

**To: The Deputy Leader and Members of the Planning and Development Board (Councillors Simpson, Bowden, Davis, L Dirveiks, Jenkins, Lea, Morson, B Moss, Sherratt, M Stanley, Swann, Sweet, Winter and Wykes)**

**For the information of other Members of the Council**

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

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

## **PLANNING AND DEVELOPMENT BOARD AGENDA**

**20 DECEMBER 2010**

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 20 December 2010 at 6.30 pm.

### **AGENDA**

- 1 Evacuation Procedure.**
- 2 Apologies for Absence / Members away on official Council business.**
- 3 Declarations of Personal or Prejudicial Interests.**  
(Any personal interests arising from the membership of Warwickshire County Council of Councillors Lea, B Moss and Sweet and membership of the various Town/Parish Councils of Councillors Davis (Atherstone), B Moss (Kingsbury), Sherratt (Coleshill) and M Stanley (Polesworth) are deemed to be declared at this meeting.)

- 4 **Minutes of the meetings of the Board held on 18 October and 15 November 2010, copies herewith.**

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

- 5 **Planning Applications** – Report of the Head of Development Control.

### **Summary**

Town and Country Planning Act 1990 – application presented for determination.

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

- 6 **Arboricultural Works on Borough Council Land** - Report of the Assistant Director (Leisure and Community Development).

### **Summary**

Following the meeting of the Board held on 13 September 2010, this report informs Members of the outcome of consultation in respect of proposed works in the current arboricultural contract. The report also sets out details of the Authority's tree management process and proposes a formal procedure in respect of consultation for Members' consideration.

The Contact Officer for this report is Alethea Wilson (719212).

- 7 **Planning Application Validation Requirements** - Report of the Head of Development Control.

### **Summary**

This report follows that presented to the Board on 18 October relating to the proposed revisions to the Council's Planning Application Validation Requirements document. Following a period of consultation, this report summarises the representations received, and recommends formal adoption of this document.

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

- 8 **Planning Fees Consultation Paper** - Report of the Head of Development Control.

### **Summary**

The Government has published a Consultation Paper setting out its proposals to enable Local Planning Authorities to replace the national schedule of planning fees, with their own bespoke scale of fees so that they can recover the costs of handling planning applications.

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

- 9 **Enforcement Policy** - Report of the Head of Development Control.

**Summary**

A review of the Council's Enforcement Policy is reported to Board following the request of the Board at its August meeting.

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

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

- 10 **Exclusion of the Public and Press**

**Recommendation:**

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

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

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

JERRY HUTCHINSON  
Chief Executive

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

18 October 2010

Present: Councillor Simpson the Chair.

Councillors Bowden, Davis, L Dirveiks, Lea, Morson,  
Sherratt, Swann, Sweet, Winter and Wykes

Apologies for absence were received from Councillors  
Jenkins, B Moss and M Stanley.

Councillors Gordon and May were also in attendance.

#### 40 **Declarations of Personal or Prejudicial Interests**

Personal interests arising from the membership of Warwickshire County Council of Councillors Lea and Sweet and membership of the various Town/Parish Councils of Councillors Davis (Atherstone) and Sherratt (Coleshill) were deemed to be declared at this meeting.

#### 41 **Minutes**

The minutes of the meetings of the Board held on 14 June, 19 July, 16 August and 13 September 2010, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

#### 42 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board. Details of correspondence received since the publication of the agenda is attached as a schedule to these minutes.

##### **Resolved:**

- a **That subject to the completion of a Section 106 Agreement and the conditions specified in the report of the Head of Development Control, Application No 2009/0126 (BEC Engineering Ltd, Richmond Road, Atherstone) be approved;**
- b **That, provided no adverse representations are received during the consultation period, Application No 2010/0295 Waverton Avenue Allotments, Waverton Avenue, Warton be**

**approved subject to conditions set out in the report of the Head of Development Control; and**

- c That in respect of Application No 2010/0451 (Pooley Country Park Pooley Lane Polesworth Warwickshire) the County Council be informed that the Council does not object to the proposal and the Head of Development Control be asked to forward to the County Council the observations received from Councillor M Stanley.**

**43 Planning Application Validation Requirements**

The Head of Development Control reported on proposed revisions to the Council's Planning Application Validation Requirements document and Members were asked to agree a suggested course of action.

**Resolved:**

- a That the revisions to the Council's Planning Application Validation Requirements document be agreed for consultation purposes;**
- b That a further report outlining the representations received be brought to Board for it to consider prior to formal adoption of the document;**
- c That the Head of Development Control be asked to prepare a separate précis version for householder applications.**

**44 Draft Tree Preservation Regulations**

The Head of Development Control reported that the Government had published draft revisions to the Regulations governing Tree Preservation Orders for consultation purposes.

**Resolved:**

**That the draft Regulations be noted.**

**45 Exclusion of the Public and Press.**

**Resolved:**

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

46 **Tree Preservation Orders**

The Head of Development Control sought authority for the making of two Tree Preservation Orders and Members were asked to agree a suggested course of action.

**Resolved:**

- a **That the Solicitor to the Council be authorised to make a Tree Preservation Order in respect of an oak at 8 Shawbury Lane, Shawbury and that any representations made be referred back to the Board when it decides whether to confirm that Order or not; and**
- b **That the Solicitor to the Council be authorised to make a Tree Preservation Order in respect of five oak trees on land off Nuthurst Crescent in Ansley, and that any representations made be referred back to the Board when it decides whether to confirm that Order or not.**

47 **Breaches of Planning Control**

The Head of Development Control reported on an alleged breach of planning control and the Board was asked to agree a suggested course of action.

**Resolved:**

**That in the case of 81 Ansley Common, Ansley and adjoining land:**

- a **the Solicitor to the Council be authorised to offer the operator of a vehicle recovery business a formal caution in relation to a breach of planning control, namely, that: at the time the site was inspected, the operator had not ceased the use of the land for a vehicle recovery business, together with the storage of recovery vehicles, scrap, and car parts, which is required by an extant planning enforcement notice; and**
- b **should this caution be accepted by the operator, that it is no longer, currently expedient to take legal action, through the Magistrates' Court in relation to this matter.**

48 **House at the rear of 71/73 Coleshill Road, Water Orton**

Under Section 100B(4)(b) of the Local Government Act 1972 the Chairman had agreed to the consideration of this report by reason of the need to for possible urgent legal action.

The Board was informed of the planning history in respect of a house at the rear of 71/73 Coleshill Road, Water Orton and Members were asked to agree a suggested course of action.

**Resolved:**

**That it is not considered expedient to take enforcement action against the failure to submit a planning application for the provision of a service trench at this address, for the reasons outlined in the report of the Head of Development Control.**

M Simpson  
Chairman

## NORTH WARWICKSHIRE BOROUGH COUNCIL

### MINUTES OF THE PLANNING AND DEVELOPMENT BOARD

15 November 2010

Present: Councillor Simpson the Chair.

Councillors Bowden, Davis, L Dirveiks, Jenkins, Lea, B Moss, M Stanley, Swann, Sweet, Winter and Wykes

Apologies for absence were received from Councillors Morson and Sherratt.

Councillor Phillips was also in attendance.

#### 49 **Declarations of Personal or Prejudicial Interests**

Personal interests arising from the membership of Warwickshire County Council of Councillors Lea, B Moss and Sweet and membership of the various Town/Parish Councils of Councillors Davis (Atherstone), B Moss (Kingsbury) and M Stanley (Polesworth) were deemed to be declared at this meeting.

#### 50 **Budgetary Control Report 2010/11 Period Ended 31 October 2010**

The Assistant Director (Finance and Human Resources) reported on the revenue expenditure and income for the period from 1 April 2010 to 31 October 2010. The 2010/2011 budget and the actual position for the period, compared with the estimate at that date, were given, together with an estimate of the out-turn position for services reporting to the Board.

##### **Resolved:**

**That the report be noted and the Assistant Director (Finance and Human Resources) be asked to include in future reports forward looking projections for the Key Performance Indicators Appendix.**

#### 51 **Planning Applications**

The Head of Development Control submitted a report for the consideration of the Board.

##### **Resolved:**

- a That the action taken by the Chief Executive under his emergency powers in respect of Application No 2008/0575 (Plots 42 and 43, Former Builders Yard, Hayes Road, Hartshill), be confirmed;**

- b That Application No 2010/0368 (The Stables, Caldecote Hall Drive, Caldecote) be approved subject to the conditions specified in the report of the Head of Development Control;**
- c That consideration of Application No 2010/0403 (Sandrock, Tamworth Road, Corley) be deferred for a site visit;**
- d That the Head of Development Control be asked to arrange a training session on the Green Belt; and**
- e That Application No 2010/0488 (The Elms, Kingsbury Road, Marston) be approved subject to the following additional conditions**
  - “6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, or as may be subsequently amended, there shall be no extension or addition made to the existing building without the prior written consent of the Local Planning Authority; and**
  - 7 There shall be no more than six car parking spaces provided on the premises at any time, which for the avoidance of doubt includes the two places to be provided in the garage referred to in condition number 5.”**

**52 Section 106 Agreements - Variations**

The Head of Development Control submitted a draft paper outlining the options that the Council could consider to increase flexibility in Section 106 Agreements as a consequence of the current economic conditions.

**Recommended to the Executive Board:**

**That the draft paper outlining the options that the Council could consider to increase flexibility in Section 106 Agreements be added to the Council’s Supplementary Planning Document on Affordable Housing following consideration of any responses from the consultation period.**

**53 Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April 2010 to September 2010**

Members were informed of the achievement of the Council’s Corporate Plan and Performance Indicator targets for 2010 during April to September 2010.

**Resolved:**

- a **That the performance achieved for the Corporate Plan and Performance Indicator targets for April to September 2010, be noted.**

**Recommended to Executive Board:**

- b **That the Council be requested to review all Corporate Plan targets referring to the Core Strategy pending the publication of the Localism Bill.**

54 **Tree Preservation Order – Coventry Road, Coleshill**

The Board was invited to confirm the action taken by the Chief Executive under his emergency powers, following consultation with the Chairman and the Solicitor to the Council to make a Tree Preservation Order at Coventry Road, Coleshill.

**Resolved:**

**That the action taken by the Chief Executive under his emergency powers, to make an Emergency Tree Preservation Order in respect of one oak tree for the reasons given in the report of the Head of Development Control, be confirmed, and that any representations received be referred to the Board for it to consider when it decides whether to make the Order permanent.**

M Simpson  
Chairman

## **Agenda Item No 5**

### **Planning and Development Board**

**20 December 2010**

### **Planning Applications**

#### **Report of the Head of Development Control**

#### **1 Subject**

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

#### **2 Purpose of Report**

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

#### **3 Implications**

- 3.1 Should there be any implications in respect of:

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

#### **4 Site Visits**

- 4.1 Members are encouraged to view sites in advance of the Board Meeting. Most can be seen from public land. They should however not enter private land. If they would like to see the plans whilst on site, then they should always contact the Case Officer who will accompany them. Formal site visits can only be agreed by the Board and reasons for the request for such a visit need to be given.

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

## 5 **Availability**

5.1 The report is made available to press and public at least five working days before the meeting is held in accordance with statutory requirements. It is also possible to view the papers on the Council's web site [www.northwarks.gov.uk](http://www.northwarks.gov.uk)

5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 17 January 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/2008/0482	3	<b>Kingsbury Hall Coventry Road Kingsbury</b> Restoration of the historic hall and conversion to 9 apartments. Conversion of existing 19th century barns and inclusion of new infill construction to provide 7 new residential units. Construction of 13 new residential units. Demolition of 20th century bungalow and adjacent barn structure. Consolidation of 19th Century curtain walling	General
2	PAP/2010/0236	7	<b>The Vero Works 36 Station Street Atherstone</b> Redevelopment of 36 Station Street, encompassing the Victor Works and the remains of the Vero and Everitt hat factory. The proposals are contained within the existing fabric and comprise retirement dwellings, retail units and a restaurant	General
3	PAP/2010/0399	13	<b>Miners Welfare Centre Ransome Road Arley Coventry</b> Outline application for residential development	General
4	PAP/2010/0403	22	<b>Sandrock Tamworth Road Corley</b> Retention of single storey rear kitchen extension.	General
5	PAP/2010/0466	33	<b>2 Malthouse Cottages Tipper's Hill Lane Fillongley</b> Retention of a summer house	General
6	PAP/2010/0514	41	<b>Plot 1 Ocado Ltd Phase 2 Birch Coppice Business Park Dordon</b> Approval of reserved matters following outline planning permission PAP/2010/0102 - erection of distribution centre.	General
7	PAP/2010/0577	52	<b>71 The Arcade Long Street Atherstone</b> Change of use from office to health and fitness suite (D2)	General

## **General Development Applications**

### **(1) Application No PAP/2008/0482**

**Kingsbury Hall, Coventry Road, Kingsbury**

**Refurbishment and Repairs in connection with the residential conversion and the construction of new houses for Mr Fray**

#### **Introduction**

Members will recall that the planning permission for the above proposals was accompanied by a Section 106 Agreement. Essentially this says that a schedule of specified repairs has to be completed at the Hall, before the owner can sell other residential units that he owns at Over Whitacre on the open market, released from their "holiday occupancy" conditions. The income so generated, would then recoup the initial outlay of the owner in undertaking those repairs. The trigger for the release of the restrictive conditions, is a Certificate issued by the Council confirming that the repair schedule has been fully completed.

The applicant has requested that this Certificate now be issued.

#### **Observations**

The repairs included in the Section 106 Agreement all refer to specified works in a Detailed Repairs Schedule submitted at the time of the application. The applicant has submitted a commentary outlining the current position in respect of each of the identified repairs. This shows that the great majority have been completed with outstanding repair work to be expected to be completed by mid-December. The outstanding works relate to the completion of works already underway, rather than to new repair work yet to be commenced, and are not structural in nature.

The Council's Heritage Officer has frequently visited the site in order to see progress and he will do so again in connection with this request by the owner. That visit is to take place after preparation of this report so as to get the latest picture before the date of the Board meeting. As a consequence a verbal progress report will be given to the Board. Depending on the outcome of this latest visit, the Certificate could be issued.

#### **Recommendation**

That subject to confirmation that the repairs as specified in the Section 106 Agreement have been satisfactorily completed, the Council issues a Certificate as required by Schedule Four of that Agreement relating to Kingsbury Hall and to the Manor House at Over Whitacre.

## BACKGROUND PAPERS

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

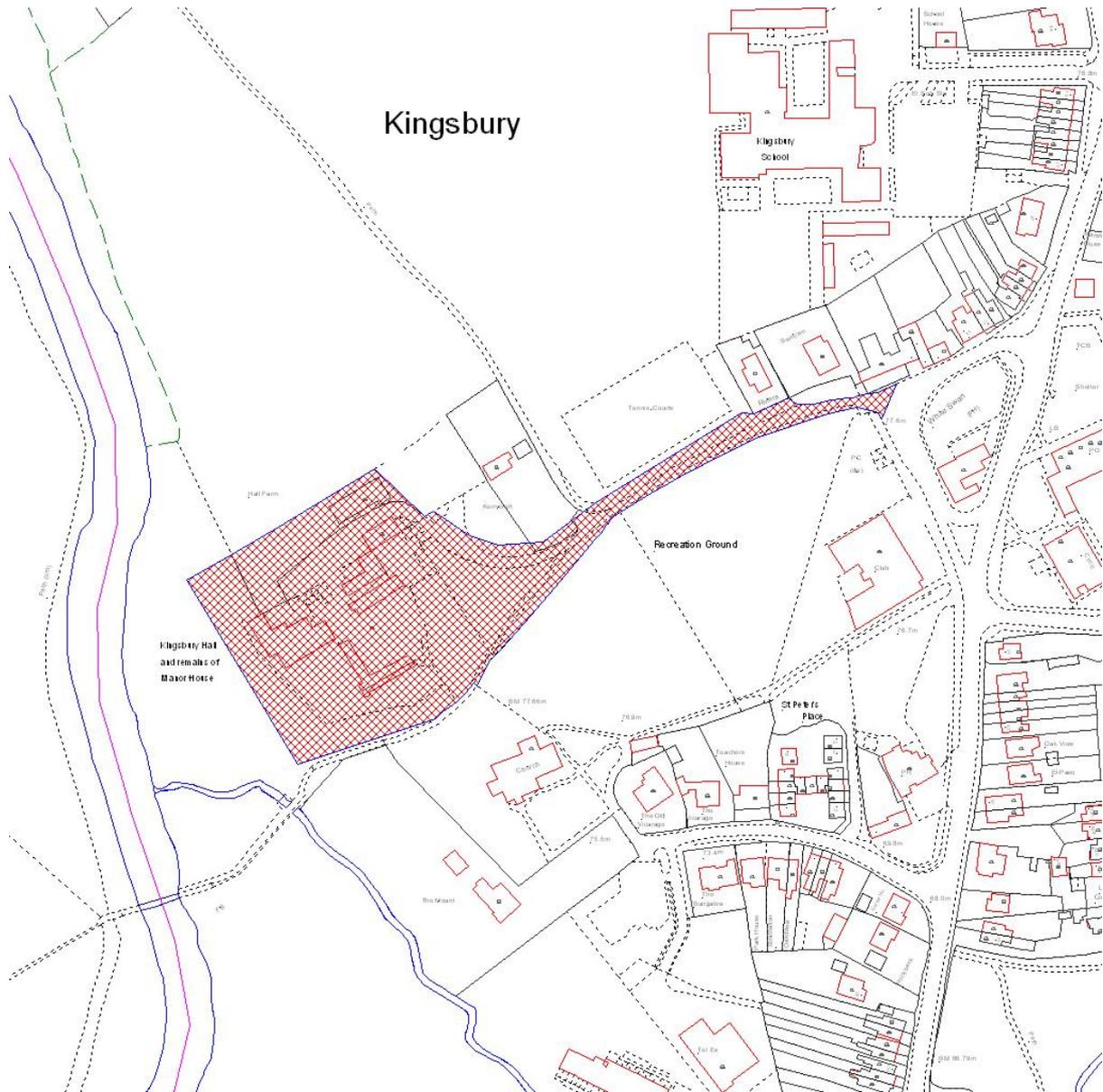
**Planning Application No: PAP/2008/0482**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	Agent	Letter	18/11/10
2	Heritage Officer	Consultation	

*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.*

# Kingsbury



## **(2) Application No PAP/2010/0236**

### **The Vero Works 36 Station Street, Atherstone**

**Redevelopment of site, encompassing the Victor Works and the remains of the Vero and Everitt Factory, for conversion to retirement dwellings, retail units and for a restaurant for**

**Mr D Davies**

#### **Introduction**

The receipt of this application is reported to the Board in view of its significance to the town, such that Members can understand the proposal and the issues involved prior to its determination at a later meeting. Additionally, it is accompanied by a Section 106 Agreement.

#### **The Site**

The site comprises an area of some 0.17 hectares and is made up of a number of former factory buildings fronting onto Station Street and the Aldi Supermarket's car park. The buildings are arranged around a central courtyard area. The site lies within the town centre boundary for Atherstone and the majority of the site is within Atherstone Conservation Area. None of the buildings in question are categorised as Listed Buildings.

The buildings comprise a collection of two and three storey structures of which many have not been occupied since the 1980s. The buildings that are occupied are the large rectangular building at the west which is being used as a gym and a dance studio, and the first floor of the building to the east which is being used as a nightclub. There is presently vehicular and pedestrian access into the site from Station Street via gated accesses.

#### **The Proposals**

The application relates to the submission of a full application for a mixed use development scheme comprising of:

- 23 retirement residential units being a mixture of one-bed units (11) and two-bed units (13);
- 1 one-bed visitor residential unit;
- vehicular and pedestrian access into the courtyard which will provide an amenity and landscaped space along with 7 car parking spaces and a secure storage area for 35 bicycles and mobility buggies;
- two ground floor retail units along Station Street totalling some 83 square metres of gross internal floor area;
- a ground floor restaurant fronting onto Station Street totalling some 288 square metres of gross internal floor area; and,
- two first floor units under Use Class D2 (Assembly and Leisure).

The proposed scheme seeks to retain the existing fabric of the building. The overall footprint of the building works will not exceed that of the existing footprint. The development will be accessed via the existing vehicular access on Station Street. The proposal includes increasing the footway along Station Street as it passes the site from 1.0 metres wide at its narrowest point and 1.9 metres wide at its widest to a minimum width of 2 metres. This will result in the vehicle carriageway being reduced in width from just over 6.0 metres to 5.5 metres.

The proposal includes a new lift to be constructed in the internal courtyard whose core will be constructed from brickwork masonry. The roof is proposed to be built in a metal standing stem with glazed apertures to the centre. New bridge walkways are proposed to be constructed out of this lift core. The former factory chimney stack is shown to be retained and restored.

The planning application is accompanied by a Section 106 Agreement relating to a sum (proposed to be £25000) as a contribution towards off- site Public Open Space.

Also accompanying the planning application forms and plans are:

- A Design and Access Statement;
- A Report on the Estimate of Construction Costs;
- A Report on the conclusions of a Structural Inspection of the Buildings;
- A Transportation Statement;
- An Economic Viability Statement; and,
- A Report on Existing Noise Climate.

### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – ENV9 – Air Quality; ENV10 (Energy Generation and Energy Conservation); ENV11 (Neighbour Amenities), ENV1 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), ENV15 (Heritage Conservation, Enhancement and Interpretation), ENV16 (Listed Buildings), ECON5 (Facilities relating to the Settlement Hierarchy), ECON6 (Site at Station Street including Former Hat Factory, Atherstone) and TPT3 (Access and Sustainable Travel and Transport); HSG2 Affordable Housing.

### **Other Material Considerations**

Government Policy and Guidance - PPS3 (Housing), PPG13 (Transport), PPS5 (Planning for the Historic Environment) and PPG24 (Planning and Noise)

### **Observations**

Saved Policy ECON6 relates to the redevelopment of this site at Station Street which includes the former hat factory. The policy stresses the importance of this prominent brownfield site at an important entrance to Atherstone. Part of the site has already been developed to accommodate the Aldi Foodstore and its car park. Within the policies' justification it states that the Council wishes to see a mixed-use development on the site that will deliver environmental improvements and revitalise this part of the town. Any development is thus expected to be of the highest architectural standard and be appropriately related in scale and form to the adjoining Conservation Area and Listed Buildings. The justification further goes on to state that in determining any application on the site primary consideration will be given to

securing a development of enduring quality rather than responding to short-term expediency.

The proposed redevelopment scheme highlights the following key issues which need to be addressed:

- 1) That the design of the proposed redevelopment scheme proposed needs to enhance the character, appearance and setting of Atherstone Conservation Area, as well as retain the historic fabric of the buildings in accordance with Saved Policies ENV15 and ECON6. The amount of new buildings required by the scheme is minimal. The most prominent new building proposed is the lift tower located in the central courtyard and further details will be required on the design of this structure. The application is accompanied by a Design and Access Statement and a Report on the conclusions of a Structural Inspection of the Buildings
- 2) That the proposed redevelopment scheme does not impact on the highway safety of road and pedestrian users along Station Street. The proposal involves the use of the existing pedestrian and vehicular access into the site. It is also proposed to increase the footpath along this part of Station Street whilst reducing the width of the carriageway. Saved Policies ENV14 and TPT3 stress the importance of ensuring that the vehicular access to the site is safe and demonstrates that priority is given to pedestrians, cyclists and those using public transport. The application is accompanied by a Transportation Statement.
- 3) That the proposed redevelopment scheme which only seeks to provide seven car parking spaces within the site will not cause highway issues with pressure for off-street parking and the need to load and unload delivery vehicles for the retail/restaurant uses proposed. The application is accompanied by a Transportation Statement.
- 4) That the proposed redevelopment scheme does not include any provision for affordable housing. Saved Policy HSG2 states that in Atherstone an element of affordable housing will be sought in all developments that provide for 15 or more dwellings. This scheme proposes 23 residential units as well as 1 visitor unit and so there is requirement for 9 of these units to be affordable units. The application is accompanied by an Economic Viability Statement.
- 5) That the proposed mixture of uses with residential units proposed above an A3 (Food and Drink) Use as well as residential units proposed in this part of town, is the correct mixture of uses when considering the requirements of Saved Policy ENV9. Saved Policy ENV9 states that places of residence, employment or other noise-sensitive uses will not be permitted if the occupants would experience significant noise disturbance. The application is accompanied by a Report on Existing Noise Climate.
- 6) That the proposal to make a contribution (£25000) towards off-site public open space is sufficient for the redevelopment scheme proposed. The application is accompanied by an Economic Viability Statement.

## **Recommendation**

That a Member site visit be arranged prior to the application being reported back to the Planning and Development Board. This recommendation is made in view of there being no public access into the internal courtyard of the site or into the buildings involved.

## BACKGROUND PAPERS

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

**Planning Application No: PAP/2010/0236**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms and Plans	12/5/10

*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/2010/0399**

#### **Miners Welfare Centre Ransome Road Arley Coventry**

**Outline application for the erection of 37 dwellings, including 15 affordable units, for**

#### **The Trustees of CISWO**

#### **Introduction**

This application is reported to the Board for determination as a Section 106 Agreement is involved.

#### **The Site**

The site is just under a hectare in area, and is located on the west side of Ransome Road close to its junction with Gun Hill as shown on the attached plan at Appendix A. It used to house the Miners Welfare Centre and Club with its car park and outdoor recreational facilities. The buildings have been demolished and the whole site is now very overgrown. The access to the site is off Ransome Road, but the site extends further back behind frontage properties to Ransome Road; to the more recently erected houses in Lichfield Close and Morgan Close, as well as extending to Daffern Avenue. Stewart Court, the Council's community centre and elderly housing complex lies between the site and Spring Hill.

#### **The Proposals**

This is an outline application for 37 dwellings including 15 affordable units, with a single access off Ransome Road. That is the scope of this application. The applicant has provided illustrations of how such a proposal might be laid out, and how the houses might look, but these are not part of the application. The intention is that the land be sold on with the benefit of the outline permission, and it would be for the final developer to then submit his own proposed details for further approval. At the present time however the Board's remit is thus limited to the principle of residential redevelopment of this land from the proposed access position by 35 dwellings of which 15 – that is 40% - would be affordable.

The applicant has indicated that the Waterloo Housing Association has expressed interest in the proposals, and this is confirmed by the Council's own housing Division.

The applicant is proposing a financial contribution of £32,868, by way of compensation for the loss of the outdoor recreational facilities. This contribution would be ring fenced for the provision of outdoor facilities within the vicinity of the site. This is the reason for the Section 106 Agreement.

The application is accompanied by a Transport Assessment; a Design and Access Statement and a Supporting Planning Statement. Because much of the site – at the rear – has been filled, a ground conditions survey has also been submitted.

The illustrations submitted depict a typical two and three bedroom form of residential development, with street cross sections – these are attached for information at Appendix B.

Public consultation has already taken place on these proposals in the form of a public exhibition taking place in April this year. This was staffed by representatives of the applicant, Waterloo Housing Association and the Council's Housing Division. Summary Sheets of the comments received are attached at Appendix C.

## **Development Plan**

West Midlands Regional Spatial Strategy 2004 – Policy CF2 (Housing Beyond the Main Urban Areas), CF3 (Level and Distribution of Housing Development), CF5 (Delivering Affordable Housing and Mixed Communities)

Saved Policies of the North Warwickshire Local Plan 2006 – Core Policy 1 (Economic and Social Regeneration); Core Policy 2 (Development Distribution), Core Policy 8 (Affordable Housing), Core Policy 12 (Implementation) and policies ENV4 (Trees and Hedgerows), ENV6 (Land Resources), ENV8 (Water Resources), ENV19 (Energy Generation and Conservation), ENV11 (Neighbour Amenities), ENV12 (Urban Design), ENV13 (Building Design), ENV14 (Access Design), HSG2 (Affordable Housing), HSG 4 (Density), and TPT 6 (Vehicle Parking)

## **Other Material Planning Considerations**

Government Planning Policy – PPS1 (Delivering Sustainable Development), PPS3 (Housing), PPG 13 (Transport) and PPG17 (Planning for Open Space, Sport and Recreation)

West Midlands Regional Spatial Strategy - Phase Two Preferred Option 2007 – Policy CF2 (Housing Beyond the Main Urban Areas), CF3 (Level and Distribution of New Housing Development), CF7 (Delivering Affordable Housing)

North Warwickshire Borough Council – Affordable Housing SPD (2008); North Warwickshire Green Space Strategy 2008 -2018, and the Draft Green Space Strategy SPD (2009)

## **Consultations**

Warwickshire Police (Community Protection) – No objection.

Warwickshire County Council – Seeks contributions for education and library facilities totalling £202,000

Warwickshire County Council as Highway Authority – No objection subject to conditions. These relate to the minimum distance for the new access to be from the existing access to Stewart Court; the standard visibility splays at the new junction, and full accordance with the Council's specification for the detail of the estate roads.

Environment Agency – No objections but draws attention to the issue of ground contamination, and advises that appropriate conditions and/or advice is attached to any decision notice, referring prospective developers to the Agency for guidance.

Coal Authority – The site falls within the coalfield area as defined by the Authority, but there are no specific comments on this application. Any permission granted should include the Standard Standing Advice of the Authority.

Environmental Health Officer – The ground conditions survey indicates that there are elevated levels of certain soil contaminants, but there are no specific recommendations of how to deal with them. A condition is therefore required that a Remediation Method Statement is submitted and that once remediated, a further Validation Report should be submitted.

Council's Housing Division – Supports the application.

Severn Trent Water Ltd – No objection in principle subject to receipt of the detailed drainage arrangements. It confirms that the water supply network surrounding the site is capable of supplying the anticipated demand from 37 dwellings, and that there is capacity in the foul water drainage network for foul water discharge. The preferred method of surface water disposal is via soakaways, or through other water attenuation measures. It also points out that there is an adopted sewer running through the site parallel to Ransome Road.

## **Representations**

One comment has been received that requests the need for “compensation” for the loss of the open space through a Section 106 Agreement seeking a contribution to new facilities; a condition requiring no three storey development and that there be a mix of house types on the site.

Three further comments request that existing boundary vegetation be retained in order to protect privacy, and that the houses be built to the appropriate energy efficient standards.

## **Observations**

This is an outline application requesting the Council's permission to erect 37 dwellings, including 15 affordable units, on this site using the access onto Ransome Road as illustrated on the plans. This is scope of the application. None of the illustrative material indicating how the site might appear, or be laid out, is part of this consideration. If permission is granted, the land will be sold on, and the successful purchaser will then submit the detail of how he intends to lay out the site. That will be a separate new detailed planning application, which will then be the subject of wide consultation.

There is no objection in principle to this proposal. The site lies inside the defined boundary of a settlement which has been identified as being suitable for new housing. Moreover the site is presently derelict and disused, and its development would significantly enhance and improve this part of Arley. Furthermore the number of units being proposed is suitable as it reflects that of the surrounding area. However, there are other issues that need to be considered in order to see if they provide any weight to the possibility of a refusal, notwithstanding this principled support.

The first relates to the provision of affordable housing. Development Plan policy requires a minimum of 40% provision from a site such as this in Arley. The applicant has indicated that the Waterloo Housing Association has expressed interest in the proposals, and this is confirmed by the Council's own housing officers. In this case that would amount to 15 units. This is to be provided in this application by way of a suitable standard condition.

A second relates to the loss of the recreational and community facilities that were available on the site – namely the social club; a bowling green and the recreational area. The Council has undertaken a full audit of open and green spaces within the Borough, and this has been used in the adoption of the Council's Green Space Strategy and secondly in its draft Supplementary Planning Document (SPD) on the provision of open and green space. The second of these documents points to there being sufficient supply of open space, but that key existing facilities need to be improved as the main "hubs" within Arley. This is reflected in the former document, which has as a priority, support for the release of this application site for development, but that "developer contributions" be sought so as "to improve existing green spaces in the area". The applicant is proposing a financial contribution of £32,868 in the form of a Section 106 Agreement, to be made to the Council for such purposes. This amount is a consequence of the formula set out in the SPD, and the purpose wholly aligns with the Green Space Strategy. The loss of the indoor provision of the former social club as a community facility is not considered to be material given the provision of other public houses in the locality, and the recently completed substantial extension of community space at the nearby St Michael's Church. It is therefore not considered that there is a reason for refusal based on failure to consider the loss of former facility at this site.

The request for further financial contributions for the site of just over £200k by the County Council is not considered to carry significant weight for two reasons. Firstly, the Borough Council's priorities in respect of this site are those as set out in the Development Plan and in its Supplementary Planning Documents – in other words for affordable housing and compensation for the loss of open/green space. These carry significant weight. There is no Development Plan requirement for other contributions. Secondly, the land values in Arley are substantially below those in the County as a whole, and the scale of this potential additional contribution on top of those already provided in the application, would make the development unviable. This is confirmed by the applicant, who says that to provide the £200k contribution would result in there having to be no affordable housing provision on the site. It is considered that the current proposal reflects this Council's priorities and should be supported, without further contributions that could risk the viability of this much needed regeneration scheme.

A third issue relates to the fact that the site consists in part of "made" ground, and that there has been a limited amount of ground contamination found. The Environment Agency, together with the Council's Environmental Health officers are satisfied that this is not a reason for refusal, as the matters to do with remedial work can be satisfactorily dealt with through remediation prior to construction work commencing, and secondly construction itself will be dealt with through the Building Regulations.

Other issues have been made through the representations received. Planning conditions can deal with the provision of a restriction limiting the scale of new development to solely two stories in height, and retaining all existing trees and hedgerows on site until such time as a full arboricultural and landscaping scheme is submitted and approved. The mix of dwellings on the site will be up to the successful purchaser. It is not a matter that can be dealt with at this stage, although it is anticipated that there will be a mix to house types and sizes given that the development itself will be a mixture of affordable and market housing.

There are no other technical issues arising from the responses from the consultations

### **Recommendation**

That, subject to a Section 106 Agreement providing the contribution as set out in this report; there being no objections from the County Council as Highway Authority, or matters being able to be dealt with by way of condition, and the following additional conditions, an outline planning permission be granted.

- i) to (iii) Standard Outline conditions excluding “access” from the first.
  - i) The maximum number of dwelling units to be constructed on this site shall be 37, and none shall be more than two stories in height.

Reason: In order that the development reflects the local character and appearance of its setting.

- ii) No work whatsoever shall commence on site, until a scheme for the provision of 15 affordable houses, as part of the development hereby approved, has been submitted to and approved in writing by the Local Planning Authority. These affordable houses shall meet the definition of affordable housing set out in the saved policies of the North Warwickshire Local Plan 2006. The scheme shall include: the type and tenure of those fifteen affordable houses; the timing of their construction and its phasing in relation to the occupancy of the market houses, the arrangements for the transfer of the fifteen affordable houses to an affordable housing provider, the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the fifteen affordable houses, and the occupancy criteria to be used for determining the identity of occupiers of the fifteen affordable houses and the means by which such occupancy criteria shall be enforced.

Reason: In the interests of securing affordable housing provision on the site so as to meet the requirements of the Development Plan.

- iii) No work shall commence on site until such time as full details of the measures to be taken to remediate the elevated levels of soil contamination on parts of the site, through a Remediation Method Statement, have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of reducing the potential risk of pollution

- iv) No work shall commence on site until such time as the remediation measures approved under condition (vi) above have first been undertaken and completed in full to the written satisfaction of the Local Planning Authority following submission of a Validation Report to the Authority.

Reason: In the interests of reducing the potential risk of pollution.

- v) No work shall commence on site until such time as a tree and hedgerow survey has been undertaken on the site, and this survey shall make recommendations for the retention of important trees and hedgerows because of their visual, ecological or screening interest. No existing tree or hedgerow shall be removed without the written approval of the Local Planning Authority.

Reason: In the interests of retaining and securing important existing visual and nature conservation assets.

- vi) There is a 150mm diameter foul sewer crossing the site parallel to Ransome Road. No buildings whatsoever shall be constructed within a 5 metre corridor over this sewer.

Reason: In the interests of reducing the pollution and flooding risks.

- vii) The estate road junction serving this development from Ransome Road shall not be located such that its centre line is less than 30 metres away from the centre line of the existing junction serving Stewart Court.

Reason: In the interests of highway safety.

- viii) No dwelling hereby approved shall be occupied until such time as the estate road junction with Ransome Road, has been provided with visibility splays measuring 2.4 by 60 metres on either side to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within these splays exceeding a height of 0.6 metres above the level of the public highway carriageway.

Reason: In the interests of highway safety.

- ix) The layout of the estate roads including footways, verges and means of accessing individual plots shall be agreed in writing prior by the Local Planning Authority prior to any construction work commencing on site.

Reason: In the interests of highway safety.

Policies:

As set out above

Informatives:

- i) Information on the sewer that crosses the site and advice on works close to or over it, including at construction, can be obtained from Severn Trent Water Ltd. The sewer may require temporary protection.
- ii) Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment, and disposal is subject to waste legislation, which includes the Duty of Care Regulations 1991, the Hazardous Waste (England and Wales) Regulations 2005 and the Environmental Permitting Regulations 2010. Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed off site operations is clear. The Environment Agency should be contacted for advice at an early stage.
- iii) 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 on 0845 762 6848, or at [www.groundstability.com](http://www.groundstability.com).

**Justification:**

The site is within the development boundary defined for New Arley in the Development Plan, and as this settlement is defined as a Local Service Centre in that same Plan, the principle of new residential development is supported. The application properly makes provision for Development Plan requirements regarding affordable housing and compensation for the loss of a former community facility and existing open recreational space. These include a Section 106 Obligation. There are no technical issues arising for consultations that can not be dealt with by way of conditions, and representations from the local community have been supportive in principle. Detailed issues raised can be considered at the reserved matters stages.

## BACKGROUND PAPERS

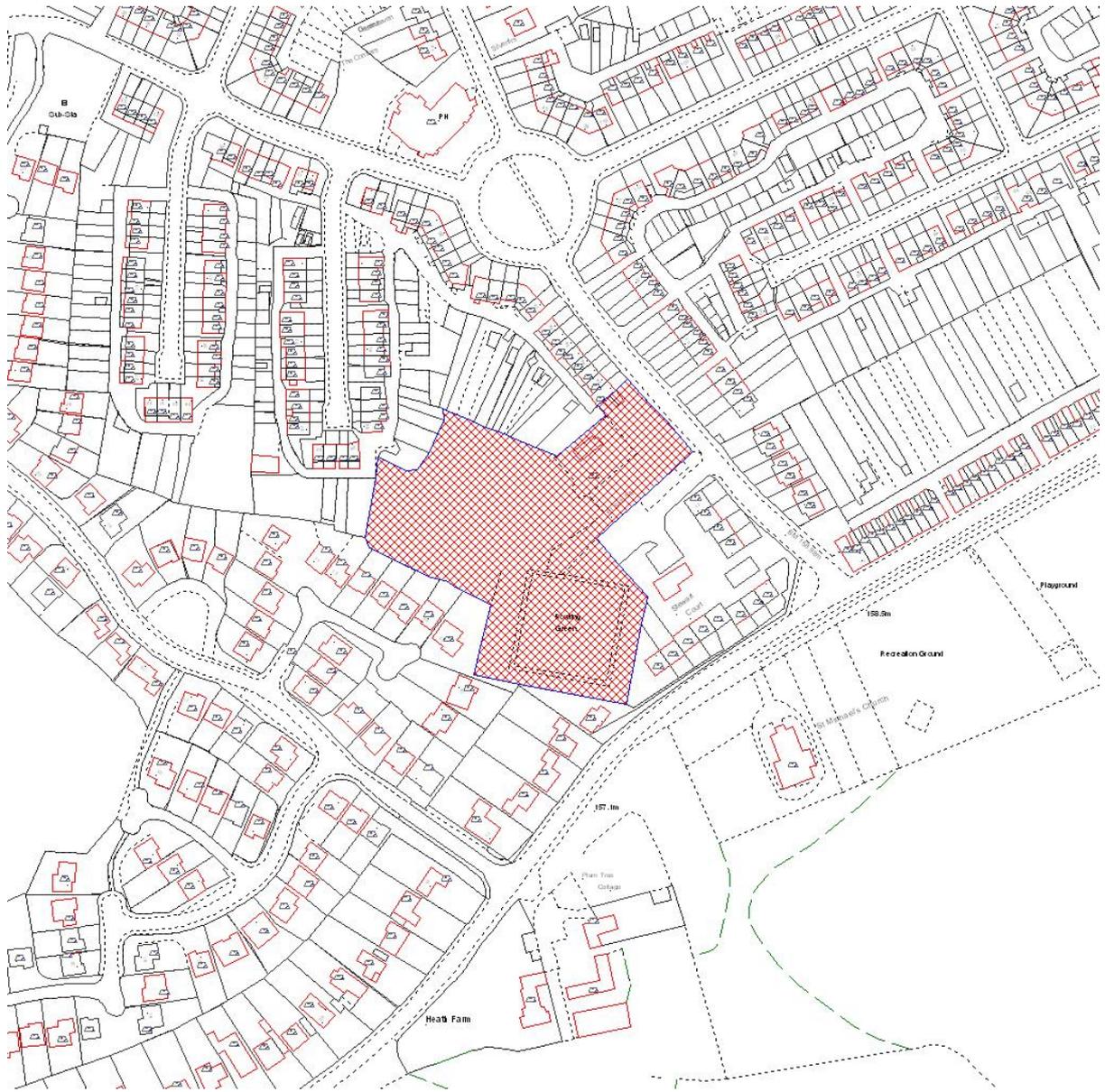
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

**Planning Application No: PAP/2010/0399**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms and Plans	30/7/10
2	Agent	Letter	14/10/10
3	Mr Reader	Representation	24/10/10
4	Mr McCann	Representation	31/10/10
5	Coal Authority	Consultation	5/11/10
6	EHO	Consultation	4/11/10
7	Head of Development Control	Letter	27/10/10
8	Severn Trent Water Ltd	Consultation	10/11/10
9	Warwickshire Police	Consultation	10/11/10
10	Mr & Mrs Kelly	Representation	10/11/10
11	Head of Development Control	Letter	11/11/10
12	Environment Agency	Consultation	25/11/10
13	Mr Stephen	Representation	22/11/10
14	Agent	E-mails	22/11/10
15	Severn Trent Water	Letter	24/11/10
16	Applicants Solicitor	Letter	23/11/10
17	Highway Authority	Consultation	6/12/10

*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.*



**(4) Application No PAP/2010/0403**

**Sandrock Tamworth Road Corley**

**Retention of single storey rear kitchen extension., for Mr Naz Miah**

**Introduction**

Determination of this application was deferred at the November meeting of the Board in order to enable a site visit to take place. This has now occurred and Members are asked to determine the application. For convenience the report from the last meeting is attached at Appendix A.

**Recommendation**

That planning permission be granted as set out in Appendix A

## **General Development Applications**

### **() Application No PAP/2010/0403**

**Sandrock, Tamworth Road, Corley**

### **Retention of single storey rear kitchen extension for Mr Naz Miah**

#### **Introduction**

The proposal is brought before the Planning and Development Board in view of the recent history of this site.

#### **The Site**

Sandrock is a detached house which stands in a large plot extending to some 0.3 hectares. The property is located on the southern edge of the settlement of Corley. Corley does not have a defined development boundary and so the site in question is located within the Green Belt. Therefore the proposal is subject to restriction in terms of Green Belt policy.

Access into the site is gained directly from the Tamworth Road although the property does occupy a corner position with Rock Lane. The boundaries to the site contain trees and vegetation.

#### **The Proposal**

This involves the retention of a single storey rear kitchen extension. The extension is 6.5metres wide, 4.0metres in projection from the rear of the original dwelling, 4.2 in projection from the rear of the side extension and 2.7metres high to the roof. The plans for the rear extension can be viewed in Appendix 1, and photographs of the extension can be viewed in Appendix 2.

#### **Background**

The main dwelling was approved in 1961. The dwelling was extended to the side to include garages, workshop, lounge and bedroom in 1990. In 1997, permission was granted for a rear conservatory. In 2006, permission was refused for a first floor extension above the 1990 works which approved following a planning appeal.

In 2008, permission was granted for a new roof structure with bedrooms above, to the workshop and garage below which was approved in 1990. In 2009 permission was granted for a further revision to the 2008 permission. In 2010 planning permission was granted for further revisions to the roof design of the 2009 application.

In 2009, planning permission was granted to retain the garage / store with a reduction in roof height. In 2010, planning permission was refused for a variation of a condition to remove the condition to retain the height of the existing garage and store. The application was appealed but allowed.

## **Development Plan**

Saved policies from the North Warwickshire Local Plan 2006:

ENV11 – Neighbour Amenities  
ENV12 – Urban Design  
ENV13 – Building Design  
ENV2 – Green Belt

## **Other Material Planning Considerations**

Government Advice:  
Planning Policy Guidance 2 – Green Belt

Supplementary Planning Guidance:  
SPG – A Guide for the Design of Householder Developments – Adopted September 2003

## **Representations**

Corley Parish Council makes the following comments:

- Corley Parish Council appreciate that the above kitchen extension - yet a further retrospective application - was initially a permitted development (before these rights were removed by condition). However, it is also understood that this development is larger than dictated under these rights (albeit marginally) and therefore the extension occupies a footprint in excess of that which is legally permitted.
- As there are set rules to abide by regarding the scale/size of a permitted development, we sincerely trust that NWBC applies these rules fairly and consistently in this case and would hope that an exception is not made in this particular instance.
- These observations in no small part reflect the numerous comments from parishioners received by councillors regarding this property; the general consensus of opinion being that the entire site has been grossly and inappropriately over-developed and that the development is totally at odds with the village community it exists in and where other significantly smaller and less obtrusive developments have been refused planning permission.

Neighbour – The Moorlands, Wall Hill Road – objection on the grounds that the proposal

- does not meet the requirements of ‘very special circumstances’ for development within the Green Belt.
- There are existing considerable extensions to the site.
- Planning Permission should be granted before work is undertaken.
- Builders and architects should be aware of the planning rules.

## Observations

The site lies within the Green Belt and this is the main consideration, when determining the application.

The reason that a planning application is required for the current proposal, is that part of the extension protrudes more than 4 metres from the rear of the original dwelling house, when considering the changes brought in by The Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008. The foundations to the proposal were in place as noted on a site visit in 2009 and therefore a material start had taken place to the extension. The rear extension would be permitted development depending upon the height and projection. However in this case part of the projection exceeds the 4 metre criterion of projections from the rear of the original dwelling, and thus a formal planning application is required to retain that part of the structure. Members should note that because of this, the only element that actually requires a planning application is in effect an area of 0.2 metres by 0.5 metres – the remainder being permitted development.

When considering the impact upon the Green Belt, Policy ENV2 of the NWLP 2006, paragraph 3.29, states 'within Green Belts the primary aim is to maintain the open nature of the area, and there is a general presumption against development that is inappropriate to a rural area except in very special circumstances'. Within Planning Policy Guidance Note 2: Green Belt, it states a 'general presumption against inappropriate development, and that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations'. This is taken further in respect of householder applications where they are treated as being inappropriate if they are disproportionate to the original dwelling house. Policy ENV13 defines this as 30%.

The dwelling has already been extended so to exceed the 30% guidance in Green Belt areas, hence this is inappropriate development by definition. However there are two critical circumstances here that together do have the weight to amount to the very special circumstances necessary to override the presumption of refusal. The first is the fall-back position explained above. The great majority of this extension is permitted development, not requiring an application. If the extension were reduced by the dimensions referred to above, no application would be necessary. Furthermore there is no adverse impact on openness arising from this very minor difference. It is hardly noticeable in terms of the context of the whole building. If it has no adverse impact it should not be refused planning permission. Notwithstanding the extensive planning history here; the number of retrospective applications and refusals, Members will know that a refusal can not be justified using that history as the reason for refusal. Additionally, Members will know that requiring the applicant to remove just the minor addition over the fall-back position here is not a reasonable request if that addition itself has no material adverse impact.

The Parish Council in its letter, asks that the Council applies these rules fairly and consistently in this case and would hope that an exception is not made in this particular instance. The report above indicates exactly where we now are. In this instance, the extension was started before the changes in the rules governing extensions, and therefore these foundations were considered to be a material start. What could have been done under permitted development is a material

consideration, and with a small change to the proposal, these works could become permitted development. It is acknowledged that the site has been extended over the years and has a garage outbuilding, however due to the changes to the permitted development rules in 2008, it allowed further works without the need for planning permission, where as before applications would have been required.

The property has no adjoining neighbours, as the site is surrounded by roads on all sides, with the nearest property to the extension approximately 40 metres away. There is considered not to be any loss of light, amenity or privacy on neighbouring properties. The site is well screened by existing vegetation on the boundaries.

The extension does have a flat roof, however it is to the rear of the building and is not visible from the nearby roads. Whilst flat roof extensions are not the most appropriate in terms of design, in this case, it is considered appropriate. The design is not considered to lead to a prominent development.

### **Recommendation**

That the application be Granted

### **Notes**

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

North Warwickshire Local Plan 2006 (Saved Policies):

ENV11 - Neighbour Amenities

ENV12 - Urban Design

ENV13 - Building Design

ENV2 - Green Belt

2. The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to The Coal Authority. It should also be noted that this site may lie within an area where a current licence exists for underground coal mining. Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)
3. The owner of the site should be aware that permitted development rights were removed for extensions and outbuildings, as part of the a planning permission 2009/0257, approved 31/07/2009. It is considered that further applications for extensions to the dwelling may not be supported and would be deemed to be disproportionate, to the original dwelling.

## Justification

The proposal is to retain the single storey rear extension. It is considered by virtue of its size and scale not to have an adverse impact upon the openness of the Green Belt in which it lies, and is therefore not considered to be inappropriate and disproportionate development. The dwelling and site has been developed through previous applications, however the extension could be built under the permitted development allowance, and needs permission, due to part of the extension exceeding the permitted allowance. Therefore when considering what can be built as permitted development, it is considered the proposal is acceptable. The proposal is not considered to result in a loss of amenity, privacy or loss of light that would result in an unacceptable loss of amenity and privacy in the area. The proposal is considered to comply with ENV11, ENV12, ENV13 and ENV2 of the saved policies from 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/2010/0403**

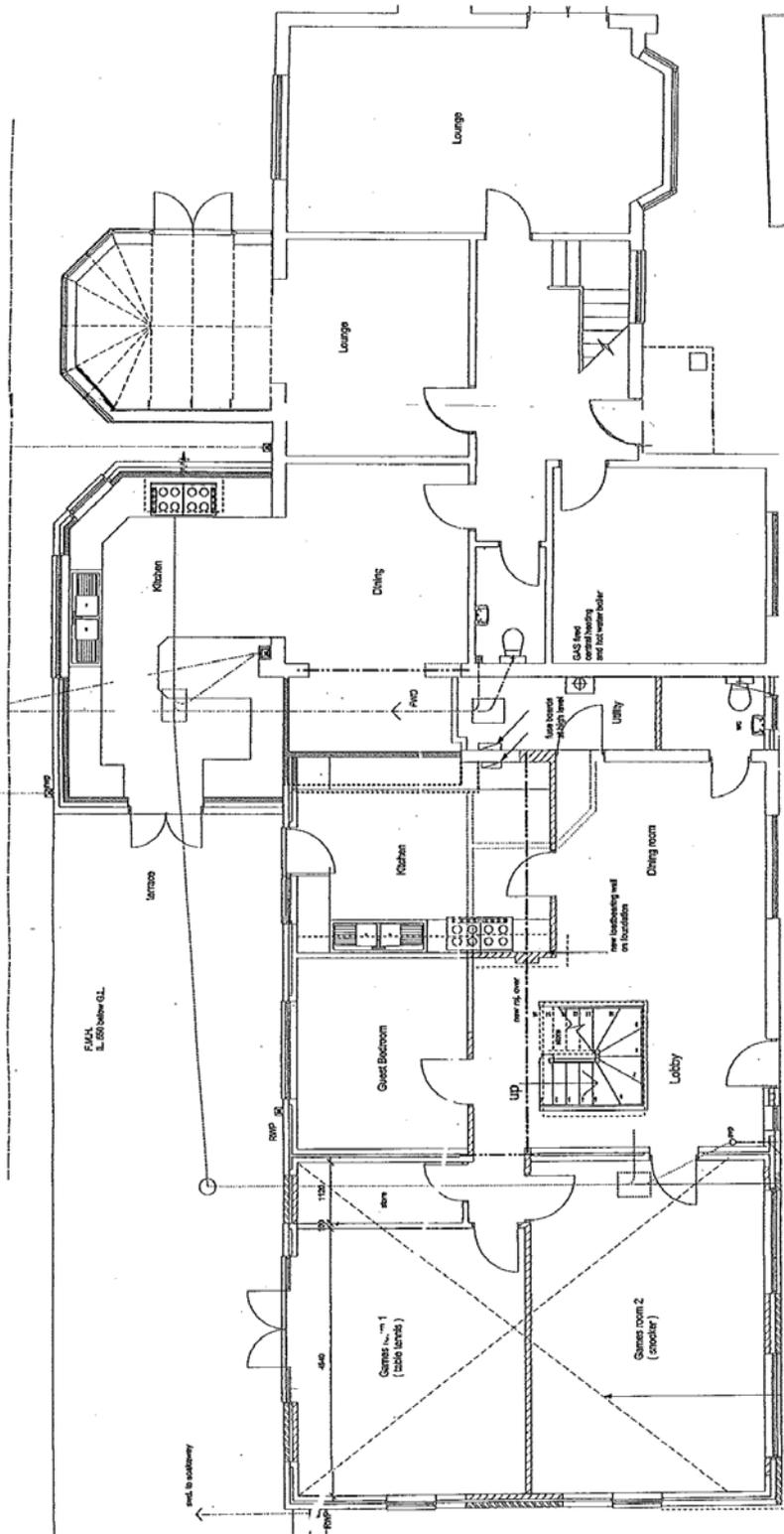
<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant or Agent	Application Forms and Plans	2/8/10 and made valid 21/9/10
2	Neighbour	Email of objection	28/9/10
3	Corley Parish Council	Letter of Comments	18/10/10
4	Case officer	Email report to Chair, Vice Chair and Local Borough Councillors	29/10/10
5	Cllr Hayfield	Response to email report	29/10/10
6	Cllr Simpson	Response to email report, and requested brought to P & D Board	29/10/10

*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.*



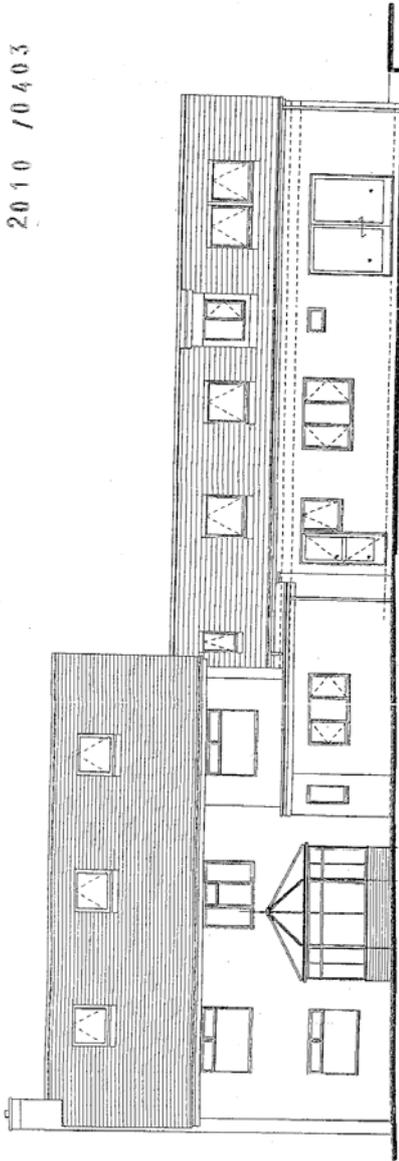
**APPENDIX 1 - PLANS**



RECEIVED  
 2 AUG 2010  
 North Warwickshire  
 Borough Council

FLOOR PLAN 1:100

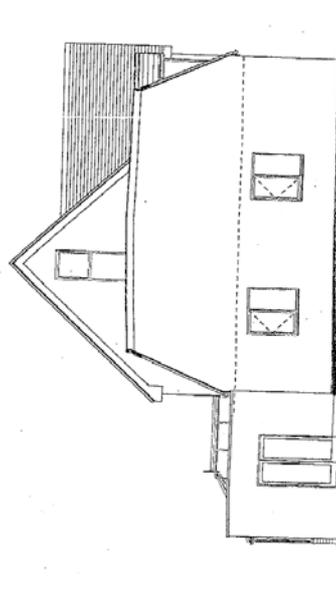
2010 / 0403



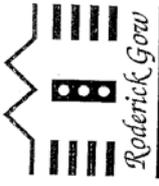
REAR ELEVATION PROPOSED

- AMENDMENTS - MAY 2009**
- 1 semi gable end to replace hip on side elevation
  - 2 additional dormer on front elevation
  - 3 roof windows replacing dormers on rear elevation
  - 4 overall roof height reduced 125 mm.
  - 5 roof pitch changed to 55°

- AMENDMENTS - NOVEMBER 2009**
- 1 mansard roof extended to existing house
  - 2 additional roof windows on front elevation
  - 3 additional roof windows on rear elevation
  - 4 overall roof height as above
  - 5 mansard roof pitch changed to 65°
  - 6 windows changed to side hung casements
  - 7 front entrance door / side window amended
  - 8 rear patio door amended
  - 9 small window added to g...at rear
  - 10 rear kitchen extension to original houses added



SIDE ELEVATION PROPOSED



**DESIGNS**  
 The Studio 19 Bull Lane, Allestree  
 COVENTRY CV4 3BY  
 Tel 024 76 40295

Scale 1:100 Date: Jan. 2009 Drawing No: 010  
 Job: Proposed extensions and alterations  
 'Sainsford'  
 Farmhouse Road Corley CV7 8AA  
 for Mr. N. Blah

ELEVATIONS	
Orig	Rev 0
Day Rev	MM - 06
Rev	0

This drawing remains the copyright of R. Gow Designs

RECEIVED  
 7 Aug 2010  
 Neighbourhood Planning Committee

**APPENDIX 2 – PHOTOGRAPHS OF THE SITE**



## **(5) Application No: PAP/2010/0466**

### **2 Malthouse Cottages, Tipper's Hill Lane, Fillongley**

#### **Retention of a summer house, for Mr Graham Harrow**

##### **Introduction**

This application is referred to Board as a local member considered that the development would have limited impact.

##### **The Site**

The site lies adjacent to Tipper's Hill Farm and in conjunction with a barn conversion to three dwellings, the farm house and further dwelling. The applicant property is one of the three barn conversions, appearing as one long building, with a first floor within the roof space. Each dwelling has a small garden to the east (rear) with further amenity to the front leading onto the shared access across the front of the properties. The summer house sits west of this access beyond the original residential curtilage of the dwelling.

##### **The Proposal**

The applicant seeks to retain a summer house for use incidental to the enjoyment of number 2 Malthouse Cottages.

##### **Background**

The barn conversion consent (FAP/1997/4157) carried a condition removing permitted development rights for outbuildings and extensions. The Council was notified early in 2010 that land outside of the original curtilage as defined by approved plans under FAP/1997/4157 was being used residentially, and that unauthorised outbuildings had been erected and hardstandings installed on this land.

Two planning applications were submitted to regularise these matters – PAP/2010/0238 and PAP/2010/0242 – with the latter relevant to the applicant's property. Permission was granted to retain the extended curtilages, but subject to a condition that required existing outbuildings to be removed and hardstanding reduced.

Following a site visit to ascertain compliance with the condition, one outbuilding remains. This application seeks to allow its retention.

##### **Development Plan**

North Warwickshire Local Plan 2006 (Saved Policies): ENV2 (Green Belt) and ENV13 (Building Design).

##### **Other Relevant Material Considerations**

Government Advice: Planning Policy Guidance Note 2 (PPG2) – Green Belts

## Consultations

Fillongley Parish Council objects on grounds of the impact on the Green Belt, with the summer house also being excessively large.

## Representations

The applicant provides a letter of support signed by the immediate neighbours at The Grange, The Farm House and 3 Malthouse Cottage, stating it has improved the previous eyesore of derelict waste land, it is very much in keeping with the micro-community at this site, and it is not imposing or has any impact on the Green Belt.

## Observations

The summer house sits outside of the original residential curtilage, but within the extended curtilage as permitted. PPG2 states the construction of new buildings inside a Green Belt is inappropriate unless it is for: agriculture and forestry; essential facilities for outdoor sport and outdoor recreation; or limited extension, alteration or replacement of existing dwellings. The proposal here is for an outbuilding, physically detached and unrelated to the existing dwelling. The summer house is therefore, by definition, inappropriate development.

Extant conditions require the removal of existing outbuildings and hardstanding, and prevent the erection of outbuildings. These arose from guidance within PPG2, stating any change in the use of land is inappropriate development unless it maintains openness and does not conflict with the purposes of including land in the Green Belt. The relevant purpose here is *“to assist in safeguarding the countryside from encroachment”*. The change of use, both of the original barn and the extended curtilage, was only considered acceptable subject to the conditions outlined above. To allow the summer house to remain would not maintain openness and not assist in safeguarding the countryside from encroachment. Furthermore, it would undermine the integrity and enforceability of these conditions.

PPG2 also requires that, if development is held to be appropriate, visual amenities should not be injured by reason of siting, materials or design. Notwithstanding that the summer house is inappropriate development; it would also fail to meet this criterion, with the materials out of keeping with the surrounding traditional brick built barns.

Turning to whether very special circumstances are presented, it is noted that the site is away from public vistas and screened by existing planting and buildings. However, it is not an acceptable solution to ‘hide’ inappropriate development within the Green Belt. The supporting statement that visual improvements have been made cannot be sustained, with lesser solutions not including inappropriate development capable of improving visual amenity. The statement that it is in keeping is also not supported, not only for the reasons in the above paragraph, but also the summer house does not reflect the barns’ vernacular. Special circumstances are not considered to have been demonstrated.

Further to the above, materials and detailing are not considered to be appropriate in the context of the original barn conversion, thus not enhancing local distinctiveness.

The key issue here is that the Council, a few months ago, granted a planning permission for additional land to be included within the residential curtilage of each of these barn conversions here. That was the subject of a condition requiring removal of existing buildings. Occupiers complied with this requirement, except for this summer house. It is considered important that the Council remains consistent in its approach at this site.

### **Recommendation**

That the application be **Refused** for the following reason:

The summer house is, by definition, inappropriate development within the Green Belt, bringing harm to the openness of it and conflicting with the purposes of including land within it. A previous application allowed for the use of this land as amenity space on the basis it remained open, as this would not conflict with the purpose of including land within Green Belt. This proposal would conflict with this position, and also undermine the integrity of conditions attached to extant permissions at the site. Special circumstances to outweigh this stance have not been demonstrated. Furthermore, the visual amenities of the Green Belt are considered to suffer harm by virtue of the materials used, and the building detail and materials do not enhance local distinctiveness. The proposal is therefore contrary to saved policies ENV2 and ENV13, and guidance contained within Planning Policy Guidance Note 2.

## BACKGROUND PAPERS

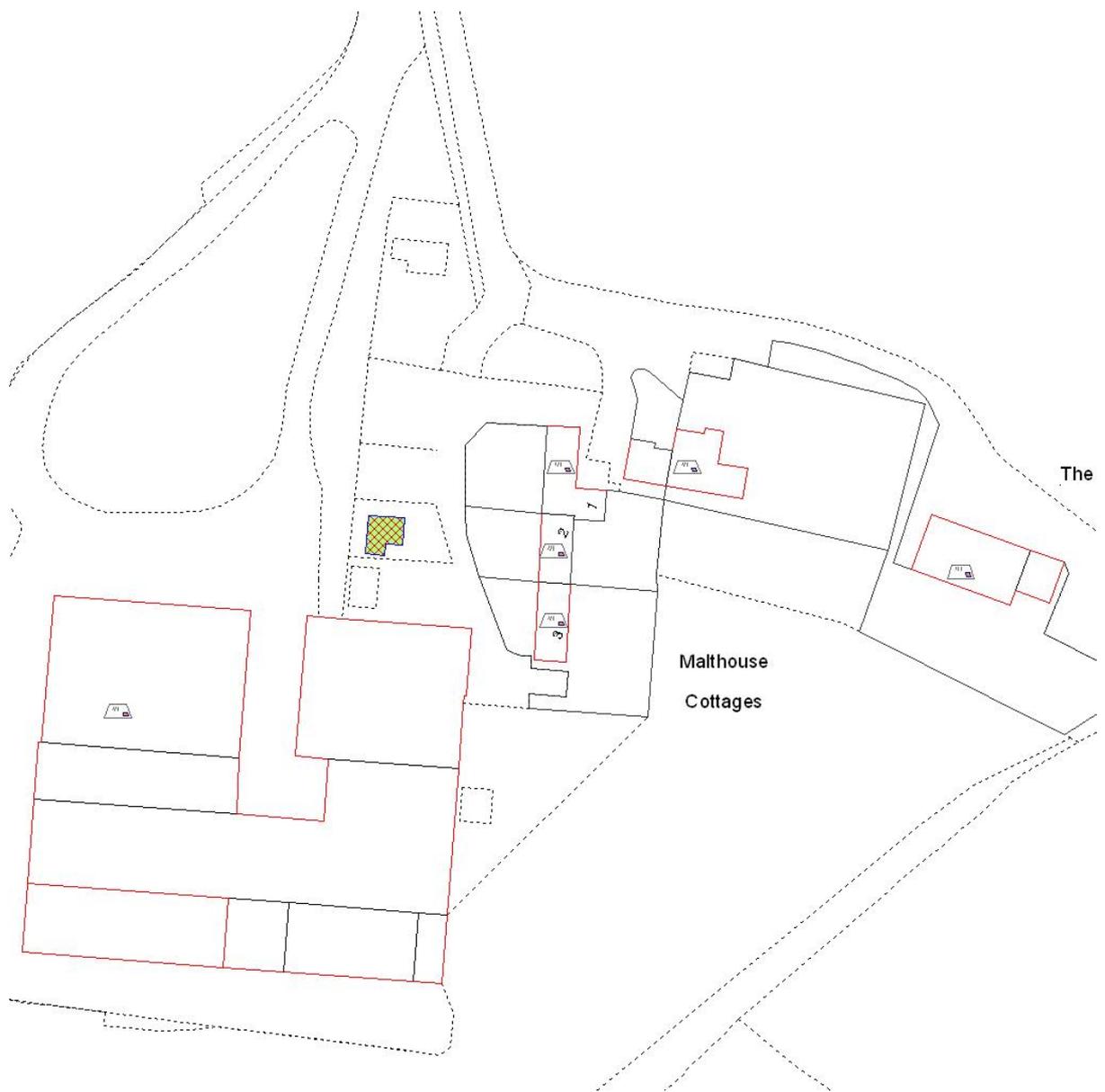
Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

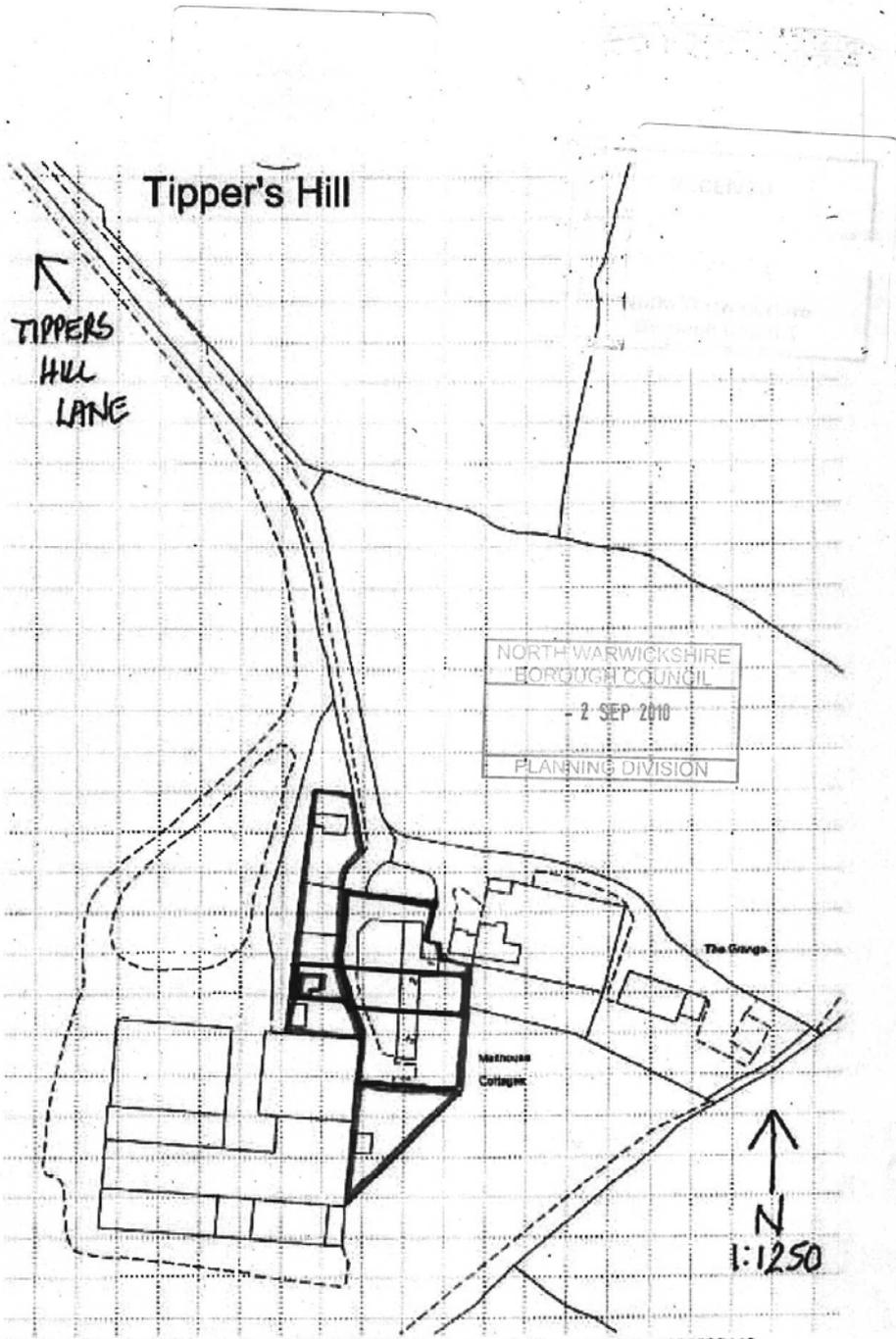
**Planning Application No: PAP/2010/0466**

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
1	The Applicant	Application Forms and Plans	2/9/2010 and 6/10/2010
2	The Applicant	Representation – Letter of support signed by neighbouring properties	18/10/2010
3	Fillongley Parish Council	Representation – objection	1/11/2010

*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.*



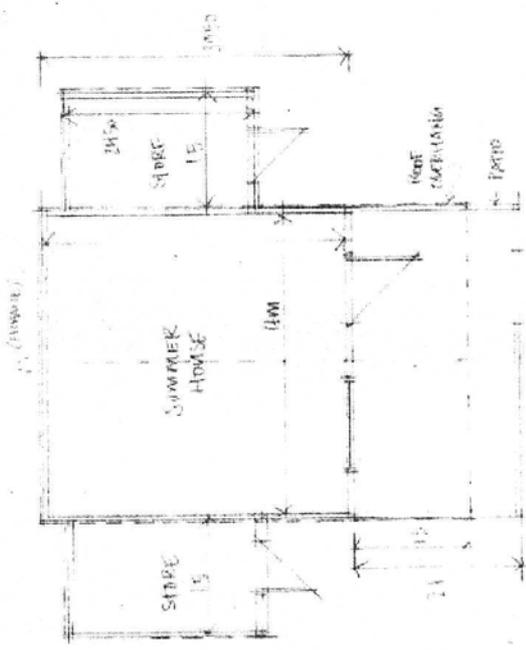


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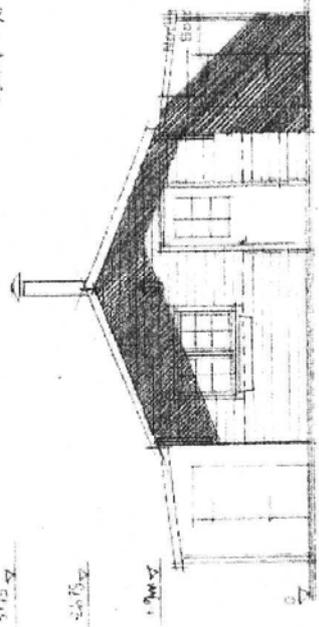
2010 / 0466

SUMMER HOUSE

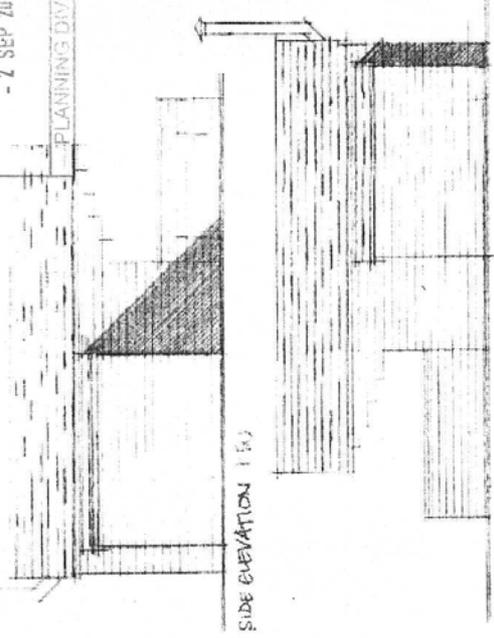
NORTH WARWICKSHIRE BOROUGH COUNCIL
- 2 SEP 2010
PLANNING DIVISION



PLAN 1:50

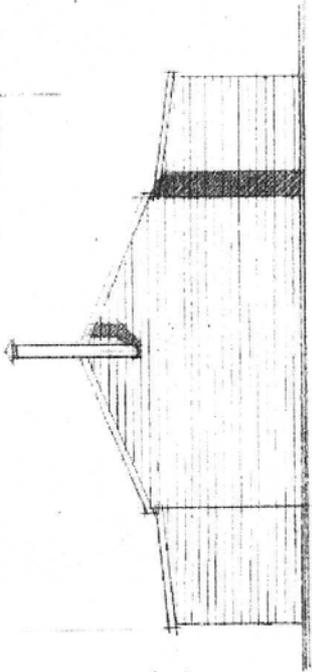


FRONT ELEVATION  
1:50



SIDE ELEVATION 1:50

SIDE ELEVATION 1:50



REAR ELEVATION  
1:50



## **(6) Application No PAP/2010/0514**

### **Plot 1, Phase 2, Birch Coppice Business Park, Dordon**

#### **Application for the approval of reserved matters following outline planning permission 2010/0102 – the erection of a distribution centre for**

#### **Ocado Ltd**

#### **Introduction**

This application follows on from the grant of outline planning permission for the Phase Two extension to the Birch Coppice Business Park at Dordon. It became clear at that time that Ocado Ltd, was seeking a new distribution centre in the Midlands for its expanding “on-line” retail grocery and consumer goods business. That interest has now translated into a planning application seeking the approval of this Council for the detail of its scheme.

There is clearly no objection in principle to this application, but a number of issues need to be brought to the attention of Members, such that a way forward can be agreed so as to resolve them.

#### **The Site**

This amounts to 14.2 hectares of land at the lowest part of the Birch Coppice estate, immediately adjoining the south west boundary of Phase One. It amounts to around a third of the whole of the approved Phase Two extension and is more particularly shown at Appendix A. It would be accessed from an extension of the existing estate distributor road serving Phase One. It is proposed to construct buildings comprising the main warehouse, offices and a Service Block which when mezzanines are taken into account, would provide 62,399 square metres of floor area. The main building would be 22 metres tall. The layout as proposed is set out in Appendix B and the elevations are at Appendix C. The layout and appearance are typical of other large “shed” developments here and elsewhere in the Borough. As such there does not appear to be anything unusual with the proposals. Issues have arisen however in respect of some matters, and it will be of little surprise that they are the same as those raised by Members at the earlier presentation to them by the applicant company.

#### **Landscaping**

This is a large building. It also sits on a large plot in the Phase Two Birch Coppice extension. It is considered that, notwithstanding the approved structural landscaping to be implemented by IM Properties around the periphery of its Phase Two extension – see Appendix A - more needs to be done by Ocado on its particular plot. There is planting proposed around the plot, but much more can be done by widening the peripheral planting belts; adding structural planting within the significant car park areas, adding specimen trees at locations throughout the site, and ensuring that there is a “green” cover to the areas set aside with no use presently.

## **Facing Materials**

One of the key issues raised by Members has been that the quality of the design adopted on the Phase One estate here should be followed in the Phase Two extension. Much of that quality arises from the choice of the colour to be used for the facing materials – namely the greens and browns that can presently be seen. The issue with this particular building is the applicant's requirement that it should be as energy efficient as possible. In essence it is to be a large "fridge", and thus lighter colours are needed to reflect heat from day and sun-light. Ocado have been looking at a range of colours including blues and greys, which would be new to the estate. Officer's preference would remain with the lighter shades of green, "mushroom" or "beige". Members are asked to consider whether a move to other colours would be acceptable. Colour charts will be available at the meeting.

## **Car Parking**

This is a major issue. Originally the applicant proposed 1172 car parking spaces as shown on Appendix B, but after further thought, is about to forward a revised plan showing provision for 850 spaces. This plan will be displayed to Board at its meeting as it has not yet been received. The Council's adopted car parking standards and Government advice through its PPG13, suggests that the maximum number for a building of this size should be around 500.

Notwithstanding this disparity, it is considered that the revised proposal for 850 spaces can be supported. Firstly as was pointed out in the application and in the Member presentation, there are a significant number of jobs to be provided here – well above what is normally associated with a "large shed" – amounting to over 2000 in number when the building is fully operational. Applying a general standard is thus not necessarily appropriate in these circumstances, especially given Government advice that the developer's estimation on car parking provision has to be given weight. Secondly, the building will operate a three shift pattern, and there needs to be an "overlap" in space available to accommodate the changeovers. Thirdly, the applicant's own research at Ocado's existing buildings shows that around 60% of employees actually car share. If this is replicated here, then the number of spaces per shift would amount to around 500, and given the need for the "overlap" and to provide for those employees who do not work on the shifts, the proposal that 850 spaces would be reasonable does carry some weight.

If the provision of 850 spaces is accepted in the circumstances of this case, then if the applicant wishes to expand on this in the future through additional floor space being added, then firstly there is space on site if necessary. Crucially however, it is open to the Council to condition the provision of that additional space. In other words it has to be justified. This is where other matters can play a significant role – the effectiveness of the Green Travel Plan in increasing car sharing percentages, and in the enhanced use of the Bus-to-Work project that already is running through Birch Coppice. The aim of the Council, as well as the applicant should be to reduce dependency on the car and to increase the effectiveness of these other measures. The use of a condition preventing further car park provision on site unless there is the evidence to provide it, would sit comfortably with the two measures outlined here. The County Council considers the Green Travel Plan put forward by Ocado is a good one in that it is explicitly directed in its approach to reducing dependence on the car. The Bus-to-Work project is something that is referred to below in the section on the draft Section 106 Agreement.

## **Draft Section 106 Agreement – Transport**

Following the issue of the Phase Two approval at Birch, it is pleasing to report that County Council officers have met Ocado's representatives and those of IM and other tenants to raise the profile of the Bus-to-Work project. Ocado has undertaken to add its support to the continuation of this project, but the suggested contribution of £50k falls short of a meaningful input into ensuring that this scheme continues, or that it is used to make an impact on Ocado's own car parking provision. Officers have requested Ocado to re-examine its initial contribution, such that the continuation of the project can be shown to have a real impact on reducing the Company's call for additional car parking provision. They are presently reviewing the scale of this contribution.

## **Draft Section 106 Agreement – Training**

Perhaps the key issue in the grant of permission for IM's Phase Two extension, was the prospect of a significant boost to the number of new job opportunities to be provided in this part of North Warwickshire. The Section 106 Agreement that accompanied that permission led to a substantial contribution being paid by IM to develop the local connection. County Council officers have worked together with IM and more recently with Ocado into developing a package of measures that are bespoke to Ocado's training and recruitment needs. These would not replicate Ocado's own measures, but compliment them by providing the local connection. The measures that the County officers have drawn up in conjunction with Ocado are set out in Appendix D, along with an estimated cost. Ocado has offered a £20k contribution. This is disappointing, given the common ground agreed between the County and Ocado's representatives and the nature of the bespoke measures now being put forward. Officers have therefore requested Ocado to review its level of contribution, such that it at least meets the minimum figure put forward by the County officers.

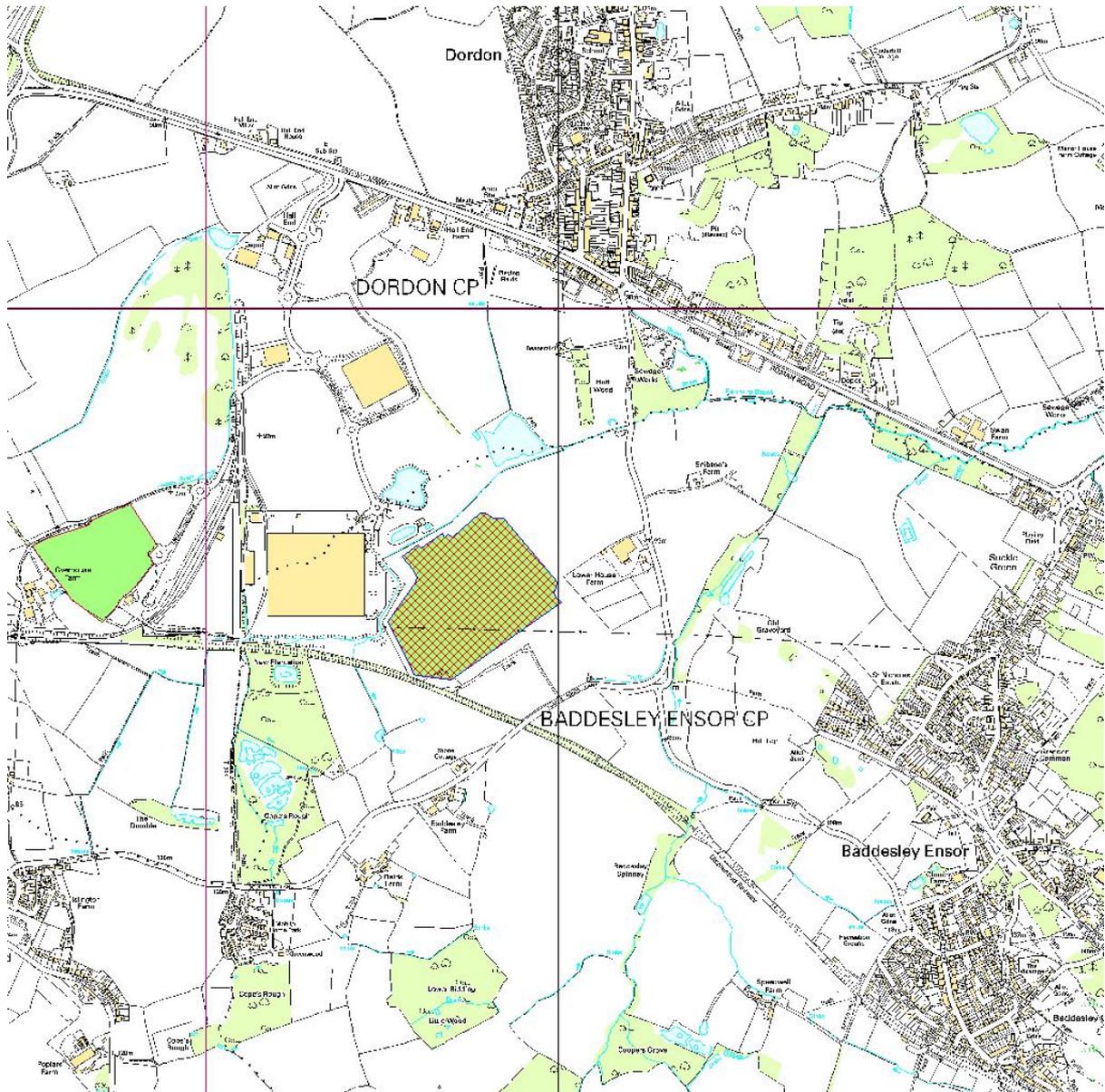
## **Next Steps**

As Members can see, the actual determination of this application revolves around a number of outstanding issues. This report outlines the current position on these matters. It is considered that because of their significance, the Board should have the opportunity to instruct officers as to the approach to be taken. Officers will report verbally at the meeting if there have been further developments on the matters raised in this report since its preparation. It is hoped that if agreement can be reached, a full determination report will be brought to the Board for its January meeting.

## **Recommendations**

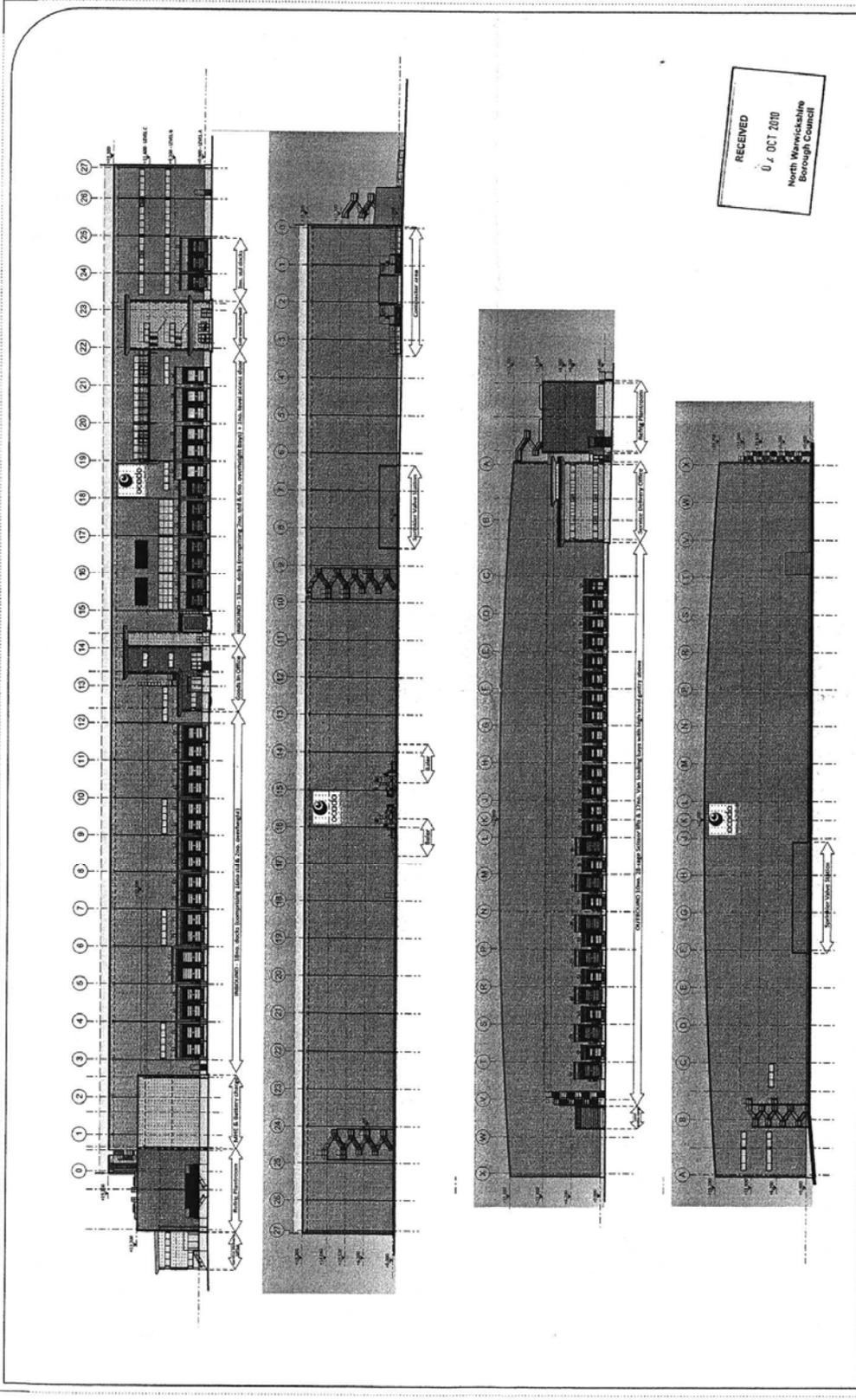
- i) That additional planting be sought on site as identified in this report, and
- ii) that officers continue to make efforts to secure a satisfactory colour for the facing materials that is closer to that of the existing Phase One buildings.
- iii) That whilst agreeing in principle to the provision of 850 car parking spaces, the Board wishes to see conditions attached to the grant of planning permission, restricting additional car parking provision to evidence being submitted to justify its implementation.

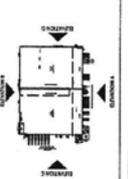
- iv) That the applicant be requested to re-consider its initial offer in respect of its support for the Bus-to-Work project in light of (iii) above.
- v) That the applicant be requested to re-consider its initial offer in respect of its contribution towards the funding of the draft package of training measures outlined in this report, given the weight that the Council gives to this objective, and
- vi) that officers refer the application to the Board for final determination upon satisfactory outcomes from these factors.









 	
NEW DISTRIBUTION CENTRE PROJECT LAST MILE 2 PROPOSED ELEVATIONS	
DATE: JUL 10 TIME: 1:500 SCALE: A2	09144
	
	

**Ocado Ltd – DRAFT proposed S106 contributions  
- currently costed at c£100,000 - £150,000**

Principles on which these proposals are based include;

- to complement and not duplicate activities developed under the previous proposal
- to be 'bespoke' or, at the very least, to clearly (and accountably) extend and deepen activity started under IMP S106 monies eg to take a phase 1 project which has spent its allocated budget to the next progression step
- to extend familiarly with Ocado in advance of opening and whilst the cranes start to appear on the horizon to get the word out : what Ocado is and what the company stands for, what jobs there may be for them and – most importantly for North Warwickshire Works – what Ocado is now helping support locally to ensure they can benefit from these future opportunities

Currently there are 3 key proposals:

- **Progression into Employment.** The Cooperative Development Agency will provide a targeted pre employment service to people who have recently been made redundant, who are unemployed and those who are in work but seeking to improve their employment options. They are currently talking to the HR Department at Ocado (Hatfield) to ensure the programme of work readiness training is suitable for Ocado's needs but is likely to include topics such as
  - employers expectations-what employers want, Ocado's work culture
  - developing your customer facing and customer focused skills
  - communicating on the telephone and in person
  - the essentials of being a good team worker
  - what is flexibility in the workplace and why is it important
  - time keeping and time management and attention to detail
  - new technology-satellite navigation, mobile phone use, texting etc.
  - how to be a motivated employee
  - numeracy, literacy
  - personal presentation at work
  - interview skills
  - understanding Job roles
  - returning to work after long term unemployment covering issues such as managing your personal finance, timekeeping, employer's expectations, sorting out personal issues such as childcare etc.
  - realistic role play regarding life at work
  - work club: support group for those seeking work

There could also be a post employment support programme for those who need further assistance to sustain their employment.

The big difference between this programme and that outlined under the previous S106 monies is that this is a route to progression for those engaged by the first programme under any of the different projects. It is bespoke and targeted employment support focusing on work readiness training workshops and individual 1:1 tutoring and support. It will entail a comprehensive assessment of each individual against likely job specifications at which individual's areas of weakness would be identified and they'd be directed to appropriate elements of the work readiness training programme. The idea will be to try to get work ready people into a prime position to enable them apply to join the Ocado workforce when jobs are advertised - in reality the programme will also support other employment and recruitment needs locally.

- **Ocado Community Hubs.** More discussion is required with North Warwickshire Borough Council but the idea could be to establish and initially part staff new Community Hubs in 3 priority villages adjacent to the Birch Coppice site – Dordon, Polesworth and Grendon or Baddesley. They could be called Ocado Community Hubs (or similar) and would be equipped to facilitate local community engagement and learning opportunities. There is nothing new in this but in North Warwickshire, 'Hubs' of this nature do not exist. Retaining the BOB bus to support outreach work and be one point of engagement for many of our key 'clients' on the North Warwickshire Works programme is important, but equally so is the need for static venues - still close to the communities we are targeting – which will be used for facilitated training and mini-classrooms. Eventually we believe they could grow into the beginning of the new Govt's proposals for Work Clubs. The Borough Council are currently

*North Warwickshire Works is a public, private, community and 3<sup>rd</sup> sector partnership to support training, skills and employability measures for the residents of North Warwickshire. The initiative is part funded by IM Properties plc and Ocado Ltd*

considering options around enhancing access to Council services via electric service delivery in remote locations (viz outside the main hub in Atherstone) – this proposal under the North Warwickshire Works programme would give the policy a kick-start in a few selected venues and be entirely complementary to the community based engagement and progression into employment the North Warwickshire Works initiative represents.

- **Profile raising.** Establishing the Ocado's brand name across the Borough – what the Company does, what it stands for etc. To do this via sponsoring events, publications and schools eg events like Family Open Days; editions of magazines like the Borough Councils 'north talk'; school speech days or specific pupil attainment recognition ceremonies etc

***Prepared by Janet Fortune, Group Manager for Economic Development  
Warwickshire County Council 19/11/10 on behalf of the North Warwickshire  
Works Steering Group***

***email : janetfortune@warwickshire.gov.uk***

*North Warwickshire Works is a public, private, community and 3<sup>d</sup> sector partnership to support training, skills and employability measures for the residents of North Warwickshire. The initiative is part funded by IM Properties plc and Ocado Ltd*

## **(7) Application No PAP/2010/0577**

**71 The Arcade Long Street, Atherstone**

**Change of use from office to health and fitness suite (D2), for Mrs Maureen Parker De Ville's Health & Fitness**

### **Introduction**

This application is reported to the Board, as the Council is the land owner.

### **The Site**

The Arcade is an internal parade of shops on the south side of Long Street in the centre of the town linking that Street with the Bus Station area. There is a first floor that has a lawful use as offices.

### **The Proposal**

To change the use of the front first floor unit overlooking Long Street from offices - but currently vacant - to a health and fitness suite. The applicant has pointed out that this is not to be a gym, and there will not be any of the usual fitness machines associated with a gym. Most of the treatments will be relate to meditative and relaxation therapies. One or two people would be employed and the opening hours would be from 0700 to 2100 on weekdays and until 1600 at the weekends.

### **Development Plan**

Saved Policies of the North Warwickshire Local Plan 2006 – ECON5 (Facilities), ENV11 (Neighbour Amenities)

### **Consultations**

Environmental Health Officers – Officers would be concerned about potential noise impacts on the occupiers below if gym and fitness equipment was introduced; if there was regular dance or other fitness activity taking place. As a consequence a personal consent is recommended in order to restrict the use to that described by the applicant.

### **Representations**

One of the existing tenants is concerned about noise emissions and impacts on the unit below the application site.

Atherstone Town Council – Welcomes the application as it provides a use for a vacant unit.

Atherstone Civic Society – No objection

## Observations

These premises are within the town centre and thus are supported by Policy ECON5 which seeks to encourage such uses in the town centre for sustainability reasons. The premises are not residential in character or use, but any new use should respect the amenity of neighbouring tenants. This use, as described, is one that is relatively low key in its impact, and it is unlikely that there would be disturbance to residential occupiers either in adjoining premises or those opposite. A material factor is that the previous use was an office. Planning conditions can restrict the introduction of fitness equipment; the scope of the use and the hours of opening. Rather than retain these premises as a vacant unit, this use can be supported given its policy support.

## Recommendation

That planning permission be granted subject to the following conditions:

- i) Standard Three Year condition
- ii) Notwithstanding the provisions of The Town and Country Planning (Use Classes) Order 1987 as amended, the site shall solely be used for the purposes set out in the application form, and for no other purposes within Use Class D2, and shall enure solely for the benefit of De Ville's Health and Fitness and for no other organisation, company or person whatsoever.  
Reason: In order to protect the amenity of neighbouring occupiers.
- iii) For the avoidance of doubt, the use hereby permitted shall not involve the use of any fitness or gym equipment whatsoever.  
Reason: In order to protect the amenity of neighbouring occupiers.
- iv) The use hereby approved shall only operate between 0700 and 2100 hours on weekdays and between 0700 and 1600 at all other times  
Reason: In the interests of protecting the amenity of neighbouring occupiers.

Policies:

As set out above

Justification:

This use is appropriate in a town centre location and is unlikely to cause material harm to the amenities of neighbouring residential occupiers. Conditions need to be added to ensure that there is minimum impact on the amenity of neighbouring occupiers.

## BACKGROUND PAPERS

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

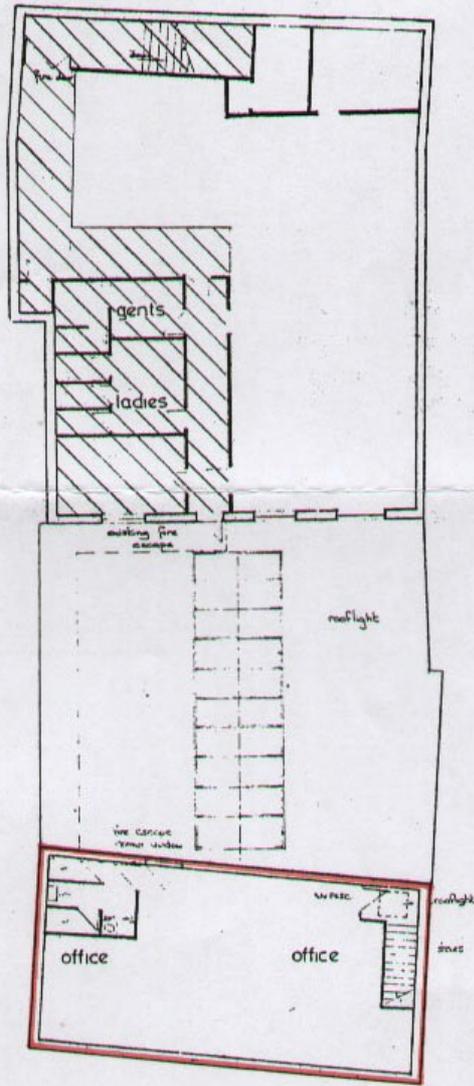
**Planning Application No: PAP/2010/0577**

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	12/11/10
2	Mrs Capon	Representation	18/11/10
3	Head of Development Control	Letter	19/11/10
4	Applicant	E-mail	24/11/10
5	Atherstone Civic Society	Representation	25/11/10
6	Atherstone Town Council	Representation	17/11/10
7	Environmental Health Officer	Consultation	29/11/10
8	Environmental Health Officer	E-mail	29/11/10
9	Environmental Health Officer	E-mail	30/11/10

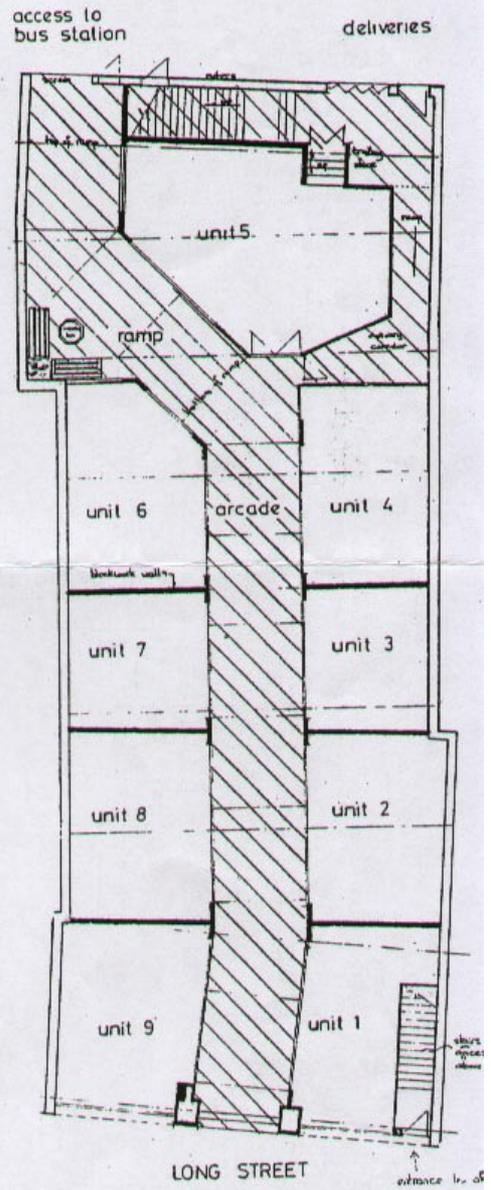
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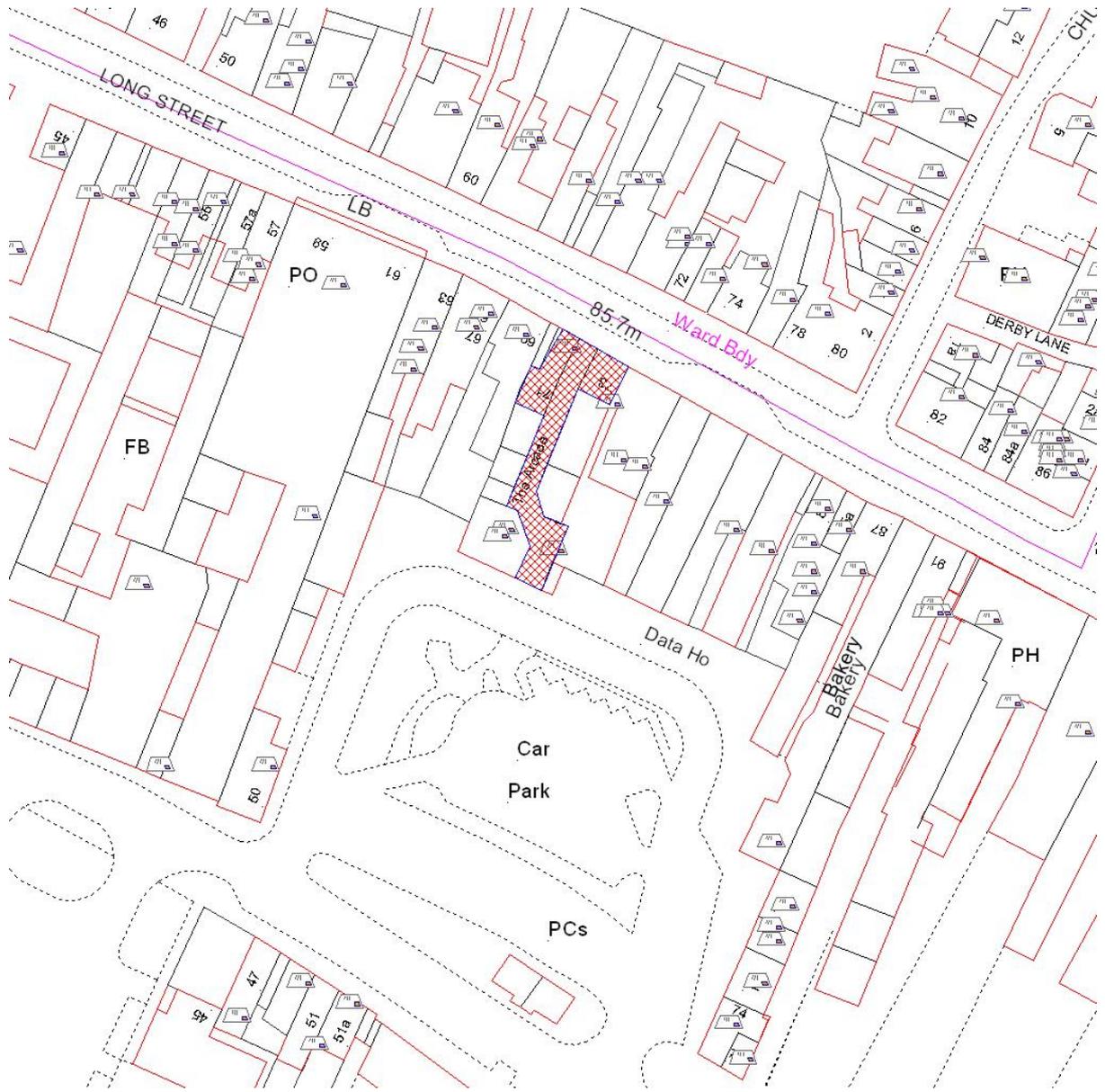
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FIRST FLOOR PLAN



GROUND FLOOR PLAN



## **Agenda Item No 6**

### **Planning and Development Board**

**20 December 2010**

**Report of the  
Assistant Director  
(Leisure and Community Development)**

**Arboricultural Works on  
Borough Council Land**

#### **1 Summary**

- 1.1 Following the meeting of the Board held on 13 September 2010, this report informs Members of the outcome of consultation in respect of proposed works in the current arboricultural contract.
- 1.2 The report also sets out details of the Authority's tree management process and proposes a formal procedure in respect of consultation for Members' consideration.

#### **Recommendation to the Board**

- a That the Board notes and comments upon the outcome of the consultation undertaken in respect of currently proposed arboricultural works; and
- b That the Board notes and comments upon the proposed consultation procedure in respect of future arboricultural contracts, prior to the further consideration and determination of this matter by the Community and Environment Board.

#### **2 Consultation**

##### **2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members**

- 2.1.1 The Portfolio and Shadow Portfolio Holders for Countryside and Heritage, Health, Well-being and Leisure, Environment, Community Life and Resources have had the opportunity to comment on the content of this report.

#### **3 Background**

- 3.1 At its meeting held on 13 September 2010 the Board received a report that included details of trees which it is proposed should be felled and that are included within a contract for arboricultural works that had been scheduled to be let in October 2010. The Board resolved that:

“any emergency works identified as part of the proposed felling works included in the current “tree works” contract be undertaken and that officers be asked to circulate the report to Parish, Town and Ward Members for comment and report back to a future meeting of the Board”.

- 3.2 Details of the proposed works in each area were circulated to Town and Parish Councils and Ward Members with an initial deadline for replies of 19 October 2010. As no responses were received by this date the details were circulated again in early November to ensure that any views subsequently received could be made known to the Board. Those responses that have been received are summarised at Appendix A. As can be seen, no queries or objections were raised in respect of any of the proposed works.

...

#### 4 **The Tree Management Process**

- 4.1 Responsibility for the management of the Borough Council’s trees in parks and open spaces sits within the Leisure and Community Development Division’s Landscape Management section. Inspections and the subsequent specification of works are carried out by the Landscape Officer (Trees), who also advises this Board in respect of matters relating to tree protection. The post is part-time (18.5 hours a week).

- 4.2 The Authority does not employ an in-house tree maintenance team, so all arboricultural works are carried out by external contractors appointed through a tendering process in compliance with Contract Standing Orders. Unless there is an immediate urgency to attend to a particular tree, proposed works are aggregated into a small number of reasonably substantial contracts; this being more efficient and cost-effective than running numerous small contracts. There is generally sufficient work for four or five contracts to be let in each financial year.

- 4.3 Prior to 2002 the Authority had no proactive tree management process in place, reacting instead solely to customer contacts. The danger in this approach was that resources were often directed at resolving relatively minor matters, whilst more significant issues were not identified or addressed. A proactive tree management programme was instigated in 2002, initially through the employment of arboricultural consultants and subsequently through the establishment, in 2005, of the post of Landscape Officer (Trees).

- 4.4 The Authority has a Duty of Care in respect of the management of its trees and now takes a risk-based approach to that management process. This approach is set out in the Tree Management Briefing Note attached at Appendix B, which was approved by the Community and Environment Board at its meeting held in March 2010 and which was the subject of a presentation to this Board at its meeting held in June 2010.

...

- 4.5 In brief, at each inspection an assessment is made of the structural condition of the tree, the likelihood of it failing, either in whole or in part, and the probable impact on persons or property should it do so. Where a tree is in proximity to a built structure an assessment is made of whether it may cause damage to that structure, either through direct action or through the influence of root action.
- 4.6 Given the environmental and amenity benefits of trees, it is a matter of principle that every effort is made to avoid removing them. It is inevitable, however, that from time to time it will be necessary to fell a tree due to its poor condition or inappropriate location, together with the possible injury to people or damage to property that may result if it is left standing. It is also sometimes necessary to remove trees to allow others to develop to their full potential, such as when thinning a woodland.
- 4.7 Albeit limited by staff capacity, the introduction of the proactive management programme brought about a more effective and responsive service, which aimed to ensure that all of the Authority's trees in parks and open spaces are inspected on at least a three-year cycle. For the fifteen months between July 2008 and October 2009 the Landscape Officer (Trees) position remained vacant and the proactive inspection cycle had to be suspended. It has now been resumed but there is a significant backlog of work to be undertaken, in addition to the high volume of direct customer contacts received by the section.
- 4.8 It is anticipated that once all trees have been brought within active management there should, over time, be a reduction in the volume of remedial works required each year, including a reduction in the number of fellings that need to take place. The trend in this respect will be monitored and a summary report will be made annually to the Community and Environment Board.

## **5 Reporting Procedures**

- 5.1 Given its Duty of Care, the day to day management of the Authority's trees is an operational matter to which it is obliged to attend. Thus tree management issues are routinely dealt with by staff and are not reported to Boards as a matter of course. This approach both facilitates an effective and responsive parks and open spaces service and avoids Boards being overburdened with requests for decisions on matters that are within the competency of appropriate officers to resolve.
- 5.2 Works that are proposed to trees within a Conservation Area usually require the Local Planning Authority to be notified in order that the need or otherwise for a Tree Preservation Order can be determined. Work by a local authority to its own trees is exempt from this procedure. It has been the practice in this Authority, however, to inform the Head of Development Control of the intention to carry out any such works, so that should there be any issues of concern these can be addressed.

- 5.3 It is not usual to place Tree Preservation Orders on local authority owned trees but it is sometimes the case that land has been acquired subsequent to such an order being put in place. In such instances, if the authority proposes to carry out works to trees that are protected an application for planning consent must be made in the usual way. Such applications in North Warwickshire would be brought to this Board for determination.
- 5.4 Whenever any substantial arboricultural contract is to be let by the Authority it is usual practice to advise Ward Members, Town and Parish Councils and other relevant interest groups, such as civic societies, of the proposed works, again so that any concerns that arise can be addressed.

## **6 Implications of Changing Reporting Procedures**

- 6.1 This Board requested that details of proposed felling works in the current arboricultural contract be circulated and that a further report be made, as set out in section 3 above. There was no intention to delay any other works in the contract. However, tenders having already been received, it was felt to be inadvisable to disaggregate the contract at that stage, as to do so would have been to create inefficiencies in practical terms for the contractors and in terms of cost to the Authority. Implementation of the whole contract, therefore, has been delayed by several months.
- 6.2 The effects of this delay include exposure of the Authority to an increased risk by taking longer to remedy identified defects and an increase in the number of “repeat calls” from members of the public about tree-related concerns. Additionally, one parish council has had to withdraw its works from the contract and make separate arrangements due to the delay in appointing a contractor.
- 6.3 There may be a further financial consequence of the delay as, the contract not yet having been awarded, companies may not be willing, or able, to stand by their original tender prices.
- 6.4 As may be expected, an additional requirement to report formally to Board(s) on each occasion that it is necessary to fell a tree, increases the workload of the officers concerned. This inevitably leads to delays in other work areas and consequently to a poorer quality of service delivery.

## **7. A Way Forward**

- 7.1 It is proposed that, to facilitate an efficient, cost effective and customer-focused service, only those works proposed to trees within Conservation Areas should be brought formally to this Board for comment and for referral to the relevant Board should any of the proposals give rise to concern.
- 7.2 It is also proposed that this approach and the current method of consultation with Ward Members, Town and Parish Councils and other interest groups in respect of all works to trees, be formalised in an addendum to the Tree Management Briefing Note, as set out at Appendix C.

...

## **8 Report Implications**

### **8.1 Finance and Value for Money Implications**

8.1.1 There are no new financial implications arising directly from this report. However an increase in cost to the Authority may occur as a result of the delay in awarding the current arboricultural contract.

### **8.2 Safer Communities Implications**

8.2.1 An efficient tree management process ensures that trees are managed effectively and so are less likely to present a hazard to persons or property.

### **8.3 Legal and Human Rights Implications**

8.3.1 The Authority has a Duty of Care in respect of the management and maintenance of its trees. The act of a tree or part thereof causing injury to a person or persons or damage to property is likely to give rise to litigation, either as a claim in negligence or under the Occupiers Liability Acts 1957 and 1984.

### **8.4 Environment and Sustainability Implications**

8.4.1 Well-managed and maintained trees make a positive contribution to the environment and to creating sustainable communities within which a good quality of life is enjoyed by local residents.

### **8.5 Risk Management Implications**

8.5.1 The risks associated with the management of the Authority's trees are assessed annually through the risk management process. A copy of the latest assessment, scoring 9, is attached below. This will be reviewed in January 2011.

8.5.2 Changes to the current tree management procedure that lead to a lengthier process may result in a higher risk score as the likelihood, in particular, of a hazardous incident occurring will increase. The current score falls within the amber zone of the operational risk profile, which, in accordance with the Authority's risk management policy, requires the risk to be managed to a lower score. Thus, any change resulting in an increased score would be a retrograde step.

### **8.6 Equalities Implications**

8.6.1 There are no differential equality related impacts on particular groups or individuals within the community arising from this report.

## 8.7 Links to Council's Priorities

8.7.1 An efficient and effective tree management process contributes directly to the corporate priorities to:

- Enhance community involvement and access to services
- Protect and improve our environment
- Defend and improve our countryside and rural heritage
- Work with our partners to tackle crime, the fear of crime and anti-social behaviour
- Make best use of our resources through achieving a balanced budget and developing our workforce

8.7.2 An efficient and effective tree management process has positive links to the priorities of the North Warwickshire Sustainable Community Strategy (2009 to 2026) to:

- Raise aspirations, educational attainment and skills
- Develop healthier communities
- Improve access to services

8.7.3 Implementation of the tree management programme also delivers against priorities set out in the North Warwickshire Green Space Strategy (2008 to 2018).

The Contact Officer for this report is Alethea Wilson (719212).

### Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
1	Assistant Director (Leisure and Community Development)	Report to Community and Environment Board	08 March 2010
2	Assistant Director (Streetscape) and Assistant Director (Leisure and Community Development)	Report to Planning and Development Board	16 August 2010
3	Assistant Director (Streetscape) and Assistant Director (Leisure and Community Development)	Report to Planning and Development Board	13 September 2010

**NORTH WARWICKSHIRE BOROUGH COUNCIL**

**Division** Leisure & Community Development

**Cost Centre or Service**

Landscape Management

<b>Risk Ref</b>	<b>Risk: Title/Description</b>	<b>Consequence</b>	<b>Probability (5 = high, 1 = low)</b>	<b>Severity (5 = high, 1 = low)</b>	<b>Gross Risk Rating</b>	<b>Responsible Officer</b>	<b>Existing Control Procedures</b>	<b>Likelihood (5 = high, 1 = low)</b>	<b>Impact (5 = high, 1 = low)</b>	<b>Net Risk Rating</b>
LM 03	<b>Failure to manage the Borough Council's tree stock to an appropriate level of safety and sustainability</b>	Death Injury to public Damage to property Environmental loss Insurance claims Court action Customer dissatisfaction Loss of reputation Avoidable costs	5	5	25	Landscape Manager	Part-time tree officer post filled.  Five-year cyclical proactive risk-based tree inspection and management programme to be resumed 2010-2011.  Backlog of customer contacts cleared and urgent works addressed.	3	3	9
<b>Risk Ref</b>	<b>Options for additional / replacement control procedure</b>						<b>Cost Resources</b>	<b>Likelihood (5 = high, 1 = low)</b>	<b>Impact (5 = high, 1 = low)</b>	<b>Net Risk Rating</b>
	Adoption of Tree Management Policy – in preparation						Staff time			
	Ensure new software assists the management of the Tree Inspection & Management Programme						Staff time			
	Shorten inspection cycle to 3 years by increasing Landscape Officer (Trees) post to one FTE						£16,000			
	Ensure effective response through a single treeworks contract with out-of-hours service						Staff time	2	2	4

Completed By: Alethea Wilson

May 2010

**Planning and Development Board - 20 December 2010**  
**Appendix A: Arboricultural Works Contract Consultation Responses**

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Schedule	Ward Members	Consultees	Town / Parish Council
Atherstone	<u>Councillor Forwood</u>  "I am sure that what ever is being done to the trees is the best thing for them."  <u>Councillor Pickard</u>  "I have no comment on the tree works proposed."  <u>Councillor Freer</u>  "None of the said works are in any part of my Ward, I attended the P&D visit to OBH gardens on behalf of Atherstone Town Council and did ask Peter if the Pyracantha (T9) could be spared as the berries are invaluable for the Birds through the winter and also provide cover from airborne predetors as the thorns are lethal."  <u>Councillor Davis</u>  "None of these proposed works are in my ward. However, if you want a comment, they all look sensible and will rectify many years of mismanagement. My biggest concern in these cases when it is left so long and serious action is taken there suddenly appears a big gap with nothing in its place, changing the character of an area. Planting or allowing a tree to grow and interfere with telephone lines seems a nonsense ensuring constant expenditure".		
Coleshill			<u>Coleshill Town Council</u>  "The Town Council has no objections to the works proposed in Coleshill."
Grendon			
New Arley and Old Arley	<u>Councillor Fox</u>  "I don't have any comments to make, though I think the Parish Council thought there would be more on the list, so they should get in touch with you."		

*continues .....*

**Planning and Development Board - 20 December 2010**  
**Appendix A: Arboricultural Works Contract Consultation Responses**

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Shustoke

Shustoke Parish Council

Thank you for your email, the felling of the tree at The Green, Shustoke is much regretted but if you believe it needs to be felled then Shustoke Parish Council accepts your professional opinion, I did not reply to the first email because the council had no objections.

Water Orton

Wood End     Councillor Lewis

"I have no problems with the cutting back of the trees they are large and in front of bungalows which cause problems for our elderly tenants"

## **NORTH WARWICKSHIRE BOROUGH COUNCIL**

### **Tree Management Briefing Note**

#### **1. Introduction**

This is an interim tree management briefing note and does not constitute a tree management strategy or policy for North Warwickshire Borough Council. This note sets out the basic duties that the Council is to uphold, the surveying regime and methodology it follows. A full and detailed tree management policy and strategy is to be prepared in 2010 for formal adoption.

#### **2. Duty of Care**

Statute law does not require a tree owner to maintain completely safe trees. "Duty of Care", however, requires tree owners to take "reasonable care". The act of a tree or part of a tree causing injury to person or persons is likely to give rise to litigation. This may take the form of a claim either in negligence or, where the injury to the person is on the same land as the tree, under the Occupiers Liability Acts 1957 and 1984 (the Acts referred to hereafter).

The basic principle underlying both the law of negligence and the Acts, is that the owner of the land and trees, owes a duty to take reasonable care to protect those reasonably likely to be affected, including trespassers. As a result, the tree owner responsible for them must take steps to ensure that they are aware of whether a tree is likely to cause a problem and, if it is, they should take appropriate action as necessary to protect those who are reasonably likely to be adversely affected.

A "Duty of Care" in relation to tree inspections is owed to persons who may reasonably be contemplated by tree owners, those responsible for managing trees and the tree inspector to be affected by their actions (or inaction).

North Warwickshire Borough Council recognises that it has to uphold its "Duty of Care", although it also recognises that it cannot be expected to inspect all of its trees on a regular basis using tree officers or tree inspectors alone. The task is unmanageable due to the size of the tree population and the fact that trees are living and dynamic organisms and thus affected by changes to the environmental, physical and geological conditions in which they grow.

This duty means that the actions of North Warwickshire Borough Council need to meet a standard of care. If it does not, then negligence in Common Law (which arises as a result of a court case and a precedent being set) may be proved and may result in a claim for damages.

Under the Duty of Care North Warwickshire Borough Council must take reasonable care/steps to avoid acts or omissions, that could reasonably be foreseen, which would otherwise be likely to cause harm to persons or property.

#### **3. Industry Guidance**

Existing guidance has not specifically been written for use by private or public landowners for application across their holdings. The following, however, have been used to inform the Borough Council's approach to tree management:

- Forestry Commission's *Operational Guidance Booklet 1: Tree Safety Management*, written in 2007 for its own woodland managers, see:  
[http://www.forestry.gov.uk/pdf/ogb01.pdf/\\$FILE/ogb01.pdf](http://www.forestry.gov.uk/pdf/ogb01.pdf/$FILE/ogb01.pdf)
- Health and Safety Executive's *SIM 01/2007/05: Management of the Risk from Falling Trees*, written in 2007 for FOD Inspectors and Local Authority Enforcement Officers, see:  
[http://www.hse.gov.uk/foi/internalops/sectors/ag\\_food/1\\_07\\_05.pdf](http://www.hse.gov.uk/foi/internalops/sectors/ag_food/1_07_05.pdf)
- English Nature's *Veteran Trees: A Guide to Risk and Responsibility*, written in 2000 for general use, see:  
<http://naturalengland.communisis.com/naturalenglandshop/docs/IN1.3-1.pdf>
- Arboricultural Association: *Guidance Note 7 – Tree Surveys: A Guide to good Practice*, written in 2005 for tree managers.
- The Stationery Office: *Well Maintained Highways: A Code of Practice for Highway Maintenance Management*, written in July 2005 for Highways Managers.
- *Updated Field Guide for Visual Tree Assessment*, published in 2007, Claus Mattheck
- Forestry Commission's *Practice Guide 13 – Hazards from Trees*, written in 2000, David Lonsdale
- The Stationery Office: *Principles of Tree Hazard Assessment*, written in 1999, David Lonsdale

#### 4. Scope of Survey/Caveats and Limitations

Preliminary tree surveys are undertaken in line with the Visual Tree Assessment (VTA) and the Basic Level Tree Inspection, as set out by Lantra. The initial surveys are undertaken from ground level on individual or groups of trees in order to assess their structural and physiological condition and management requirements. If significant defects are identified then a more detailed Professional Level Inspection is undertaken.

These are arboricultural surveys/reports and as such no reliance should be given to comments relating to buildings, engineering or soil, unless otherwise specified.

These are preliminary arboricultural health and safety surveys. Where a more detailed assessment is required, such as aerial inspection or decay detection methodologies, this will be specified. At the current time, surveys will not include quantified tree risk assessment (QTRA), although this may be required as a secondary element of work.

All tree inspections are undertaken from ground level and no climbing inspections will be undertaken unless considered necessary.

For the purposes of these surveys all dimensions of trees and their associated parts are based on estimation unless otherwise stated.

Trees are growing dynamic structures. The comments within the schedules are valid for a period of five years from the date of report or until prescribed works have been undertaken, whichever comes first or unless otherwise stated.

No tree is ever absolutely safe due to the unpredictable laws and forces of nature. As a result, natural failure of intact trees may be expected to occur.

The schedules/reports are arboricultural and therefore do not rely on ecological or archaeological data. If either is commented upon within the schedules/reports, further professional advice will be sought.

**5. Tree Inspection Programme**

The *Well Maintained Highways: Code of Practice for Highway Maintenance and Management: July 2005* provides guidance in relation to the frequency of inspection of trees and gives a default period of five years. At the current time, although inspection frequencies will be provided within any tree schedule, a five year cycle will be implemented in most instances. Legislation and best practice guidance notes will be reviewed annually and alterations to this inspection frequency will be made if required.

To make this programme as efficient as possible, individual inspection areas are identified and allocated a suitable inspection frequency based upon consideration of significant factors such as:

- age
- size
- condition of trees and their parts present; and
- the potential “targets” (i.e. public footpaths, residential homes, highways and play areas, etc.) located within influencing distance of those trees and their parts

It is important that resources are applied in a rational way so an initial risk zoning/usage exercise will be undertaken to categorise areas within the Borough. This will be assessed using high, medium and low usage areas. This will enable systematic surveying of high to low target use areas. The risk zones will be clearly indicated on a plan of the Borough prior to commencing any survey work.

Convention is to divide the land into risk zones based on the likelihood of people coming into contact with potentially hazardous trees. The Borough Council will use the Forestry Commission’s Usage Zones, summarised in the following table:

*Table 1: Forestry Commission Usage Zones*

<b>Usage zone</b>	<b>Level of Public Usage</b>	<b>Site Examples</b>
<b>1</b>	High	Areas within falling distance of busy and moderately used public roads, railways, neighbouring properties, amenity areas and car-parks. Well used way-marked trails and public rights of way (PROW)
<b>2</b>	Medium	Areas within falling distance of other lightly used public roads, way-marked trails, PROW and tracks, paths and desire lines
<b>3</b>	Low	Away from known access routes

### 6. Tree Assessment Methodology

All trees surveyed are inspected using the visual tree assessment (VTA) methodology, as detailed by Claus Mattheck, and the Basic and Professional Level Tree Inspection methodology, as set out by LANTRA.

The positions of the trees will be plotted with reference to the surrounding landmark features using OS plans of the area.

Individual trees are given a tree identification number, which is represented by a circular metal tag and which has been attached to the trunk at 2m, this is cross referenced within the complete schedule. Where trees are surveyed as a group, tags are not used unless otherwise stated.

The tree species are recorded with both common and botanical names.

All tree heights are assessed using a clinometer and where indicated in groups the height of the tallest tree is measured unless otherwise stated. Specific height categories may also be used as detailed below. Tree heights are given in metres.

0 – 5m

6 – 10m

11 – 15m

16 – 20m

21 – 25m

< 25m

The canopy spread is recorded as an estimate in either the four cardinal points or is given as an average diameter for the crown, especially in groups or where the crown is evenly weighted. Canopy spreads are measured in metres.

In the absence of detailed information on the age of the tree, the following classification has been used:

<b>NP</b>	Newly/recently planted trees or self-set specimens of a similar size
<b>Yng</b>	Young trees age less than 1/3 life expectancy
<b>Mid</b>	Middle age trees 1/3 – 2/3 life expectancy
<b>Mat</b>	Mature trees over 2/3 life expectancy
<b>O/mat</b>	Over-mature – declining or moribund trees of low vigour; and
<b>Vet</b>	Veteran trees – specimens exhibiting features of biological, cultural or aesthetic value that are characteristic of, but not exclusive to, individuals surviving beyond the typical age range for the species concerned

Age class is indicative and will vary between species.

Physiological conditions are recorded to provide an indication of the trees' general health and vitality. The trees are described thus:

<b>Good</b>	Generally in good vitality typical of the species of specific maturity
<b>Fair</b>	Reasonable vitality with few defects

## Appendix B

<b>Poor</b>	Trees that exhibit significant defects which are irremediable (such as dieback) or moribund tree; and
<b>Dead</b>	Tree has died

The structural condition of each tree is assessed and is summarised as:

<b>Good</b>	Few minor defects of little overall significance to the structure;
<b>Fair</b>	A significant defect or several small defects, such as deadwood; and
<b>Poor</b>	Major defect present or many small defects which compromise the structural integrity of the tree

Comments and additional notes, where appropriate, are recorded for the condition of each tree's roots, main stem and canopy. General comments are also made where appropriate and a list of recommended actions is described.

Preliminary management recommendations are provided where required, which can include physical works to the trees, further investigation and movement of targets to abate potential hazards or reduce risk.

In the absence of detailed information on the priority for undertaking works the following classification is used and will be followed unless otherwise stated:

<b>1 – Urgent</b>	Works which must be undertaken immediately within 24 hours
<b>2 – Very High</b>	Works which must be undertaken within one month
<b>3 – High</b>	Works to be undertaken within three to six months
<b>4 – Moderate</b>	Works to be undertaken within six to 12 months and/or as part of scheduled maintenance
<b>5 – Low</b>	Works to be undertaken as lowest priority and may be considered if budget allows; and
<b>6 – None</b>	No works are required at the current time

All works prescribed will be systematically completed, working from high to low priority and once complete will be formally signed off. Individual recommendations will be provided in relation to priority of works where required.

In the absence of detailed information on the frequency of re-inspections, the following classification is used and will be followed unless otherwise stated. This classification is based on risk and target area value:

<b>1 - Urgent</b>	Undertake a detailed inspection of the aerial parts and/or with the use of decay detection equipment as soon as can be arranged
<b>2 – Very High</b>	Re-inspect within six months and/or when it is likely that any fruiting boding may appear whichever is sooner
<b>3 – High</b>	Re-inspect in 12 months time
<b>4 – Moderate</b>	Re-inspect in 18 months time
<b>5 – Low</b>	Re-inspect in 24 - 48 months time

**6 – Very Low**

Re-inspect in five years time

**7 – None**

No targets exist currently and therefore no current requirement for re-inspection

## **NORTH WARWICKSHIRE BOROUGH COUNCIL**

### **Tree Management Briefing Note – Addendum: Consultation Procedures**

#### **1. All Areas**

When planned treeworks are to be undertaken by the Borough Council we will notify the following groups in the area where they are to take place:

- Borough Councillors
- Town / Parish Councils
- Other interest groups such as local civic societies

Details of the works will be sent to each group with a three-week period allowed for responses and for any concerns to be raised, prior to the award of contract. Following the award of contract these groups will also be notified of the expected start date for the works and contact details for the officer managing the contract.

#### **2. Conservation Areas**

When planned treeworks are to be undertaken by the Borough Council within a Conservation Area we will notify:

- The Head of Development Control at the Local Planning Authority

and the following groups in the area where the works are to take place:

- Borough Councillors
- Town / Parish Councils
- Other interest groups such as local civic societies

Details of the works will be sent to each group with a six-week period allowed for responses which will be reported to the Planning Board, prior to the award of contract. Any concerns raised by the Planning Board will be referred to the relevant Board for a decision. Following the award of contract these groups will also be notified of the expected start date for the works and contact details for the officer managing the contract.

#### **3 Trees Subject to a Tree Preservation Order**

When planned treeworks are to be undertaken by the Borough Council to any tree that is subject to a Tree Preservation Order we will submit an application to the Local Planning Authority.

The Planning Authority will notify ward members, town and parish councils, other interest groups and local residents in accordance with the normal planning process. In addition the Planning Authority will seek an independent arboricultural assessment of the proposed works. A report will then be submitted to the Planning Board for a decision.

Following receipt of planning consent and award of contract we will notify the following of the expected start date for the works and contact details for the officer managing the contract:

- Borough Councillors
- Town / Parish Councils
- Other interest groups such as local civic societies.

**Agenda Item No 7**

**Planning and Development Board**

**20 December 2010**

**Report of the  
Head of Development Control**

**Planning Application Validation  
Requirements**

**1. Summary**

- 1.1 This report follows that presented to the Board on 18 October relating to the proposed revisions to the Council's Planning Application Validation Requirements document. Following a period of consultation, this report summarises the representations received, and recommends formal adoption of this document.

**Recommendation to the Board**

**That, subject to minor corrections, the revisions to the Council's Planning Application Validation Requirements document be formally adopted.**

**2 Consultation**

- 2.1 This report is presented to members of the Planning and Development Board following a public consultation period of 8 weeks.
- 2.2 Representations received during this public consultation period are set out as follows and attached in full at Appendix 1. These are considered in line with the Council's objectives and the legislative requirements and guidance set out at 3.1 of the previous report (attached at Appendix 2).
- 2.3 At the time of writing, the above public consultation was still open for comment. As such, any further representations received shall be reported verbally to the Board.

**3 Report**

- 3.1 Two representations have been received from statutory consultees, namely the Coal Authority and English Heritage.
- 3.2 The Coal Authority supports the incorporation of their revised consultation procedures and documentary requirements. English Heritage's response was of a generic nature, recommending incorporation of certain documentary requirements. Those recommendations are already included in the proposed revisions to the Council's Planning Application Validation Requirements document.

- 3.3 Consequently, it is not considered amendments are required in respect of representations received.
- 3.4 Comments raised by the Board on 18 October questioned if the document was too long for householders to make use of, and raised issue with the quality of some drawings being submitted with applications. These matters are not necessarily within the scope of these proposed revisions. However, the Head of Development Control is seeking, through the recently updated website, to issue a simple guidance sheet for householder applications, as well as writing to agents to clarify the quality necessary for drawings accompanying applications.
- 3.5 During the consultation period, the Highways Agency issued revisions to their protocol for dealing with planning applications. Subsequently, part (h) of Appendix B has been revised to reflect this.
- ...
- 3.6 Other than the change noted at 3.5 above, and aside from minor referencing corrections or additional clarification, the Planning Application Validation Requirements document remains as published in draft form. A final draft is attached at Appendix 3.
- ...
- 3.7 The Board is therefore requested to formally adopt the document.

## **4 Report Implications**

### **4.1 Finance and Value for Money Implications**

- 4.1.1 The greater encouragement to submit applications electronically, as well as a reduction in the amount of information necessary is likely to improve the speed and consistency of validation of applications, as well as reducing printing and reproduction costs.

### **4.2 Legal and Human Rights Implications**

- 4.2.1 The recommendation brings the Council's Planning Application Validation Requirements in line with recent legislative changes.

### **4.3 Links to Council's Priorities**

- 4.3.1 The recommendation aligns with the following priorities:

- Enhancing community involvement and access to services
- Protecting and improving our environment
- Defending and improving our countryside and rural heritage
- Making best use of our resources through achieving a balanced budget and developing our workforce.

The Contact Officer for this report is Chris Nash (719481).

Development Management Department  
North Warwickshire Borough Council

[By email: [planningcontrol@northwarks.gov.uk](mailto:planningcontrol@northwarks.gov.uk)]

25 November 2010

Dear Sir/Madam

**Consultation on Revised Planning Application Requirements Document**

Thank you for consulting The Coal Authority on the above. Having reviewed your document, The Coal Authority would like to make the following comments.

The Coal Authority welcomes and **supports** the inclusion of Coal Mining Risk Assessments within the revised Validation Checklist.

As the Council will be aware from our recent meeting of 8 September 2010, The Coal Authority is introducing within coalfield areas a new risk based approach to addressing issues of coal mining legacy and any resulting land instability as part of planning applications, in accordance with PPG14.

Securing submission of a Coal Mining Risk Assessment as part of planning applications for non-householder operational development within our new Coal Mining Development Referral Areas is the key aspect of this new approach. It is therefore particularly important for consistency that this issue is included in local validation lists by those LPAs where coal mining legacy presents potential risks to new development.

I trust these comments are helpful, but please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely



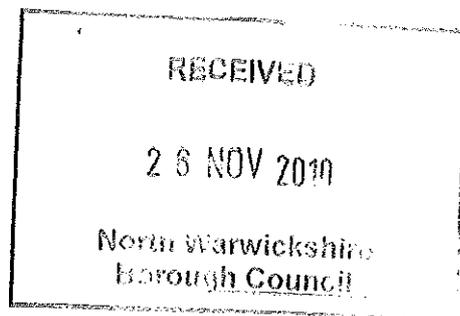
**David Berry** *B.Sc.(Hons), MA, MRTPI*  
**Planning Liaison Officer**



## ENGLISH HERITAGE

WEST MIDLANDS REGION

Mr Jeff Brown  
Head of Planning  
North Warwickshire Borough Council  
Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1BG



25<sup>th</sup> November 2010

Dear Mr Brown

### REVIEW OF LOCAL VALIDATION LISTS

You may currently be considering amendments to the above in order to comply with policy INF2.3 of the Development Management Policy Annex by the end of December 2010.

Whilst you have not formally consulted English Heritage, and there is no requirement for you to do so, you may wish to consider the inclusion of the following to assist in the assessment of proposals which affect heritage assets.

- **Statement of Significance** for both designated heritage assets and those identified at the plan making stage which have a local architectural, historic, archaeological or artistic interest.
- **Archaeological Assessment** which might in some cases include the requirement for submission of a Written Scheme of Investigation with the application or even investigative works prior to submission. This requirement would ideally be discussed at an early stage of developing the scheme.
- **Landscape Plans** to ensure setting of designated heritage assets is preserved and/or enhanced.
- **Structural Report** when demolition of a designated heritage asset is proposed on the grounds it is structurally unsound
- **Marketing Report** when demolition of a designated heritage asset is proposed on economic grounds.
- **Heritage Statement** explaining the impact of the proposal on the significance of the heritage asset and any justification or mitigation (which can be included within the Design and Access Statement).





## ENGLISH HERITAGE

### WEST MIDLANDS REGION

Requiring these documents at the validation stage (PPS5 Planning for the Historic Environment policy HE6 provides the policy context) will facilitate an assessment of the impact of a proposal on the significance of any heritage assets (and their setting) and enable English Heritage to respond with more meaningful advice where we are a statutory consultee. Further information on our statutory role is available on our web site <http://www.english-heritage.org.uk/professional/advice/our-planning-role/>

The PPS5 Practice Guide gives advice applicants may find of assistance in preparing these documents which could be incorporated as guidelines into your list to ensure the information is proportionate to the scale of development and has been prepared with the appropriate level of expertise. Guidelines might include a requirement to consult the HER and the relevant conservation/archaeological officers. If your authority provides a pre-application advice service it could prove a useful forum for discussion on the scope of the information required.

I hope this information is of assistance in preparing your local validation list.

Yours sincerely,

Hayley McCafferty-David  
Business Manager



## **Agenda Item No 6**

### **Planning and Development Board**

**18 October 2010**

#### **Report of the Head of Development Control**

#### **Planning Application Validation Requirements**

### **1 Summary**

- 1.1. This report proposes revisions to the Council's Planning Application Validation Requirements document. The reasons for these revisions and a summary of the amendments are set out in full below, along with details of the intended consultation period.

#### **Recommendation to the Board**

- a That the revisions to the Council's Planning Application Validation Requirements document be agreed for consultation purposes; and**
- b That a further report outlining the representations received be brought to Board for it to consider prior to formal adoption of the document.**

### **2 Consultation**

#### **2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members**

- 2.1.1 This report is presented to members of the Planning and Development Board prior to a public consultation period of 8 weeks.
- 2.1.2 Representations received during this public consultation period will need to be considered in line with the Council's objectives and the legislative requirements and guidance set out at 3.1.
- 2.1.3 A report of any further proposed amendments will be presented to the Board for its consideration prior to formal adoption.

### **3 Report**

- 3.1 The Department for Communities and Local Government published a consultation on streamlining information requirements for planning applications in July 2009. This resulted in 'Guidance of Information Requirements and Validation' being published in March 2010 which cancelled previous Circulars and guidance.

- 3.2 This Guidance requires Local Authorities with a published local list to review it. This review should ensure that policy drivers behind requested information are clearly stated, that requested information is in line with changes in policy since the adoption of the Local Plan, that requests for information are necessary, precise, fit for purpose and proportionate to the application submitted, and it should be clearly stated where further assistance can be obtained.
- 3.3 In April 2010, the Town and Country Planning (General Development Procedure) (Amendment) (England) Order 2010 (SI 2010/567) relaxed requirements for Design and Access Statements. This amendment has implications in respect of current requests for such Statements.
- 3.4 In addition to the above, Statutory Consultees, such as the Environment Agency and Coal Authority, have revised their standing advice and/or information requirements on planning applications.
- 3.5 Where changes to Validation Requirements are considered necessary, there is a requirement to consult the local community, applicants and agents for no less than 8 weeks.
- 3.6 Consequently, the revised Validation Requirements look to reduce the amount of information necessary to support an application, where appropriate. This maintains the tick box approach towards statutory requirements and the pragmatic approach the Council currently takes in respect of further information.
- 3.7 The changes are summarised thus:
- Inclusion of requirements for Applications to Discharge Conditions, Material and Non-Material Amendments, and for Applications for Extensions to Time Limits on Planning Permissions;
  - A reduced need for Design & Access Statements, along with more specific detail of when they are necessary;
  - Tightening of supporting evidence necessary in TPO applications;
  - Removal of Local Requirements where legislation does not allow for requests of additional information prior to validation;
  - Updated requirements for Contamination and Coal Reports, and Flood Risk Assessments;
  - Policy drivers for each application type have been added, justifying requests for information;
  - Reduction in the numbers of copies of documentation required when submitted by post or hand, and greater encouragement to submit electronically;

- Adjustments to the layout of the document to improve legibility, clarity and speed of locating the correct information. This includes a quick reference matrix, which is enclosed at Appendix 1 to this report.

...

3.8 A full draft of the Council's revised Planning Application Validation Requirements can be found at Appendix 2.

...

3.9 It is intended to open consultation on this document as soon as reasonably practicable by publication on the Council's website, and through direct consultation with applicants and agents.

3.10 Representations received during this public consultation period will be summarised and considered in respect of making appropriate adjustments to the draft document.

3.11 A report summarising the representations received, and any proposed amendments resulting from these representations, will be presented to the Board for its consideration. Authority to formally adopt the document will also be sought at that time.

## 4 **Report Implications**

### 4.1 **Finance and Value for Money Implications**

4.1.1 The greater encouragement to submit applications electronically, as well as a reduction in the amount of information necessary is likely to improve the speed and consistency of validation of applications, as well as reducing printing and reproduction costs.

### 4.2 **Legal and Human Rights Implications**

4.2.1 The recommendation brings the Council's Planning Application Validation Requirements in line with recent legislative changes.

### 4.3 **Links to Council's Priorities**

4.3.1 The recommendation aligns with the following priorities:

- Enhancing community involvement and access to services
- Protecting and improving our environment
- Defending and improving our countryside and rural heritage
- Making best use of our resources through achieving a balanced budget and developing our workforce.

The Contact Officer for this report is Chris Nash (719481).



# **North Warwickshire Borough Council**

## **Planning Application Validation Requirements**

**December 2010**



# North Warwickshire Borough Council

## Planning Application Validation Requirements

### Validation of Planning and Related Applications

#### Introduction

In 2006 the Government set out requirements for the supplementary information that should be submitted with all planning and related applications. This information is mandatory, and applications will only be validated if they are accompanied with this information.

The information takes two forms. Firstly there are National Requirements that will be necessary for every application, regardless of which Authority the application is sent to. Secondly, there are the Local Requirements that are bespoke to each Local Planning Authority. As well as outlining the National Requirements, this document sets out the Local Requirements that North Warwickshire will expect to be submitted with each type of application. These requirements are mandatory if applications are to be validated by the Borough Council.

Since 2006, new types of applications have been introduced, and the planning policy arena has altered. In addition, following the Department for Communities and Local Government's consultation on '*Streamlining Information Requirements for Planning Applications*' in 2009<sup>1</sup>, their response, '*Guidance on Information Requirements and Validation*', was issued in March 2010<sup>2</sup>. This revision to the Council's Validation Requirements responds to all these changes.

This document will be the subject of consultation, and the Council will consider responses made, and where necessary make amendments, before adopting it. It will replace the Council's previous "Planning Application Requirements" document adopted in December 2007.

The document is available on the Council's website at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning). It will next be reviewed in 2012, or sooner if necessary.

If further clarification is needed on any matter referred to in this document then please contact the Development Control Team at [planningcontrol@northwarks.gov.uk](mailto:planningcontrol@northwarks.gov.uk) or telephone 01827 715341.

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<sup>1</sup> [www.communities.gov.uk/archived/publications/planningandbuilding/streamliningconsultation](http://www.communities.gov.uk/archived/publications/planningandbuilding/streamliningconsultation)

<sup>2</sup> [www.communities.gov.uk/publications/planningandbuilding/validationguidance](http://www.communities.gov.uk/publications/planningandbuilding/validationguidance) (also see [www.communities.gov.uk/publications/planningandbuilding/developmentannexinfo](http://www.communities.gov.uk/publications/planningandbuilding/developmentannexinfo))



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## 1. General Advice

### a) The Standard Application Form (The 1App Form)

1.1 The Government advocates that the planning process is greatly improved by the introduction of the Standard Application Form, published by the Secretary of State, whether the planning application is made electronically or on paper. The form covers the following types of application:

- Householder\*
- Outline and Full Planning Permission\*
- Approval of Reserved Matters
- Listed Building Consent\*
- Conservation Area Consent\*
- Advertisement Consent\*
- Consent under Tree Preservation Orders
- Lawful Development Certificates\*
- Prior Notification under the General Permitted Development Order 1995 (as amended)
- Variation of, or Non-compliance with Conditions\*
- Discharge of details reserved by Condition(s)
- Material and Non-Material Minor Amendments\*
- Extension of time for implementation of a permission\*

It is mandatory for those applications marked with an asterisk (\*).

### b) Information to Support Applications

1.2 Different types of application require different levels of information and supporting documentation to be submitted. In all cases, the Local Planning Authority will specify what is required. This will comprise of the National Requirements, that apply in all cases, and additional items specified locally.

1.3 In essence, the National Requirements include the form(s), the fee, Ownership Certificates and appropriate plans. Appendix B provides more detailed descriptions of these requirements.

1.4 The Local Requirements comprise additional information that the Borough Council can require in order to validate an application. The remainder of this document describes each type of application mentioned in para 1.1 above, and sets out both the National and Local Requirements for each type. This is summarised in a matrix at Appendix A. Appendix B provides more detailed descriptions of these requirements, particularly where they refer to additional documentation rather than to plans. In particular, the purpose for each piece of additional information is set out, and an explanation given as to why and when it is likely to be required, together with the Development Plan background.

### c) General Advice

1.5 This document provides a very full outline of what is required with planning applications. Not all of these will apply to every application. The most important advice that can be given is thus to talk to the Development Control team well before the submission of any application, so as to be sure that its content is full, and thus its determination can be concluded without delay.

1.6 As described in the Introduction, the mandatory National Requirements must always be met if the application is to be registered. Whilst these are outlined in the following pages, it is worth emphasising the following:

- All forms and Certificates should be completed in full, signed and dated;
- The plan identifying the site should be on an Ordnance Survey base, with the direction of north shown, the site clearly outlined in red, and other land within the applicant's control outlined in blue;
- Copies of all other plans need to be to scale (metric) and show existing as well as proposed features;
- The fee should be checked with the Council prior to submission, either online at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning) or with officers;
- Electronic submission of applications is strongly encouraged, either via the Planning Portal, or by CD or a USB storage device.
- Where submitted on paper, 3 copies of the forms, Certificates, plans and supporting documents are necessary, except where indicated otherwise.

There are other National Requirements that are set out in legislation that apply to planning applications. Nothing in this document supersedes or replaces these statutory requirements.

1.7 When a planning application falls within the terms of the Environmental Impact Assessment Regulations 1999<sup>3</sup>, then the Council will use this Local Requirements document to assist in drawing up the Scoping Report that will then inform that Environmental Statement. The Scoping Report may however include other matters that are particular to the proposal and that are not included in this document. Further guidance can be found in Appendix B.

1.8 In August 2006, the Government introduced "Design and Access Statements" as a mandatory accompaniment to almost every planning application. Although, this requirement was relaxed in April 2010, this continues to be the case with the majority of applications. The Local Requirements outlined here are additional to such Statements.

1.9 The Government also provides guidance and advice on planning matters. This is found in their Planning Guidance Notes and Statements (PPGs and PPSs). These contain more detailed information on particular matters than can be provided here. Hence there is cross-referencing to the appropriate documents within the text. All of these documents can be found on the Department for Communities and Local Government's website at [www.communities.gov.uk](http://www.communities.gov.uk).

1.10 It is important that this document reflects North Warwickshire's own local planning circumstances. There is continual reference throughout the document to the Saved Policies of the North Warwickshire Local Plan 2006<sup>4</sup> and Supplementary Planning Documents<sup>4</sup>. Unless otherwise stated, all policy references are to the Local Plan. In particular they often identify the circumstances in which the additional information that is set out here is required, and are thus crucial to that requirement.

1.11 Given all of this, the advice of requesting a pre-application discussion with Planning Officers is crucial. This can identify both the National and Local Requirements for your application. As stressed above, these requirements are mandatory if an application is to be validated. Time spent at this early stage can prevent delay and frustration. Moreover the Government is encouraging such discussions, as well as giving consideration to developers themselves undertaking pre-application consultation with Local Communities.

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<sup>3</sup> [www.legislation.gov.uk/uksi/1999/293/contents/made](http://www.legislation.gov.uk/uksi/1999/293/contents/made)

<sup>4</sup> [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning)

## 2. Householder Applications

2.1 The most common form of planning application is that for householder development. Our aim is to determine these quickly, as they usually are straightforward. The most important considerations in dealing with these applications are an evaluation of the impact of the development on neighbouring residential amenity and the impact of the design on the street scene. It is thus important that full information concerning these issues, is submitted with the application from the outset.

2.2 We shall require the following:

### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
  - The appropriate fee;
  - A Site Location Plan;
  - Other plans and drawings or information necessary to describe the subject of the application;
  - Design and Access Statement if necessary;
- Appendix B provides more detailed descriptions of these requirements.
- Appendix C provides more detailed advice on when a Design and Access Statement is necessary.

### b) Local Requirements

- If the application site is located within or adjoining a designated Conservation Area, then the Council will require a Conservation Area Statement. Conservation Area maps are available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).
  - If the dwelling is a Listed Building, or the site contains Listed Buildings or structures, then the Council will also require a Listed Building Consent Application. Additional accompanying information will be required (see Section 6).
  - Dependent upon the application site, the location and the nature of the proposals, the Council may require additional information set out in Appendix B.
- Appendix B provides more detailed descriptions of these requirements.

2.3 Where a Planning Application with Listed Building Consent Application is submitted by post or by hand, 6 copies of the forms, Certificates, plans and supporting documents are sought.

### Policy Drivers

2.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 3 and 11 (Saved), and Saved Policies ENV4, ENV6, ENV8, ENV11, ENV12, ENV13, ENV14, ENV15 and ENV16 of the North Warwickshire Local Plan 2006. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance entitled, "A Guide to Householder Developments" dated September 2003 available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

### 3. Full Planning Applications

3.1 This application form should be used where no specific form for the proposed development exists. This includes change of use applications.

3.2 We shall require the following:

#### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
- The appropriate fee;
- A Site Location Plan;
- Other plans and drawings or information necessary to describe the subject of the application;
- A Design and Access Statement if necessary;
  - Appendix B provides more detailed descriptions of these requirements.
  - Appendix C provides more detailed advice on when a Design and Access Statement is necessary.

#### b) Local Requirements

- For proposals involving the erection of new dwellings or buildings with a sensitive end use, as outlined in para 24 of PPS23<sup>5</sup>, if the application falls within an area of potential contamination or at risk of migrating land gas, a Phase I Environmental Report MUST be submitted. Advice on whether the site falls within such an area can be sought from the Council's Environmental Health department on 01827 715341.
- For proposals within a Coal Mining Development Referral Area, other than a change of use application, a Coal Mining Risk Assessment MUST be submitted. Advice on whether the site falls within such an area can be sought from Coal Authority's website at [www.coal.gov.uk/services/planning/northwarwickshire.cfm](http://www.coal.gov.uk/services/planning/northwarwickshire.cfm).
- For proposals within an area at risk of flooding, a Flood Risk Assessment (FRA) may be necessary. Advice on preparing a FRA can be found on the Standing Advice pages of the Environment Agency's website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk). Where an FRA is required, this MUST be submitted.
  - Appendix B provides more detailed descriptions of these requirements.
- Additional information that may be required depending on the nature and type of proposal, the characteristics of the site, or the nature or character of the area involved, could include any of the items included within Appendix B.

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\* Not required where the application is for a change of use which does NOT involve operational development.

<sup>5</sup> Para 24: [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/)

## **Policy Drivers**

- 3.3 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 1, 2, 3, 5, 6, 8, 10 and 11 (Saved); and Saved Policies ENV1 to ENV17, HSG1 to HSG5, ECON1 to ECON12, COM1 to COM3, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## 4. Outline Planning Applications

4.1 Applications for outline planning permission generally need not give details of any proposed reserved matters, unless they include layout, scale or access. However if the Council receives an outline planning application, but considers that it ought not to be considered separately from all or any of the reserved matters, it will notify the applicant within one month of the receipt of the application that further details are required. The details to be submitted will be specified.

4.2 We shall require the following:

### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
- The appropriate fee;
- A Site Location Plan;
- Other plans and drawings necessary to describe the subject of the application;
- Information on the proposed Operational development and/or Use(s) for the site:
  - Use – the use or uses proposed for the development and any distinct development zones within the site identified;
  - Amount – the amount of development proposed for each use;
  - Indicative layout – an indicative layout with separate development zones proposed within the site boundary where appropriate;
  - Scale parameters – an indication of the upper and lower limits for height, width and length of each building;
  - Indicative access point(s) – an area or areas in which the vehicle, cycle and pedestrian access point(s) will be situated;
- A Design and Access Statement if necessary.
  - Appendix B provides more detailed descriptions of these requirements.
  - Appendix C provides more detailed advice on when a Design and Access Statement is necessary.

4.3 In addition to the above, if the outline application includes some reserved matters (e.g. access arrangements), then full detailed scaled plans of that Reserved Matter are required.

### b) Local Requirements

- For proposals involving the erection of new dwellings or buildings with a sensitive end use, as outlined in para 24 of PPS23<sup>6</sup>, if the application falls within an area of potential contamination or at risk of migrating land gas, a Phase I Environmental Report MUST be submitted. Advice on whether the site falls within such an area can be sought from the Council's Environmental Health department on 01827 715341.

<sup>6</sup> Para 24: [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/)

- For proposals within a Coal Mining Development Referral Area, other than a change of use application, a Coal Mining Risk Assessment MUST be submitted. Advice on whether the site falls within such an area can be sought from Coal Authority's website at [www.coal.gov.uk/services/planning/northwarwickshire.cfm](http://www.coal.gov.uk/services/planning/northwarwickshire.cfm).
- For proposals within an area at risk of flooding, a Flood Risk Assessment (FRA) may be necessary. Advice on preparing a FRA can be found on the Standing Advice pages of the Environment Agency's website at [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk). Where an FRA is required, this MUST be submitted.
  - Appendix B provides more detailed descriptions of these requirements.
- Additional information that may be required depending on the nature and type of proposal, the characteristics of the site, or the nature or character of the area involved, could include any of the items included within Appendix B.

### **Policy Drivers**

- 4.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 1, 2, 3, 5, 6, 8, 10 and 11 (Saved); and Saved Policies ENV1 to ENV17, HSG1 to HSG5, ECON1 to ECON12, COM1 to COM3, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs.

## 5. Approval of Reserved Matters

5.1 This type of application is only appropriate where a prior outline planning permission exists. Should this not be the case, you should submit a Full Planning Application (see section 3).

5.2 We shall require the following:

### a) National Requirements

- The completed form OR an application in writing containing sufficient information to enable the Council to identify the outline planning permission in respect of which it is made.
  - The appropriate fee;
  - A Site Location Plan;
  - Other plans and drawings or information necessary to assess the Reserved Matters (any or all of the following: layout, scale, appearance, landscaping, access).
- Appendix B provides more detailed descriptions of these requirements.

### b) Local Requirements

- Additional information that may be required depending on the nature and type of proposal, or the nature or character of the area involved, could include any of the items included within Appendix B.

5.3 For all applications, the Council recommend that the 1App Form is completed (see section 1). This will ensure the application is clear in which Reserved Matters are being applied for, and to which application.

### Policy Drivers

5.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Saved Policies ENV1 to ENV17, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## 6. Listed Building Applications

6.1 These are applications that are required under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990<sup>7</sup>. In particular Section 10 states what has to be provided with such applications. Besides plans and drawings, the Act enables the Council to set out “other particulars” that might be required. This document sets out such particulars. In short, much more detailed information is required with these applications.

6.2 The Council has a statutory duty, when determining such applications to have “special regard” to the impact of the proposal on the special architectural or historic importance of the Listed Building. In other words, the Council is evaluating the impact of the proposals on these special features. It is looking for the least intrusive or invasive proposals. It thus follows that the Council needs to fully understand the proposal. This can only come from a detailed and informative submission by the applicant. It is thus important that plans, drawings and reports are detailed, scaled and accurate. Hand drawn sketches should be avoided at all times, unless they clearly are illustrations.

6.3 We shall require the following:

### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
  - A Site Location Plan;
  - A Block Plan;
  - Existing and Proposed Elevations;
  - Existing and Proposed Floor Plans;
  - Existing and Proposed Site Sections and Finished Floor and Site Levels;
  - A Design and Access Statement where required.
- Appendix B provides more detailed descriptions of these requirements.
- Appendix C provides more detailed advice on when a Design and Access Statement is necessary.

### b) Local Requirements

- Plans showing Existing Elevations and Floor Plans MUST show the existing layout of each floor, all external elevations and the roof plan. Internal features should be identified and described or illustrated (e.g. original plaster work, staircases, fireplaces, cornices, architraves, etc);
- Plans to show Proposed Elevations and Floor Plans MUST clearly distinguish between existing and new works, and identify quite clearly any structural alterations or changes. In addition these plans need to show details such as new rainwater goods, new ventilation and extraction details, positions of new meter boxes, any new ducting, security alarms and security lighting. Details of how sound and thermal installation, including new damp proofing to be installed must also be illustrated.
- A Listed Building Statement will be required with each application in addition to the above plans and drawings. See Appendix B for details;

<sup>7</sup> [www.legislation.gov.uk/ukpga/1990/9](http://www.legislation.gov.uk/ukpga/1990/9)

- A Structural Survey, either partial or complete if there are to be significant structural works, repair or maintenance (e.g. underpinning, partial demolition or internal removal of walls and new internal openings). See Appendix B for details. If the building is a timber framed building, then a Structural Survey MUST be submitted so as to identify the function of each timber member. Alternatives to structural alterations need to be evaluated within the Statement described below, in order to establish whether there are other less intrusive measures that can be taken;
- A Detailed Schedule of Work or Repairs. Works that involve timber framed buildings and/or involve structural alterations need to be cross-referenced to the structural survey as outlined above. See Appendix B for details.
- Additional information that may be required depending on the nature and type of proposal, the characteristics of the site, or the nature or character of the area involved, could include any of the items included within Appendix B.

- 6.4 It is advised that detailed plans, preferably at 1:2, 1:10 or 1:20 scale, are submitted which clearly show the detail of new fixtures and fittings, new doors, windows, shop fronts, panelling, fireplaces, plaster moulding and other decorative detail. This is in order to assist in the smooth determination of the application and negate the need for attaching conditions to any approval.
- 6.5 Particular care needs to be taken with works to Listed Buildings where there might be a conflict between the requirements of the Building Regulations and the fabric of a Listed Building. This usually relates to the provision of fire safety, access, drainage and insulation measures. Early discussion with Council Officers is essential prior to submission of any application in these circumstances
- 6.6 Further advice on Listed Building applications, the accompanying Statements and the level of details required can be found in PPS5<sup>8</sup>, and also in publications by English Heritage.
- 6.7 It is always advisable to contact Development Control prior to the submission of any Listed Building application in order to establish the level and nature of the supporting information required.

### **Policy Drivers**

- 6.10 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 3 and 11 (Saved), and Saved Policies ENV15 and ENV16 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs, particularly PPS5<sup>8</sup>.

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<sup>8</sup> [www.communities.gov.uk/publications/planningandbuilding/pps5](http://www.communities.gov.uk/publications/planningandbuilding/pps5)

## 7. Applications for Consent for Demolition in a Conservation Area

7.1 We shall require the following:

### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
- A Site Location Plan;
- Survey drawings of the buildings to be demolished;
- A Design and Access Statement.

### b) Local Requirements

- A Demolition Statement justifying the proposed demolition. See Appendix B for further detail.

7.2 Further advice on Conservation Area Consent applications and the accompanying Statements, and the level of details required can be found in PPS5<sup>9</sup>, and also in publications by English Heritage.

### Policy Drivers

7.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 3 and 11 (Saved), and Saved Policies ENV11 and ENV15 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs, particularly PPS5<sup>9</sup>.

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<sup>9</sup> [www.communities.gov.uk/publications/planningandbuilding/pps5](http://www.communities.gov.uk/publications/planningandbuilding/pps5)

## 8. Applications for Advertisement Consent

8.1 Applications for this Consent are determined under the 2007 Advertisement Regulations.

8.2 We shall require the following:

### a) National Requirements

- The completed form;
  - A Site Location Plan;
  - A block plan where proposed advertisements are not upon building elevations;
  - Existing and proposed elevations where proposed advertisements are upon building elevations, showing all existing and proposed advertisements;
  - The appropriate fee
- Appendix B provides more detailed descriptions of these requirements.

### b) Local Requirements

- Advertisement drawings at a scale of 1:50 or 1:100, showing lettering and any images, materials and colours to be used, extent of projection and details of the method and colour(s) of illumination (if applicable).
  - If the proposal involves the removal or replacement of existing signage then those to be removed need to be identified.
  - In the case of applications that involve illuminated advertisements, a lighting assessment MUST be included. This will identify any adverse light impacts, and mitigating measures proposed.
  - In the case of applications within or adjacent to a Conservation Area, a brief Conservation Area Statement is required.
  - Additional information that may be required depending on the nature and type of proposal, or the nature or character of the area involved, could include any of the items included within Appendix B.
- Appendix B provides more detailed descriptions of these requirements.

### Policy Drivers

8.3 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 3 and 11 (Saved), and Saved Policies ENV1, ENV2, ENV11 to ENV13, ENV15, ENV16 and TPT1 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance entitled, "A Guide for Shop Front Design" and "A Guide for the Design of Lighting Schemes", both dated September 2003 and available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## 9. Applications for works to trees subject to a Tree Preservation Order (TPO)

9.1 Applications for this Consent are determined under the Town and Country Planning Act 1990 and Town and Country Planning (Trees) Regulations 1999.

9.2 We shall require the following:

### a) National Requirements

- The completed form\*;
- A Site Location plan showing the location of all trees subject of the application;
- A clear and full Specification of Works proposed (see 9.4 below);
- A Statement of Reasons for the proposed work.

➤ Appendix B provides more detailed descriptions of these requirements.

\* At the time of writing, this will become mandatory if/from the date The Town and Country Planning (Tree Preservation) Regulations 2011 take effect. Prior to this, it is acceptable to make the application in writing, although the form is strongly recommended

### b) Local Requirements

- Evidence in support of the above Statement of Reasons. In particular you should provide: a report by a tree professional if your reasons relate to the health and/or safety of the tree(s), and/or a report by an engineer or surveyor together with one from a tree professional if you alleging subsidence damage;
- Where the proposed works are in conjunction with an application for operational development, a method statement illustrating compliance with BS 5837:2005 (Trees in Relation to Construction) is necessary.

➤ Appendix B provides more detailed descriptions of these requirements.

9.3 The reports referred to above should avoid such general statements, and be completed and signed by qualified professionals. Photographs may help illustrate the proposed works.

9.4 The Specification of Works needs to be precise and detailed. Stating that the application is for “the removal of branches” is insufficient. Please refer to the ‘Works to Trees and Hedgerows’ pages of [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning) for advice on correctly describing the proposed works.

### Policy Drivers

9.5 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policy 3 (Saved), and Saved Policies ENV4 and ENV15 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs.

## 10. Notification of Proposed works to trees in Conservation Areas (Section 211 Notice)

10.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 is relevant to these applications.

10.2 We shall require the following:

### a) National Requirements

- Written notification of the intent to undertake works (preferably on the standard application form);
  - A Site Location plan showing the location of all trees subject of the application;
  - A clear and full Specification of Works proposed (see 9.4 on the previous page);
- Appendix B provides more detailed descriptions of these requirements.

10.3 The Specification of Works needs to be precise and detailed. Stating that the application is for “the removal of branches” is insufficient. Please refer to the ‘Works to Trees and Hedgerows’ pages of [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning) for advice on correctly describing the proposed works.

### Policy Drivers

10.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policy 3 (Saved), Saved Policies ENV4 and ENV15 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs.

## 11. Prior Notification of Proposed Developments (under the General Permitted Development Order 1995, as amended)

11.1 These are submitted to enable the Council to decide whether it requires further detail to be provided in respect of the siting, design and appearance of certain types of development (i.e.- telecommunications developments and agricultural buildings/engineering operations), or how certain developments are to proceed (i.e. demolition works).

11.2 We shall require the following:

### a) National Requirements

- The completed form OR written description of the proposed development (including details of the materials to be used in the case of agricultural buildings/engineering operations);
- A Site Location Plan clearly indicating the location of the proposed structure or works, or, in the case of Demolition Notifications, the building to be demolished;
- In the case of Agricultural Notifications for buildings and/or structures, elevational plans clearly showing the appearance of the proposal;
- The appropriate fee.

In the case of proposed development by telecommunications code system operators, the following additional information is required:

- Evidence that the developer has given notice of the proposed development to those landowners affected by it in accordance with paragraph A3(1) of Part 24 of Schedule 2 to the General Permitted Development Order 1995 (as amended);
- Where the proposed development consists of the installation of a mast within three kilometres of the perimeter of an aerodrome, evidence that the developer has notified the Civil Aviation Authority, the Secretary of Defence or the aerodrome operator in accordance with paragraph A3(2) of Part 24 of Schedule 2 to the General Permitted Development Order 1995 (as amended).

In the case of a proposed demolition, the following additional information is required:

- Details of the proposed method of demolition and any proposed restoration of the site.
  - Appendix B provides more detailed descriptions of these requirements.

11.3 In the case of agricultural determinations, it may be necessary to determine whether the proposal is 'reasonably necessary for the purposes of agriculture', and why other buildings or arrangements could not be used, as, should it be found not to be reasonably necessary, the Prior Notification procedure cannot be used. In such cases, the Council shall make a request for such evidence as soon as reasonably practicable after the Notification is received.

11.4 Further information concerning location, elevations and appearance, together with the intended use(s) is welcomed. Landscaping proposals can also be submitted.

- 11.5 In the case of telecommunications development, the following should be provided:
- the area of search, details of alternative sites rejected with a justification for that rejection, an explanation if no alternatives have been considered;
  - a map showing the application site's relationship to existing Schools and other educational establishments;
  - a Planning Statement;
  - a ICNIRP Certificate;
  - a Technical Justification to establish the evidence for the site, together with appropriate information concerning the proposed site in respect of the existing network;
  - a statement setting out the reasons for the choice of design;
  - any other additional information as set out in Appendix F of the Code of Best Practice on Mobile Phone Network Development.

### **Policy Drivers**

- 11.6 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 3 and 11 (Saved), and Saved Policies ENV1, ENV2, ENV3, ENV4, ENV6, ENV8, ENV9, ENV10, ENV11, ENV12, ENV13, ENV15, ENV16 and ENV17; ECON7 and ECON8 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on how the Authority will look at Telecommunications proposals is to be found in the Council's Best Practice Note entitled, "Telecommunications Development", dated May 2005 available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## 12. Lawful Development Certificate Applications (Sections 191 and 192 of the 1990 Act)

12.1 These are particular applications designed for a specific purpose. The detail required will thus be prescribed by the actual application.

12.2 We shall require the following:

### a) National Requirements

- The completed form;
  - A Site Location Plan;
  - The appropriate fee;
  - Evidence verifying or supporting the proposed or existing use or operation or activity.
- Appendix B provides more detailed descriptions of these requirements.

### b) Local Requirements

- In the case of an application for a proposed operation (i.e. operational development), Site layout, Elevational and Floor Plans, drawn to scale, MUST be provided;
  - Any other information as is considered to be relevant to the application (see 11.3 & 11.4).
- Appendix B provides more detailed descriptions of these requirements.

12.3 For Certificates of Lawfulness for an Existing Use or Operation or Activity including those in breach of a Planning Condition (Section 191 of the Act), it is important that the description of the existing use or operation is fully detailed and precise, as well as the exact extent of the site being demarcated. The onus is on the applicant to provide the evidence to substantiate their claim for a Certificate. It is also very important from the outset, before submission if possible, that the applicant establishes which time period is to be used – ten or four years. The information that should accompany the application needs to be evidential in nature, and cover the complete time period. Sworn affidavits should relate to the site applied for and relate to a full description of the use, or the built development. Audited accounts and reports are very useful if provided over a ten year period, but they should relate to the actual application site, not to a general address. Similarly Council tax records, utilities bills or receipts of work undertaken on the property are all informative. Aerial photographs and other photographic material are useful if dated and signed. Circumstantial and hearsay evidence should be avoided at all times. If plans are to be submitted they must be properly scaled.

12.4 For Certificates for a Proposed Use or Development (Section 192 of the Act), then full descriptions of existing uses and buildings are necessary together with evidence supporting them. The proposed development needs to be described in detail. All descriptions of proposed uses should include information on all of the processes and uses to be undertaken, working hours, number of employees, the nature and operation of the use, details of vehicle licences if appropriate, and traffic generation figures. For a proposed built development accurate dimensions and distances of the proposal from other buildings are crucial together with relationships to existing buildings. As a consequence properly scaled drawings are needed showing both the existing and the proposed situations. Historical information, particularly if related to the site's planning history is also very useful.

### 13. Applications to Vary a or Non-Compliance with a Condition, and applications for Material Minor Amendments (Section 73 of the 1990 Act)

13.1 This type of application seeks variation or non-compliance with a condition, or conditions, of an extant or implemented planning permission. It is also used to seek material minor-amendments to planning permissions, where an appropriate condition exists.

13.2 We shall require the following:

#### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
- The appropriate fee.

#### b) Local Requirements

- Applications to vary or to remove a condition (including, where relevant, applications to seek material minor-amendments) MUST provide a full and reasoned justification for the applicant's case. It may be necessary for additional information to be provided particularly, if there has been a change in circumstances, or if that justification has to address potential or likely impacts arising from an approval. The Council may require additional information from Appendix B, or other sections in this document, dependent upon the nature of the case and the condition (e.g. the removal of a condition about working hours could involve a Noise Impact Report due to extended hours late at night).
- Applications to seek material minor-amendments MUST provide relevant Block, Elevational, Floor and Site Level plans drawings and plans where the amendments relate to the site layout and/or buildings and structures. However, this is not an exhaustive list and the Council may ask for the submission of additional detail as set out in Appendix B and elsewhere in this Report.

13.3 There is no statutory definition of a material minor amendment. As such it is for the Council to make this decision. Consequently, you are advised to approach the Development Control team informally ahead of submitting your application to ascertain as to whether you are required to make a fresh application altogether. Further guidance is available in the 'Greater Flexibility for Planning Permissions' guidance<sup>10</sup>, published in 2009.

#### Policy Drivers

13.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 1, 2, 3, 5, 6, 8, 10 and 11 (Saved); and Saved Policies ENV1 to ENV17, HSG1 to HSG5, ECON1 to ECON12, COM1 to COM3, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

<sup>10</sup> [www.communities.gov.uk/publications/planningandbuilding/greaterflexibilityguidance](http://www.communities.gov.uk/publications/planningandbuilding/greaterflexibilityguidance)

## 14. Applications for a Hedgerow Removal Notice (under the Hedgerow Regulations 1997)

14.1 These Regulations require notice of removal to be given to the Council in certain circumstances. There is a prescribed form for this.

14.2 We shall require the following:

### a) National Requirements

- The completed form, or a written application set out in the manner indicated at Schedule 4 of the Hedgerow Regulations<sup>11</sup>;
- Where a written application is made instead of using the form, reasons for the removal of the hedgerow must be supplied;
- An up to date Site Location Plan, illustrating clearly the location and length of the hedgerow(s) to be removed;
- Evidence of the date of planting of the hedgerow.

### b) Local Requirements

- Dependent upon the circumstances, an Arboricultural Implications Assessment of the proposed removal, and/or an Ecological Survey of the existing hedgerow and potentially a report on the historical significance of that hedgerow.
  - Appendix B provides more detailed descriptions of these requirements.

### Policy Drivers

14.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 3 and 10 (Saved); and Saved Policies ENV1, ENV3 and ENV4 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs.

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<sup>11</sup> [www.legislation.gov.uk/uksi/1997/1160/contents/made](http://www.legislation.gov.uk/uksi/1997/1160/contents/made)

## 15. Application for Approval of Details reserved by Condition

15.1 This process is used to discharge the requirements of a condition, or conditions, of an extant or implemented planning permission. It is also used where written confirmation of compliance with conditions attached to a permission is sought.

15.2 We shall require the following:

### a) National Requirements

- The completed form, or a written application clearly setting out the conditions to be discharged and sufficient information to identify the permission to which the conditions are attached;
- The appropriate fee.

### b) Local Requirements

- Reports and information, elevational, block, levels plans and other plans or drawings as relevant to discharge the condition(s). These are often dependent upon the details required by the condition.
  - Appendix B provides more detailed descriptions of these requirements and other likely reports/information required.

15.3 Early discussion with the Council can assist in identifying the nature and scope of the detail required. This may involve the submission of additional detail as set out in Appendix B and elsewhere in this Report.

15.4 The need for conditions can be avoided by providing the information “up front” with the initial application.

### Policy Drivers

15.5 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 1, 2, 3, 5, 6, 8, 10 and 11 (Saved); and Saved Policies ENV1 to ENV17, HSG1 to HSG5, ECON1 to ECON12, COM1 to COM3, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## 16. Applications for non-material minor amendments (under Section 96A)

16.1 This type of application is used to seek non-material minor-amendments to planning permissions, where an appropriate condition exists.

16.2 Only a person who has an interest in the land to which the non-material amendment relates, or someone else acting on their behalf, can apply<sup>12</sup>. Examples of people with a legal interest in the land are: a freeholder; a holder of a lease of over seven years; a mortgagee; or someone with an estate contract.

16.3 We shall require the following:

### a) National Requirements

- The completed form;
- The appropriate fee.

### b) Local Requirements

- Applications to seek non-material minor-amendments MUST provide relevant drawings and plans where the amendments relate to the site layout and/or buildings and structures. Block, Elevational, Floor and Site Level plans are common examples of the types of drawings necessary, however, this is not an exhaustive list and the Council may ask for the submission of additional detail as set out in Appendix B and elsewhere in this Report.

16.4 There is no statutory definition of a non-material minor amendment. As such it is for the Council to make this decision. Consequently, you are advised to approach the Development Control team informally ahead of submitting your application to ascertain as to whether you are required to make an application under Section 73 instead (see section 13) or make a fresh application altogether. Further guidance is available in the Department for Communities and Local Government's 'Greater flexibility for Planning Permissions' guidance document<sup>12</sup>.

## Policy Drivers

16.5 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 1, 2, 3, 5, 6, 8, 10 and 11 (Saved); and Saved Policies ENV1 to ENV17, HSG1 to HSG5, ECON1 to ECON12, COM1 to COM3, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

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<sup>12</sup> [www.communities.gov.uk/publications/planningandbuilding/greaterflexibilityguidance](http://www.communities.gov.uk/publications/planningandbuilding/greaterflexibilityguidance)

## 17. Application to extend the time limit for implementation of a planning permission, Conservation Area consent or Listed Building consent

17.1 This type of application is used to allow developers further time to implement an extant planning permission, Conservation Area or Listed Building Consent. It was introduced under amendments to the General Development Procedure Order in 2009, and at the time of adoption of this document, only applies to permissions granted on or before 1 October 2009.

17.2 We shall require the following:

### a) National Requirements

- The completed form, including the completed Ownership Certificate (A, B C or D as applicable) and the Agricultural Holdings Certificate;
- A Site Location Plan, and other plans and drawings or information necessary to describe the subject of the application (only required for Listed Building Consent or Conservation Area Consent);
- The appropriate fee (not required for Listed Building Consent or Conservation Area Consent).

### b) Local Requirements

- Applications to seek such a time extension MUST provide updated reports, information and drawings where the circumstances have altered since the time of the original application. Ecological and Bat surveys, Flood Risk Assessments and Energy Statements are common examples of the types of reports necessary, however, this is not an exhaustive list and the Council may ask for the submission of additional detail as set out in Appendix B and elsewhere in this Report.

17.3 There are certain eligibility criteria for this type of application. You are advised to check the guidance at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning) or speak to a member of the Development Control team before submitting your application.

### Policy Drivers

17.4 These requirements are based on the need to establish whether the proposal accords with Development Plan Policy as set out in Core Policies 1, 2, 3, 5, 6, 8, 10 and 11 (Saved); and Saved Policies ENV1 to ENV17, HSG1 to HSG5, ECON1 to ECON12, COM1 to COM3, and TPT1 to TPT6 of the North Warwickshire Local Plan 2006, and relevant PPGs and PPSs. Additional guidance on this type of application and how the Authority will look at each proposal is to be found in the Council's Supplementary Planning Guidance available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## 18. Applications to Retain Works under Section 63 of the Planning Act

- 18.1 These are commonly known as applications to seek retrospective planning permission.
- 18.2 There are no special forms for this type of application. In all cases the requirements will be those for the type of planning permission being sought retrospectively (e.g. householder permission or Advertisement Consent). Hence, reference needs to be made to the appropriate section in this document. Dependent upon the nature of the development concerned, photographs might be acceptable.



	Page	Relevant Fee <sup>1</sup>	Relevant Application Form(s)	Agricultural Certificates/Notices	Ownership Certificates/Notices	Agricultural Holdings Certificate	Site Location Plan	Block/Site layout plan (existing)	Block/Site layout plan (proposed)	Elevations (existing where relevant)	Elevations (proposed)	Floor plans (existing where relevant)	Floor plans (proposed)	Existing levels/contours plan	Design and Access Statement	Planning or Other Statement	Conservation Area Statement	Listed Building Appraisal/Statement	Arboricultural Assessment	Biodiversity/Ecology survey	Affordable Housing Statement	Flood Risk Assessment	Phase 1 Contamination Report	Coal Mining Risk Assessment	Lighting Assessment	Noise Impact Assessment	Energy Statement	Transport Assessment/Green Travel Plan	Structural Survey	Draft Legal/Section 106 Agreement		
Householder Application	3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓																			
Householder Application in a Conservation Area	3	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓				✓															
Householder Application with Listed Building Consent	3 & 9	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓				✓	✓														
Full application	4	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	◇	◇	◇			◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	
Full application in a Conservation Area	4	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	◇	◇	◇	✓	✓	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	
Full application with Listed Building Consent	4 & 9	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	◇	◇	◇	✓	✓	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	
Full application with Advertisement Consent	4 & 12	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	
Outline planning application (all or some Matters Reserved)	6	✓	✓	✓	✓	✓		◇		◇		◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	
Reserved Matters application	8	✓	◇			✓	✓	✓	✓	✓	✓	✓	✓	◇		◇	◇	◇	◇		◇				◇							
Listed Building Consent	9		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓		◇		◇	✓													◇	
Listed Building Consent with Advertisement Consent	9 & 12	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓		◇		◇	✓							◇						◇	
Conservation Area Consent for Demolition	11		✓	✓		✓	✓	✓	✓	✓	✓	✓	✓				✓														◇	
Advertisement Consent	12	✓	✓			✓	✓	✓	✓	✓	✓	✓	✓				◇	◇						◇	◇							
Works to Tree(s) subject to a Tree Preservation Order (TPO)	13		✓			✓										✓			✓												◇	
Notification of Works to Tree(s) in Conservation Areas	14		◇			✓										✓																
Prior Notification (Agricultural Buildings/Structures)	15	✓	◇			✓					✓																					
Prior Notification (Agricultural Surface Development/Other Works)	15	✓	◇			✓																										
Prior Notification (Demolition)	15	✓	◇			✓										✓																
Prior Notification (Telecommunications)	15	✓	◇			✓										✓																
Lawful Development Certificate (Existing Structure or Use)	17	✓	✓			✓										✓																
Lawful Development Certificate (Proposed Structure or Use)	17	✓	✓			✓		◇		◇		◇	◇																			
Vary/non-compliance with condition(s)/Material Minor Amendment	18	✓	✓	✓	✓	✓		◇		◇		◇	◇			◇	◇	◇	◇	◇		◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇
Hedgerow removal notice	19		✓			✓										✓			◇													
Approval of details reserved by condition	20	✓						Submit information sufficient to discharge the relevant condition(s)																								
Non-material Minor Amendment	21	✓	✓			✓		◇		◇		◇	◇																			
Extension to Time Limit for Implementation	22	✓	✓	✓	✓	✓		◇		◇		◇	◇			◇			◇	◇		◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	

APPENDIX A

✓ Required    ◇ See relevant page number to ascertain whether this is required

<sup>1</sup> The Town and Country Planning Fees Regulations 1989 (as amended) apply here. Where appropriate, the 'free-go' or exemptions apply.



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## National Requirements

### A) The Application Form, or a written application

This is mandatory for all applications. Whether a written application is acceptable in lieu of the standard 1App Application Form will depend on the type of application made. This is stated in each of the application types outlined in this document.

When completing the form, you are required to complete all sections of it as appropriate. When completing the form at the Planning Portal, it will tailor the remaining questions depending on your responses. For both methods, you should note where it requires supplementary reports or information as a result of your answer(s) to that section.

Ownership and Agricultural Holdings Certificates form part of the form, and must be completed correctly. Where relevant, appropriate Notice must be served on land owners.

### B) Site Location Plan

This is an up to date Location Plan that identifies the land to which the application relates, drawn to an identified scale and showing the direction of North. This plan is preferred to be on an Ordnance Survey Base at a 1:1250 scale (or 1:2500 if necessary). It must be large enough to show surrounding property and roads.

The application site **MUST** be clearly edged with a red line, and include all land necessary to carry out the proposed development (e.g. land required for access, visibility splays, car parking and open areas around buildings). A blue line should be drawn around any other land owned by the applicant, close to or adjoining the application site.

### C) Design and Access Statement

Design and Access Statements are documents that explain the design thinking behind a planning application – how the individual site and the context of it has informed the design and how the proposal reflects the local setting. They also describe how everyone can use and access the “place” that is being created. More specific guidance can be found at Appendix C or at Section 6.7 of Guidance on Information Requirements and Validation (March 2010)<sup>14</sup>.

Design and Access Statements must cover the following points:

- Design
- Access
- Layout
- Use
- Landscaping

### D) Appropriate Fee

This is set by The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008, or any later amendment superseding this. A summary of these fees is available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

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<sup>14</sup> <http://www.communities.gov.uk/publications/planningandbuilding/validationguidance>

### a) Other Plans and Drawings

What are these?

- **Block Plan**
  - 1:200 or 1:500 scale plan showing the site boundaries in detail, particularly in relation to neighbouring buildings, dwellings and land.
  - It MUST include existing extensions and other structures within the application site, as well as those at immediate neighbouring properties.
  - Where they influence or would be affected by the proposal, all roads and public rights of way, trees, hard surfacing and boundary treatments MUST be shown.
  - For application sites with neighbouring dwellings, it MUST identify the location of windows on these neighbouring properties.
  
- **Existing: Elevations, Floor Plans, Roof Plans, Site Sections and Ground Levels**
  - 1:50 or 1:100 scale plan(s) which MUST include all existing buildings, extensions and areas of hardstanding.
  - The plan(s) MUST illustrate any existing fences, trees and hedgerows, on or adjacent to the site, together with any existing drainage infrastructure.
  - For Site Sections and Ground Levels, neighbouring property should be identified.
  
- **Proposed: Elevations, Floor Plans, Roof Plans, Site Sections and Finished Floor Levels**
  - 1:50 or 1:100 scale plan(s) which MUST show the layout and elevations in detail.
  - Any alterations to, or proposed, fences and walls, trees and hedgerows, access arrangements and parking, drainage arrangements, and ground levels MUST be identified.
  - For Elevations, all affected sides of the proposal MUST be shown and these should indicate, where possible, the proposed facing materials, including windows and doors in order to minimise the need for attaching conditions to any approval.
  - Where a proposed elevation adjoins another building or is in close proximity, the drawings should clearly show the relationship between the buildings and detail the positions of the openings on each property. For Householder applications in particular, the plan MUST illustrate the 45-degree line from windows on adjoining property.
  - Where proposals include the use of roof space, cross sections clearly indicating the position of any openings and finished floor heights MUST be included.

When are they required?

Where there are physical changes proposed to the application site and/or buildings upon it, in order to meet the requirements of saved policies ENV4, ENV10 to ENV17, ECON9 and TPT6 of the North Warwickshire Local Plan 2006. Visual examples of the above can be found at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).

## **b) Supporting Planning Statement**

What is this?

This Statement identifies the context and need for a proposed development. In particular it is expected to provide information and argument to show how the applicant considers that his proposed development accords with relevant National and Development Plan Policies, Supplementary Planning Documents and Development Briefs. It should also include the details of any consultation with Statutory Consultations undertaken prior to submission.

When may it be required?

- With all “major” applications.
- With all applications that are for “inappropriate” development in the Green Belt, setting out the applicant’s “very special circumstances” of his case.
- With all applications that will be assessed against the following saved policies ENV5, ENV7, ENV17, HSG3, ECON3, ECON7, ECON8, ECON9, ECON10, ECON12, COM2 and COM3 of the North Warwickshire Local Plan 2006.
- With all applications which concern the loss of existing tourist accommodation. Particular reference should be made to the Council’s Economic Development and Tourism Action Plan and the Framework for Rural Action.

## **c) Conservation Area Appraisal**

What is this?

An appraisal which firstly describes the significance, special character and appearance of the Conservation Area, drawing on the appropriate Designation Report<sup>15</sup> and the existing local situation on the ground within the Area. The importance of the application site and its contribution to that Area will be identified. Secondly, the Appraisal will evaluate the impact of the proposal on the character and appearance of that Area, with special attention to the immediate, as well as to the wider, setting. It is essential that the Appraisal explicitly identifies how the proposal preserves or enhances this local character and appearance. The principles of how the proposed built form, scale, mass and appearance have been arrived at will also be identified. It will be necessary to show how alternatives have been dismissed. Thirdly the Appraisal will identify any adverse impacts and explain how these might be mitigated. Attention should also be paid to any change in the ambience of the Area. If the proposals r adverse, then full reasons need to be supplied to demonstrate why the proposal should be allowed.

Further advice can be particularly found within Government Guidance within its PPS5<sup>16</sup>.

When may it be required?

- With all applications that adjoin or include land within a Designated Conservation Area, or where the character and appearance of a Conservation Area might be affected by a new development, in order to meet the requirements of saved policy ENV15 of the North Warwickshire Local Plan 2006.

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<sup>15</sup> Available on the Heritage and Conservation pages of [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning)

<sup>16</sup> [www.communities.gov.uk/publications/planningandbuilding/pps5](http://www.communities.gov.uk/publications/planningandbuilding/pps5)

#### d) **Listed Building Statement**

What is this?

This Statement will firstly describe the existing historic and architectural features of the building, cross referencing with the plans and drawings. Particular features or significant detail will be identified. In some cases, an outline of the historical evolution of the building will also be necessary. Secondly, the Statement will identify the impact of the proposals upon these historic and architectural features. This shall include impacts on the built form, existing layout and external elevations, and on the internal detail of the building. This assessment will cross reference with the plans, drawings and particularly to the Schedule of Works<sup>17</sup>, paying especial attention to new works. This assessment will also evaluate alternative solutions and options to the works proposed, in order to establish if there is any other less intrusive or invasive proposals. Finally, the Statement will also evaluate the impact of the proposals on the setting of the Listed Building, the significance of the heritage asset(s) affected and the contribution of its/their setting to that significance (in line with HE6.1 of PPS5<sup>18</sup>) by looking at each individual alteration and cumulatively at their combined impact, together with their impact, if appropriate, on a streetscene.

As with Conservation Areas, further advice can be particularly found within Government Guidance within its PPS5<sup>18</sup>.

When will it be required?

- With all development proposals affecting the setting or curtilage of a Listed Building or Structure, in order to meet the requirements of saved policy ENV16 of the North Warwickshire Local Plan 2006 and PPS5<sup>18</sup>.

#### e) **Structural Survey**

What is this?

A technical structural survey of an existing building undertaken by a Qualified Building Surveyor, identifying its condition, and the likely impact of the development proposals on that structure. In particular the survey will identify a Detailed Schedule of Works/Repairs needed to undertake the proposal including measures such as underpinning, structural support, demolition, partial removal, rebuilding, repair and maintenance. This survey will include an internal and external photographic record of the existing building

Where a Detailed Schedule of Work/Repairs is necessary, this will describe how, where and why certain work is to be undertaken. For instance how dry and wet rot is to be treated, how joinery, brick or stone repairs are to be carried out, how new brickwork is to be installed including details of bonding and mortar mixes, as well as methods of adding a damp proof course or any form of underpinning. All full or partial demolition work detail will be identified within the Schedule, together with full details of how propping and shoring is to be installed.

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<sup>17</sup> See (e) of this Appendix

<sup>18</sup> [www.communities.gov.uk/publications/planningandbuilding/pps5](http://www.communities.gov.uk/publications/planningandbuilding/pps5)

If the building is a Listed Building of timber frame construction, then the Structural Survey MUST identify the function of each timber member. Alternatives to structural alterations need to be evaluated within the Schedule of Works described below, in order to establish whether there are other less intrusive measures that can be taken.

When may it be required?

- With all applications involving a rural building that will be assessed against Policy ECON9 of the North Warwickshire Local Plan 2006;
- With all applications, where appropriate, involving proposals for a Listed Building or a building within a Conservation Area in order to allow it to be assessed against saved policies ENV15 and/or ENV16 of the North Warwickshire Local Plan 2006, and PPS5<sup>19</sup>.

## f) Heritage Statement

What is this?

Supporting information, including plans, that describes historic and archaeological features that may exist on or adjacent to the application site. These features could include Listed Buildings and Structures, Historic Parks, Gardens, and Battle sites as well as Scheduled Ancient Monument Sites. Additional guidance is available from PPS5<sup>19</sup>, and from English Heritage and the Warwickshire Museum<sup>20</sup>. Where a development proposal affects or impacts upon a recognised historic site, an Assessment report will need to be commissioned that identifies the scope and scale of the impacts of the proposal on that site, including mitigation and recording measures.

Discussion at pre-application stage will identify potential sites that will require either a desktop study, or a site survey and assessment to be undertaken prior to submission, the findings of which will need to be submitted with the application. In the case of sites identified at the consultation stage, such information will still be required before determination.

When may it be required?

- With all applications that are adjacent to, or include a Scheduled Ancient Monument Site, a recognised Historic Park, Garden or Battle Site; and with some applications that affect the curtilage or the setting of a Listed Building (see Section 6) in order to allow it to be assessed against saved policies ENV15 and/or ENV16 of the North Warwickshire Local Plan 2006, and PPS5.

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<sup>19</sup> [www.communities.gov.uk/publications/planningandbuilding/pps5](http://www.communities.gov.uk/publications/planningandbuilding/pps5)

<sup>20</sup> [www.warwickshire.gov.uk/museum](http://www.warwickshire.gov.uk/museum)

## **g) Demolition Statement**

What is this?

A visual and written architectural and historic record of the building(s) concerned. It will include an analysis of the contribution that the building(s) and their site makes to the character and appearance of the relevant Conservation Area. This will need to refer to the respective Conservation Area Designation Report<sup>21</sup>. Thirdly it will assess the loss of the building and evaluate whether any replacement is of greater value to the heritage of the area than the existing situation. Finally, this exercise must also address and evaluate the historical value in retaining the existing situation, and any change in the ambience of the Area.

When may it be required?

- With all proposals to demolish a building or protected structure within a Conservation Area in order to allow assessment under saved policy ENV15 of the North Warwickshire Local Plan 2006, and PPS5<sup>22</sup>.

## **h) Transport Assessment**

What is this?

Where developments will have significant transport implications, Transport Assessments must be prepared. PPG13<sup>23</sup> advocates the need for these Assessments. The content and detail of these should reflect the scale of the development proposal and the extent of the transport implications. For major proposals, the accessibility of the site by all modes of transport should be illustrated, along with the likely split of types of journey to and from the site. It should give details of proposed measures to improve access by public transport, walking and cycling, to reduce car parking needs and to mitigate impacts.

The Local Authority shall determine where a Transport Assessment is necessary, and can be applicable to all highways within the Borough. The Highways Agency will require Assessments on their controlled routes where:

- development generates more than 30 two-way trips during any peak period;
- development falls into any of the categories of Appendix B to the DfT's Guidance on Transport Assessment<sup>24</sup>;
- development where construction traffic may adversely impact on the operation of the network for a limited period;
- development which may lead to visual distraction.

Transport Assessments should be prepared in accordance with the DfT's Guidance on Transport Assessment<sup>23</sup> and the DfT Circular 02/2007<sup>25</sup>. Advice on the scope of these Assessments is best agreed at pre-application stage with the Borough Council and the appropriate Highway Authority.

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<sup>21</sup> Available on the Heritage and Conservation pages of [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning)

<sup>22</sup> [www.communities.gov.uk/publications/planningandbuilding/pps5](http://www.communities.gov.uk/publications/planningandbuilding/pps5)

<sup>23</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/ppg13/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/ppg13/)

<sup>24</sup> [www.dft.gov.uk/pgr/regional/transportassessments/guidanceonta](http://www.dft.gov.uk/pgr/regional/transportassessments/guidanceonta)

<sup>25</sup> [www.dft.gov.uk/pgr/regional/strategy/policy/circular207planningandstrategic](http://www.dft.gov.uk/pgr/regional/strategy/policy/circular207planningandstrategic)

When may it be required?

- With all applications that exceed the triggers outlined in saved policy TPT1 of the North Warwickshire Local Plan 2006;
- In cases where the proposed traffic generation from the site could have an impact under the criteria of saved policy ENV14 of the North Warwickshire Local Plan 2006, particularly if they are for “major” applications.

#### **i) Draft Green Travel Plan**

What is this?

These are plans that outline the way in which the transport implications of a proposal are going to be managed in order to ensure that the proposal will reduce dependence on the car, and enhance other modes of transportation. They should also have measurable targets, arrangements for monitoring and enforcement, and include a strategy for marketing and promoting the Plan to occupiers, users, visitors and residents of the site. This accords with Government Policy as set out in PPS1 and PPG13 along with its accompanying Best Practice Guide. Additional guidance is available from the Department of Transport’s Making Residential Travel Plans Work<sup>26</sup>. Warwickshire County Council has guidance and advice including a draft “template” for such a Plan.

When may it be required?

- With all applications that exceed the triggers outlined in saved policy TPT1 of the North Warwickshire Local Plan 2006;
- With all major applications, otherwise not included in TPT1.

#### **j) Local Services/Community Facilities Statement**

What is this?

This is an evidence based Statement that describes an existing local service or community facility; how it is presently used, and it’s contribution to the local community, assessing the likely impact on that community if the service or facility is lost. The Statement should also include evidence and conclusions of search for any alternative service or facility that might make use of the site to be lost. Such a search should be in liaison with local community groups, businesses and other relevant bodies. Additionally, the Statement will include mitigation or compensatory measures so as not to reduce the value of the facility/service to the community.

When may it be required?

- With any proposal that will be assessed against saved policies ECON12, COM2 and COM3 of the North Warwickshire Local Plan 2006.

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<sup>26</sup> [www.dft.gov.uk/pgr/sustainable/travelplans/rpt/](http://www.dft.gov.uk/pgr/sustainable/travelplans/rpt/)

## **k) Retail Assessment**

What is this?

This will assess the need for the development, whether it is of an appropriate scale, location and whether it would have any adverse impacts on existing service centres. Advice on these Assessments is to be found in PPS4<sup>27</sup>.

When may it be required?

- With all retail planning applications that trigger an assessment under PPS4;
- With all retail planning applications that are affected by saved policies ECON5 and ECON12 of the North Warwickshire Local Plan 2006.

## **l) Agricultural/Equestrian/Rural Economy Statement**

What is this?

When a new dwelling is being proposed outside of a defined development boundary, and it is being argued that it is essential to have permanent residential accommodation on that site, a full functional and financial statement is to be provided. This will be evidence based and attempt to show that that building, including its size, is essential rather than being desirable. Alternative options must be evaluated, such as making use of the applicant's existing accommodation, acquiring, renting or building that accommodation within a settlement, the potential of converting existing buildings on site, and temporary or seasonal on site residential accommodation. The Statement shall include a full Business Plan. The Statement MUST follow the framework as set in Annex A of PPS7<sup>28</sup>.

When a new agricultural building (other than a dwelling) is proposed, a Statement will be required to show, with an evidential base, why that building, and one of that size, is necessary for the agricultural operations at that holding. Alternatives must be assessed, particularly the adaptation of existing buildings.

When the proposal involves Farm Diversification, a full Business Plan must be submitted to demonstrate how the venture will contribute towards sustaining the long term operation and viability of the farm holding.

When may it be required?

- With all applications for residential accommodation that are outside of a development boundary and which are to be assessed against saved policy HSG3 of the North Warwickshire Local Plan 2006;
- With all applications where saved policies ECON7 and ECON8 will be relevant.

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<sup>27</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps4/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps4/)

<sup>28</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps7/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps7/)

## m) Affordable Housing Statement

What is this?

An outline of how locally affordable housing is to be provided and managed in line with Development Plan policy. This will set out the numbers of the units, the tenure mix of the units and their size and specification, their location within the development, how they are to be “locally affordable”, how that affordability is to be continued in perpetuity, and how local people will benefit. The Statement will outline how need has been assessed, how numbers have been arrived at, how “affordability” has been defined and how these units will be managed in perpetuity. The Statement should include details of any Registered Social Landlord acting as partners in any development proposals.

If the required provision, as defined by Local Plan Policy, is not being proposed, the Statement will set out the precise reasons for not doing so, supporting that argument with factual evidence.

Further advice on these Statements is available in the Council's Affordable Housing Supplementary Planning Document (2008)<sup>29</sup>.

When may it be required?

- With all planning applications where locally affordable housing is required under Core Policy 8 (Saved), saved policies HSG1, HSG2 and HSG5 of the North Warwickshire Local Plan 2006, and the Affordable Housing SPD 2008.

## n) Open Space Statement

What is this?

A statement, or information, identifying areas of existing and proposed open space within or adjoining the application site. This should identify how they are presently used, how they are to be managed in the future and how they can be enhanced or integrated into the proposal. As planning consent is not normally given for development of existing open spaces that local communities need, a full justification will be necessary. An audit was undertaken in 2008 and is relevant to preparing this Statement<sup>29</sup>. Where an up to date Local Authority audit and assessment of Open Space provision is unavailable, the applicant will be required to undertake their own audit. This will identify existing open space, its use, purpose, quality and its contribution to the community. The audit will then identify whether its loss can be sustained or whether compensatory or other mitigation measures are needed. This audit will involve consultation with the community undertaken by the applicant, and follow the advice set out in PPG17<sup>30</sup>, which also defines what constitutes “open space”.

When may it be required?

- With all applications involving saved policies ENV5, COM2, and COM3 of the North Warwickshire Local Plan 2006, and the Green Space Strategy SPD (Draft) 2008.

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<sup>29</sup> Affordable Housing SPD and Green Space Strategy SPD (Draft) available at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning)

<sup>30</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/ppg17/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/ppg17/)

## **o) Landscape Appraisal**

What is this?

A survey which outlines the character of the landscape in which the application site is located. This will include the immediate setting and identify the outer limit of the study<sup>31</sup>. This will depend upon the landscape itself, the nature of the proposal, the degree of public accessibility and any indirect impacts arising from the development (e.g. lighting).

An Appraisal will then be undertaken by a qualified Landscape Architect in order to assess the impact of the development proposal on the character of the existing landscape at the site, its environs and to the outer limit of the visual envelope as justified by the survey. The Appraisal will also include measures that are needed to mitigate against adverse visual impacts, both on and off site, as well as take the opportunity to outline measures that could as a consequence of the development, enhance a landscape character, particularly when identified by the survey.

When may it be required?

- With all major applications outside, or to the edge, of settlements with a Development Boundary.
- With all applications where saved policies ENV1 and ENV2 of the North Warwickshire Local Plan 2006 will be critical to determination.

## **p) Landscaping Maintenance Statement**

What is this?

A Statement outlining in full, the landscaping proposals for the development showing how they have been arrived at as an integral part of the built form, and how they are to be maintained and managed in the future. The Statement will identify the reasoning behind the selection of species and the planting specification. For the purposes of this requirement, landscaping includes soft as well as hard landscaping.

When may it be required?

- With all applications where the proposals create areas of public open space, involve inappropriate development within the Green Belt, and/or that are departures from the Development Plan in order to allow assessment under ENV1, ENV2, ENV4 and ENV5 of the North Warwickshire Local Plan 2006.

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<sup>31</sup> The Forward Planning department may be able to assist here: 01827 715341 or [planningpolicy@northwarks.gov.uk](mailto:planningpolicy@northwarks.gov.uk)

**q) Arboricultural Implications Assessment (also referred to as a Tree Survey)**

What is this?

A survey, undertaken in accordance with BS 5837:2005, of the existing tree and hedgerow cover on site and on adjoining land. This will include identification of the species, spread, roots, and position of these trees and hedgerows. It will include a professional judgment on the condition and amenity value of each tree and length of hedgerow. It must indicate any trees to be felled and those affected by the development. The survey shall if necessary be extended to include trees and hedgerows in adjoining sites if they might be affected by the proposal.

Where relevant, the Assessment should justify how the built form has been arrived at so as to retain existing trees and hedgerows, and identify why alternative built forms could not be proposed. The Assessment will include the measures to be adopted during construction works to protect trees and hedgerows that are to be retained.

When may it be required?

- With all applications involving works to, or land carrying, trees protected by a Tree Preservation Order; all major applications where there is existing tree and hedgerow cover; and other applications where there is a need for the survey, in order to allow assessment under ENV1, ENV2 and ENV4 of the North Warwickshire Local Plan 2006.

**r) Nature Conservation/Biodiversity Assessment (including Bat Survey & Ecology Report)**

What is this?

This will identify the location of any areas statutorily designated, or otherwise recognised for their local, regional or National ecological interest. The Assessment will explain the significance of the site, and then evaluate the various impacts of the proposed development upon the site. These will include analysis during the construction phase as well as longer term impacts. Measures will be recommended to compensate or mitigate adverse impacts, including loss of habitat and reductions in bio-diversity. Such measures will include long term site maintenance and management, together with possible off-site measures. Each development proposal will also need to show how the biodiversity of the site can be enhanced as a consequence of the proposal.

Where sites are not recognised, but there are likely to be significant wildlife habitats or features that might impact on species protected under the Wildlife and Countryside Act 1981, The Conservation (Natural Habitats) Regulations 1994, or other animals protected under their own legislation (e.g. Badgers), then survey work will be necessary together with recommendations for measures to be incorporated into the proposed development in order to compensate for, or mitigate against the adverse impacts of that proposal. Enhancement measures to encourage habitat diversity will also be expected.

Advice on dealing with impacts can be found in PPS9<sup>32</sup> and its accompanying Government Circular and Good Practice Guide. The Warwickshire Museum<sup>33</sup> will also assist in the identification of sites, and likely recognised habitats.

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<sup>32</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps9/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps9/)

<sup>33</sup> [www.warwickshire.gov.uk/museum](http://www.warwickshire.gov.uk/museum)

When may it be required?

- With all applications where an ecological interest is identified at pre-application or at consultation stage;
- With all major applications affected by, and other applications identified to be affected by, saved policy ENV3 of the North Warwickshire Local Plan 2006;

## **s) Noise Impact Assessment**

What is this?

Application proposals that raise issues of noise disturbance, are considered to be a noise sensitive development, or are to be proposed adjacent to a noise sensitive site will need to be supported by a Noise Impact Assessment prepared by a qualified Acoustician. Assessments will need not only to assess the impacts arising from new proposals on the existing environment, but also to assess the impacts on the occupiers of new developments arising from neighbouring uses. The Assessment will outline the existing noise environment and then assess the impacts arising from the new development, or the impacts upon that development. Recommendations will include mitigation measures that can be incorporated into the development proposals. Such sites will be identified at pre-application stage, but where there is no such discussion, the Assessment will be required at consultation stage and prior to determination. Advice and guidance is available in PPG24 and from the Council's Environmental Health Section.

When may it be required?

- With all applications involving noise sensitive development proposals; new development adjoining a noise sensitive site; and where noise disturbance could impact on residential amenity of existing and/or future occupants, in order to allow assessment under saved policies ENV9 and ENV11 of the North Warwickshire Local Plan 2006.

## **t) Air Quality Assessment**

What is this?

A full technical report outlining existing conditions, and predicting likely impacts on air quality arising from new development proposals. Further advice and guidance is available within PPS23<sup>34</sup> and from the Council's Environmental Health Section.

When may it be required?

- With all applications where development is proposed inside, or adjacent to an Air Quality Management Area (AQMA) as defined on the Local Plan Proposals Map;
- With all applications that could in themselves result in the designation of an AQMA;
- With all applications where the grant of a planning permission might render the Council's Air Quality Action Plan unworkable;
- With any application that would have the scope for affecting air quality in the immediate or adjoining area, in accordance with saved policy ENV9 of the North Warwickshire Local Plan 2006.

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<sup>34</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/)

## u) Lighting Assessment

What is this?

A technical assessment to identify the existing lighting levels, spillage and glow at a site, adjoining the site and at a distance, in order to identify adverse impacts that might arise from any proposed lights, both internal but particularly external, on the locality. The Assessment will identify measures that should be undertaken to reduce adverse impacts that can be incorporated into the development proposal, or that can be undertaken off site.

Further advice is available within the Government's "Lighting in the Countryside: Towards Good Practice" (1997)<sup>35</sup>.

When may it be required?

- With all applications where lighting proposals form an essential or significant part of the proposal, especially proposals in the open countryside or Green Belt, in respect of saved policies ENV1 and ENV2 of the North Warwickshire Local Plan 2006.
- With any application that is identified at consultation stage, where lighting becomes a recognised issue, particularly in respect of saved policy ENV11.
- With applications involving illumination either from advertisements or external lights, of Listed Buildings and in Conservation Areas, and in respect of saved policies ENV15 and ENV16.

## v) Flood Risk Assessment

What is this?

This will assess the risks to all forms of flooding to and from the development, and demonstrate how these flood risks will be managed, taking climate change into account. It should also show how sustainable drainage methods have been introduced into the development proposal.

Given the current impact of climate change, and the known historic nature of much of the existing infrastructure throughout the Borough, there will be an increasing requirement to provide such Statements even when the development might be minor in scale.

When may it be required?

- With all applications for development proposals of 1 hectare or more in Flood Zone 1, for some development proposals that are located within Flood Zones 2 and 3, or other areas where the Environment Agency or other bodies have indicated that there may be drainage problems. These Flood Zones are prepared and published by the Environment Agency, who also define where a Flood Risk Assessment is necessary. Relevant advice is given in PPG25<sup>36</sup> and on the Environment Agency's website<sup>37</sup>.
- With all applications where saved policy ENV8 of the North Warwickshire Local Plan 2006 applies.

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<sup>35</sup> [www.communities.gov.uk/archived/publications/planningandbuilding/lighting](http://www.communities.gov.uk/archived/publications/planningandbuilding/lighting)

<sup>36</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps25/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps25/)

<sup>37</sup> [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

## w) Land Contamination/Stability Report

What is this?

A full technical summary of the state of a site in respect of its ground conditions. This can include the structural stability of a site, particularly where there is a difference of levels, or where there is known to be past or current landfill, surface or subterranean coal workings, or “made” land operations. Surveys can include desktop studies or full ground surveys involving trial bore holes and pits. It will certainly include situations where there is likely to be site contamination. The reports will identify measures needed to remediate, or mitigate against the survey findings.

Advice and Guidance on Phase I and Phase II Contamination Reports is available in PPS23<sup>38</sup> and from the Council’s Environmental Health section. Advice and Guidance on Coal Mining Risk Assessments is available on the Coal Authority’s website<sup>39</sup>. In particular the scope and content of survey work will be identified as a consequence of discussion with the Council’s officers.

When may it be required?

- With all applications that involve any site, or land adjoining any site, that is recognised in the Council’s Land Contamination Register and Records, to allow assessment under saved policy ENV6 of the North Warwickshire Local Plan 2006.
- With all applications that involve a site, or land adjoining a site that is identified by the Coal Authority, or by local knowledge, as being one with potential stability or gas migration concerns, in accordance with saved policy ENV6.

## x) Photographs and Photomontages

What is this?

A simple photographic record of the existing situation in respect of the application site and its setting. This can then be supplemented to include the development proposal surmounted on the photographic record, in order to give a visual interpretation of the proposal.

These records will be particularly useful in support of proposals where saved policies ENV1, ENV2, ENV11, ENV12, ENV13, ENV15 and ENV16 will be critical. This will be identified at pre-application stage.

When may it be required?

- With all major applications;
- With all applications where a street scene is required, particularly with “infill” sites;
- With all applications that will impact on the character of the landscape, in accordance with saved policies of the North Warwickshire Local Plan 2006 as outlined above.

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<sup>38</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/)

<sup>39</sup> [www.coal.gov.uk/services/planning/northwarwickshire.cfm](http://www.coal.gov.uk/services/planning/northwarwickshire.cfm)

## **y) Site Waste Management Plan**

What is this?

Proposed new development should be supported by site waste management plans of the type encouraged by the Department of Trade and Industry's Code of Practice published in 2004. These identify the volume and type of material to be demolished and/or excavated; opportunities for the reuse and recovery of materials, and to demonstrate how off-site disposal of waste can be minimized and managed.

When may it be required?

- With all major applications, in accordance with PPS23<sup>40</sup>

## **z) Sustainability Statement**

What is this?

These outline how the proposal addresses sustainable development issues, particularly in respect of its location and scale. It will identify the environmental, social and economic implications of the proposal both in terms of benefits and disbenefits. Sequential testing will be undertaken in order to assess these issues as described in PPS1<sup>41</sup> and PPS4<sup>42</sup>. This testing will also address alternative quantum of development at the site as well as alternative locations for the proposal.

When may it be required?

- With all applications that are departures from the Development Plan;
- With all applications where an Environmental Statement is required (see (bb));
- With all applications involving saved policy ECON2 of the North Warwickshire Local Plan 2006.

## **aa) Draft Community Infrastructure Levy (CIL) or Section 106 Agreement**

What is this?

This sets out the compensatory and mitigation measures that might arise from the impacts of the proposal, both on and off site. Dependent on the relevant impacts and Development Plan policy, CIL or Section 106, or a combination of both, will be used. They will include as a minimum, the draft terms of the Agreement or the Unilateral Undertaking together with Proof of Title. The draft terms should have been clarified before an application is submitted, and should arise directly from the development itself.

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<sup>40</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps23/)

<sup>41</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps1/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps1/)

<sup>42</sup> [www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps4/](http://www.communities.gov.uk/planningandbuilding/planningsystem/planningpolicy/planningpolicystatements/pps4/)

A standard template should be used where available. Further advice on these Agreements can be found in Circular 5/2005<sup>43</sup> and the accompanying Best Practice Note, and Community Infrastructure Levy Guidance<sup>44</sup>.

When may they be required?

- With all applications that are accompanied by an Environmental Statement (see below) that identifies impacts that need to be compensated or mitigated;
- With all major applications, unless otherwise agreed by the Council;
- With all applications requiring the provision of, "locally affordable housing" in accordance with Core Policy 8 (Saved) and saved policies HSG2 and HSG5 of the North Warwickshire Local Plan 2006.
- With all applications being dealt with as departures from the Development Plan;
- With all applications involving a Green Travel Plan;
- With applications involving saved policies COM3 and ECON4 of the North Warwickshire Local Plan 2006;
- With all applications that involve the loss of Open Space in accordance with saved policy ENV5 of the North Warwickshire Local Plan 2006.

## **bb) Environmental Statement**

What is this and when is it required?

This arises from a statutory obligation invested in The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999<sup>45</sup>. It requires a developer to prepare an Environmental Statement (required for Schedule 1 projects and for some Schedule 2 projects as defined by the above regulations) to enable the Council to give proper consideration to the likely environmental effects of a proposed development. Where an EIA is required, an Environmental Statement in the form set out in Schedule 4 to the regulations must be provided. Where EIA is not required, the local planning authority may still require environmental information to be provided.

If you are in doubt as to whether your proposal would require the submission of an EIA, you may seek a 'Screening Opinion' from the Council prior to submitting your application. The Council will then set out whether an EIA is necessary, and if so, for what reasons. Where an EIA is deemed necessary, you may also request a 'Scoping Opinion', which will set out what the Environmental Statement should address.

Where an Environmental Statement is required, and a prior Screening Opinion from the Council does not indicate otherwise, your application will not be validated until such a time where the necessary Statement has been provided.

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<sup>43</sup> [www.communities.gov.uk/publications/planningandbuilding/circularplanningobligations](http://www.communities.gov.uk/publications/planningandbuilding/circularplanningobligations)

<sup>44</sup> [www.communities.gov.uk/publications/planningandbuilding/cilguidance](http://www.communities.gov.uk/publications/planningandbuilding/cilguidance)

<sup>45</sup> [www.legislation.gov.uk/uksi/1999/293/contents/made](http://www.legislation.gov.uk/uksi/1999/293/contents/made)

## Design and Access Statements

These must accompany many types of applications for planning permission: Since their introduction in 2006, the requirements for such Statements have been relaxed under Statutory Instrument 2010 No. 567<sup>46</sup>. Currently, Design and access statements are required as set out below:

Type/location of application	Previous status	Current Status
Householder development in World Heritage sites, Conservation Areas or requiring Listed Building consent	<b>DAS required</b>	<b>DAS required</b>
Householder development in National Parks, AONBs, the Broads or SSSIs	<b>DAS required</b>	DAS not required
Householder development outside of the areas listed above	DAS not required	DAS not required
Certain non-residential development* in World Heritage sites, Conservation Areas or requiring Listed Building consent	<b>DAS required</b>	<b>DAS required</b>
Certain non-residential development* in National Parks, AONBs, the Broads or SSSIs	<b>DAS required</b>	DAS not required
Certain minor non-residential development* outside of the designations listed above	<b>DAS required</b>	DAS not required
Applications for the removal or variation of conditions on existing permissions (s.73)	<b>DAS required</b>	DAS not required
Walls, gates, fences and other means of enclosure up to 2m in height in a World Heritage Site, Conservation Area or requiring Listed Building consent	<b>DAS required</b>	<b>DAS required</b>
Walls, gates, fences and other means of enclosure up to 2m in height, outside of the designations listed above	<b>DAS required</b>	DAS not required
On operational land, the erection of certain buildings or structures* provided these are not in a World Heritage Site or Conservation Area or affecting a Listed Building	<b>DAS required</b>	DAS not required
On operational land, the erection of buildings or structures* which are in a World Heritage Site or Conservation Area or affecting a Listed Building, or larger than the restrictions listed <sup>23</sup>	<b>DAS required</b>	<b>DAS required</b>
Erection, alteration or replacement of certain plant or machinery* provided this is not in a World Heritage Site or Conservation Area or affecting a Listed Building	<b>DAS required</b>	DAS not required
Erection, alteration or replacement of plant or machinery* which is in a World Heritage Site, Conservation Area or affecting a Listed Building, or larger than the restrictions listed in the SI	<b>DAS required</b>	<b>DAS required</b>

\* In these circumstances, Design and Access Statements are required except in the following circumstances:

<sup>46</sup> [www.legislation.gov.uk/uksi/2010/567/pdfs/uksi\\_20100567\\_en.pdf](http://www.legislation.gov.uk/uksi/2010/567/pdfs/uksi_20100567_en.pdf)

## APPENDIX C

- i. engineering or mining operations
- ii. development of an existing dwellinghouse, or development within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse, where no part of that dwellinghouse or curtilage is within a designated area
- iii. a material change in the use of land or buildings, unless it also involves operational development
- iv. extensions to the time limits for implementing existing planning permissions
- v. development of an existing flat for any purpose incidental to the enjoyment of the flat as such, where no part of that flat is within a designated area
- vi. the extension of an existing building used for non-domestic purposes where the floor space created by the development does not exceed 100m<sup>2</sup> and where no part of the building or the development is within a designated area
- vii. the erection, construction, improvement or alteration of a gate, fence, wall or other means of enclosure, up to 2m high or the height of the existing means of enclosure, whichever is the higher, where no part of the building or the development is within a designated area or the curtilage of a listed building
- viii. development on operational land consisting of the erection of a building or structure up to 100m<sup>3</sup> in volume and 15m in height and where no part of the development is within a designated area
- ix. the alteration of an existing building where the alteration does not increase the size of the building and where no part of the building or the development is within a designated area
- x. the erection, alteration or replacement of plant or machinery where, as a result of the development, the height of the plant or machinery would not exceed the greater of 15m above ground level, or the height of the original plant or machinery, and where no part of the development is within a designated area
- xi. development of land pursuant to section 73 (determination of applications to develop land without conditions previously attached) of the Town and Country Planning Act 1990
- xii. applications relating to advertisement control, tree preservation orders or storage of hazardous substances
- xiii. applications for prior approval for proposed development, or non-material amendments to existing planning permissions.

Design and access statements are required for applications for listed building consent, and these statements differ slightly in content, as discussed in more detail in paragraph 6.9 of [www.communities.gov.uk/documents/planningandbuilding/pdf/1505220.pdf](http://www.communities.gov.uk/documents/planningandbuilding/pdf/1505220.pdf)

More information can be found at [www.northwarks.gov.uk/planning](http://www.northwarks.gov.uk/planning).



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## **Agenda Item No 8**

### **Planning and Development Board**

**20 December 2010**

**Report of the  
Head of Development Control**

**Planning Fees  
Consultation Paper**

## **1 Summary**

- 1.1 The Government has published a Consultation Paper setting out its proposals to enable Local Planning Authorities to replace the national schedule of planning fees, with their own bespoke scale of fees so that they can recover the costs of handling planning applications.

### **Recommendation to the Board**

**That the Board responds to the consultation paper by**

- a giving a general welcome to the opportunity to prepare its own schedule of planning fees;**
- b agreeing with the suggestion that re-submitted applications should carry a fee, and that the fee to be charged for handling retrospective applications should reflect prior investigatory work, together with;**
- c suggesting that when a planning application involves a Listed Building, a higher fee should be charged so as to reflect the additional costs because of the specialist advice that is needed in such cases. Listed Building applications themselves can remain non-fee earning as at present.**

## **2 Consultation**

### **2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members**

- 2.1.1 No consultation has taken place.

## **3 Background**

### **3.1 The Proposals**

- 3.1.1 The Government has very recently published a consultation paper proposing changes to the planning application fees regime which would give the responsibility for setting fees to Local Planning Authorities. Fees are currently set

nationally. The Government considers that this is contrary to “the spirit of localism”, and that given that the majority of Authorities are failing to recover costs from fee income, then this would enable authorities to set their own fees in order to reflect local costs. If the consultation is favourable, then the changes could be implemented from April 2011 with a transitional period until October 2011.

- 3.1.2 The consultation paper makes it clear that the income from a fee must not exceed the cost of performing the fee-related function. In this instance, it is recognised that the fee payable would reflect the overall cost of handling, administering and deciding the application, including related overheads. At present, fees are payable only for certain categories of application – see Appendix A. The Paper makes it clear that it is the Government's view, that some of the existing categories which carry no fee, should remain as non-fee paying applications. In particular, Listed Building applications; Conservation Area Consent applications and Tree Preservation Order applications would remain exempt. The argument is that owners can not opt out of these designations, and because such designations confer burdens to maintain and preserve property that is in the public interest. However, the Paper does ask for views on the potential for removing the “free go” for re-submitted applications following the withdrawal or refusal of an earlier application, and secondly, on whether the fee for retrospective applications should be higher where the application has come about as a consequence of investigatory work by an authority prior to submission.

#### 4 **Observations**

- 4.1 In general terms, nationally, it is thought that only some 65% of chargeable activity is actually recovered through fee income. That will be likely to be the case in North Warwickshire too, so in principle, the opportunity to fully recover costs is welcomed. The ability too, to be able to charge for re-submissions is welcome, as there is still a cost associated with that type of application. Additionally, the ability to recover full costs associated with retrospective applications is similarly welcomed, as substantial amounts of preliminary investigatory work is often undertaken in these cases. Two initial points of caution however do need to be made. Firstly, the setting of fees as now proposed will result in a set of charges for different categories of planning and related applications, as is the case now. It will not result in the applicant paying the cost of the service handling his own individual application. As a consequence, the fees that are set will reflect the “average” cost of handling that category of application. Secondly, fee income only relates to the recovery of the costs of “chargeable” activity. There is still activity and work undertaken presently by the service that could not be charged out into the fee schedule – eg: providing general advice and guidance; pre-application discussions, work on appeals following determination, and much investigatory and enforcement activity.
- 4.2 Whilst the ability to introduce bespoke North Warwickshire planning fees is welcomed, there are one or two issues that should be brought to Member's attention.
- i) Firstly, over the past two years, around 10% of all applications received in North Warwickshire have been non-fee earning. In the main these are Listed

Building applications. The Government's argument for them continuing to attract no fee is understood, but as Members are aware they do and can take up a significant amount of officer time. Many of these applications accompany planning applications. It is considered that there should be separate category for fee purposes when a planning application relates to a Listed Building, and that that fee should reflect the input of other specialist officers. For works which require just an application simply for Listed Building Consent, where no planning application is required, could still the not incur a fee. This approach ought to reflect the Government's ambition of reducing the type of application needed through a single Development Consent procedure.

- ii) Secondly, over the past two years, around 35% of applications received in North Warwickshire have been for householder works. Yet, they only brought in 12% of the total fees received. This disproportion is highlighted at this very early stage, as it will have to be addressed when the decision is made to set our own scale of fees.

## **5 Next Steps**

- 5.1 A recommended response to the Consultation Paper is set out above.
- 5.2 It is considered inevitable that planning fees will be decentralised next year, whether as simply set out in the paper, or in some amended form as a consequence of the consultation. With this in mind, the service has already commenced work on identifying the proportion of time taken on potentially chargeable activity in order to provide the background information for a new scale of fees. Additionally, as the service has been looking at the introduction of pre-application charges, it seems opportune to look at ways in which pre-application charges can be incorporated into the fee structure package. This will all take a little time as applications normally take six to ten weeks in which to be determined. This work will need to be complete and robust if it is then to be used to calculate a schedule of fees. The recommended schedule will then need to be reported to Board. It is thus anticipated that the earliest opportunity for the introduction of our own fee scale would not be until July 2011.

## **6 Report Implications**

### **6.1 Finance and Value for Money Implications**

- 6.1.1 These will become clearer as the work is completed on costing chargeable activity, but the intention to cover such costs will bring benefits to the service.

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

### **Background Papers**

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

<b>Background Paper No</b>	<b>Author</b>	<b>Nature of Background Paper</b>	<b>Date</b>
Proposals for Changes to Planning Application Fees in England – Consultation Paper  Planning Costs and Fees – Final Report			

# Annex A

## Fees for development management services

A fee is currently payable for:

- 1) Applications for:
  - full or outline planning permission
  - non-material changes to planning permission
  - approval of reserved matters
  - certificates of lawfulness of existing or proposed use or development
  - consent to display advertisements
  - determination as to whether prior approval will be required for permitted development
- 2) Requests for confirmation that conditions attached to a grant of planning permission have been complied with
- 3) Site visits to a mining or landfill site

A fee is currently not payable for:

- 1) Applications for Listed Building consent
- 2) Applications for Conservation Area consent
- 3) Applications for works to trees covered by a tree preservation order
- 4) Applications that are resubmitted following withdrawal or refusal
- 5) Applications for development to dwellinghouses, or buildings to which members of the public are admitted, for the purpose of providing means of access for disabled people (or securing the safety, health or comfort of disabled people, in the case of dwellinghouses)

- 6) Applications for development which is allowed under permitted development rights where those rights have been removed by an Article 4 direction or a condition
- 7) Second applications (made following the granting of planning permission) relating to development of the same character or description on the same site
- 8) Applications relating to the same use class which are made necessary because of a condition
- 9) Applications to consolidate subsisting minerals planning permissions

## Fees for town and parish councils

Parish and town councils enjoy various rights under Schedule 2 Part 12 of the General Permitted Development Order to carry out works without the need to make a planning application. Where they do need to apply, they pay a 50 per cent fee.

## Fees for playing fields

There is currently a flat-rate fee of £335 for applications made by non-profit making clubs or other non-profit-making sporting or recreational organisations, relating to playing fields for their own use. The term 'playing field' includes football, cricket, hockey or hurling pitches, but not enclosed courts for games such as tennis or squash, and not golf courses or golf driving ranges.

**Agenda Item No 9**

**Planning and Development Board**

**20 December 2010**

**Report of the  
Head of Development Control**

**Enforcement Policy**

**1 Summary**

- 1.1 A review of the Council's Enforcement Policy is reported to Board following the request of the Board at its August meeting.

**Recommendation to the Board**

**That the changes as indicated in the attached draft be adopted, together with any further alterations agreed by the Board.**

**2 Background**

- 2.1 Earlier this year, following consideration of the 2009/2010 Annual Service Performance report, officers indicated that the content of the Council's Enforcement Policy was to be updated following recent experience. This report now provides that opportunity.

**3 Observations**

- ... 3.1 The reviewed Policy Statement is attached. It includes a number of editing changes in order to bring the Statement factually up to date. However the main reason for introducing this review was to reflect the experience of officers arising from site visits. As a consequence the Board's attention in particular is drawn to the new paragraphs 4.6 to 4.7.

**4 Report Implications**

**4.1 Risk Management Implications**

- 4.1.1 The reviewed paragraphs on site visits are designed to reduce the risk to officers not only when visiting sites, but also to them individually, and to the Council, should complaints or allegations be made against them as a consequence of them undertaking their duties and responsibilities.

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

## Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date

**North Warwickshire  
Borough Council**



# **Planning Enforcement Policy Statement**

**December 2010**

## 1. INTRODUCTION

1.1 The Council first adopted an Enforcement Policy in September 2001. This explained:

- ❖ what planning enforcement is about,
- ❖ what the general standards of our service would be,
- ❖ what considerations the Council would take into account when operating this function, and
- ❖ what performance and monitoring criteria would be used.

1.2 This 2010 version brings the Policy up to date.

1.3 Government has given responsibility for dealing with unauthorised development and the Enforcement of the Planning Acts to Local Planning Authorities. In most cases, the decision whether or not to take action rests with the Council. It does not always have to take action, as enforcement is a discretionary power. The decision will rest on the particular circumstances of each case. The policy and practice contained in this document outlines how this discretion will usually operate, within the resources that are available.

1.4 The Council is a signatory of the Enforcement Concordat. This is a National Code of Practice which the Government recommends is adopted by Local Authorities. It sets out standards of good enforcement practice across all of the regulatory activity, that is the responsibility of Local Authorities. The Policy outlined in this document commits investigation and enforcement action on planning matters taken in North Warwickshire to these principles, which are:

- ❖ Openness of approach
- ❖ Fair and equal treatment of all parties
- ❖ Proportionate action
- ❖ Consistency of action
- ❖ Monitoring performance against agreed standards
- ❖ Having a complaints procedure in place.

1.5 A summary of the Policy can be found after the Introduction.

1.6 For the avoidance of doubt, reference to planning enforcement and the Planning Acts in this document relates to current legislation under: -

- ❖ The Town and Country Planning Act 1990 (as amended)
- ❖ The Planning and Compensation Act 1991
- ❖ The Planning and Compulsory Purchase Act 2004
- ❖ The Planning Act 2008

- ❖ The Town and Country Planning (Listed Building and Conservation Areas) Act 1990.
- ❖ The Town and Country Planning (Hazardous Substances) Act 1990.
- ❖ The Town and Country Planning (Control of Advertisements) Regulations 2007.

The discretion on whether or not to issue an enforcement notice is contained in Section 172 of the 1990 Planning Act (as amended), and Section 38 of the Listed Buildings Act.

Details of legislation can be accessed through various sources which include at a local library, by on-line using web-sites such as [www.northwarks.gov.uk](http://www.northwarks.gov.uk) and using the links from this website or by using the web-sites: [www.rtpi.org.uk](http://www.rtpi.org.uk), [www.communities.gov.uk](http://www.communities.gov.uk) or [www.opsi.gov.uk](http://www.opsi.gov.uk).

- 1.7 The European Convention of Human Rights confers rights which are embodied in the Human Rights Act 1998. It is unlawful for North Warwickshire Borough Council or a public authority to act in a way which is incompatible with a Convention right.
- 1.8 Rights under this Act may in certain circumstances require positive action to ensure protection. An infringement of human rights may also arise from an omission to act in appropriate cases rather than from the acts themselves. A failure to act may leave the authority open to a claim under the Act.
- 1.9 So far as it is possible to do so, interpretation of the powers contained in the Planning Acts must be given effect to be compatible with the Human Rights Act. There may be cases where human rights issues could become an overriding consideration in a decision to initiate enforcement action. The procedures outlined in this document will have regard to this factor at all appropriate stages.

## **2. THE COUNCIL'S POLICY**

2.1 The Council recognises the importance of establishing effective controls over unauthorised development in order;

- ❖ not to undermine the Development Plan for North Warwickshire,
- ❖ to ensure that changes to our environment are appropriate, and
- ❖ to remedy the undesirable effects of such developments so achieving the outcomes set out in the Council's Corporate Priorities.

2.2 In operating this service the Council will:

- ❖ act in accordance with the principles of the Enforcement Concordat;
- ❖ consider the Development Plan, and other material considerations in accordance with Section 38 of The Planning and Compulsory Purchase Act 2004; and,
- ❖ consider the implications of the Human Rights Act 1998.

2.3 The investigation of breaches of planning control will:

- ❖ ensure that when an enquiry meets the criteria set out in this policy this enquiry will be registered, and that action will be taken to initiate an investigation;
- ❖ assess each case to determine whether or not there has been a breach of control;
- ❖ lead to a report being taken to either Local Members, the Chair and Vice Chair of the Planning and Development Board or to the Planning and Development Board if a breach has been identified;
- ❖ ensure that the Members are fully aware of all of the aspects and considerations in the case such that it can take a decision on whether or not it is expedient to take formal action in the public interest.
- ❖ Pursue matters in the Courts, if appropriate, when the case requires resolution.

2.4 Our performance will be measured by the following indicators:

### **a) Efficiency**

- ❖ To investigate all registered complaints on the basis of the approach set out in the "Priorities for Action" list in which for high priority cases a site visit is made within one working day of receipt of the complaint; medium priority cases a site visit is made within seven working days of receipt of the complaint; and, low priority cases a site visit is made within fourteen working days of receipt of the complaint.

- ❖ To notify all complainants either in writing or by telephone of the outcome of their complaint and provide a full explanation of the case within seven days of the matter being resolved.

**b) Effectiveness**

- ❖ To determine whether there is a breach of planning control or not in 65% of cases within 21 days.
- ❖ To aim to have all conditions discharged at the appropriate time.
- ❖ To serve all Notices within eight weeks of the Assistant Chief Executive and Solicitor to the Council or the Board's decision to do so.

**c) Monitoring**

- ❖ To report performance against Indicators to the Board on an annual basis.
- ❖ This Policy will be reviewed in December 2012.

### **3. PROCEDURES FOR REGISTRATION AND INVESTIGATING AN ALLEGED BREACH OF PLANNING CONTROL**

#### **Registration of the Complaint**

- 3.1 Complaints will generally only be investigated if provided, or subsequently confirmed, in writing by letter or e-mail. The complaint will need to detail:
- The precise location of the site or property which the complaint relates;
  - The nature of the breach of planning control occurring;
  - An indication of the harm that is arising; and,
  - If possible, the identity of the person/organisation responsible and the date and/or time the breach began or is occurring.
- 3.2 Such confirmation allows the harm to be more readily assessed and action is more likely to be effective if comprehensive and tangible evidence is available from the outset. Exceptions to this will be where detail genuinely cannot be provided or the harm is considered to be such as to warrant urgent investigation.
- 3.3 Complaints will only be acted upon if they are motivated by planning harm. A number of complaints can be malicious or motivated by neighbour or business disputes which have nothing to do with planning. The pursuit of such complaints not only diverts resources away from serious breaches of planning control but also can give rise to serious harm and may even infringe human rights. If there is evidence that such issues motivate a complaint it will not be registered or pursued. Anonymous complaints will also not normally be registered or investigated. The discretion to register and investigate a complaint will be based on the professional opinion of a Chartered Town Planner or equivalent.
- 3.4 Once a complaint has been registered, the Senior Enforcement Planner will allocate a Case Officer. The acknowledgement will identify the Case Officer's name and contact details. All complaints will be treated in confidence. Unless required by law, the Council will not reveal the source of complaints, although complainants will be advised that in the event of formal action in the Courts or at a public inquiry, the production of their evidence in person is more likely to secure a successful outcome.
- 3.5 The Registration of an enquiry will be recorded on the planning site history of that address, and other Divisions notified where appropriate.

## **4. THE INVESTIGATION**

4.1 Despite measures to improve the way that the Service is provided, it will never be able to meet everyone's expectations. The investigation of breaches of planning control will therefore need to be prioritised in order to make the most efficient use of available resources to reflect both the nature of the alleged breach; the ongoing work commitment and the Service's commitment to securing results. In order to assist the prioritisation of the overall workload, the following list of "Priorities for Action" indicates how the various types of enforcement issues will be ranked and how the available resources will be subsequently be allocated. All registered complaints will be investigated on the basis of the approach set out. Where delays may be involved, complainants will normally be advised.

### **a) Priorities for Action**

#### **4.2 High Priority Cases**

- 1) Ongoing Court or Appeal Proceedings against a breach of planning control;
- 2) New complaints of serious irreparable harm which includes:
  - Unauthorised works involving Listed Buildings or demolition of buildings within Conservation Areas;
  - Unauthorised works to protected trees (Tree Preservation Orders or the felling of trees within a Conservation Area)
  - A wholly incompatible large-scale use.
- 3) Cases where immediate action is likely to safeguard significant potential impact.

#### **Medium Priority Cases**

- 1) Ongoing breaches of an effective Enforcement Notice.
- 2) New complaints of serious harm (not classed as high priority cases) to the amenities of a neighbourhood, or where the openness of the countryside, or the rural character of the Borough is seriously threatened.

#### **Low Priority Cases**

- 1) Ongoing investigations where no harm has been identified or minor harm is reparable.
- 2) All other new complaints.

### **b) Timescales for Dealing with Complaints**

4.3 All planning enforcement work will be carried out to the following timescales:

**High Priority Cases** – A site visit will be made within one working day of receipt of the complaint and contact with the site owner will be attempted within one working day of that site visit.

**Medium Priority Cases** – A site visit will be made within seven working days of receipt of the complaint and contact with the site owner will be attempted within two working days of that site visit.

**Low Priority Cases** – A site visit will be carried out within fourteen working days of receipt of the complaint at a pre-arranged time and date as arranged with the site owner or occupier.

4.4 All complainants will be notified of the outcome of the site visit within five working days of the site visit. Complainants will be kept fully updated of progress as the investigation develops.

4.5 All complainants will be notified either in writing or by telephone of the outcome of their complaint and a full explanation provided within seven days of the matter being resolved.

### **c) Site Visits**

#### **4.6 Right of Entry**

Section 196A of the Town and Country Planning Act 1990, as amended, provides authorised officers of the Council with rights of entry, at any reasonable hour, to enter land to ascertain whether there has been a breach of planning control; to exercise powers available to them in relation to the breach, and to check for compliance with any requirements imposed. Rights of access to a dwelling house can not be demanded without giving twenty four hours notice of the intended entry. Further rights under Section 196B exist for the Council to seek permission from the Courts to gain entry with a warrant. There are penalties in law for obstructing the lawful entry of authorised officers.

#### **4.7 General Approach**

Notwithstanding the Regulations referred to above, the Council's general approach will be proportionate to the nature of the allegation, and the following general principles will apply:

- Notice will generally be given for initial site visits, either in writing or through other forms of communication. In the case of high priority cases that require immediate site visits, no prior notice will be given. Notice of subsequent visits will depend on the circumstances of each case.
- There is a presumption that officers will inspect sites. Officers will proceed with caution if no one is present on site – particularly at residential sites. Their judgement will depend amongst other things, on the nature and priority of the case; the risks to officers, and the site history.
- Officers will not place themselves at risk.
- Officers will carry up to date identity cards and authorised officer cards to show if requested.
- Officers will act in accordance with the Council's Child Protection Policy if any children are present on site at the time of the visit.

- Alternatives to site visits, whether in conjunction with an agreed visit or when an agreed visit has not been possible, are appropriate. These could include viewing the site from public land, or, with the agreement of the complainant, from their property. However, if in these circumstances, it can be shown that the allegation is verified, attempts will be made to contact the owner/occupier of the site, to inform him of the allegation and to establish his response. If contact is not to be made, that would only be after seeking legal advice from the Solicitor to the Council.

#### **d) Establishing that a Breach has Occurred**

- 4.8 It has to be decided whether or not a breach of planning control has actually occurred. If it has not, then the matter is resolved from a planning point of view. It may however, also be referred to another Division or Agency. A case can remain open, or “on hold”, and can be re-opened if fresh evidence becomes available.
- 4.9 In deciding if a breach has occurred or not, officers will look at:
- ❖ whether the breach is in fact, “development”, as defined by the Planning Act. If it is not, then there can be no remit to pursue action under planning legislation.
  - ❖ where “development” has occurred, then it will be necessary to determine whether or not permission already exists. This can be a permission granted by the Council following the submission of an application; a permission granted by a Development Order made by the Government – i.e. “permitted development”, or a Certificate indicating that the development is “lawful”.
  - ❖ whether the Council is time-barred from taking action.
- 4.10 To assist in the assessment, the officer will want to know:
- ❖ the planning history of the site;
  - ❖ the factual evidence available from the site itself, and the actual activity that occurs;
  - ❖ what evidence the complainant has available, and
  - ❖ what other evidence is available from the Council’s own records or other Agencies about the site and its use.
- 4.11 This assessment is a key factor in determining whether or not the Council is likely to pursue the matter to formal enforcement action. It can be factual – e.g. physical measurement, or witnessing a clear factual breach of a condition. However, often the assessment will be a matter of professional judgement e.g. is a use a “material” change of use involved? In these instances, the collation of evidence and the nature of that evidence will be particularly important.
- 4.12 The Case Officer will maintain a written record within the Enforcement file of all conversations, correspondence and contact with persons involved in the case. Accurate written records of the recordings of the site visits will be kept on the file. These records should include details of the nature of contact, date, time and content. It is important that when other officers deal with matters relating to ongoing investigation that they provide complete details for the file. These records are

essential should a prosecution ultimately be necessary so as to comply with the requirements for disclosure of evidence.

- 4.13 Once the initial visit has been undertaken, it should normally be possible for an initial assessment to be made as to whether or not “development” is involved, and if so, whether there is likely to have been a breach of planning control. If the investigation at this stage reveals that there is no development and other Divisions or parties are not involved, or that there is no breach of planning control, then the matter will be recorded on file, counter signed by the Senior Enforcement Planner or Principal Planning Control Officer and the complainant notified. The matter will then be treated as resolved and the case will be closed. The file will contain the assessment as to why the decision was reached that there was no breach.
- 4.14 If the case remains unresolved, before the expiration of the 21 days period, then the Case Officer will write to the enquirer explaining what the current position is, and will have indicated to either the Principal Planning Control Officer or the Senior Enforcement Planner what level of resources may be necessary to pursue the case.
- 4.15 Additional research, and the collection of additional information and evidence will continue commensurate with the nature of the case. Regular reviews will be set up to assess the situation. If there is still insufficient information on which to base an assessment as to whether or not there has been a breach of planning control, a decision will have to be taken by the Principal Planning Control Officer in consultation with legal officers, whether or not to put the case on “hold” or to close the case. In these circumstances the enquirer and other parties will be notified.
- 4.16 Following investigation of a complaint the persons responsible for such breaches will be informed of a possible course of action to correct such a breach and the time period over which this course of action should take place. They will also be informed of the implications of failing to comply with the Authority’s advice.

## **5. THE DECISION WHETHER OR NOT TO PURSUE ENFORCEMENT ACTION**

5.1 Following on from the initial investigations, a series of different breaches may be identified and these include:

- i) If the breach of planning control appears to be in accordance with Policies in the Development Plan then the Council will usually invite a “retrospective” application for planning permission or advertisement consent to be submitted within six weeks of the date of the letter from the Site Investigation Officer following the initial site visit.
- ii) If the breach is immune from enforcement action due to the time period in which it has been occurring and so the Council appears to be time-barred from taking action then an application for a Lawful Development Certificate will be invited to be submitted within six weeks of the date of the letter from the Case Officer following the initial site visit.
- iii) If the breach is a minor breach of planning control with no significant effects then the scheme of delegation on the decision as to whether it is expedient to take enforcement action will be followed. As a consequence the Case Officer will contact the Members of the Ward in which the breach is occurring along with the Chair and Vice-Chair of the Planning and Development Board. This contact will be made via an e-mail containing details of the breach and the reasons why it is considered to be a minor breach with no significant effects. The Members will be given a time period of one week to either agree with the decision to remain a delegated decision by the Head of Development Control or to make a request in writing for the breach to be reported to the Planning and Development Board for a decision to be made. If the breach is to be reported to the Board then the report will be prepared by the Senior Enforcement Planner in conjunction with the Case Officer.
- iv) If the breach relates to a breach of a condition imposed on a valid planning consent then the scheme of delegation on the decision as to whether it is expedient to take enforcement action by the serving of a breach of conditions notice will be the same procedure as outlined above under the minor breach of planning control in that contact will first be made with Local Ward Members, and the Chair and Vice Chair of the Planning and Development Board for authorisation to commence enforcement action.
- v) If the breach conflicts with the Policies in the Development Plan then a retrospective planning application will not normally be encouraged. Instead the Council will seek for the use to cease or unauthorised development to be removed, voluntarily. A suitable period of time will be given and will be confirmed in writing with the site owner and/or occupier. The time period allowed will be assessed for each individual case and will take into account the complexities of removing the breach. The site will be monitored during this time period by the Case Officer.
- vi) As a last resort a formal enforcement notice will be issued. The decision to serve an Enforcement Notice is a discretionary decision made on a case-by-case basis. The Council must be able to justify taking formal action and be sure that the steps specified in the notice and the period for compliance with each step, are reasonable. Thus the decision to take further action must be proportional to the level of harm involved and that, taking relevant

circumstances into account, it must be expedient and necessary to do so. The decision as to whether it is expedient and proportional to serve an Enforcement Notice rests with Members of the Council's Planning and Development Board. The aim will be to report the breach of control to the Planning and Development Board within eight weeks of the date that it is established that a breach has occurred.

- vii) If a retrospective application is made then that application will be dealt with as a normal planning application. If the application is to be reported to Board then the Planning Officer's report will include, within the assessment, arguments related to the expediency or otherwise in the service of an Enforcement Notice if the recommendation is one of refusal. If the application is a delegated item under the scheme of delegation and so does not have to be reported to the Planning and Development Board but instead can be determined by the Head of Development Control then the following will apply. The Planning Case Officer will contact the Members of the Ward in which the application relates along with the Chair and Vice-Chair of the Planning and Development Board. This contact will be made via an e-mail containing details of the planning application and the reasons why it is considered to be necessary to refuse the application and take enforcement action. The assessment will refer to the Development Plan, to the impact of the unauthorised development, and to the consequences of taking enforcement action in line with Government advice and guidance. The Members will be given a time period of one week to either agree with the decision to remain a delegated decision or to make a request in writing for the breach to be reported to the Planning and Development Board for a decision to be made. If the application is to be reported to the Board then the report will be prepared by the Planning Case Officer. If the decision to refuse planning permission and take enforcement action remains a delegated item then the Planning Case Officer will arrange for a letter to be sent with the refusal notice. The letter will explain to the applicant that a decision has been made by Members to commence enforcement proceedings and so the file will be passed to the Senior Enforcement Planner to commence proceedings. The letter will encourage the applicant to make contact with the Senior Enforcement Planner on the possibility of remedying the breach voluntarily.
- viii) In the case where no application is submitted, then the Principal Planning Control Officer or the Senior Enforcement Planner will report to Board using the same approach to the report as that used if an application had been submitted. If necessary and appropriate, consultation will have been undertaken as part of the investigation, and the Parish Council will also be invited to comment. The assessment will refer to the Development Plan, to the impact of the unauthorised development, and to the consequences of taking enforcement action in line with Government advice and guidance.

5.2 In line with the Enforcement Concordat, so that the Board can fully assess the need for action, the report will not only fairly and openly outline the impact of that action on the person with an interest in the land but also other parties involved. For instance, action could result in the closure of a business, considerable expenditure, the loss of employment etc. These need to be identified. Hence in addition to the normal content of the report, where appropriate it will make reference to the following items:

- ❖ An explanation as to why enforcement action is recommended as opposed to action by another agency.

- ❖ The reasons why a negotiated conditional permission could not be granted retrospectively.
- ❖ The reason why enforcement action is seen as the last resort.
- ❖ The specific requirements that are needed to remedy the breach.
- ❖ The time period for compliance with these requirements.
- ❖ An assessment of the consequence of compliance with the requirements of the Notice, particularly in terms of the impact on a business, or employment and perhaps on personal circumstances.
- ❖ An assessment of how the Council could assist in the mitigation of these impacts through its other services.
- ❖ Financial; crime and disorder; legal and human rights and sustainability implications.

5.3 The complainant will be informed of the assessment, and will be invited to make representations. If none are received, then the content and nature of the original enquiry will be provided. All parties will be notified of the outcome, together with an explanation as to why the decision was taken. Appeal procedures will be outlined too. The Board report will normally be within Part II of the Board agenda, from which the public and press are excluded. If the Board resolves that it is expedient to commence enforcement action, then the Officer's report will become a background paper available to the public, provided that it does not contain matters that are "exceptions" under the Freedom of Information Act.

## **6. FURTHER ACTION**

6.1 Further action will depend upon the response to the service of any Notice, and the legal remedies open to the Council should the requirements not be complied with. The initial report to the Planning and Development Board on the alleged breach of planning control will usually seek authorisation to commence legal proceedings should the subsequent Notices not be complied with. If the matter is to be pursued in the Courts, which would incur excessive costs, then a further report may be required to the Board. This report will be brought forward on the agenda where:

- ❖ there has been a clear and unambiguous breach of a Notice:
- ❖ the continuation of the breach can be shown to have a detrimental impact on the environment;
- ❖ the continuation of the breach presents a clear threat to the integrity of Development Plan policy;
- ❖ sound evidence is available, to the satisfaction of the Solicitor to the Council that shows that the offence has been committed, beyond reasonable doubt.

6.2 In this way it is anticipated that the Council will have a sound case to put to the Courts, with the maximum chance of success. If further research or evidence is required, the Board can be informed through progress reports if the item is particularly time consuming or complex. Such additional material will only be sought based on the advice of the Solicitor to the Council.

## **7. OTHER ENFORCEMENT POWERS**

7.1 Planning Contravention Notice – The Head of Development Control has delegated powers to issue this type of Notice where there is a requirement for the Council to gather information to establish whether there has been a breach of planning control or information about ownerships.

7.2 Stop Notice – When an Enforcement Notice is served, the Local Planning Authority has the powers to serve a Stop Notice to cease any unauthorised activity stated within the Enforcement Notice. The Stop Notice can require the breach of planning control to cease almost immediately after it is served. This power can result in potential financial implications to the Council if compensation has to be paid out.

7.3 Temporary Stop Notices – Section 52 of the Planning and Compulsory Purchase Act 2004 gives local planning authorities power to issue a temporary stop notice to require the immediate cessation of a breach of planning control for a limited period of 28 days. Guidance on the temporary stop notice provisions is provided in the Temporary Stop Notice Circular 02/2005.

7.4 Injunction – An Injunction is an Order of the County Court or High Court that the Court can make as it thinks appropriate to restrain an actual or anticipated breach of planning control. An application will be made to the relevant Court by the Council if it is considered a proportionate action based on the actual or anticipated breach involving serious irreparable harm.

7.5 Section 215 Notice – A Section 215 notice can be used to remedy untidy land or buildings where it is considered to be detrimental to visual amenity.

7.6 Unauthorised Advertisements – Criminal proceedings may be taken where signage is displayed without consent and where the signage is considered to be detrimental to visual amenity. A fixed penalty notice can also be issued on unauthorised advertisements requiring the offender to pay a fine of £50 to the Local Planning Authority.

## **8. MONITORING OF CONDITIONS**

8.1 The monitoring of conditions can be divided into three areas – pre-construction/implementation, during implementation, and following completion. In the first two areas it is the responsibility of the Planning Case Officer to deal with monitoring and compliance with conditions. Once the development is implemented, it is far more likely that conditions monitoring will arise as a result of a complaint that an on-going restrictive condition is not being complied with, e.g. hours of working. In these circumstances the procedure will follow that outlined in the previous sections, with the Site Investigation Officers taking responsibility for the monitoring of the condition. This section deals more particularly with procedures in the former two areas.

8.2 Monitoring of conditions prior to the commencement of development will normally be checked to ensure that all details or matters that have been reserved for approval prior to commencement have in fact been agreed. However, the commencement date and implementation is in the control of the developer and thus often it is only when work commences that conditions are checked. The Planning Case Officers for an application will be asked to promote a series of “prompt” letters at regular intervals post determination in order to gain information on a start date, and to act as a reminder to the developer. All details submitted and approved will be recorded on the planning file. A conditions monitoring sheet can be placed on the file in order to act as an aide memoir and as a quality control.

8.3 In cases where the Council is the regulatory Authority for the Building Regulations, the current practice can continue. Here, formal notice of commencement schedules are circulated throughout the Development Control Section arising from Building Control notices. Planning Case Officers will at this stage check the conditions for each commencement and take appropriate action to check outstanding and relevant conditions. Where the Regulatory Authority is an Approved Inspector, then the Case Officer will be more reliant on the ‘prompt’ letter referred to above. Building Control Officers however can still provide a valuable link as to what is happening on the ground.

8.4 On completion, it will be the responsibility of the Planning Case Officer to request that the Site Investigation Officers check the monitoring of those conditions which the Case Officer considers are at the heart of the planning consent. In certain cases, these inspections will be joint visits with the Case Officer and the Site Investigation Officer.

## 9. MEASUREMENTS OF QUALITY OF SERVICE DELIVERY THROUGH PERFORMANCE DELIVERY

### a) Introduction

9.1 In order to monitor the performance of the service against the Policy and procedures outlined here it is necessary to identify a series of Local Performance Indicators. At this stage it is important to realise that the number of Notices served may not be the most effective measure of how good an enforcement policy or service is – particularly if it is an automatic response to an enquiry and results in appeals and Court action where cases are lost. The service of a Notice is not a result in itself. In line with Government advice, the true measure of the quality of the service will revolve around the number of cases actually resolved without the need for a Notice, and the effectiveness and openness of the procedures involved.

### b) Performance

9.2 The background to the regime outlined in this document suggests that performance indicators akin to those in dealing with planning applications would be inappropriate. The indicators outlined below reflect the nature of the service described.

#### i) *Prior to the Service of any Notice*

- ❖ Establishing whether there is a breach of planning control in 65% of the enquiries within 21 days of registration.
- ❖ Board reports on breaches of control to contain all of the relevant material identified in this Document, and
- ❖ Ensure that the initial complainant is kept informed of progress at all relevant stages.

#### ii) *The Service of the Notice*

- ❖ Ensure that the Board's resolution in respect of the service of any Notice is actioned within 8 weeks of the date of that resolution.

#### iii) *Following the Service of the Notice*

- ❖ Provide regular progress reports on longstanding cases.
- ❖ Report all Notices served under Emergency powers to the next available Board meeting.

#### iv) *Additional Indicators*

9.3 It is the Council's intention to extend the Performance Indicators to look at the proactive role of the service. An additional set of Performance Indicators could include:

- the number of cases that are resolved through negotiation;
- the voluntary alteration or change to an activity or a development;
- income generated through retrospective planning applications.

**c) Monitoring**

9.4 An annual report will be taken to the Planning and Development Board.

**d) Complaints Procedure**

9.5 The Council has a Corporate Complaints Procedure if any individual is not satisfied with the service delivered by the Council. It is not proposed to introduce a separate set of procedures to apply only to the Development Control service and its delivery of the enforcement function. The Corporate Policy will provide this. Monitoring of this procedure is reported annually to the Scrutiny Board.

**e) Data Protection Act**

9.6 Register of Enforcement and Stop Notices -  
Under the terms of the Planning Act 1990 a public register is kept in the Legal Services Department of the Council of all Enforcement Notices served by the Local Planning Authority. These Notices can be viewed at the Council Offices.

9.7 All other information kept on Enforcement files is exempt from public inspection under the Freedom of Information Act 2000 as it is a Data Protection issue and so it falls under the Data Protection Act 1998. Section 31 provides an exemption in relation to regulatory activity, where it can be demonstrated that the disclosure would prejudice the "proper discharge of those functions".

**10. CONCLUSIONS**

10.1 North Warwickshire Borough Council is committed to a planning enforcement service that is credible, efficient and responsive within the existing resources committed. The performance of the enforcement service is continuously monitored with a view to updating policies and procedures in line with changing legislation and guidance and with the Service Plan of the Development Control Service. The decision to take action is based on proportionality and expediency criteria.

10.2 The Development Control Service aims to provide a high level of customer service. However, members of the public have the opportunity to seek independent professional planning advice such as contacting Planning Aid (West Midlands) via [www.rtpi.org.uk](http://www.rtpi.org.uk) or by seeking independent legal or planning advice. In the event that a member of the public is unhappy about the way in which an enforcement matter has been dealt with, the Principal Planning Control Officer will be able to discuss the case in more detail and hopefully resolve any issues. Alternatively, the Borough Council's complaints procedure is available (Tel: 01827 715341).

## APPENDIX A

### BACKGROUND TO UNAUTHORISED DEVELOPMENT AND ENFORCEMENT

A.1 This section looks at enforcement in summary, particularly concentrating on what the legislation actually says, and how Government recommends that Councils should handle enforcement activity. It is important to understand this background, as it impacts on the Council's approach to the matter. It must be understood from the outset that generally it is not illegal to carry out development, which would require permission under the Planning Acts, but that there is a risk for anyone doing so.

#### a) What is Enforcement?

A.2 The two key aspects involve:

- ❖ Investigating alleged breaches of planning control – ie development, such as building work and material changes of use, that has occurred without the benefit of an appropriate permission; and the
- ❖ Monitoring of permissions that are granted, to ensure that the development proceeds as the Council intended, when it granted the permission. This monitoring can take place before, during and after the permission is taken up.

A.3 The Council provides this service in order to:

- ❖ remedy the undesirable effects of unauthorised development;
- ❖ bring unauthorised activity under control so that the credibility of the planning system, and particularly the Development Plan, is not undermined;
- ❖ ensure that changes to our environment are appropriate, and of high quality in accordance with the standards to be expected from the Development Plan.

#### b) What Does the Legislation Allow Us To Do?

A.4 The most important point to make from the outset is that enforcement action is not automatic if a breach occurs. The Council has discretion as to whether or not to pursue such action. In other words, it is not illegal, nor is it a criminal offence to carry out development without first obtaining the appropriate permission. It is only illegal in four cases:

- ❖ the display of an Advertisement without Consent;
- ❖ making alterations to a Listed Building without Consent, and
- ❖ undertaking works to a Tree protected by an Order without Consent;
- ❖ undertaking works to trees in a Conservation Area.

Even in these cases the Council can decide whether or not to bring a prosecution.

A.5 The 1990 Planning Act allows retrospective planning applications to be made to the Council, in order to retain works already carried out, or to continue without compliance with a condition attached to a permission.

A.6 Whilst the enforcement power is discretionary, there is some guidance within the legislation to help us exercise that discretion:

- ❖ Action should only be pursued when it is “expedient” to do so in the public interest;
- ❖ when there is material harm to public amenity; and
- ❖ bearing in mind the Development Plan and Government Guidance.

A.7 Much of the legislation is amplified in Government guidance and advice. This presently appears in Circular 10/97, and in Planning Policy Guidance Note Number 18. Some key aspects are:

- ❖ Action should not be taken against technical or trivial breaches;
- ❖ It has to be proportionate to the breach, or its impact, and
- ❖ It should be seen as a last resort.
- ❖ Importantly, it may well be that other agencies, or other legislation provides the most appropriate means of remedying a breach.

A.8 Very often, the public expect the Council to enforce immediately whenever there is a breach of planning control, particularly where permission has not been granted and work has commenced. It may not be appropriate in all cases to take action. The Council is unlikely to pursue enforcement action if the sole reason for doing so is that permission does not exist.

### **c) How Will the Council Use Its Discretion?**

A.9 The Council has to consider whether or not it is “expedient” to proceed enforcement action. To do so requires a thorough assessment of the relevant facts of each and every case. The Council’s decision has to be well founded.

A.10 The Council will give particular weight towards taking enforcement action in cases where:

- ❖ there is a hazard or serious harm to public safety and health;
- ❖ there is material harm to public amenity, or where there could be immediate or irreversible harm to the locality – this could be visual harm, as well as environmental harm;
- ❖ if the breach is allowed to continue, it may undermine the Council’s ability to resist similar activities in the Borough;
- ❖ the development is such that it is a departure from the Development Plan to a degree that it undermines the Council’s Planning strategy and objectives as laid out in the policies of that Plan; and,
- ❖ the development might adversely impact on the Council’s priorities on the protection of the countryside and its cultural heritage.

A.11 If a breach has been confirmed, the Council has to consider first and foremost whether or not it would have granted a permission for that development as if an application had been submitted. This will enable the Council to assess the merits of the development; the relevant Development Plan background; local representations; and consultation responses. It will also be able to assess the impact of the development, as that development already exists. In this way, the Council's discretion should be soundly based.

**d) What Else Should be Considered at This Stage?**

A.12 Other considerations will be included in the Council's exercise of its discretion. In particular:

- ❖ whether or not action can be taken by other agencies, or under other legislation more readily and more effectively. The Council is a signatory to the Enforcement Concordat. This recommends action by the most appropriate means.

- ❖ The implications of enforcement action having regard to the Human Rights Act 1998. The fact that enforcement activity is discretionary and that it is seen as a last resort is important in this context.

A.13 All action, apart from some exceptions, attracts the right of appeal, which parallels the procedure for planning appeals. There can be delay, too, if planning applications are submitted either before or in parallel with appeals against enforcement action. Judicial reviews are common. The process can thus be very time-consuming.

A.14 In the light of the background outlined above, and particularly if action is subsequently to be pursued in the Courts, there has to be full involvement with legal advice from the outset. This involvement may extend from advice as to whether a breach has actually taken place or not and to the quality of evidence that is needed or available in order to pursue Court action. Case law is important. Often matters can revolve around interpretation of the legislation.

A.15 The Council is time-barred from taking enforcement action in certain circumstances. In other words if a breach has occurred and has continued for a certain length of time, then that development may be immune from enforcement action by virtue of the length of time – eg building works may become immune after four years. However, there are no time periods for immunity to unauthorised works to Listed Buildings.

A.16 Enforcement action by the Council does not, and should not, provide a means for individuals to further private disputes, neighbour disagreements or ownership difficulties. Neither will the Council become involved in enforcing private rights of access; Covenants attached to Title Deeds, or other legal documents. Other legislation is available to further these matters.