

The Proposal

It is proposed to erect eight two bedroom, two storey houses with associated parking for 16 vehicles. The built form would be a terrace of six dwellings and a pair of semi-detached houses. The granny annex to the side of number 151 would be demolished in order to provide access from Plank Lane along with additional land to be acquired from the adjoining field. Foul drainage infrastructure would run under the private access between numbers 165 Plank Lane and 48 Coleshill Road, into the mains sewer in Coleshill Road. Surface water would be drained by a combination of soakaways, on-site measures and discharge off site.

Appendix B illustrates the layout.

In terms of the heights of the buildings, then the existing bungalows have a height of 6 metres to their ridge, and the two storey development in Long Leys Croft has a height of 8 metres. The proposed would also be eight metres tall.

The rear of numbers 151 and 153 would be 42 metres from the gable end of the new houses; numbers 163 and 165 would be 45 metres from their front, and numbers 42 and 44 Coleshill Road would be 30 metres from the closest gable of the proposed dwellings. The plans illustrate that there would be no impact on the 45-degree lines drawn from the maisonettes in Long Leys Croft.

Appendix C provides some cross sections through the site.

The access onto Plank Lane will require a vision splay to the west measuring 43 metres. This will require the removal of the existing hedgerow over this length. The two Pines would be retained. A new hedgerow would be planted. Within the site, no existing trees would be removed, but a small portion of the hedge along the northern boundary would be removed.

The proposal includes a draft Section 106 Agreement, which includes two Obligations to be agreed by the developer. The first is that six of the eight houses (75%) would be affordable within the definitions outlined in the Local Plan, as rented accommodation. They would be privately rented, not managed through a Registered Social Landlord, at a rate defined by the Council; for the units to be available in perpetuity and for the Council to have first refusal in terms of nomination rights. The second element of the Agreement is for the developer to contribute £5700 to the Council in order to enhance and improve existing play facilities in the area, particularly at the Green.

Development Plan

The bulk of this application site is inside the Development boundary for Water Orton as defined by the North Warwickshire Local Plan 2006. The additional land required to provide the access onto Plank Lane, to be “taken” from the adjoining field is in the Green Belt. This amounts to 5 % of the application site.

Regional Spatial Strategy 2004 – Policy CF2 (Housing beyond Major Urban Areas); CF5 (Delivering Affordable Housing and Mixed Communities)

North Warwickshire Local Plan 2006 – Core Policies 2 (Development Distribution), 4 (Green Belt), 8 (Affordable Housing), 11 (Quality of Development), 12 (Implementation), and Policies ENV2 (Green Belt), ENV3 (Nature Conservation), ENV4 (Trees and Hedgerows), ENV8 (Water Resources), ENV9 (AIR Quality), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG 2 (Affordable Housing), HSG4 (Densities), TPT 1 (Transport Considerations in New Development), TPT3 (Access and Sustainable Development), TPT6 (Vehicle Parking)

Other Material Planning Considerations

- a) Draft Options for the Phase Two RSS Review 2008 – Policies CF2 (Housing Beyond Major Urban Areas); CF7 (Affordable Housing)
- b) Government Advice – PPG2 (Green Belts); PPS3 (Housing)
- c) Supplementary Planning Guidance – A Guide for the Design of Householder Developments (2003); Water Orton Village Design Statement (2003); Affordable Housing SPD (2008) and the Draft Green Space Strategy SPD (2008)

Representations

1 letter of comment and 25 letters of objection have been received, including 2 from the Ward Councillors. Between them, the following concerns are cited:

- Loss of Greenbelt to provide for the access;
- Loss of mature and historic hedgerow or protected trees leading to loss of wildlife habitat and biodiversity, character and amenity;
- Sets a precedent for satellite development off the Village Green and further loss of Greenbelt elsewhere;
- Destroys the rural character of the village
- Who will maintain new hedgerow around the access;
- Loss of privacy;
- The buildings will be visually overbearing, cramped, out of keeping and inappropriate for this location;
- Would cause noise/disturbance/increased light levels to existing residents as well as potential crime levels/anti-social behaviour;
- Existing properties would be looking out onto an access road, car parking and dustbin area;
- Present boundary treatments are unsuitable and would lead to use of the private access and increase visibility of gardens and property;
- Use of private access for sewerage/drainage course would render access to rear garages impossible during construction and is not suitable;
- Plank Lane floods only allowing access from the Vicarage Lane end. Proposal will enhance flooding locally by removing a natural drainage site;
- Current parking problems during school runs and events would restrict access from Plank Lane, especially for emergency vehicles;
- A further bell mouth near the public footpath gateway would make crossing the lane even more dangerous;

- Plank Lane is used as a short cut to bypass the village and vehicles travel quickly along it with little regard for safety;
- Not enough parking for visiting family and friends;
- Movement of the public footpath gate to the field would increase danger to pedestrians;
- The cumulative effect of development within Water Orton is putting pressure on amenity provision;
- Query whether an earlier Local plan marked this land for adoption as parkland for the benefit of residents;
- Concern that rental properties would give rise to problems from tenants;
- Previous archaeological finds in the vicinity of the site;
- Would cause general disruption in the area;
- Query the need given the current vacant properties elsewhere in the village.

Water Orton Parish Council objects because:

- The proposal encroaches on Green Belt land
- Parking in Plank Lane associated with the School would cause extra congestion,
- The proposal involves the removal of trees.

1 letter of support has been received, commenting;

- Without such proposals, they cannot afford to buy a house;

Consultations

WCC Ecology – Identified ecological and biodiversity interest in the site, requesting a site survey and a pre-determinative bat survey.

Warwickshire Wildlife Trust – Comments on potential bats and nesting bird being present, and recommends the retention of mature vegetation.

WCC Footpaths – Raises no objection but requests a note to address the relocation of the pedestrian gate.

WCC Highways – Raises no objection subject to conditions to ensure the access is adequate and there is sufficient visibility in both directions onto Plank Lane.

WCC Archaeology – Raises no objection subject to a condition to ensure a scheme of archaeological investigation.

WCC Forestry – Raises no objection to the works proposed within the tree schedule and recommends certain trees adjacent to the access are actually removed in favour of new hedging, as well as requesting more detailed drawings of the bell mouth to the access to ensure one of the black pines are not adversely affected.

Environmental Health Manager – Raises no objection subject to a ground investigation condition

Environment Agency – Comments that the proposal is outside of its scope of interest.

Severn Trent Water – Has no objection in principle

Observations

a) Introduction

The great majority of this site is within the defined development boundary for Water Orton and thus there is no objection in principle to the proposal. Moreover the proposal seeks to provide affordable housing over the minimum required by Development Plan policy. Water Orton is also a Local Service Centre with a range of community facilities and good public transport accessibility. These are matters of substantive weight. However the proposal includes Green Belt land, where there is a presumption against the grant of planning permission for inappropriate development, which includes new residential development. The main issue is thus to determine whether there are “very special circumstances” of such weight here to warrant overriding the above presumption. Additionally there are a number of detailed matters to be explored.

b) Very Special Circumstances

The first circumstance to be considered is that the proposal would provide affordable housing above the Council’s minimum requirement for this settlement. There is substantive evidence to support this argument. Firstly, the Phase Two Revisions of the RSS state that, “development in villages should support the need to local housing requirements, particularly needs for affordable housing...and development should be prioritised in villages which still have a range of services” (Policy CF2 – Part C). It continues by identifying need, “especially in those more rural areas of north and south Warwickshire”, and that the delivery of affordable housing in North Warwickshire is the “main problem” (see paragraphs 3.47 and 6.49 of the RSS Phase Two Review). Secondly, picking up on the delivery of affordable housing, the Local Plan requires a minimum of 40% arising from new housing sites. To date, only 25% has been achieved throughout the Borough. Targets are thus not being met. Thirdly, the Council has now adopted its SPD on Affordable Housing. This identifies more acutely the nature of the problem and the means to deliver this priority.

It is also significant that the provision of the affordable element here is all for socially rented accommodation – the priority identified in the Local Plan, and further expanded on the in the SPD. The final detail of how this is to be managed is within the Section 106 Agreement, and this will need final verification by both planning and housing officers. In principle, officers are satisfied that the proposal will meet local housing need.

Members are aware that the most important attribute of Green Belts is their openness. This application includes Green Belt land taken from the adjoining field. It would be developed in order to provide the access into the site. In other words there would be no buildings on this piece of land. Those access works, by definition in planning terms, are engineering operations. Government advice in PPG2 provides a

different approach to such operations in the Green Belt, as opposed to building operations. It states that, "the carrying out of engineering operations is inappropriate unless they maintain openness and do not conflict with the purposes of including land within the Green Belt". The land in question amounts to 95 square metres in extent. It is to be hard surfaced and provided with compensatory landscaping and hedgerow planting. It is not considered that its loss would materially impact on the openness of the Green Belt hereabouts because the land amounts to only 5% of the development site; would contain no new buildings or other structures, and have replacement hedgerow and other planting. In other words the land will remain open. Members will be aware that the Board has approved car parking areas, horse ménages and access drives and tracks in Green Belt land because they are surface developments not impinging on openness. The same applies here. The PPG2 test is not that Green Belt land will be developed; that part of a green field would be lost, or that the development might bring a changed appearance. The test is whether that appearance, changed or not, and that removal, would reduce openness.

In conclusion therefore, it is considered that the proposed affordable housing would meet an identified and presently under provided supply, that directly accords with Development Plan definitions of that need and priority, such that the very special circumstances necessary in this case are proven, and that they outweigh the presumption against the grant of planning permission. This is supported by the conclusion that there would be little loss of openness to the Green Belt hereabouts.

c) Other Matters

It is necessary to examine the matters raised by the objectors to see if there are matters of detail that could lead to other refusal reasons.

The site area is 0.24 hectares, and with a proposal for eight houses, the density would be 33 dwellings per hectare in line with the policy requirement of a minimum of 30.

The County Ecologist and the Wildlife Trust identified potential bio-diversity interest in the site. Survey work has been undertaken in response to those consultation replies. The conclusions show no adverse findings or matters that could result in refusal reasons that could be defended. Appropriate conditions can be imposed to minimise immediate impacts and to enhance bio-diversity in the longer term. All existing trees and the majority of hedgerows are to be retained. The hedgerows to be removed are along Plank Lane to construct the access, and on the north boundary to construct the unit on plot 6. This is not material. Conditions can be attached for suitable protection for those existing trees and hedges to be retained, as well as to cover new planting. The County Forester was invited to examine the Tree Survey undertaken by the applicant and he could find no case to warrant an objection.

Concern has been expressed about the potential risk of flooding as a consequence of this proposal, particularly that it would aggravate events in Plank Lane. The proposal has not drawn an objection from either the Environment Agency or Severn Trent Water. The proposal will be required to discharge surface water in line with Severn Trent's specification. This is likely to involve on-site retention measures such

as additional underground chambers or over sized pipes. There is no evidence provided to support the argument that the existing site either contributes to, or mitigates against localised flooding in Plank Lane, or that the proposal would materially affect the characteristics or speed of discharge in a storm event to warrant a refusal. A technical solution to the discharge of the foul water from the site is included in the proposal. This is acceptable to Severn Trent Water. The fact that this involves off site works over third party land is a private matter between the developer and the owners of that land and the rights of access across it. It would not be the subject of a refusal reason. The Board just needs to be satisfied that the site can be appropriately drained.

Many objections cite potential loss of privacy. It is a matter of fact that new development would be introduced to the rear to existing development. However this is not in itself a reason for refusal given that that land is inside the development boundary. The issue is whether that development would give rise to adverse impacts. The Board will be aware of the appeal decision in respect of new housing at the rear of New Road in respect of this issue. Whilst the majority of the existing development here is single storey, the distances to the new units are significantly greater than normally accepted standards and far in excess of those agreed by that New Road appeal decision. The development in this respect is acceptable, and a refusal could not be evidenced. The development respects the 45-degree lines of the existing Long Leys Croft development, and there are no openings to be provided in the exposed gable facing that development. Existing windows in the side gable of numbers 7 and 8 Long Leys Croft are to non-habitable rooms.

The proposal relates well within itself and the overall layout makes good use of the available space without comprising amenity, access and parking. Its layout respects existing surrounding development. This allows good natural surveillance to both proposed and existing properties. Suitable boundary treatments can be conditioned so as to enhance existing relationships between the bungalows and the parking area. Any illumination of the access drive and the parking areas can be controlled by condition.

It is considered that the design of the buildings is appropriate for the size of the site and the nature of the surrounding development. The objection to the size of the dwellings is not supported given that the existing bungalows are, as a matter of fact, greater in volume than the new houses, and the new houses themselves, are of equal size to that of the houses in Long Leys Croft. The proposal will introduce gable ends to an area where there are a number of hipped roofs, but this is not such a material change to introduce a wholly inappropriate character that would warrant refusal. Suitable materials can be agreed by condition. There was concern that the development would impair views out of the village and into the settlement from outside. Given that the hedgerow and trees along the western edge are to remain and that the scale of the development itself is in keeping, it is not considered that either view would be materially affected.

The County Council acting as Highway Authority does not object subject to conditions covering the visibility at the site entrance onto Plank Lane. The main thrust of the objections relates to the narrow nature of Plank Lane and that it is used during the day for parents dropping off and collecting children from the School. This results in a further narrowing of the lane such that it is reduced to a single lane. The access has been designed and agreed in conjunction with the Highway Authority, and it does not consider that the additional traffic generated by the proposal would be sufficient to warrant a refusal based either on safety or capacity matters. The existing situation is thus not considered to be made materially worse.

d) The Section 106 Agreement

The draft Agreement that was submitted with the application needs amendment in order to fully accord with the Council's SPD on the provision of affordable housing and to include the contribution towards improvements to existing open and green space provision. These amendments have been agreed by the applicant, but now need to be included in that Agreement.

Recommendation:

That subject to the completion of the Section 106 Agreement as outlined in this report, planning permission be **GRANTED**, subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the plans numbered 27/CM/16C, 27/CM/20C, 27/CM/21B & 27/CM/22 received by the Local Planning Authority on 21 August 2008 and the Tree Survey Schedule prepared by Central Tree Services Ltd received by the Local Planning Authority on 21 August 2008.

REASON

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

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

REASON

In the interests of the amenities of the area.

4. 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 dwellings hereby approved are first occupied and shall subsequently be maintained.

REASON

In the interests of the amenities of the area.

5. No development shall take place on the site 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.

6. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be

produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments

(iii) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures.

REASON

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with policy ENV6 of the adopted Local Plan 2006.

7. Before the development commences a scheme for the construction of the foul and surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details, and no house hereby approved shall be occupied until such time as these approved measures have been implemented in full.

REASON

To prevent pollution of the water environment.

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

REASON

In the interests of fire safety

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

REASON

In the interests of the amenities of the area.

10. 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.

11. No development or site works whatsoever shall commence on site until details of measures for the protection of trees and hedgerows have been submitted to and approved in writing by the Local Planning Authority.

REASON

In the interests of the amenities of the area.

12. No development or site works whatsoever shall commence on site until the measures approved in Condition No 11 above have been implemented in full.

REASON

In the interests of the amenities of the area.

13. No street or car park lighting shall be placed or erected on the site without details first having been submitted to, and approved in writing, by the Local Planning Authority.

REASON

In the interests of the amenities of the area.

14. Any windows on the north elevation of plot 6 and west elevation of plot 7 shall be non opening and glazed with obscured glass and shall be permanently maintained in that condition.

REASON

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

15. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or internal painting or fitting out, shall take place before the hours of 0730 nor after 1800 Monday to Friday; before the hours of 0800 nor after 1300 Saturdays, and not at any time on Sundays or recognised public holidays.

REASON

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

16. There shall be no delivery or construction traffic arriving at or exiting from the site between the hours of 0830 and 0915 and 1445 and 1530 Monday to Friday during school term times.

REASON

In the interests of highway safety

17. The development shall not be commenced until amended plans of the development have been submitted showing the access road and bellmouth. No work shall commence until these plans have first been approved in writing by the Local Planning Authority. Only the approved measures shall then be implemented.

REASON

In the interests of safety on the public highway.

18. The development hereby permitted shall not be occupied until visibility splays have been provided to the vehicular access to the site with 'y' distances of 43.0 metres in both directions, and with 'x' distances of 2.4 metres to the near edge of the public highway carriageway to the east splay and 4.5 metres to the west splay.

REASON

In the interests of safety on the public highway.

19. The access to the site for vehicles shall not be used unless a bellmouth has been laid out and constructed within the public highway in accordance with the standard specification of the Highway Authority.

REASON

In the interests of safety on the public highway.

20. The access to the site for vehicles shall not be used until it has been provided with not less than 6.0 metre kerbed radiused turnouts on each side.

REASON

In the interests of safety on the public highway.

21. The access to the site for vehicles shall not be used in connection with the development hereby permitted until it has been surfaced with a bound

material for a distance of 7.5 metres as measured from the near edge of the public highway carriageway in accordance with details to be approved in writing by the Local Planning Authority.

REASON

In the interests of safety on the public highway.

22. The development hereby permitted shall not be occupied until an access for vehicles has been provided to the site not less than 5.0 metres in width for a distance of 7.5 metres, as measured from the near edge of the public highway carriageway.

REASON

In the interests of safety on the public highway.

Notes

1. This Decision Notice must be read in conjunction with a Planning Obligation completed under the terms of Section 106 of the Town and Country Planning Act 1990 (as amended). You are advised to satisfy yourself that you have all the relevant documentation.
2. The applicant is advised that to comply to the standard of works to trees, the work should be carried out in accordance with British Standard 3998 "Recommendations for Tree Work".
3. Public footpath number M40 must remain unobstructed and open for public use at all times during and after construction.

It is an offence to obstruct or damage public footpaths. This permission does not authorise the interference in any way of the footpath which must be properly protected. Any furniture installed upon the legal line should conform to British Standards.

If required Warwickshire County Council's Countryside Team (01926 413427) can provide advice about the protection of public footpath during the construction of the development, further information regarding the exact location of M40 and a suitable specification for a gate.

4. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 - CORE POLICY 2, ENV2, ENV3, ENV4, ENV8, ENV9, ENV11, ENV12, ENV13, ENV14, HSG2, HSG4, TPT1, TPT3, TPT6, A Guide for the Design of Householder Developments SPG (2003), Water Orton Village Design Statement SPG (2003), Affordable Housing SPD (2008) & Green Space Strategy SPD (Draft 2008); Regional Spatial Strategy (Phase 2 Revision - Preferred Options 2007) - CF2 (part C & paragraphs 3.47, 6.25 & 6.49).
5. Condition numbers 19, 20, 21 & 22 require works to be carried out within the limits of the public highway. Before commencing such works the applicant must enter into a Highway Works Agreement with the Highway Authority under the provisions of Section 184 of the Highways Act 1980. Application to enter into such an agreement should be made to the Development Group, Warwickshire County Council, Environment & Economy Directorate, Shire Hall, Warwick, CV34 4SX.

In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant must familiarise themselves with the notice requirements, failure to do so could lead to prosecution. Application should be made to the Street Works Manager, Budbrooke Depot, Old Budbrooke Road, Warwick, CV35 7DP. For works lasting ten days or less, ten days notice will be required. For works lasting longer than 10 days, three months notice will be required.

Justification

The proposal conflicts with policies CP2 & ENV2 of the North Warwickshire Local Plan 2006. However, the identified need for affordable housing provision within North Warwickshire under the West Midlands Regional Spatial Strategy, the North Warwickshire Local Plan 2006, and within the Affordable Housing SPD (2008), together with the conclusion that the proposals will not impact on the openness of the Green Belt hereabouts, are material considerations and are sufficient to favour the proposal and to outweigh the policies referred to above.

The proposal is however in accordance with policies ENV3, ENV4, ENV8, ENV9, ENV11, ENV12, ENV13, ENV14, HSG2, HSG4, TPT1, TPT3, TPT6, A Guide for the Design of Householder Developments SPG (2003), Water Orton Village Design Statement SPG (2003), Affordable Housing SPD (2008) & Green Space Strategy SPD (Draft 2008).

Overall it is considered that the proposal provides a significant affordable housing contribution in Water Orton without significant detriment to the amenities of the area.

BACKGROUND PAPERS

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

Planning Application No: **PAP/2008/0369**

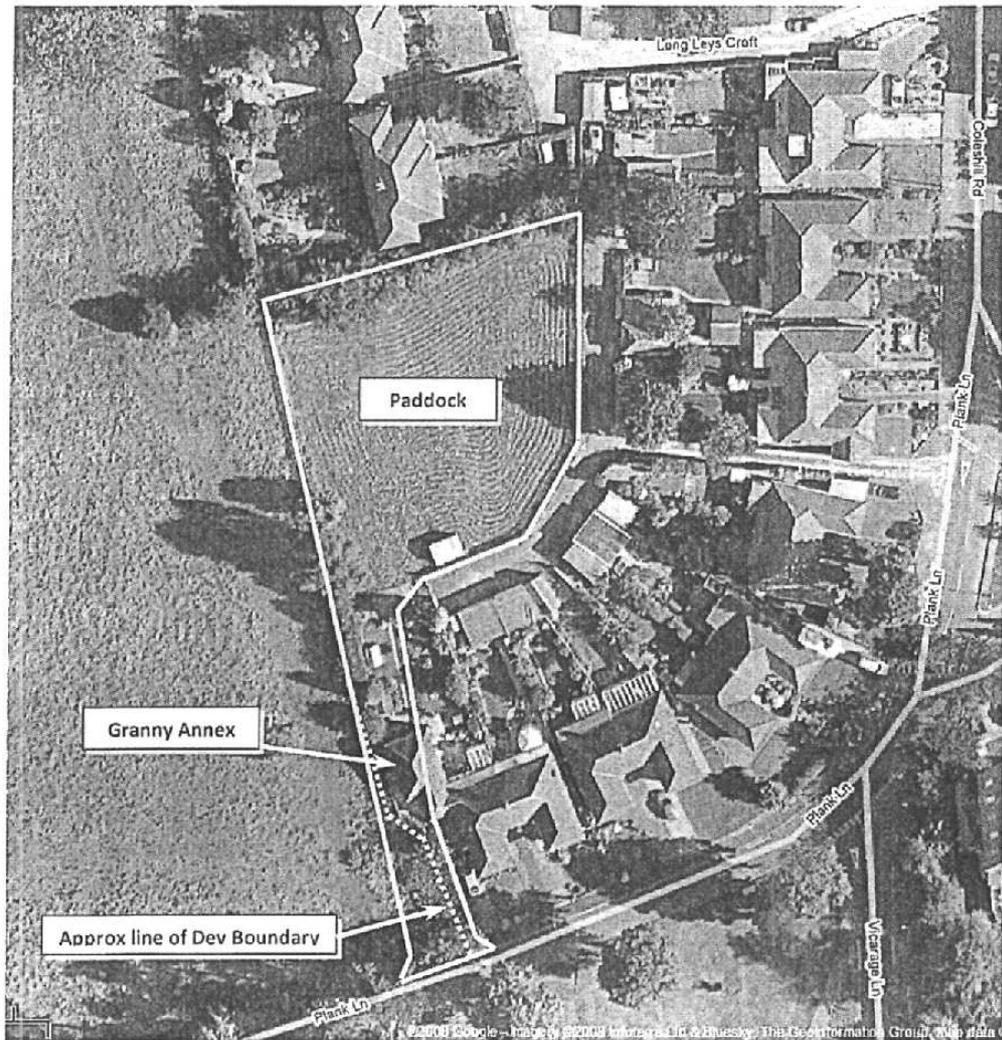
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Applicants Agent	Planning Application Forms and Plans	30/6/2008 & 21/8/2008
2	Mr & Mrs K G Wheeler	Objection	4/9/2008 & 16/9/2008
3	R Harper	Objection	7/9/2008
4	Miss T Bastock	Objection	7/9/2008
5	J B & G B Wesson	Objection	8/9/2008
6	P Harper	Objection	10/9/2008
7	C W Green	Objection	10/9/2008
8	Mr & Mrs Hurley	Objection	11/9/2008
9	Mr G M Rooney	Objection	11/9/2008
10	S Hemming	Objection	12/9/2008
11	Mrs K M Ainsworth	Objection	12/9/2008
12	I Whitaker	Objection	14/9/2008
13	B & M French	Objection	15/9/2008
14	Mr & Mrs L Crump	Objection	15/9/2008
15	Mrs A Allen	Objection	15/9/2008
16	P Stirk & G Cunliffe	Objection	15/9/2008
17	P Rusk	Email of comment	16/9/2008
18	J Christou	Objection	16/9/2008
19	J Cmoch & T Palmer	Objection	16/9/2008
20	J M Farley	Objection	17/9/2008
21	Cllr Ray Payne	Objection	17/9/2008
22	Cllr Stuart Swann	Objection	17/9/2008
23	J Spurgeon	Objection	17/9/2008
24	H Morton	Objection	18/9/2008
25	W J & M L Smith	Objection	18/9/2008
26	J Bushell	Email of support	25/9/2008
27	WCC Ecology	Consultation response	2/9/2008
28	Environment Agency	Consultation response	3/9/2008
29	WCC Archaeology	Consultation response	12/9/2008
30	WCC Footpaths	Consultation response	15/9/2008
31	Warwickshire Wildlife Trust	Consultation response	18/9/2008
32	Environmental Health	Consultation response	19/9/2008
33	Forward Planning Section	Consultation response	19/9/2008
34	Council Housing Section	Consultation response	22/9/2008
35	Environmental Health	Email correspondence	23/9/2008
36	WCC Highways	Consultation response	24/9/2008
37	WCC Forestry	Consultation response	26/9/2008
38	Water Orton Parish Council	Consultation response	28/9/2008

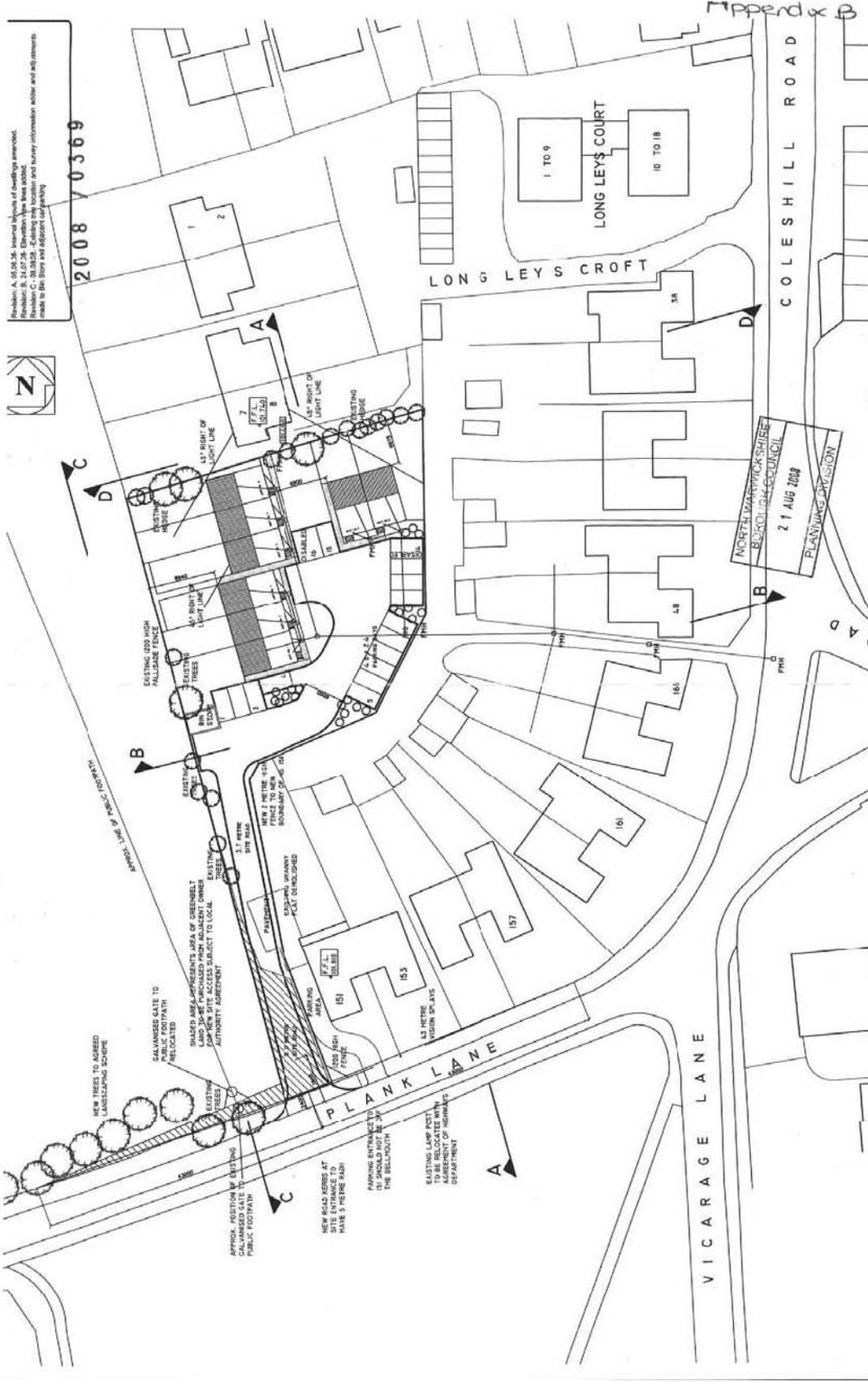
39	Case Officer	Email to Applicant	22/9/2008
40	Case Officer	Telephone call to Water Orton Primary School	23/9/2008
41	Case Officer	Telephone call with WCC Fire & Rescue	23/9/2008
42	Applicant	Email to Case Officer	24/9/2008
43	Case Officer	Email to Councillors	24/9/2008
44	Councillors	Emails requesting application to be referred to board	24/9/2008 & 26/9/2008

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.

151 Plank Lane – Site Layout





Revision: A, 05.06.06. Internal layout of dwellings amended.
 Revision: B, 24.07.06. Elevation View lines added.
 Revision: C, 08.08.06. Final layout and survey information added and adjustments made to this plan and adjacent drawings.

2008 70369

Arden Properties Company Limited
 104 Philadelphia Avenue, Sutton Coldfield, West Midlands B72 1LH
 Tel: 0121 354 9888
 Fax: 0121 354 9789

Project: **PROPOSED HOUSING DEVELOPMENT ON LAND AT THE REAR OF 151 PLANK LANE WATER ORTON B46 ISG**

Title: **BLOCK PLAN**

Scale: 1:500

Drawing No: 27/CM/16C

Date: JUNE 2008

NORTH WARWICKSHIRE
 BOROUGH COUNCIL
 21 AUG 2009
 PLANNING DIVISION

Planning Agreement

DATED

2011

(1) NORTH WARWICKSHIRE BOROUGH COUNCIL

-and-

**(2) Lyn Elizabeth Mallee of Arden Properties
16 Hillwood Common Road (Applicant and Joint Land Owner)**

(3) Mark and Lisa Watkins of 39 Edge Hill Road (Joint Land Owner)

A G R E E M E N T

UNDER SECTION 106 TOWN AND COUNTRY PLANNING ACT 1990

RELATING TO LAND AT

Rear of 151 Plank Lane, Water Orton, B46 1SG

in the County of Warwick

THIS AGREEMENT is made the day of Two Thousand and
Eleven **BETWEEN:-**

(1) **NORTH WARWICKSHIRE BOROUGH COUNCIL** of The Council House, South
Street, Atherstone, Warwickshire CV9 1BD (“the Council”)

and

(2) **Lyn Elizabeth Mallee of 16 Hillwood Common Road, Sutton Coldfield, B75 5QJ**
 (“the Applicants and joint land owner”)

and

(3) **Mark and Lisa Watkins of 39 Edge Hill Road, Sutton Coldfield, B74 4PD** (“Joint
land Owners”)

DEFINITIONS

The Land means property and land at 151 Plank Lane, Water Orton – Title Number:
WK347492.

Local Housing Allowance means the maximum amount of rent allowable in accordance with
the Housing Benefit Regulations 2006 SI 2006/213 (as amended) or any successor
legislation.

Registered Provider means a registered social landlord or other registered provider of social
housing in accordance with the provisions of the Housing and Regeneration Act 2008 who is
registered with the Homes and Communities Agency pursuant to that Act and has not been
removed from the register.

HomeBuy scheme means the government scheme administered by the Homes and
Communities Agency

Completion means the point at which a National Housing Building Certificate (or equivalent
Housing Defects Indemnity/Warranty) is issued for a Dwelling

BACKGROUND

1. The Council is the Local Planning Authority for the purposes of the Town and Country Planning Act 1990 (“the Act”) for the Land.
2. The Applicants are the owners of the land.
3. The Owners are the registered proprietors of the Land.
4. A planning application has been made to the Council under reference (PAP/2008/0369) for planning permission for EIGHT residential dwellings (“the Development”) on the Land.
5. The Council has resolved to grant Planning Permission for the Development subject to conditions and subject to the completion of this Agreement for the purpose of providing affordable housing within the development (“the Planning Permission”).
6. This Deed is made pursuant to Section 106 of the Town and Country Planning Act 1990 to the intent that it shall bind the Owner, Applicant and successors in title to each and every part of the Land and the covenants contained herein are planning obligations for the purposes of Section 106 of that Act.

7. APPLICANT AND OWNERS' OBLIGATIONS

The Applicant and the Owners hereby covenant with the Council that:

- 7.1. Should the Planning permission be implemented within the meaning of section 56 of the Planning Act 1990, to provide FOUR, two bedroom dwellings (“the Dwellings”) to be made available as follows:
- (i) The Dwellings will be occupied only by those nominated by the Council;
 - (ii) The Applicant will ensure that details of the Dwellings will be made available to the Council six months prior to completion;
 - (iii) If after 6 weeks after completion or any subsequent vacancy of the Dwellings no nomination is forthcoming in accordance with paragraph (i) above that Dwelling may be offered for rent privately, or sold in accordance with paragraph (v) and (vi) hereof;
 - (iv) Where in accordance with the preceding paragraphs any of the Dwellings are rented to those nominated by the Council or privately rented, the rent charged shall not exceed the Local Housing Allowance for that Dwelling;
 - (v) Where in accordance with paragraph (iii) above any of the Dwellings are sold that Dwelling will first be offered for sale to a Registered Provider for four months and if no sale can be agreed within that time the Dwelling will be offered for sale via the HomeBuy scheme using an agent approved in writing by the Council;
 - (vi) If no sale is agreed with eight months of being offered for sale in accordance with this section a Dwelling may be sold on the open market.
- 7.2. The Applicant or Owners shall not carry out the Development except in accordance with the Planning Permission.
- 7.3. Before the first construction of a dwelling pursuant to the Planning Permission, the developer will submit details, in writing to the Council’s Head of Development Control, of the FOUR dwellings for approval in writing.

- 7.4. Not to allow first residential occupation of any dwelling constructed pursuant to the Planning Permission until completion of FOUR of the Dwellings.
- 7.5. Prior to commencement of the Development the Applicant agrees to pay to the Council £5730.56 as a contribution towards the enhancement of Open Spaces and Play Equipment to be used by the Council in accordance with paragraph 9.3.

8. COUNCIL COVENANTS

The Council covenants that:

- 8.1. It will immediately issue the Planning Permission subject to conditions.
- 8.2. Upon the written request of the Owner, Applicant or its successor in title, from time to time it will give written confirmation that (if that be the case) the obligations in clause 7 have been carried out as far as is required at the date of confirmation.
- 8.3. The contribution detailed in paragraph 7.5 will be spent in Water Orton only and within 3 years of receiving it. The Council will take reasonable steps to inform the public of where and for what the contribution has been used for and also inform the Applicant by letter on request.

9. AGREEMENTS BETWEEN THE PARTIES

It is agreed between the parties:

- 9.1. If the Planning Permission is revoked or withdrawn or expires, before the Development has been initiated within the meaning of Section 56 of the Act, this Agreement shall cease to have effect.
- 9.2. If Planning Permission has not been implemented within a 2 year period, effective from the date of planning permission approval, the local Authority reserve the right

to request a review of the Section 106 agreement to assess the financial viability to increase the percentage of affordable housing.

- 9.3. The Owner, Applicant or its successors in title shall not at any future date seek to serve a purchase notice or otherwise seek compensation from the Council in respect of the land on the grounds that it has become incapable of reasonable beneficial use in its existing state as a result of the completion of this agreement.
- 9.4. The Applicant shall pay to the Council, on completion of this Agreement, the Council's reasonable legal costs in connection with the negotiation, preparation and completion of the Agreement such costs not exceeding £1250.
- 9.5. Nothing in this Agreement will create any rights in favour of any person pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 9.6. Nothing in this Agreement shall be construed or implied so as to prejudice or affect the rights, discretions, powers, duties and obligations of the Council under all statutes, bye-laws, statutory instruments, orders or regulations in the exercise of its functions as a local authority or require the Council to spend capital money.
- 9.7. All notices, approvals, consents or other documents involving the Council under the provisions of this Agreement shall be issued by or served on the Council's Head of Development Control at The Council House, South Street, Atherstone, Warwickshire, CV9 1DE.
- 9.8. This Agreement shall be registerable as a Local Land Charge for the purposes of the Local Land Charges Act 1975.
- 9.9. No person shall be liable for any breach of non performance or non observance of the covenants, restrictions or obligations contained in this Deed that occur after they have parted with their interest in the land or that part in respect of which such breach, non performance or non observance occurs, but without prejudice to their liability for any subsisting breach prior to parting with such interest.

9.10. Any dispute or difference which shall at any time hereafter arise between the parties hereto concerning this Deed shall be referred to a single arbitrator to be agreed upon by the parties to the dispute or in default of agreement to be nominated by the president (or other officer for the time being delegated to make such appointment) for the time being of the Royal Institute of Chartered Surveyors.

THE COMMON SEAL of NORTH)
WARWICKSHIRE BOROUGH COUNCIL)
was hereunto affixed in the presence of:)

Designated Officer:

Lyn Elizabeth Mallee:

Signed:

Date:

Witnessed by:

Mark Richard Watkins

Signed:

Date:

Witnessed by:

Lisa Watkins:

Signed:

Date:

Witnessed by:

AGREEMENT

(under Section 106 of the Town and Country Planning Act 1990)

Relating to Land at:

151 Plank Lane, Water Orton, B46 1SG WK347492

(2) Application PAP 2009/0420**Almshouses, Church Lane, Middleton****Demolition of six almshouses and the erection of fourteen almshouses and affordable houses with associated access and parking for****The Samuel White Charities****Introduction**

The determination of this application was further deferred by the Board at its last meeting for two reasons. It was still concerned that the bungalows should be re-located at the front of the site, and secondly, it wished to hear from the Parish Council on the content of the draft Section 106 Agreement that had recently been forwarded to that Council.

For convenience, the past reports to the Board are attached as Appendices A, B and C.

The draft Section 106 Agreement is attached at Appendix D.

Responses

The applicant does not wish to alter the layout. The reasons are set out in the attached letter at Appendix E. It will be seen here that the Charity itself has also consulted the existing tenants on this issue and the letter reports their representations.

The Parish Council has not yet provided any response to the draft Agreement as at the time of preparation of this report and thus any observations that are received will have to be reported at the meeting.

Representations

No further letters have been received from local residents.

Observations

The Board has sought an amendment to the layout on two occasions now. In light of the applicant's comments and the references to this matter in past reports – particularly Appendix C – the Board has to decide whether there is a material planning reason to support a refusal of planning permission here. For the reasons

set out in the previous report it is suggested that there is not such a justifiable planning reason and the recommendation to the Board remains as previously.

The draft Agreement is supported by both Planning and Housing Officers. It meets the Council's policy objectives of securing affordable units in perpetuity and with a mechanism for ensuring that they are housed by local people. The Agreement is thus supported in principle and in detail.

Recommendation

That planning permission be **Granted** subject to the draft Section 106 Agreement as attached to this report and subject to the conditions attached to the recommendation contained in Appendix C.

BACKGROUND PAPERS

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

Planning Application No: PAP/2009/0420

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letters	12/4/11
2	Applicant	E-mail	12/4/11
3	Parish Council	E-mail	12/4/11
4	Agent	Letter	10/5/11

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.



General Development Applications

(i) Application No PAP/2009/0420

Almshouses, Church Lane, Middleton

Demolition of 6 almshouses and erection of 14 no almshouses and affordable houses with associated access and parking, for Mrs L Beeching Samuel White Charities

Introduction

Determination of this application was deferred at the Board's last meeting. The Board requested the applicant to consider two alterations to the scheme – firstly that the proposed one and a half storey dwellings be replaced by single storey bungalows, and secondly that the layout be amended such that these bungalows would be at the "front" of the site.

The applicant has responded by submitting amended plans including the alteration to the house type but not in respect of the layout.

The report that went to the last Board meeting is attached at Appendix A.

Amendments

Amended plans have been submitted which replace the four one and a half storey dwellings with four single storey bungalows. This results in a slightly larger footprint as the ground floor space now has to accommodate the bed rooms.

The applicant has not amended the layout. The reasons for this are said to be that firstly, the phasing of the development will mean that the new bungalows and three of the other houses can be constructed first at the rear of the site on the paddock, such that the existing tenants can then be moved, enabling the remainder of the site to be cleared and then the new houses constructed. Additionally, if the bungalows were at the front, all traffic to the other larger units would have to pass them, thus not providing a quiet environment.

Consultation

The amended plan has been forwarded to the Parish Council and to those who have made representations throughout the planning process. No comments had been received at the time of preparing this report, but any that are received will be reported to the meeting.

Shortly after the last Board meeting, a late representation was received from a local resident concerned on a number of issues. Some of these related to matters already covered in the previous report – alternative sites; traffic matters and content of the Section 106 Agreement so as to limit the scheme to local people. Other issues relate to car parking and the impact on existing tenants.

Observations

The invitation from the Board to reconsider the house type of four of the proposed units has been followed through and there are not considered to be any consequential impacts which would lead to further alteration.

The applicant has not altered the layout. The last report indicated good planning reasons why the original proposal should remain and these are supplemented by the reasons now given by the applicant. The disadvantages of retaining the current layout are that construction work will take place whilst existing tenants remain and that when completed, those tenants will have further to walk and up an incline to reach the village shop and other facilities. On balance it is considered that the original layout is acceptable and that it would be difficult to defend a refusal given the overall benefits of the scheme.

In respect of the outstanding concerns from the late representation, then car parking provision here meets the Council's and the Government's guidance. Additionally there was no objection on this matter from the Highway Authority. On the other matter then the "management" of the existing tenants during the redevelopment process will be a matter for the Trust to resolve.

Recommendation

That subject to a Section 106 Agreement as set out in Appendix A, and subject to the conditions as set out in Appendix A, with the plan numbers in condition (ii) altered to reflect the amended plans, planning permission be Granted.

ADDITIONAL BACKGROUND PAPERS

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

Planning Application No: PAP/2009/0420

Background Paper No	Author	Nature of Background Paper	Date
1	Head of Development Control	Letter	15/3/11
2	Mrs Nightingale	Representation	16/3/11
3	Head of Development Control	Letter	16/3/11

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.

