Planning and Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

3) In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant/developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution.

Applications should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting longer than 10 days, three months notice will be required.

4) Development Plan Policies:

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policies 2 (Development Distribution) and 8 (Affordable Housing), and policies HSG2 (Affordable Housing), HSG4 (Densities), HSG5 (Special Needs Accommodation), ENV1 (Protection and Enhancement of Natural Landscape), ENV4 (Trees and Hedgerows), ENV8 (Water Resources), ENV10 (Energy Generation and Energy

Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Regional Spatial Strategy - Policies CF5 (Delivering Affordable Housing and Mixed Communities), QE3 (Creating a High Quality Built Environment for All), QE4 (Greenery, Urban Green Space and Public Spaces) and QE9 (The Water Environment)

Other Relevant Material Considerations

Emerging Core Strategy in the Proposed Submission – Policies NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing Between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development), NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development), NW11 (Natural and Historic Environment), NW12 (Nature Conservation), NW13 (Green Infrastructure), NW15 (Atherstone) and NW19 (Infrastructure).

The North Warwickshire Borough Council Green Space Strategy

The National Planning Policy Framework 2012

The New Homes Bonus

- 5) The Local Planning Authority has worked with the applicant in a positive and proactive way through pre-application discussions, liaising with the applicant and their agent on all consultation responses received; meeting regularly during the determination of this planning application and engaging in discussions on the Section 106 Agreement in order to seek solutions and design changes to planning issues arising from dealing with this application.

## **Justification**

The site lies outside of the development boundary for Atherstone and thus the proposed residential development does not accord with the Development Plan. This carries weight as it aligns with the overall approach of the National Planning Policy Framework in seeking sustainable developments. However, there are four planning considerations of significant weight which cumulatively provide the weight to override the Development Plan. These are that the Local Planning Authority does not presently have a five year supply of housing land; that the site is located and accords with the general policies emerging in the Authority's draft Core Strategy which is now gathering weight, that the site adjoins the existing development boundary for Atherstone and that there are no other technical or planning matters of such weight that can not be overcome by condition. In all of these circumstances it is considered that the development is a sustainable scheme in a sustainable location. There are no objections to the scheme from technical consultation responses. Moreover the proposal is accompanied by a Section 106 Agreement which will provide the Council's requirements in respect of affordable housing provision and open space improvements together with the

management of on-site open space and flood attenuation matters. It is considered that the proposal accords with the planning principles of the NPPF 2012; emerging planning policies NW1, NW4 and NW15 of the Proposed Submission Core Strategy 2012 and Saved Core Policies 8 and 12, together with Saved Policies ENV1, ENV4, ENV8, ENV10, ENV11, ENV12, ENV13, ENV14, HSG2, TPT1, TPT3 and TPT6 of the North Warwickshire Local Plan 2006.

## **BACKGROUND PAPERS**

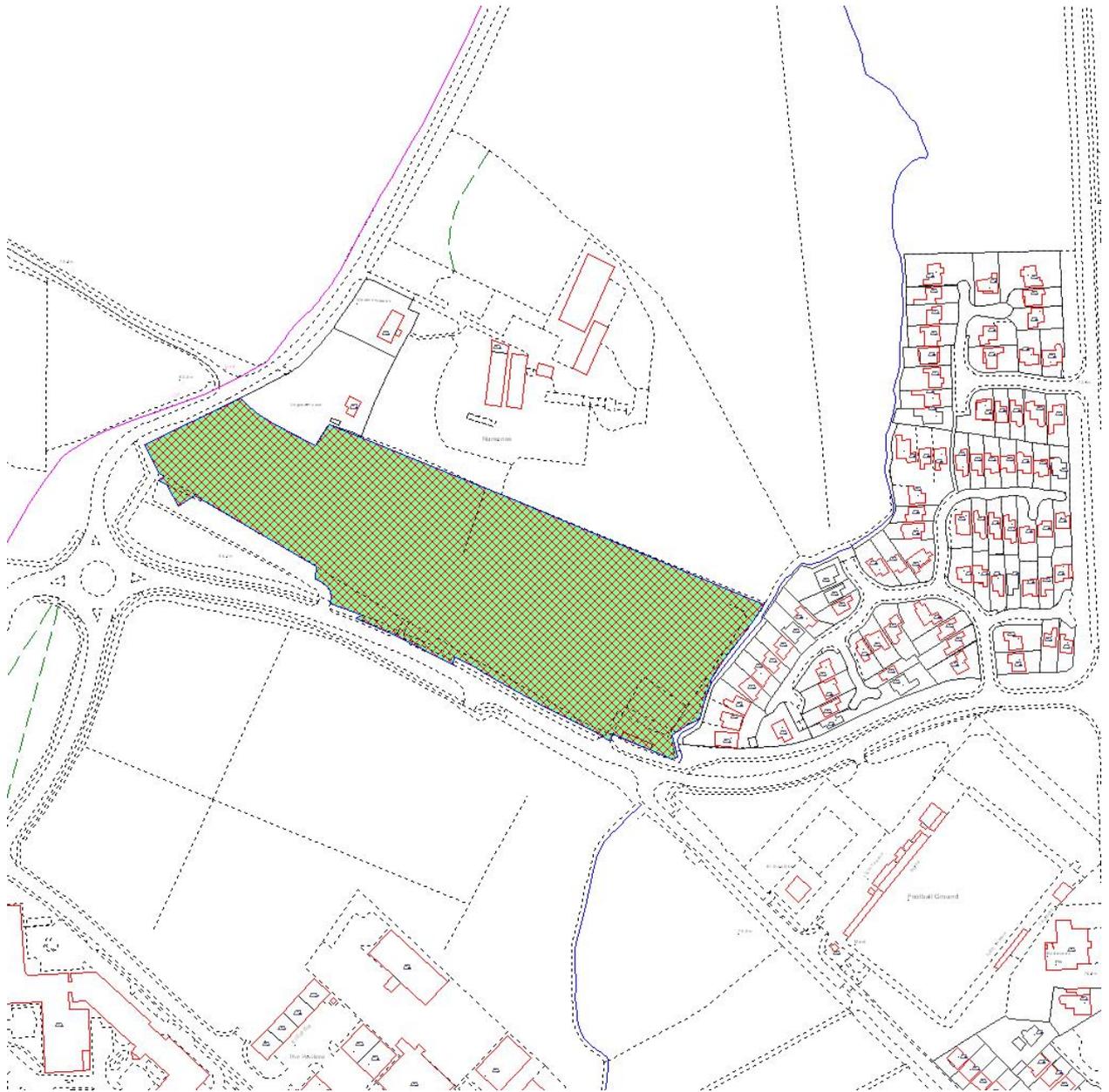
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2012/0297

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	Severn Trent Water Ltd	Letter to Applicant	15/1/13
2	Sharron Wilkinson	E-mail to County Council	15/1/13
3	Alethea Wilson	E-mail	13/2/13
4	Sharron Wilkinson	E-mail to Applicant and attachment	22/3/13
5	Applicant	E-mail	25/3/13
6	Sharron Wilkinson	E-mail to Applicant	25/3/13
7	Applicant's Solicitor	E-mail and attachment	22/4/13

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

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



## **General Development Applications**

**Application No: PAP/2012/0297**

**Land At Rowland Way, Rowland Way, Atherstone, CV9 2SQ**

**Residential development for 88 dwellings with associated areas of landscaping and open space, for**

**Redrow Homes Midlands**

### **Introduction**

This application is reported to the Board for determination because it involves a legal Agreement, and because it is for major development not in accordance with the Development Plan.

### **The Site**

The site has an area of some 3.03 hectares of land and comprises two fields which are presently utilised as grazing land. The site is located on the edge of Atherstone and some 1.5 km from its town centre. The site is bounded by Rowlands Way to the south, Old Holly Lane to the west, a commercial nursery gardens to the north and a private residential estate (Fielding Close) to the east. The Innage Brook runs along this eastern boundary with Fielding Close. The boundary hedgerows will be retained. The nearest bus stop is some 350 metres away in St Georges Road.

### **The Proposal**

Some 2.31 hectares of land would be developed to erect 88 dwellings with associated roads and parking.

The 88 dwellings would comprise:

- Ten two-bed two-storey affordable houses to be transferred to a Registered Social Landlord;
- Sixteen three-bed two-storey affordable houses to be transferred to a Registered Social Landlord;
- Eight two-bed two-storey market houses;
- Twenty six three-bed two-storey market houses; and,
- Twenty eight four-bed two-storey market houses.

To the east of the site and so adjoining the properties in Fielding Close and the Innage Brook, an area of open space would be provided as an Attenuation Area and a footpath will be provided to access the land to the north. This area of open space comprises some 0.69 hectares and will be managed by a Management Company.

The development would utilise and upgrade the existing access into the site off Rowland Way and use the remaining access as an emergency access/pedestrian access onto Rowland Way.

The following documents accompanied the planning application:

- Planning Statement (including Statement of Community Involvement);
- Design and Access Statement;
- Transport Assessment;
- Flood Risk Assessment and Drainage Strategy;
- Noise Assessment;
- Phase 1 Geo-Environmental Assessment;
- Landscape and Visual Assessment;
- Arboriculture Assessment;
- Ecology Assessment; and
- Archaeology Assessment.

A Draft Section 106 Agreement has been suggested with the following heads of terms:

- i) A £152,582.55 Open Space Contribution towards upgrading Formal Open Space Provision in Atherstone;
- ii) A 30% On-Site Affordable Housing to be transferred to a Registered Social Landlord;
- iii) A £523,600 Off-Site contribution towards 10% Affordable Housing to be provided on Council owned sites in Atherstone,
- iv) A Management Agreement for maintenance of the on-site open space, the flood attenuation area, the SUDs system, the western bank of the Innage Brook and the channel up to the centre of the watercourse, and the provision of a wetland habitat.

## **Background**

Planning permission was granted in 2002 for the retention of a wooden shelter to keep horses on the site.

Redrow Homes undertook a public consultation prior to submitting the application in May 2012.

## **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policies 2 (Development Distribution), 8 (Affordable Housing) and 12 (Implementation) and policies HSG2 (Affordable Housing), HSG4 (Densities), HSG5 (Special Needs Accommodation), ENV1 (Protection and Enhancement of Natural Landscape), ENV4 (Trees and Hedgerows), ENV8 (Water Resources), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), TPT1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Regional Spatial Strategy - Policies CF5 (Delivering Affordable Housing and Mixed Communities), QE3 (Creating a High Quality Built Environment for All), QE4 (Greenery, Urban Green Space and Public Spaces) and QE9 (The Water Environment)

### **Other Relevant Material Considerations**

Emerging Core Strategy in the Proposed Submission – Policies NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing Between Settlements), NW5 (Affordable Housing), NW8 (Sustainable Development), NW9 (Renewable Energy and Energy Efficiency), NW10 (Quality of Development), NW11 (Natural and Historic Environment), NW12 (Nature Conservation), NW13 (Green Infrastructure), NW15 (Atherstone) and NW19 (Infrastructure).

The North Warwickshire Borough Council Green Space Strategy

The National Planning Policy Framework 2012

The New Homes Bonus

### **Consultations**

Environmental Health Officer – He agrees with the findings of the submitted noise assessment in that some mitigation measures will be required to enable a good standard of living accommodation at the site. Standard double glazing will offer sufficient noise attenuation in certain rooms, however, the report shows that there will need to be higher specification acoustic double glazing in habitable rooms, capable of sound reduction of up to 29dB in some cases. These details will need to be provided and so a planning condition should be attached to any consent granted. In addition to this, the EHO recommends that a boundary wall of some 1.8 to 2 metres should be provided to give greater protection. Specific details of the proposed noise barrier and brick wall will need to be provided and so again a planning condition should be attached.

Warwickshire Fire and Rescue Service – No objection to the scheme subject to the imposition of a planning condition requiring further details of the water supply and fire hydrant points to be provided for fire fighting purposes.

Severn Trent Water Ltd – No objection to the scheme subject to the inclusion of a planning condition requiring additional details of the disposal of surface water and foul water drainage.

Environment Agency – No comments received

Nuneaton and Bedworth Borough Council – The Council confirms that an application was received from Redrow Homes to vary a legal agreement of more than five years old for a housing scheme in Tuttle Hill. The developers purchased the site in 2006 and began constructing a successful challenging housing scheme. The original scheme included the filling of a void adjacent to the quarry and the construction of a retaining structure which have exceeded the original estimates of £7 million. The

obligations along with the increased costs on the site it was argued had made the development completely unviable. Officers negotiated on-site shared equity housing and £300,000 of off-site contributions which were accepted by Members at Committee. The reason for this consultation will become apparent from reading one of the representations received, and it is referred to in the Observations section below.

Warwickshire County Council Asset Strategy Manager – Sufficient places are available at local schools to meet the demand from this residential scheme.

Warwickshire County Council's Finance Officer – Requests a contribution towards the Library Services in Atherstone of £14,679. Officers have requested the evidence to justify how this figure is directly related to this proposal.

NHS Coventry and NHS Warwickshire – Requests a contribution of £99,052 towards primary healthcare provision and the costs of running those facilities. Officers have requested the evidence to justify how this figure is directly related to this proposal.

Building for Life Assessor – considers that the scheme generally performs well in environment and community, character and streets, parking and pedestrianisation sections. There are considered to be opportunities which are missed in each of these sections in particular the lack of forward thinking to any future developments to the north and the lack of renewable energy provision. It is recommended that more detail and amendments are made so that the scheme can achieve the Gold (16/20) status as its present status is 12.5/20.

Warwickshire Police – Confirms that the Police do not object to this planning application but wish to make recommendations to assist in keeping this development as crime free as possible: where rear access to multiple rear gardens is provided then the gates provided need to be lockable; the parking area behind plots 20-22 needs to have more surveillance and to have lighting.

Forward Planning and Economic Strategy Team – Requires a contribution to be made towards off-site open space provision. It is agreed that 0.69 hectares of informal open space will be provided on the site, however, in light of some of this site being used as a Flood Attenuation Area, not all of it will be usable space during various times of the year. A contribution of £152,582.55 is required for the upgrading of Children and Young People's Open Space and Sports Pitches at Race Meadow Recreation Ground to accommodate the additional people generated by this development.

Housing Strategy and Development Officer – Agrees that 30% of affordable housing should be provided on the site and accepts that £523,600 will be a sufficient contribution to develop three sites at Princess Road, St Georges Road and Lister Road with the remaining 10% off-site affordable housing. He confirms that the Council would expect to have spent this money within a five-year period.

Highways Authority – No objections to the scheme provided conditions are attached to any consent granted to cover: visibility splays; the provision of a 2 metre wide footway link along Gypsy Lane; and suitable measures to prevent mud and spoil

entering the highway. The developer is required to contribute £50 per dwelling for sustainable welcome packs and to help promote sustainable travel in the local area.

Warwickshire County Council as Land Drainage Authority – confirm that they are satisfied with the Flood Risk Assessment and Drainage Strategy as submitted, but wish to make further comments on the detailed design and accept that this can be dealt with by way of a planning condition. The developer is proposing that a Management Company take on the responsibility of the sustainable drainage arrangements on-site and this should be included in the Section 106 Agreement along with an inspection and maintenance plan for the balancing pond and open space area.

## **Representations**

Atherstone Town Council – States that they are pleased that quality development is coming to Atherstone. However, they do express concerns that the present facilities such as community buildings, nursery accommodation, dentists and doctors are not keeping pace with the development already seen in Atherstone, through non application of suitable 106 provisions. They agree that 40% affordable housing provision is necessary in the town, however, they wish for this affordable housing to be pepper-potted and for some of this provision to be provided off-site and closer to the town for elderly person's accommodation.

They further state that such a housing scheme should be a showcase example reflecting the countryside nature of the surroundings in this part of Atherstone and that they are not totally convinced that the present design achieves this ambience with the vernacular.

Atherstone Civic Society – Considers that the scheme is well-designed and well located. They welcome the provision of larger family homes and also affordable housing for young people who find it difficult to buy a home of their own.

Eight letters of objection and a petition signed by 39 residents from Fielding Close, Willday Drive, Northcote Walk and River Drive have been received objecting to the scheme for the following reasons:

- Flooding – they have significant and major concerns about the increased risk of flooding to the properties in River Drive and Fielding Close if this development is approved , because of the amount of surface water drainage which is already discharged to the Innage Brook
- Anti-social behaviour – the Flood Attenuation Area will attract children
- Encroaching into a Rural Area – The scheme will lead to more buildings in this area and will destroy the rural character of the area. The rural life in this area has already been destroyed by the Aldi and TNT schemes and the industrial sites off Abeles Way and Sheepy Road
- Lack of Supporting Facilities – there are not enough schools in the area or doctor's surgeries or employment or facilities for young children or emergency services. Redrow has already failed to complete an agreement to provide community facilities for the site they are developing in Tuttle Hill, Nuneaton.

Two further letters of objection have been received based on the amended plans submitted. The authors maintain their previous objections to the housing scheme for the following reasons:

- Flooding – over the last 25 years they have observed a change in the amount of water in the Innage Brook which has changed from a “gentle trickle” to a “raging torrent.” Building houses in the floodplain should not be allowed. Will the Council maintain the Flood Alleviation Scheme and the Innage Brook? They want reassurances that if they are flooded as a result of this housing scheme then Redrow Homes and NWBC are held accountable for this.
- The site is totally unsuitable for housing as it is adjacent to two large warehouses which operate intensively 24 hours a day. The Council needs to consider the impact of diesel fumes on young children and the potential for a cancer “cluster” in years to come.
- The new plans do not address the obvious increase in light pollution, loss of light or privacy issues or the reduction in the quality of life for residents in Fielding Close.
- Is the land to the North going to be developed as well? Why is there a need for a potential access to this land to the North?
- We want the Council to accept liability if our properties do flood in the future.

Aldi Foodstores – They have submitted a holding objection to the proposal. They own the land to the south of Rowland Way which is allocated in the Local Plan for employment purposes. Further reference is made in the Emerging Core Strategy to the allocation of this site for Aldi’s purposes. They wish to ensure that the development of their site will not be jeopardised by approving a residential scheme on the opposite side of the road from noise issues and traffic generation.

## **Observations**

### **i) Introduction**

There are a significant number of issues involved here, not least that the proposal is on land outside of the current Atherstone development boundary. Whilst this application may therefore appear to be a likely candidate for refusal of planning permission, Members will understand immediately that there are two other material planning considerations that will have a bearing on the determination of this application – namely the emerging Core Strategy that will replace the Local Plan and the Government’s new National Planning Policy Framework (NPPF). The Board will need to examine these two other considerations and assess what weight they should carry in balancing the merits of the proposal against the policies of the present Local Plan. It is therefore proposed to deal with the matter of principle first before examining the many detailed planning considerations that arise as a consequence of the proposal.

ii) **The Principle Issue**

The site lies outside of the Development Boundary for Atherstone as identified in Saved Core Policy 2 (Development Distribution) in the North Warwickshire Local Plan 2006. The Development Boundary for Atherstone does about the eastern, southern and western boundaries of the site and so the site is located on the edge of the Development Boundary.

Saved Core Policy 2 does state that outside the development boundaries and except where other policies of the Plan expressly provide, development will be limited to that requisite for agriculture, forestry or other uses that can be shown to require a rural location. The proposal is for residential development which would be contrary to this Policy. The North Warwickshire Local Plan, having been adopted after the 2004 Act, does carry significant weight during the one-year transition period allowed under the NPPF because of its consistency with the NPPF. The justification for Core Policy 2 is that the primary planning policy in North Warwickshire is one of sustainable development. It goes on to state that the land within the Development Boundaries has been found (and the results validated by Consultants) to be in sustainable locations. As the whole thrust of the NPPF is grounded on the “golden thread” of sustainable development, it follows that Core Policy 2 is in compliance with the NPPF and it thus carries significant weight.

However the NPPF continues by stating that Local Planning Authorities should be able to demonstrate that they have a five year housing land supply, with at least a 5% buffer. It is agreed by the applicant and officers that a five-year housing land supply plus 5% cannot be demonstrated in North Warwickshire at the present time. The applicants’ figure of this land supply suggests a figure of 3.59 years. This is disputed as the Annual Monitoring Report for 2010/11 demonstrates that the current housing land supply in North Warwickshire is 4.46 years.

The Draft Pre-Submission Core Strategy has recently been out to public consultation and seeks to deliver 3,800 (net) dwellings over the Plan period 2006-2028. Paragraph 216 of the NPPF suggests that the policies and proposals in an emerging Core Strategy are also of relevance in the determination of planning applications. Indeed, following the consultation exercise, the Policies in the emerging Core Strategy are now gathering weight. Policy NW1 continues with the existing settlement hierarchy which focuses development towards the market towns. The text does include reference to necessary amendments being made to settlement boundaries in a later Development Plan Document. Policy NW4 further goes on to state that the main market town of Atherstone/Mancetter will be required to provide a minimum housing figure of 600 dwellings. Policy NW15 (Atherstone) expands on this figure by stating that development on sites inside the development boundary will be pursued, but it is recognised that in order to maintain a five year housing supply, growth may need to take place beyond its current boundaries. This draft policy states that further growth will be directed beyond the current development boundary to the north-western area of Atherstone.

The above policies formed part of the Draft Pre-Submission Core Strategy and so it is important to assess the consultation responses which were received in this document’s consultation process during August 2012 – particularly in respect of draft

policy NW15. There was support for these policies from Redrow Homes and Bloor Homes in conjunction with the Merevale Estate. Atherstone Town Council did not object to the contents and wished to seek a prestige office development in the area around Holly Lane and the A5. English Heritage did object to this Policy on the grounds of the lack of an adequate assessment of the impact on the historic environment if the north-western area of Atherstone was developed. There were no letters of objection received from members of the public to this Draft Policy.

Draft Policy NW8 (Sustainable Development) states that development should meet the needs of residents and businesses without compromising the ability of future generations to enjoy the same quality of life that the present generation aspires to. The site lies in a sustainable location and the emerging Core Strategy identifies land to the north west of Atherstone as being the likely area to accommodate the additional housing growth required in Atherstone and Mancetter. Apart from English Heritage's concerns that the historic environment may be impacted upon (concerns which would not relate to this development site as there are not any historic buildings or monuments within the vicinity of the site) there has not been any objection received during the consultation exercise on the Draft Core Strategy to Policy NW15. The Council has now considered all the representations received on this and has agreed not to vary the approach taken in Policies NW1, NW4 and NW15.

Notwithstanding the location of the site presently outside of the defined development boundary, it is accepted that the Borough cannot demonstrate a five-year housing land supply which is a material consideration of significant weight. Additionally, the application site is clearly within the general direction agreed for future residential development in Atherstone as identified in emerging policy. That policy is now gathering weight. Moreover, the NPPF states that Local Planning Authorities should approach decision-taking in a positive way to foster the delivery of sustainable development and to seek solutions to the management of new development proposals rather than just seeking possible reasons for refusal. These three factors are material planning considerations of substantial weight and given that the site itself lies on the very edge of the existing defined development boundary it is concluded that these considerations carry enough weight to override the present Local Plan position. As such, it is concluded that provided other issues are addressed with the development of this site, the principle of this residential scheme can be supported.

### **iii) Affordable Housing**

Saved Local Plan Policy HSG2 (Affordable Housing) states that in Atherstone and Mancetter a target of 40% of affordable housing will be sought in all developments that exceed a site area of 0.5 hectares. Emerging Policy NW5 in the Draft Pre-Submission Core Strategy states that a target of 40% of dwellings completed in the plan period will be in the form of locally affordable housing achieved through on-site contributions and/or financial contributions and/or land. The layout plan submitted states that 30% of the housing units will be given over to a Registered Social Landlord (RSL). A financial contribution of £523,600 towards off-site provision is proposed to make up a further 10%. This will go to the development of Council owned sites in Atherstone for elderly persons' accommodation. This contribution would form the basis of a Section 106 Agreement.

The mix of affordable housing to be provided on site would be a combination of two and three-bedroom units. The Section 106 Agreement would seek to ensure that they are disposed of to an RSL and that the mix of tenures is 70% rented accommodation, being all of the two-bedroom units and eight of the three-bedroom units, with the remaining 30% being shared ownership.

In light of the above, the scheme is considered to comply with affordable housing policies in the Development Plan and the emerging Core Strategy.

#### **iv) Flooding**

The eastern section of the site lies within Flood Zones 2 and 3 of the Innage Brook. Saved Local Plan Policy ENV8 (Water Resources) states that the water resources of the Borough will be safeguarded and enhanced, and development will be protected from floodwater by applying the sequential test approach; by ensuring that new development has satisfactory surface and foul water drainage systems and not permitting development that would prevent maintenance access to watercourses. Technical Guidance on Flood Risk in the NPPF has replaced the guidance referred to in Policy ENV8, namely PPS25. This Technical Guidance follows on the theme of Saved Policy ENV8 in that inappropriate development (particularly residential) in areas at risk of flooding should be avoided, by directing development away from areas at highest risk. This Technical Guidance is a material consideration of significant weight as being up-to-date Government Guidance on flooding.

Within the Guidance, Sequential Tests are used to steer new development to areas with the lowest probability of flooding. Zone 1 comprises land assessed as having the lowest probability of flooding being less than 1 in 1,000 year annual probability of river flooding. All of the 88 dwellings proposed along with all associated roads and gardens are located within Zone 1. The Technical Guidance further goes on to state that a Flood Risk Assessment is required for schemes exceeding one hectare. An Assessment has been submitted with this application. The policy aims in the Technical Guidance state that in Flood Zone 1, “developers and local authorities should seek opportunities to reduce the overall level of flood risk in the area and beyond, through the layout and form of the development and the appropriate application of sustainable drainage systems.”

Following concerns raised by residents relating to the flood risk and drainage aspects of developing this site for housing, the applicant’s agents have responded to the points of concern raised in their letter of 27 July 2012. As raised above, none of the new dwellings will be located within Flood Zones 2 and 3 which have the highest probability of flooding. It is acknowledged that the housing in Fielding Close, Northcote Walk and River Drive are located within Flood Zones 2 and 3 where dwellings are located within 14 metres of the Innage Brook compared to the housing scheme the subject of this application where the closest property will be some 40 metres from the Brook. As stated in the Technical Guidance it is NOT for this scheme to remove areas already located within the floodplain of the Innage Brook which in this case would be the housing in Fielding Close, Northcote Walk and River Drive. The policy aim of the Technical Guidance is to seek opportunities to reduce

the overall level of flood risk in the area and beyond through the layout and form of the development and the application of sustainable drainage systems (SUD).

The layout of this housing scheme shows some 0.69 hectares of land will remain undeveloped alongside the Brook. This will become a Flood Attenuation Area and will be clear of any development. Being the riparian owners of this western bank, then under the Land Drainage Act 1991 it will be the responsibility of the landowner to maintain this watercourse to the centre of its channel. Maintenance of the Innage Brook from the western boundary can be achieved through leaving this area clear unlike its riverbank on the eastern bank where residential gardens and associated close boarded fences form the majority of its channel and so maintenance is extremely difficult. The wording in the Section 106 Legal Agreement to accompany this planning application will ensure that this area of open space is maintained by a Management Company appointed by Redrow Homes. Its responsibilities will include ensuring that this western bank and into the centre of the channel is free of obstructions and that the Flood Attenuation Area works to its maximum capacity through regular maintenance of this area and of the SUDs scheme proposed.

Indeed, through the existence of this large open area for the Flood Attenuation basin, the existing floodplain of the Innage Brook will be preserved. As per the requirements of the Technical Guidance, the surface water drainage system from the housing scheme has been designed to store and hold back surface water run off from rainfall events. The Flood Attenuation Basin has been designed to hold an additional 30% of storage as a precautionary value to allow for climatic change. The SUDs system has been designed to store and release surface water runoff at a green field runoff rate of 5.7 l/s into the Innage Brook which provides significant betterment over the existing system, where the rainfall falling onto this undeveloped site is not controlled. Presently in high rainfall events this would yield a higher surface water runoff rate from the site. Even through rainfall events where the ground is saturated, the scheme is designed to hold back flows and discharge to the Innage Brook at a rate of 5.7l/s.

Warwickshire County Council is the Lead Authority for non-main rivers such as the Innage Brook. It has no objection to the drainage scheme proposed provided terms of maintenance can be included in the Section 106 Agreement to ensure that the Flood Attenuation Basin, the SUDs system and the western bank of the Innage Brook are regularly maintained.

Based on the above, although reassurances cannot be given to existing residents located within the floodplain of the Innage Brook that their properties will no longer experience a flood event, the design of the proposed scheme will ensure that any flood event will involve less water than if this site was not developed through the increased storage capacity of this Flood Attenuation Basin and through restricting the rate of discharge into the Innage Brook. Maintenance of this watercourse will also increase its channel capacity. None of the new dwellings proposed should experience any flooding due to their distance from the Innage Brook and their location within Zone 1.

In light of the technical advice above it is considered that although part of the site lies within Flood Zones 2 and 3, the layout and design of this scheme fully complies with

the Government's Technical Guidance in the NPPF on flooding. As such, through the use of planning conditions and a Section 106 Agreement, the long-term management of this site can be controlled to ensure that this is the case.

#### **v) Highways**

A Transport Assessment has been submitted for the scheme as required under Saved Local Plan Policy TPT1 (Transport Considerations in New Development). The proposal is for the two existing accesses onto Rowland Way to be utilised. The access to the north-west will become the main vehicular access with that closest to the Innage Brook becoming an emergency and pedestrian access. In addition to this, Redrow Homes propose to install a two metre wide footway link with street lighting along Gypsy Lane in places where this is missing. The intention is to improve this footway link into the town.

The Highway Authority has no objection to the scheme as submitted provided that standard planning conditions are included.

In respect of the objection received from Aldi, the Highway Authority has stated that although the employment land may be allocated, any prospective applicant will still need to demonstrate that the impact on the highway network can be accommodated and appropriately mitigated. On this point, the allocation does not specify a position for the access onto the Aldi land and it is likely that an access would in fact be onto Holly Lane rather than Rowland Way.

In light of the advice from the Highway Authority it is considered that the proposal accords with the relevant transport local plan policies.

#### **vi) Noise**

Saved Local Plan Policy ENV9 (Air Quality) requires that development will not be permitted where the occupants of noise-sensitive uses would experience significant noise disturbance. The site lies to the north and east of existing and proposed employment sites. The Environmental Health Officer agrees with the findings of the noise assessment submitted with the application. He does however wish to reserve an assessment on the impact of the allocated land to the south. The applicant has undertaken further work in this respect and thus the officer's observations will be reported verbally to the Board. The conclusions arising from the existing assessment give rise to mitigation measures including a brick wall along the garden boundary of the proposed houses with Rowland Way and acoustic double glazing being installed in front facing windows. It is highly likely that these measures will need to be extended over a wider area as the outcome from the receipt of the further work referred to above. In these circumstances, it is considered that the use of the recommended mitigation measures will overcome potential noise disturbance arising from the nearby commercial areas. There are no issues from the Environmental Health Officer arising from air quality matters.

#### **vii) Nature Conservation**

Saved Local Plan policies ENV3 (Nature Conservation) and ENV4 (Trees and Hedgerows) seek to retain and to enhance areas of nature conservation value. It is

presently low grade pasture being used for horses. Objections have been received indicating that there is a variety of wildlife in the area. The application was accompanied by a Landscape and Visual Assessment; an Arboricultural Assessment, an Ecology Assessment and an Archaeological Assessment. The North Warwickshire Landscape Character Assessment locates the site being within an area of low sensitivity around the periphery of the town and describes the corridor of the Innage Brook as being well vegetated and separated by modern residential properties, a field used for horse grazing and a new road with young unmanaged hedges. The Ecology survey concludes that there are no habitats of any protected species located on the site. The area of open space will be managed so as to encourage wildlife and the basin can be designed to permanently contain a small amount of water to create a wetland area. The layout seeks to retain all of the existing hedgerow boundaries. Coupled with the creation of the wetland area, which can be covered through the 106 Agreement, it is considered that the habitat value of the area should be enhanced over the existing, and thus the proposals would accord with both of the policies referred to in opening.

#### **viii) Loss of Amenity**

Saved Local Plan Policy ENV11 (Neighbour Amenities) requires that residents should not experience a loss of amenity through overlooking or loss of privacy. The nearest residential property is some 56 metres from the existing houses in Fielding Close, and are separated by the area of proposed open space. As Members are aware, the loss of a view and the loss of house value are not planning considerations. As far as the internal layout is concerned then none of the future properties are likely to experience material loss of amenity because of the separation distances involved. It is considered that there is no reason for refusal here based on this Local Plan policy.

#### **viii) Urban Design**

Saved Local Plan Policy ENV12 (Urban Design) requires all of the elements of a proposal to be well related to each other and to harmonise with both the immediate setting and the wider surroundings so as to present a visually attractive environment. The site layout seeks to develop around 74% of the site with the balance being public open space. The density is 38 dwellings to the hectare and all are two storey units with both front and rear gardens. The scheme thus reflects nearby estates. The Civic Society describes the layout as well designed too. The Building for Life Assessment and the Police also agree that with amendments, the layout is well laid out and designs out crime. A planning condition can pick up on the proposed amendment – namely the design of the parking area in the north-west of the site. Based on these matters, it is considered that this policy has been met.

#### **ix) Potential to Develop Land to the North**

Emerging Policy NW15 of the Pre-Submission Core Strategy (Atherstone) states that further growth of the Atherstone and Mancetter area, outside of the current boundaries, will be focused in the broad direction of the north-west of the settlement. The land at Durno's Nurseries has been put forward as a potential housing site to be considered within the forthcoming Site Allocations DPD. There is concern that

consideration of this current application in advance of a comprehensive development brief for the north-west of Atherstone could jeopardise the delivery of a much wider area of land. The applicant points out that proposed connections – a footpath link and continuation of the open space would not lead to the problem as envisaged. The Highway Authority has indicated that the proposed access off Rowland Way is designed so as to accommodate additional capacity and that other alternative access points off Old Holly Lane and the Sheepy Road are also likely to become available. As such it is not considered that the present proposal would be pre-mature in respect of prejudicing the future development potential of a significant area of land, should this be required at a later date.

**x) Energy Generation**

Saved Local Plan policy ENV10 (Energy Generation) requires that 10% of the energy used by this scheme is generated on site through renewable energy. The applicant's Energy Statement proposes the installation of PV cells on 55 of the plots. This can be required by condition and would satisfy the policy requirement.

**xi) The Section 106 Agreement**

Saved Local Plan Core Policy 12 and Emerging Policy NW19 of the Pre-Submission Core Strategy (Infrastructure) state that the Council's policies and proposals will be implemented by working in constructive partnership with funding agencies and service providers in order to secure the key priorities of affordable housing, protection and enhancement of the environment, the provision of necessary services, facilities and infrastructures to meet the demands of new development to include open space and the provision of training.

Members will be aware of the changes in planning legislation affecting Section 106 Agreements and particularly the introduction of the Community Infrastructure Levy (CIL). In short, the remit of Section 106 Agreements has been sharply curtailed and there are now statutory tests for contributions. Such Agreements can however still relate to the provision and delivery of affordable housing.

Dealing with affordable housing provision first, then the Council's 40% policy requirement is met with this proposal. Additionally the Council has an adopted SPD on the provision of and contributions towards affordable housing delivery. There is 30% on-site provision with this proposal, and a financial contribution equivalent to the remaining 10%, so that this can be provided off-site. This amounts to £523,600. This will assist in the implementation of elderly housing accommodation in Atherstone. Planning applications have already been submitted for bungalow developments at Princess Road (elsewhere on this Agenda) and for St. George's Road. The Housing Officer acknowledges the significance of this contribution and welcomes the full 40% provision.

Members are familiar too with the need to deal with the direct impact of new development in enhancing amenity and recreation space off-site, if there is no on-site provision to be made. Here, whilst there clearly would be some amenity space

provided, there is no formal play or recreation provision. The Council has an adopted Green Space Strategy and an associated draft SPD dealing with contributions. The applicant has agreed that in line with the SPD, a contribution of £152,582 is applicable for upgrading formal open space provision in the town.

Members will have noted the other requests for contributions. These will not be followed through in a Section 106 Agreement. Firstly there is no direct evidence linking the requests to the application; there is no adopted or agreed policy on how such contributions can be expended, and the Council has as yet, no Infrastructure Delivery Plan. These requests are more appropriately dealt with through the CIL procedures and will apply if the Council proceeds to become a Charging Authority. At the present time these requests fall outside of the new legal requirements of Section 106.

The Agreement will contain a clause relating to the management of the on-site open space and the flood attenuation area for use by members of the public.

## **xii) Other Material Considerations**

In addition to the above, a material consideration is the amount of New Homes Bonus that such a residential scheme would attract. This has limited weight in the assessment of this application as there are direct planning policy requirements of far more substance that already support the grant of planning permission here. In other words, the recommendation below would still have been the same without the existence of this Bonus.

The NPPF aims to ensure that the local community is involved in development schemes. In accordance with the Council's arrangements for pre-application advice the applicants undertook pre-application consultations with officers of the Council and with local residents prior to the submission of the application.

One of the objectors referred to the current applicants dealings with the Nuneaton and Bedworth Council in respect of Section 106 Agreements. The consultation response from Nuneaton included above was requested from that Authority for clarification because of the suggestion made in the objector's remarks. This objection carries no weight in the determination of this current application.

## **xiii) Conclusions**

The site is outside of the development boundary for Atherstone, and thus this proposal does not accord with the Development Plan. The relevant policies of the Development Plan in this respect carry weight as they align with the general approach of the NPPF – ie the promotion of sustainable development. Section 38(6) of the Planning and Compensation Act 2004 however states that whilst development proposals must be determined in accordance with the Development Plan, material planning considerations can indicate otherwise. Here there are three material planning considerations. Firstly it is accepted that there is a housing shortfall in North Warwickshire, and secondly the proposal clearly is in accord with the emerging policies of the Core Strategy. Thirdly the site adjoins the development boundary of one of the Borough's main and most sustainable settlements. These three

considerations each carry substantial weight because the former is contained within the NPPF and the other two are in the Core Strategy to be submitted to the Secretary of State. In these circumstances it is considered that they outweigh the non-compliance with the current Development Plan.

Moreover, the residential scheme is small within the context of the overall housing requirement for Atherstone and Mancetter of 600 dwellings. It is acceptable in visual and landscape terms and lies within a sustainable location being on the edge of residential and employment uses. Part of the site does lie within Flood Zones 2 and 3, however, there will be no dwellings located within this area. The provision of a Flood Attenuation Area within an area of open space should improve the floodplain capacity in the area and should not exacerbate the risk of flooding elsewhere as required in the Technical Guidance attached to the NPPF.

Mitigation measures are proposed to address issues of noise disturbance, flooding, surveillance, the need for energy generation and need to improve footpaths in the area. This, coupled with a Section 106 Agreement will ensure that this scheme blends into the surroundings as well as delivers much needed affordable housing provision in the town.

### **Recommendation**

That subject to the signing of a Section 106 Agreement covering the matters set out in section (xi) above, and that there be no further objection from the Environmental Health Officer, planning permission be granted subject to the following conditions which are set out in general terms, and that the exact wording of these be delegated to officers to conclude.

- 1) Standard three year time condition
- 2) Standard plan numbers list
- 3) Details of boundary walls, heights and location etc for noise reduction to be agreed
- 4) Details of noise reduction measures to dwellings along Rowland Way to be agreed
- 5) Need for principal windows at first floor level to be provided with double glazing on the side elevation of plots 19 and 20
- 6) 55 plots to have PV panels installed in accordance with the Energy Statement submitted by Redrow Homes on 11 September 2012.
- 7) Standard drainage condition on Foul and Surface Water details
- 8) Archaeological Investigations prior to any works commencing on site
- 9) Highway condition to cover road layout
- 10) Highway condition to cover visibility splays onto Rowland Way
- 11) Provision of a 2-metre footway along Gypsy Lane with street lighting prior to occupation of first dwelling;
- 12) Provision of measures to prevent mud and spoil being deposited onto Rowland Way during construction work;
- 13) Provision of gravel footpath along western bank of Innage Brook from Rowland Way to land to the north prior to the first occupation of any dwelling;

- 14) Provision of the Flood Attenuation Area in accordance with the details hereby approved in the Flood Risk Assessment and Drainage Strategy submitted by Halcrow, prior to first occupation;
- 15) Only facing bricks and roofing as detailed on approved plans to be used on the scheme;
- 16) The potential access between plots 43 and 44, 45 and 46 to be made available for use up to adoptable standards.
- 17) Position of Fire Hydrants to be agreed
- 18) Any other conditions required as a result of additional technical evidence required on noise generation.

### **Justification**

The site is outside of the development boundary for Atherstone and thus the proposed residential development does not accord with the Development Plan. This carries weight as it aligns with the overall approach of the National Planning Policy Framework in seeking sustainable developments. However there are four planning considerations of significant weight which cumulatively provide the weight to override the Development Plan. These are that the Local Planning Authority does not presently have a five year supply of housing land; that the site is located and accords with the general policies emerging in the Authority's draft Core Strategy which is now gathering weight, that the site adjoins the existing development boundary for Atherstone and that there are no other technical or planning matters of such weight that can not be overcome by condition. In all of these circumstances it is considered that the development is a sustainable scheme in a sustainable location. There are no objections to the scheme from technical consultation responses. Moreover the proposal is accompanied by a Section 106 Agreement which will provide the Council's requirements in respect of affordable housing provision and open space improvements together with the management on on-site open space and flood attenuation matters. The Local Planning Authority has worked in a positive and proactive way through pre-application discussions; jointly considering consultation responses and representations received, negotiating design changes and becoming engaged in Section 106 discussions in order to deal with the planning issues arising from this application. It is considered that the proposal accords with the planning principles of the NPPF 2012; emerging planning policies NW1, NW4 and NW15 of the Proposed Submission Core Strategy 2012 and saved core policies 8 and 12, together with saved policies ENV1, ENV4, ENV8, ENV10, ENV11, ENV12, ENV13, ENV14, HSG2, TPT1, TPT3 and TPT6 of the North Warwickshire Local Plan 2006.

## BACKGROUND PAPERS

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

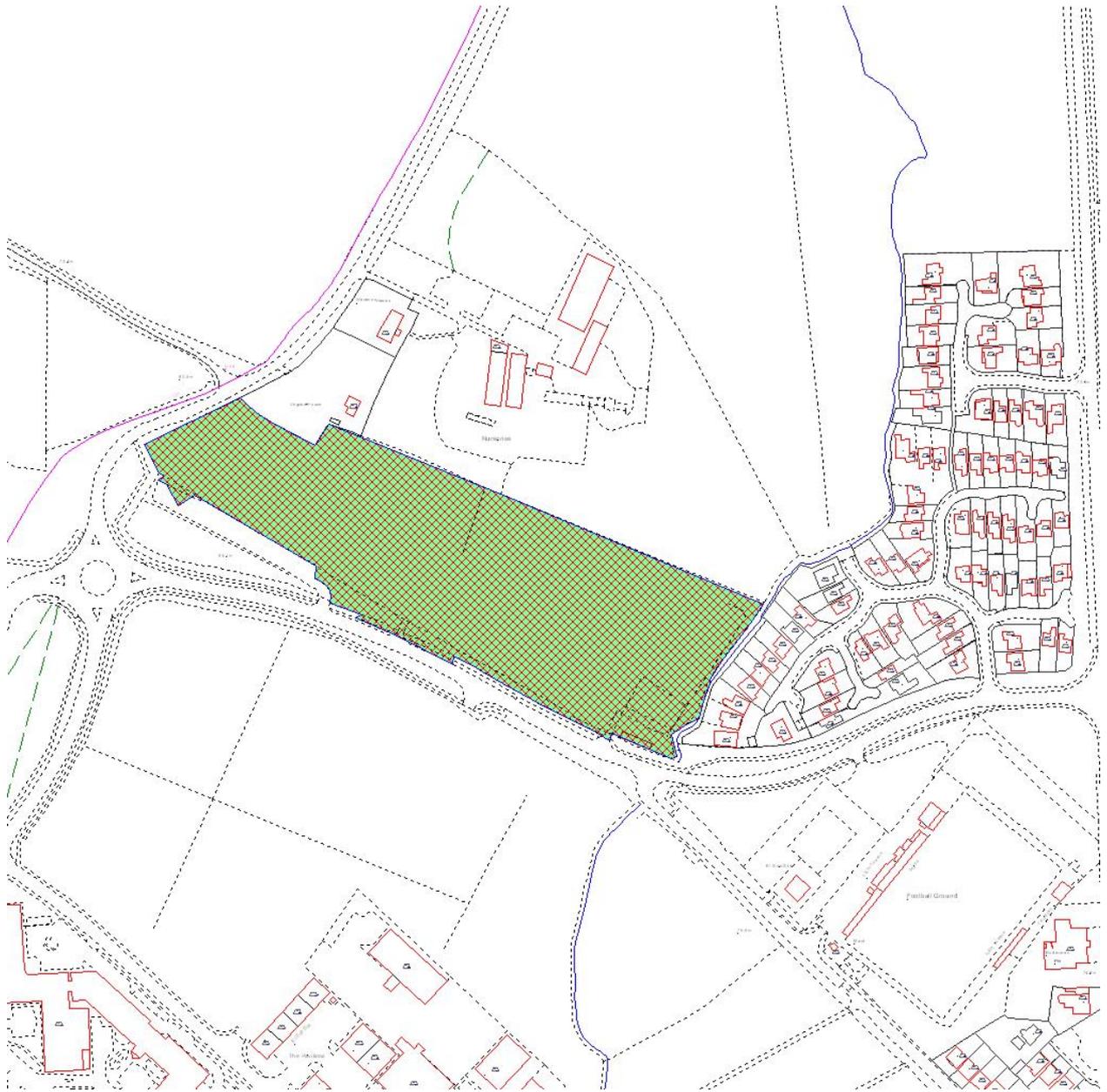
Planning Application No: PAP/2012/0297

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	13/6/12
2	J & M Griffin	Representation	20/6/12
3	F Albrighton	Representation	25/6/12
4	Press Notice		21/6/12
5	E Levy	Letter to NBBC	25/6/12
6	Nuneaton & Bedworth BC	Correspondence	25/6/12
7	E Levy	E mail to Applicant	26/6/12
8	E Levy	E mail to Warwickshire County Council Highways Authority	27/6/12
9	E Jordan	Objection	29/6/12
10	E Jordan	Objection	2/7/12
11	J Griffin	Objection letter and petition	28/6/12
12	Warwickshire County Council Highways	E-mail	2/7/12
13	E Levy	E-mail	3/7/12
14	Warwickshire Fire & Rescue	Consultation response	3/7/12
15	P Twyneham	Objection	30/6/12
16	Severn Trent Water	Consultation response	4/7/12
17	Atherstone Town Council	Consultation response	6/7/12
18	Freeguard	Objection	8/7/12
19	WCC Highways	E-mail	9/7/12
20	Atherstone Civic Society	Consultation response	9/7/12
21	Environmental Health Officer	Consultation response	9/7/12
22	J Tortise	Objection	9/7/12
23	E Levy	Letter to WCC Land Drainage	16/7/12
24	E Levy	Letter to WCC Archaeology	16/7/12
25	WCC Finance Officer	Consultation response	6/8/12
26	Meeting Agenda		17/7/12
27	Applicant's Agent	E-mail	16/7/12
28	Building for Life Assessor	Consultation response	18/7/12
29	S Wilkinson	E-mail to WCC Highways	20/7/12
30	S Wilkinson	E-mail to Agent	20/7/12
31	Warwickshire Police	Consultation response	20/7/12

32	WCC Asset Strategy Manager	Consultation response	3/8/12
33	Halcrows	Letter regarding drainage	27/7/12
34	Forward Planning Team	Consultation response	15/8/12
35	Agent	Revised plans	7/9/12
36	Agent	Revised plans and Energy Statement	11/9/12
37	S Wilkinson	Reconsultation letter on amendments	11/9/12
38	Agent	Revised plans	21/9/12
39	E Levy	Screening Opinion	3/7/12
40	WCC Highways	Consultation response	5/9/12
41	S Wilkinson	E-mail to J Griffin	4/9/12
42	S Wilkinson	E-mail to E Jordan	6/9/12
43	Atherstone Civic Society	Consultation response	5/9/12
44	WCC Highways	E-mail	14/9/12
45	WCC Land Drainage	Consultation response	17/9/12
46	Warwickshire Fire & Rescue	Consultation response	18/9/12
47	Meeting Agenda		18/9/12
48	Housing Strategy and Development Officer	Consultation response	13/9/12
49	WCC Asset Strategy Manager	Consultation response	6/8/12
50	J Griffin	Objection	21/9/12
51	Atherstone Town Council	Consultation response	24/9/12
52	E Jordan	Objection	25/9/12
53	Aldi	Objection	25/9/12
54	Warwickshire NHS	Consultation response	25/9/12

*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.*







Shrewsbury



Oxford



Broadway



Fig 21: Appearance of development: a selection of Redrow house type images

## **General Development Applications**

**(2) Application No: PAP/2012/0462**

**Atherstone Surgery, 1 Ratcliffe Road, Atherstone, Warwickshire, CV9 1EU**

**Extensions and alterations to the surgery and existing pharmacy, and revision of parking layout to add 9 vehicle spaces and cycle parking, for**

**Application No: PAP/2013/0119**

**Atherstone Surgery, Ratcliffe Road, Atherstone  
Certificate of Lawfulness for proposed use of part of surgery for a 100 hour pharmacy**

**both for Dr John Winward**

### **Introduction**

These applications are referred to the Board for determination at the discretion of the Head of Development Control because of the issues that have arisen in dealing with the case.

### **The Site**

Atherstone Surgery stands on the south side of Ratcliffe Road between the Atherstone College and a Day Nursery. Immediately to the rear is a recreation park owned by the Town Council. On the opposite side of the road is a row of frontage detached dwellings set back behind a service road running parallel with Ratcliffe Road. The junction with Bank Road is about 75 metres to the east.

The site has direct access onto Ratcliffe Road with the surgery building to the east side of the site. This a single brick built building but with a mix of single and two storey elements. The remainder of the site is set aside for car parking, providing 39 spaces.

There is no parking restriction along Ratcliffe Road or the service road.

The site and its setting are illustrated at Appendix A.

### **Background**

Planning permission was first granted for a Doctor's Surgery at this site in 1989. There have been subsequent permissions for extensions – 1993, 1998 and in 2003. All of these were for extensions to a Doctor's Surgery.

A further planning application to expand the Surgery was submitted in September 2012. This proposed an extension to provide two nurses rooms at the southern end of the building and an extension along the northern side of the surgery to provide an expanded pharmacy. Together these works would have amounted to a new build of

75 square metres. An additional 26 car parking spaces were proposed on the northern part of the recreation park that adjoins the site to its south.

There was substantial objection to these proposals on two grounds – the proposals were seen as intensifying the retail side of the pharmacy thus increasing the likelihood of on-street car parking both on Ratcliffe Road and its service road and secondly, there was concern about the potential impact on existing outlets and facilities in the town. Objections were received from the local community as well as representatives of the existing Long Street pharmacy outlets. The Highway Authority objected because the proposed northern extension trespassed into visibility splays at the main access thus creating a traffic hazard. The Council's own planning officers were firstly not convinced that there was a reasonable prospect of the additional car parking spaces actually being provided and secondly, that they would lead to the loss of open and recreational space with little public benefit in return.

The applicant was asked to review the proposals which were seen as being too intensive for the site. The applicant has re-considered and reduced the proposals. This has resulted in a different approach - an application for a Certificate of Lawfulness for a Proposed Use and secondly a planning application for extensions. These will be described in detail below, but Members should be aware from the outset that the plans submitted with the two applications are different.

## **The Proposals**

### **a) The Certificate Application – 2013/0119**

This seeks the Council's agreement that internal alterations as depicted on the accompanying plan, which give rise to an expanded pharmacy area and to improvements to its waiting area within the existing building, do not constitute a material change in use of the site as a whole and are thus lawful, not requiring the submission of a planning application.

The existing pharmacy at the surgery dispenses "prescription only medicines" to the surgery's own patients who live more than 1.6 km from the surgery as well as any visiting patients who are temporarily in the area; sells "pharmacy medicine" available without prescription but under the supervision of a pharmacist, prescribes for patients with substance or alcohol misuse programmes including needle exchange, drug disposal together with a delivery service for all patients if required.

The existing pharmacy comprises around 32 square metres of self-contained gross floor space, with a full counter restricting access to the actual pharmacy area. Visitors use the main surgery entrance doors and then enter the pharmacy off the main surgery waiting area. It is open only during current surgery hours – 0800 to 1800 hours Mondays to Fridays.

The proposed use as described in the Certificate application relates to use of the existing building. It comprises two elements. The first sets out an expanded and self-contained area for the pharmacy through internal re-arrangement, with no external extension or physical change in any external elevation. This would lead to a total area of some 95 square metres being proposed for pharmacy and associated use.

This would be made up of around 15 square metres for a waiting area; 5 square metres for staff accommodation and 75 square metres for the pharmacy. It would have a full counter preventing access into the pharmacy area from the waiting area. Access would be exactly as at present, with use of the main surgery entrance and access off the main surgery waiting area.

The second element relates to the scope of the service provided. This would now include its existing use as described above together with the sale of “over the counter medicine” which can be bought without the supervision of a pharmacist. It is proposed that the display of these products would take up around 20% of the total floor area of the proposed new layout and be confined to the waiting area. It is also pointed out that these products would not include personal care or beauty products. Additionally, the new pharmacy would be open under its Licence for 100 hours – 0700 to 2200 hours on Mondays to Saturdays and from 1000 to 2000 on Sundays.

The plan accompanying the Certificate application is attached at Appendix B.

### **b) The Planning Application – 2012/0462**

The planning application is for two extensions, one at the rear and one at the front of the existing surgery. However they are both contingent on internal re-arrangements within the existing building.

Internal alterations would provide a new pharmacy and waiting area as described under the Certificate application above. However the planning application proposes to extend the waiting area for visitors to the new pharmacy. This would increase the size of the waiting area by two or three square metres over that set out above, involving a small external extension. Additionally the area set aside for the pharmacy behind its counter would be extended internally by around a further 4 square metres and the main surgery entrance would also be re-arranged. This would lead to a larger entrance lobby within the main doors. The entrance to the waiting area for the pharmacy would then be off that lobby, although a secondary entrance would be retained into the main surgery waiting area.

The internal re-arrangements described in the Certificate application above would also remove existing surgery provision. The second proposed extension is therefore to provide a replacement nurses room and a new waiting area for that room at the rear southern end of the site. This would amount to some 50 square metres and be a new single storey gable extension. It would extend over an existing grassed area.

An additional eight car parking spaces are to be provided by re-arranging the existing car park thus providing 47 spaces all together. Eight new cycle spaces are also added.

None of these proposals involves extension onto the neighbouring recreation area to the south.

The layout plan accompanying the planning application is at Appendix C and the appearance of the proposed extensions is shown at Appendix D.

## **Development Plan**

Saved policies of the North Warwickshire Local Plan 2006 – Core Policy 2 (Development Distribution) and saved policies ECON5 (Facilities Relating to Settlement Hierarchy), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design) and TPT6 (Vehicle Parking)

## **Other Material Planning Considerations**

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

The Council's Submission draft Core Strategy: Feb 2013 – Policies NW1 (Settlement Hierarchy), NW15 (Atherstone) and NW17 (Services and Facilities).

## **Consultations on the Planning Application**

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

Environmental Health Officer – No comments

## **Representations**

Atherstone Town Council – No comments on either application.

Three letters of objection has been received on behalf of the other pharmacies in the town. They refer to the existing “insufficient” car parking provision as well as to the view that the applicant has not provided evidence to support the claim that the proposed pharmacy does not constitute a material change of use. They also consider that the proposals would have an adverse impact on the viability of those other pharmacies. These are all detailed objections covering a number of matters. The matters raised will be fully dealt with in the observations section below in some.

As indicated above, the original planning application resulted in a substantial number of objections from local residents concerned about the intensification of use; the potential impact on car parking arrangements and the viability of existing establishments in the town centre. All those - 72 local addresses - who were notified of the original application, were re-notified about the revised planning application and the Certificate application. No responses have been received either in support or in objection.

## **Observations**

It is to be stressed from the outset that it is the revised proposals as described above which the Board has to consider. In doing so, Members will appreciate the fact there are now two applications before the Board – one of which requires a different approach than a normal planning application. Moreover whilst the two proposals involve different plans, the proposals under the planning application are still largely contingent on the outcome of the Certificate application. It is proposed to deal with that application first.

## **a) The Certificate Application**

### **Introduction**

This has been the most contentious part of the proposals here ever since the original planning application was submitted and thus time needs to be taken to explore the issues involved.

It is essential from the outset to remind the Board that this is not a planning application. The determination rests on whether the use as described in the application is “lawful” or not. That is a matter decided on findings of fact and degree, and thus existing and emerging Development Plan policy and the NPPF play no part in that decision making process. The use is either lawful or not. In this case the issue is essentially whether the use claimed in the Certificate takes the lawful use of the site from a Doctor’s Surgery to a mixed use of a Doctor’s surgery and a retail outlet.

Whether the proposed use would materially change the existing lawful use of the existing site rests on matters of fact and degree. It is proposed to deal with the case by first establishing the lawful use of the site. This therefore provides the base-line against which to assess whether it would materially change as a consequence of the uses described in the Certificate application. It is proposed to examine this assessment through a series of four considerations which reflect both the concerns of objectors to the original planning application and the three objections received from existing pharmacies in the town to the Certificate application. These factors are the degree of integration of the pharmacy to the surgery; its customer base and sales profile, the proposed opening hours, and whether there would be any effects on amenity.

### **The Lawful Use**

The existing lawful use of the site is within Use Class D1 by virtue of the outline planning permission granted in 1989 for a Doctor’s Surgery. Subsequent extensions permitted here, all refer to the use being a Doctor’s Surgery. The definition of a D1 Use is provided by the Use Classes Order. This says that it is for, “the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner”. The original planning permission and none of the subsequent permitted extensions qualify that D1 use either by “restricting” or “controlling” its scope through condition, or indeed by restricting opening hours. It is therefore necessary from the outset to define what is included in the definition of a D1 use. In this case the critical factor is what is meant by “any medical or health service” and in particular what this might include in respect of any pharmacy use. It is generally accepted that the sale of “prescription only medicine”, being only available with a prescription issued by an appropriate healthcare professional together with “pharmacy medicine” available without prescription but under the supervision of a pharmacist, would be ancillary to the main use of the premises as providing a medical and health service. It is also considered that needle exchange; the disposal of drugs and medicines together with “sign-posting” patients to other health and social care providers can all properly be included within the term, “any medical or health service”. This is generally accepted in case-law and is a definition which

would appear to be also accepted by the objectors to the Certificate application. It is also suggested that this is what the general public would expect to see provided within a Doctor's Surgery. In other words, officers would recommend that this overall description be the scope of the lawful use in this instance.

This lawful use applies to the whole of the site by virtue of the 1989 planning permission for a Doctor's Surgery. The planning unit for this lawful use is thus the whole site. It is considered that it is entirely proper that the Certificate application site relates to that planning unit and not just to part of it, or indeed to part of the building. Any consideration of a suspected change of use has therefore to deal with that whole unit, not just parts of it.

## **Integration**

In looking at this factor, the Board will be asked to consider whether the proposed use of the pharmacy as described in the Certificate application and its proposed layout would still be an integral part of the host premises. There are several strands to this particular factor. It is however important to stress from the outset that the plan being considered here is that submitted under the Certificate application – Appendix B. The proposed building operations here are all internal works and thus the physical alterations proposed are not defined as “development” under the Planning Act and therefore are not within the remit of this application. How this new internal space is to be used is, and this is the point of the application. Access would be via the existing main entrance and from the existing surgery waiting area. There would be no “shop front”. The pharmacy area would be divided from the waiting area by a full counter restricting access and thus preventing the possibility of visitors “browsing” for products or goods. The overall floor area would increase by around 200% over the existing, but the increased area would still amount to only around 6% of the total floor area of the whole surgery (ground and first floors included). It would be owned by the GP's of the medical practice and be run by a team of qualified pharmacists employed by the practice. The applicants suggest that the split between “pharmacy medicines” and “over the counter medicines” would follow the split in the floor areas for such products - namely 80/20- and this is shown on the plans by retaining the dividing counter with “over the counter” products restricted to the waiting area. These products would not include personal or beauty products. In all of these circumstances, it is considered that the “host” premises would remain, first and foremost as a Doctor's Surgery providing facilities for GP's, other medical staff and patients, and that the proposed description of the pharmacy would remain ancillary to that use in terms of it being an integral part of the whole. In other words any “retail” element would not be material as the predominant use would still be the provision of “any medical or health service”.

## **Customer Base and Sales Profile**

The widening of this proposed ancillary use is a key issue. The critical issue is whether that widening introduces a material change in the use of the host premises. Extending the range of products need not necessarily mean that there is a “material” change of use of the whole premises. The significant adjective here is “material”. As described above the applicant proposes an 80/20 split in floor area set aside for the split between pharmacy medicines and over the counter sales. This is reinforced

through the proposed layout as already described which also differentiates it from a normal retail experience. The new pharmacy would also be subject to NHS consent and the associated licensing system unlike a normal retail outlet. The applicant has suggested that the proportion of over the counter sales of total pharmacy turnover would be very low - 2% - quoting from sites elsewhere in the country. Members are asked to treat this with caution as each case will be different depending on how they are laid out, operated and their location in respect of other pharmacy outlets. In this case, there are features that suggest that this proportion of turnover would be low. The proposed layout restricts the range and therefore the opportunity to choose and compare "over the counter sales" that are likely to be available. It also restricts the "browsing" element. Stock levels of these goods should therefore be low as well. Moreover the site is not in the town centre or close to it in respect of there being an existing heavy passing potential footfall. In other words it does not reflect a normal "shopping" or retail experience. In these circumstances it is also considered that the customer profile of visitors and customers is unlikely to materially change. It would still be a visitor visiting for "health related" matters rather than for a retail experience. In all of the circumstances it is not considered that the proposal would be likely to materially move away from the use that is agreed to be ancillary to a D1 lawful use.

### **Opening Hours**

This factor could be considered to be material here as the present Surgery is open for ten hours a day during weekdays – 50 hours in the week, whereas the proposed pharmacy would be open for 100 hours – a 100% increase. However there are several reasons to consider here rather than just look at the total increase in hours. Firstly and significantly there is the "fall-back" position in that none of extant planning permissions for the surgery actually control or restrict surgery hours. It could open on Saturdays or on weekday evenings with no recourse to the Local Planning Authority. Secondly, it would be appropriate and reasonable for the pharmacy to allow patients to collect prescriptions outside of surgery hours and to sell pharmacy medicines as part of the surgery's medical service. This has already been agreed to be integral or ancillary to D1 activity. Thirdly, as indicated above, the location of the surgery would be unlikely to attract significant numbers of customers beyond those registered with the health centre. It is less conveniently located than other town centre pharmacies; it would sell a significantly smaller range of goods than those outlets and there are no other nearby retail outlets that might draw people to the locality. In other words the retail element is still not considered to be material in this case, despite the extended opening hours. It is in other words the dominant use of the site is still providing a health and medical service centre.

### **Amenity**

There is a concern that the wider pharmacy hours in particular would impact on the residential amenity of the adjoining occupiers when the surgery is closed, thus leading to extended vehicle movements and general activity up to 2200 hours. As Members are aware considerations of this kind are to be treated with caution when it comes to the determination of whether there is likely to be a material change of use. Adverse impacts do not necessarily mean that such a change occurs.

It is necessary here to focus on the potential additional traffic, noise and disturbance likely to arise specifically from the sale of non-prescribed goods and other accessories – in other words the “retail” element. It is critical to understand from the outset that the actual impact of visitors to the site for “prescribed medicine” purposes as opposed to simple “retail” purposes is unlikely to be distinguishable. Both would arrive by car, on foot or by cycle. The key difference is volume and frequency. In this respect the fall-back position as set out above needs to be restated and emphasized. Additionally, there would be likely to be more car parking space available on site outside of surgery hours, hence easing any parking difficulties and associated impacts. As already concluded in respect of possible sales profile and customer base, the frequency and amount of additional visits resulting from this particular proposal is likely to be small and therefore probably less than during the “working” day. In all of these circumstances it is not considered that would be a distinguishing adverse impact which would by fact and degree, result in a materially different use of the premises.

## **Conclusion**

When all of these considerations are explored in respect of this actual proposal both individually and cumulatively, it is considered that on the balance of probability, the proposed use of the premises as set out in the application is lawful, not amounting to a material change in use from the lawful D1 use.

## **b) The Planning Application**

### **Introduction**

The proposals put forward in the planning application are different to those described in the Certificate application. It is proposed to deal with this by first looking at the extensions themselves as building operations and then secondly to re-examine the use of the premises on the assumption that the extensions are approved and built such that the site then operates as set out in the plans.

### **The Physical Works**

There are two extensions proposed. The smaller is an increase of around 18 square metres at the front of the existing building at its entrance. The front building line would effectively be extended and the position of the front doors would be altered. There is a consequential minor elevation change. The second extension is at the rear involving a single storey extension of around 50 square metres.

These proposals are well designed and wholly in keeping with the appearance and scale of the existing building. They are thus fully compliant with saved Local Plan design policies and can be supported.

The internal alterations shown on the planning application do not amount to “development” under the Planning Act and are thus not within the remit of this Board.

## The Proposed Use

The use of the premises as a consequence of the above building operations, both external and internal however certainly is within that remit. The issue here is whether the use of the premises as shown in the planning application would take the use of the premises from a D1 use to a mixed D1 and retail use. In other words the same issue as was being considered under the Certificate application. Members are thus asked to consider the same four issues again but this time for the planning application plans, not the Certificate application plan. It is proposed to approach this by identifying the differences between the proposals and then looking at each against the four considerations set out in the Certificate application.

Before doing so however, as with the Certificate application, it is necessary to define the lawful use, in other words the base line from which to assess whether there has been a material change away from that use. The lawful use is a D1 use as already described. Importantly however, it is significant that the pharmacy use as described in the Certificate application, if granted, then becomes incorporated into that D1 lawful use. The remainder of this report will continue on the assumption that that Certificate is agreed

In terms of integration, then the layout is very similar to that set out in the Certificate application – no shop front; the restrictive “counter” dividing the floor space into a waiting area and the pharmacy, the split in floor areas of 80/20 and access directly into the surgery if required. The staffing arrangements would also not alter. From the outset therefore there is unlikely to be a material difference to the Certificate plan. However there are two matters that need to be added. The first is that there is an overall increase in the floor area set aside for the new pharmacy and its associated waiting area. That proposed under the Certificate application was 95 square metres amounting to 6% of overall floor space. This was found not to result in a material change away from the D1 lawful use. That proposed in the planning application is for around 100 square metres. It is not considered that this additional 5 square metres is a material increase. The second is that there would be direct access from the main entrance lobby into the pharmacy without visitors needing to enter the main surgery reception area. This reduces “integration”, but then even the existing arrangement and that proposed under the Certificate application both show some degree of “self-containment” for the pharmacy area. Again, consideration has to be given to the whole site and whether these differences take the lawful use outside that of a Doctor’s Surgery. Overall on balance, it is not considered that these differences would outweigh the findings in respect of the other factors raised above.

In terms of customer base and sales profile, it is not considered that an extra four or five square metres of space would materially alter the conclusions reached in the Certificate application. Similarly the impact on residential amenity and the issue of extended opening hours is not considered to warrant a fresh examination of the conclusions already reached.

In essence it is considered that the proposals set out in the planning application reflect a different physical arrangement for accommodating the pharmacy use as described in the Certificate application without affecting the “materiality” of that use. In short, it makes it more comfortable for visitors.

## **Car Parking**

There has been concern about parking provision on site. However it is not considered that the planning proposals will necessarily worsen that provision. The two extensions are minor and do not impinge onto existing car parking or turning areas; the rear extension provides replacement accommodation, extra provision is being made anyway and the Highway Authority has not raised an objection. It is worth however just looking at the pharmacy use. It is claimed that this would significantly increase traffic movement because of the new additional retail element and the increase in opening hours. This is not considered to be the case here for all of the reasons outlined above in respect of customer base, sales profile, opening hours and the impact on amenity. It is also noticeable that no objections have been received from local residents following submission of the revised proposals and that the Town Council also has neither submitted an objection.

## **Conclusion**

It is fully acknowledged that the planning application takes the proposals outlined in the Certificate application a little further – larger areas set aside for the pharmacy and its waiting area and subsequent new replacement accommodation. However these changes are minor in scale and scope and are not considered to alter the overall balance between uses over the whole of the planning unit. It remains a Doctors Surgery.

## **Recommendations**

### **A) 2013/0119 – The Certificate**

That the Certificate be **GRANTED** subject to the following limitations:

- i) the proposed use has to follow the layout as shown on plan numbered 1219 CLD 06 received on 7/3/13, and
- ii) that the proportion of “over the counter medicines and other sales” be limited to 20% of overall turnover in the pharmacy.

### **B) 2012/0462 – The Planning Application**

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

- i) Standard Three year condition.
- ii) Standard Plan numbers condition – plans numbered 1219/01B, 06F, 07B and 08 all received on 6/3/13 and plan number 1219/05G received on 3/4/13.
- iii) The rooms as laid out on the approved plan number 1219/06F, shall be permanently used for the purposes specified thereon.

REASON

In the interests of controlling potential traffic generation and thus highway safety.

- iv) No development shall commence on site until details of the facing brickwork and roofing tiles to be used have first been submitted to and approved in writing by the Local Planning Authority. Only the approved materials shall then be used.

REASON

In the interests of the visual amenities of the area.

- v) There shall be no use of the extensions hereby approved until such time as the whole of the car parking, turning areas and cycle store areas as shown on the approved plan number 1219/05G - have first been fully completed to the written satisfaction of the Local Planning Authority.

REASON

In the interests of highway safety

- vi) The whole of the car parking and manoeuvring areas shown on the approved plan shall be permanently retained for these purposes at all times.

REASON

In the interests of highway safety.

- vii) No gate erected across the access to the site shall be hung so as to open towards the near edge of the public highway footway and shall not be closed during operational hours (including those of the pharmacy)

REASON

In the interests of highway safety

- viii) No development shall commence on site until such time as details of measures to be installed so as to prevent/minimise the spread of extraneous material onto the public highway during construction from construction traffic and to clean the public highway of such material have first been submitted to and agreed in writing by the Local Planning Authority.

REASON

In the interests of highway safety.

- ix) The measures approved under condition (viii) shall remain in place at all times during the construction of the works hereby approved.

REASON

In the interests of highway safety.

- x) The extensions hereby approved shall not be brought into use until such time as details of a Green Travel Plan have first been submitted to and approved in writing by the Local Planning Authority. This shall promote sustainable transport choices to the site, and once approved shall remain in force.

REASON

In the interests of highway safety.

**Notes**

- i) The Development Plan policies relevant to this decision are Saved Core Policy 2 and saved policies ECON 5, ENV11, ENV12, ENV13, ENV14 and TPT6 of the North Warwickshire Local Plan 2006.
- ii) The Local Planning Authority has worked positively with the applicant in resolving issues arising from this application through discussions on consultation responses, seeking amended plans, and through constant dialogue thus meeting the requirements of the National Planning Policy Framework 2012.
- iii) Attention is drawn to Section 163 of the 1980 Highway Act.

**Justification**

The extensions here are well designed and in keeping with the existing building without affecting the residential amenity of neighbouring occupiers. Their use is not considered to result in material change in the use of the planning unit away from its D1 lawful use, as their use will be ancillary to that lawful use. This has been explored by looking at the degree of integration; the customer base, the sales profile, the increased opening hours, alternative provision and the impact on residential amenity of the proposed pharmacy use. It is also not considered that there are adverse car parking implications with the proposed provision of extra spaces. It is considered that the proposals accord with saved Core Policy 2 and saved policies ECON5, ENV11, ENV12, ENV13, ENV14 and TPT6 of the North Warwickshire Local Plan 2006 together with the National Planning Policy Framework 2012.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2013/0119

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	7/3/13
2	Warwickshire County Council	Consultation	8/3/13
3	Gerald Eve	Objection	25/3/13
4	Marrons	Objection	25/3/13
5	Charles Russell	Objection	27/3/13
6	Head of Development Control	Letter	2/4/13
7	Head of Development Control	Letter	3/4/13
8	Applicant	Letter	11/4/13
9	Head of Development Control	E-mails	11/4/13
10	Marrons	Objection	22/4/13
11	Gerald Eve	Objection	22/4/13
12	Charles Russell	Objection	22/4/13
13	Applicant	Letter	24/4/13

## BACKGROUND PAPERS

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

Planning Application No: PAP/2012/0462

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	7/3/13
2	Atherstone Town Council	Representation	21/3/13
3	Mrs Baden	Representation	16/3/13
4	Environmental Health Officer	Consultation	26/3/13
5	Ken Parke	Representation	2/4/13
6	Warwickshire County Council	Consultation	2/4/13
7	Applicant	E-mail	3/4/13
8	Applicant	Letter	11/4/13

9	Marrons	Objection	22/4/13
10	Gerald Eve	Objection	22/4/13
11	Charles Russell	Objection	22/4/13
12	Applicant	Letter	24/4/13

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

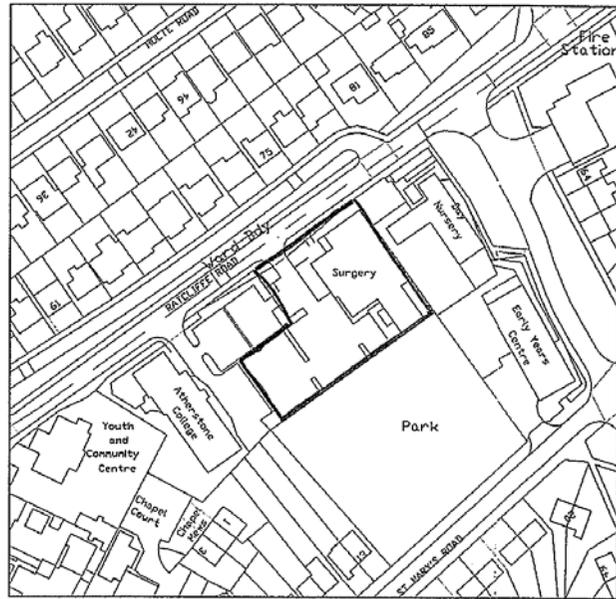
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*



APPENDIX A

PAP/201

Revisions		
A	25 Sept 12	Site Boundary amended for car park
B	4 March 13	Parking layout revised



Drainage Survey, 6/07 Crown Copyright 2011. All rights reserved. Licence number 100020449

NORTH WARWICKSHIRE  
BOROUGH COUNCIL  
RECEIVED  
6-Mar-13  
PLANNING & DEVELOPMENT  
DIVISION



**Terry O'Neill Arc**  
The Trading Estate, Common Lane, K  
Warwickshire, CV9 2EL  
Telephone: +44 (0)1926 865 030  
Fax: +44 (0)1926 665 021

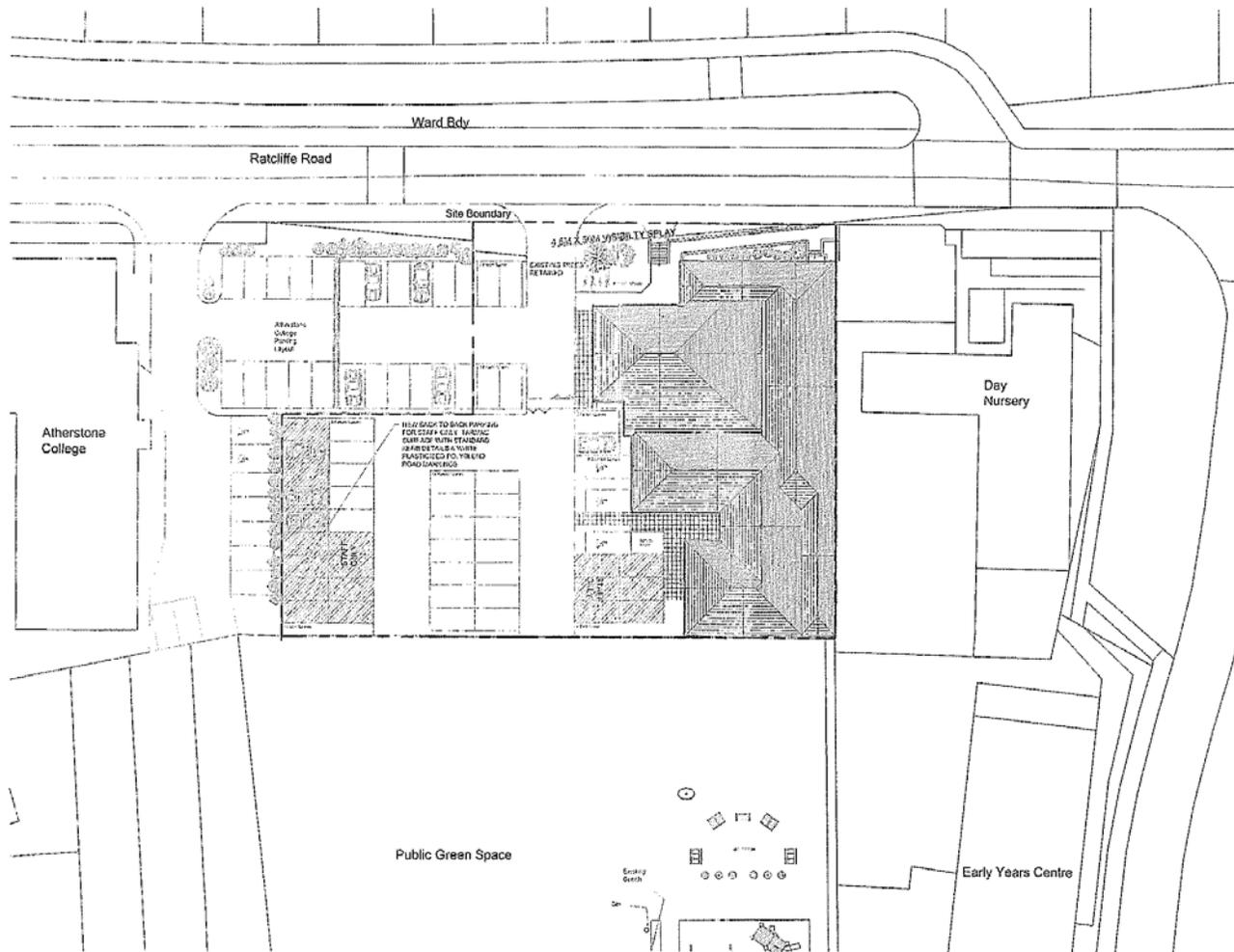
Project  
Proposed Extension to  
Atherstone Surgery, Ratclif  
Atherstone CV9 1EU  
Title  
Location Plan  
O.S.  
Scale  
1:1250@A3  
Date  
May 2013  
Drawn by  
LH  
Drawing n  
12.19/01

© this drawing and all the information hereon  
copyright and remains the property of the  
author and any breach of this copyright will be  
prosecuted wherever figured dimensions are  
given they are accepted in preference to  
scaled sizes. the user is responsible for  
verifying all dimensions shown hereon  
before putting any affected work in hand



APPENDIX C

1	Site Plan	10/10/2011
2	Site Plan	10/10/2011
3	Site Plan	10/10/2011
4	Site Plan	10/10/2011
5	Site Plan	10/10/2011
6	Site Plan	10/10/2011
7	Site Plan	10/10/2011
8	Site Plan	10/10/2011
9	Site Plan	10/10/2011
10	Site Plan	10/10/2011
11	Site Plan	10/10/2011
12	Site Plan	10/10/2011
13	Site Plan	10/10/2011
14	Site Plan	10/10/2011
15	Site Plan	10/10/2011
16	Site Plan	10/10/2011
17	Site Plan	10/10/2011
18	Site Plan	10/10/2011
19	Site Plan	10/10/2011
20	Site Plan	10/10/2011



PLANNING



Terry O'Neill  
 Planning Consultant  
 10/10/2011

Project:  
 Proposed Extension to  
 Atherstone Surgery, 1  
 Atherstone CV9 1EU

1/11/11

Proposed Site & Roof

Scale: 1:250 @ A1

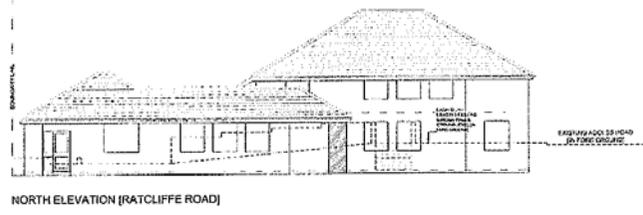
Drawn by: LH

Date: 12

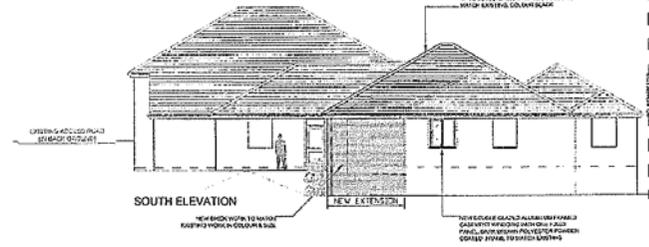
© The copyright of this drawing remains the property of Terry O'Neill. It is not to be used for any other purpose without the written consent of Terry O'Neill. It is not to be used for any other purpose without the written consent of Terry O'Neill.

# APPENDIX D

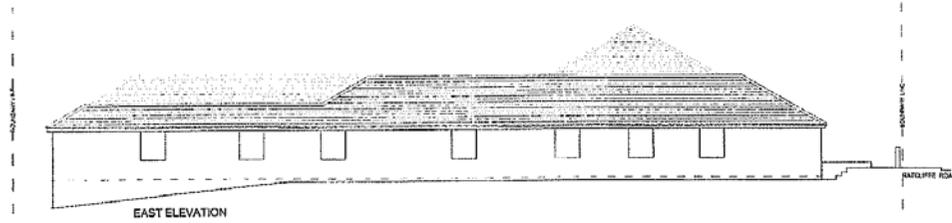
REVISIONS		
No.	Author	Description



NORTH ELEVATION [RATCLIFFE ROAD]



SOUTH ELEVATION



EAST ELEVATION



WEST ELEVATION

AGRIUM WALKER  
 ARCHITECTS  
 104 CHURCH  
 104 CHURCH  
 104 CHURCH  
 104 CHURCH



**Terry O**  
 ARCHITECTS  
 104 CHURCH  
 104 CHURCH  
 104 CHURCH  
 104 CHURCH

Project  
 Proposed Extension  
 Atherstone Surgery  
 Atherstone CV9 1TJ  
 Proposed Elevations

Scale  
 1:100@A1  
 Drawn by  
 AM

© 2014 Terry O Architects. All rights reserved. This drawing is the property of Terry O Architects and is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of Terry O Architects.

**(3) Application No: PAP/2012/0624**

**River Tame Flood Defence, Bodymoor Heath Lane, Middleton,**

**Construction of the River Tame flood defences, broadly comprising a series of earth embankments and walls on a 6.115ha site at Kingsbury & Lichfield, for**

**The Environment Agency - c/o Halcrow Group Limited**

**Introduction**

This application is reported back to the Board following Members decision to defer making a decision on the application to allow the applicant time to investigate measures to mitigate against any increased flood risk within the Bodymoor Heath area as a result of their proposal.

**The Site and the Proposal**

Appended to this report is a copy of April's Planning and Development Board for information. The site and the proposal remain unaltered.

**Background**

Following the Board's meeting in April, a Planning Officer has met with representatives of the Environment Agency to discuss the recent deferral. Since this meeting, the applicant has attempted to contact the residents at Moor Ash Barn and Moor Ash Farm in Bodymoor Heath. However, it is understood that since April's Planning and Development Board, both of these residents have had periods of time out of the country and so the Agency has been unable to confirm a site meeting with either of the residents ahead of the production of this Board report.

Appended to this report are copies of the letters sent by the Environment Agency to both of these residents requesting that they make contact with the Agency to discuss options for mitigating the effects of the flood defence scheme on their properties.

At the request of the Members, Officers from the Environment Agency will be presenting this scheme along with another proposed scheme in Whitacre Heath (ref: PAP/2013/0208) to Members on 13 May 2013. There will be an opportunity to ask questions of the Agency.

There were also concerns raised from the County Council's Rights of Way Team with regard to the potential for the scheme to impede the legal alignment of the public footpath. A request has been made to the Rights of Way Team for their revised observations following receipt of amended plans showing that the proposed bunds will not impeded

Verbal comments were read out to the Board with regards to the revised comments received from the Highway Authority. They confirm that there are prepared to remove their holding objection subject to the imposition of planning conditions. These highway conditions are listed below.

## **Observations**

From the material provided since the application was last reported, it is apparent that the Environment Agency has made attempts to contact the owners of the two properties within Bodymoor Heath. Letters have been sent to these owners in an attempt to discuss individual flood mitigation measures. As stated in the letters, the flood levels do show that the dwelling houses are sited above the post scheme 200 year water levels and so flood water should not enter the houses. However, Members discussed the fact that flood waters would “lap” around the dwelling houses at a higher level than previously occur.

The Environment Agency is prepared to offer the two residents options for mitigating the effects of the scheme. Such measures can include individual property protection measures which would increase their property’s resilience to flooding. It is considered that this issue can be the subject of an appropriately worded condition whereby individual mitigation measures have to be approved prior to the commencement of development in the Bodymoor Heath area. The use of a planning condition would prevent delaying the processing of this planning application further whilst still delivering a satisfactory flood mitigation scheme.

On the basis of the above it is recommended that the scheme is approved subject to the conditions listed in the April Board Report and to three additional conditions covering highway issues and the flood mitigation measure.

## **Recommendation**

That planning permission be approved subject to the conditions listed in April’s Board report and the following additional conditions:

9) For the duration of the importing of material to the site, three way temporary signals shall be installed to control movement along Bodymoor Heath Lane (C125) and the vehicular access to the site.

Reason: In the interests of highway safety.

10) Access to and egress from the site shall be from the existing access to the site in Bodymoor Heath Lane (C125) only. All vehicles associated in the development of the site shall enter/leave Bodymoor Heath Lane (C125) via Tamworth Road (A4091).

Reason: In the interests of highway safety.

11) Prior to the commencement of development in the Bodymoor Heath Area, full details of the individual flood mitigation measures to protect the residential properties known as Moor Ash Farm and Moor Ash Barn shall be submitted to the Local Planning Authority for their approval in writing.

Reason: To increase these two properties’ resilience to flooding as a result of the proposed flood defence works.

12) Prior to the completion of the scheme hereby approved, the details provided to discharge condition number 11 shall be implemented in full on the site to the written satisfaction of the Local Planning Authority.

Reason: To increase these two properties' resilience to flooding as a result of the proposed flood defence works.

### **Additional Notes**

4) The applicant needs to liaise with the Highways Area Team on telephone number (01926) 412515 to establish a suitable signing scheme along the approach to the access for the period of construction, in accordance with Chapter 8 of the Traffic Signs Manual. Only the approved scheme shall be implemented ahead of any development works commencing.

5) Condition number 9 require works to be carried out within the limits of the public highway. The Area Team may be contacted by telephone: (01926) 412515. In accordance with the Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice.

6) Before commencing any Highway works, the applicant must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.

7) Unauthorised signs are not permitted within the limits of any public highway. To secure the provision of signs giving directions to the development, the applicant must apply in writing to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP.

## BACKGROUND PAPERS

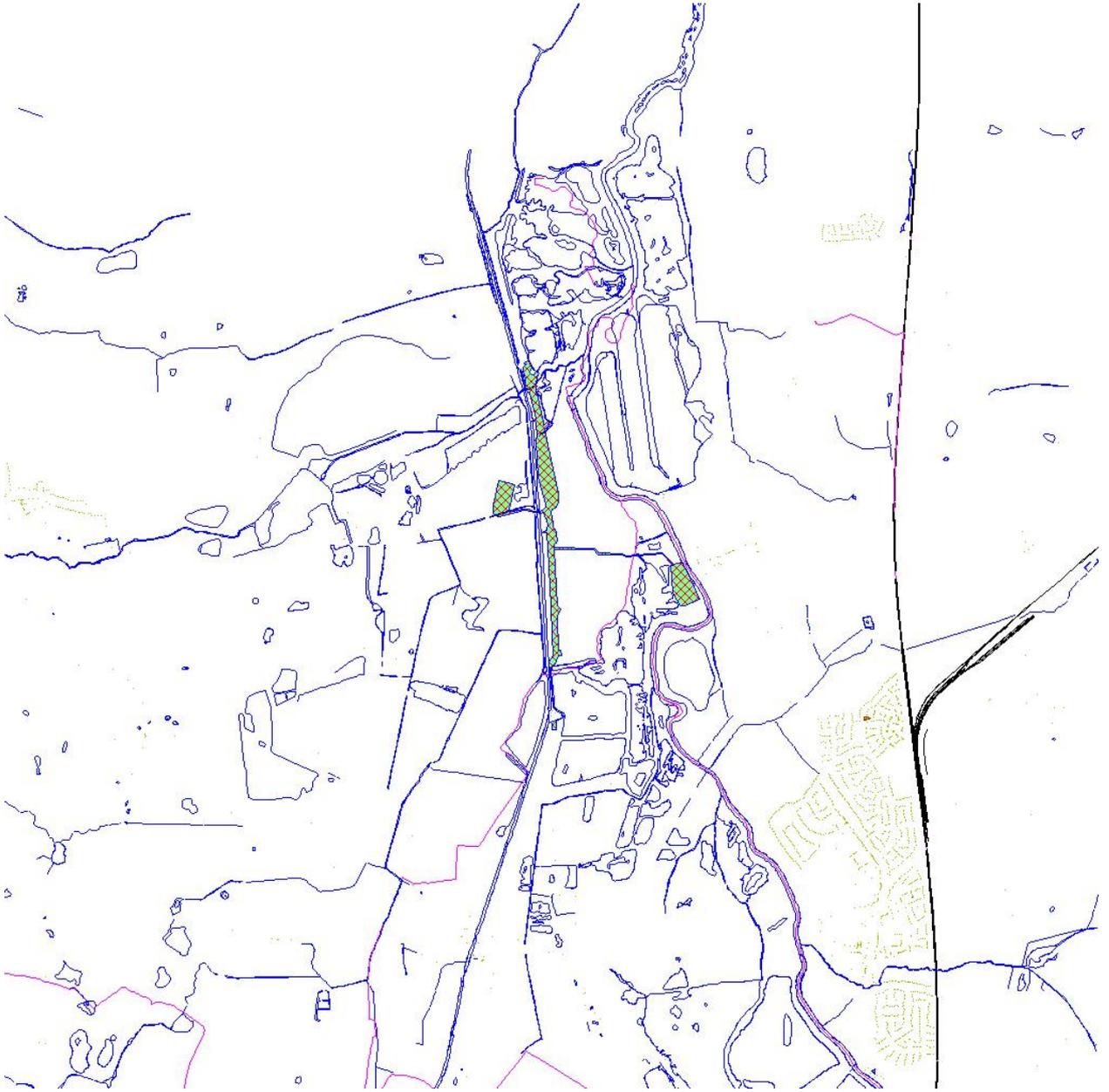
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2012/0624

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	
2	Applicant	Letter to Council	07/05/13
3	Applicant	Letter to Moor Ash Farm	07/05/13
4	Applicant	Letter to Moor Ash Barn	07/05/13
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			

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

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



**Application No: PAP/2012/0624**

**River Tame Flood Defence, Bodymoor Heath Lane, Middleton**

**Construction of the River Tame flood defences, broadly comprising a series of earth embankments and walls on a 6.115 hectare site for**

**The Environment Agency**

### **Introduction**

This application is reported to the Board in view of a holding objection received from Warwickshire County Council.

### **The Site**

The proposed site measures some 6 hectares and involves land located on the eastern bank of the River Tame between Bodymoor Heath and Fazeley. The M42 Motorway lies to the southeast of the proposed site and the Birmingham to Fazeley canal lies immediately to the west. The majority of the area has been extracted for gravel and these extracted areas now form the lakes at Kingsbury Water Park and Middleton Lakes.

There are residential properties within the site boundary which include the four properties known as Canalside Cottages, Bodymoor Heath.

Construction traffic will access the site via the former access to the gravel works alongside the Aston Villa Training Ground which leads on to Bodymoor Heath Lane.

A very small part of the overall proposal - around 1% - is actually sited within the administrative boundary of Lichfield District Council.

### **The Proposal**

This is to construct a 1.65 kilometre flood defence bank along the eastern side of the Birmingham and Fazeley Canal to prevent water from overtopping into the canal from the River Tame and using the Canal as a conduit to flood properties downstream. The proposal also includes a flood defence around the Canalside Cottages so as to reduce the risk of flooding to these properties. The flood bank is proposed to be separate to the canal so as to reduce the risk of impacts to the structural stability of the canal. The intention is for the new flood bank to create a new linear feature in the landscape parallel to the canal embankment.

The flood bank would have a 1 in 3 slope on its western canal facing side and be at a height of no more than 1.5 metres with a 3 metre wide crest. At the request of the RSPB the gradient on the east side of the defence has been slackened with a scalloped edge and varying gradients (up to a 1 in 8 slope) so as to reduce the appearance of a linear "engineered" structure.

Three flood walls are proposed being:

- a 1.8 metre high brick clad wall approximately 300 metres in length around the outer boundary of the gardens at Canalside Cottages;
- a 0.4 metre high flood wall located on the edge of Canal Pool within Kingsbury Water Park; and,

- the wall on the existing aqueduct where the canal crosses the Langley Brook would be strengthened and the flood bank tied into new head walls on either side of the Brook thus reducing the need to culvert the River in this location.

Most of the material will be sourced locally from within the existing floodplain.

During construction works a main compound would be located on the west bank of the Canal in the former quarry compound area and this would measure some 50 metres by 50 metres. The working area will be approximately 25 metres for both the flood banks and the flood walls.

### **Background**

The Environment Agency published the River Tame Flood Risk Management Strategy in 2011 which identified a number of schemes to manage flood risk. Kingsbury is part of the Lower Tame Scheme which includes proposed defences at Coton for which planning consent has already been obtained and in Fazeley and Whitacre Heath, for which planning applications will be forthcoming.

Pre-application discussions have taken place with key stakeholders prior to the submission of this application as well as consultation with the public and interested parties. A Statement of Community Involvement is included in the documentation submitted.

### **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies) – Core Policy 3 (Natural and Historic Environment), ENV1 (Protection and Enhancement of the Natural Landscape), ENV2 (Green Belt), ENV3 (nature Conservation), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV13 (Building Design), ENV14 (Access Design)

### **Other relevant material considerations**

Government Advice - National Planning Policy Framework (2012)

NWBC Core Strategy Submission Version - February 2013

### **Consultations**

The Inland Waterways Association – They state that the Birmingham and Fazeley Canal is an historic waterway and a valuable amenity and recreational corridor, providing leisure boating, walking, angling, cycling and nature conservation benefits to the area. They consider that the limited height of the proposed embankments and their shallow side slopes and grass covering will mean that they will blend into the local landscape. They further state that the scheme has been carefully designed to retain the majority of the existing trees, with replanting where necessary and that although the floodwalls around the cottages will be more visually intrusive, this will be mitigated by the brick cladding to complement the existing canal architecture. It is their opinion that public access to the canal towpath will be maintained and improved and that although there will be some disruption during construction, there will be only limited visual impact on the canal environment after completion and significant long-term benefits from the flood protection. Therefore, on balance, they have no objection to this application.

Highways Authority – The County Council have made a holding objection to the proposal to use the former access to the gravel works along Bodymoor Heath Lane. It stated that although this access can provide two-way free flowing traffic, the proposal involves 13,000 tonnes of material to be imported onto the site. This tonnage equates to some 650 lorry loads. They are concerned that the visibility splays for this access are below the required standards and they are unsure whether gravel extraction has finished. In addition to this, there have been 4 recorded accidents at the junction of Bodymoor Heath Lane (C125) and the A4091 in the last five years. Until it has been demonstrated to the County Council that the proposed vehicle movements can be accommodated safely on the existing highway network and access the public highway network without detriment to highway safety, it wishes to raise a holding objection. In response the applicant has provided additional information and the Highway Authority has been reconsulted. Any revised comments will be reported verbally to the Board.

Natural England – It states that the application is in close proximity to the Middleton Pool Site of Special Scientific Interest (SSSI). However, given the nature and scale of the proposal, Natural England is satisfied that there is not likely to be an adverse effect on that site as a result of the proposal being carried out in strict accordance with the details of the application as submitted. In addition to this, Natural England would expect the Borough Council to assess and consider the other possible impacts resulting from the proposal including Biodiversity Action Plan Priority Habitats, Protected Species, Local Wildlife Sites, Local Landscape and Biodiversity Enhancements.

Warwickshire County Council Rights of Way Team – They objected to the original proposal as it would have affected public footpaths T24 and T71. The proposed flood wall would be constructed across public footpath T24 where it connects with the canal towpath but it is now proposed that new steps and a ramp will be provided to enable continued access for footpath users. It is also proposed that the ground on the eastern side of these steps will be raised to defence level which will involve raising part of public footpath T24. No objections are therefore now offered to this part of the scheme provided the steps are maintained by the applicant. However, the recorded alignment of public footpath T71 will cross the proposed new embankments near to Fishers Mill Bridge in several places. The application shows footpath T71 running along the top of the embankments, however, such a diversion will be required to be legally diverted. Furthermore, any disturbance or alteration to the surface of a public right of way requires consent from the Highways Authority and they state that they would not be willing to grant consent for the construction of embankments across the current alignment of public footpath T71 unless the public footpath is legally diverted. The Footpath Team do state that they would be willing to withdraw their objection if a path diversion application was submitted to the planning authority and once they had given approval. Amended plans have been submitted by the agent and the revised comments from the Footpaths Team are awaited. These will be reported verbally to the Board.

Canal and River Trust – The Trust has no objections to the proposed development subject to the imposition of suitably worded conditions relating to: the outfall channel from Sluice 8B on the Langley Brook; the materials to be used on the boundary walls around Canalside Cottages and between the Birmingham and Fazeley Canal and Canal Pool; and landscaping plans. The Canal and River Trust also seek the inclusion of a note advising the applicant that they are landowner of the Canal towpath and would not wish to see any encroachment of structures onto the towpath.

Environmental Health Officer – They have comments relating to the quality of the groundwater and the adequacy of the testing carried out on some of the samples given that the historic land use of the area over which the flood defence scheme is crossing. In order for a development to proceed it is their understanding that a site must not be capable of being classed as "contaminated" in accordance with Part IIA of the protection act. Whilst the development may not be adding to the potential contamination, it may not adequately deal with the contamination which may (or may not) be there or create a new/ exacerbate the pathway through which the contamination may impact adversely on a receptor. It is noted that there is the proposal to cut-off controlled waters from reaching the canal both above and below ground, using a combination of bentonite slurry walling and sheet piling, it is therefore really only the groundwater feeding the river that their concern relates to. Additional information has been provided by the applicant's agent and the Environmental Health Officer has responded by stating that they have no further comments on the proposal as it is usually the Environment Agency who they seek advice from on all matters hydrological and hydrogeological. They recommend that the contractor produces a watching brief during the construction works.

Environment Agency – The Agency has no objections to the proposed development but wishes to make comments on the site investigation data. They stress that they are not too alarmed by the soil or water results shown to date and believe there are only minor exceedances of relevant quality standards found. In addition to this the main receptor would be the River Tame with the shallow groundwater feeding the river and the deeper strata being mudstone. The suspect areas of fill and PFA will have been there for a long time and thus been weathered and able to impact the river already so they are not concerned that this flood alleviation scheme will cause additional pollution. They do recommend that the contractor produces a watching brief during the construction works and stops and seeks advice from the Environment Agency if significant issues do crop up.

RSPB – The Society stress that it has worked closely with the Environment Agency on the scheme design and is comfortable that they have helped them achieve a sensitive integration of the new flood defence feature with the local landscape and wildlife habitats. The RSPB confirm that they asked for the pedestrian footpath to be sited on top of the bank to enhance the experience for visitors, giving them some elevation to views across the reserve. They state that the banks are relatively low (compared to the waterski lake) and wildlife will not see people against the skyline as there is a good cover of trees immediately behind the bank (running along the canal). The RSPB also stress that locally sourced wildflower meadow seeds should be used to create the sward on the banks and coupled with the variety in bank gradients, this will create more interest and reduce the uniformity found elsewhere.

### **Representations**

Resident at Moor Ash Barn, Moorash Lane – The occupiers neither objects to nor supports the application. They state that their property lies in a designated flood risk zone and they were flooded in both 2008 and 2012. This proposal, by creating flood defences higher up stream could increase the risk of flooding to properties downstream. They seek assurance that the proposed work will not have any worsening impact on their property which is undefended. To summarise they state that they have no objection to defences against flooding for any local resident of Bodymoor Heath, however, some low cost embankments to protect their properties would be most welcome.

CPRE – The CPRE is satisfied that the proposed development will be minimally disruptive to wildlife, and the visual impact of the structure on the landscape will not be excessive. They consider that as the new planting becomes established and the land regenerates, the long-term impact of the development will not be unacceptable for the benefits which will be achieved in reducing flood risk.

## **Observations**

### **a) Introduction**

The proposal relates to the construction of flood defences between Bodymoor Heath and Fazeley along the length of the Birmingham and Fazeley Canal. The erection of a flood bank and flood walls will seek to protect the flood risk to the four properties known as Canalside Cottages and will seek to reduce flood risk to a further 216 properties at Fazeley for a 1 in 200 year event. This flood alleviation scheme is identified in the published "River Tame Flood Risk Management Strategy" (2011) produced by the Environment Agency following a period of public consultation. This document and the commitment of the Environment Agency to reduce flooding along the River Tame are material planning considerations of significant weight which need to be balanced against the environmental impact of building such flood defence works along this stretch of the Canal.

### **b) Inappropriate Development in the Green Belt and the Need for the Scheme**

The Development Site is located within the West Midlands Green Belt. The development by its very nature of depositing material is defined as inappropriate development in the Green Belt. The primary aim within the Green Belt is to maintain the open nature of the area. The siting of the proposed flood defences has as far as possible, followed existing well defined boundaries or landscape features in an attempt to integrate these features into the existing landscape. Although the finished works will be higher than the existing ground levels, the existing vegetation and the new planting scheme will attempt to lessen their impact on the landscape.

Indeed, the land use will remain unchanged once the works are complete. The existing land use is recreational which is encouraged within the Green Belt and through the maintenance of the footpaths and landscape areas, the visual amenity of this area should be more accessible to members of the public. In light of this, it is considered that there will be a minimal impact on the openness of the Green Belt in this location.

The flood walls will replace existing landscaped boundaries and will be constructed from materials which match the existing properties in this locality. Despite this, the flood walls will have a greater impact on the openness of the Green Belt and this will be a permanent feature in the landscape.

This impact on the openness of the Green Belt needs to be balanced against the need for the flood defence scheme. The River Tame Flood Risk Management Strategy has identified this area as being vulnerable from flash flooding from the River Tame using the Canal as a conduit to carry floodwaters to properties downstream. Saved Policy ENV8 (Water Resources) and the NPPF both attach significant weight to protecting development from flood water. On balance it is considered that the limited impact on the openness of the Green Belt from this inappropriate development is outweighed by the benefits such a scheme will have on reducing the risk of flooding in the area. Mitigation measures including the use of materials and woodland blocks and shrub planting will reduce this impact further.

### **c) Visual Impact and Impact on Ecology**

As stated above, the siting of the proposed flood defences have, as far as possible, followed existing well defined boundaries or landscape features. The aim is that once colonised the proposed defences will integrate with the pattern and character of the landscape. However, this landscape is relatively flat. In light of this, the mitigation measures put forward are important to ensuring that the bunds soon blend into the environment by being vegetated with wildflower mixes and being screened by further woodland block planting.

The footprint of the flood bank through the meadows at Kingsbury Water Park is proposed to be kept to a minimum and will be managed as part of the whole meadow where sheep graze. No fencing will be erected to reduce the visual distinction between flood bank and meadow.

Saved Policy ENV3 (Nature Conservation) requires that proposals for development in or likely to affect Sites of Special Scientific Interest (SSSI) will be subject to special scrutiny. In light of the proximity of the application to Middleton Pool Site of Special Scientific Interest (SSSI), Natural England has been consulted. They have confirmed that they are satisfied that there is not likely to be an adverse effect on this site as a result of the proposal being carried out in strict accordance with the details of the application as submitted.

Saved Policy ENV3 further goes on to state that development likely to have a harmful effect on nature conservation value will not be permitted unless it can be clearly demonstrated that there are reasons for the proposal that clearly outweigh the need to safeguard the nature conservation value of the site. Statutory consultees have been consulted on this documentation including the Environment Agency, who, although they are the applicant, is deemed to be a responsible authority. No objections have been received from any consultees on the content of the reports submitted with the application in respect of both flora and fauna. On this basis, it can be concluded that the benefits of the scheme and the way it has been environmentally designed, outweigh any minor impacts identified in these reports.

Saved Policy ENV3 concludes by stating that where development is permitted, the Authority will consider the use of conditions to secure all compensatory measures necessary to protect and enhance the site's nature conservation interest. The mitigation measures put forward have been confirmed as being acceptable by Natural England, the Canal and River Trust and the RSPB.

In light of the above it is considered that the scheme accords with Saved Policy ENV3 and advice given in the NPPF on the need to protect and enhance the nature conservation value of an area.

### **d) Highway Safety**

Saved Policies ENV14 and TPT1 require development proposals to have a safe vehicular access into the site where the local road network is able to accommodate the traffic to and from the development without problems of congestion, danger or intimidation caused by the size or number of vehicles, and without adversely affecting the character of the surrounding environment.

As explained above the County Council as the Highway Authority for the area, has objected to the proposal to allow construction traffic to access the site via the former access to the gravel works along Bodymoor Heath Lane. A very useful meeting was

held on site between the Highway Engineers representing the applicant and the Highways Authority. Additional information has now been submitted by the agents and the Highways Authority have been reconsulted on this information. The intention is for the construction period to be limited to a six month period. The initial signs are that the speed of traffic using the road, although subject to the national speed limit, is more likely to be 40 mph and that traffic signals or warnings could thus be erected during this construction phase. Also, depending on the weather, the material should arrive at the site over a 13 day period and not for the whole of the construction phase. There would be 12 private vehicles accessing the site and maybe a mini bus. The comments of the Highways Authority are awaited and these will be reported verbally to the Board.

Provided the recommendation from the Highways Authority is one of no objection subject to conditions, then it is considered that the construction phase of this scheme can be designed to accord with the requirements of Saved Policies ENV14 and TPT1 in the NWLP 2006.

**e) Impact on the Footpath Network of the Area**

The proposal will affect public footpaths T24 and T71. Warwickshire County Council's Rights of Way Team had objected to the original proposal. As explained above that objection has been withdrawn in respect of the T24. In respect of the T21, then as also explained above, amended plans have been submitted by the agent showing Footpath T71 following its original line throughout the scheme. The amended plans have been forwarded to the Rights of Way Team and its comments are awaited. These will be reported verbally to the Board.

Based on the amended plans received it is considered that the scheme will not impact on the public footpaths in this area.

**f) Potential to Pollute Ground and Surface Water**

Saved Policy ENV8 (Water Resources) requires development proposals to prevent the contamination of any watercourse or aquifer as advised by the Environment Agency. As reported above both the Council's own Environmental Health Officer and the Environment Agency no longer have an objection. It is considered that subject to a planning condition requiring the contractor to produce a watching brief and the Environment Agency to oversee the construction phase, the scheme will comply with the requirements of Saved Policy ENV8.

**g) Potential to increase flooding in undefended Areas**

Saved Policy ENV8 requires that developments be protected from floodwater. A letter has been received from a resident at Moor Ash Barn, Moorash Lane concerned that as their property lies in a designated flood risk zone and they were flooded in both 2008 and 2012, this proposal, by creating flood defences higher up stream could increase the risk of flooding to properties downstream. The Environment Agency has been in contact with the resident concerned. They have reviewed the computational hydraulic model for the area and basically the level of protection for the house is the same as the design level of the flood defence scheme for the whole of the Lower Tame area. It is likely that groundwater and surface water flooding could also contribute to flood risk in the area which exacerbates the problems.

The scheme does not extend to this part of Bodymoor Heath and there is no intention by the Agency to include this area. The Agency is satisfied that these flood defence

works will not exacerbate flooding elsewhere. As such the scheme complies with Saved Policy ENV8.

### **Conclusion**

On balance, it is considered that although there will be some visual impact on the landscape and on the Green Belt from the proposed flood defence scheme, the mitigation measures proposed and the benefits of protecting properties from flooding outweigh this minimal impact. As such the scheme can be supported subject to conditions.

### **Recommendation**

Subject to the Highways Authority having no objections to the proposal then planning permission should be granted subject to the following conditions:

- 1) The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.  
Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.
- 2) The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered - to be agreed once comments from Highways Authority have been received.  
Reason: To ensure that the development is carried out strictly in accordance with the approved plans.
- 3) Prior to the construction of the flood defence walls and parapet extensions, samples of the facing bricks and coping stones shall be submitted to the Local Planning Authority for approval. Only the approved materials shall be used on the scheme.  
Reason: In the interests of the amenities of the area.
- 4) Prior to any construction activity taking place at the site the contractor shall produce an appropriate method statement for working within suspected ground contamination areas. This report shall include a watching brief detailing the procedures for the actual works and the reporting mechanisms should any contamination be found on site. Such a report shall be submitted to the Local Planning Authority for their approval in writing.  
Reason: In the interests of water quality.
- 5) The new steps proposed along the route of public footpath T24 shall be maintained by the applicant at all times.  
Reason: To ensure the safe passage of pedestrians using this public footpath.
- 6) Notwithstanding the submitted details, no development shall take place until full details of the culverting of the outfall channel from Sluice 8B under the new flood bund, including installation of a flap valve and a penstock on the downstream end to provide protection from backflows, have been submitted to and agreed in writing by the Local Planning Authority in consultation with the Canal and River Trust. The development shall thereafter only be carried out in accordance with the agreed details.  
Reason: To ensure that appropriate drainage arrangements are maintained, in the interests of minimising the risk of flooding to adjacent land or damage to the

adjacent Birmingham and Fazeley Canal and to accord with the advice and guidance contained in the National Planning Policy Framework March 2012.

- 7) Prior to the construction of any fences, full details of the design, appearance and materials to be used in their construction shall be submitted to the Local Planning Authority for their approval in writing. Only the approved materials shall then be used on the site.

Reason: In the interests of the amenities of the area.

- 8) No development shall take place until a landscaping scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the size, species and spacing of planting, and all areas to be grassed, and also details of the landscape management plan. Any such planting which within a period of five years of implementation of the landscaping scheme fails, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with others of a similar size or species, unless the Local Planning Authority gives written consent to the variation. The approved scheme shall be fully implemented during the first planting season following completion of the works unless otherwise agreed in writing by the Local Planning Authority and the landscape management plan shall be implemented as approved.

Reason: To ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and biodiversity importance of the canal corridor and to minimise the visual impact of the proposed flood bank on the character and appearance of the canal corridor and to comply with Saved Policies in the NWLP 2006.

Together with any conditions recommended by the Highway Authority on the use of the vehicular access for construction traffic; the amount of heavy goods vehicles that can use the access and the maximum construction time period.

#### Notes

- 1) The applicant/developer is advised to contact the Works Engineers Team at the Fazeley Office on 01827 252000 in order to ensure that any necessary consents are obtained and that the works comply with the Canal and River Trust "Code of Practice for Works affecting the Canal and River Trust."
- 2) The Canal and River Trust as landowners advise that they do not wish to see any encroachment onto the towpath from works required in connection with the potential strengthening of the existing bridge parapets to retain flood water. As such they have requested that the Environment Agency as applicant explore alternative means of strengthening this parapet. Should this involve a different scheme proposed then amended plans will be required to be submitted for the proposal by way of a variation of condition application.
- 3) The Local Authority has worked positively with the applicant in this case to resolve planning issues arising from the application through pre-application discussions; resolving matters arising from consultation responses and seeking amended plans in mitigation of impacts, thus meeting the requirements of the National Planning Policy Framework.

#### Justification

This proposal is inappropriate development in the Green Belt. However the impact on the openness of the Green Belt is limited due to the setting and context of the surrounding physical appearance and landscaper character and the scale of the

proposals. The mitigation measures proposed are significant in reducing this impact even more. The surrounding land is mostly in recreation and nature conservation use and thus there is no adverse impact arising from examination of the reasons for including land within the Green Belt. There are no substantial bio-diversity or nature conservation issues that can not be overcome by condition and there is overall support from the relevant bodies. The responsible agencies in respect of ground water contamination; ground conditions and water quality have no objection. There will be some impact on the residential amenity of neighbouring residential property but this is outweighed by the mitigation measures and the substantial need to provide flood defences. Public footpath lines are maintained. As such it is considered that all adverse impacts can be mitigated and covered by condition. Any residual impacts are considered to be outweighed by the need for flood defence measures. The proposals thus accord with saved core policy 3 and saved policies ENV2, ENV3, ENV8, ENV11, ENV13 and ENV14 of the North Warwickshire Local Plan 2006 and the National Planning Policy Framework 2012.

#### Background Papers

1) Applicant's agent	Planning application forms and drawings	24/12/12
2) Press Notice	Atherstone Herald	10/1/13
3) John Maude	Letter of concern	13/1/13
4) Inland Waterways Association	Consultation Response	18/1/13
5) Highways Authority	Objection letter	14/1/13
6) Natural England	Consultation Response	24/1/13
7) CPRE	Consultation Response	29/1/13
8) Rights of Way Team	Objection Letter	30/1/13
9) Applicant's agent	Additional Information	30/1/13
10) Environmental Health Officer	Consultation Response	6/3/13
11) Canal and River Trust	Consultation Response	25/2/13
12) Environment Agency	Consultation Response	7/3/13
13) Chris Nash	Email to agent	5/3/13
14) Applicant's agent	Further information	6/3/13
15) Applicant's agent	Further information	18/3/13
16) Sharron Wilkinson	Email to agent	20/3/13
17) RSPB	Consultation Response	21/3/13
18) Applicant's agent	Additional information and plans	27/3/13



Environment  
Agency

Mr Smith  
Moor Ash Farm  
Moorash Lane, Bodymoor Heath  
Sutton Coldfield  
B76 0EE

Our ref: IMMI000978  
Date: 7<sup>th</sup> May 2013

#### Lower Tame Flood Risk Management Scheme - Kingsbury

Dear Mr Smith,

Following our recent planning application for the above scheme, I am writing to give you an update.

As you may be aware the planning application was deferred by North Warwickshire Borough Council at the April 13 planning committee meeting and we were asked to investigate mitigation measures for any increased flood risk within the Bodymoor Heath area as a result of the proposed scheme.

We recently carried out a threshold survey of your neighbouring property (Moor Ash Barn). According to our flood model the 1 in 200 year flood level (a flood with a 0.5% probability of occurring in any given year) with the proposed scheme in place is 64.85 m AOD. Our assessment shows that Moor Ash Barn will still enjoys a 1 in 200 year standard of protection as a result of the scheme, however the outbuilding (which is currently at risk in the 1 in 200 year flooding scenario) will be flooded by an additional depth of 120mm with the scheme in place.

Whilst we do not have threshold levels for your property, a visual inspection has shown that your property is slightly elevated above Moor Ash Barn and you will still enjoy a 1 in 200 year standard of protection which is the design standard for the overall Lower Tame scheme in line with the River Tame Strategy, published May 2011.

We realise that your property will be at a slightly higher risk of flooding as a result of the scheme, but it will still enjoy a 1 in 200 year standard of protection. However, we would like to discuss options for mitigating the effects of our scheme, including individual property protection measures, which would increase your property's resilience to flooding. We understand that you are currently out of the country and we will be contacting you on your return shortly to discuss this matter in further detail.

If you have any queries in the meantime, please do not hesitate to contact me.

Yours sincerely

**Davinder Gill**  
Project Manager  
Environment Agency  
Email: [davinder.gill@environment-agency.gov.uk](mailto:davinder.gill@environment-agency.gov.uk)  
Tel: 0121 708 4744

Sapphire East, 550 Streetsbrook Road, Solihull, West Midlands, B91 1QT.  
Customer services line: 03708 506 506  
[www.environment-agency.gov.uk/lowertame](http://www.environment-agency.gov.uk/lowertame)

Mr J Maude  
Moor Ash Barn  
Moorash Lane, Bodymoor Heath  
Sutton Coldfield  
B76 0EE

Our ref: IMM1000978  
Date: 7<sup>th</sup> May 2013

**Lower Tame Flood Risk Management Scheme - Kingsbury**

Dear Mr Maude,

Following our recent planning application for the above scheme and our subsequent discussions I am writing to give you an update.

As you may be aware the planning application was deferred by North Warwickshire Borough Council at the April 13 planning committee meeting and we were asked to investigate mitigation measures for any increased flood risk within the Bodymoor Heath area as a result of the proposed scheme.

Based on a recent survey that we have undertaken on your property the minimum threshold level of the main house is 65.07 m AOD. Our flood model shows that the 1 in 200 year flood level (a flood with a 0.5% probability of occurring in any given year) with the proposed scheme in place is 64.85 m AOD. Therefore your property will still enjoy at least a 1 in 200 year standard of protection which is the design standard for the overall Lower Tame scheme in line with the River Tame Strategy, published May 2011.

Your outbuilding (which we understand is currently used as a gym) is currently at risk in the 1 in 200 year flooding scenario and will be flooded by an additional depth of 120mm with the scheme in place.

Table 1 summarises the property threshold levels and the corresponding pre and post scheme flood levels.

Survey Point	Threshold Level (mAOD)	Pre Scheme 200 year water level (mAOD)	Post Scheme 200 year water level (mAOD)
Door step	65.16	64.73	64.85
Summer Room	65.07	64.73	64.85
Gym Floor	64.72	64.73	64.85

**Table 1: Pre and post scheme water levels**

Sapphire East, 550 Streetsbrook Road, Solihull, West Midlands, B91 1QT.  
Customer services line: 03708 506 506  
[www.environment-agency.gov.uk/lowertame](http://www.environment-agency.gov.uk/lowertame)

**Application No: PAP/2012/0626**

**(4) Cherry Tree Farm, Atherstone Road, Hartshill, CV10 0TB**

**Erection of new barns for storage purposes; reposition existing stable, enclose existing open sided barn and a new hard standing for vehicle access, for**

**Mr James Hammond**

### **Introduction**

This application is reported to the Board as it is accompanied by a Section 106 Agreement.

### **The Site**

The property lies to the north of Hartshill within an area of open countryside. Access to the property is via a private track from Atherstone Road. The land slopes downhill to the north and towards the Coventry Canal, with mature hedgerow to the east, south and west boundaries.

### **The Proposal**

The scheme is to erect a barn amounting to some 606 square metres of floor area. The barn is proposed to be some 4.3 metres to its eaves and some 6.5 metres to its pitch.

In addition to the erection of the barn, existing stables are to be repositioned and an existing open-sided barn is to be enclosed. Additional hardstanding will be created on the site for vehicular access.

### **Background**

An agricultural determination was submitted under ref: PAP/2012/0626 for the erection of a building for a machine store and other agricultural buildings at this site in late 2012. Further details were not required for this determination and so it was agreed that the development could proceed as permitted development. The machine store has now been implemented. However work on the remaining buildings has yet to commence.

## **Development Plan**

Saved policies of the North Warwickshire Local Plan 2006 - ECON7 (Agricultural and Forestry Buildings and Structures), ENV11 (Neighbour Amenities), ENV12 (Urban Design) and ENV13 (Building Design).

Other relevant material considerations

Government Advice - National Planning Policy Framework 2012

The Council's Submission Core Strategy - February 2013

## **Consultations**

Warwickshire Museum – No objections to the principle of development in this location, however, they do recommend a condition is attached to any consent granted requiring further archaeological work is undertaken on site. Following the receipt of these observations, the Planning Archaeologist has attended a site meeting and requested additional information on the groundworks associated with any site clearance; ground works associated with any construction works across the site and any other works. The applicant has provided additional information to answer these questions.

## **Observations**

The site lies on the edge of the settlement boundary of Hartshill and in an area designed as open countryside as defined in Saved Core Policy 2 of the North Warwickshire Local Plan 2006. Core Policy 2 states that the principle of agricultural development in these countryside locations is supported.

An agricultural determination was submitted under ref: PAP/2012/0626 for the erection of a building for a machine store and other agricultural buildings. These buildings are therefore “reasonably necessary for the purposes of agriculture.” Further details were not required for this determination and so the development could proceed. The machine store has now been completed; however work on the other agricultural buildings has not.

The applicant now wishes to relocate the previous agricultural building so that it is closer to the existing agricultural buildings. The issue is that as part of the determination was taken up - the erection of the machine store - the grant of planning permission here could result in the erection of the two buildings on the site. The agricultural holding could not support the need for two such buildings as the land ownership shows an area around 3 hectares in size with lease arrangements on a further 18.1 hectares.

A draft Section 106 Agreement has thus been submitted whereby the owner of the land covenants to erect, either the building previously approved under consent ref: PAP/2012/0626 (Building A) or the building the subject of this application (Building

B). The owner also covenants not to seek compensation from the Council for the building that cannot then be erected.

The location now proposed for this agricultural building will reduce its impact on the visual amenity of the area as it will sit within a complex of other buildings and be close to the farmhouse. It thus complies with the requirements of Saved Policy ECON7 (iv), in that “new buildings should form a group with existing agricultural buildings on the holding.” Subject to the signing of this Section 106, it is considered that this revised siting can be supported.

With regards to the needs to impose a planning condition regarding further archaeological work to be undertaken on the site, this is a condition that has not been asked for before on this site. Nevertheless, the need for such a condition has to be looked at on its own merits. The County’s Archaeologist has requested additional information on the groundworks to be undertaken at the site. The applicant has responded by stating that the maximum depth of foundations will be 300mm across the whole of the building and 300mm across the access road. Part of the access road has already been removed as part of the works has begun under the prior notification works. A site meeting was arranged between the applicant and the County Archaeologist. Following on from this site meeting, Planning Officers have met with the County Archaeologist who has stated that as the works involve shallow excavations then the decision rests with the Council as to whether they ask for additional survey work. In view of these shallow excavations and in view of the area being excavated in the past due to other consents approved at this site, in this case, it is not considered relevant to impose such a planning condition.

In view of the above it is recommended that subject to the signing of a Section 106 Agreement, then conditional planning permission be granted for this building.

### **Recommendation**

That subject to the signing of a Section 106 Agreement based on the content of this report, planning permission be approved with conditions:

- 1) Standard Three Year Time condition
- 2) Standard Plans Condition approving plans numbered 11275.5A Rev A and 11275.7A Rev A received on 24 December 2012 and the site location plan received on 28 January 2013.
- 3) The buildings shall only be erected from steel profile cladding finished in a dark green colour with roofing consisting of fibre cladding to be finished in a dark green colour.

Reason: In the interests of the visual amenity of the area.

### **Notes**

- 1) The Development Plan Policies relevant to this proposal are Saved Policies ECON7, ENV11, ENV12 and ENV13 from the North Warwickshire Local Plan 2006. Consideration has also been given to the National Planning Policy Framework.

2) The Council has worked in a positive and proactive way with the applicant and his solicitor in order to produce a legal agreement which enables the applicant to make the best use out of his agricultural holding whilst working within the planning policy framework.

3) Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from [www.ukradon.org](http://www.ukradon.org) if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. For further information and advice on radon please contact the Health Protection Agency at [www.hpa.org.uk](http://www.hpa.org.uk). Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on 024 76376328 for further advice on radon protective measures.

### **Justification**

The proposal is considered to be reasonably necessary for the purposes of agriculture, without suitable or sufficient buildings available to accommodate both existing and proposed needs. In addition, there is not considered to be harm to visual or neighbouring amenity. Subject to the signing of the Section 106 Agreement which seeks to ensure that only one building is erected on the site, the proposal is in accordance with Saved Policies ECON7, ENV11, ENV12 and ENV13 of the North Warwickshire Local Plan 2006. As such, there are no material considerations of sufficient weight to warrant the refusal of this proposal.

## BACKGROUND PAPERS

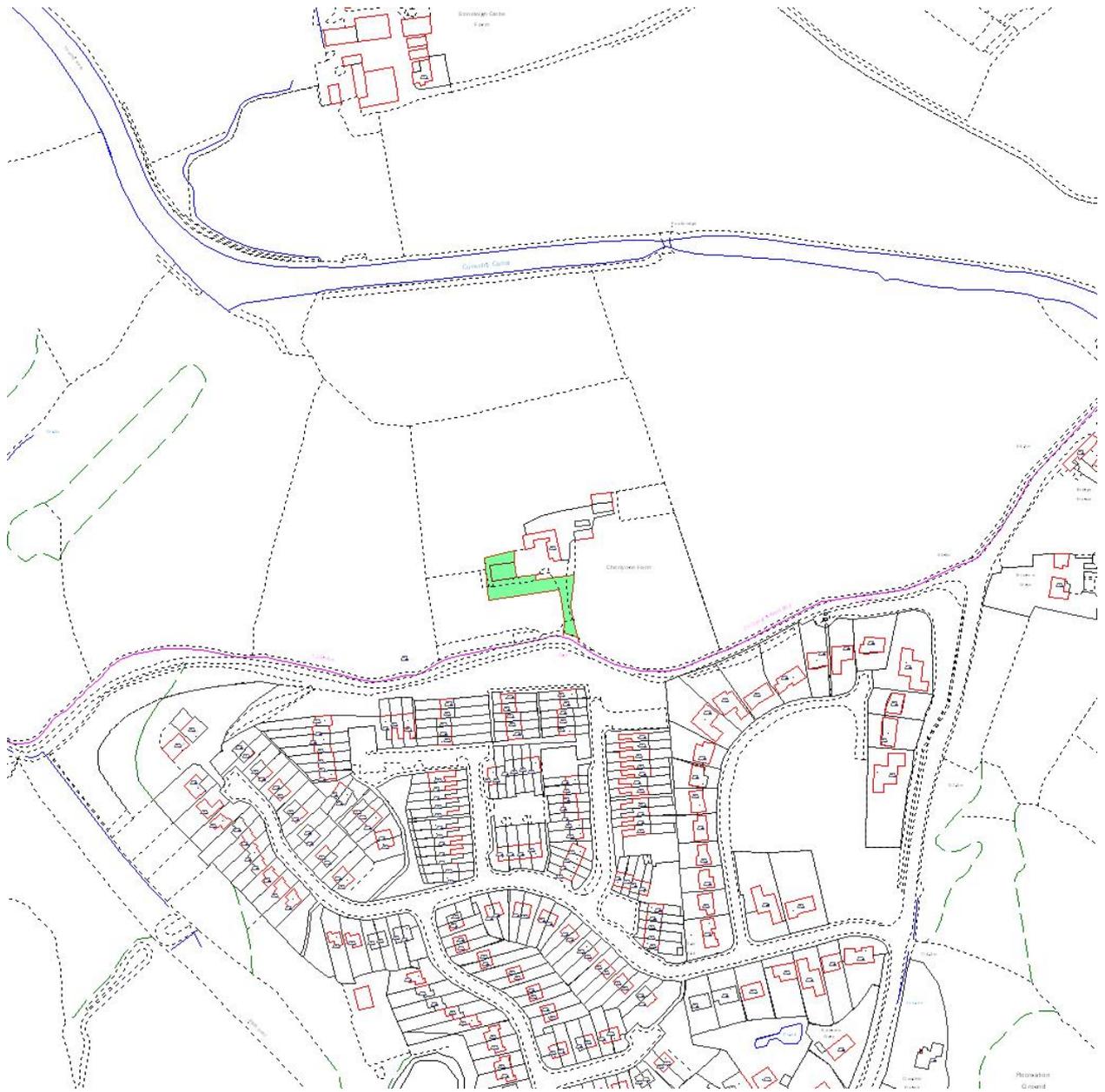
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2012/0626

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	24/12/12
2	Agent	Additional drawing	28/1/13
3	Applicant	Letter	25/1/13
4	Applicant's Solicitor	Letter	24/1/13
5	County Archaeologist	Consultation response	14/2/13
6	Applicant's Solicitor	Letter	19/2/13
7	County Archaeologist	Consultation response	14/3/13
8	Applicant	Land Registry	21/2/13
9	S Wilkinson	E-mail to Solicitor	12/4/13
10	S Wilkinson	E-mail to applicant	23/4/13
11	S Wilkinson	E-mail to Solicitor	25/4/13

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

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



## **General Development Applications**

**(5) Application No: PAP/2013/0063**

**Hunts Green Dairy Farm, Wishaw Lane, Middleton, Warwickshire, B78 2AU**

**Change of use of two rural buildings to rear of former farmhouse to vehicle storage (cars only), for**

**Mrs Claire White**

### **Introduction**

This application is referred to the Board at the request of local Members concerned about the potential adverse highway and environmental impacts arising from the proposal.

### **The Site**

This site is a complex of buildings comprising a house and a number of outbuildings on the north side of Wishaw Lane in Middleton about a kilometre south of the village itself. There are other residential properties to the north and a little way to the south. The small hamlet is in open countryside and the lane here is single carriageway with high banks and a number of bends. The site itself lies “within” one such bend. There are two access points into the site. The southern one gives access to the farmhouse itself whereas the second provides access to the yard and outbuildings at the rear.

The application itself relates to two buildings, roughly of the same size amounting to about 270 square metres in total floor area. Both appear as commercial buildings being metal clad and around 4 metres tall to their ridges.

The site’s location and the buildings, marked as “A” and “B” can be seen at Appendix “A”.

Photographs of the two buildings are at Appendix B.

### **The Proposal**

This is a retrospective application to retain the use of these two buildings for car storage. The applicant sources cars for car auctions and stores them temporarily on site. The cars are collected from existing private owners or from car auctions, driven to the site, kept here and then again driven to car auctions when required. The applicant estimates that the maximum number of cars that the two buildings could house is 20. The “turnover” is estimated to be around 40 movements a month with no car transporters or low loaders involved. There is no associated car repair work or maintenance and no car sales directly from the site.

## **Background**

Hunts Green Dairy Farm was formerly a full working farm but this use lapsed some time ago and the associated land was released. The house is now in private residential use and the former outbuildings used for stables, garaging and household storage. One of the two application buildings – “B” on Appendix A – was constructed as a hanger to store the previous occupier’s private airplane. The field to the south east was also used as the runway.

The property is owned by HS2 Ltd and is currently let to the applicant on a temporary basis. The proposed line of HS2 runs to the east of the premises as shown on the plan at Appendix C, but the application buildings are not within the safe-guarding area.

## **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies) - ENV11 (Neighbour Amenities), ENV14 (Access Design), ENV2 (Green Belt) and ECON9 (Re-use of Rural Buildings)

## **Other Relevant Material Considerations**

Government Advice: National Planning Policy Framework (NPPF).

## **Consultations**

Environmental Health Officer – No objection

Warwickshire County Council as Highway Authority – No objection subject to conditions. The response says that there are two access points. The southern one to the house has a bell mouth entrance and is hard surfaced. It is wide enough for two vehicles to pass and visibility splays are satisfactory. The second northern one has obstructed visibility splays. The traffic speeds are generally low because of the character of the lane and the proposed use has limited traffic generation. Conditions are considered to be acceptable here.

HS2 Ltd – No comments. This response is said to not constitute agreement for the development to commence at the site.

## **Representations**

Middleton Parish Council – The Council could not support the application. The entrance is “not conducive to safety given the amount of cars involved”, and the Council is aware that the tenancy agreement with HS2 Ltd prohibits business use of the premises. If the Council was supportive it would be condoning an alleged breach of a legal document.

Four letters of objection have been received from local residents. The matters raised are:

- Traffic and highway issues arising from increased traffic on narrow country lanes including the impact on walkers and horse riders
- The commercialisation of the Green Belt
- The environment would be damaged
- The use would set a precedent for future occupiers of the property
- HS2 Ltd should not allow this use as it was bought as a residence.

## **Observations**

The site is in the Green Belt. The Council's approach to the control of development in the Green Belt is to follow that set out in the Government's NPPF. Here at paragraph 90 it says that the "re-use of buildings provided that they are of permanent and substantial construction", is not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. In this case the buildings are considered to be both of permanent and substantial construction. The proposed use is to be confined to storage with them and thus there would be no adverse visual impact or would that reduce "openness". Moreover the buildings and property could lawfully be re-used for agricultural purposes which would include internal storage of plant, equipment and vehicles. There is neither any reason to say that the use would conflict with the purposes of including land in the Green Belt. The use is unconnected to the purposes of "preventing sprawl"; the "merger of towns", preserving "historic settings", or would it prevent "urban regeneration". The only use which might be affected is "safeguarding the countryside from encroachment". However this is not open land and is not new built development encroaching onto such land. As a consequence it is concluded that the proposed use is not inappropriate development in the Green Belt. As such the presumption is in favour of the grant of planning permission, unless there are material adverse impacts.

Before leaving this Green Belt issue however it is worth referring to the potential "commercialisation" of the Green Belt hereabouts as mentioned by objectors. There are already commercial uses in the neighbourhood – the Belfry golf course, Ash End Farm, Atlantic Nurseries and RJB Repairs. Planning permissions have also been granted in the Parish for the re-use of buildings as holiday lets, offices, for caravan storage and for other commercial B1 uses. Government policy in paragraph 90 of the NPPF, as quoted above, does not distinguish between uses, and as Members are aware the whole thrust of the NPPF is to promote and encourage economic development and business opportunities. There is direct acknowledgement that there should be support for the "growth and expansion of all types of business enterprise in rural areas both through conversion of existing buildings and well designed new buildings". In other words there is overall support in principle for this use unless there are significant adverse impacts.

The Local Plan policy on the re-use of rural buildings – ECON9 – also applies here. The proposal meets two of the three pre-conditions against which to assess a possible reuse of rural buildings, namely their construction and appearance. The use

also falls into the categories that are preferred, being a commercial one rather than a residential re-use. The one pre-condition not satisfied is that this is not a sustainable location. However the use itself involves the driving of private cars; there are no employees and the scale is limited. As a consequence it is considered that the weight of the NPPF in respect of the Green Belt and the promotion of economic opportunities are greater than any limited dis-benefit arising from the location, particularly as potential adverse impacts can be controlled by condition.

Those potential adverse impacts in this case relate to highway matters and to possible environmental impacts. It is the former that has led to the most amount of concern amongst the local community. The application describes a limited use of the site – 40 movements a month. This is considered to be low and also below what might have occurred when the site was a functioning farm. If the buildings were used for equestrian use then there too would be additional traffic. Moreover there are to be no transporters used. So it is not considered on the basis of descriptions given that there would be adverse impacts, but that this needs to be controlled by condition. It is also noteworthy that the Highway Authority agrees, clearly favouring use of the southern of the two access points. It is also significant that the objectors do not actually refer to incidents or problems since the use commenced at the end of 2012, rather to the potential problems that might occur. Neither planning nor highway officers have received complaints about traffic generation from this site. As a consequence it is considered that the proper and proportionate approach here is to impose conditions.

The Environmental Health Officer has no objection and again conditions can be used to control both the scope and scale of the use. No complaints have been received by these officers in respect of noise, light or air pollution arising from this use.

In respect of other issues then clearly there is some concern about HS2 Ltd's involvement. Firstly it is important to say that the buildings are not on the line of the route and neither are they in the safeguarding area. As such there is no planning interest here to concern the Board. The matter of the tenancy agreement is a matter for HS2 Ltd and the tenant, not this Authority, and clearly it is not a material planning consideration. The application has to be determined on its planning merits alone.

## **Recommendation**

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

1. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered Plan 1 (block plan) and Plan 2 (site location plan).

## **REASON**

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

2. This permission shall enure solely for the benefit of Mrs C White and for no other person or Company whatsoever, and shall cease when Mrs White vacates the

premises, or the use shall be discontinued after 5 years from the date of this permission.

REASON

In order to control the scale and scope of the use so as to control its impacts.

3. The use hereby permitted shall only be for the buildings marked "A" and "B" on the approved plan and this use shall only be for the storage of cars, and for no other purposes whatsoever within Use Class B8 as defined by the Town and Country Planning (Use Classes Order) 1987 as amended.

REASON:

In order to control the scope and scale of the development and thus to limit its impacts.

4. There shall be no external storage of cars at the site in connection with the use hereby permitted.

REASON

In the interests of the visual amenities of the area and to retain openness  
To protect the amenities of nearby residential property.

5. The cars stored in the buildings as permitted shall only be driven to the site and shall not be transported to the site on any other type of vehicle.

REASON

In the interests of safety on the public highway.

6. There shall be no vehicular access to the site for the use hereby permitted other than via the southern most access to Wishaw Lane as illustrated on the approved plan.

REASON

In the interests of safety on the public highway.

7. There shall be no repair, maintenance or valeting of any car stored at the site under this permission.

REASON

In the interests of reducing the risk of pollution

## **Notes**

1. The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies) - ENV2, ENV11, ENV14 and ECON9

2. The Local Planning Authority has worked positively with the applicant in this case in order to address the issues arising from this application through discussing consultation responses and seeking agreement on the use of conditions thus meeting the requirements of the National Planning Policy Framework 2012.

## **Justification**

The proposal is not considered to be inappropriate development in the Green Belt given that it is a use that re-uses existing buildings without affecting openness. There are no other adverse impacts that can not be controlled through the use of conditions particularly to control the scope and scale of the use. The proposal thus accords with saved policies ENV2, ENV11, ENV14 and ECON9 of the North Warwickshire Local Plan 2006 and the National Planning Policy Framework 2012

## BACKGROUND PAPERS

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

Planning Application No: PAP/2013/0063

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s). Application was made valid 19/2/13	7/2/13
2	Case Officer	Letter / email to agent / applicant	7/3/12
3	Case Officer	Email to Parish Council following email of 6/3/13	7/3/13
4	Mr and Mrs Jackson	Objection	9/3/13
5	Case officer	Letter / email to agent / applicant	11/3/13
6	Agent	Email to case officer	13/3/13
7	HS2	Letter	12/3/13
8	A J Weatherer	Objection	13/3/13
9	R Webb	Objection	14/3/13
10	Case officer	Letter / email to agent / applicant	14/3/13
11	Case officer	Email to agent following email of 14/3/13	15/3/13
12	WCC Highways	Consultation response	15/3/13
13	Cllr Lea	Email	17/3/13
14	WCC Highways	Email	18/3/13
15	Head of Development Control	Email	19/3/13
16	Cllr Lea	Email	19/3/13
17	Mr and Mrs Hollis	Objection	18/3/13
18	Middleton Parish Council	Does not support	22/3/13
19	Case officer	Email to HS2	22/3/13
20	Case officer	Letter / email to agent / applicant	22/3/13
21	Applicant	Letter / email to case officer	2/4/13
22	Case officer	File note	4/4/13
23	Head of Development Control	Email to Councillors	10/4/13
24	NWBC Environmental Health	Consultation Response	11/4/13
25	Case officer	Email to WCC Highways	15/4/13
26	Case officer	Letter / email to agent / applicant	15/4/13

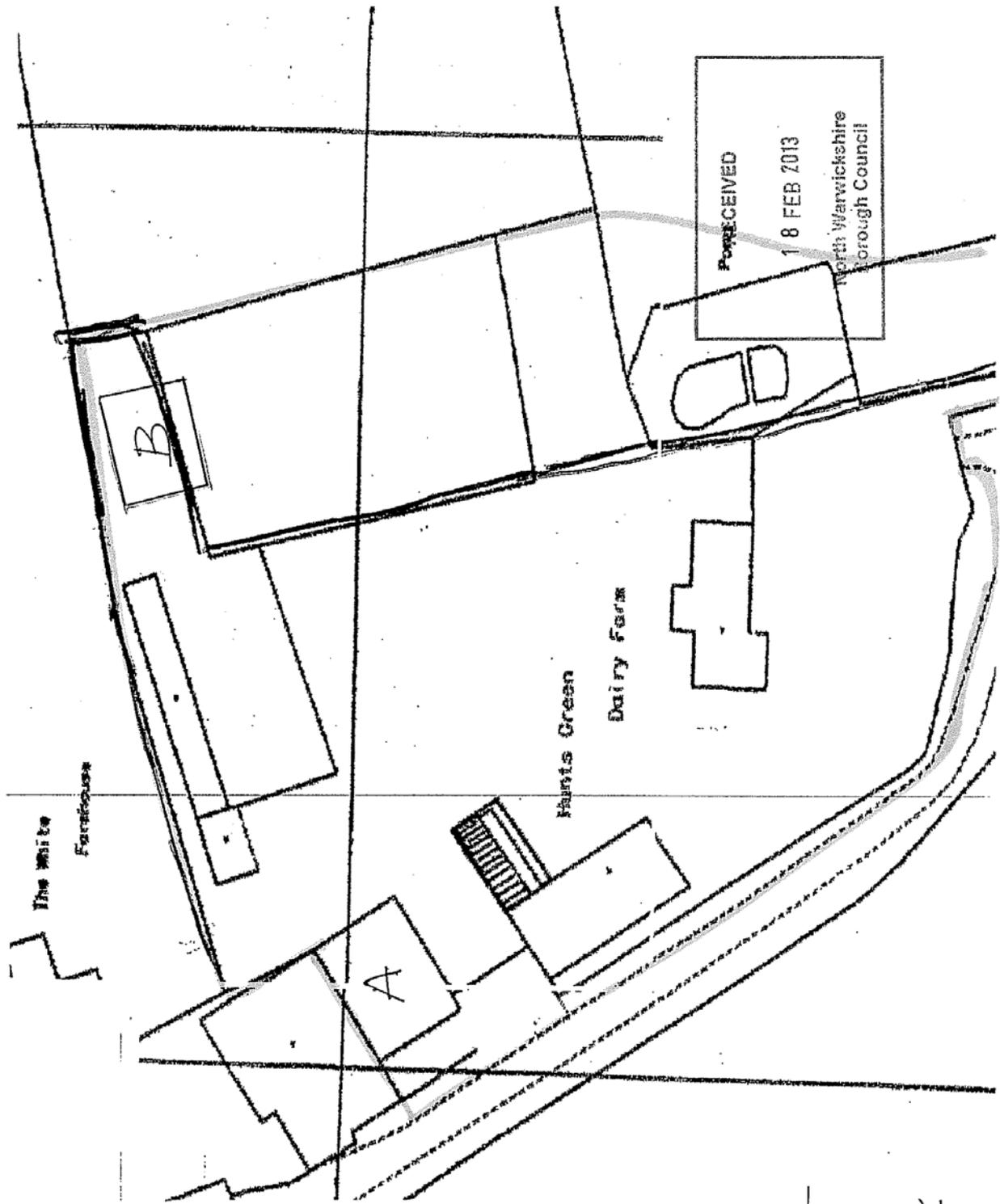
27	HS2	Letter to case officer	18/4/13
28			

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

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

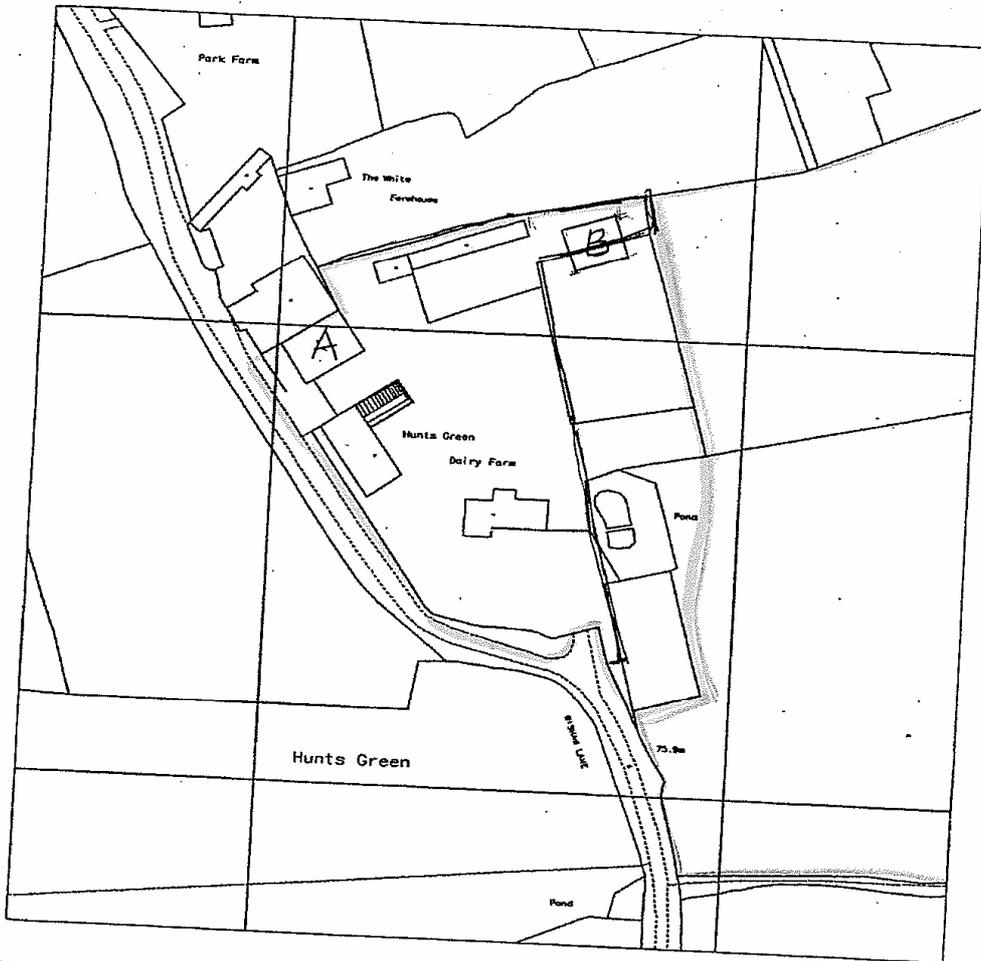


APPENDIX A – Plans



RECEIVED  
18 FEB 2013  
North Warwickshire  
Borough Council

←  
Plan 1  
11500  
Block

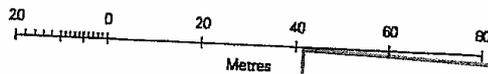


Produced 12 Apr 2005 from Ordnance Survey digital data and incorporating surveyed revision available at this date. © Crown Copyright 2005.

Reproduction in whole or in part is prohibited without the prior permission of Ordnance Survey.

Ordnance Survey and the OS symbol are registered trade marks and Siteplan a trade mark of Ordnance Survey, the national mapping agency of Great Britain.

Part or all of this Siteplan is enlarged from mapping produced at one or more of the following scales 1:1250, 1:2500, 1:10000,



Metres

Centre Coordinates: 418349 297367

National Grid sheet reference at centre of this Siteplan: SP1897

Supplied by: Cardiff TSO

Serial Number: 00207900

RECEIVED  
18 FEB 2013  
North Warwickshire  
Borough Council

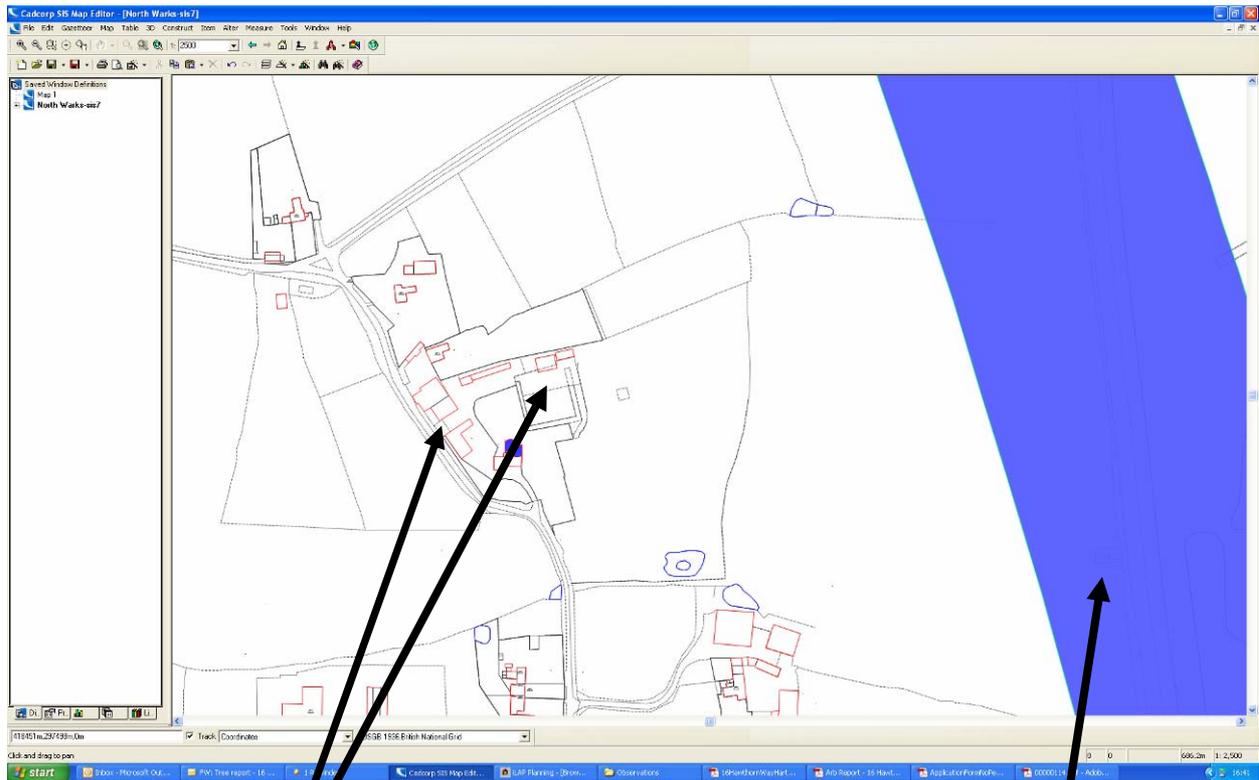
Plan 2  
1:1250 Location Plan

**APPENDIX B – Photographs**





## APPENDIX C – Application site in relation to HS2 safe-guarding area



Application Site Buildings

HS2 safe-guarding area

**PAP/2013/0129 and PAP/2013/0136**

**(6) Land Adjacent 56 Grove Road, Atherstone, Warwickshire**

**Planning application for the demolition of existing garages and erection of 2 No. three bedroom dwellings and Conservation Area Consent application for the demolition of existing garages, for**

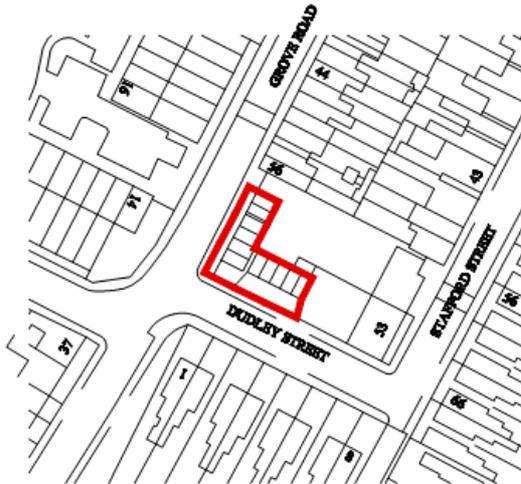
**Mr and Mrs Dirveiks**

**Introduction**

The application is reported to Board for determination because the applicants are Borough Councillors and in light of the receipt of representations.

**The Site**

The site is an L-shaped piece of land situated at the junction of Grove Road and Dudley Street. It is currently occupied by two blocks of garages, 6 fronting Grove Road and 5 fronting Dudley Street. Residential properties are situated to adjacent to all sides of the site.



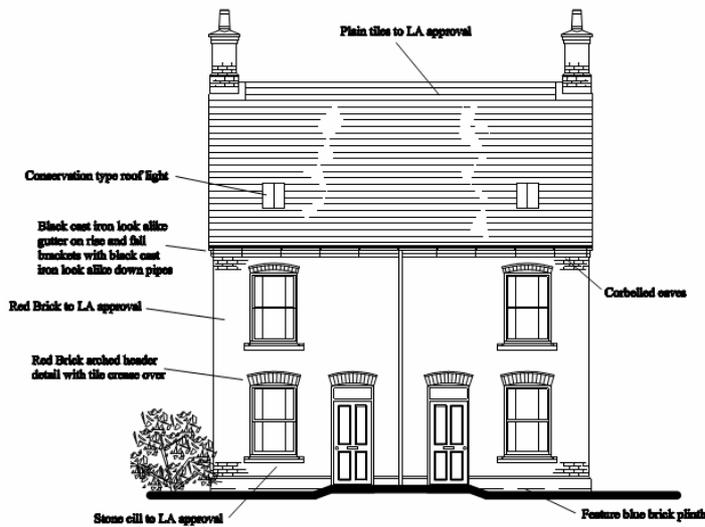
The garages have a mono pitched roof and are constructed from block and sheeting, each garage having double doors painted blue or green. The site is shown in the images set out below.



## The Proposal

The proposal seeks conservation area consent for the demolition of the existing buildings and planning permission for the demolition of existing garages and erection of two new three bedroomed dwellings.

The proposed dwellings are shown below. They would be situated near the back edge of the pavement fronting Grove Road, with the side elevation on Dudley Street.



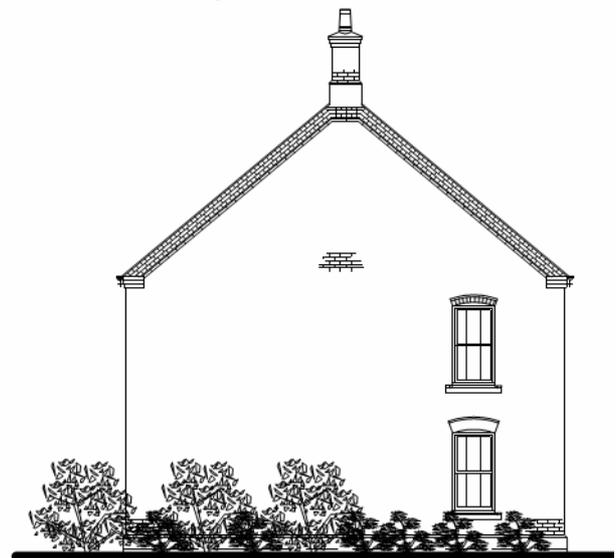
**PROPOSED FRONT ELEVATION**



**PROPOSED SIDE A ELEVATION**



**PROPOSED REAR ELEVATION**



**PROPOSED SIDE B ELEVATION**

## Development Plan

Saved Policies of the North Warwickshire Local Plan 2006 - Core Policy 2 (Development Distribution), Core Policy 11 (Quality of Development), ENV4 (Trees and Hedgerows), ENV11 (Neighbour Amenities), ENV12 (Urban Design) ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage and Conservation), HSG 2 (Affordable Housing) and TPT6 (Vehicle Parking)

## Other Relevant Material Considerations

North Warwickshire Core Strategy (Submission Version February 2013) – Policies NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing Numbers), NW5 (Affordable Housing), NW8 (Sustainable Development), NW10 (Quality of Development) and NW11 (Natural and Historic Environment).

National Planning Policy Framework 2012 (NPPF) - Achieving Sustainable Development; Deliver a wide choice of high quality homes

New Homes Bonus would apply to this development.

### **Consultations**

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

Environmental Health Officer – No comments

### **Representations**

The Atherstone Civic Society offers no objection in principle. It is pleased to see the use of traditional materials and detailing. It offered a suggested change to the design of the doors to make them more in keeping with traditional properties in the near vicinity. This was communicated to the applicant's agent and the design of the door has been changed to accord with the suggestion.

The Atherstone Town Council indicated that asbestos is present on site and drew attention to a suspicion that Japanese Knotweed was growing there. It suggested that these matters be checked before decisions were made.

Six letters of objection have been received from local residents raising the following matters:

- The parking situation is currently poor. Cars park on corners obstructing visibility. The loss of garages and the addition of two new dwellings will make the problems worse.
- Though two spaces will be proposed for each new property the occupiers may have more than two cars.
- New or consented development in the locality will add to car parking problems.
- The proposed boundary treatment with neighbouring gardens is not clear from the plans.
- A further two new dwellings are not needed in the town – there are 94 properties listed for sale, 33 of which have 3 bedrooms.
- It is preferable to convert existing buildings in the town (such as the old hat factory on Coleshill Road) ahead of new build properties.

It is suggested that the applicant's have a conflict of interest because they are members of the Borough Council. It is speculated that the garage site was purchased by the applicant's in order to prevent development.

A petition containing 97 names and addresses (96 signatures) has been received in opposition to the proposal. The petition opposes the development because it will

result in the loss of garaging and lead to additional parking difficulty in an area where parking problems already exist.

## **Observations**

The site lies within the development boundary for Atherstone. In this location there is no objection in principle to the redevelopment of land for residential purposes. Indeed, Atherstone is a major town in the Borough and, to achieve sustainable development, new housing is directed to this settlement.

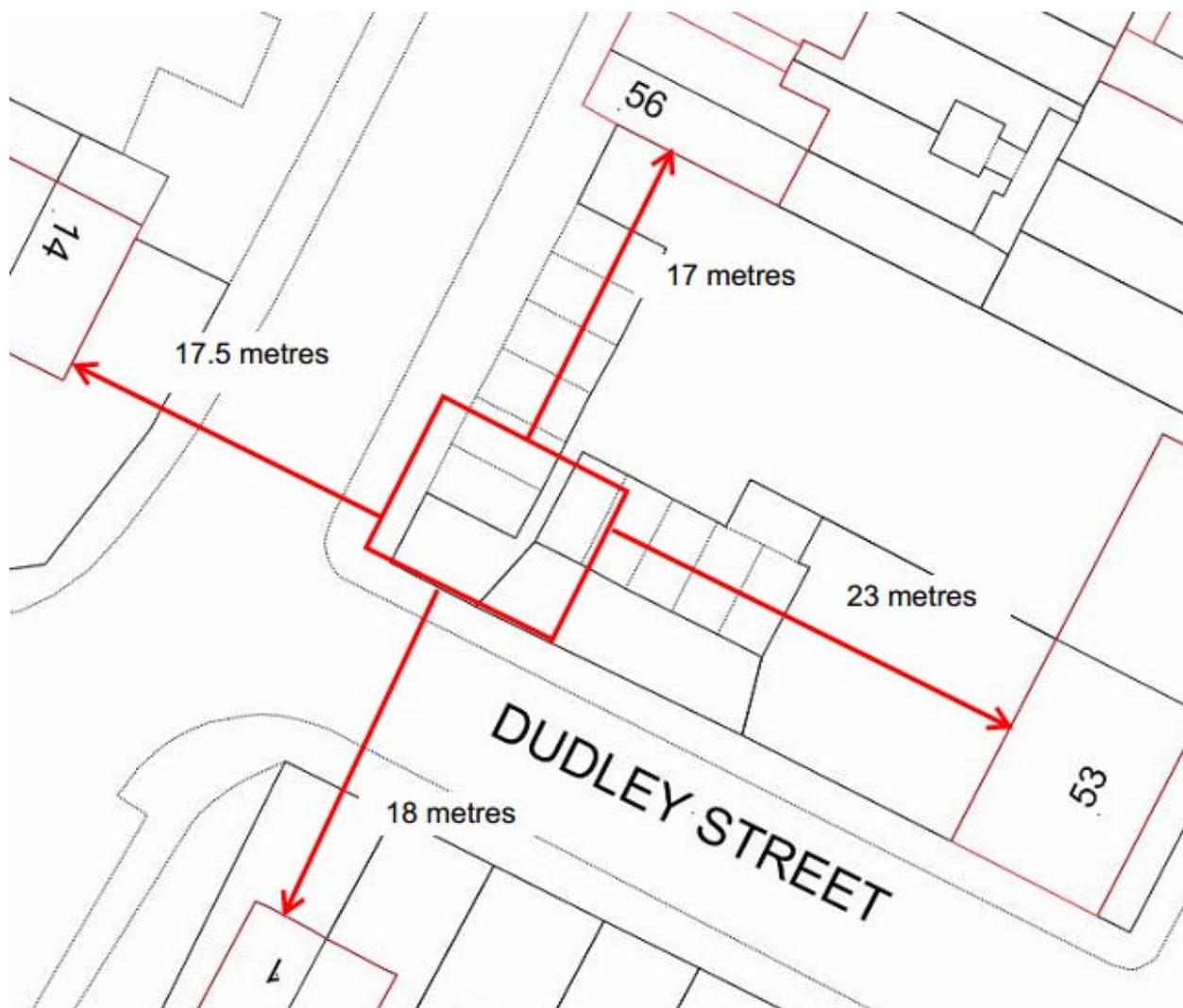
The site also lies within the town's Conservation Area where there is a duty to preserve and enhance the character and appearance of the area.

The main issues relate to the effect of losing the existing garages; the effect on highway safety, the effect on amenity (overlooking/loss of privacy/noise), the effect on the Conservation Area and the appropriateness of the design.

The land is currently occupied by two blocks of garages which do not form an important part of the character of the area. They are of a non-conforming design and their loss would not be harmful to the character of the area, indeed there is potential to improve the whole appearance of the area with their demolition.

The design of the proposed building is appropriate, reflecting the traditional style of neighbouring terraced properties both in terms of materials and detailing.

It is not considered that the proposed dwelling would result in any significant loss of privacy or overlooking of neighbouring dwellings. There are good separation distances between the proposed dwelling and neighbouring properties. These are shown in the diagram below. With such distances separating windows to habitable rooms, a refusal on the grounds of loss of privacy or overlooking could not be substantiated or defended at appeal.



It is clear however that the proposed development sits on a relatively constrained plot. If the properties were to be extended by taking advantage of permitted development rights then the size of the dwelling could become disproportionate to the plot size and result in an inadequate amount of private amenity space. For this reason it would be proposed to remove permitted development rights for extensions and garden buildings

The development would result in the loss of some shrubs on the road corner and two self-set trees which are situated between the garage blocks, very close to the existing buildings. The trees overhang the garages and the roots have potential to affect the existing structures. The proposal is to plant two replacement trees, one in each of the new rear gardens. It is considered that the existing trees do not make a special contribution to the Conservation Area and that their loss can be compensated by the planting of replacement trees.

The garages are in private ownership. The owners can, within contractual limits, deny the ability of others to use the garages for parking purposes. It would be difficult to oppose the redevelopment of this site on the grounds that the development resulted in a loss of opportunity for off street parking when such

opportunity could be denied at any time. The Council has no powers to require the owner to continue to offer the garages for off street parking.

Notwithstanding this, the owners have detailed the current use of the garages to evidence that their demolition is unlikely to significantly impact on on-street parking arrangements. They indicate that of the 11 garages, only 3 are currently used for the parking of vehicles, 3 are vacant, 3 are used for storage with one using the hard surfacing in front for the parking of a van and 2 are used for motorbike parking. The real immediate effect will therefore be a need to find parking for the 4 displaced vehicles and 2 motorbikes. The development will create a new opportunity for on-street parking in Dudley Street (previously unavailable because of a need to maintain access to the garages). This will counter the effect of the loss of the garages. Adequate off street parking is proposed for the two new dwellings. It is not considered that the proposal could be resisted on the grounds of adverse effect on highway safety as a result of on street parking difficulties.

The Highway Authority initially expressed concern about development on the grounds that the siting of the property would interfere with visibility for users of the highway. A minor revision to set the building back from the edge of the highway has over come the original stated concern and 25m visibility splays can now be achieved. It also expressed initial concern about the development worsening existing parking congestion, however, on receipt of explanation of the current use of the garages, it concluded that by closing the vehicular access to the garages on Dudley Street, potentially 4 on street parking spaces may be made available. Although on-street parking should not be relied on, it is envisaged that parking restrictions would not be put in place in this location. As such, the proposed development may result in the net loss of 1 car parking space. It concludes that it would be difficult to object to the application based on the loss of 1 car parking space. It now offers no objection subject to conditions.

The Town Council expressed a reservation that the site may contain Japanese Knotweed. The site has been visited by the Council's Landscape Management Officer. She confirms that the plant is not present. Consequently, there is no justification for further investigation or precautionary measures.

A note can be attached to any permission to advise about provisions for the safe disposal of asbestos.

The development will preserve and enhance the character and appearance of the Conservation Area and may be supported.

## **Recommendation**

### **A) PAP/2013/0129**

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

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

## REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 543-2012-03A received by the Local Planning Authority on 23 April 2013, the plan numbered 543-2012-02A received by the Local Planning Authority on 9 April 2013 and the plan numbered 543-2012-04 received by the Local Planning Authority on 11 March 2013.

## REASON

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

3. Access for vehicles to the site from the public highway (Grove Road D187) shall not be made other than at the positions identified on the approved drawing number 543-2012-03 Rev A. No gates shall be hung within the vehicular accesses so as to open within 6.0 metres of the public highway carriageway.

## REASON

In the interests of safety on the public highway.

4. No development shall commence until full details of the surfacing, drainage and levels of the car parking areas as shown on the approved plan have been submitted to and approved in writing by the Council. No unit shall be occupied until the areas have been laid out in accordance with the approved details and such areas shall be permanently retained for the parking and manoeuvring of vehicles. The vehicular accesses to the site shall not be constructed in such a manner as to reduce the effective capacity of any highway drain or permit surface water to run off the site onto the public highway.

## REASON

In the interests of safety on the public highway.

5. The development shall not be occupied until all parts of the existing accesses within the public highway not included in the permitted means of access have been closed and the kerb and footway have been reinstated in accordance with the standard specification of the Highway Authority.

## REASON

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

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

REASON

In the interests of safety on the public highway.

7. No development whatsoever within Class A, B, C, D or E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995, as amended, shall commence on site without details first having been submitted to and approved by the Local Planning Authority, in writing.

REASON

In the interests of the amenities of the area.

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

REASON

In the interests of the amenities of the area.

9. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls to be erected and retained. The approved screen walls shall be erected before the dwellings hereby approved are first occupied and shall subsequently be maintained at all times.

REASON

In the interests of the amenities of the area.

10. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or internal painting or fitting out, shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

REASON

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

11. All materials obtained from demolition shall be permanently removed from the site within twenty eight days of demolition being commenced.

REASON

In the interests of the amenities of the area.

12. Before the commencement of the development, a landscaping scheme shall be submitted to the Local Planning Authority for approval. The scheme shall make provisions for the planting of two replacement trees.

REASON

In the interests of the amenities of the area.

13. The scheme referred to in Condition No 12 shall be implemented within six calendar months of the date of occupation of the first house approved under reference PAP/2013/0129 for domestic purposes, unless otherwise agreed in writing by the Local Planning Authority. In the event of any tree or plant failing to become established within five years thereafter, each individual tree or plant shall be replaced within the next available planting season, to the satisfaction of the Local Planning Authority.

REASON

In the interests of the amenities of the area.

Notes

1. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at [www.communities.gov.uk/publications/planningandbuilding/partywall](http://www.communities.gov.uk/publications/planningandbuilding/partywall).
2. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

3. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from [www.ukradon.org](http://www.ukradon.org) if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.
4. For further information and advice on radon please contact the Health Protection Agency at [www.hpa.org.uk](http://www.hpa.org.uk). Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on (024) 7637 6328 for further advice on radon protective measures.
5. Existing structures on the site contain asbestos. Information about asbestos and asbestos disposal can be found at the links below:  
[http://www.warwickshire.gov.uk/web/corporate/pages.nsf/\(DisplayLinks\)/34EB78D0FF48C5CC80257315003CE4C9](http://www.warwickshire.gov.uk/web/corporate/pages.nsf/(DisplayLinks)/34EB78D0FF48C5CC80257315003CE4C9)  
<http://www.hse.gov.uk/asbestos/index.htm?ebul=hsegen/26-may-2009&cr=6>
6. Section 152 of the Highways Act 1980 restricts the fixing to, or placing against premises, any window, shutter, porch, step, cellar-opening etc. which would project over the public highway in such a manner that it would obstruct safe and convenient passage along the street; and Section 153 restricts the erection of doors, gates and bars on premises and buildings in such a manner that they would open out over the public highway. The applicant/developer must, therefore, ensure that no such projection, door, gates or bars are so fixed or erected.

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

Conditions require works to be carried out within the limits of the public highway. Before commencing such works the applicant / developer must serve at least 28 days notice under the provisions of Section 184 of the Highways Act 1980 on the Highway Authority's Area Team.

This process will inform the applicant of the procedures and requirements necessary to carry out works within the Highway and, when agreed, give consent for such works to be carried out under the provisions of S184. In addition, it should be noted that the costs incurred by the County Council in

the undertaking of its duties in relation to the construction of the works will be recoverable from the applicant/developer.

The Area Team may be contacted by telephone: (01926) 412515. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice.

Before commencing any Highway works the applicant /developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.

7. The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies):

Core Policy 2 - Development Distribution

Core Policy 11 - Quality of Development

ENV4 - Trees and Hedgerows

ENV11 - Neighbour Amenities

ENV12 - Urban Design

ENV13 - Building Design

ENV14 - Access Design

ENV15 - Heritage Conservation, Enhancement and Interpretation

HSG2 - Affordable Housing

HSG4 - Densities

TPT1 - Transport Considerations in New Development

8. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through pre-application discussions, seeking to resolve planning objections and issues and suggesting amendments to improve the quality of the proposal. As such it is considered that the Council has implemented the requirement set out in paragraphs 186 and 187 of the National Planning Policy Framework.

### Justification

The site lies within the development boundary for Atherstone, a sustainable settlement where the redevelopment of land for residential purposes is supported in principle. The loss of the existing garages and redevelopment with appropriately designed new dwellings will preserve and enhance this part of the Conservation Area. Development can be achieved without undue harm to residential amenity or highway safety. The site does not have any contaminants that cannot be appropriately disposed of. The development accords with the above named policies.

## **B) PAP/2013/0136**

That Conservation Area Consent be **GRANTED** subject to the following conditions.

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

### REASON

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

2. No work relating to the demolition hereby approved, including works of preparation prior to operations shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays.

### REASON

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

3. All materials obtained from demolition shall be permanently removed from the site within twenty eight days of demolition being commenced.

### REASON

In the interests of the amenities of the area.

## Notes

1. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at [www.communities.gov.uk/publications/planningandbuilding/partywall](http://www.communities.gov.uk/publications/planningandbuilding/partywall).
2. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on

neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.

3 The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies):

ENV4 - Trees and Hedgerows

ENV11 - Neighbour Amenities

ENV15 - Heritage Conservation, Enhancement and Interpretation

### Justification

The site lies within the Atherstone Conservation Area. The existing garages do not form an important part of the character of the area. They are of a non-conforming design and their loss would not be harmful to the character of the area, indeed there is potential to improve the character and appearance of the area with their demolition. With controls of hours of operation and site clearance, and in the context of the grant of planning permission of an appropriate redevelopment the proposed demolition may be supported.

## **BACKGROUND PAPERS**

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

Planning Application No: PAP/2013/0129

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	11 3 13 9 4 13 23 4 13
2	Atherstone Civic Society	Representation	9 4 13
3	Case Officer	E mail to agent	9 4 13
4	D M	Representation	1 4 13
5	Peter Lea	Representation	27 3 13
6	Case Officer	E mail to P Lea	11 4 13
7	Claire Deeming	Representation	15 4 13
8	Petition	Petition	16 4 13
9	A & D Jones	Representation	16 4 13
10	Case Officer	E mail to agent	16 4 13
11	Atherstone Town Council	Representation	18 4 13
12	Peter Lea	E mail	16 4 13
13	I & v Bilson	Representation	16 4 13
14	Warwickshire County Council Highways Authority	Consultation Reply	18 4 13 2 5 13
15	Environmental Health	Consultation Reply	10 4 13

	Officer		
16	Landscape Management Officer	Consultation Reply	3 5 13

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

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



**(7) PAP/2013/0148**

**Chez Nous, 58a Friary Road, Atherstone, CV9 3AQ**

**Single storey rear extension for**

**Mrs Anne Forwood**

### **Introduction**

The application is reported to the Planning and Development Board as the applicant is Member of the Council.

### **The Site**

The dwelling is a detached bungalow situated on Friary Road, within a wholly residential area, where there are semi-detached dwellings in the vicinity. The general layout of the site in context with the surrounding buildings is illustrated at Appendix A, with photographs of the existing bungalow at Appendix B.

### **Background**

The bungalow was a new build on an infill plot following an outline planning permission in 2000. Details were subsequently approved in 2001. A condition of the permission removed permitted development rights for extensions and hence the current application is required.

### **The Proposal**

A rear single storey extension is proposed to the north elevation (rear) of the property. This would project from the rear building line of the existing house by 1.9 metres and would have a length across the rear elevation of 7.5 metres and a height of 2.9 metres to the flat roof arrangement. The extension would extend an existing lounge and kitchen. The design of the extension is illustrated at Appendix C.

During the course of the application the projection of the extension has been reduced from 2.2 metres to 1.9 metres at the applicant's request, in order to accommodate manoeuvrability between the building line of the extension and the boundary fence.

### **Development Plan**

Saved policies of the North Warwickshire Local Plan 2006 – ENV11 (Neighbour Amenities) and ENV13 (Building Design)

### **Other Material Planning Considerations**

The National Planning Policy Framework 2012

## **Representations**

None have been received.

## **Observations**

The rear extension is wholly in keeping with the existing house, matching the existing eaves height and is proportionate to the scale of the host dwelling. Although the extension would be of a flat roof construction, it would not appear as an incongruous addition on the rear of the bungalow.

The extension would be designed to include new openings to the rear elevation consisting of patio doors and a window. The materials would also match those used on the bungalow in terms of brick; the arrangement to the flat roof would be finished in a roofing felt. The design and appearance of the proposed extension would be acceptable.

In terms of amenity issues then the extension would not have any impact on the neighbouring occupiers in terms of causing any loss of privacy or loss of light. The 45-degree line rule would not be breached by the projection of the extension and no side windows are proposed and therefore would not cause any privacy related issues to immediate neighbouring occupiers and the site is not overlooked from the rear. No neighbour representations have been received.

## **Recommendation**

That the application be granted subject to the following conditions:

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

### **REASON**

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the revised plan received by the Local Planning Authority on 8 May 2013 and the section plan, block plan and the site location plan received by the Local Planning Authority on 18 March 2013.

### **REASON**

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

3. The facing brick to be used shall match the colour, texture and size of those used on the existing building. The roof shall be finished in a roofing felt.

## REASON

In the interests of the visual amenities of the area.

## INFORMATIVES

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

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

3. The Development Plan policies which are relevant to this Decision are as follows:

North Warwickshire Local Plan 2006 (Saved Policies): ENV11 (Neighbour Amenities), ENV12 (Urban Design) and ENV13 (Building Design).

## REASONED JUSTIFICATION

The design of the extension respects the appearance of the main dwelling and is proportionate in terms of its scale and height. The extension is not considered to have a materially adverse impact on the residential amenities. It is considered that the proposal accords with saved policies ENV11, ENV12 and ENV13 of the North Warwickshire Local Plan 2006.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2013/0148

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant	Application Forms, Plans and Statement(s)	18/3/13
2	Case Officer	Correspondence	10/4/13
3	Atherstone Town Council	Representation	18/4/13
4	Agent	Revised plans	8/5/13
5			
6			
7			
8			

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

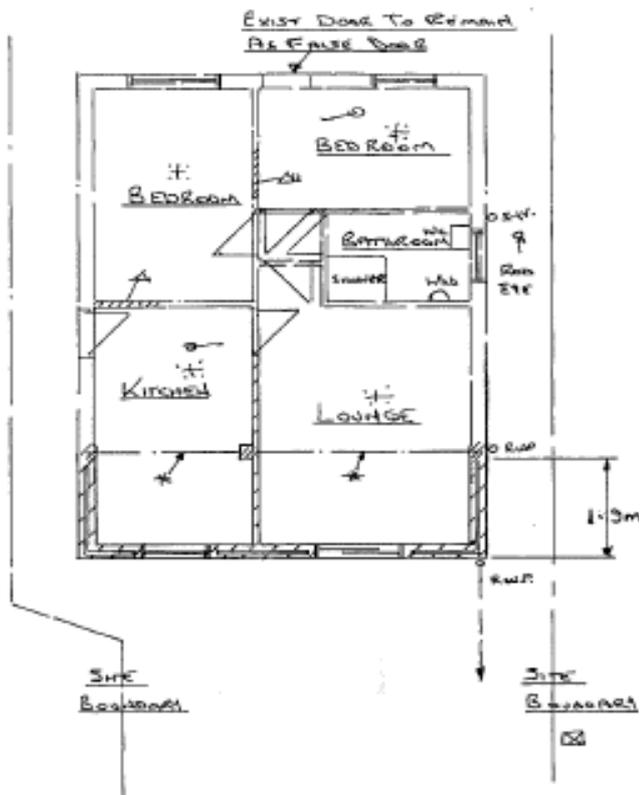
*A background paper will include any item which the Planning Officer has relied upon in preparing the report and formulating his recommendation. This may include correspondence, reports and documents such as Environmental Impact Assessments or Traffic Impact Assessments.*

Appendix A

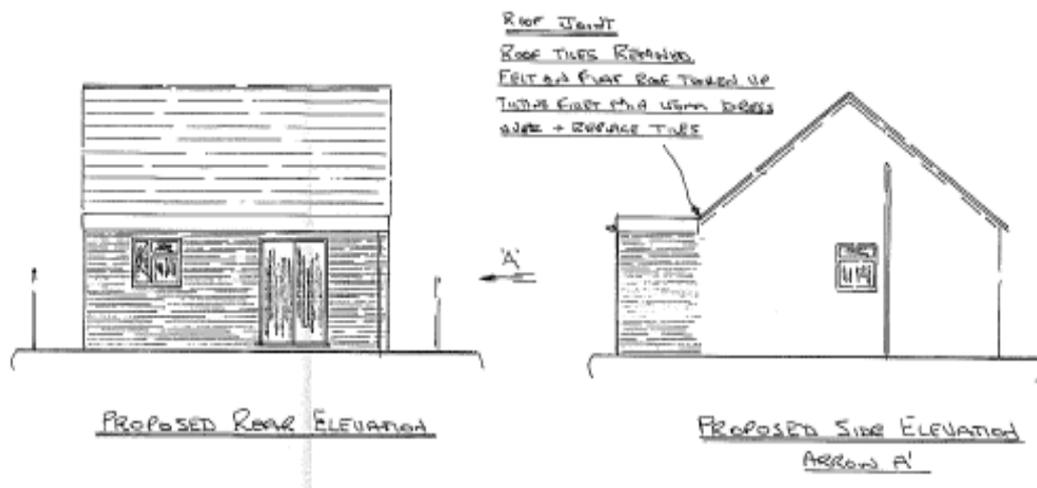


Appendix B





Floor layout



Elevations

**(8) Application No: PAP/2013/0168 and PAP/2013/0169**

**Father Hudson's, Coventry Road, Coleshill, B46 3EA**

**Demolition of existing buildings and proposed mixed residential and commercial development comprising 74 new dwellings; a retirement complex of 39 flats, a new office building, landscaping and ancillary structures (including a pumping station and an electrical substation), for**

**Bellway Homes Ltd**

## **Introduction**

These are major development proposals involving significant planning issues.

This report is thus intended to provide an introduction for Members. It will describe the site and the proposals together with identifying the relevant Development Plan background and outlining other material planning considerations. In particular these will include reference to the adopted 2005 Design Brief for the site; the National Planning Policy Framework 2012 and the present position in respect of emerging Development Plan policy. The major planning issues will also be identified together with some initial recommendations.

Members have already received a presentation from the applicant at pre-application stage and so there will already be some recognition of the development described later in this report.

## **The Site**

This is a substantial area of land on the east side of the Coventry Road to the south of the town centre. It amounts to 3 hectares and runs back from the main road to farm land at the rear. This “divide” is marked by a break of slope. The northern limit of the site is the existing residential cul-de-sacs of Walkers Way and The Coseleys, and the southern limit is the southern portion of the Father Hudson’s land holding. There is residential development to the west. Where it lies opposite to the site, this is characterised by larger detached dwellings set back from the Coventry Road, with a marked frontage of large deciduous trees and substantial hedgerows. The primary vehicle access into the site is central to the existing frontage. It leads into the site and also gives access to the St Joseph’s Care Home to the south of the application site.

The site is characterised by a “campus” appearance with individual buildings located throughout surrounded by open space. Each building is different in appearance and design but in general terms they are all substantial three storey brick built structures. Two prominent buildings front the site – St Mary’s and St Edwards. They are set well back from the main road and there is a parallel smaller service road in front of each with grass lawns and banks and a significant number of shrubs and mature conifers and trees. The main access into the site runs between them.

In the middle of the site are a number of other detached buildings – St Gerard's, St Philomena's, Old St Joseph's and St Edward's Convent together with a power sub-station. These generally follow a north/south grain parallel to the frontage. At the rear of the site is a more modern hospital extension, a number of old Ward buildings and a memorial garden. This part of the site is more open and overlooks the countryside to the east. The highest point of the site is at the rear of the old St Joseph's building. Whilst not in the application site, the Schools Commission occupy the former Father Hudson's Society offices in the building directly to the north.

The location of the site is generally illustrated at Appendix A. The buildings referred to above and the general existing site layout can be better appreciated by reference to Appendix B. These will be described in general terms below.

### **Background to the Father Hudson's Society**

A Catholic mission had been set up in Coleshill in 1850 and a Church to the south of the current site was first built in 1880. Father Hudson was responsible for setting up the first boy's home on the site and subsequent developments included the hospital and a nurses home. A school was added in 1914 and additional homes constructed for younger children in the 1920's. The offices were added at this time too. Following Father Hudson's death in 1936, memorial chapels were added. The site had become a complex for the residential care of poor Catholic children and orphans.

Not only have attitudes and practice changed towards such care, but Social Care legislation has also contributed towards making the buildings inappropriate for continued use. Whilst the Society's charitable aims remain the same, it is no longer associated just with residential children's care or indeed with those of Catholic faith. For instance a dementia care home and bungalows for people with physical and learning difficulties have been built on land to the south of the application site in the last twelve years. As a consequence of this change, the use of the Society's land holding at Coleshill has reduced. Its headquarter offices however remain on the site, temporarily located in the former hospital building. The Society works across the Archdiocese of Birmingham (Staffordshire, West Midlands, Warwickshire, Worcestershire and Oxfordshire) employing 250 staff. The majority work in Coleshill.

### **Information on the Existing Buildings**

A brief description of the existing buildings is now provided using the location references from Appendix B.

**St Edwards Boys Home (A)** is the substantial frontage building to the right of the main site access. It is a large two storey building dating from 1906 with later additions including a large service and kitchen wing and notably, a chapel at the rear. Its main form takes the shape of an "H" floor plan and its frontage is of symmetrical appearance following a Queen Anne revival period of the late 19<sup>th</sup> Century. It has a plain interior with no decoration or features.

**St Marys Nurses Home (D)** is the other substantial frontage building to the left of the main site access. It is a large two storey range constructed around 1930. It has a

symmetrical frontage comprising seven bays, with the broader three central ones set back and with a brick arched arcade. There are three rear extensions

**Old St Joseph's Convent (E)** was built in the late 1940's and is a low flat roofed structure.

**St Edwards Convent (C)** is a two storey brick structure with a tall roof built in the late 1940's with an unusual part colonnade.

**St Philomena's Convent (F)** dates from the late 1940's and is a two storey "T" shaped building with symmetrical brick and fenestration detail, including substantial attic/roof space with sloping hipped edges and dormer windows.

**St Gerard's Hospital (H)** dates from 1913 and is designed on "pavilion" lines in which the main components – the wards, sanitary blocks and nurses stations – are all separated into three parallel ranges and linked via a covered corridor that continues internally through the ranges. The appearance is a combination of neo-vernacular and neo-Baroque. A chapel was added after 1918 and is of rendered brickwork with bare brick and tile detailing. It is a tall single storey five bay building with external buttresses, exaggerated eaves and a narrow projecting apse.

**The New Hospital Extension (H)** is a late 20th Century highly fenestrated flat roof addition in the north east corner of the site, linked to St Gerard's via a covered corridor.

**The Old Wards (I)** is a complex built shortly after the hospital so as to provide an "open air" ward. It is a single storey complex consisting of a main ward and a service wing. The main range is of steel or iron construction with some rendered brickwork and a significant proportion of fenestration.

**The Temporary Buildings (G)** are long timber framed structures with mock timber external decoration.

**The Power House (B)** is the original brick building from 1920 to house the site's generator. It has six bays and fenestrated gable ends.

**The Green Areas** are mainly open lawns but there is small informal memorial garden on the eastern boundary in the area of the old ward blocks.

## **The Proposals**

In short these amount to the demolition of all of the existing buildings as described above and their replacement with new residential development and an office block.

The redevelopment scheme can be described in three sectors. The first is the construction of 74 new dwellings for Bellway Homes. Two new three storey blocks of 12 town houses would be located on the site of and with the same building line as St Mary's fronting the Coventry Road. These would reach to 13 metres at their ridge lines thus being taller than St Mary's. They would be set back from the main road with an access drive and visitor parking provision in front. Car parking area would be

provided at ground floor level with access from the rear. The remaining dwellings comprising the Bellway Homes segment of the site are shown to the rear of this main frontage block. There are different elements to this too. Immediately at the rear of the new block is a group of four smaller three storey blocks (11 metres tall). Adjacent to these is a three storey block of ten units to accommodate the “care” accommodation. At right angles to this are two storey terraces of 9 of the “affordable” units. The remaining three are in a similar nearby terrace. The remaining units would take the form of a normal residential layout comprising detached two storey properties. The mix of the 52 “non-affordable” units is 13 five bedroom houses; 37 four bedroom houses and 2 two bedroom houses. The 22 “affordable” units would comprise 10 apartments for those requiring “care” and twelve, two and three bedroom family houses.

The second part of the scheme is a new 39 roomed three storey apartment block for McCarthy and Stone. This would front the Coventry Road and stand on the site of the present St Edwards. It would be 12 metres tall and have the same building line. The area in front between the block and the road would be for pedestrian access only. This three storey block takes the shape of a “T” in footprint. The block would provide 21, one bedroom and 18 two bedroom apartments for retired people together with communal facilities. 29 car parking spaces are shown to be provided at the rear.

The third part of the scheme is a new office block for the Society itself. They used to be sited in the building currently occupied by the Schools Commission referred to above, but presently occupy rooms in the former hospital at the rear of the site. They would thus move into new accommodation in the current proposals. This would comprise a three storey rectangular block 14 metres tall at the rear of the McCarthy and Stone block and provide some 860 square metres floor space. 49 car parking spaces are to be provided.

These sectors fit together around the central vehicular access to the site off the Coventry Road. This is the present access. It would pass between the new three storey frontage blocks as described above and then lead into the main Bellway Homes estate.

The proposal includes a 30% provision for affordable housing. This is restricted to the Bellway Homes part of the development – thus resulting in 22 such units. Of these ten would be socially rented one and two bedroom apartments; seven would be two and three bedroom houses at affordable rent and five would be two and three bedroom shared ownership houses. The social rented accommodation would be owned and managed by the Society as “supported housing with care accommodation for those with learning disabilities”. The remainder would be delivered in partnership with the Waterloo Housing Association.

The proposed layout is illustrated at Appendix C. The proposed elevations are best shown in a series of street scenes and these are at Appendices D and E. The Society’s proposed office building is at Appendix F.

## **Supporting Documents**

A significant number of supporting documents have been submitted with these applications. These are referred to below together with a brief description of their content and conclusions. Copies of these can be viewed on the planning pages of the Council's web site or Members can refer to officers if they require any document.

### **i) Planning Statement**

This sets out the applicant's planning case for the proposals. It describes the site and its history together with an account of pre-application work with officers, Members and the local community. The Statement describes the proposals and the conclusions from the supporting evidence base. There is an outline of Development Plan policy and National Planning Policy as well as other material considerations. The document concludes with an outline of the applicant's conclusions on the main planning issues involved in the assessment of the proposals.

### **ii) Heritage Statement**

This has been prepared to describe the "significance" of the site from a heritage point of view. It sets out a detailed history of the site and of the Father Hudson's Society itself thus providing an overall historic context. Each of the buildings is then described in some detail – particularly from an architectural perspective. These are extensive descriptions of both the external and internal appearance of the buildings. There is a concluding section on each building which addresses the architectural merit of each and assesses what contribution they make to the character and appearance of the Conservation Area. These conclusions are then all brought together in the final sections of the report with reference to the Conservation Area Report, the 2005 Development Brief and to the planning history. An Impact Assessment is then made. The overall conclusion is that none of the buildings are of great architectural value and that redevelopment is "the only real way in which the modern Father Hudson's Society can retain its historic links with Coleshill now that the original purposes for which it was founded are no longer needed".

### **iii) Design and Access Statement**

This describes the existing character and appearance of the site, its setting and the individual buildings. It discusses the main design criteria in dealing with proposals on a cleared site, such as to reflect the setting and the character of the site within a new built form. The reasoning behind the proposed layout is explained as is the approach to built form – the taller buildings at the frontage, their mass and setting and the views through the site to the countryside beyond. There is a substantial analysis of the proposed appearance of the new development. This includes both the main blocks and the residential areas, illustrating how local character and design features seen elsewhere in the town have been reflected within the proposals. The Statement concludes by showing how the proposals have evolved both through an understanding of the character of the existing site and also through pre-application and community involvement.

#### **iv) An Ecological Appraisal**

This concludes that the present site has little ecological value and is not subject to any statutory or non-statutory designations. Surveys show that no protected, rare or notable flora species were identified; that there was evidence of bat roosts in three of the buildings with the frontage trees providing suitable foraging habitat, a wide range of bird species associated with an urban environment, but no notable reptile or amphibian habitats. The only likely ecological impacts from the proposals are thus concluded to be the loss of possible of bat roosts and bird nesting sites. However these impacts can be resolved through suitable mitigation measures and enhancing bio-diversity on the site through appropriate landscaping.

#### **v) Archaeological Assessment**

There are no designated or non-designated heritage assets associated with the site. It has low potential for remains pre-dating the post-medieval period and the later extensive 20<sup>th</sup> Century building works would have caused ground disturbance reducing archaeological potential. There is possibly interest in the south western corner for a post-medieval house and further investigation could be made prior to work commencing on site.

#### **vi) Transport Assessment**

This document assesses the proposed traffic generation likely from the development proposals against all national and local transport policies and standards. It also studies the context of the site and the patterns, scope and scale of existing traffic movements. Account has also been taken of public transport provision and accident records. It concludes that satisfactory vehicular access can be achieved and that the overall impact can be absorbed onto the existing highway network without off-site mitigation works.

#### **v) Noise Assessment**

This concludes that there are no unusual mitigation measures needed beyond sound reduction to all habitable rooms being included in their construction and that the frontage blocks to the Coventry Road should have alternative forms of background ventilation.

#### **vi) Flood Risk Assessment**

This concludes that there is adequate capacity in the public foul sewer located in Coventry Road to accept flows from the proposals. Because of the site levels, a foul water pumping station will be needed.

In terms of surface water provision then ground tests have shown that soakaways are not possible resulting in the need for a sustainable drainage system. Two systems are proposed because to the site levels. The front of the site will connect to the existing combined sewer in Coventry Road but with restricted discharge rates. The rear of the site will drain into existing surface water in farmland to the east attenuated by culverts and oversized pipes. There is an additional requirement to

respond to flooding risks. Hence additional storage is to be built into the surface water system. Filtration trenches are also to be added to reduce run off and capture contaminants. Adoption and maintenance is proposed to be through Severn Trent Water and a management company.

#### **vii) Landscape Appraisal**

This appraisal addresses the landscape and visual effects of the proposals on the town, the Conservation Area and the surrounding landscape. This concludes that as the development does not extend further to the east than the existing and that the proposal here is for detached two storey development with gaps between, that there is unlikely to be any visual impact or difference to the current situation. The overall scale of the new built form with the larger blocks towards the frontage will not affect this conclusion. There are also retained views through the site. The report concludes that the overall visual impact will be minimal.

#### **viii) Tree Survey**

There are no Tree Preservation Orders on the site but as this is within a designated Conservation Area then they are all protected. 129 individual or groups of trees on the site have been surveyed. Nine of these have been identified as being of high quality and value – comprising lime, sycamore, London Plane and Western Hemlock. The moderate quality trees include Cypress, Lombardy Poplar and a Cedar. The low quality trees are largely self set cypress trees but also include ornamental varieties. The survey concludes that thirteen trees will need to be removed in any event because they are all dead, in poor condition or presently structurally dangerous. Trees that might need to be felled because of their proximity to the proposed new development are considered in the following document.

#### **ix) Arboricultural Impact Assessment**

This assessment compares the tree survey findings with the proposed layout particularly taking account of the root protection areas of the trees. This assessment concludes that 65 low quality trees should be removed along with 24 medium quality trees and one high quality tree – 90 in total. The low quality trees are substantially self-set cypress and ornamental trees. The medium quality ones are generally semi-mature cypresses but also include Lombardy Poplars, silver birches, a sweet chestnut and a lime tree. The high quality tree proposed for felling is a mature London Plane tree.

#### **x) Statement of Community Involvement**

This outlines how the applicant has engaged with the local community prior to the submission of the application. It describes the public exhibition of the proposals in October 2012, as well as the presentations given to the Coleshill Town Council and to the Borough Council. Summaries of the responses and comments made during the exhibition are included in the document. Over 200 visitors attended this event and 108 comments sheets were returned. Of these, 81% supported demolition and 7% expressed a wish to retain the buildings in case further opportunities arose for

their re-use. 85% supported the proposed layout and 91% supported the design of the new buildings.

#### **xi) Marketing Summary**

This document describes the marketing undertaken by the Society from early 2005 until the end of 2012. This outlines the interest shown in the site and follows through a number of cases where that interest was subsequently withdrawn. Reasons mentioned include the Council's affordable housing policies and the economic downturn.

#### **xii) Affordable Housing Delivery**

This describes how the offer of 30% provision is to be made up by tenure type and accommodation including how the units would be managed. A Section 106 Agreement is suggested.

#### **xiii) Materials Schedule**

This provides a complete list of the materials to be used in the Bellway Homes part of the development proposals. These are a mixture of weathered red and dark orange bricks with russet and grey tiles.

#### **xiv) Financial Appraisal**

This document is confidential and not available for public viewing. It provides an assessment of the viability of refurbishing both St Edwards and St Marys within a comprehensive mixed use redevelopment for the site. The model assessed is to retain these two buildings for residential use and to develop the remainder of the site residentially using the proposed layout, and including the Society's new offices, but omitting the McCarthy and Stone involvement. This concludes that such a scheme would not be viable.

### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policies 1 (Social and Economic Regeneration), 2 (Development Distribution), 3, (Natural and Historic Environment), 8 (Affordable Housing) and 11(Quality of Development) together with policies ENV1 (Protection and Enhancement of Natural Landscape), ENV4 (trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Conservation), ENV16 (Listed Buildings), HSG1 (Housing Allocations), HSG2 (Affordable Housing), HSG5 (Special Needs Accommodation), TPT1 (Transport Considerations) and TPT 6 (Vehicle Parking).

### **Other Material Planning Considerations**

The National Planning Policy Framework 2012 ("the NPPF") – Sustainable Development (Paragraphs 7 to 16), Core Planning Principles ( Paragraph 17), Housing (Paragraphs 47 to 55), Transport (Paragraphs 29 to 41), Good Design

(Paragraphs 56 to 68), Historic Environment ( Paragraphs 126 to 141), Ensuring Viability and Deliverability ( Paragraphs 173 to 177).

The Council's Submission draft Core Strategy (Feb 2013) - Policies NW1 (Settlement Hierarchy), NW3 (Housing Development), NW4 (Split of Housing Numbers), NW5 (Affordable Housing), NW8 (Sustainable Development), NW 10 (Quality of Development), NW11 (Natural and Historic Environment), NW13 (Green Infrastructure) and NW19 (Infrastructure).

The Council's Preferred Options for Site Allocations (Consultation Document 2013) – COL 4 (Coleshill)

The Council's Development Brief for Father Hudson's (2005) – The whole of the application site is shown within a "redevelopment" area with the retention of St Edwards and St Mary's.

The Coventry Road Conservation Area Designation Document (1995) – This recognises the unique position of the Society's land holding to Coleshill as part of its social history and as represented by the resultant built heritage within that holding. The character of the Area is the prime consideration here rather than its individual buildings.

New Homes Bonus

## **Observations**

### **a) Introduction**

This site is located within the defined settlement boundary for Coleshill and is allocated for residential redevelopment in the existing 2006 Local Plan. The emerging replacement Plan identifies Coleshill as a suitable settlement to accommodate a further 275 houses up to 2028, and the recently published consultation document on the preferred options for new housing locations retains the 2006 allocation for this particular site. As a consequence Members are reminded that there is no objection in principle to new residential development on this site. The issues for the Board in determining the applications will thus be around how that development is provided. The 2005 Development Brief provides the starting point here as it explicitly expresses the wish to retain St Edwards and St Marys. The remainder of the site is thus seen as the area for new development.

Clearly there will be a number of technical matters to resolve – are there satisfactory highway and drainage solutions and can adverse archaeological and ecological impacts be mitigated or not? These matters will need to be explored with the benefit of responses to the consultations now underway. The applicant's own supporting documentation provides the starting point for this, but the conclusions reached therein will need to be verified externally through the consultation process. These matters will be dealt with in the later determination report.

At this preliminary stage therefore it is important to focus on the key issues which the Board will have to assess in its assessment of the proposals and its final determination. These are now identified.

## **b) The Heritage Asset**

The Heritage Asset here is the character and appearance of the designated Coventry Road Conservation Area. The NPPF makes it quite clear that Local Planning Authorities should firstly identify and assess the significance of any heritage asset that might be affected by a development proposal. It then has to identify the impact of that proposal on this significance. The Authority's objective is to try and minimise the conflict between the retention of the asset and the benefits from the proposal. Hence if there is no or limited harm to the asset, then that gap is likely to only be slight. As a consequence amendments and revisions to the proposal might not be needed or if they are, they should be minor alterations. On the other hand if there is substantial harm, then that gap is likely going to be very wide and even further amendments or revisions might not close it. In this latter case, the NPPF says that if the proposed development would lead to substantial harm or the total loss of significance of an asset, then the Local Authority should refuse consent unless it can be demonstrated that that harm or loss, is necessary to achieve substantial public benefits that outweigh that harm or loss.

Therein lies the most critical issue of all in the determination of this application. Are the public benefits arising from this proposal substantial enough to outweigh the loss of all the buildings within a significant proportion of the Conservation Area through complete demolition and subsequent re-development?

The NPPF assists the Council here in identifying a number of criteria against which to assess this issue. They are:

- does the nature of the heritage asset prevent all reasonable uses of the site?
- can a viable use be found for the heritage asset for the medium term through appropriate marketing that will enable its conservation?
- that demonstrable evidence is provided to show that conservation through grant-funding or some form of charitable or public ownership is not possible, and,
- whether the harm or loss is outweighed by the benefit of bringing the site back into use.

The Board will need to explore each of these criteria.

Establishing the significance of the heritage asset here and the degree of impact of the proposals on that is currently the subject of assessment by officers and English Heritage. However at the present time, officers are starting from the position that the proposals will lead to substantial harm and substantial loss because of the very nature of the proposals – demolition and complete re-development. As such, considerable attention will need to be given to the applicant's evidence base relating to the four criteria identified above. Notwithstanding the amount of supporting documentation already submitted, officers consider that insufficient attention has

presently been given to these four matters. The following paragraphs will amplify this.

The first two criteria are related. They are about providing evidence to show that the applicant has sought reasonable alternative uses for the site and the buildings, and if in so doing the buildings can be retained at least in the medium term. Whilst it can be acknowledged that the existing buildings on site are not appropriate for modern day social care provision, there is no evidence submitted to show that a range of alternatives has been fully considered, marketed and evaluated. The financial appraisal referred to above only deals with the possible conversion of St Mary's and St Edwards to residential use. There is however no analysis of why any of the existing buildings, and particularly St Mary's and or St Edwards could not be used for the Society's offices or indeed let as offices to the general market. There is neither any evaluation as to whether any of the buildings could not be used for community uses. It is neither known if the site or any of the buildings have been marketed for alternative uses. Moreover there is no analysis of whether the frontage facades of St Mary's and/or St Edwards can be retained with new accommodation provided to the rear of the two buildings. In all of these circumstances it is considered that the applicant needs to be far more explicit in his evidence base if he is going to fully satisfy this criterion. This is particularly the case if he is to overcome the requirements of the 2005 Development Brief.

The third criterion is not addressed at all in the submitted evidence. This is a significant failing as it calls for "demonstrable" evidence that conservation is not possible through either grant funding or other means. This is particularly pertinent in this case given that the Society is a registered Charity and therefore there is already a substantial degree of "charitable ownership". Whilst it is understood that any Charity should seek "best value", the social objectives of the Society and the clear statement set out in the NPPF have not been addressed and appear to be out of balance.

The final criterion is really a concluding balance of all of the issues and clearly this will need to be undertaken in the final determination report when all of the evidence is assessed.

Officers therefore remain to be persuaded by the applicant that the four criteria specifically set out in the NPPF can be satisfactorily met by this development. These comments have been referred to the applicant in advance of the Board's meeting and it is understood that additional work is being undertaken to address these matters.

### **c) Quality of the New Development**

Notwithstanding the shortcomings set out above, the Council if it is to support a scheme involving complete demolition of buildings within a substantial part of a Conservation Area, will still have to ensure that the quality of the new either matches or improves that which is presently on site, and that it aligns with the character and appearance of that Area. This will be considered in a later determination report when the representations of English Heritage and the local community are known.

#### **d) Housing Provision**

This particular issue is not necessarily about numbers. The 2006 Local Plan allocation here was for 150 dwellings and the emerging Core Strategy with the attendant Preferred Options Consultation Document refers to 120 units. So the current application for 113 units is clearly in line with the emerging plan for this site. The key issue here is the amount of affordable housing to be provided within this overall total. The 2006 Local Plan requires 40% provision on site and the emerging Plan refers to 40% provision in the Borough as a whole, as well as looking towards more flexible delivery than just through on-site provision alone. The proposal includes 30% on-site provision. However this figure has not been justified through a financial appraisal. It is also confined to the Bellway Homes proposals without any reference to the McCarthy and Stone proposal. The site should be treated as a whole and officers have requested that much further work be undertaken in establishing the level of provision for the whole site and how that might be delivered. The proposed provision is clearly welcomed, but it has not arisen from a systematic financial analysis or appraisal. Additionally, and this relates to the issue looked at under (b) above, the fact that the Society is a charity and provides “social care” housing as part of its objectives, should be a material consideration here. It is considered that full advantage has yet to be shown in this proposal as a consequence of this consideration.

Officers therefore remain to be convinced that the current proposal can be supported because of these shortcomings. Similarly here, the applicant is aware of these concerns and seeking to address them.

#### **e) Other Matters**

There is one further consideration that has to be addressed as it is referred to in the supporting documentation and indeed in the responses that were received at the time of the exhibition. Recent sexual abuse incidents have been directly linked to this site and this may have affected the general public’s perception of the Society to the extent that the buildings – and particularly St Edwards - are now seen as an “unwanted symbol” of an unfortunate recent past. Members are asked to treat this perception with caution. Whilst understandable, it is considered that this should not be a material planning consideration that alone leads to support of any proposal to demolish all of the buildings on site.

#### **Conclusion**

There is a significant amount of work still to do with this application as outlined above, before a full and balanced assessment can be made. The applicant should be given the opportunity to address these due the fact that the site is a preferred site for new housing in the town, and because of the weight to be given to the NPPF criteria.

Members too should take the opportunity to visit the site not only to assess the character and appearance of the whole site and its setting, but also to view the individual buildings.

## **Recommendations**

- a)** That Members visit the site prior to final consideration of the application, and
- b)** That the applicant be requested to address the matters raised in this report.

## BACKGROUND PAPERS

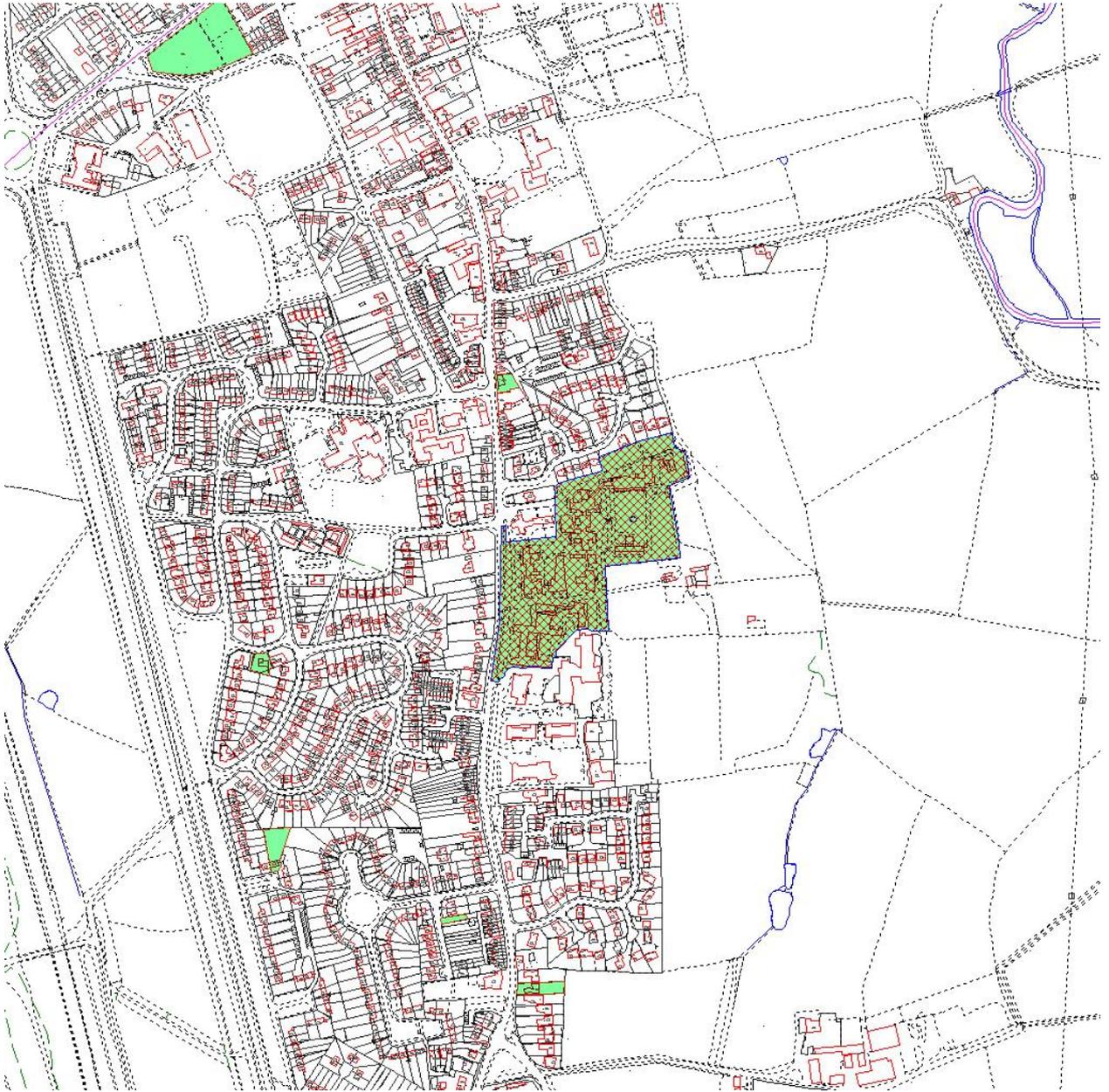
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2013/0168

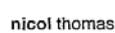
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	04/04/13
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			

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

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

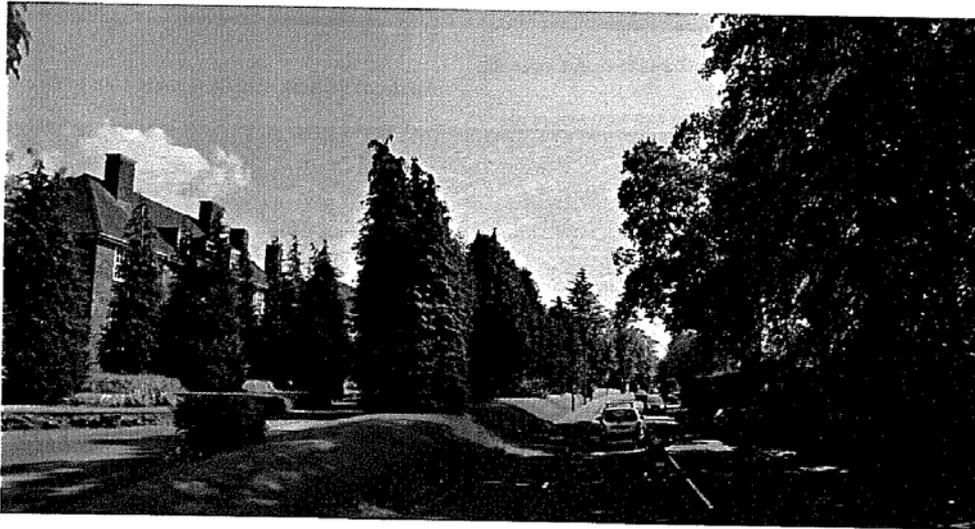
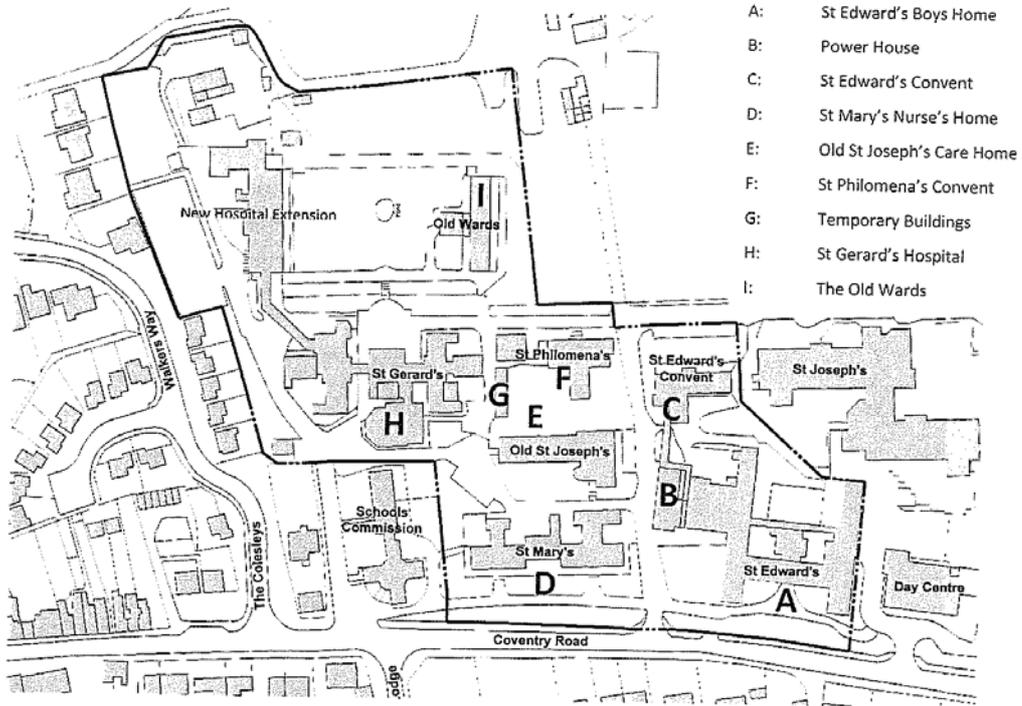


APPENDIX A



Client: Father Hudson's Society, Bellway Homes Ltd, McCarthy & Stone			
Project Description: Proposed Residential Development, Retirement Housing & New Offices at Coventry Road, Coleshill			
Drawn by:	04/04/2013		
Scale Number:	BS579	PL	05
Scale:	1:1250	1:1	C

APPENDIX B



Coventry Road

### Proposed Residential Development, Retirement Housing & New Offices at Coventry Road, Coleshill

**APPENDIX C**  
Development summary. RECEIVED

Residential: Bellway Homes. - 4 APR 2012

North West arrow  
Borough Council

Private Housing (70%)	Area	Area	Area
AR - Arley	4bed/2st @ 1,103 ft <sup>2</sup>	2no = 2,206 ft <sup>2</sup>	
ADH - Hobbourne	4bed/2st @ 1,538 ft <sup>2</sup>	2no = 3,076 ft <sup>2</sup>	
AW - Aulwood	3bed/2st @ 1,625 ft <sup>2</sup>	4no = 6,500 ft <sup>2</sup>	
BR - Burslem	3bed/2st @ 1,759 ft <sup>2</sup>	2no = 3,518 ft <sup>2</sup>	
BU - Burslem	4bed/2st @ 1,477 ft <sup>2</sup>	2no = 2,954 ft <sup>2</sup>	
CO - Compton	3bed/2st @ 2,090 ft <sup>2</sup>	4no = 8,360 ft <sup>2</sup>	
CL - Clons	3bed/2st @ 1,336 ft <sup>2</sup>	2no = 2,672 ft <sup>2</sup>	
DK - Deulwath (PH)	4bed/3st @ 1,150 ft <sup>2</sup>	2no = 2,300 ft <sup>2</sup>	
HE - Herley	4bed/2st @ 1,265 ft <sup>2</sup>	4no = 5,060 ft <sup>2</sup>	
ML - Malvern	3bed/2st @ 1,175 ft <sup>2</sup>	2no = 2,350 ft <sup>2</sup>	
OX - Oxford Special	2bed/2st @ 620 ft <sup>2</sup>	2no = 1,240 ft <sup>2</sup>	
UP - Upton	4bed/2st @ 1,225 ft <sup>2</sup>	4no = 4,900 ft <sup>2</sup>	
WA - Watton	4bed/2st @ 1,020 ft <sup>2</sup>	2no = 2,040 ft <sup>2</sup>	
<b>Total:</b>		<b>52no. = 72,215 ft<sup>2</sup></b>	

Affordable Housing (30%)

Apartment type A1	1bed/0st @ 491 ft <sup>2</sup>	2no = 982 ft <sup>2</sup>
Apartment type A2	1bed/0st @ 538 ft <sup>2</sup>	2no = 1,076 ft <sup>2</sup>
Apartment type A3	2bed/0st @ 522 ft <sup>2</sup>	5no = 2,610 ft <sup>2</sup>
Apartment type A4	2bed/0st @ 550 ft <sup>2</sup>	1no = 550 ft <sup>2</sup>
S23 - House	2bed/2st @ 150 ft <sup>2</sup>	7no = 1,050 ft <sup>2</sup>
S23 - House	3bed/2st @ 326 ft <sup>2</sup>	5no = 1,630 ft <sup>2</sup>
<b>Total:</b>		<b>22 no. = 15,552 ft<sup>2</sup></b>

Combined total number of units: 74 no., = 87,767 ft<sup>2</sup>

Overall residential mix:

4no. 1 bed apartments:	(5%)
6no. 2 bed apartments:	(10%)
7no. 3 bed houses:	(9%)
1no. 3 bed houses:	(1%)
25no. 4 bed houses:	(17%)
15no. 5 bed houses:	(15%)

Density:  
32 dwellings per hectare.

Parking provision:  
100% parking for apartments & 2 bed houses.  
250% parking for 3, 4 & 5 bed houses.  
All external garages included from parking provision calculation.

**Residential: McCarthy & Stone.**

21 no. 1 bed apartments. Area range: 49.32m<sup>2</sup> to 56.87m<sup>2</sup>  
18 no. 2 bed apartments. Area range: 74.87m<sup>2</sup> to 89.47m<sup>2</sup>

Guest suite.  
Communal lounge.  
Laundry Room.  
Internal refuse store.  
Private gardens.

**Total:**  
39 no. apartments

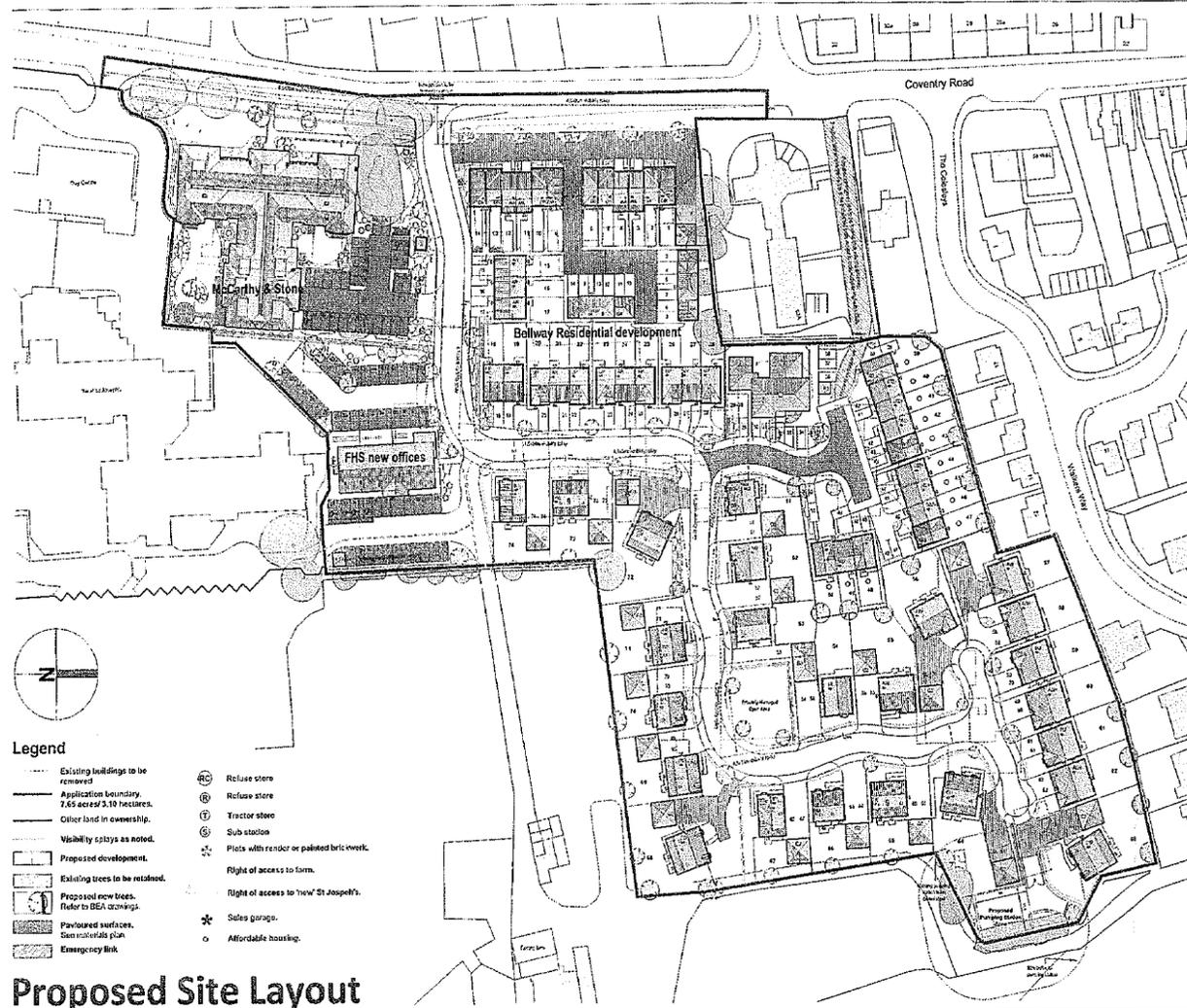
Density:  
99 dwellings per hectare.

Parking provision:  
74% provision (29 parking spaces includes 2no. disabled parking spaces).

**Offices: Father Hudson Society (FHS).**

Ground Floor:	263.32m <sup>2</sup>
First Floor:	263.32m <sup>2</sup>
Second Floor:	263.32m <sup>2</sup>
<b>Total:</b>	<b>789.96m<sup>2</sup></b>

Parking Provision:  
Disabled: 2no.  
Visitors: 17no.  
Disabled: 4no.  
**Total:** 23no.



- Legend**
- Existing buildings to be removed
  - Application boundary
  - 7.5% access to 10 meters.
  - Other land in ownership.
  - Visibility splays as noted.
  - Proposed development.
  - Existing trees to be retained.
  - Proposed new trees. Refer to BEA drawings.
  - Paved surfaces. See materials plan.
  - Emergency link
  - Relieve store
  - Refuse store
  - Tractor store
  - Sub station
  - Plots with render or painted brickwork.
  - Right of access to farm.
  - Right of access to 'new' St Joseph's.
  - Sides garage.
  - Affordable housing.

## Proposed Site Layout



Client: Father Hudson & Society, Bellway Homes Ltd, McCarthy & Stone

Project Description: Proposed residential development, retirement housing and new offices at Coventry Road, Coleshill

Drawing No: FHS/13/001

Scale: 1:500

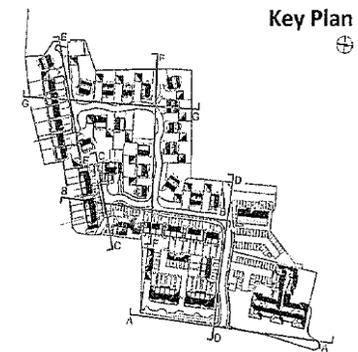
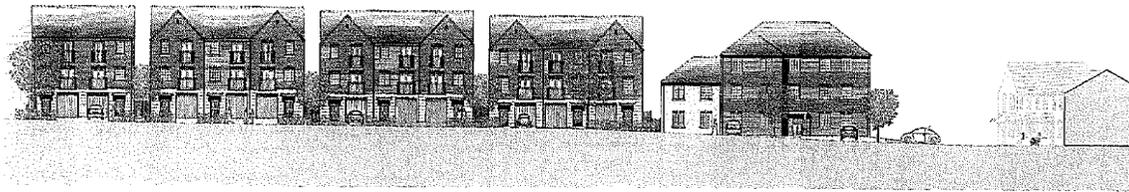
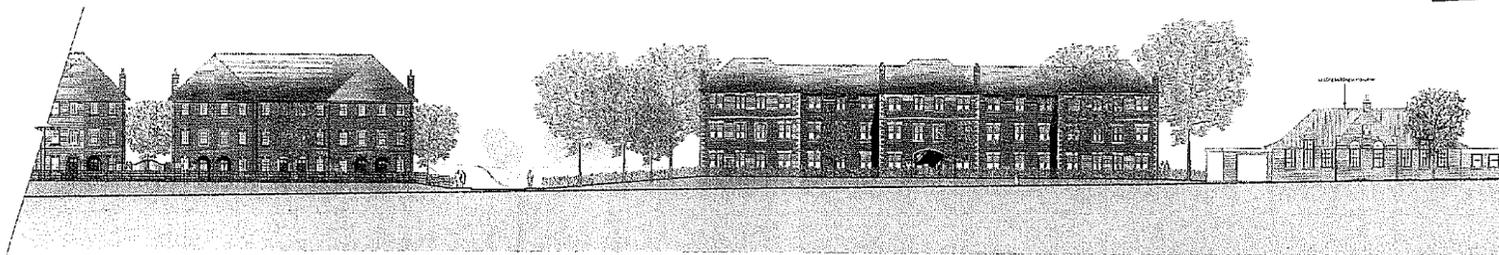
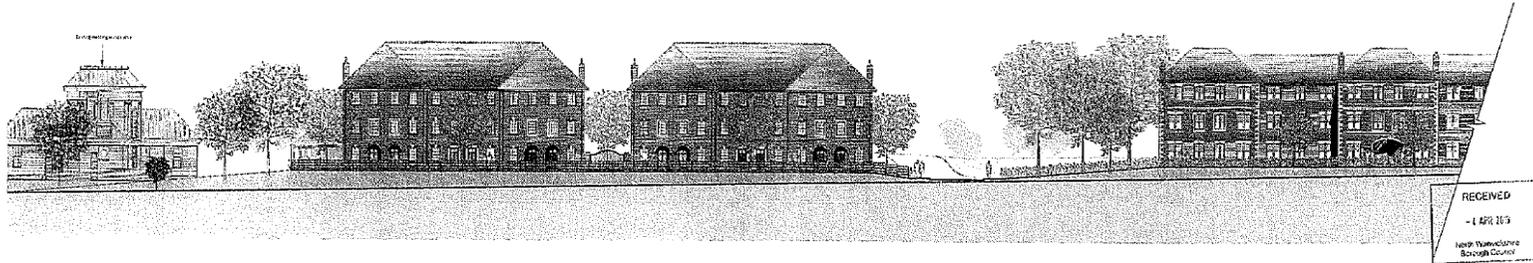
Date: 12/08/13

Author: J. Smith

Check: P. Jones

Drawn: B. White

PL 00 W



\* All existing buildings and trees shown are indicative

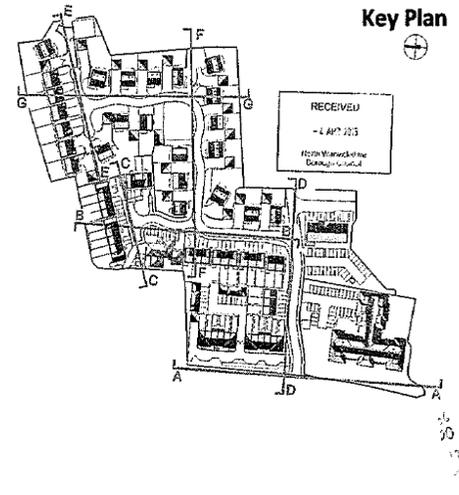
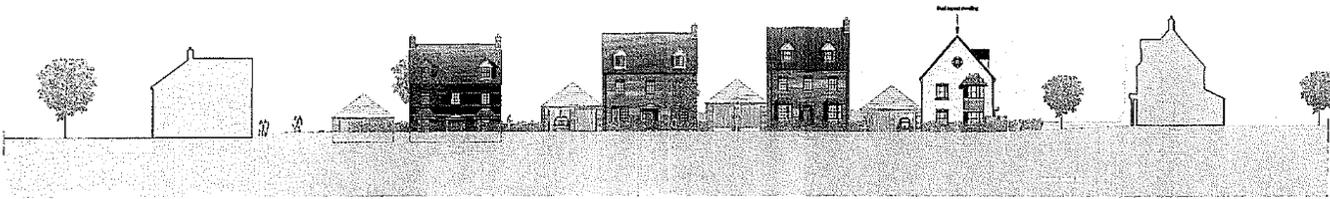
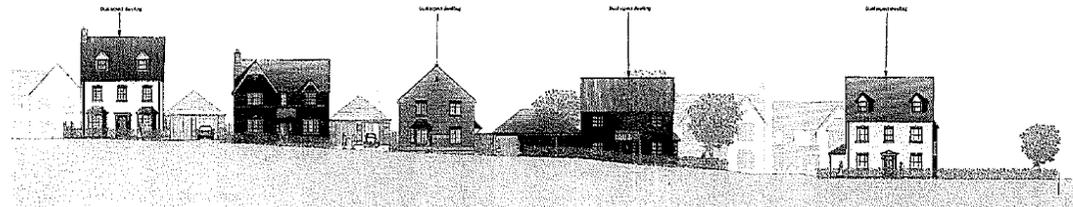
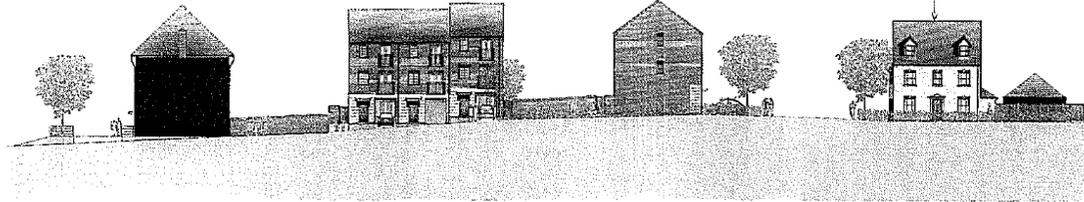


Stephen Lowe Associates

nicol thomas



Client: Father Hudson's Society, Bechtel Homes Ltd, McCarthy & Stone			
Project Description: Proposed Residential Development, Retirement Housing & New Offices at Coventry Road, Coleshill			
Drawing No:	Revision No:	Revision Date:	Revision Description:
65570	PL 009		D
Scale: 1:200 (A1)	Drawn: Col. J. D.	Checked: J. D.	Approved: J. D.



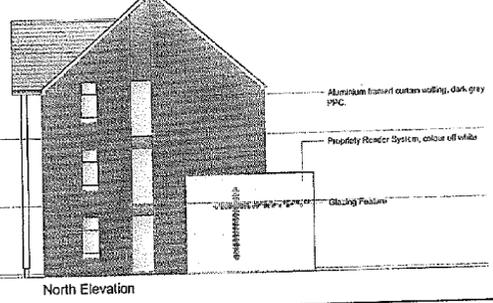
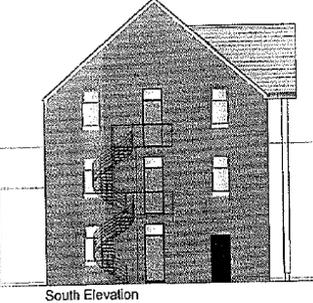
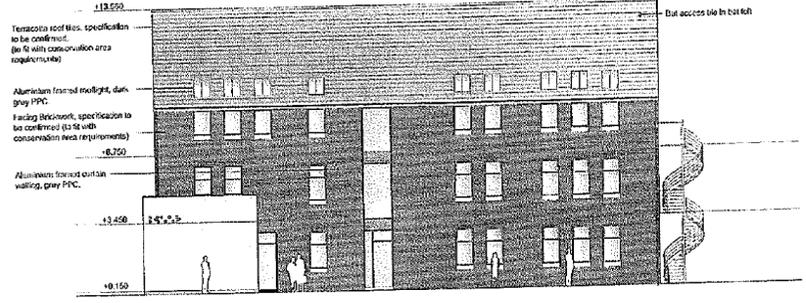
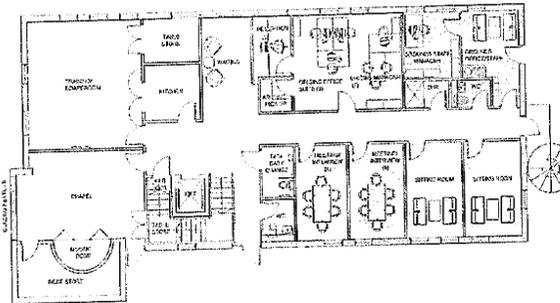
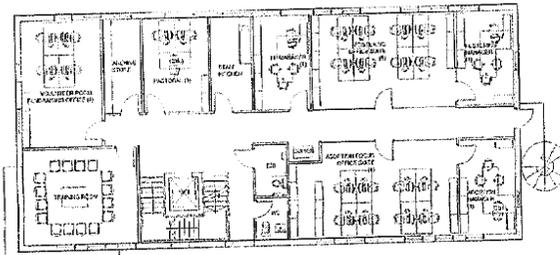
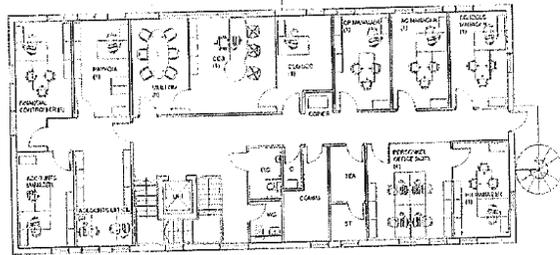
\* All existing buildings and trees shown are indicative

**Bellway**  **Father Hudson's SOCIETY**  
**McCarthy & Stone** *Later Life, Create Life*  
**TD TREBOR DEVELOPMENTS** **CORSTORPHINE + WRIGHT** **Stephen Lowe Associates** **nicol thomas**

Client: Father Hudson's Society, Bellway Homes Ltd, McCarthy & Stone			
Project Description: Proposed Residential Development, Retirement Housing & New Offices at Coventry Road, Coleshill			
Drawing Title: Proposed Street Elevations D-D to G-G			
Drawing Number:	B5579	PL	010
Issue Number:			C
Scale:	1:200	Date:	Feb 2013
Drawn by:	AT	Checked by:	AT

Do not scale from this drawing. All dimensions must be checked and verified before any work commences on site or in the field. This drawing is not to be used for any other purpose without the written consent of the author. The author shall not be held liable for any errors or omissions in this drawing.

Proposed Residential Development, Retirement Housing & New Offices at Coventry Road, Coleshill **APPENDIX F** Proposed Father Hudson's Society Office: Plans & Elevations



CORSTORPHINE + WRIGHT    Stephen Lowe Associates    nicol thomas



Client:	Father Hudson's Society, Bellway Homes Ltd, McCarthy & Stone
Project Description:	Proposed Residential Development, Retirement Housing & New Offices at Coventry Road, Coleshill
Drawn by:	PL
Checked by:	PL
Date:	Feb 2013
Scale:	1:200
Sheet No.:	201
Revision:	C

**(9) PAP/2013/0178**

**Hill Cottage, Fillongley Road, Coleshill, B46 2QU**

**Replacement of existing garage/storage building with a single-storey detached building and a detached domestic garage, for**

**Mr and Mrs Paul Woodford**

### **Introduction**

The application is brought before the Planning and Development Board as a Legal Agreement has been provided as part of the application.

### **The Site**

The site lies wholly within Green Belt and outside of any identified settlement boundary and some distance from the nearest settlement. The land is elevated from the highway and sits beyond a screen of hedgerow and trees. Hill Cottage lies to the east end of the site surrounded by ornamental gardens, lawn and patio. A former stable building and double garage have been removed from the site and the proposed building is currently under construction. To the west of the site is a paddock, and the vehicle access to the site is being blocked with soil as shown in Appendix 2. The application building is accessed from the highway via a relatively steep access which levels out in front of the building to provide a hard standing. There is lawn adjacent to this. The former buildings were of a simple timber construction.

### **The Proposal**

It is proposed is for the replacement of a garage / storage building with a single storey detached building and a detached domestic garage. The garage / storage building was originally erected as stables in the 1980s and later extended. The proposal will be for a garage and further building to provide ancillary accommodation for the applicant's elderly mother.

The plans for the proposal can be viewed in Appendix 1, and relevant photographs can be viewed in Appendix 2.

The proposal is as follows:

- The outbuilding to form the ancillary residential accommodation is stepped along the frontage, and therefore the maximum dimensions are 12.8 metres wide, 6.9 metres in projection and 3.95 metres to the roof ridge. The height to the chimney is 4.9 metres.
- The building is 1.2 metres away from the garage.
- The garage is 5.66 metres wide, 5.5 metres in projection and 3.6 metres high to the roof ridge.

The changes to the 2012 approved scheme as set out below and which can be viewed in Appendix 3 are set out below:

- The ancillary building has moved 0.4 metres from the western boundary.
- A new fireplace and chimney has been added to the scheme.
- The gap to the garage has increased to 1.2 metres.
- The footprint of the garage has been revised to make it wider, with approximately the same footprint.

An existing field boundary access to the west is proposed to be blocked up.

The application is accompanied by a legal agreement covering the use of the outbuilding.

The proposed attached legal agreement is to control the use of the building so it is ancillary to the main dwelling house; does not to provide a separate access, not to provide separate facilities and not to sell the building separately from the main dwelling house.

The proposed building has been partly constructed as can be viewed in the photographs in Appendix 2, along with photographs of the previous building.

The agent has asked for condition 5 of the 2012 approved planning permission as set out in Appendix 3 to be removed as it restricts the use of the building, and instead, in order to address the Council's concerns the legal agreement has been submitted. This is at Appendix 4. The agreement sets out that the building will be ancillary to the adjoining dwelling house (Hill Cottage); no separate access; not to provide separate utility services; not to sell separately; and within 3 months the existing access is to be closed up.

## **Background**

Various permissions were given in the 1980s for the creation of a garage and access to the eastern side of Hill Cottage. These have not been implemented and have now expired. The stables were originally granted in the mid-1970s, although it seems these were not implemented – instead a later consent in 1983 allowed for the stables as they now stand. Extensions to the dwelling were permitted in 1987 and a new access consented in the same year. A conservatory was added in 1992 and a first floor bedroom extension was permitted in 1996. In 2012 (application number PAP/2012/0423) was approved for a garage and further building to provide as ancillary living accommodation for the applicant's elderly mother.

## **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), ENV2 (Green Belt), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design).

## **Other Relevant Material Considerations**

NWBC Core Strategy Submission Version 2013

Government Advice: National Planning Policy Framework (NPPF).

Supplementary Planning Guidance: A Guide for the Design of Householder Developments (2003).

## **Representations**

No representations have been received.

## **Observations**

The principle of development on the site has already been established through the 2012 planning application and the decision notice and approved plans as viewed at Appendix 3. The footprint and scale of the works as proposed are similar to the 2012 approval apart from the changes as set out earlier in the report. The main consideration focuses around the principle of development here, given the proposed use and its location.

### **(a) Sustainability**

As noted, the proposal lies at some significant distance from the nearest settlement and there is no suitable public transport past the site. In principle this is not a suitable location for further residential accommodation. However attention is given to the manner in which the accommodation is to be provided and its relationship with Hill Cottage. It is to be an ancillary accommodation building however it will still have dependence on Hill Cottage. The use of the ancillary outbuilding can be controlled by condition and also through the legal agreement as set out in Appendix 4. The intended occupant is also quite elderly and thus unlikely to venture from the proposed building except when with younger family members already occupying Hill Cottage. These two factors are material to set aside Core Policy 2 so to support the proposal in principle.

### **(b) Green Belt**

Regard is had to saved policy ENV2 and the guidance within the NPPF. The proposal is for a new residential building in the Green Belt. This is normally inappropriate development in principle, harmful to the openness of the Green Belt. There are however material and very special circumstances here:

- The NPPF allows for the replacement of a building provided it remains in the same use and is not materially larger than the one it replaces. On face value there is conflict with the use element of this exemption – the building being replaced has a dual use (equestrianism and residential), and there would thus be a change in use involved. However the applicant provided in the 2012 planning application a significant bundle of evidence to demonstrate that the land to the west of Hill Cottage bounded by the

building and access has been and continues to be used as part of the residential curtilage. Some of the assertions were still not supported, but coupled with the now residential storage use of the entire building; there is sufficient evidence here to conclude that on the balance of probability a Certificate of Lawfulness could be granted. This is material in reaching the conclusion that no change of use comes about under this proposal and the increase in volume and floor space is marginal so to comply with this exemption under the NPPF. This is of significant weight as the proposal is thus not inappropriate development.

- Notwithstanding the above, very special circumstances have also been advanced. In light of the above conclusion, it must also be acknowledged that a similar outbuilding for incidental use could be erected on this site. Indeed the design of the proposal is such so to demonstrate that the same “cube” could be placed on the site. Whilst Case Law makes it clear that one cannot erect a building for incidental purposes and then use it for primary residential purposes; the impact on openness of the Green Belt is no different in either scenario.
- The personal circumstances of the mother are also noted, although not sufficient in weight alone to allow the proposal. However the ancillary nature of the proposal coupled with her mobility/condition is of some weight here.

In light of the above, the impact on the openness of the Green Belt is minimal.

### **(c) Access and Design**

The existing vehicular access will remain and continue to serve the main dwelling and the proposal. Level pedestrian access is also provided. The overall design of the building is considered appropriate in scale and mass, with the height suitably low to minimise its prominence; and whilst not detailed, materials can be conditioned to match or be subject to prior approval.

### **(d) Removal of condition 5**

The previous approval as set out in Appendix 3 set out in condition 5, that the rooms should not be used for cooking or dining. It is considered that some form of dining may take place in the building, along with maybe the use of a microwave to heat food. Therefore in order to address this issue and maintain the building as ancillary to the main dwelling house, the legal agreement as covered in Appendix 4 secures the control over the building, and this thus considered to be acceptable and allows control of the building.

### **Recommendation**

That subject to the Section 106 being acceptable, the application be granted subject to the following conditions:

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

## REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 9834/20 Rev A received by the Local Planning Authority on 5 April 2013.

## REASON

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

3. The accommodation hereby approved shall be occupied solely in connection with, and ancillary to the main dwelling at Hill Cottage, Fillongley Road, Maxstoke, B46 2QU; and shall not be sold off, sub-let or used as a separate unit of accommodation.

## REASON

To prevent unauthorised use of the property and so to reflect Development Plan policy.

4. The garage hereby approved shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwelling known as Hill Cottage, Fillongley Road, Maxstoke, B46 2QU as such.

## REASON

To prevent unauthorised use of the property.

5. The facing bricks used shall be TBS Middleton Blend (Traditional brick and stone), and the roof tiles used shall be Sandtofft 20/20 clay tiles colour antique / black. The approved materials shall then be used.

## REASON

In the interests of the amenities of the area.

## Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), ENV2 (Green Belt), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design).

2. The proposed development lies within a coal mining area which may contain

unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. It should also be noted that this site may lie within an area where a current licence exists for underground coal mining. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

3. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from [www.ukradon.org](http://www.ukradon.org) if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property. For further information and advice on radon please contact the Health Protection Agency at [www.hpa.org.uk](http://www.hpa.org.uk). Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on (024) 7637 6328 for further advice on radon protective measures.

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

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

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

## **Justification**

The proposal carries conflict with Core Policy 2 in principle. However the nature and use of the proposal offsets the harm brought about here. The proposal is also considered to be appropriate development within the Green Belt and is without harm to visual amenity or accessibility for all potential users. The use of the ancillary building is controlled by a legal agreement and relevant conditions. The proposal is otherwise in accordance with saved policies ENV2, ENV11, ENV12, ENV13 and ENV14 of the North Warwickshire Local Plan 2006, adopted supplementary planning guidance 'A Guide for the Design of Householder Developments (2003)' and national policies as set out in the National Planning Policy Framework.

## BACKGROUND PAPERS

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

Planning Application No: PAP/2013/0178

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	5/4/2013
2	Case officer	Email to agent	19/4/2013
3	Agent	Email to case officer	22/4/2013
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			

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

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





## Appendix 2 – photographs

Below are photographs of the position of the site upon the site visit



Below are the previous buildings on the site.





**Appendix 3 – 2012 approved scheme and decision notice**



North Warwickshire  
Borough Council

Mr Gareth Jones  
The Tyler-Parkes Partnership Ltd  
66 Stratford Road  
Shirley  
Solihull  
B90 3LP

Jeff Brown BA Dip TP MRTPI  
Head of Development Control Service  
The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1DE

Telephone: (01827) 715341  
Fax: (01827) 719225  
E Mail: [PlanningControl@NorthWarks.gov.uk](mailto:PlanningControl@NorthWarks.gov.uk)  
Website: [www.northwarks.gov.uk](http://www.northwarks.gov.uk)

Date: 17 October 2012

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

## DECISION NOTICE

Full Planning Application

Application Ref: **PAP/2012/0423**

### Site Address

Hill Cottage, Fillongley Road, Maxstoke, Coleshill, Warwickshire,  
B46 2QU

Grid Ref: Easting 424194.09  
Northing 287976.63

### Description of Development

Replacement of existing garage/storage building with a single-storey detached building and a detached domestic garage

### Applicant

Mr & Mrs Paul Woodford C/O Tyler-Parkes Partnership Ltd

Your planning application was valid on 29 August 2012. It has now been considered by the Council. I can inform you that:

Planning permission is **GRANTED** subject to the following conditions:

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

#### REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered 9834/01 Rev A received by the Local Planning Authority on 16 October 2012.

#### REASON

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

Authorised Officer: \_\_\_\_\_

Date: 17 October 2012



3. The accommodation hereby approved shall be occupied solely in connection with, and ancillary to the main dwelling at Hill Cottage, Fillongley Road, Maxstoke, B46 2QU; and shall not be sold off, sub-let or used as a separate unit of accommodation.

REASON

To prevent unauthorised use of the property and so to reflect Development Plan policy.

4. The garage hereby approved shall not be used for any purpose other than for purposes incidental to the enjoyment of the dwelling known as Hill Cottage, Fillongley Road, Maxstoke, B46 2QU as such.

REASON

To prevent unauthorised use of the property.

5. The use of the rooms within the ancillary accommodation building hereby approved shall be subsequently maintained for the purposes as outlined on the approved plans, and no cooking or dining facilities shall be created within these rooms.

REASON

To ensure the building remains dependent on Hill Cottage as the primary residence for the life of the development, thus preventing the creation of an independent unit of accommodation representing an unauthorised use of the property, contrary to Development Plan policy.

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

REASON

In the interests of the amenities of the area.

INFORMATIVES

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), ENV2 (Green Belt), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design) and ENV14 (Access Design).
2. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. It should also be noted that this site may lie within an area where a current licence exists for underground coal mining. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com).

Authorised Officer: 

Date: 17 October 2012



**SCALE**

M	0	2.5	5.0	7.5	10.0	12.5
M	0	5.0	10.0	15.0	20.0	25.0
M	0	10.0	20.0	30.0	40.0	50.0
M	0	15.0	30.0	45.0	60.0	75.0
M	0	20.0	40.0	60.0	80.0	100.0

Project	9884	01	A
Scale	1:1250	1:1250	1:1250
Sheet	3.3		HK XX

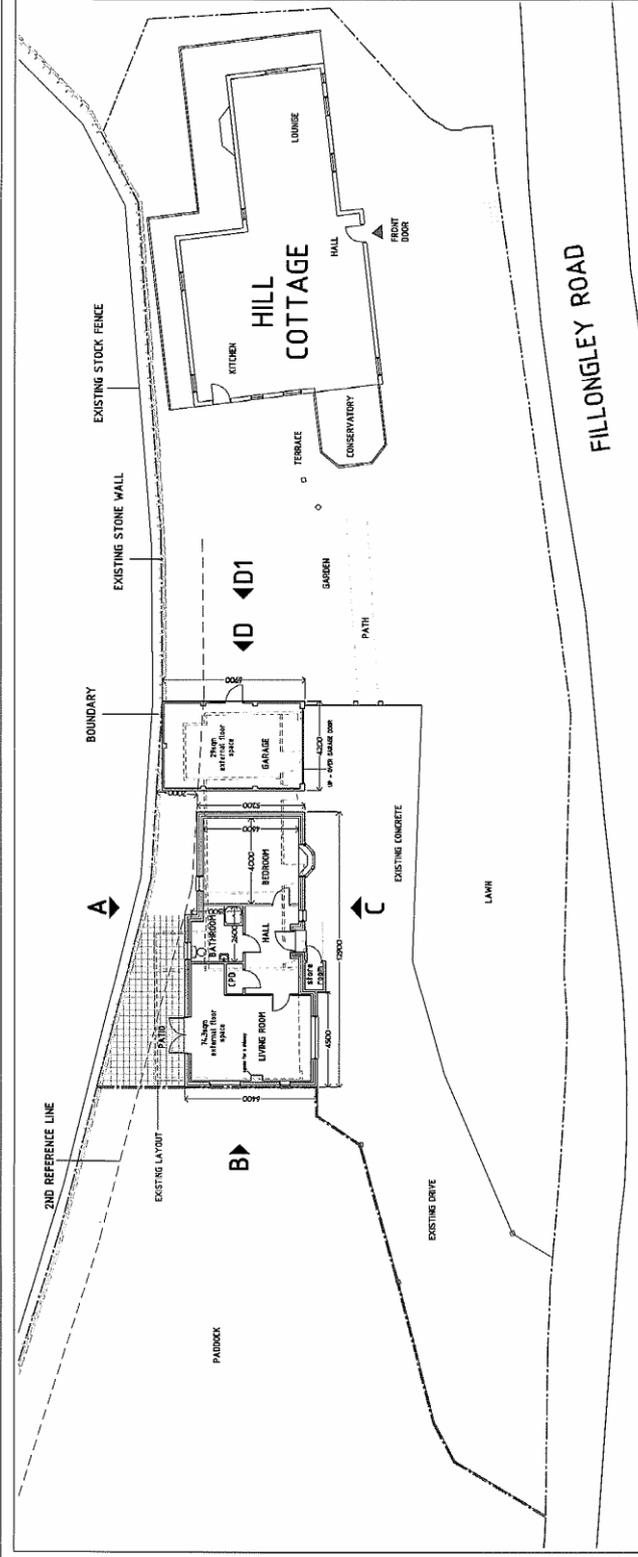
**tyler parkes**  
 Planning & Architecture  
 Local Applications Group  
 10000 100th Ave  
 Suite 100  
 Denver, CO 80231  
 Phone: 303.751.1000  
 Fax: 303.751.1001  
 www.tylerparkes.com

Revisions	Date
1. SITE PLAN REVISION	10/20/2011

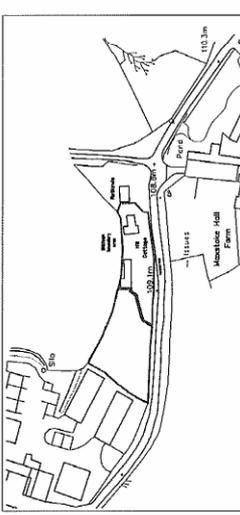
**Project Title and Location**  
 HILL COTTAGE  
 10000 100th Ave  
 Suite 100  
 Denver, CO

**Client**  
 Mr. Paul W. Hill

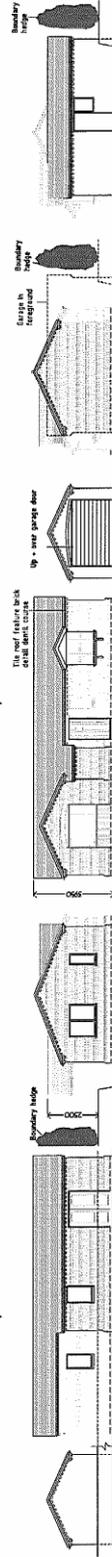
**Drawing Title**  
 EXISTING SITE PLAN  
 SITE LAYOUT



**PROPOSED SITE PLAN, SCALE 1:100**



**EXISTING SITE PLAN, SCALE 1:250**



**ELEVATION A, SCALE 1:100**      **ELEVATION B, SCALE 1:100**      **ELEVATION C, SCALE 1:100**      **ELEVATION D, SCALE 1:100**      **ELEVATION D1, SCALE 1:100**



## Appendix 4 – legal agreement

Dated the            day of            2013

PAUL WOODFORD AND GILLIAN PATRICIA WOODFORD

AND

HSBC BANK PLC

AND

NORTH WARWICKSHIRE BOROUGH COUNCIL

### UNILATERAL UNDERTAKING

Pursuant to Section 106 of the Town and Country Planning Act 1990

Planning Application Ref:

Relating to the proposed development at

Hill Cottage

Fillongley Road

Coleshill

Birmingham B46 2QU

2.2.2. to any Act of Parliament refers to the Act as it applies at the date of this Deed and any later amendment or re-enactment of it

3 Recitals

3.1 The Owner is the owner of Hill Cottage Fillongley Road Coleshill Birmingham which is registered at HM Land Registry under Title No. WK307031 subject to a charge in favour of HSBC Bank dated 26<sup>th</sup> July 2001 registered as entry 3 on the Charges Register of the said Title No. WK307031. Office copy entries of the said Title are attached hereto.

3.2 The Council is the local planning authority within the meaning of the 1990 Council Act for the area within which the site is situate and by whom the obligations on the part of the Owner herein contained will be enforceable

3.3 The Owner wishes to secure the development of the building and the application has been submitted to the Council for that purpose.

3.4 The Council considers and the Owner accepts by the terms of this Undertaking that the building should not take place without the Owner entering into the obligations contained in this Undertaking

4. Legal Effect

4.1 This Deed is made pursuant to Section 106 of the 1990 Act to the intend that it shall bind the Owner and their successors in title and their Assigns and all persons deriving title to all or part of the Site as provided in those Sections and the covenants contained in Clause 5 hereof are planning obligations for the purposes of Section 106 of the 1990 Act

4.2 This Deed and the obligations in Clause 5 shall come into effect upon the grant of Permission

4.3 This Undertaking is a local land charge and will be registered as such

5. The Owners Covenants

In the event of the Council granting permission to the Owners so as to bind the building hereby covenants with the Council as follows:-

5.1 To only use the building as habitable accommodation and ancillary to the adjoining dwellinghouse coloured yellow on the plan

5.2 Not to provide a separate access to the building from Fillongley Road or to at any time provide separate car parking provisions for the same

5.3 Not to provide separate utilities facilities for use by the building but to ensure that such facilities are shared jointly with the adjoining dwellinghouse although sub-meters to register the gas and electricity consumption are permitted.

5.4 Not to sell or in any way dispose of the building separately from the adjoining dwellinghouse

5.5 To close, within 3 months of the first occupation of the building as habitable accommodation ancillary to the adjoining dwellinghouse, the existing field access coloured brown on the plan, and to make good the highway verge

6 Costs

6.1 The Owner hereby agrees to pay the Council's reasonable legal costs not exceeding £450 plus VAT incurred in connection with the approval and completion of this Deed

7 Rights of Third Parties

For the avoidance of doubt none of the provisions of the Contract (Rights of Third Parties) Act 1999 shall apply to this Deed

8. Consent

The Mortgagee hereby consents to the completion of this Undertaking and acknowledges that from the date hereof the Site shall be bound by the covenants restrictions and stipulations contained herein

9. Covenants by the Council

9.1 The Council shall within 8 weeks of the execution of this Undertaking grant the planning permission to save that the Council shall not be in breach of this obligation if it shall be prevented from issuing the planning permission by a Court Order

EXECUTED and delivered as a Deed the day and year first hereinbefore written

SIGNED and delivered as a deed by

[Redacted signature]

The said PAUL WOODFORD

x P W x Paul Woodford

In the presence of: *E J Tarrington*  
Name EMILY JANE TARRINGTON  
33 MAXSTOCK ROAD  
address SUTTON COLDFIELD  
B73 5DR

SCHOOL ADMINISTRATOR  
SIGNED and delivered as a deed by

[Redacted signature]

The said GILLIAN PATRICIA WOODFORD

In the presence of: *E J Tarrington*  
Name EMILY JANE TARRINGTON  
33 MAXSTOCK ROAD  
address SUTTON COLDFIELD  
B73 5DR  
SCHOOL ADMINISTRATOR

occupier

## **General Development Applications**

**(10) Application No: PAP/2013/0211**

**Mallard Lodge Site, Marsh Lane, Water Orton, B46 1NS**

**Removal of existing B2 and office buildings, storage and car parking. Erection of new industrial building with associated offices partly over existing lake formed due to gravel extraction. Landscaping including car parking and goods delivery area, for**

**Flexdart Limited**

### **Introduction**

This application is referred to the Board for determination for two reasons. Firstly it comprises the erection of a new building, albeit a replacement, of such a size to warrant it being a “departure” from the Development Plan being in the Green Belt. It is thus a case, should the Council consider supporting the proposal, which would need referral to the Secretary of State for him to decide whether it is a proposal that he should decide following a Public Inquiry. Secondly, it will require consideration of an existing Section 106 Agreement.

This report will provide a description of the site; outline the proposal as well as record a brief planning history of the site. The relevant policies of the Development Plan will be identified and a number of issues will be raised which the Board will need to focus on in its eventual consideration of the application.

A site visit is recommended.

### **The Site**

Mallard Lodge is located immediately to the west of the Lakeside Industrial Estate – occupied by Beaver Metals - on the north side of Marsh Lane and to the immediate east of the fishing lake also on this side of the Lane. The M42 Motorway and M6 Toll roads form the eastern boundary to the estate and there is rough agricultural land to the south of the Lane beyond which is the Birmingham/Derby railway line. Water Orton itself is about 800 metres to the west. To the north is the River Tame – some 60 metres distant, beyond which is agricultural land.

There is a group of residential properties immediately to the south of the site fronting the Lane – ie. “The Willows” is a detached house and Rose Cottages is a terrace of four properties.

The Industrial estate comprises three relatively modern large metal clad buildings fronting the Lane together with others to the rear and older original industrial buildings at the far eastern end. Members will probably know this site better as the Beaver Metals extraction works. The new buildings were approved over ten years ago as part of a major redevelopment scheme at that time.

The application site itself is located between the lake and this estate. The southern half comprises a former dwelling house – Mallard Lodge – now used as offices, together with a collection of buildings used for car repairs and workshops. The garage /auto use has been here since the 1940's. The northern portion of the site is part of the lake. The application site, whilst in the same ownership as the lake and the estate, is separate from the estate with its own vehicular access from Marsh Lane – two access points - and with no internal connections or links with the neighbouring estate.

The ground levels here are flat with very little discernible differences between the site, the estate, and the land to the south. The Motorway infrastructure to the east is raised over Marsh Lane and along the estate's eastern boundary. The railway line is in partial cutting.

The estate is largely devoid of any tree or hedgerow, whereas the frontage to Mallard Lodge has tree and hedgerow cover. The western boundary of the application site also has mature tree and hedgerow cover. There is a significant hedgerow along the northern boundary of Marsh Lane running from the site into Water Orton.

The existing general layout is illustrated at Appendix A with an aerial photo at Appendix B.

## **Background**

There is quite a lengthy planning history here but in short, the whole of the site of the lake was the subject of sand and gravel extraction in the 1950's. The lake was the outcome of the restoration works.

The estate site was first granted permission in 1951 for the "reclamation of non-ferrous metals" and there have been a whole series of permissions for additional buildings and plant in association with that use since then. Permission was also granted for the dredging of the on-site lagoons which had been used in the settling process. Redevelopment schemes to improve the on-site processes as legislation affecting operations on the site and responding to market trends, led to planning permissions for new buildings and revised layouts. These have resulted in the current appearance of the site. As part of the most recent permission, a Section 106 Agreement was signed to retain the lake as a recreational fishing lake and for nature conservation purposes.

Mallard Lodge was originally a petrol filling station and garage workshop. The dwelling and the associated buildings have over time been used for a variety of industrial uses, mainly connected with the motor and auto concerns. Permission was granted for the use of the house for offices as early as 1990. There is an Established Use Certificate for the site for B2 industrial uses.

## **The Proposals**

In short this is to incorporate the Mallard Lodge site fully into the adjoining estate. All of the buildings in the southern half of the application site would be demolished; part

of the lake to the north in-filled, and a new general industrial building (Use Class B2) constructed at the rear with associated integral offices overlooking the lake. One vehicular access onto Marsh Lane would be retained with the site “opened up” so as to link internally with the adjoining estate. The southern portion of the application site would be used for car parking with substantial landscaping and new earth mounding, especially along the western boundary with the lake. All HGV access would be via the adjoining Beaver Metal estate and thus its access further east on Marsh Lane. Only cars and lighter vehicles would use the remaining single access to the application site.

The area of existing buildings on the application site to be demolished is 770 square metres and the footprint of the proposed would be 2100 square metres. The existing structures are all mainly two storey buildings. The height of the new metal clad building would be 9 metres to the taller of its two ridgelines and 6 metres to the lower.

The taller section of the new building would become available for use by the expanding Beaver Metal Company and the smaller would be available for another industrial tenant.

The overall proposed layout is at Appendix C and the elevations proposed are at Appendix D.

## **Supporting Documents**

The applicant has submitted a number of supporting documents.

**A Habitat and Bat Survey Report** concludes that the application site itself is of minimal nature conservation value. There are no signs of bats either in the house or other buildings, but measures should be included in the new development. The lake is locally important to wildlife, being part of a wetland river corridor and supporting a population of water birds and foraging otters. The development will affect the existing lake bank side but this is presently largely barren and provisions should be designed into the replacement so as to enhance the bio-diversity of the lake as well as protecting it from the new development. Drainage must be agreed with the Environment Agency. The development will lead to a 7.2% loss in the area of the lake but this would not reduce the significance of its value and there are opportunities to deliver bio-diversity enhancement.

**An Arboricultural Impact Statement** includes a tree survey and concludes that the trees in the application site itself are of varied quality but that those on the western boundary provide useful screening and are of amenity value. There are 21 individual trees and ten groups of trees on the whole site. There is only one high quality tree on site- a Scots Pine – and that is to be retained. Overall given the new planting proposed, there is no “tree” reason to refuse this application given the location of the proposed new building, but that new planting and landscaping should enhance the tree cover.

**A Geo-environmental and Geo-technical report** has been completed. This concludes that it is unlikely from an environmental point of view that there are likely

to be any significant barriers to development. Ground gas percolation and the removal of contamination in the form of metals from part of the site will need to be addressed. There is however a risk that there may be undiscovered elevated hydrocarbons and these will need to be remediated if found in order to protect water resources. The construction work will be feasible but carry a cost due to the reclamation of land from the lake. Further intrusive investigation work is necessary.

**A Flood Risk Assessment** has been undertaken. The site is in Flood Zone 3a but protected by formal flood defences designed to a 1 in 100 year standard of protection. The site currently receives flood warnings from the Environment Agency. As the proposal is for industrial and office development, the location is suitable providing the appropriate tests are passed. The report concludes that they are subject to mitigation measures. These include higher finished floor levels; internal infrastructure precautions and warning systems. Surface water will be discharged to a drainage ditch on the west side of the site which will provide additional basins and suppressions to reduce run-off levels.

**A Transport Assessment** is provided. This concludes that the development would increase traffic flows by 5% in peak hours which is not considered to be adverse and the closure of one of the existing access points will be a benefit.

**A Design and Access Statement** describes the site and how the proposals have been designed.

### **Development Plan**

Saved policies of the North Warwickshire Local Plan 2006 – Core Policies 1 (Social and Economic Regeneration), 2 (Development Distribution), 3 (Natural and Historic Environment) and policies ENV1 (Protection and Enhancement of the Natural Environment), ENV2 (Green Belt), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV7 (Development of Existing Employment Land Outside of Development Boundaries), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design) and TPT6 (Vehicle Parking)

### **Other Material Planning Considerations**

The National Planning Policy Framework 2012 – Protecting Green Belt; Building a Strong Competitive Economy, Meeting the Challenge of Climate Change and Flooding, Conserving and Enhancing the Natural Environment.

The Council's Core Strategy Submission Document 2013 – NW1 (Settlement Hierarchy), NW2 (Green Belt), NW7 (Employment Land), NW8 (Sustainable Development), NW11 (Natural and Historic Environment), NW12 (Green Infrastructure) and NW14 (Economic Regeneration)

## **Observations**

The site is in the Green Belt. Given the size of the new replacement building it falls over the threshold set out in the Government's 2009 Direction, in that should the Council be minded to support the development, it would need to be referred to the Secretary of the State to see if he wishes to "call-in" the application for his own determination following a Public Inquiry. If the Council resolves to refuse planning permission, it can do so without referral.

Being in the Green Belt, the Board will first need to establish whether or not the proposed development is appropriate or not appropriate development. The NPPF provides the criteria on which this assessment will be made. If it is concluded that the development is appropriate then the presumption is that it should be supported. If not, then the presumption is one of refusal. In these circumstances the applicant has to demonstrate the material planning considerations which in his view are of such weight to amount to the very special circumstances required to override the presumption of refusal. The Board has to decide whether that should be the case or not.

In short the applicant here is asking Members to assess the application against the criterion in the NPPF relating to the complete redevelopment of previously developed land, and to weight the economic development argument as substantial in enabling the economic regeneration of the site and safe-guarding the future of the established industries on the adjoining land with the employment opportunities provided.

There are significant other considerations here as well. Most notable are the likely impact of the nature conservation value of the lake; the potential for the risk from and for flooding, and the contamination issues given the nature of the adjoining land. Additionally Members will need to address the traffic impact; the likely effects on the residential amenity of the residential occupiers opposite the site and assess the quality of the appearance of the new buildings and its surroundings.

There is an added issue here in that there is an existing Section 106 Agreement affecting the lake securing its use as a recreation fishing lake. The impact of the proposals on this will need to be addressed too.

## **Recommendation**

That the Board visits the site prior to determination of this application

## BACKGROUND PAPERS

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

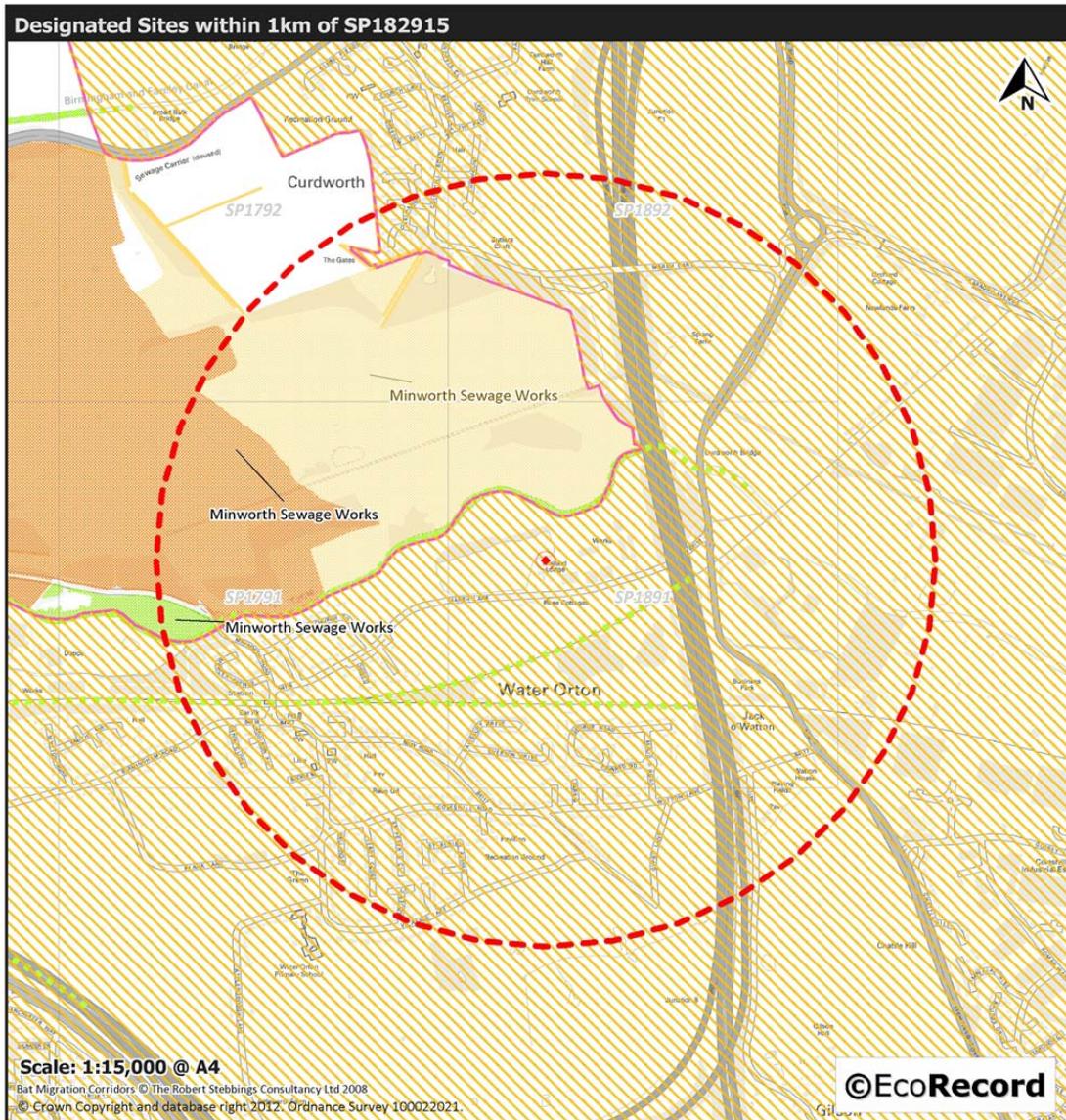
Planning Application No: PAP/2013/0211

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms, Plans and Statement(s)	19/04/13
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
29			
30			
31			
32			
33			

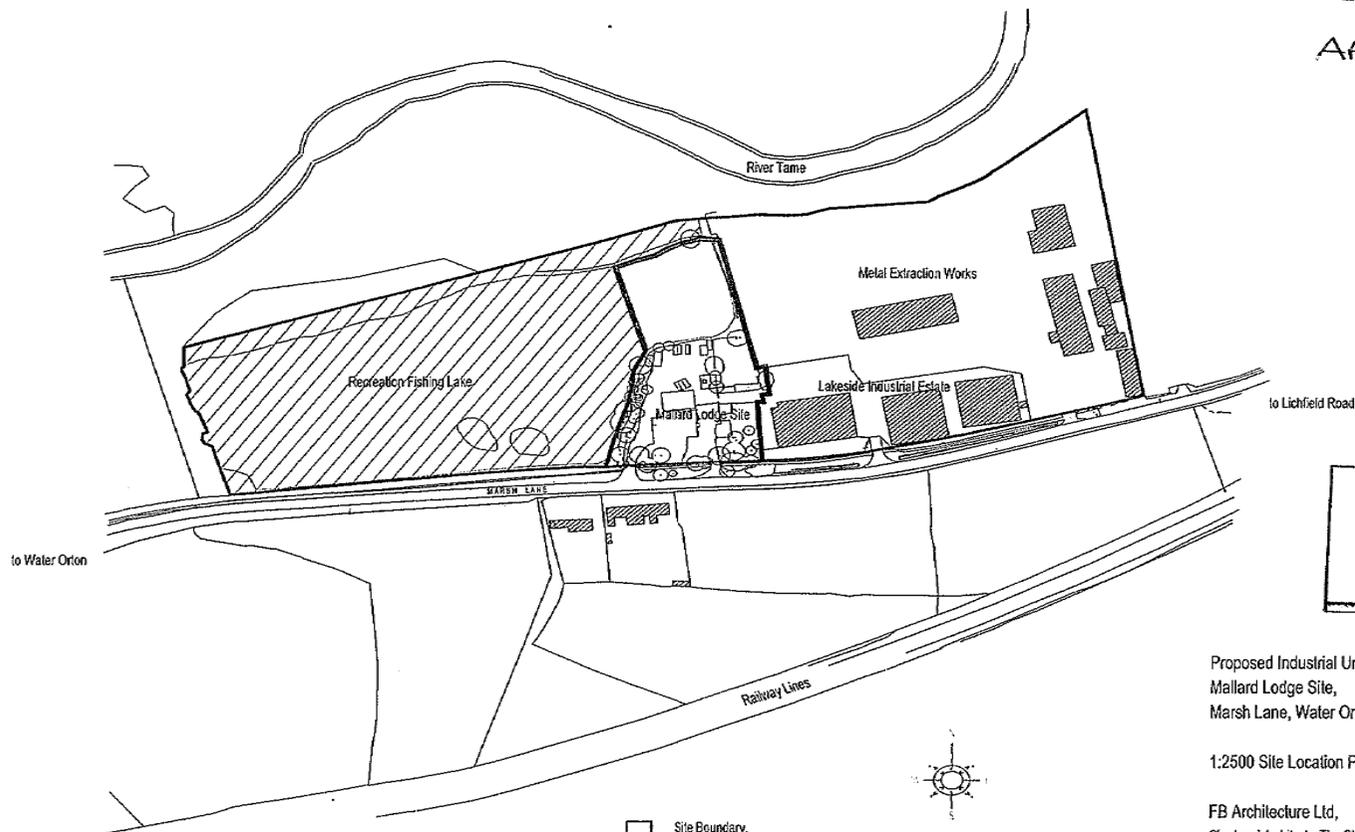
*Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.*

*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.*





2013 / 0211  
 APPENDIX A



RECEIVED  
 19 APR 2013  
 North Warwickshire  
 Borough Council

Proposed Industrial Unit  
 Mallard Lodge Site,  
 Marsh Lane, Water Orton.

1:2500 Site Location Plan.

FB Architecture Ltd,  
 Chartered Architects, The Old Telephone Exchange,  
 Gipsy Lane, Balsall Common. 01676 535 048  
 info@fbarchitecture.co.uk

April 2013 100401

0 50m 100m  
 1:2500 scale

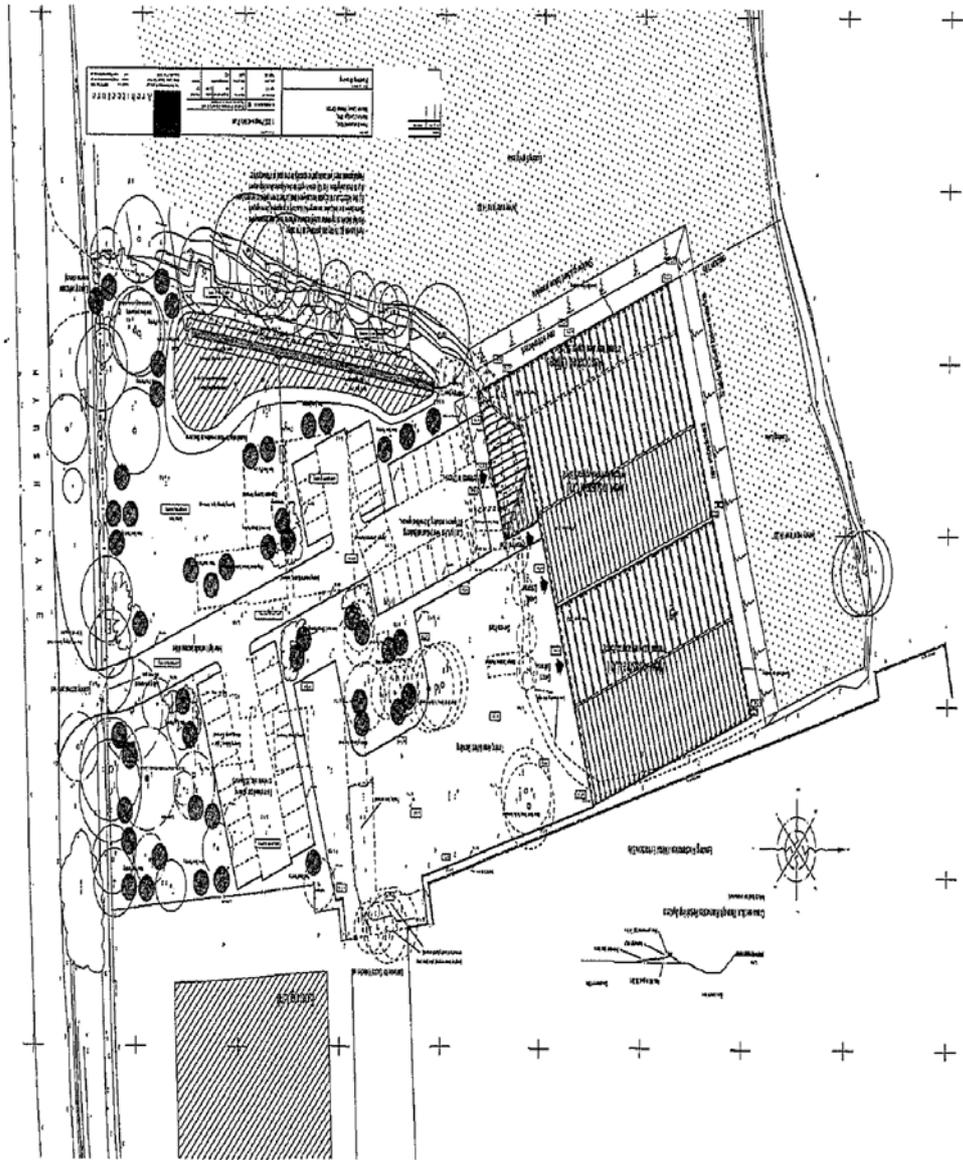
- Site Boundary.
- Ownership on adjacent land.
- /// Land covered by section 106 agreements as recreation fishing lake.
- Edge of Lake.





**WHARTON ARBORICULTURE**  
*Trees • Planning • Management*

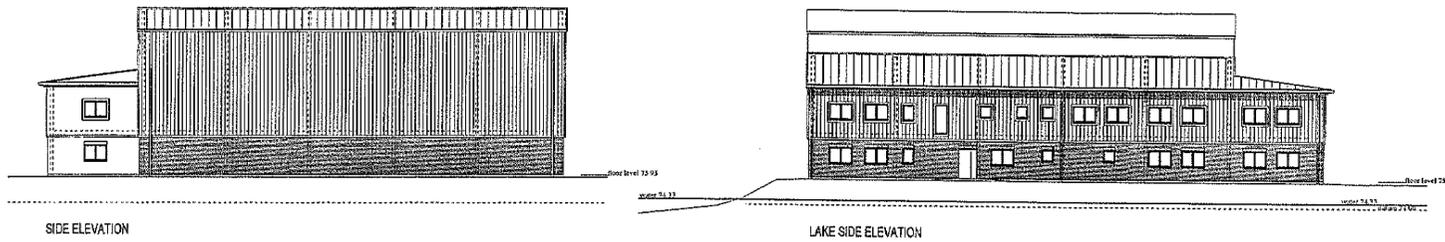
Mallard Lodge Site 10004-10



APPENDIX C  
FB Architecture Ltd  
Chartered Architects.

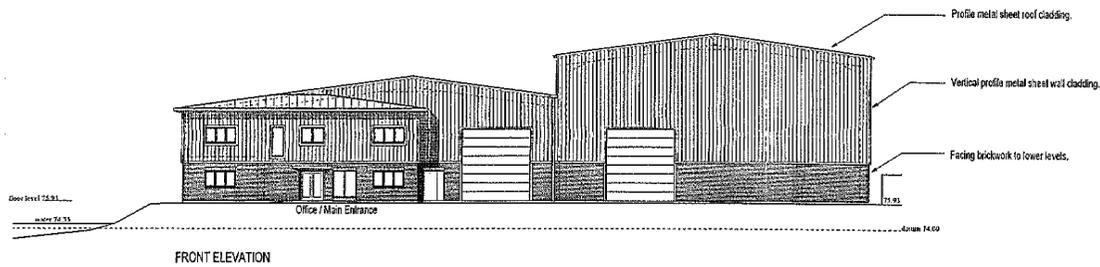
2013 / 0211

APPENDIX D

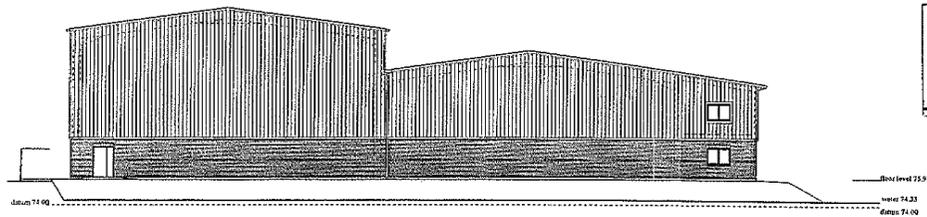


SIDE ELEVATION

LAKE SIDE ELEVATION



FRONT ELEVATION



REAR ELEVATION

RECEIVED  
19 APR 2013  
North Warwickshire  
Borough Council

REVISIONS			
No	Date	Description	By
1			

Working title:  
**Planning Drawing**

Site name:  
**New Industrial Unit,  
Marsh Collage Site,  
Marsh Lane, Water Orton**

Drawing title:  
**1:200 Proposed Elevations**

DRAWING INFORMATION			
Date	Drawn by	Checked by	Scale
April 13	UW	AC	1:200
Project No	1004	Drawing number	JDA

**fb** Architecture

The Old Telephone Exchange  
100 Marsh Lane, Water Orton, Leicestershire, CV7 7PW

Telephone 01530 255 010  
Email: info@fb-architecture.co.uk  
Web: www.fb-architecture.co.uk

## Agenda Item No 5

### Planning and Development Board

20 May 2013

#### Report of the Chief Executive and the Deputy Chief Executive

#### Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - March 2013

### 1 Summary

- 1.1 This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April 2012 to March 2013.

#### **Recommendation to the Board**

**That Members consider the performance achieved and highlight any areas for further investigation.**

### 2 Consultation

- 2.1. Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

### 3 Background

- 3.1 This report shows the end of year position with the achievement of the Corporate Plan and Performance Indicator targets for 2012/13. This is the fourth report showing the progress achieved during 2012/13.

### 4 Progress achieved during 2012/13

- 4.1 Attached at Appendices A and B are reports outlining the progress achieved for all the Corporate Plan targets and the agreed local performance indicators during April to March 2012/13 for the Planning and Development Board.
- 4.2 Members will recall the use of a traffic light indicator for the monitoring of the performance achieved.

Red – target not achieved (shown as a red triangle)

Green – target achieved (shown as a green star)

## 5 Performance Indicators

- 5.1 Members will be aware that national indicators are no longer in place and have been replaced by national data returns specified by the government. A number of previous national and best value indicators have been kept as local indicators as they are considered to be useful in terms of managing the performance of our service delivery corporately.
- 5.2 The current performance indicators and targets are being reviewed by each division and Management Team for monitoring for the 2013/14 year. The proposed targets for the processing of planning applications are shown below:
- Processing of planning applications in 13 weeks for major application types 60%
  - Processing of planning applications in 8 weeks for minor application types 85%
  - Processing of planning applications in 8 weeks for other application types 95%

## 6 Overall Performance

- 6.1 The Corporate Plan performance report shows that 100% of the Corporate Plan targets and 0% of the performance indicator targets have been achieved. The processing of planning applications was subject to nationally set targets by the government and these were removed during 2012/13. There have been some difficulties in processing the applications due to increases in Section 106 requirements and staffing resources which are referenced in the updates. The performance is broadly in line with the levels achieved nationally. The table below shows the following status in terms of the traffic light indicator status:

### Corporate Plan

Status	Number	Percentage
Green	5	100%
Red	0	0%
Total	5	100%

### Performance Indicators

Status	Number	Percentage
Green	0	0%
Red	3	100%
Total	3	100%

## 7 Summary

7.1 Members may wish to identify any areas that require further consideration where targets are not currently being achieved.

## 8 Report Implications

### 8.1 Safer Communities Implications

8.1.1 Major applications are considered by the Police Architectural Liaison Officer who is looking to ensure that Secure by Design principles are applied for new developments.

### 8.2 Legal and Human Rights Implications

8.2.1 The national indicators were specified by the Secretary of State for Communities and Local Government. They have now been ended and replaced by a single list of data returns to Central Government from April 2011.

### 8.3 Environment and Sustainability Implications

8.3.1 Improvements in the performance and quality of services will contribute to improving the quality of life within the community. The action to improve employment opportunities for local residents at Birch Coppice is contributing towards the Raising aspirations, educational attainment and skills priority of the North Warwickshire Sustainable Community Strategy 2009 – 2026.

### 8.4 Risk Management Implications

8.4.1 Effective performance monitoring will enable the Council to minimise associated risks with the failure to achieve targets and deliver services at the required performance level.

### 8.5 Equality Implications

8.5.1 The action to improve employment opportunities for local residents at Birch Coppice is contributing to equality objectives and is a positive impact in terms of the protected characteristics for age through the young people employment programme.

### 8.6 Links to Council's Priorities

8.6.1 There are a number of targets and performance indicators included relating to bringing more jobs to North Warwickshire, protecting and improving our environment and defending and improving our countryside and rural heritage.

The Contact Officer for this report is Robert Beggs (719238).

### Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
National Indicators for Local Authorities and Local Authority Partnerships	Department for Communities and Local Government	Statutory Guidance	February 2008

NWCP Planning Board 12/13

	Action	Priority	Reporting Officer	Update	Status	Direction
NWCP 012 11/12	Manage development so as to deliver the priorities on the Council's Corporate Plan and in the Sustainable Community Strategy by March 2013	Countryside and Heritage	Brown, Jeff	Report referred to March Planning & Development Board	 Green	
NWCP 013 11/12	Ensure that only appropriate development is permitted in the Green Belt, that development is focused on the agreed settlement hierarchy and protects the best of our existing buildings by March 2013	Countryside and Heritage	Brown, Jeff	Report referred to March Planning & Development Board	 Green	
NWCP 014 11/12	Use the Design Champions to ensure the best achievable designs are implemented and developed by March 2013	Countryside and Heritage	Brown, Jeff	Report referred to March Planning & Development Board	 Green	
NWCP 051 11/12	To work with the County Council to provide training and to administer funding provided by the developers at Birch Coppice Industrial Estate to maximise opportunities for employment of local people	Local Employment	Maxey, Steve	The North Warwickshire Works programme is in place and this is aiming to maximise the opportunity for local residents to access employment opportunities at Birch Coppice. The programme has recently awarded two contracts. A young peoples contract and an employment contract. A tour of Ocado for Cllrs and partners took place in October and work clubs have commenced in Feb 2013. Currently, the North Warwickshire Works Programme is taking stock of progress to confirm future projects going forward. A further recruitment event for Ocado took place on Wednesday 17 April 2013. Red Lion at Atherstone.	 Green	
NWCP 070	Looking to improve transport links to local employment	Access to Services	Brown, Jeff	Report referred to March Planning & Development Board	 Green	

NWPI Planning Board 12/13

Ref	Description	Section	Priority	Year End Target	Performance	Traffic Light	Direction of Travel	Comments
@NW:NI157a	Percentage of major planning applications dealt with in a timely manner	Development Control	Countryside and Heritage	60	55.56	 Red		Just below target due to involved S106 negotiations and design changes. National figure was 57%. The national targets were removed by the government during 2012/13.
@NW:NI157b	Percentage of minor planning applications dealt with in a timely manner	Development Control	Countryside and Heritage	80	74.69	 Red		Increase in planning applications submitted and loss of an Officer has contributed to this figure. National figure is 68%. The national targets were removed by the government during 2012/13.
@NW:NI157c	Percentage of 'other' planning applications dealt with in a timely manner	Development Control	Countryside and Heritage	90	79.93	 Red		Increase in planning applications submitted and loss of an Officer has contributed to this figure. National Figure was 81%. The national targets were removed by the government during 2012/13.

**Agenda Item No 6**

**Planning and Development Board**

**20 May 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 7**

**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).