

Agenda Item No 5

Planning and Development Board

14 November 2011

Planning Applications

**Report of the
Head of Development Control**

1 Subject

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

2 Purpose of Report

2.1 This report presents for the Board decision, a number of planning, listed building, advertisement, proposals, together with proposals for the works to, or the felling of trees covered by a Preservation Order and other miscellaneous items.

2.2 Minerals and Waste applications are determined by the County Council. Developments by Government Bodies and Statutory Undertakers are also determined by others. The recommendations in these cases are consultation responses to those bodies.

2.3 The proposals presented for decision are set out in the index at the front of the attached report.

2.4 Significant Applications are presented first, followed in succession by General Development Applications; the Council's own development proposals; and finally Minerals and Waste Disposal Applications. .

3 Implications

3.1 Should there be any implications in respect of:

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

4 Site Visits

4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits

can only be agreed by the Board and reasons for the request for such a visit need to be given.

- 4.2 Members are reminded of the “Planning Protocol for Members and Officers dealing with Planning Matters”, in respect of Site Visits, whether they see a site alone, or as part of a Board visit.

5 **Availability**

- 5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council’s web site www.northwarks.gov.uk
- 5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 19 December 2011 at 6.30pm in the Council Chamber at the Council House.

Planning Applications – Index

Item No	Application No	Page No	Description	General / Significant
1	PAP/2011/0259	5	MIRA Technology Park Ltd Watling Street Development of business/technology campus comprising replacement MIRA headquarters, office, research and manufacturing facilities, hotel and local facilities including retail/cafe/restaurant, indoor and outdoor leisure, ancillary energy generation plant/equipment, internal access roads, car parking, landscaping drainage and associated works and creation of new improvement access points, widening of A5, associated earth works and landscaping	General
2	PAP/2009/0175	174	Chapel House Dunns Lane Dordon Erection of 9 dwellings, including access, car parking and associated landscaping	General
3	PAP/2011/0202	188	Land Adj 204 Coventry Road Coleshill Variation of condition no:2 of planning permission PAP/2006/0724 relating to elevational, floor plans and roof height	General
4	PAP/2011/0286	209	Grendon Fields Farm Warton Lane Grendon Erection of 1 No. wind turbine and associated equipment	General
5	PAP/2011/0300 and PAP/2011/0313	228	Nethersole Centre High Street Polesworth Tamworth Residential conversion to 4 units & creation of associated parking	General
6	9 applications	260	Heart Of England Old Hall Farm Meriden Road Fillongley Outline application for a new three storey hotel and function room building, comprising 608.3 sq.m of hotel floorspace, 195.3 sq.m of office floorspace and 487.6 sq.m of D2 (Assembly and Leisure) floorspace and the erection of new glazed link to existing conference centre, seeking the approval of access, appearance, layout and scale, with landscaping remaining as a reserved matter	General

7	PAP/2011/0420	264	Caldecote Hall Industrial Estate Caldecote Hall Drive Caldecote NUNEATON Mixed use development to Caldecote Hall Estate Works, consisting of: 1. Extension & remodelling of existing offices, 2. Change of use from workshop to residential, 3. 3 no. new dwellings	General
8	PAP/2011/0481 PAP/2011/0504 PAP/2011/0505	288	Beech House 19 Market Street Atherstone Change of use of land for residential use as car parking	General
9	PAP/2011/0507 PAP/2011/0511	312	Old Bank House Long Street Atherstone Listed Building Consent for internal alterations to the second floor offices, together with associated works	General
10	PAP/2011/0529	328	Car Park Park Road Coleshill Variation of conditions nos. 4, 5 and 6 of planning permission ref: PAP/2009/0154 relating to approved plans, access arrangements and general layout and configuration. Removal of conditions 11 and 12 of planning permission PAP/2009/0154 relating to service yard enclosed roof and service yard noise insulation; in respect of Outline - Erection of a Retail (A1) food store with associated parking, servicing and access - Seeking to discharge the reserved matters for access and layout	General

(2) Application No PAP/2009/0175

Chapel House, Dunns Lane, Dordon

Erection of 9 dwellings, including access, car parking and associated landscaping, for

Mr Jason Humpherston, Blue Square Projects Ltd

Introduction

This matter is referred to Board for three reasons. Firstly, the Board is asked to consider whether the application may be supported in principle, secondly, because the application is accompanied by a legal agreement relating to the provision of a contribution for off site open space and thirdly in light of the receipt of representations.

The Site

A roughly rectangular area of land comprising 0.245 hectares in extent on the north side of Dunns Lane, about 0.75 kilometres from the junction with New Road in Dordon. To the west is a residential property known as The Ponderosa, and to the east is a pair of semi detached properties known as Ivydene and Myrtledene. Beyond the site there is open countryside to the north. The site fronts Dunns Lane. Residential properties lie on the opposite to the side of Dunns Lane

The site itself formerly contained a residential property known as Chapel House. This has now been demolished and the site lies vacant.

The Proposal

The proposal is for the erection of 9 dwellings, including access, car parking and associated landscaping. Five new dwellings would be detached and four would be semi detached. Six plots would front Dunns Lane and the remainder would be accessed via a short cul de sac road.

The proposed site layout is shown below:



FRONT ELEVATION.



FRONT ELEVATION.



FRONT ELEVATION.

An illustration of the resultant street scene is shown below:



Background

In 2006 outline planning permission was granted for the development of the site for nine dwellings. The principle of nine houses on this has therefore been accepted.

The trees on the perimeter of the site are now protected by a Tree Preservation Order.

The requirement to retain a 5 metre easement across the site constrains the form of the development.

Since the grant of outline planning permission traffic calming has been introduced along Dunns Lane. This includes a speed pillow which is positioned at the location of the proposed access. The implications of this are outlined below in the Consultation, Observations and Recommendation sections of this report.

Development Plan:

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), Core Policy 11 (Quality of Development), Core Policy 12 (Implementation), ENV5 (Open Space), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG4 (Densities), ECON12 (Services and Facilities in Category 3 and 4 Settlements), TPT1 (Transport Considerations in New Development).

Other Material Planning Considerations

Government Planning Policy: Planning Policy Statement 1 (Delivering Sustainable Development), Planning Policy Statement 3 (Housing), Planning Policy Guidance Note Number 13 (Transport), Planning Policy Guidance 17 (Planning for Open Space, Sport and Recreation)

The Government's draft National Planning Policy Framework (NPPF)

Other Considerations: Open Spaces, Sport and Recreation Study (PPG17 Study) 2006, and the North Warwickshire Green Space Strategy 2008-2018 (Draft)

Consultations

Environmental Health Officer – A Preliminary Risk Assessment relating to a soil investigation/ground contaminants was produced in 2006. This identified a requirement to remove and replace existing top soil. Up to date advice from the Environmental Health Officer indicates that the limits for soil sampling have since changed and that the identified limits may now be regarded as a low risk. Consequently, the removal of top soil may not need to be a requirement of the grant of planning permission. The Environmental Health Officer recommends that the results of the soil investigation be reviewed and that up to date remedial measures be agreed. This can be the subject of a condition of any planning permission.

The Environmental Health Officer indicates that the recommendations of the coal mining risk assessment dated 28 September 2011 should be implemented. It is pointed out that neither the 2006 Soil Investigation nor the 2011 Coal Mining Risk Assessment have expressly covered the potential risk from ground gas. It remains necessary to carry out an intrusive investigation in respect of ground gas; however this may be as part of the investigation into stability of the near surface coal seams in the vicinity of the proposed buildings. A condition of any planning approval would require the developer to agree in advance with the local authority a scheme of monitoring for coal mine gas and the implementation of the scheme. This would include a limited amount of post stabilising treatment coal mine gas monitoring. An intrusive ground investigation at a development site in the near vicinity suggests that gas levels are relatively low, however, if a risk from ground gas is established, the dwellings would need to be designed incorporating ground gas protection measures.

Coal Authority – The Authority has no objection subject to conditions. The Coal Authority identifies that the application site falls within the defined Coal Mining Development Referral Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. The applicant has obtained appropriate and up-to-date coal mining information and has used this information to inform a Coal Mining Risk Assessment (dated 28 September 2011). This correctly identifies that the application site is likely to have been subject to past unrecorded coal mining activity. It therefore indicates that further site investigations will need to take place prior to commencement of the development, with treatment of any shallow mine workings being undertaken by grouting where necessary. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the Authority impose a planning condition, should planning permission be granted for the proposed development, to require the further site investigation works outlined in sections 4 and 5 of the Coal Mining Risk Assessment to be undertaken prior to commencement of the development. The condition should also ensure that, in the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the proposed development, these works should also be undertaken prior to the commencement of development.

Warwickshire County Council Highways Authority – The Authority objects to the application. It points out that speed cushions are located in Dunns Lane at a position which would be in front of the proposed access and that speed cushions are designed to be driven over rather than manoeuvred on.

Warwickshire Fire and Rescue – There is no objection subject to the inclusion of a condition requiring the submission and implementation of a scheme for the provision of adequate water supplies and fire hydrants.

Warwickshire Wildlife Trust – The Trust identified that the site is in close proximity to 3 Sites Important for Nature Conservation (SINC) and that the original dwelling had potential for roosting bats and recommended that as much hedgerow as possible is retained; that the trees be protected from the effects of development and that works to trees be carried out outside the bird breeding season.

Severn Trent Water - No objection subject to conditions.

Landscape Officer (Trees) - No objection subject to conditions

Representations

Representations have been received from eight local residents raising the following matters:

1. There are too many houses proposed on a small plot.
2. Insufficient parking for the semi detached houses.
3. The development would lead to on street car parking. This would be dangerous at the brow of the hill.
4. Sewers in the area will not cope with additional flows, especially given the development of other land in the vicinity in recent years. The additional flows will make existing drainage problems worse.
5. Bungalows would be more appropriate than family housing given that there are a lot of elderly people living in bungalows on Dunns Lane.
6. The properties proposed close to the site frontage would make future road widening difficult.
7. The proposed dwellings are too close to each other.
8. More trees and shrubs need to remain.
9. Developments in this area are spoiling the countryside feel of the village.
10. During the development of land opposite shallow mine workings were located.
11. The development will adversely affect the privacy of the occupier on a neighbouring property (Ponderosa).
12. Four properties would be more in keeping with the surroundings.
13. There is a drop in electrical power in the evenings and the development would adversely impact this situation.
14. There is no bus route along Dunns Lane and there is only one footpath.
15. Is this site affected by the new government stance on garden grabbing?

Dordon Parish Council – The development would increase traffic on local roads, have insufficient parking, will add to congestion, the scheme would be an over development of the site, the sewerage system is not adequate to deal with the number of additional dwellings and it is not in keeping with adjacent dwellings.

Observations

The site lies within the development boundary identified for Dordon in the North Warwickshire Local Plan 2006 (Saved Policies). There is no objection in principle to the redevelopment of land in this locality for the purpose of housing. Indeed, outline planning permission has been given in the past for the development of this site. The application is however a full planning application and not an application seeking the approval of reserved matters. It is necessary to examine whether there have been any material changes in circumstance since the grant of the previous permission that could indicate a change in stance.

Beyond this, the main considerations in assessing the application will be:

- The design of the development
- The impact on residential amenity of nearby properties.
- The living conditions that would be enjoyed by future occupiers of the proposed dwellings.
- The impact of highway safety.
- The effect on drainage in the locality
- The need for open space.
- The ground conditions at the site
- The effect on protected trees and wildlife habitat.

The site remains inside the development boundary for Dordon, one of the identified main towns in the Local Plan, and remains a location where new residential development will be directed. There has been no change of circumstances in this respect since the previous grant of outline planning permission. Indeed it is considered that with the publication of the draft NPPF and its strong emphasis on Local Planning Authorities ensuring that there is a presumption in favour of sustainable development, and its advice that there is at least a five year supply of housing land of housing always available, the presumption is in favour of the grant of permission here in principle. The recent grant of outline planning permission is also significant and material.

Design and Amenity

There are a variety of house types and styles along Dunns Lane, including a mix of single storey and two storey dwellings. The proposed dwellings are all two storey. The houses adjacent to the application site are shown in the photographs below.



The proposed dwellings will be of an appropriate scale which will fit in the street scene and will be of an appropriate brick and tile traditional design.

The orientation of the proposed dwellings is such that the occupiers of adjacent properties would not suffer undue harm from overlooking, loss of privacy or loss of light.

Revisions to the site layout, in particular the orientation of the dwellings and a change to the mix of house types, have ensured that the occupiers of the development would enjoy reasonable standards of amenity in terms of the amount of private amenity space and the standards of privacy/overlooking that they would enjoy.

Notwithstanding this, the scheme seeks the maximum amount of development that it can reasonably achieve without causing adverse impact. If the new dwellings benefited from permitted development rights and were extended, it is likely that the separation distance between dwellings would be below reasonable standards. It would therefore be appropriate to withdraw permitted development rights for extensions and roof alterations. Furthermore, given the relatively small garden areas, the fact that the rear most properties face towards the rear of the properties fronting Dunns Lane, the need to maintain an easement for the sewer which crosses the site and the presence of protected trees around the periphery of the site, it is also appropriate to withdraw permitted development rights for the erection of garden buildings.

Given that the site lies in a wholly residential area a condition limiting the hours of construction would be appropriate.

Highway Safety

The speed cushions on Dunns Lane are at the same position as the proposed access to the site. This would cause a highway danger and the proposal could not therefore be supported in its current form.

The Highway Authority has pointed out that the applicant has two options. He could apply to remove and relocate the speed cushion. The application and the works would be at the applicant's expense. Any change in the position of the speed

cushions would have to go to public consultation and be advertised accordingly. The applicant has been advised that this is a lengthy process which would incur fees. The second option would be to reposition the access and redesign the site layout accordingly.

The applicant has indicated that he does not wish to redesign the scheme because the constraints of the site mean that the current access arrangements are the best solution to using the site to best effect. He also advises that a great amount of technical work has been undertaken to work out and agree a drainage solution based on the current site layout.

He applicant therefore wishes to pursue an application to remove and reposition the speed cushions. Planning permission could not be conditionally granted on the proviso that the speed cushions were moved away from the access because there can be no guarantee that such relocation can be achieved. It would be reliant upon a separate consent regime which includes public consultation. The applicant appreciates this and nevertheless wishes to pursue the repositioning of the cushions and will incur the cost, the delay and the risk. He further appreciates that the planning application can not be determined until the outcome of that separate process is known. However, he has requested that the planning application be reported to Board for a decision in principle ahead of making the application to the County Council and incurring the associated expense. This is considered a reasonable request. With the only outstanding matter being the access arrangements the Board is asked to consider the acceptability of all other aspects of the development.

The level of on-site car parking provision is considered appropriate for the development, such that it is unlikely that the development would cause undue danger or congestion on the public highway.

Drainage

The applicant has entered into detailed technical negotiations in respect of a drainage solution for this site and has achieved an agreed solution based on a reduced flow rate into the public sewer system. This is comparable to the drainage solution recently achieved at the development site on the opposite side of Dunns Lane. Severn Trent Water does not object to the application. The concerns of local residents and the Parish Council can not be substantiated in these circumstances.

Open Space

The development makes no provision for on site open space or play space. The applicant has therefore indicated a willingness to make a financial contribution of £6446 towards the provision/improvement of off-site open space/play space provision. The sum of money is relative to the scale of the development and the needs arising in the locality. The provisions of the Section 106 Agreement would address the requirements of Policy ENV5 and the Green Space Strategy.

Ground Conditions

The Coal Authority and the Environmental Health Officer are both satisfied conditional requirements for further intrusive ground investigation and appropriate construction and remediation works will render the site suitable for redevelopment for housing.

Impact on protected trees

Following revisions to the scheme, and having regard to the submission of a tree protection scheme, the Landscape Officer is satisfied that the development will not adversely impact on the protected trees and that the trees are unlikely to result in conditions detrimental to the enjoyment of occupiers of the new dwellings.

Conclusion

Subject to the resolution of the Highway Authority's objection, it is considered that the application may be supported.

Recommendation

- A. That subject to a favourable outcome from procedures to secure the repositioning the traffic calming measure on Dunns Lane, and subject to a Section 106 Agreement which secures the provision of contributions to off-site open space/play provisions as set out in this report, planning permission be **GRANTED** subject to conditions addressing the matters set out below.
 - B. In the event that the matters in Recommendation A are satisfied, the determination of the application be delegated to the Head of Development Control.
1. Standard three year condition.
 2. Specified Plans.
 3. The implementation of the ground investigation as outlined in Sections 4 and 5 of the Coal Mining Risk Assessment.
 4. The agreement and implementation of a scheme of the monitoring for coal mine gas, together with the agreement and implementation of the incorporation of ground gas protection measures in the buildings (dependent on the findings of the monitoring).
 5. The agreement and implementation of a scheme for the investigation and remediation of soil contamination.
 6. The provision of water supplies for fire fighting
 7. The removal of permitted development rights for the erection of extensions, for roof alterations and for the erection of garden buildings.
 8. The control of the hours of operation for construction.
 9. The agreement of brick, tile and surface materials.
 10. The specification and implementation of tree protection measures.
 11. The agreement and implementation of a landscaping scheme, including maintenance provisions and the seasonal timing of works.

12. The agreement and implementation of a boundary treatment scheme.
13. Conditions required by the Highway Authority.
14. Conditions required by Severn Trent Water.
15. The requirement for car parking areas and garages to remain available for the purpose of car parking at all times.

BACKGROUND PAPERS

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

Planning Application No: PAP/2009/0175

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	
2	Warwickshire Fire and Rescue	No objection subject to conditions	20 5 09
3	Environmental Health Officer	Consultation Reply	18 5 09
4	Severn Trent Water	Consultation Reply	20 5 09
5	G L Brierley	Representation	14 5 09
6	R Hollyoake	Representation	18 5 09
7	Mrs Dorman	Representation	27 5 09
8	G Taylor	Representation	27 5 09
9	I Hopkins	Representation	25 5 09
10	Warwickshire Wildlife Trust	Consultation Reply	22 5 09
11	W T Whitmore	Representation	19 5 09
12	H Garratt	Representation	27 5 09
13	Case Officer	Email to agent	28 5 09
14	Case Officer	Letter to Severn Trent Water	28 5 09
15	Case Officer	Email to agent	10 6 09
16	Case Officer	E mail to Landscape Management Officer	10 6 09
17	Case Officer	E mail to Forward Planning	10 6 09
18	S Taylor	Representation	9 6 09
19	Warwickshire County Council Highways Authority	Consultation Reply	9 6 09 31 12 10 10 2 11
20	Severn Trent Water	Consultation Replies	22 6 09 27 5 10 24 12 10
21	Agent	E mails to Case Officer	22 6 09 3 7 09 13 8 09 7 10 10
22	Case Officer	E mail to the agent	22 6 09 13 4 10 1 7 10 13 10 10 16 12 10

			4 1 11 13 1 11 29 3 11 4 1 11 29 3 11 26 5 11 6 6 11
23	Dordon Parish Council	Representations	28 6 09 15 7 09 14 1 11
24	Applicant	Draft S106 Agreement	24 8 09
25	Tree Officer	Consultation Reply	13 7 10 17 1 11
26	I Hopkins	Representation	16 12 10
27	H Garratt	Representation	21 12 10
28	W T Whitmore	Representation	20 12 10
29	Severn Trent Water	Consultation Reply	24 12 10
30	Warwickshire County Council Highways Authority	Consultation Reply	31 12 10
31	Landscape Officer (Trees)	Consultation Reply	17 1 11
32	Environmental Health Officer	Consultation Reply	19 5 11
33	The Applicant's Agent	Coal Mining Risk Assessment	29 9 11
34	Coal Authority	Consultation Reply	20 10 11
35	Environmental Health Officer	Consultation Reply	3 11 11

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

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



(3) Application No PAP/2011/0202

Land Adj 204 Coventry Road, Coleshill

Variation of condition no:2 of planning permission PAP/2006/0724 relating to elevational, floor plans and roof height, for Mr Nigel Rose

Introduction

This application was referred to the October meeting of the Board, but determination was deferred in order to enable Members to view the site. This has now occurred and the matter is referred back to the Board for decision.

For convenience the previous report is attached at Appendix A, and Members are asked to read that report in conjunction with the present papers.

Observations

Members are reminded that planning permission was granted in 2006 for a two storey house at this site. That permission was taken up and the building under construction on site at present is on the same footprint as that approved. The main issue here is the height of the finished property. If completed, the current property would be taller than that shown on the approved plans. The applicant has selected to seek a compromise solution and offers two re-designs – one with a ridge running parallel to the road and one with a hipped roof. For the benefit of Members the table below provides comparisons relevant to the main issue (all dimensions are in metres). Members will be aware from the previous report, that commencement of construction involved the introduction of a floor slab above ground level. The table below makes it clear when dimensions include this or not.

	Height of Ridge
The Cottage at number 204	6.2
The 2006 Approval (on plan)	7.8
The 2006 Approval (with slab)	8.25
The Parallel ridge (with slab)	7.4
The Hipped ridge (with slab)	8.0

The other issue here is which of the two options is more in keeping with the street scene. It is considered that the parallel ridge is more in keeping because that is the appearance of the properties either side of the site. It is accepted that there are examples of hipped ridges very close by, noticeably at the rear of the site and again on Coventry Road on the other side of its junction with Hall Walk. It is also relevant that because of the height difference of the building now under construction that the lintol and cill levels will not match those of number 204. These matters all need to be considered by the Board and a balance struck between the different considerations. Officers remain of the view that the parallel ridge is the better design option and it also has the benefit of providing a lower ridge height than the actual approved

scheme. The difference in window levels is not considered to be a material factor here given the great variety of house types and designs in the locality.

The previous report referred to the applicant's reasons for providing the ground floor slab as constructed. No further information has been submitted. Members will be aware that once a breach of planning control is identified, as here with the possible construction of a house taller than that approved, then the Council has to decide whether or not it is expedient to take enforcement action to remedy that breach. A breach of planning control is not an illegal act and enforcement action is not mandatory or automatic. The legislation makes it clear that it is a discretionary power. In this case, the applicant indicated that he wished to resolve the breach through the submission of amended plans. This is a proper and reasonable approach. The Council therefore has to decide the outcome of that process before it then decides whether or not it is expedient to pursue enforcement action. If the recommendation below is agreed, then there will be no need to discuss the issue.

Recommendation

That the recommendation as set out in Appendix A be agreed

BACKGROUND PAPERS

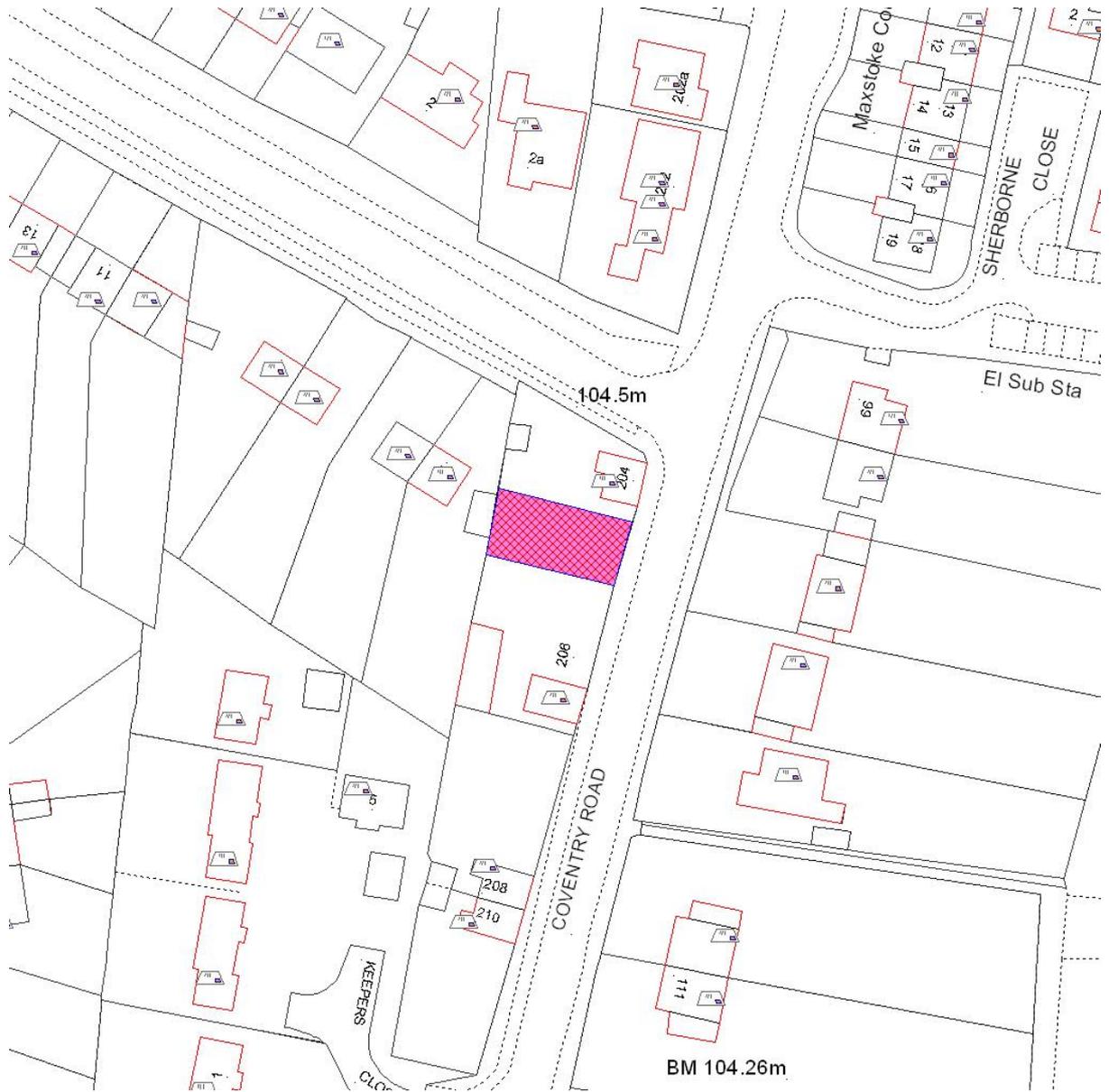
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2011/0202

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letter	18/10/11

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

General Development Applications

() Application No PAP/2011/0202

Land adjacent to 204 Coventry Road, Coleshill

Variation of condition 2 of planning permission PAP/2006/0724 relating to elevational, floor plans and roof height for

Mr Nigel Rose

Introduction

The application is brought before the Board at the request of a Local ward member in view of the potential for enforcement action.

The Site

The site lies within Coleshill towards the southern end of the town on the west side of the Coventry Road within a residential frontage. The site used to be the side garden to number 204. The side garden of number 206 is to its south and it is surrounded by other residential dwelling houses of varying styles, sizes and heights. Either side of the application site are two cottage style dwellings which abut the rear of the pavement. To the rear is the gable to number 1 Hall Walk.

Background

In 2006 a rear two storey extension was approved to number 204 and this was implemented. It can be seen on the plan at Appendix A, which also illustrates the general layout around the site.

In 2006, planning permission was granted for a detached house in the side garden to number 204. It would face the Coventry Road with a ridge running parallel to that road, as have the cottages on either side. It would however be set back from the road frontage by 6 metres. Work commenced and has continued up to eaves level, where construction has now stopped. Local neighbours were concerned that the building was not being constructed in line with the approved plans. This was established via site inspections and the owner has stopped work. He was invited to address a number of discrepancies. This current application seeks amendments to the approved plans as a consequence. Condition number 2 in the application description refers to the actual plan numbers approved in 2006.

The house is being constructed in the approved location, set back from the road and to the approved foot print dimensions. The main discrepancy is in the height of the house. It is therefore opportune at this point in the report just to outline the situation factually.

The 2006 permission shows a two storey house 7.8 metres to its ridge. The existing house at number 204 is 6.2 metres to its ridge. The plan as approved in 2006 is illustrated at Appendix B.

The owner commenced work on the 2006 permission. However he constructed a slab level 0.45 metres above natural ground level. As a consequence, if the 2006 approval was completed, the ridge would be 8.25 metres.

The owner has considered a number of alternative solutions in order to bring the new house more in line with the height as approved, and has submitted the current application to amend the approved scheme. His initial submission was to lower the pitch of the roof. This would result in an overall final ridge height of 7.4 metres (that is including the slab). Local residents were consulted on this plan. They objected because they considered that the house was still too high. This initial submission is illustrated at Appendix C.

In response to those objections, the owner considered a further submission in an attempt to reduce the “mass” of the roof. This resulted in the addition of a hipped roof as illustrated at Appendix D. The overall height to the ridge is 8 metres (that is including the slab). This plan has again been circulated amongst the local residents. The objections refer to the height and that the design is out of keeping with the street scene.

The remaining discrepancies relate to the provision of an external chimney stack rather than it being internal; minor fenestration detail (not location), a new side door and a minor change to the roof of the front canopy.

The Proposal

This case is a little unusual in that effectively alternative proposals have been put forward by the applicant as described above – the lower ridge (Appendix C) and the hipped roof (Appendix D). The minor discrepancies have also been included in both. These include:

- The side chimney to remain in the same position but to be external.
- The canopy above the front extension to be angled at both ends.
- The window next to the front door would be smaller and set further away.
- A new door from the hall area into the car port.
- A new door to the kitchen from the side elevation facing towards Number 204.
- A rear facing door from the kitchen is now proposed to be a window.
- The side canopy along the boundary to No.204 Coventry Road to be made longer by 1.5metres.
- The window designs are being changed such that the brick detailing above the windows and doors is now proposed to be a row of bricks as opposed to the approved arch.

Development Plan

Saved Policies of the North Warwickshire Local Plan 2006: Policies ENV4 (Trees and Hedgerows), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG4 (Densities), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking)

Other Relevant Material Considerations

Government Advice: Planning Policy Statement 3 (Housing) and the Draft National Planning Policy Framework 2011

The Council's Supplementary Planning Guidance on Design of Householder Developments – September 2003

Representations

The representations below refer to both of the alternatives described above.

Coleshill Town Council – The scheme is out of keeping with the streetscape.

Six objections have been received from local residents. These cover the following points:

- The building as constructed does not comply with the heights from ground level shown on the approved plan.
- The requirement was to reduce the finished height.
- The revised roof design, with the maximum roof height has been increased and the visual impact has not been reduced. The design would increase the impact and is not acceptable.
- A semi dormer design would enable a reduction in the finished roof line without unduly affecting the internal disposition of the rooms at first floor level.
- The proposed construction will have an over bearing affect upon the street scene and surrounding properties.
- The proposal has diverted from a reduced level dig, which has given a cost betterment at the expense of the neighbouring properties, as this has resulted in the height being higher than needed.
- Retrospective alteration to compensate for the height have been hindered as they have not adhered to the foundations design (shown on section AA) the internal strip footing have been omitted and a slab constructed instead thus not offering any movement to reduce the height.
- The proposal does not comply with the original planning permission.
- The house is too tall and looks out of place in the area, and given the properties either side are period cottages.
- The road will be dominated by the height of the new dwelling.
- The plan does not appear to be to scale.
- The opposite side of the road has a mixture of bungalows and detached dwellings.

- The property has not been built on top of an excavated pad, but placed on top of the land, meaning it is higher than it should have been.
- It is considered that the original plans are implemented in full.
- The foundations were incorrectly raised and thus leading to a height different to the original approved plans.

Observations

a) The main issues

The principle of a dwelling on this site was agreed in 2006. That permission was taken up and is therefore extant. This is not in question, and thus the principle of a new house here is not to be considered. As the construction sits on the same foot print shown on the approved plans, the only substantive issues here are the appearance of the new house in the street scene and its overall height. These will be explored first, and then the other minor issues relating to design detail will need to be considered.

b) Appearance and Height

The 2006 approved plan shows a ridge running parallel with the street frontage so as to follow the pattern set with the two properties either side. It is therefore considered that the alternative illustrating such a ridge in the current application is to be much preferred – that is Appendix C. The objectors are right to say that the hipped roof alternative is out of keeping introducing a different style to the street.

If this is agreed then the substantive matter is the overall height of that ridge. As a matter of fact the 2006 approved ridge was to be 7.8 metres above ground level. If the current slab level is added then the overall height would be 8.25 metres. The alternative proposal with the complete ridge (Appendix C) would be 7.4 metres including the slab. The hipped roof alternative (Appendix D) would be 8 metres including the slab. As a consequence the alternative which has the overall lower ridge is Appendix C. Not only does this have the preferred appearance, it would also result in a house actually lower than that approved – even with the current slab. This is because the roof pitch would be substantially lowered.

Appendix C is the preferred solution. Whilst this is the case, Members should consider whether the change in roof pitch itself would become a feature unacceptable in the street scene. This is not considered to be fatal because the new house is well set back from the road frontage and is thus not readily visible to the public at large; there are a variety of different house types in the locality and it has the advantage of reducing the overall mass on the roof, thus increasing the amount of natural light into adjoining gardens. As a consequence it is considered that this alternative can be recommended for approval as an amendment to the 2006 permission.

c) Other Detail

As indicated above there are additional minor amendments. It is not considered that these are material given that the general appearance to the house as proposed for

amendment is very similar to that approved. The move of the chimney stack externally has no amenity impact and the additional door in the side elevation facing 204 is unlikely to have any additional impact given that rear access to the new house was to be alongside this elevation. The minor elevation changes are indeed very minor.

d) Other Matters

There is concern that the house as permitted commenced without further reference to the Council given that the floor slab was being constructed above the natural ground level. It is understood from the owner that this was in order to protect a private sewer that crosses the site and the side garden of number 206. He was advised to construct a higher level due to the “soft” ground and allow for some settlement. Whilst this may have been the best technical and practical advice, it should nevertheless have resulted in a referral to the Council. As a consequence, the owner, once the breach of planning control was established, has sought a different solution to completing the house so as not to exceed the permitted height. As recommended above, the preferred option would in fact end up lower than that approved height, even with the new slab. As a consequence it is not considered that it would be expedient to commence enforcement proceedings.

Members should be aware that the Building Control aspects of this case were not dealt with by the Nuneaton and North Warwickshire Partnership. An Approved Inspector was used by the applicant and it is understood that it was his advice that was followed in respect of the construction of the slab.

Recommendation

That condition number 2 of planning permission 2006/0724 be **Varied** so as to accommodate the dimensions and appearance of the house as set out in Appendix C, and that any other conditions be varied accordingly as a consequence.

Justification:

The amendments actually result in a house that will be lower than that approved in 2006. It will be located in the site as approved and cover the same footprint. The difference will be in the roof pitch. This is not considered to be material given that the house is set well back from the roads and not readily visible; that there is a variety of house types in the area and that it will result in less loss of daylight in and around the area. The elevation changes are minor and non-material. The proposal complies with saved policies ENV11, 12 and 13 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

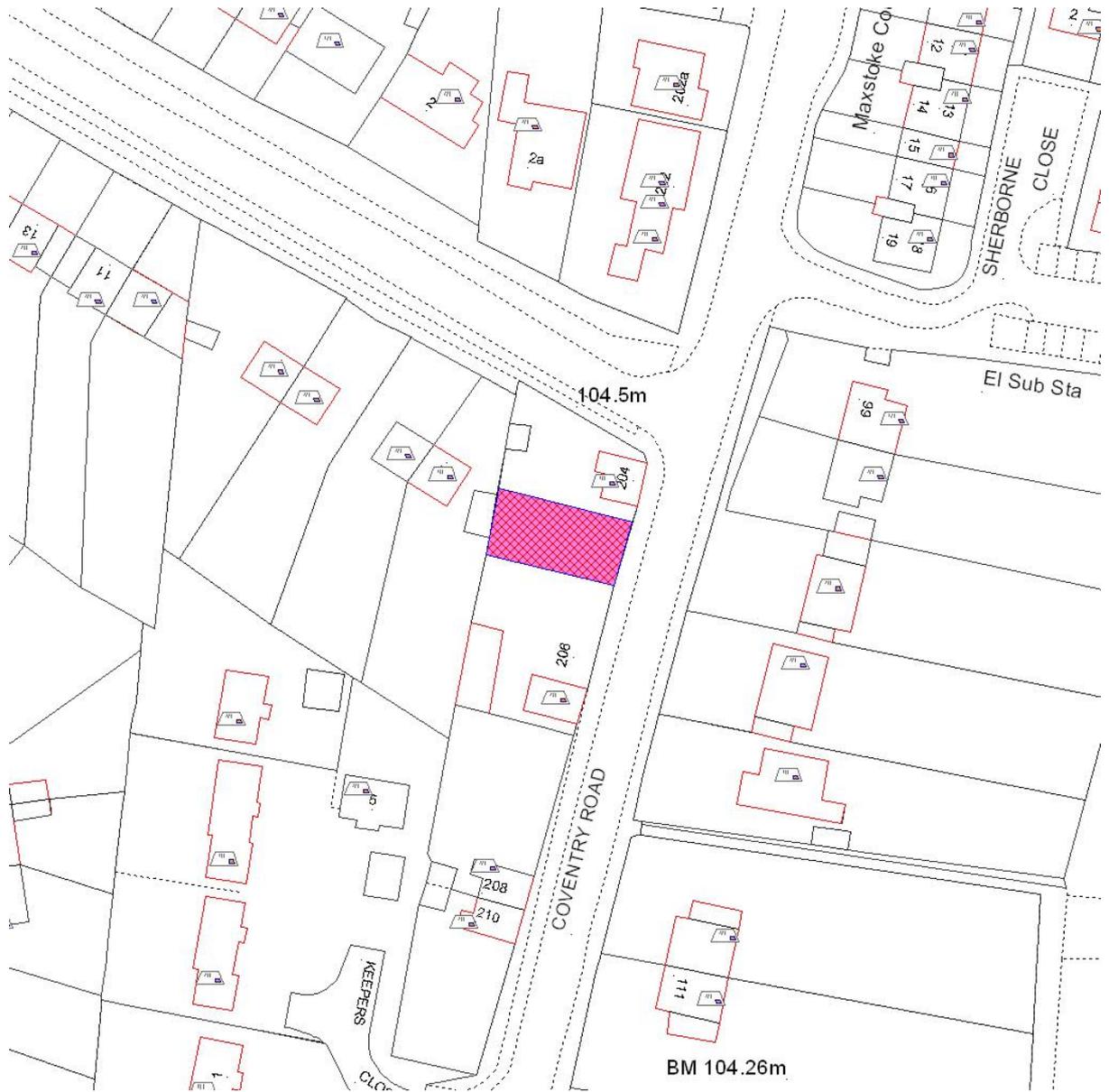
Planning Application No: PAP/2011/0202

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	13/4/2011
2	Case officer	Site visit	19/4/2011
3	Case officer	File note	10/5/2011
4	206 Coventry Road	Objection / comments	21/5/2011
5	Case officer	Email to 206 Coventry Road	21/5/2011
6	103 Coventry Road	Objection	22/5/2011
7	Case officer	Letter to agent	25/5/2011
8	Agent	Email / letter to case officer	31/5/2011
9	206 Coventry Road	Email to case officer	29/5/2011
10	Case officer	Email to 206 Coventry Road	1/6/2011
11	Agent	Email / letter to case officer	1/6/2011
12	206 Coventry Road	Email to case officer	1/6/2011
13	Case officer	Letter to 206 Coventry Road	2/6/2011
14	204 Coventry Road	Objection	3/6/2011
15	Case officer	File note after discussion with 206 Coventry Road	6/6/2011
16	Case officer	Email to agent	6/6/2011
17	Case officer	Email to 206 Coventry Road	6/6/2011
18	Case officer	Notes of site meeting with agent, neighbours and Cllr Sherratt	7/6/2011
19	Case officer	Email to agent	8/6/2011
20	Case officer	Email to agent	8/6/2011
21	Case officer	Email to Cllr Sherratt	8/6/2011
22	Case officer	Email to a206 Coventry Road	8/6/2011
23	Agent	Email to case officer	8/6/2011
24	Agent	Email to case officer	10/6/2011
25	Case officer	Email to agent	10/6/2011
26	204 Coventry Road	Telephone call to case officer	4/7/2011
27	Case officer	Email to agent	4/7/2011
28	Agent	Letter to case officer	21/6/2011
29	Case officer	Email to agent	8/7/2011
30	Agent	Email to case officer	8/7/2011
31	206 Coventry Road	Email to case officer	1/8/2011
32	Case officer	Email to 206 Coventry Road	8/8/2011
33	Agent	Revised plans	17/8/2011
34	Case officer	Email to agent	19/8/2011

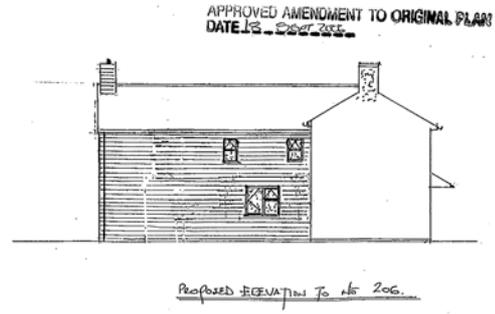
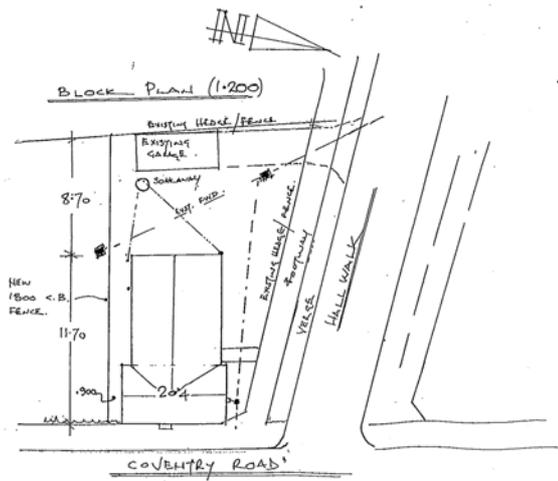
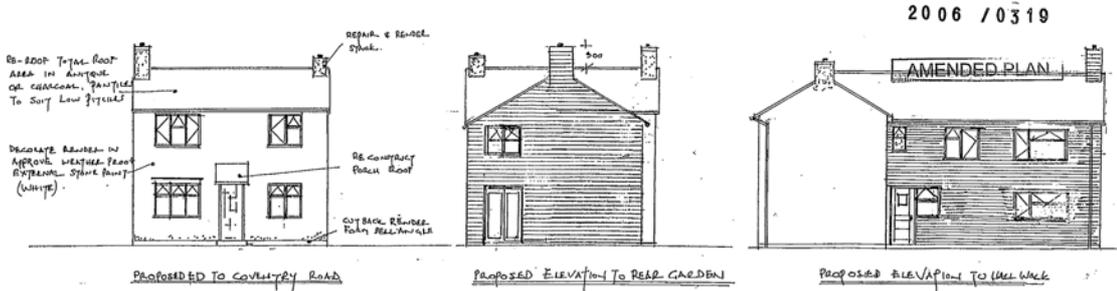
35	Case officer	Reconsultation of plans	19/8/2011
36	101 Coventry Road	Objection	24/8/2011
37	Case officer	Email to agent	24/8/2011
38	Agent	Email to case officer	24/8/2011
39	206 Coventry Road	Objection	24/8/2011
40	Case officer	Email to agent	25/8/2011
41	Coleshill Town Council	Objection	24/8/2011
42	204 Coventry Road	Objection	30/8/2011
43	103 Coventry Road	Objection	29/8/2011
44	99 Coventry Road	Objection	31/8/2011
45	105 Coventry Road	Objection	5/9/2011
46	Case officer	Email to agent	5/9/2011
47	206 Coventry Road	Email to case officer	11/9/2011

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.

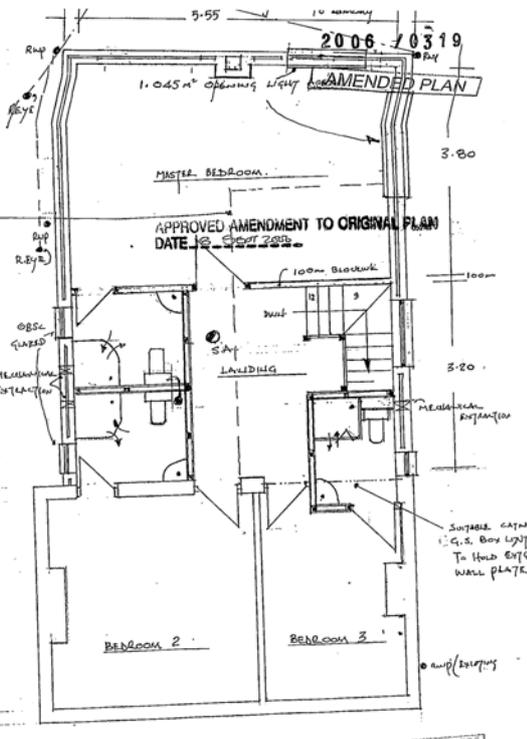
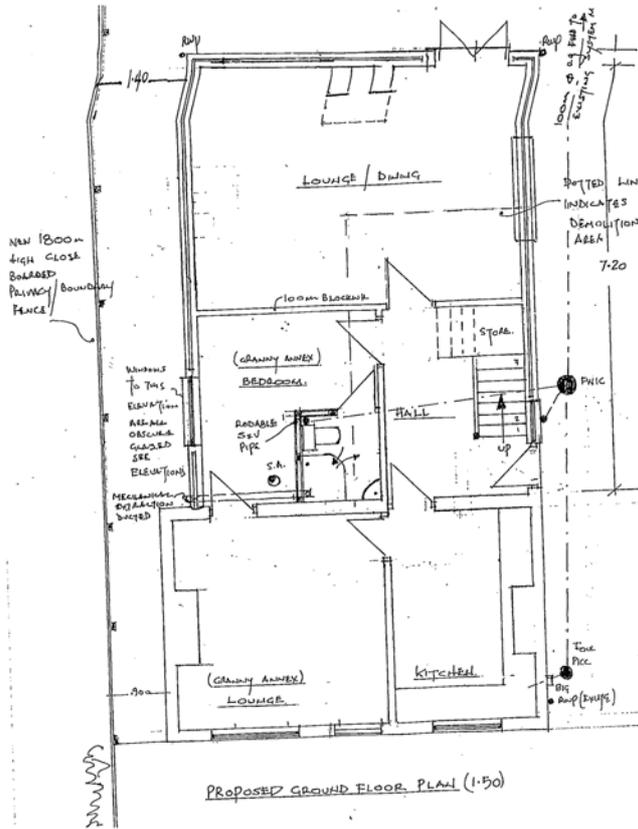


APPENDIX A – 2006 Approval at 204 Coventry Road



25 AUG 2006

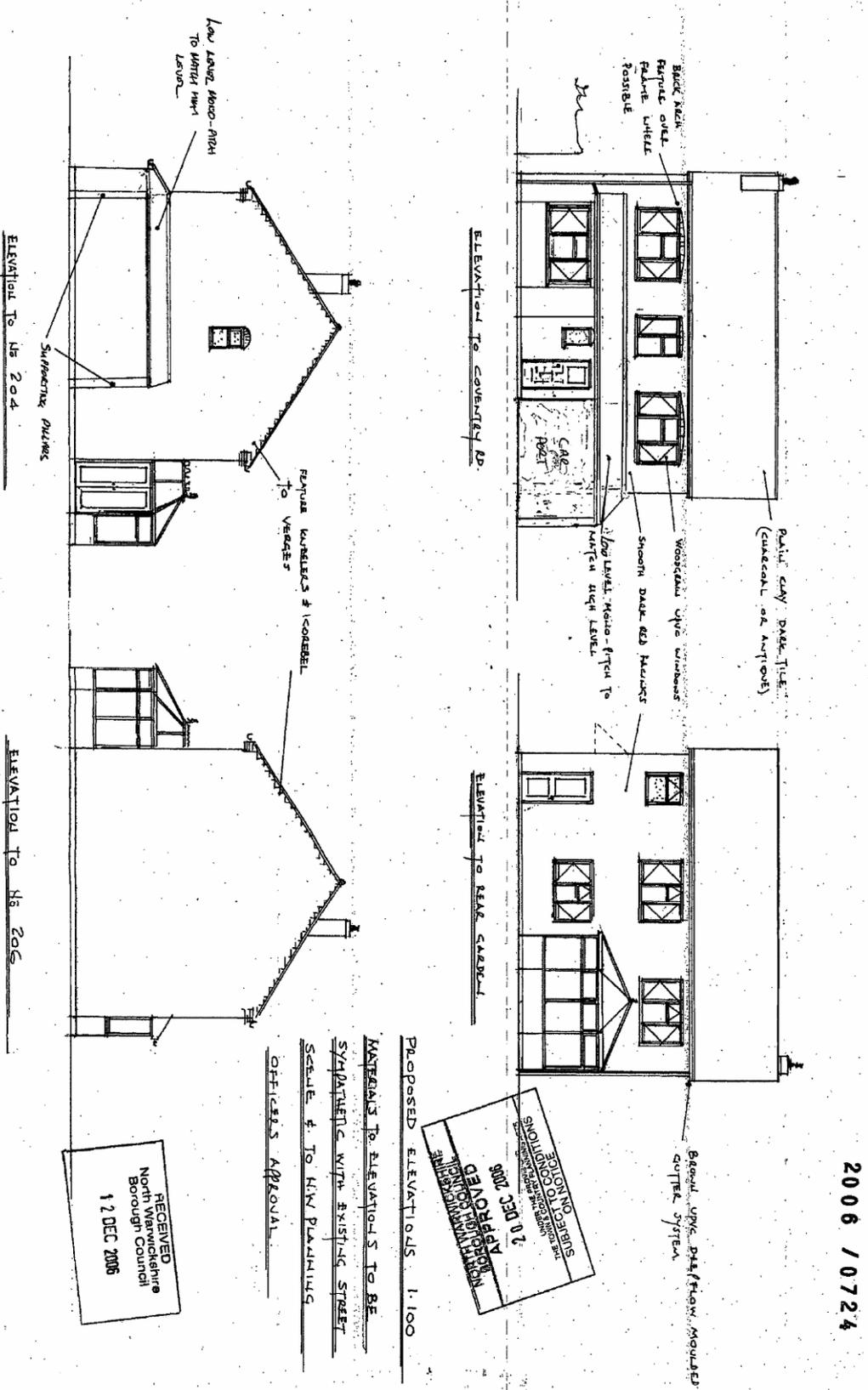
1693



25 AUG 2006

1692

APPENDIX B – 2006 Approved plans al for the dwelling land adj to 204
Coventry Road

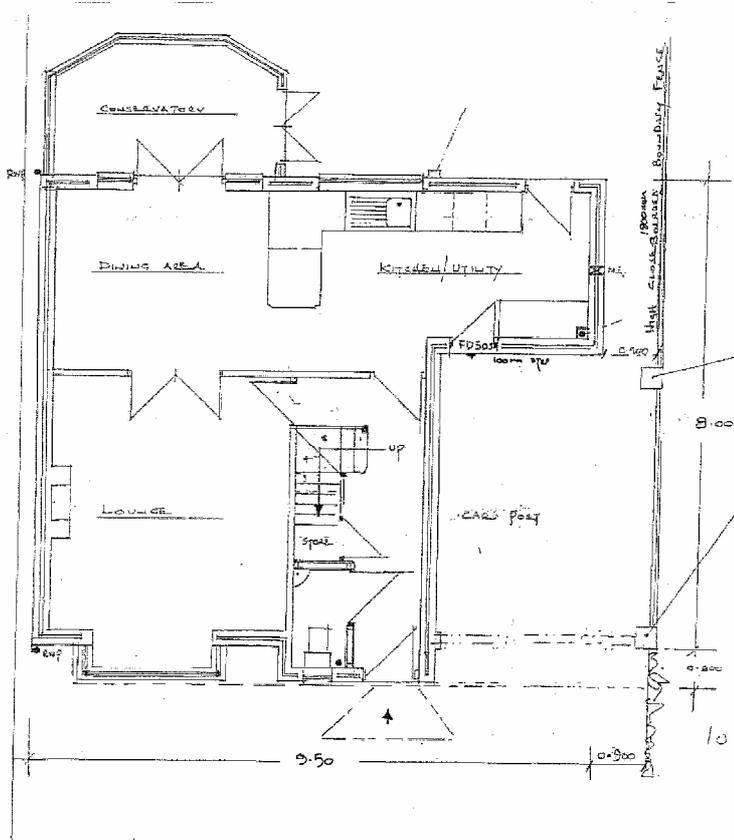


2006 / 0724

RECEIVED FOR THE ARCHITECTS OFFICE
20 DEC 2006
APPROVED
NORTH WARWICKSHIRE
BOROUGH COUNCIL

RECEIVED
North Warwickshire
Borough Council
12 DEC 2006

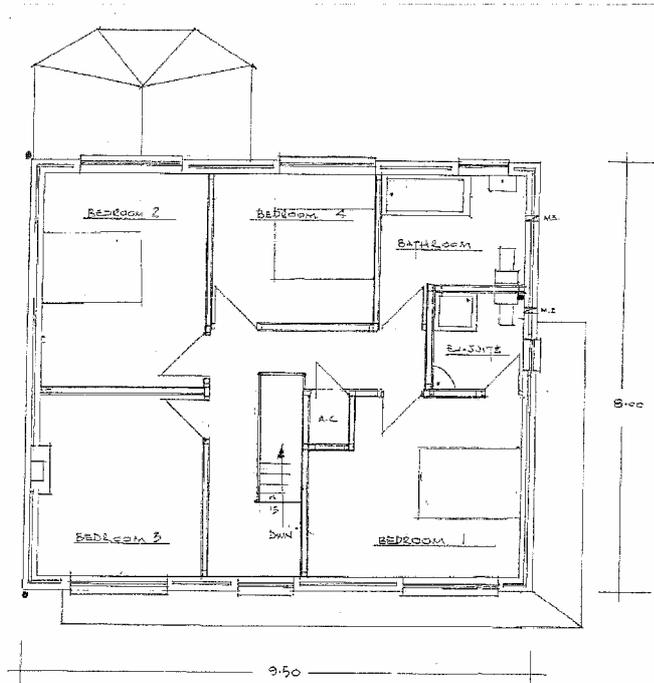
2006 / 0724



Spineless Plans
 PROPOSED GROUND FLOOR PLAN (1:50)
 G.A. 69m² (EXCLUDES CONSERVATORY)

RECEIVED
 North Warwickshire
 Borough Council
 12 DEC 2008

2006 / 0724



PROPOSED FIRST FLOOR (1:50)
 G.A. 67.5m² (48sq)

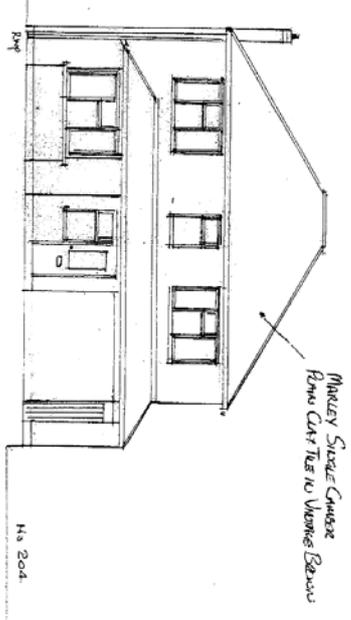
RECEIVED
 North Warwickshire
 Borough Council
 12 DEC 2008

APPENDIX C – Initial submission to vary the 2006 approval

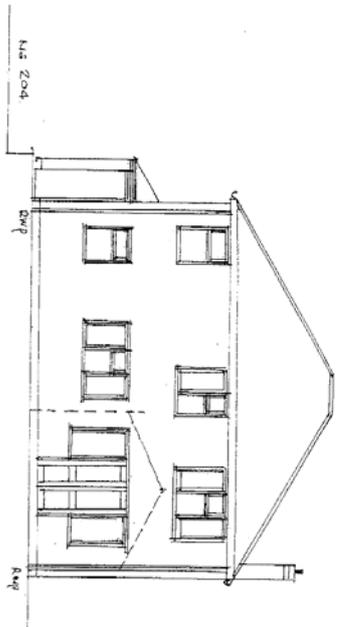


APPENDIX D - Revised submission

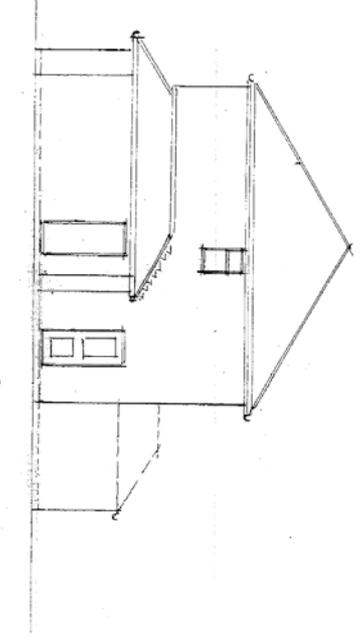
2011 / 0202



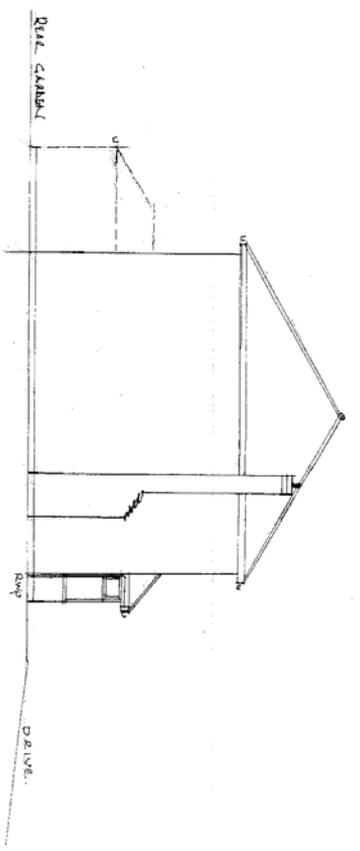
ELEVATION TO GAVENRY RD (1100)



ELEVATION TO REAR GARAGE (1100)



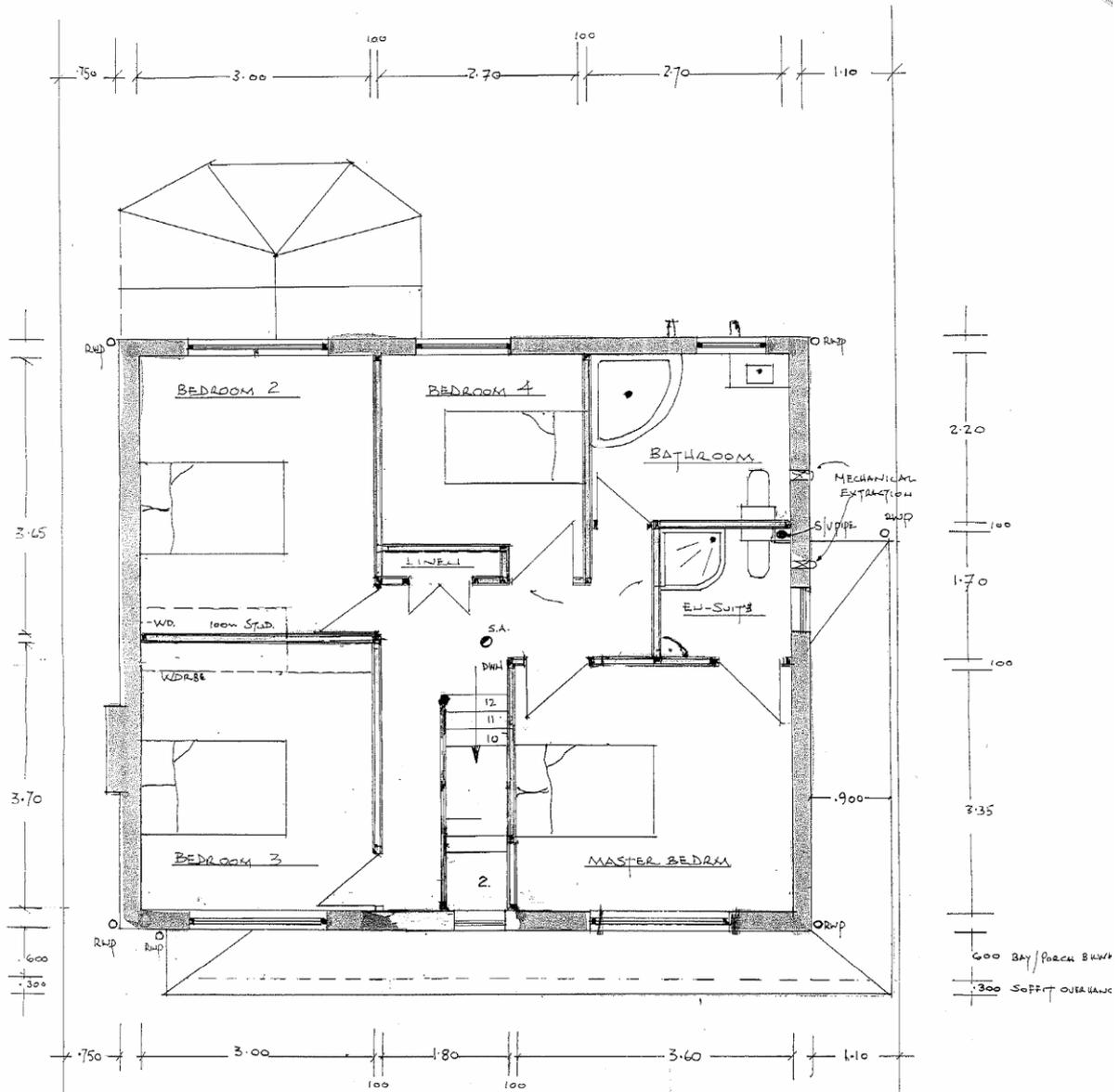
ELEVATION TO THE ZOD COURTYARD RD (1100)



ELEVATION TO 'LASE OFFICE' (200) (1100)

REVISED ELEVATIONS (HIPPED ROOF ALIGNMENT)

17 AUG 2011



RECEIVED
 17 AUG 2011
 North Weymouth
 Overlook Council

2011 / 0202

PROPOSED FIRST FLOOR PLAN 1:50

APPENDIX E – Photographs of the site





(4) Application No: PAP/2011/0286

Grendon Fields Farm, Warton Lane, Grendon

Erection of 1 No. wind turbine and associated equipment,

for Mr Timothy Thirlby

Introduction

This application is reported to Board given the sensitivity of the proposal and representations received to date. This report follows a report presented to Board in September (Appendix A), an interim report presented to Board in August (Appendix B), a tour of the area and site visit by Members, and a site visit to a similar turbine in Harborough District.

The Site

The proposed siting is to the rear of the farm upon a slight rise from the valley bottom, which carries the River Anker. It is open to aspects in nearly all directions, with a small wooded area to the north-west obscuring views somewhat. The surrounding land is primarily in agricultural use, with arable fields and pasture along the valley although there are some urban influences within the area. The Coventry Canal also passes along the valley, with the West Coast Mainline and A5 beyond this. There are public footpaths and bridleways which offer aspects of the site, although these are either at some distance, or pass to the north through the farm itself.

The nearest clusters of residential properties off the farm are to the north-west, beyond the woodland, in the historic settlement of Grendon; and to the south-west in the more recent parts of Grendon (along the A5) and Baddesley Ensor – the latter of which offers elevated views across the valley towards the site. There are further isolated properties around the area, and dwellings to the north-west edge of Atherstone also have some aspects.

The Proposal

It is intended to erect one 46m to tip (36m to hub) wind turbine and associated monitoring/control equipment. The turbine will primarily provide for the needs of the farm holding, which has a high demand given the livestock buildings and equestrian business, before feeding surplus electricity into the national grid.

Background

Relevant legislation and policy is outlined in the previous Board report, and discussion as to the merits of the application are also contained therein (Appendix A). It is not intended to repeat those here. However, further clarification on specific points raised by Members at the previous Board meeting is provided below.

Representations

Since the previous report, no further representations have been received.

Observations

Discussion at the previous meeting centred on the visual impacts, cumulative impact, appropriateness of the location, and noise impacts. Further comments are provided below to assist in Members reaching a decision on this application.

a. Visual Impacts

Part (c) of Appendix A discusses this in detail. A site visit has been made to Harborough District where a turbine of similar nature has recently been commissioned. This turbine carries exactly the same hub make and rotor diameter that is proposed here, although the tower is shorter meaning the overall height is 34m. The surrounding landscape is broadly similar to that proposed at Grendon Fields Farm, and hence provides a similar context. It is hoped that this will assist in Members forming an opinion on the visual impacts.

b. Cumulative Impacts

PPS23 makes it clear that planning authorities should *“take into account the cumulative impact of wind generation projects in particular areas. Such impacts should be assessed at the planning application stage”*.

At present the Borough has no extant consents for wind turbines, nor are there any turbines of medium or large scale present. The nearest turbines are those which Members visited recently. At present there is not considered to be cumulative impact from any aspects or routes within or close to the Borough.

c. Appropriateness of the location

Reference is again made to PPS23 which states *“as most renewable energy resources can only be developed where the resource exists and where economically feasible, local planning authorities should not use a sequential approach in the consideration of renewable energy projects (for example, by giving priority to the re-use of previously developed land for renewable technology developments)”*. It also states *“authorities should not set arbitrary*

limits in local development documents on the numbers of turbines that will be acceptable in particular locations”.

It is therefore clear that each proposal must be considered on its own merits, irrespective of whether it is thought that an alternative site may be more appropriate. Alternatives may in fact not be suitable for a number of reasons, such as land ownership and proximity to other constraints. In the case of wind turbines, a location on an industrial estate for instance would result in the height of the turbine being increased. This is because the blades must be free of turbulence created by buildings, trees and other structures. There may also be insufficient mean wind speeds to support a turbine.

d. Noise impacts

Part (b) of Appendix A discusses this in detail. The site visit will have provided some context to this issue, with the noise emissions from that turbine comparable given it is the same model. Members will recall what noise was experienced, if any, when the turbine was viewed from the highway some 270m to 350m distant.

There was some discussion at the previous meeting over condition 6 as recommended. It has been confirmed that the revised wording discussed at that time has been accepted by the applicant and the Council's Environmental Health Officer. That condition is contained within the recommendation below.

Further clarity on the noise impacts is provided at Appendix C. This provides a comparison of the projected noise levels to other noise emitting sources, as well as highlighting the World Health Organisation recommended levels for daytime and night time noise. It is clear from this comparison that the noise experienced at the nearest dwelling, even that of the applicants, is well below the night time level.

In light of the above, and the further site visit, the recommendation remains unchanged.

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 turbine hereby approved shall be removed on or before 30 years from the date which the turbine is first used for electricity generation purposes or it ceases to be used for electricity generation purposes, whichever is sooner; with the blades, hub, tower, foundations and associated equipment removed and the ground restored to its former condition unless otherwise agreed in writing by the Local Planning Authority. The date which the turbine is first used for electricity generation purposes shall be confirmed in writing to the Local Planning Authority within 2 weeks of that date.

REASON

In recognition of the limited life expectancy of the development hereby approved, and to ensure that the use does not become permanently established on the site.

3. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered T45.1-102, R028-11-08 Rev B, EWP50_F_001 Rev D and EWP50_F_002 Rev C received by the Local Planning Authority on 1 June 2011; the Badger Mitigation Strategy and Method Statement detailed in Appendix 3 of the Ecological Appraisal by Scarborough Nixon Associates received by the Local Planning Authority on 1 June 2011; and the routing and access schedule outlined at para 1.13 of the Additional Supporting Statement, and supporting routing and cabling plan numbered T45.1-104 both received by the Local Planning Authority on 10 August 2011. The turbine shall be an Endurance E3120 50kW model in RAL9003 (signal white) and RAL9016 (traffic white), with hub height of 36.4m and maximum blade height of 46.0m, and permanently maintained in accordance with these approved details and plans.

REASON

To ensure that the development is carried out strictly in accordance with the approved plans; to ensure that the ecological, noise and visual impacts of the turbine do not vary during the lifetime of the turbine; to ensure that there is no detrimental impact to highway safety; and to accord with the provisions of the Protection of Badgers Act 1992.

4. Prior to the decommissioning of the turbine, details of the routing and access, manner of dismantling and disposal of materials (accounting for ecological, highway, safety and amenity impacts relevant to the date of decommissioning) shall be submitted to and approved in writing by the Local Planning Authority. Decommissioning shall then be carried out in accordance with these approved details.

REASON

To ensure the highway, ecological, noise and aviation safety impacts can be properly assessed in the context of the area at the time of decommissioning.

5. The proposed turbine should be sited at least 50 metres away from the nearest linear feature used by bats, such as the hedgerows. In accordance with Natural England's Technical Information Note (TIN) 051, the 50 metres distance should be measured from the nearest tip of the turbine blade.

REASON

To avoid impacts on key foraging routes of a European Protected Species.

6. Any noise generated by the wind turbine shall not exceed the greater of 35dB(A) or 5dB(A) above background noise ($L_{A90,10min}$), at wind speeds within the site not exceeding 10 metres per second when measured in free field conditions at any residential receptor (in existence at the time of the permission). The noise emission values for the wind turbine shall include the addition of any tonal penalty as recommended in ETSU-R-97. In order to establish this measure, the operator will be required to shut down the wind turbine at the request of the Local Planning Authority so that the operating and background noise levels can be compared. This condition shall apply for both day and night time periods. If the noise from the wind turbine is found to exceed the above limits, the Local Planning Authority may require that the turbine be shut down until the issue is resolved. The prior written approval of any corrective or mitigation measures shall then be necessary from the Local Planning Authority, and such measures shall be installed/implemented prior to the turbine being brought back into use and thereafter permanently maintained as approved.

REASON

To protect the amenities of nearby residential property.

7. Prior to commencement of development, the applicant shall notify the Ministry of Defence Safeguarding Team of the date of commencement of works, the intended duration of works, the maximum height of construction equipment, and the exact latitude and longitude of the turbine. This notification shall also be copied to the Local Planning Authority.

REASON

In the interests of air traffic safety and civil defence.

8. Prior to the commencement of development, a destructive search for reptiles of the site and surrounding areas used for construction and access shall be undertaken by a qualified ecologist.

REASON

In order to minimise the risk of harm to reptiles.

9. No development shall take place within the area indicated on the approved plan until the implementation of a programme of archaeological work has been secured in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

REASON

To ensure the recording of any items of archaeological interest.

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), Core Policy 3 (Natural and Historic Environment), Core Policy 11 (Quality of Development), ENV1 (Protection and Enhancement of Natural Landscape), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV9 (Air Quality), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments) and TPT1 (Transport Considerations In New Development); West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1 (Energy Generation).
2. Public footpath number AE31 passes close to the site. Care should be taken, particularly during construction works, to ensure that this route is kept open at all times.

Justification

The proposal conflicts with saved policy ENV12 of the North Warwickshire Local Plan 2006. However, the wider environmental and economic benefits arising from the development are considered sufficient to outweigh the visual harm caused in immediate vicinity. Otherwise the proposal is not considered to bring harm to landscape character, with the turbine forming a component of the existing landscape and sits within the context of a rural landscape interrupted by some urban influences. Risk to protected and other species is either negligible or suitably controlled by condition such that, on the balance of probability, harm is not considered to be likely; highway safety impacts are considered satisfactory or suitably controlled by way of condition; construction and decommissioning impacts are considered acceptable subject to conditions; and noise concerns are not considered to be of issue given the qualified assessment of likely impacts and ability to limit the use of the turbine if noise is found to exceed recommended levels. Matters relating to the impact on the setting of heritage assets, aviation and safety implications, and interference with electromagnetic signals are all considered acceptable. The proposal is therefore in accordance with saved policies Core Policy 2, Core Policy 3, Core Policy 11, ENV1, ENV3, ENV4, ENV6, ENV8, ENV9, ENV10,

ENV11, ENV16 and TPT1 of the North Warwickshire Local Plan 2006; the West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1; National Planning Policy Guidance: PPS1, Planning and Climate Change: A Supplement to PPS1, PPS22, Planning for Renewable Energy - A Companion Guide to PPS22, PPS24, the Overarching National Policy Statement for Energy (EN-1), the National Policy Statement for Renewable Energy Infrastructure (EN-3) and draft National Planning Policy Framework (July 2011); and Technical Guidance: The Assessment and Rating of Noise from Wind Farms (ETSU-R-97: September 1996). There are no other material considerations that indicate against the proposal; and there is not considered to be conflict with Article 12 of the EU Habitats Directive, nor Article 1 of Part II of the Human Rights Act 1998.

BACKGROUND PAPERS

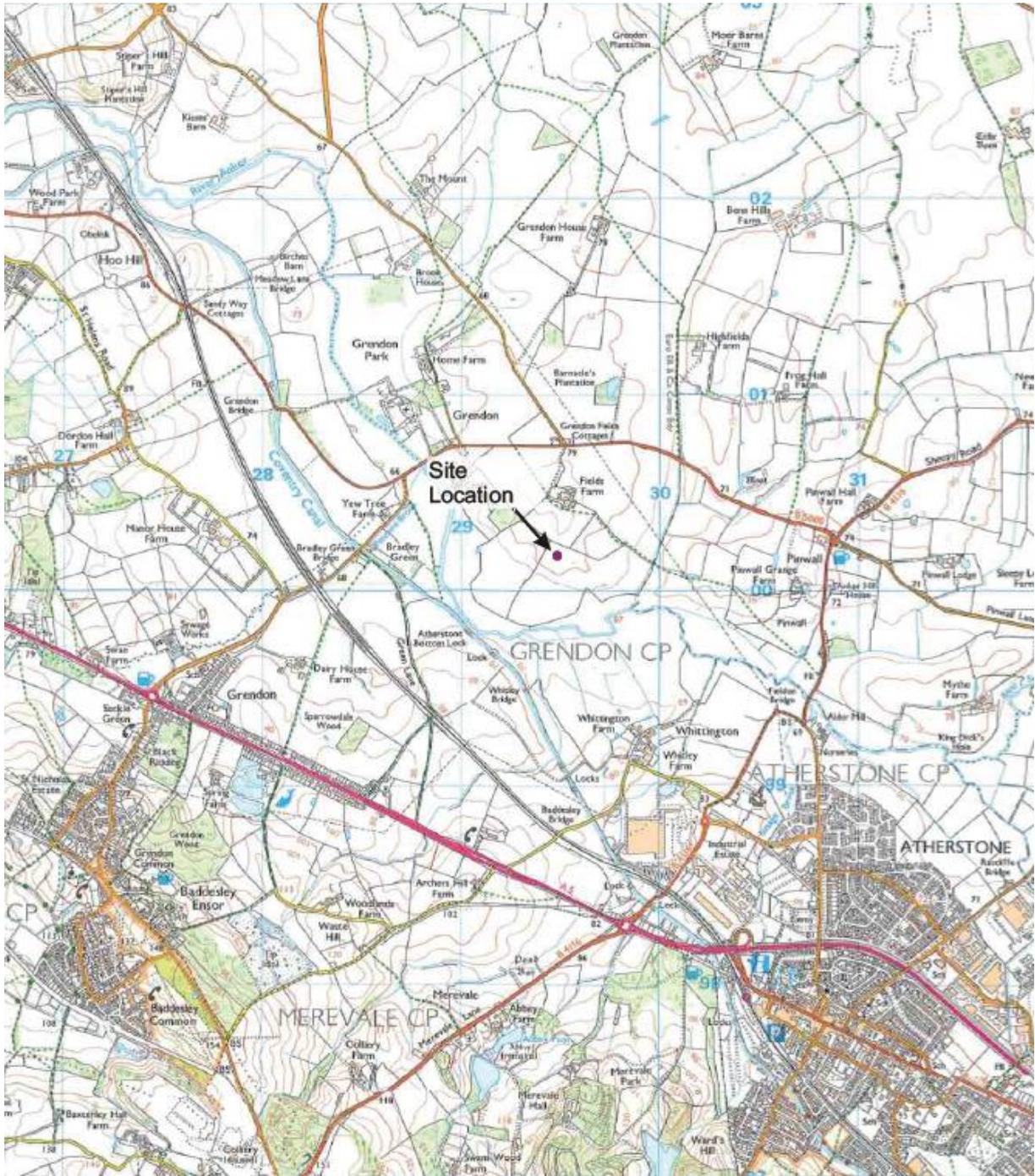
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Planning Application No: PAP/2011/0286

Background Paper No	Author	Nature of Background Paper	Date
1	As per Background Papers at Appendix A	As per Background Papers at Appendix A	Various
2	Head of Development Control	Letter to Agent	18 Oct 2011
3	Agent	Email to Head of Development Control	19 Oct 2011
4	Head of Development Control	Email to Councillors	20 Oct 2011
5	Agent	Email to Case Officer	24 Oct 2011
6	Environmental Health Officer	Email to Case Officer	27 Oct 2011

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

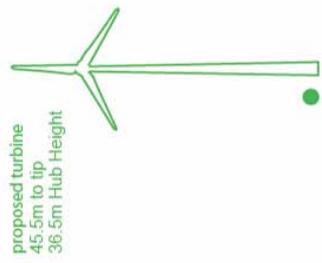
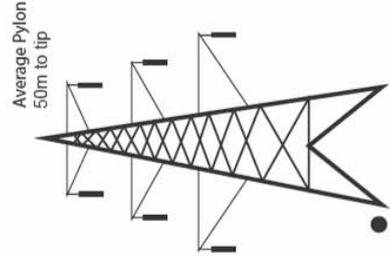
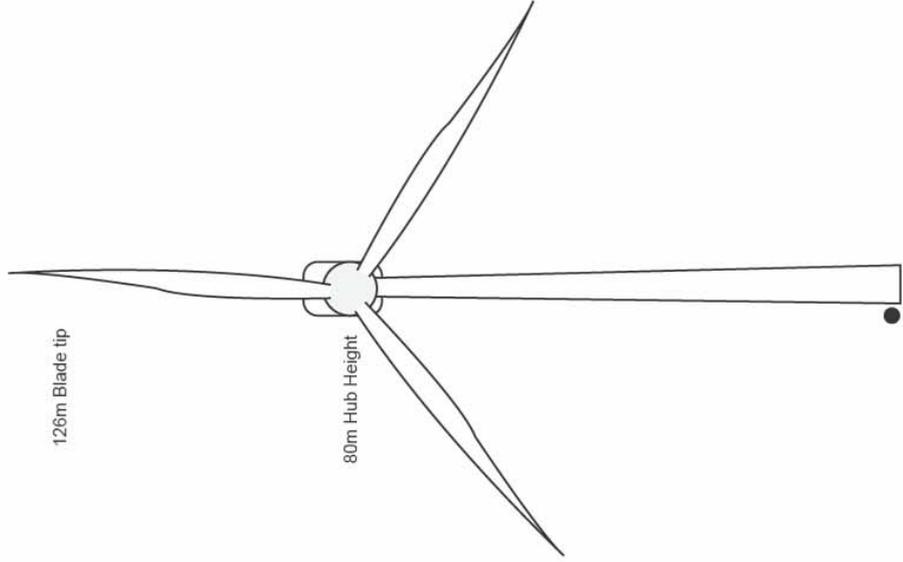
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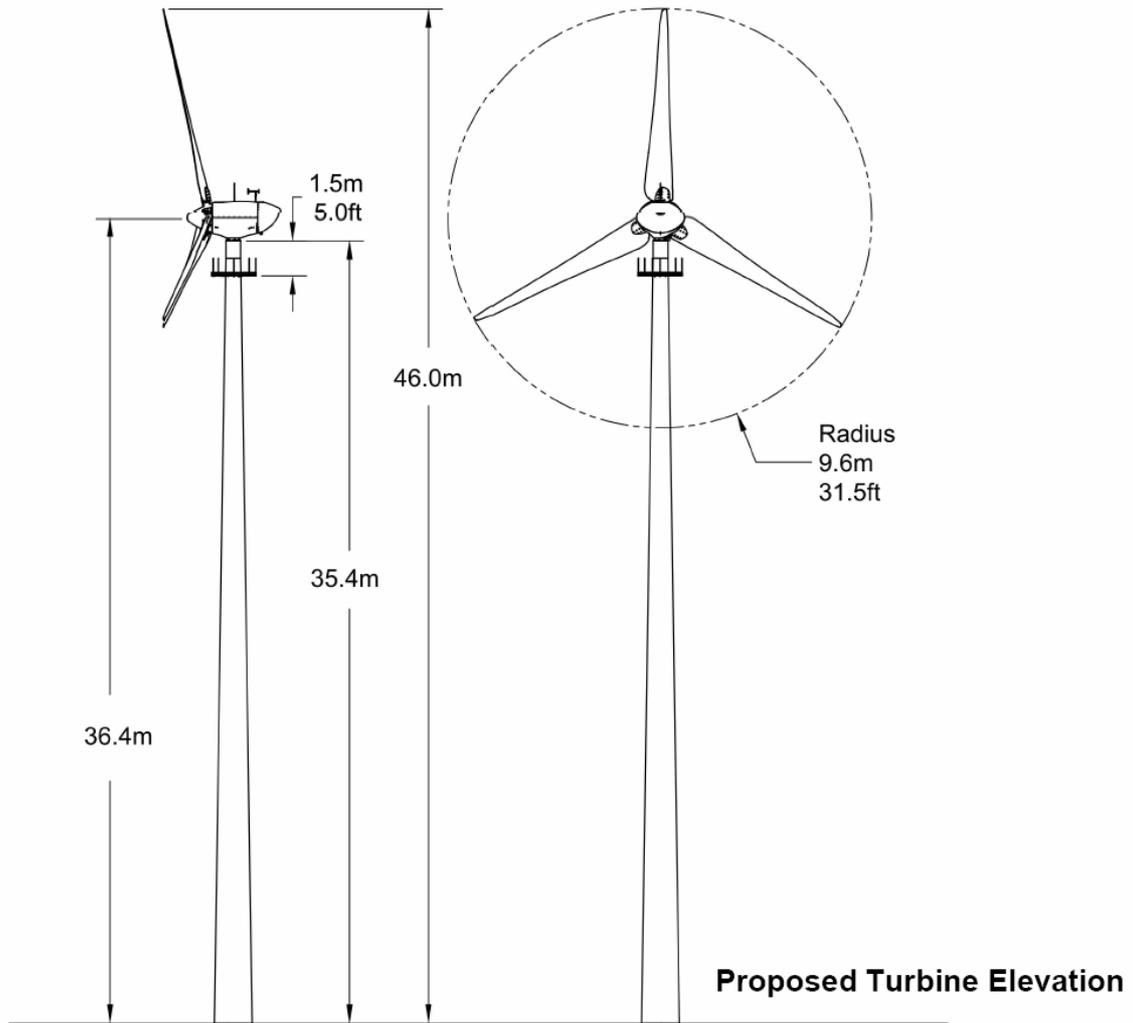


2011/0286



NORTH WARWICKSHIRE BOROUGH COUNCIL
RECEIVED 21-Jun-11
PLANNING & DEVELOPMENT DIVISION





General Development Applications

(4) Application No: PAP/2011/0286

Grendon Fields Farm, Warton Lane, Grendon

Erection of 1 No. wind turbine and associated equipment, for Mr Timothy Thirlby

Introduction

This application is reported to Board given the sensitivity of the proposal and representations received to date. This report is intended as an interim report only, as the consultation period is presently continuing and a formal assessment of the proposal underway.

The Site

The proposed siting is to the rear of the farm upon a slight rise from the valley bottom, which carries the River Anker. It is open to aspects in nearly all directions, with a small wooded area to the north-west obscuring views somewhat. The surrounding land is primarily in agricultural use, with arable fields and pasture along the valley. The Coventry Canal also passes along the valley, with the West Coast Mainline and A5 beyond this. There are public footpaths and bridleways which offer aspects of the site, although these are either at some distance, or pass to the north through the farm itself.

The nearest clusters of residential properties off the farm are to the north-west, beyond the woodland, in the historic settlement of Grendon; and to the south-west in the more recent parts of Grendon (along the A5) and Baddesley Ensor – the latter of which offers elevated views across the valley towards the site. There are further isolated properties around the area, and dwellings to the north-west edge of Atherstone also have some aspects.

The Proposal

It is intended to erect one 46m to tip (36m to hub) wind turbine and associated monitoring/control equipment. The turbine will primarily provide for the needs of the farm holding, which has a high demand given the livestock buildings and equestrian business, before feeding surplus electricity into the national grid.

Background

The proposal has been assessed in respect of the Environmental Impact Assessment (EIA) Regulations 1999. Whilst the proposal is classed as development under paragraph 3(i) of Schedule 2 to the Regulations, it has been concluded that due to the lesser scale of this wind turbine (compared to full scale wind farms); the significant distance to residential receptors; a lack of statutory and local constraints in respect of ecology, heritage, aviation and land designations; and the presence of

adequate statements and information to address any residual environmental concerns, that the development is not considered to be EIA development such that the submission of an Environmental Statement is not required.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): Core Policy 2 (Development Distribution), Core Policy 3 (Natural and Historic Environment), Core Policy 11 (Quality of Development), ENV1 (Protection and Enhancement of Natural Landscape), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV9 (Air Quality), ENV10 (Energy Generation and Energy Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance (including Scheduled Ancient Monuments) and TPT1 (Transport Considerations In New Development).

West Midlands Regional Spatial Strategy (Phase 1 Revisions January 2008): POLICY EN1 (Energy Generation)

Other Relevant Material Considerations

Government Advice: PPS22 (Renewable Energy), Planning for Renewable Energy – A Companion Guide to PPS22, Overarching National Policy Statement for Energy (EN-1), National Policy Statement for Renewable Energy Infrastructure (EN-3), The Assessment and Rating of Noise from Wind Farms (ETSU-R-97: September 1996).

Consultations

A number of statutory consultees and qualified bodies have been approached. These include Ministry of Defence, Birmingham Airport, Coventry Airport, East Midlands Airport, Campaign for the Protection of Rural England (CPRE), Warwickshire Wildlife Trust, RSPB, NWBC Environmental Health, Grendon Parish Council and Sheepy Parish Council.

A total of 1163 notification letters were sent to properties in the surrounding area and across the border into Hinckley and Bosworth following the Case Officer establishing from where views of the proposal could be possible.

A site notice was erected at the access to the farm on 20 June 2011, which expired on 11 July 2011.

Local members of the Baddesley and Grendon, Dordon, Polesworth East and Atherstone North Wards, along with the Chair and Vice Chair of the Planning Board were notified of the application on 20 June 2011.

Representations

All three airports consulted raise no objection to the proposal with the turbine sitting outside of their safeguarding zones and hidden from radar by topography. The Ministry of Defence also raise no objection, subject to condition and informatives.

Warwickshire Wildlife Trust has raised a holding objection to the proposal, commenting that the ecological work was lacking in respect of bat surveys. Since then, the applicant has commissioned further activity surveys and at the time of writing this detail is with the Trust for consideration. RSPB have provided no comment.

CPRE object to the proposal considering it to be incongruous and adding to built form in the landscape, as well as raising concern as to the risk of bat collision, disturbance to horses, and that the benefits are not proven to be so great to outweigh harm created.

The Council's Environmental Health officer has considered the noise assessment submitted. He raises no objection to the proposal, but in line with guidance requests a condition to require the shutdown and rectification of the problem if noise levels from the turbine are found to exceed 5dbA above background levels.

Both Baddesley Ensor and Grendon Parish Councils object, with common and independent issues raised. These question the scale of the proposal against the needs of the farm; the adequacy of the ecological survey, wind speed analysis and noise assessment; the visual impact; and that it could set precedent;

At the time of writing, the main consultation period has ended and a total of 21 neighbour/business representations have been received from 16 separate addresses. Whilst this represents just 0.01% of those consulted, in the majority those making representations live closest to the site. Issues raised focus on landscape and visual impacts, noise and amenity impacts, ecological impacts and the potential for setting a precedent. Further issues raised relate to interference to TV and radio signals, the need and viability of the turbine, highway safety and validity of the wind speed analysis.

Observations

It is not intended to discuss the policy implications and merits of the application at this stage given the continuing work to overcome outstanding matters raised either by Warwickshire Wildlife Trust, the Case Officer or by the neighbour representations. Formal assessment of the application against Development Plan policy and material guidance, along with reference to representations made, is intended in time for presentation at the September Planning Board.

Notwithstanding this, the visual and landscape impacts can be considered at an early stage and without reference to technical reports or qualified opinion. Members should be aware of the visualisations and comparisons produced by the applicant, which are attached at Appendix A. The Board is therefore asked to consider whether a tour of the locale, visiting key vantage points, would be necessary and beneficial.

Recommendation

That the above report is noted, and the Board undertake a site visit prior to determination of this application.



View point 1: View of turbine from the junction of Waste Lane and Folly Lane, to the east of Baddesley Ensor



View point 3: View of turbine from Spon Lane, to the north of Bradley Green.



View point 4: View of turbine from junction of Sandy Way Lane and St Helena Road, to the north of Dordon Hall Farm



View point 5: View from The Common, Baddesley Ensor



View point 6: View from Merevale Lane, to the south of Colliery Farm



View point 8: View from Whittington Lane, adjacent to the bridge over the train line

Noise Source	Indicative Decibel Level (Logarithmic Scale)
Breathing	10 dB(A)
Whisper; rustling leaves	20 dB(A)
Quiet rural area; quiet bedroom at night	30 dB(A)
World Health Organisation recommended night time noise level to preserve the restorative process of sleep	35 dB (A)
Library; quiet office; lowest limit of urban ambient sound	40 dB(A)
Bird calls	44 dB(A)
Rural background noise	45 dB(A)
Quiet suburb; conversation at home; large electrical transformers at 30m	50 dB (A)
World Health Organisation desirable daytime outdoor noise level to prevent any significant community annoyance	55 dB (A)
Normal conversation; background music; air conditioning unit at 30m	60 dB (A)
Busy restaurant	65 dB (A)
Radio or TV audio; vacuum cleaner	70 dB (A)
Highway at 15m from pavement edge at 10am	76 dB (A)
Passenger car at 65mph at 8m	77 dB (A)
Garbage disposal lorry; dishwasher; average factory/industrial premises; freight train at 15m; hand clap at 1m	80 dB (A)
Food blender; propeller plane flyover at 1000ft	88 dB (A)
Car wash at 6m	89 dB (A)
Power mower	96 dB (A)
Boeing 737 or DC-9 aircraft at one nautical mile (6080 ft) before landing	97 dB (A)
Jet take-off at 305m; Bell J-2A helicopter at 100ft; use of outboard motor; farm tractor; jackhammer	100 dB (A)
Jet flyover at 1000ft	103 dB (A)
Steel mill; car horn at 1m; live rock music concert (108-114 dB).	110 dB (A)
Thunderclap; chain saw	121 dB (A)

SOURCES: Temple University Department of Civil/Environmental Engineering; and Federal Agency Review of Selected Airport Noise Analysis Issues; Federal Interagency Committee on Noise (August 1992); Martec Environmental Consultants Ltd

Noise level of proposed wind turbine at 11m/s

Assessment location	Distance from turbine (m)	Predicted noise level (dB L_{A90})
Grendon Fields Farm (applicant)	310	33
Croft House	587	26
Grendon Fields Cottages	599	26

(5) Application No's PAP/2011/0300 and PAP/2011/0313

Nethersole Centre High Street Polesworth Tamworth

Residential conversion to 4 units & creation of associated parking, for Mr T Smith Sibson Mill Properties

Introduction

These applications were referred to the Board at its October meeting, but a determination was deferred in order to enable Members to visit the site and to particularly view the interior of the building. This visit has now taken place and the matter is brought back to the Board for determination.

For convenience the report to the October Board is attached at Appendix A.

Supplementary Information

The applicant is aware of the main issue here – the division and thus loss of the two internal spaces. The evidence which he has already submitted in the form of the viability study, did explore the option of conversion to just the two units rather than the four, thus removing the need to divide internal space. That option was found not to be viable, a conclusion supported by the Council's own Valuation Officer. In order to supplement that conclusion, the applicant has pointed out that there are only limited opportunities within the building to incorporate thermal upgrading to the fabric, and thus the living zone would be much colder than the open area above if only two units were developed. This would make the two units unattractive to potential occupiers.

The Key Issue

Members are referred to the previous report which runs through the main issue. It is worth stressing that Government policy is clear in that there should be a presumption in favour of the conservation of heritage assets. The issue surrounding this case is whether there has been sufficient evidence submitted to convince the Council that there is little likelihood of any other proposal coming forward in order to enable the re-use of this building.

It is thus critical to look at Government policy. Following on from the presumption it continues by saying that in the event that there would be harm to an asset, which there would be here, then Local Planning Authorities should be refusing consent, unless it can be demonstrated that two tests are satisfied. The first is for the Local Planning Authority to assess whether the harm "is necessary in order to deliver substantial public benefits that outweigh that harm." In other words the harm is outweighed by the benefits of bringing the site back into use. If this can be satisfied then consent may be granted. The Inspector found harm arising from the earlier proposals and thus could not support the application under this test. The second test is made up of

three factors - that the nature of the asset prevents all reasonable uses of the site; that no viable use can be found in the medium term to enable its conservation, and that conservation through grant-funding or other charitable or public ownership is not possible. Members will recall that it was accepted by the Inspector dealing with the earlier proposals before her in early 2011 that the first two factors here were satisfied. It was the last factor that led her to doubt the proposals because of the lack of evidence to fulfil that factor. The evidence she had in effect didn't give her the confidence to support the full requirements of the second test. As a consequence she concluded that the harm found under the first test could not be outweighed, because of failure to comply with the second test. She does however point out that if further evidence was before her, then that might have given her sufficient confidence to outweigh the harm found under the first test. The report at Appendix A makes it clear that one of the issues is whether that gap in the evidence supplied with these new proposals has been filled. The Heritage Officer remains of the view that the current proposal will cause substantial harm to the significance of the building and that as such the full requirements of that second test need to be fulfilled. His view is that the evidence now submitted does not meet the requirements of that test, because there is no evidence of marketing at a nil or low value; that there has been no direct contact made with any known Trust, and that the opportunity for grant funding has not been explored. Instead as reported, the applicant has provided a viability study, which is described and explained in the previous report, the conclusions of which are supported by the Council's Valuation Officer. The Heritage Officer considers that this is not a proper or reasonable alternative to the test as set out in Government policy.

Members are asked to balance all of the evidence before them in light of the tests. It is considered that there is public benefit in supporting the reuse of this important building, and that the current proposals are materially less harmful to the interior of the building than those considered by the Inspector. As such there is now far greater weight given to satisfying the first test than there was with the earlier proposals. In respect of the second test, then whilst the scope of the evidence may still be lacking as prescribed, the alternative evidence submitted by the applicant is reasonable and of weight. The earlier report on page 5/65 of Appendix A outlines reasons why this is the case. As a result, the evidence base is considered to have "shifted" in favour of the current proposals. Given these two changes, it is considered that the overall balance now lies with the grant of planning and Listed Building Consent.

Additional Detail

In the period between the last Board meeting and the time of writing this report, the applicant has submitted further detail in respect of some of the information required under the recommended conditions set out in that report. This would enable that detail to be approved now, should these current applications be supported, rather than later by condition. That detail includes:

- There would be no replacement bricks, as existing ones will be cut out and turned as necessary.

- Roofing tiles will match the existing plain clay tiles and those that are broken will be replaced with a matching reclaimed tile.
- It is not intended to replace stone, but samples will be forwarded for approval if it becomes the case
- The only new item of joinery will be the replacement doors at the rear which would reflect the construction of the front doors
- The air bricks will comprise terra cotta air bricks
- Soil, vent pies and flue outlets are to discharge via ridge vents.
- Screen walls and fencing will be a combination of fences and railings with fences provided where greater privacy is required at the rear because of the proximity of existing residential occupiers
- Car parking details; bollard and drainage details are submitted.
- Visibility splays are now shown on the plans.

This additional detail is all considered to be acceptable as it would enable the development to go ahead so that its detail is in keeping with the building and the locality. The recommendation below accounts for this.

Recommendation

That both planning permission and Listed Building Consent be granted subject to the conditions set out in Appendix A, but varied so as to approve the additional detail as set out in this report, and that the wording of those variations be delegated to the Head of Development Control.

BACKGROUND PAPERS - ADDITIONAL

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

Planning Application No: PAP/2011/0300 and PAP/2011/0313

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letter	18/10/11
2		Note of Site meeting	27/10/11
3	Agent	E-mail	1/11/11

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

General Development Applications

() Application No's PAP/2011/0300 and PAP/2011/0313

Nethersole Centre, High Street, Polesworth, Tamworth

Residential conversion to four units and the creation of associated parking along with Listed Building Consent for the works

for Mr T Smith (Sibson Mill Properties)

Introduction

These applications are reported to the Planning and Development Board in light of the significance of the heritage asset and the approach to be taken.

The Site

The site consists of the main building on the corner of Station Street and High Street, Polesworth. The principle elevation faces onto High Street with further land to the east providing access and parking. The main building is known as the Nethersole Centre - a former early 19th Century school and Grade II listed building, the significance of which is explained later in this report. To the rear are further former school buildings facing onto a central courtyard, although these buildings and courtyard are now in residential use and under separate ownership. There is a pedestrian access splitting that ownership from the rear of the listed building. There is further land leading north from the parking and access, where the Scout Hut lies. This part of the site is excluded from this application. All land is within the Polesworth Conservation Area.

The Nethersole Centre was last used as a community facility particularly by the Parish Council. It has however been vacant for several years prior to the applicant purchasing it some twelve months ago.

The Proposal

It is intended to convert the building to provide four units of single bed room residential accommodation – two either side of a central entrance atrium which effectively divides the building into two spaces – one either side. The atrium originally extended up to the roof where there is a pronounced atrium and central cupola tower. The atrium however has been divided with the addition of a ground floor kitchen and a ceiling which extends over its full length. The proposals would open up this complete space through the removal of the modern kitchen insertion and the ceiling. The four units would be provided by subdividing each of the two spaces referred to above. The existing doors into these two spaces from the atrium would be used to gain access into two entrance lobbies. These would then give access to the four new units. These are created by a new wall running east to west along the

central axis. Mezzanine floors would then “hang” from this central wall connecting to the gable ends. These floors would provide the bedroom and bathroom and be provided with a “modesty” wall. A stair would descend from the mezzanine to the ground floor close to the new entrance lobby. A suspended concealed ceiling would be added in both sections. The new “hanging” floors would leave gaps between them and the front and rear elevations in order to retain the double height windows. The existing parking and access would be reconfigured and improved, with further works to boundary treatments and restoration of external features to the building.

These proposals are illustrated at Appendices A and B.

Background

Planning and Listed Building applications for largely the same proposals were received in August 2010. These were not validated as it was considered that they were incomplete. The applicant however lodged an appeal with the Planning Inspectorate on the grounds of non-determination. This was accepted by the Inspectorate and a decision letter issued in November 2010. The appeal was dismissed refusing both planning and listed building consent largely on the grounds that the proposals would harm the heritage asset – namely the status of the building as a Listed Building. Notwithstanding this refusal, the applicant has continued to liaise with the Council with a view to seeking amendments that might overcome the Inspectorate’s reasons for refusal. These applications are the outcome.

The Inspector’s decision letter is attached at Appendix C.

The applications are accompanied by supporting documentation in the form of a Schedule of Repairs; a Heritage Impact Assessment, a Historic Building Report, a Design and Access Statement, a Damp Report, a Financial Viability Report and Information on marketing the premises.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation, Enhancement, and Interpretation), ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance), COM2 (Protection of Land and Buildings used for Existing Community Facilities in the Main Towns and Market Towns), TPT3 (Access and Sustainable Travel and Transport) and TPT6 (Vehicle Parking).

Other Relevant Material Considerations

Government Advice: Planning Policy Statement 1 – Delivering Sustainable Development (PPS1), Planning Policy Statement 3 – Housing (PPS3), Planning Policy Statement 5 – Planning for the Historic Environment (PPS5),

Planning Policy Statement 25 – Development and Flood Risk (PPS25) and the draft National Planning Policy Framework (NPPF).

Consultations

The Council's Heritage and Conservation officer strongly objects to the proposal. The main focus of the objection centres on the subdivision of the substantial open and unobstructed space within the building made up of the two classrooms flanking the central atrium. He considers that regard has not been sufficiently taken in respect of Government Policy in PPS5 which gives advice on what efforts the applicant should undergo in order to demonstrate the harm is outweighed. He considers that the information provided is not adequate to achieve this and that the case for significant intervention in the manner proposed has not been proven. These matters will be taken up in more detail on the observations section of this report.

The Council's Valuation officer has considered the Viability Report and agrees that alternative proposals to use the building for office space or for two units of residential accommodation would not be viable. Again, these matters will be taken up in more detail in the later sections of this report.

The Council's Environmental Health officer raises no concerns in respect of noise or ground contamination.

Warwickshire County Council Highway Authority comment that the proposal represents an overall improvement in terms of highway safety, with improved visibility to the access and a less intensive use requiring less parking provision. There are still some residual concerns, but they feel these can be addressed by way of condition.

Warwickshire County Council Museum comments that the site lies in an area of significant archaeological potential and requests a programme of investigation to be undertaken.

Severn Trent Water Ltd raises no objection subject to condition.

The Coal Authority raises no objection, although it requests an informative to be added to the grant of any permission.

Warwickshire Wildlife Trust, Polesworth Parish Council and the Polesworth Society were also consulted, but no replies have been received from these parties at this time.

Representations

A site notice was posted on 25 July 2011 and a press notice expired on 4 August 2011. Initial neighbour letters were sent on 28 June 2011. A total of four representations from three addresses have been received. Two of these raised objection on the grounds of security as it unclear as to what would happen with the existing locked gate preventing access to their property, and privacy in respect of aspects from the proposed first floor. One of these

objections has been replaced with a neutral representation commenting on the same matters. A letter of support has also been received noting that the proposal will secure the long term future and value of the building.

Observations

a) Introduction

There is no objection to new residential development at this location in principle given the status of Polesworth in the Borough's settlement hierarchy defined by the Local Plan. The two key issues are therefore firstly, the potential loss of a community facility and secondly, the impact of the proposals on the significance of the heritage asset. These are interlinked to some degree, but they will be considered separately from the outset. Other planning considerations in respect of highway safety, amenity, design, ecology, flood risk and sustainability are also relevant.

A key consideration that will be returned to throughout the remainder of this report is the Appeal decision letter at Appendix C. This is a material consideration of some weight. The proposals considered by the Inspector at that time were in general terms the same as those now before the Board – namely the subdivision of the open space into four separate spaces. Some of the detailing has now been changed with the current submission and significantly, far more supporting documentation is submitted with the proposals. The present applications will therefore need to be “tested” against the content of that decision letter too.

As a consequence it is proposed to look in detail at both of the key issues through Development Plan policy as well as the “eyes” of the appeal decision. It will be seen that the recommendation below runs counter to the advice that is being given to the Board by the Conservation and Heritage Officer. This is unusual, and will need to be explained. Moreover it does illustrate the fact that the assessment between different approaches to these proposals is finely balanced, and that as a consequence Members may resolve that the balance points to a different outcome.

b) Loss of a Community Facility

The Nethersole Centre currently has a lawful use for assembly and leisure. It has mainly been used for Parish Council events and meetings in recent years. However the difference between the costs of maintaining the premises and the income that was being generated, led its management committee to place it on the market in 2010. It was then purchased by the current applicants, who did not intend to use it for community purposes.

The Local Plan – saved policy COM2 - seeks to retain community facilities within the Borough's main towns and local service centres unless they are unsuitable in terms of their location, design, layout or construction for continued use and there is no realistic alternative community use to which they can be put. It is important to note that this policy requires both parts to be

satisfied in order to support the loss of the facility. The principle of the loss of this community facility has already been considered through the recent appeal (Appendix C). It was concluded here (see paragraphs 17 to 20) that it was likely that some potential community groups would have difficulty in financing repairs and maintenance; and that although it was not clear on what precise terms the building was offered for potential community uses, it was unlikely that a suitable group would come forward, especially when the Parish Council and Polesworth Society were consulted and did not object to the principle of conversion. The proposal was thus not considered to undermine the aims of local policy.

These matters have not materially altered since the appeal decision – there has been no objection from the Parish Council, the Polesworth Society, from other community groups or the public at large. The general community view is that alternative venues are available for meetings and small events - nearby schools, the library and the Abbey. The present building does not offer any special or specialised facility or feature that could not readily be provided at alternative venues within a short distance and still within the settlement. Letters have now also been submitted with the current application from property agents which demonstrate a lack of community and commercial interest; one in particular supports the opinion that commercial interest in the premises is unlikely to occur given the available commercial accommodation elsewhere in the vicinity, particularly in Tamworth. On the basis of all of this evidence it is considered reasonable to conclude that community groups are unlikely to take on the premises due to the financial constraints. It is thus agreed that there is no realistic alternative community use to which the building could be put. The Heritage Officer considers that the building's asset is its open space and that further efforts should be made to see if any tenants could be found – for small sports clubs or interest groups. This might be attractive, but no interest has so far been expressed since the time of the first application, and it is considered that such small scale use would be difficult to sustain over time and certainly not produce the income to keep the building in good repair. This latter point will be referred to again below.

c) Impact on the listed building

The Heritage Officer describes the significance of the building as being as a more or less intact early 19th Century School building of “stately” appearance, with the majority of its original features remaining in-situ with its simple plan form unaltered. In greater detail, externally the building exhibits a stone cupola with a leaded roof; a Tudor arched doorway with studded double leaf doors, a central gable with a stone clock face flanked by obelisks, and chamfered stone mullioned and transomed full height windows. Internally, the space is of simple plan form with two large full height classrooms symmetrically flanking a central atrium with just one exception where an enclosed staircase leads up to the atrium at one end of a classroom. The roof space is enclosed above both of the rooms by way of a traditional ceiling, and the end gable walls and windows are not obstructed in any fashion. The building's historic and architectural significance is increased by the rarity

value in that it is almost certainly is a relatively unspoilt early 19th Century school building.

The Heritage Officer considers that any proposal to sub-divide the internal open spaces would be substantially harmful to the significance of the building in both architectural and historic terms.

He does accept that the special interest of the exterior of the building is not an issue in this application. These works are largely ones of repair with the intention to reinstate the central doorway to the rear of the atrium; repair stonework, doors, chimneys, the parapet and roof, the lowering of ground levels at the rear to overcome damp issues, removal of outbuildings and the provision of a new parking area and boundary treatments. These are all considered to be appropriate so as to preserve the fabric of the listed building and its setting. Additionally there have been some more recent works to the property, which have not been in keeping (e.g. the kitchen), and the proposals will rectify these issues.

It is however the proposed internal alterations which result in his strong objection. He considers that even although the proposals have been designed so as to be “reversible” in that the central walls, ceiling and mezzanines could all be removed at a later date, this would be unlikely and sets a very uncomfortable precedent. The current scheme in his view would still not overcome the criticisms made by the Inspector in respect of the previous proposals – see paragraph 11 of that letter at Appendix C which states *“The scheme would obscure the original stately form of the classrooms, adding enclosed first floor bathrooms, lobby partitions, internal staircases and balustrades. It would also reduce the natural lighting of the interior by separating the front and rear windows. It is also likely that such a significant change in the character of the building would be perceived from street level, at least when the interior is illuminated at night, with views of the mezzanine floors, partition walls and domestic paraphernalia”*. He draws attention to the Inspector’s comments that, *“such conversion arrangements would make it difficult to read the original airy and spacious plan form of the original building, and that as a result, the historic and architectural interest of the building would be harmed”*. Whilst he comments that the current submission has made changes to allow more full height space within the units (as opposed to the previous proposal to provide a mezzanine throughout), it is not considered that these changes suitably mitigate the harm to the interior caused by the degree and nature of subdivision and other proposed works. He remains of the view that the harm remains substantial because of the level of intervention into the internal space which is the very essence of the significance of the building’s form and purpose.

Government Planning Policy in PPS5 makes it clear that granting consent for works causing substantial harm to a listed building should be exceptional. It continues that it would need to be convincingly demonstrated that the circumstances of the building are also exceptional, such as it being in very poor condition so that the costs of repair exceeded its market value after repair, and/or that the nature of the building severely limits its potential for reuse. Neither is considered to apply here. In respect of the first then the Inspector notes that the building is sound (paragraph 9 of the decision letter). A full Schedule of repairs has been submitted with the current application, and it is not considered that that Schedule identifies any works that are all together unusual or unexpected. There is clearly a cost associated with the repairs alone (irrespective of providing a new use) - around £180k - and that

now needs to be explored more thoroughly. PPS5 sets out that the public benefit of the proposal (e.g. that it helps secure the optimum viable use of the heritage asset in the interests of its long term conservation), should be weighed against the harm, and greater justification will be needed when the heritage asset carries more significance.

There are two opposing views on how to go about assessing this balance. Because the proposals in the view of the Heritage Officer cause substantial harm as defined above, he considers that far more rigorous market testing is necessary and that appropriate marketing and greater endeavours are made to find charitable bodies to take on the heritage asset with a market value at or close to zero given the findings of the viability study submitted with the application. The applicant favours a different approach. Instead a viability study has been undertaken, setting out the costs of conversion and repair to bring forward (1) office accommodation with no subdivision; (2) residential accommodation in the form of two units with a part mezzanine, and (3) the proposed scheme. He has added in an analysis of available commercial floor space in the vicinity and supporting letters from property agents.

The viability study, together with its assumptions – such as limited land value and the lack of availability of public grant aid or funding - has been considered by the Council's Valuation Officer. In normal circumstances he says that a developer would expect a return of at least 12% for a scheme of this nature to be considered viable. He says that it is clear that none of the three proposals would return a viable result, with a 6.4% profit margin being the best. He is of the view that the office accommodation option is highly unlikely to make a decent return given the surplus of available floor space in the local area. He concludes that the most financially attractive proposal of the three put forward is the development for four units as proposed. The Valuation Officer has also been unable to identify any other possible use that the property could be put to that may produce a higher return.

From the above it is suggested that a further period of marketing, even at zero land value and even focussed on Charitable Trusts, Voluntary Organisations or Community organisations, is highly unlikely to bring forward an interested party for commercial purposes. Indeed, there was little interest shown within the community by any community group in the vacant property and a Preservation Trust is unlikely to be found quickly given the squeeze on public finances, the withdrawal of grant funding and the costs of simply repairing and restoring the building to its original character (both internally and externally) without there being a reasonable prospect of a tenant or new owner. As such, it is not considered reasonable to ask the applicant to pursue further investigatory research.

It is perhaps appropriate at this point to revert to the Appeal decision letter as this provides a base line on which to assess the key issue of the current application. As a reminder that is whether the level of intervention into the heritage significance of this building is so severe that the proposal should not be considered in principle. It has to be accepted that that intervention is harmful because it changes the character and appearance of the special

architectural and historic merit of this Listed Building. This was accepted by the Inspector when dealing with the earlier case. However her letter does not refer to that harm as being 'substantial' – see her conclusion at the end of paragraph 11. Indeed in paragraph 15 she outlines the benefits of the proposal in providing a *“long term use that would enhance the prospects of the building’s survival”*. However she then goes on to look at the public benefit argument. She criticises the applicant’s evidence base. It is considered that it is this element that is absolutely central to the dismissal. The key sentences in paragraph 16 say, *“There is insufficient evidence to conclude that the positive impacts outweigh its negative effects. This is because it has not been demonstrated satisfactorily that there is no alternative viable use that would cause less harm to the building in terms of the interior alterations that would be required”*. The question therefore is whether that omission has now been filled.

It is considered that it has. The internal proposals have been revised such that they are reversible (however unlikely that might be); there is far more open space within each of the four segments, a substantial amount of cost information and market analysis has been provided to add weight to the viability argument, the Council’s Valuation Officer supports the general approach to the property. Moreover there is not a community objection to the loss of a community facility. In all of these circumstances and taking a balanced view on all of the advice received, it is considered that this latest proposal should be supported.

The Heritage Officer’s view is well understood and respected. It is accepted that there will be loss to the significance of this building through these proposals. However his advice to the Board has to be balanced against wider planning objectives and to the content of that earlier appeal decision which has been highly influential in the handling of this second application.

d) Highway safety, amenity, design and sustainability

The Nethersole Centre is located close to the centre of Polesworth. It has excellent access to local services and facilities, as well as to public transport. As such, a residential scheme is wholly appropriate in this context. There are no concerns in respect of ground stability or land contamination, nor drainage, flood risk and ecology. The improvements to vehicular and pedestrian access are supported, albeit with some need to address particular issues by way of condition. The new parking layout and boundary treatments would enhance the appearance of the Conservation Area.

Representations raise concern in respect of security and overlooking. The current arrangement means that access to the rear of the building is restricted by a locked gate. This is important to occupants of The Old School House and School House as their amenity space can be easily accessed from the rear passage to the Nethersole Centre. The applicant addresses this by proposing a similar solution. The overlooking concern arises from the full height windows to the rear of the building. The insertion of a mezzanine potentially allows overlooking where it is currently not possible – from the

eastern and western most windows. However, both of these windows face the end gables of the above properties and as the mezzanine sits around 1.1 metres from the glazing, aspects would be virtually impossible. Views through the other rear windows would only be passing as occupants used the stairs.

Recommendation

That Planning Permission and Listed Building Consent be **GRANTED** subject to the following schedules of conditions:

Planning Permission (PAP/2011/0300)

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 7102.05A, 7102.06A, 7102.07A, 7102.08A, 7102.09A, 7102.10A and 7102.11A, and the Schedule of Works (by Roach Hunt, August 2011) all received by the Local Planning Authority on 8 September 2011; and the plans numbered 1212-01-P1, 1212-02-P1, 1212-03-P1, 1212-04-P1 and 1212-05-P1 received by the Local Planning Authority on 22 September 2011.

REASON

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

3. No development shall be commenced before the following is submitted to and approved by the Local Planning Authority in writing:
 - details and samples of any replacement facing bricks to be used;
 - details and samples of any replacement roofing tiles to be used;
 - details and samples of any replacement stone to be used;
 - details and samples of the lime mortar (dried sample) to be used;
 - details of the external joinery details, including replacements where necessary (with elevations at 1:10 and sections at 1:2);
 - details of air bricks, flues and vents to be used;
 - details of the external rumbled block and cobble pavements to be used.

The approved materials shall then be used.

REASON

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

4. No external vents or flues not approved under condition 3 shall be installed until details of them have first been submitted to and approved in writing by the Local Planning Authority.

REASON

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

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences to be erected. The approved screen walls/fences shall be erected before the use hereby approved is commenced and shall subsequently be maintained.

REASON

In the interests of the amenities of the area and the appearance of the Conservation Area.

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

REASON

In the interests of safety on the public highway.

7. The development shall not be occupied until visibility splays have been provided to the vehicular access to the site, passing through the limits of the site fronting the public highway, with a 'x' distance of 2.4 metres and 'y' distance of 65.0 metres looking left (East) and 40.0 metres looking right (West) 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 safety on the public highway.

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

REASON

In the interests of the amenities of the area.

Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved policies): ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation, Enhancement, And Interpretation), ENV16 (Listed Buildings, Non-Listed Buildings Of Local Historic Value And Sites Of Archaeological Importance), COM2 (Protection Of Land And Buildings Used For Existing Community Facilities In The Main Towns And Market Towns), TPT3 (Access And Sustainable Travel And Transport) and TPT6 (Vehicle Parking).
2. The applicant is reminded that this approval is not a listed building consent. It must be read in conjunction with application Ref. No. PAP/2011/0313.
3. There may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
4. 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.

5. 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.
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.

Justification

It is considered unlikely that continued use of the building for community facilities would be viable or possible given a lack of interest from existing community groups and the public. Indeed, any community group would have difficulty in financing necessary repairs and maintenance. As such, the principle of the loss of this community facility is acceptable, especially when other community facilities remain available within the settlement.

Whilst the proposal would bring about harm to the significance of the listed building by way of the internal subdivision of its simple open plan form; there are material considerations which are relevant. The viability of alternative uses which bring lesser harm on the internal spaces of the building means that such uses are not likely to occur, especially when a community use would be financially restrictive and the commercial property market in the local area is well provided for. The internal works to the main open spaces are also designed in order to minimise the visual and contextual impacts as far as practicable whilst also being reversible in principle, and is less intrusive to a previously refused scheme which, upon appeal, was not held to cause substantial harm. The proposed end use also facilitates a higher gross profit level enabling external repairs and improvements to occur, as well as the removal of less desirable additions to the building which in themselves are harmful to its architectural and historical significance. Overall, the benefits of the proposal provide a long term viable use that would enhance the prospects of the long term conservation of this listed building, and the resulting public benefit is considered to outweigh the harm caused to it.

The site is sustainably located for a residential end use, and external improvements would enhance the appearance of the Conservation Area. There are no concerns in respect of ground stability or land contamination, nor drainage, flood risk and ecology. The effect on neighbouring amenity and property is considered to be acceptable, and there are material improvements to vehicular and pedestrian access.

In light of all the above, the proposal is considered to be in accordance with saved policies ENV3, ENV4, ENV6, ENV8, ENV11, ENV12, ENV13, ENV14, ENV15, ENV16, COM2, TPT3 and TPT6 of the North Warwickshire Local Plan 2006, as well as national guidance set out in Planning Policy Statement 1, Planning Policy Statement 3, Planning Policy Statement 5, Planning Policy Statement 25 and the draft National Planning Policy Framework (NPPF).

Listed Building Consent (PAP/2011/0313)

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 7102.05A, 7102.06A, 7102.07A, 7102.08A, 7102.09A, 7102.10A and 7102.11A, and the Schedule of Works (by Roach Hunt, August 2011) all received by the Local Planning Authority on 8 September 2011; and the plans numbered 1212-01-P1, 1212-02-P1, 1212-03-P1, 1212-04-P1 and 1212-05-P1 received by the Local Planning Authority on 22 September 2011.

REASON

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

3. No development shall be commenced before the following is submitted to and approved by the Local Planning Authority in writing:
 - details and samples of any replacement facing bricks to be used;
 - details and samples of any replacement roofing tiles to be used;
 - details and samples of any replacement stone to be used;
 - details and samples of the lime mortar (dried sample) to be used;
 - details of the external joinery details, including replacements where necessary (with elevations at 1:10 and sections at 1:2);
 - details of air bricks, flues and vents to be used;

- details of the external rumbled block and cobble pavements to be used.

The approved materials shall then be used.

REASON

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

4. No external vents or flues not approved under condition 3 shall be installed until details of them have first been submitted to and approved in writing by the Local Planning Authority.

REASON

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

Notes

1. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved policies): ENV13 (Building Design) and ENV16 (Listed Buildings, Non-Listed Buildings of Local Historic Value and Sites of Archaeological Importance).
2. The applicant is reminded that this approval is not a planning permission. It must be read in conjunction with application Ref. No. PAP/2011/0300.

Justification

Whilst the proposal would bring about harm to the significance of the listed building by way of the internal subdivision of its simple open plan form; there are material considerations which are relevant. The viability of alternative uses which bring lesser harm on the internal spaces of the building means that such uses are not likely to occur, especially when a community use would be financially restrictive and the commercial property market in the local area is well provided for. The internal works to the main open spaces are also designed in order to minimise the visual and contextual impacts as far as practicable whilst also being reversible in principle, and is less intrusive to a previously refused scheme which, upon appeal, was not held to cause substantial harm. The proposed end use also facilitates a higher gross profit level enabling external repairs and improvements to occur, as well as the removal of less desirable additions to the building which in themselves are harmful to its architectural and historical significance. Overall, the benefits of the proposal provide a long term viable use that would enhance the prospects of the long term conservation of this listed building, and the resulting public benefit is considered to outweigh the harm caused to it.

As such, the proposal is therefore considered to be in accordance with saved policies ENV13 and ENV16 of the North Warwickshire Local Plan 2006, as well as national guidance set out in Planning Policy Statement 5 and the draft National Planning Policy Framework (NPPF).

BACKGROUND PAPERS

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

Planning Application No's: PAP/2011/0300 and PAP/2011/313

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	10/06/2011, 13/06/2011, 08/09/2011 & 22/09/2011
2	Warwickshire County Council Highway Authority	Consultation reply	29/06/2011
3	Valuation Officer	Consultation reply	07/07/2011
4	Coal Authority	Consultation reply	12/07/2011
5	Severn Trent Water	Consultation reply	13/07/2011
6	Case Officer	Email to Agent	14/07/2011
7	The Old School House, 3 High Street	Representation – objection	17/07/2011
8	School House, 1 High Street	Representation – objection	18/07/2011
9	Heritage and Conservation Officer	Consultation reply and email to Case Officer	21/07/2011
10	Heritage and Conservation Officer	Email to Valuation Officer	22/07/2011
11	Case Officer	Email to Heritage and Conservation Officer	25/07/2011
12	Agent	Email to Head of Development Control	25/07/2011
13	Case Officer	Letter to Agent	25/07/2011
14	Severn Trent Water	Consultation reply	26/07/2011
15	Agent and Applicant	Summary of points raised in meeting of 29/07/2011	29/07/2011
16	Mr Reynolds	Representation – support	30/07/2011
17	Valuation Officer	Emails to Heritage and Conservation Officer	11/08/2011
18	Emails to Heritage and Conservation Officer	Valuation Officer	11/08/2011
19	Warwickshire County Council Museum	Consultation reply	12/08/2011
20	Agent	Email to neighbour	19/08/2011
21	Agent	Letter to Case Officer	08/09/2011
22	Warwickshire County Council Highway Authority	Consultation reply (amended plans)	14/09/2011

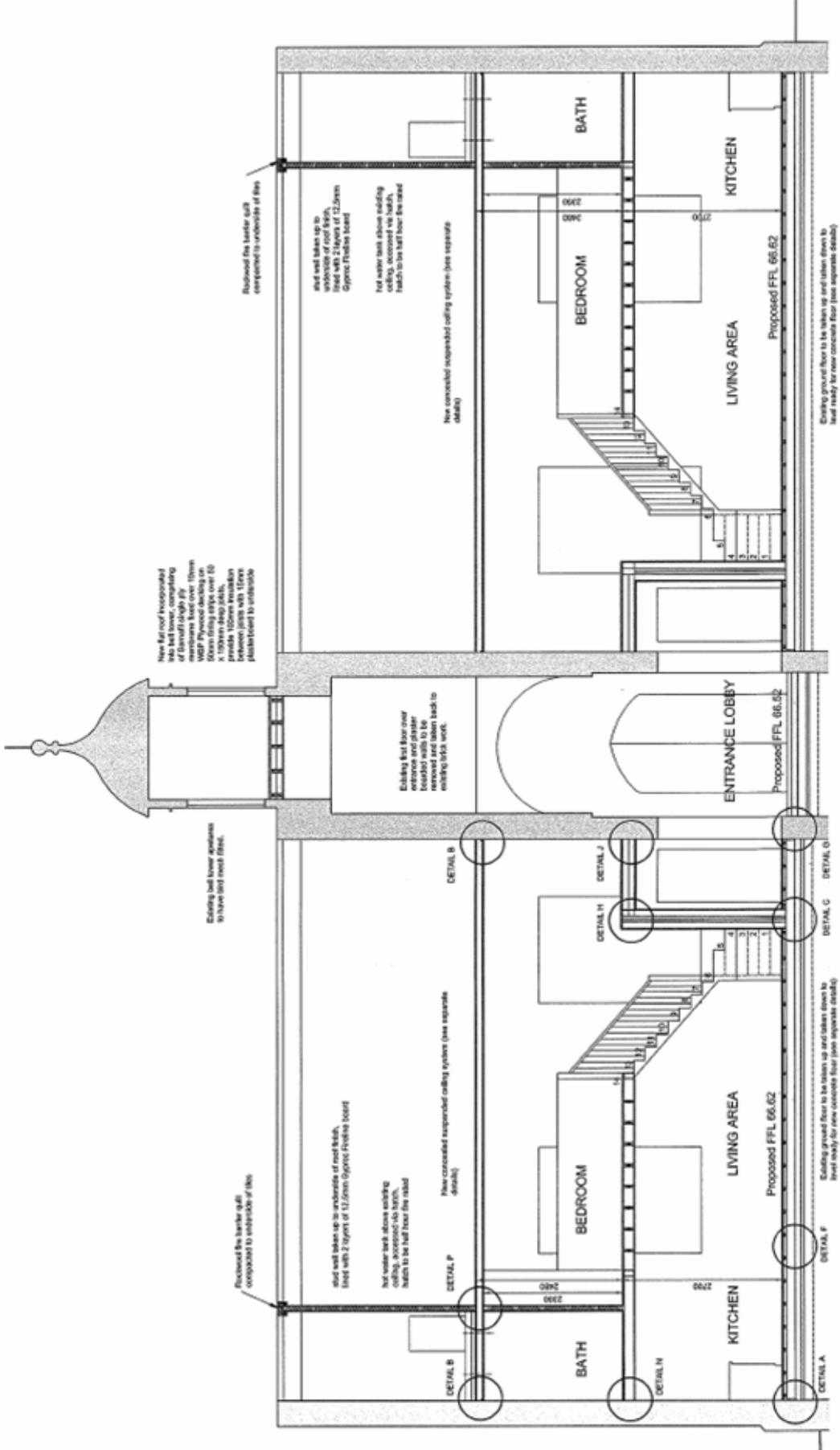
23	Valuation Officer	Consultation reply (amended plans)	22/09/2011
24	School House, 1 High Street	Representation (amended plans) – comments	24/09/2011
25	Severn Trent Water	Consultation reply (amended plans)	26/09/2011

26	Coal Authority	Consultation reply (amended plans)	26/09/2011
27	Case Officer	Email to Agent	03/10/2011
28	Agent	Email to Case Officer	03/10/2011

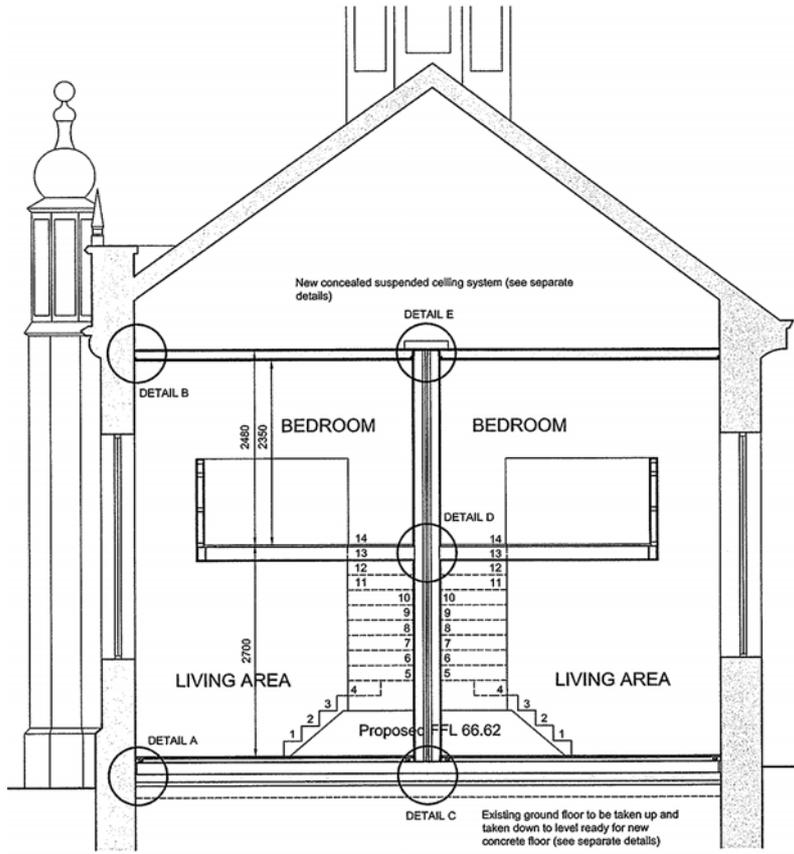
Note: This list of background papers excludes published documents which may be referred to in the report, such as The Development Plan and Planning Policy Guidance Notes.

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

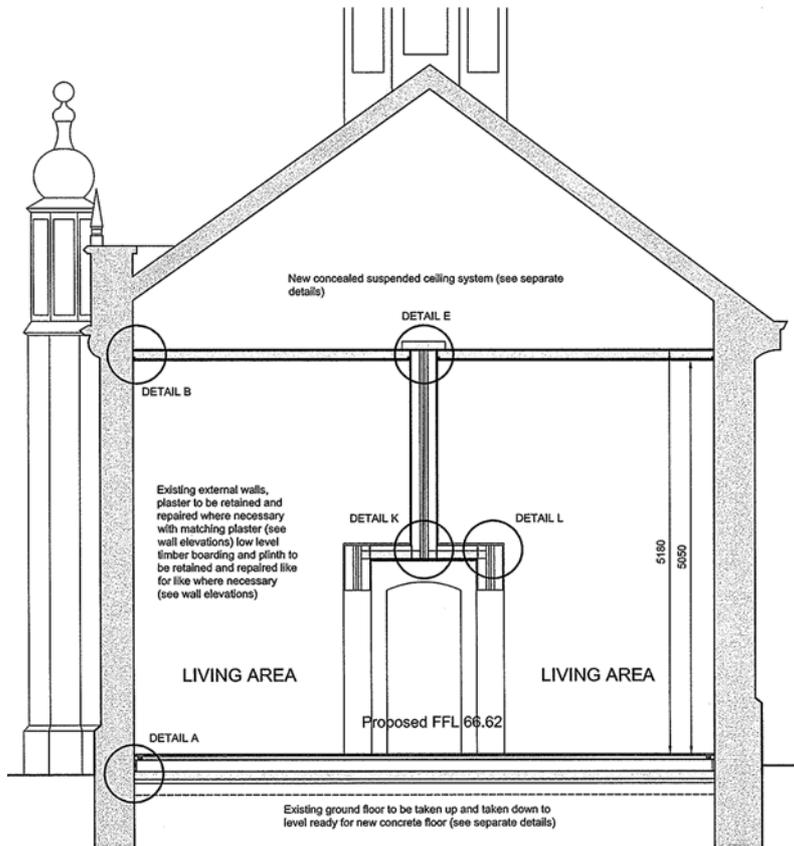
APPENDIX B (Sections)



SECTION THROUGH D-D. Scale 1/50.



SECTION THROUGH A-A. Scale 1/50.



SECTION THROUGH B-B. Scale 1/50.

APPENDIX C (Appeal Decision)

Appeal Decision

Site visit made on 5 January 2011

by Mary Travers BA (Hons) Dip TP MRTPI

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

Decision date: 2 March 2011

Appeal Ref: APP/R3705/A/10/2138997

2 High Street, Polesworth, Tamworth, Warwickshire B78 1DU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Sibson Mill Properties against North Warwickshire Borough Council.
 - The application ref PAP/2010/0448 was dated 24 August 2010.
 - The development proposed is residential conversion and creation of associated parking.
-

Preliminary Matters

1. This appeal concerns the Nethersole Centre, which was formerly a school and is a Grade II listed building within Polesworth Conservation Area. The planning application was originally submitted to the Council on 24 August 2010 together with an application for listed building consent. By letter dated 27 August 2010 the Council replied that the planning application was incomplete in respect of certain essential information and should not be registered. In particular, information was sought on the steps that had been taken to find an alternative community use for the building and on the marketing exercise for commercial and non-residential uses which would have a lesser impact on the listed building.. On this basis the Council said that the letter should be treated as a Direction under Regulation 4 of the 1988 Applications Regulations and that the application would not be treated as valid and thus would not be registered until all of the required information had been supplied.
2. This planning appeal against non-determination of the application was lodged in October 2010. Exchanges of correspondence with the Council and the Appellant followed, dealing principally with the Council's contention that there was no valid right to appeal, having regard to the High Court ruling in the case of Newcastle upon Tyne City Council against the Secretary of State (2009). Having taken all the relevant matters into account, including the evidence supplied by the Appellant in regard to the Council's information requirements, the Planning Inspectorate set out its view by letter dated 29 November 2010. This concluded that it was the adequacy of the information that had been supplied that was at issue and that this matter could be tested on appeal. I have determined the appeal on this basis.
3. While an application for listed building consent was made to the Council as detailed above, an appeal against its non-determination has not been lodged and this matter is not before me.

4. Applications for the award of costs against the other party were made by both the Appellant and the Council. These are the subject of separate decisions.

Decision

5. I dismiss the appeal.

Issues

6. There are two main issues in this case. The first is whether, having regard to saved Policy ENV16 of the North Warwickshire Local Plan 2006 (LP) and the advice in Planning Policy Statement 5, *Planning for the Historic Environment*, (PPSS), the proposal would preserve the special architectural and historic interest of the listed building and its setting. The second issue is whether, in the light of saved Policy COM2 of the LP and all the other material considerations, the proposed loss of a community facility would be harmful.

Reasons

Listed Building

7. The Nethersole Centre is an early 19th century school house in a prominent position on the corner of High Street and Bridge Street/Station Road in the centre of Polesworth. It is said that Nikolaus Pevsner described it as "remarkably stately". The listing description makes reference to its many architectural features including the large octagonal stone cupola with a leaded roof, Tudor arched doorway with studded double leaf doors, central gable flanked by obelisks and with a stone clock face, and the chamfered stone mullioned and transomed windows. The interior was not inspected for listing purposes but as I saw, the large open volume of the two classrooms, the aesthetic contribution of the opposing windows on the north and south walls, and the simple formality of its plan layout contribute to its special historic and architectural interest.
8. As the Council describes, the otherwise perfect symmetry of the plan form of the interior is compromised by a wall that encloses a staircase to a mezzanine floor above one of the classrooms. There is some dispute between the Appellant and the Council as to the dating of this structure and its significance. Also a modern window to a kitchen enclosure has replaced the original door at the rear of the central hallway. But overall, the original building has survived largely unaltered and I agree with the Council that its historic and architectural significance is increased by the rarity value that it almost certainly has as a relatively unspoilt, early 19th century school building.
9. It appears that the centre has been vacant for a few years. Its general condition and the appearance of the curtilage could undoubtedly be improved, not least since its windows are boarded up, and there are signs of disrepair and neglect that are in need of attention. However much of the fabric is essentially sound and there is no indication, for example a schedule of necessary repairs, that the costs of returning the building to a good overall state of repair are prohibitive. Taking all the specialist evidence into account, it would appear that the building is not currently at any significant risk of dereliction.
10. The appeal scheme is for conversion of the building to four apartments, entailing a number of alterations to its interior but no exterior changes, although car parking and new access arrangements would be provided. Each of the two classrooms would be subdivided into two apartments, with ground

floor and first floor levels. This would entail new partition walls up to the ceiling height, new mezzanine floors and the formation of entrance hallways and bathroom enclosures to each apartment. The mezzanine floors would be set back by 600-700mm from the external walls and windows at the front and rear.

11. It is proposed to carry out the internal partitioning works in a way that allows them to be reversed at a later date and, for the most part, has minimal impact on the historic fabric. However there is no indication that reversion to two large spaces is likely to occur. The scheme would obscure the original stately form of the classrooms, adding clutter such as bathroom and lobby partitions, internal staircases and balustrades, and it would reduce the natural lighting of the interior by dividing the building along its length, separating the front and rear windows. It is also likely that the significant change in the character of the building would be perceived from street level, at least when the interior is illuminated at night, with views of the mezzanine floors, partition walls and domestic paraphernalia. Contrary to the Appellant's view, I consider that the conversion arrangements would make it difficult to read the original airy and spacious plan form of the original building. As a result, the historic and architectural interest of the building would be harmed in this respect.
12. In these circumstances it is important to weigh the public benefit of the proposal, including whether it would help to secure the optimum viable use of the building in the interests of its long-term conservation, against the harm that would be caused to its special interest. As PPS5 Policy HE9 sets out, evidence is needed that other potential owners or users of the site have been sought through appropriate marketing, and that reasonable endeavours have been made to seek grant funding for the heritage asset's conservation, and to find charitable or public authorities willing to take on the asset.
13. The evidence suggests that the appeal property was on the market for about one year in 2008-2009, during which time only one offer, apart from the Appellant, was received but not progressed. However the information does not disclose the sales particulars or basis on which it was offered for sale or rent, nor is there enough evidence of the scope of the marketing exercise. The building has potential appeal to a niche market, but the evidence does not show that it has been marketed with this in mind.
14. The potential for use as offices or a studio has been acknowledged, but there is insufficient evidence to support why this potential should be dismissed as unrealistic. It is not enough to refer to the current low levels of demand without any supporting details of a sustained marketing campaign. Given the advice in PPS5 on the timing of marketing campaigns, it has not been demonstrated that sufficient time has been devoted to the search for other suitable, commercially viable uses that would have a less harmful impact on the listed building, before allowing residential conversion as proposed. Also, information on the cost of restoring the premises to a state of repair that is suitable for letting has not been provided.
15. On the positive side, and notwithstanding the Council's opinion about the significance of this element, the proposal would enable restoration of the original entrance hall and open up a view of the cupola. This would be an important enhancement. The conversion scheme would also provide for sympathetic re-instatement, refurbishment and repairs to the fabric of the building. Its setting, including that of the residential properties to the rear,

would be improved by the removal of low-grade outbuildings on the site and suitable landscaping of the perimeter areas and the new car park. Overall, it appears that significant restoration of the exterior of the building could be secured, also benefiting the conservation area, and the proposal would clearly provide a longer-term use that would enhance the prospects for the building's survival. This would be achieved in the absence of public funding or grant aid, which appears unlikely to be available in this case.

16. However, taking account of the detailed evidence submitted, the building is not in immediate danger, and it is important that opportunities for safeguarding and restoring its interior character as well as its built fabric are pursued. On balance, given all the details of the scheme and the policy considerations, there is insufficient evidence to conclude that the positive impacts of the proposal on this heritage asset outweigh its negative effects. This is because it has not been demonstrated satisfactorily that there is no alternative viable use that would cause less harm to the building, in terms of the interior alterations that would be required. For this reason, it is concluded that the proposal would not preserve the special architectural and historic interest of the listed building and would conflict with the statutory requirements in this regard, and with national and local policies to protect heritage assets.

Community Use

17. It appears that the Nethersole Centre was used for community purposes up to about 2009 and has a Class D2 assembly/leisure use. LP Policy COM2 seeks to protect community use of buildings in Polesworth unless they are unsuitable for continued use and there is no realistic alternative community use to which they can be put.
18. In terms of suitability, with investment in improved access and facilities for the disabled, the building could be made suitable for continued use for community purposes in the long-term. However, it is likely that some potential community users of the building would have difficulty in financing these works and providing for repairs and maintenance. It seems that these factors probably influenced the sale of the building.
19. Having regard to alternative community uses, it appears that the Nethersole management committee felt that there was little demand from users and community groups when the decision was made to sell the property. Also, the Parish Council and the Polesworth Society have been consulted about the proposal and have not objected to the principle of residential conversion. Generally this lends support to the Appellant's case about the lack of demand for community use of the building, albeit that the Polesworth Society's response to the appeal appears to reserve the right to comment from first principles on future proposals for the site. So far as the level of information on alternative community uses is concerned, I share the Appellant's view that the scale and detail of the assessment undertaken for much more significant proposals such as the redevelopment of Atherstone Police Station and Magistrates Courts would not be justified in this case.
20. Further to the references to marketing above, it is not clear on what precise terms the building was offered for potential community uses, although sale or rental options were explored. But on the balance of the evidence, including the Appellant's willingness to refurbish and secure the availability of the scout hall on the adjoining land on a rent-free basis for the scouts and other community groups, it is unlikely that the proposal would undermine achievement of the

objectives of LP Policy COM2. On this basis, the proposed loss of a community facility would not be harmful.

Other Matters and Overall Conclusion

21. I have taken the effect of the proposal on the conservation area into account and am satisfied that its character and appearance would be preserved and in some respects enhanced by the appeal scheme. Also, the proposal would help to meet the need for smaller dwellings in the borough. However, neither these nor any of the other matters raised outweigh the main considerations in this case. Notwithstanding my conclusion in respect of the second issue, the effect of the proposal on the listed building is unacceptable and is sufficient to warrant dismissal of the appeal.

Mary Travers

INSPECTOR

(6) Heart of England, Old Hall Farm, Meriden Road, Fillongley

Nine Planning Applications for various proposals all for

Heart of England Promotions Ltd

Introduction

Members will be aware of the planning history of this site through a number of various reports over the past few years. Heart of England Promotions has recently submitted nine new planning applications to the Council. This report notes their receipt and describes each of the proposals in general terms, such that Members can initially understand the scope and nature of the developments proposed.

It is proposed to provide a determination report in due course and that report will deal with all of the applications together, such that any planning considerations arising from their cumulative impact can also be assessed.

This report also summarises the current position on the site in respect of a series of on-going planning matters.

It is not proposed to describe the proposals in detail at this stage, nor to provide a full schedule of relevant Development Plan planning policies or current Government Planning Policy. The report is simply for information purposes at this time.

The Site

Members will be familiar with the Heart of England site comprising a significant land holding including woodland, south of the M6 Motorway with access from the Meriden Road. The central complex of buildings is based on Old Hall Farm and its former associated agricultural buildings. There are individual residential properties around the boundaries of the site and Corley Moor is the closest grouping of residential property. The site is wholly within the Green Belt.

Background

The lawful use of the site arises from two planning permissions. The initial one dates from 2002 (ref: 1381/2002) and enables the continued recreational use of land and buildings. This established the permanent recreational use of the land around the main complex of existing buildings. The second granted in 2008 (ref: 2007/0503) allowed the formation of a lake and wetland area for use by water sports and other sports in association with the recreational use of the land. This extended the area of recreational use to much of the open area seen on site today.

These permissions have been subsequently varied - to include the use of part of the buildings as a restaurant open to the general public; use of the buildings until later hours, and also for Sunday use.

The implementation of the 2008 consent did not go ahead in accordance with the approved plans or conditions. In particular, a larger lake was constructed involving greater imports of material, and including the provision of an artificial beach and “cliff” or rockery. The “beach” was then made available to the general public as a recreational resource through the provision of a significant amount of “associated” development – e.g. fair ground structures, play equipment, hard surfacing, lighting and a sound system. A secondary access was prohibited to be used by HGV vehicles for the construction of the lake by a condition because of highway concerns. Nevertheless it was used for the construction of the lake and was widened and extended in order to provide access to the beach by the public. Retrospective applications were then submitted to retain some of these unauthorised developments. Planning permissions were refused and subsequent appeals dismissed. The owner submitted a legal challenge in the High Court against two of the appeal decisions and these are to be heard on 2 February 2012. In the interim, the Council, following the appeal decisions, issued Enforcement Notices requiring amongst other things, the removal of the beach and the cessation of the use of woodland for recreational uses (the woodland not being covered by either of the 2002 and 2008 permissions). These Notices were appealed by the owner, but their hearing will be held in abeyance until the decision from the Court on the challenge.

A planning permission was granted under the agricultural determination procedures for the erection of a forestry building on the site. Its implementation was not carried out in accordance with the approved plans. Subsequent enforcement action was appealed and dismissed. A legal challenge also failed. The Council has had to prosecute in order to seek compliance with the extant Enforcement Notice requirements. The building is gradually being put back to its approved layout.

An Enforcement Notice relating to the unauthorised erection of a marquee was served and a subsequent appeal dismissed. The Council has had to prosecute in order to secure compliance with the extant Notice. This is now happened.

In addition there remain two outstanding undetermined applications relating to the use of the Old Hall Farm buildings themselves. These will be described below.

The Applications

The nine recent applications are as follows:

i) PAP 2011/0317 – This is an outline application for a new three storey 30 bedroom hotel and function room, together with the erection of a glazed link to the existing conference centre involving demolition of existing buildings and

re-arranged car parking provision. In general terms these proposals are located partly adjacent to the site of the former agricultural buildings, but would extend eastwards towards open land. The land lies within the area covered by the 2002 planning permission.

ii) PAP 2011/0229 – The erection of a new building to act as a Visitors Centre providing refreshments, toilets, showers and storage areas. This would be located within a new clearing within the existing woodland.

iii) PAP 2011/0324 – The change of use of land to a caravan and camping site, including an internal access road, boundary fences and gates together with a toilet and shower compound. This land is close to the Meriden Road.

iv) PAP 2011/0229 – The formation of an off-road adventure trail for use by 4x4 vehicles and quad bikes, new woodland planting, and the importation of 20,000 cubic metres of inert material to make boundary bunds and to contour the trail with obstacles and structures, together with the material to form conservation pools. The proposed area is the land south east of the lake and adjacent to the existing woodland.

v) PAP 2011/0289 – The change of use of woodland to a mixed recreational and forestry use. The recreational use would be non-motorised activity – eg paint balling, and archery as well as nature trails used for school education visits and general access by visitors to “Heart Park”. This would authorise the use of the site for seasonal activities such as “Santa” visits and Halloween “Spooktacular” events. The area is the existing woodland. The motorised recreation use of this woodland would move to the new site described in (iv) above.

vi) and vii) PAP2011/0133 and PAP/2011/0131 – These two applications seek to vary existing conditions attached to the original 2002 and 2008 planning permissions. The original conditions require all temporary structures on their respective sites to be removed after each event and stored internally. The proposed variations would seek their retention on site in the open from 1 April to 30 September each year. In the remaining months the structures are to be removed after use and stored internally.

viii) and ix) PAP2011/0132 and PAP/2011/0134 – These two applications also seek to vary existing conditions attached to the two original planning permissions. The original conditions require the land covered by the permissions not to be used for motorised activity, shooting, paint balling or clay shooting. The proposed variations would instead seek an overall noise level not to be exceeded at any point on the perimeter of the site of 70 dBA, irrespective of the activity.

The two outstanding applications are:

x) and xi) PAP2010/0269 and 2010/0281 – These are retrospective applications to change the use of Old Hall Farm from a private house to a mixed use as a private house together with the provision of seven guest

bedrooms. As this building is a Grade 2 Listed Building, one of these outstanding applications seeks retention to works undertaken to achieve the use as described.

Observations

As indicated above this report simply draws the Board's attention to these applications such that Members be aware of their scope and nature.

