

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.

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

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

PLANNING AND DEVELOPMENT BOARD AGENDA

15 NOVEMBER 2010

The Planning and Development Board will meet in the Council Chamber at The Council House, South Street, Atherstone, Warwickshire on Monday 15 November 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.)

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

- 4 **Budgetary Control Report 2010/2011- Period Ended 31 October 2010** - Report of the Assistant Director (Finance and Human Resources)

Summary

The report covers 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, are given, together with an estimate of the out-turn position for services reporting to this Board.

The Contact Officer for this report is Nigel Lane (719371).

- 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 **Section 106 Agreements –Variations** – Report of the Head of Development Control.

Summary

This report provides a draft paper, at the request of the Board, outlining the options that the Council could consider to increase flexibility in Section 106 Agreements as a consequence of the current economic conditions.

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

- 7 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - September 2010** - Report of the Chief Executive and the Deputy Chief Executive

Summary

This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to September 2010.

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

8 **Tree Preservation Order - Coventry Road, Coleshill** – Report of the Head of Development Control

Summary

The purpose of this report is to note 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.

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

JERRY HUTCHINSON
Chief Executive

Agenda Item No 4

Planning and Development Board

15 November 2010

Report of the Assistant Director (Finance and Human Resources)

Budgetary Control Report 2010/2011 Period Ended 31 October 2010

1 Summary

- 1.1 The report covers 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, are given, together with an estimate of the out-turn position for services reporting to this Board.

Recommendation to the Board

That the report be noted and that the Board requests any further information it feels would assist it in monitoring the budgets under the Board's control.

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 Both Councillors' Bowden and Butcher have been consulted regarding this report. Any comments received will be reported verbally to the Board.

3 Report

3.1 Introduction

- 3.1.1 Under the Best Value Accounting Code of Practice (BVACOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but also support costs relating to such areas as finance, office accommodation, telephone costs and IT services. The figures contained within this report are calculated on this basis.

4 Services Remaining Within Resources Board

4.1 Overall Position

- 4.1.1 Net controllable expenditure for those services that report to the Planning and Development Board as at 31 October 2010 is £294,524 compared with a profiled budgetary position of £313,622; an under spend of £19,098 for the period. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period. Where possible, the year-to-date budget figures have been calculated with some allowance for seasonal variations, in order to give a

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better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

4.2 Planning Control

4.2.1 Income is currently ahead of forecast by £6,239 due to a large value planning application. In addition there is a reduction in professional services of £5,490 and postage of £3,659.

5 Performance Indicators

5.1 In addition to the financial information provided to this Board, when the budgets were set in February, performance indicators were included as a means of putting the financial position into context. These are shown at Appendix B.

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5.2 The position after five months is that the gross cost of planning applications is higher than expected due to a lower number of applications to date, partially offset by lower professional advice costs. The gross costs of Land Charges are higher per search as a lower number of searches have been completed than expected. The net income per search is higher than expected as the actual mix between personal searches and full searches has changed in favour of the higher priced full searches.

6 Risks to the Budget

6.1 The key risks to the budgetary position of the Council from services under the control of this Board are:

- The need to hold Public Inquiries into Planning Developments. Inquiries can cost the Council around £20,000 each.
- Reductions in income relating to Planning applications.
- Risk to the mix of Local Land Charge applications not bringing in the expected level of fee income.

7 Estimated Out-turn

7.1 Members have requested that Budgetary Control Reports provide details on the likely out-turn position for each of the services reporting to this Board. The anticipated out-turn for this Board for 2010/2011 is £521,740 as detailed in the table below:-

	£
Approved Budget 2010/2011	496,740
Potential reduction in Planning Fee income	25,000
Expected Out-turn 2010/11	521,740

7.2 Although planning income is ahead of the profiled budget at this point, without the receipt of any further large applications, a shortfall against the full year income budget is still expected

7.3 The figures provided above are based on information available at this time of the year and are the best available estimates for this board, and may change as the financial year progresses. Members will be updated in future reports of any changes to the forecast out turn.

8 Building Control

8.1 The table below analyses the figures provided by the Partnership for the period up to 30 September 2010 and details the impact for this Council:

	The Building Control Partnership £	NWBC share £
Net Budget	189,890	72,590
Additional loss predicted for the year (34.3%)	30,910	10,602
Predicted net budget	220,800	83,192
Less NWBC Support costs recharged to the partnership		(32,090)
Net Cost to NWBC in 2010/11		51,102

8.2 The approved budget provision for Building Control is £51,510. The table above shows that unless the Building Control Partnership figures deteriorate further, then North Warwickshire Borough Council will have sufficient budget to cover the current predicted situation.

9 Report Implications

9.1 Finance and Value for Money Implications

9.1.1 The Council's budgeted contribution to General Fund balances for the 2010/2011 financial year is £17,310. The anticipated shortfall in planning income of £25,000 will affect this contribution, although this will be more than offset by expected reductions in Board expenditure elsewhere. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board for comment.

9.2 Environment and Sustainability Implications

9.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

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 and Development Board
Budgetary Control Report 2009/2010 as at 31 October 2010**

Description	Approved Budget 2010/2011	Profiled Budget October 2010	Actual October 2010	Variance	Comments
Planning Control	389,780	264,230	249,022	(15,208)	comment 4.2.1
Building Control Non fee-earning	67,130	9,112	8,664	(448)	
Conservation and Built Heritage	33,660	33,428	33,304	(124)	
Planning Delivery Grant	1,220	712	712	-	
Local Land Charges	(2,280)	1,922	(30)	(1,952)	
Street Naming & Numbering	7,230	4,218	2,852	(1,366)	
	496,740	313,622	294,524	(19,098)	

Agenda Item No 5

Planning and Development Board

15 November 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

5.2 The next meeting at which planning applications will be considered following this meeting, is due to be held on Monday, 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/2008/0575	4	Plots 42 & 43 Former Builders Yard Hayes Road Hartshill Erection of 2 detached dwellings with garages and associated parking	General
2	PAP/2010/0368	24	The Stables Caldecote Hall Drive Caldecote Warwickshire Refurbishment and extension in to redundant areas of 6 residential unit, creation of 2 new residential units, loss of 1 residential unit [incorporated in to existing unit], all within the existing envelope of the stable block.	General
3	PAP/2010/0403	37	Sandrock Tamworth Road Corley Retention of single storey rear kitchen extension.	General
4	PAP/2010/0488	48	The Elms Kingsbury Road Marston Change of use from residential to four bed residential children's home	General

General Development Applications

(1) Application No PAP/2008/0575

Plots 42 and 43, Former Builders Yard, Hayes Road, Hartshill

Erection of 2 detached dwellings with garages and associated parking, for Persimmon Homes (North Midlands)

Introduction

This matter is reported to confirm action taken in respect of the Section 106 Agreement relating to the above planning permission.

Background and Observations

The above application was approved in October 2009 subject to conditions and subject to a Section 106 Agreement relating to the provision of affordable housing and to a contribution towards open space requirements.

A request was recently received from Persimmon Homes, the developers of the Hayes Road site, to modify the terms of the Agreement in respect of the affordable housing clauses.

For reference the original Agreement is attached as Appendix 1, and the Deed of Modification to this Agreement is attached as Appendix 2.

Persimmon Homes indicated that no lender will accept an Agreement which restricts them to using the property as affordable housing only, in the event that they take possession or which restricts them by making them try to sell to another Registered Social Landlord (RSL) for a period of more than three months. It was argued that this is now known in the industry as an 'ineffective mortgagee exclusion clause'. They suggested that without a variation they would never be able to charge the stock at its full market value to help them raise more funds to develop.

The terms of the variation have been negotiated, such that, in the event of repossession from a Registered Provider, the Council or a Registered Provider should have first call on the property and that the valuation should reflect its use as affordable housing.

The modification will allow social landlords to borrow more and thereby provide more social housing. The risks are deemed to be quite low given the regulation of social landlords by the Homes and Communities Agency and that the Council would have an option of buying the housing itself or arranging for another social landlord to take it over. This was considered a reasonable variation.

The request was reported to the Board's Chair, Vice Chair and local Members with a recommendation that authority be given to the Chief Executive to agree the Deed of Variation. Comments from Members were sought by 15 October 2010. No adverse comments were received and officers proceeded to agree the Deed of Modification.

Recommendation

That the action taken be NOTED.

BACKGROUND PAPERS

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

Planning Application No: PAP/2008/0575

Background Paper No	Author	Nature of Background Paper	Date
1	Persimmon Homes	S106 Agreement	28 Oct 2009
2	Persimmon Homes	Deed of Modification	26 Oct 2010
3	Case Officer	Consultation with Councillors	08 Oct 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.



I hereby certify this to be a true
copy of the original
Steve May, Solicitor

Date 25 October 2009

- (1) **PERSIMMON HOMES LIMITED**
- and -
(2) **NORTH WARWICKSHIRE BOROUGH COUNCIL**

pursuant to Section 106 of the Town and Country Planning Act 1990
relating to land to the rear of 61 School Lane, Hartshill
Warwickshire

**Harvey Ingram LLP
Solicitors**

20 NEW WALK
LEICESTER
LE1 6TX

Telephone 0116 254 5454
Facsimile 0116 255 4559
Web site www.harveyingram.com

REF A/LJW/PER091/02

THIS AGREEMENT is made the 23rd day of October 2009

BETWEEN:

- (1) **PERSIMMON HOMES LIMITED** whose registered office is situate at Persimmon House Fulford York YO19 4FE ("the Owner") and
- (2) **NORTH WARWICKSHIRE BOROUGH COUNCIL** of South Street Atherstone Warwickshire CV9 1BD ("the Council")

DEFINITIONS

In this Agreement the following terms and expressions shall have the following meanings:

"the Act" means the Town and Country Planning Act 1990 as amended

"the Affordable Housing Unit" means plot 32 as shown on the Plan which is to be made available to person(s) who are unable to resolve their housing needs in the open market and which is provided in accordance with Clause 2 of this Agreement

"the Application Site" means a parcel of land at Hayes Road Hartshill Warwickshire and which is shown edged and hatched green on the Plan

"Commencement of Development" means the earliest date on which any of the material operations (as defined by Section 56(4) of the Town and Country Planning Act 1990) pursuant to the implementation of the Development is begun with the exception of any works carried out in connection with any archaeological investigation of the Application Site or trial holes or other operations to establish the ground conditions of the Application Site works of demolition decontamination or clearance of the Application Site

"the Development" means the development of the Application Site for two residential dwellings to be carried out pursuant to the Planning Permission

"Dwelling(s)" means any of the two residential units to be built or provided in accordance with the Planning Permission

"the Off-Site Open Space Contribution" means the sum of One thousand seven hundred pounds (£1,700) per dwelling to be paid to the Council pursuant to Clause 2.1 of this Agreement

"the Plan" means the plan attached to this Agreement

"the Planning Application" means the application for planning permission in respect of the Development submitted to the Council and assigned reference number PAP2008/0575

"the Planning Permission" means the planning permission to be granted by the Council upon the completion of this Agreement following the determination of the Planning Application in the form shown in the Schedule hereto

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

Throughout this Agreement whenever required by context the use of the singular shall be construed to include the plural and the use of the plural the singular and the use of any gender shall include all genders

Any reference herein to any statute or section of a statute includes any statutory re-enactment or modification thereof

Any reference to a clause or a schedule is unless the context otherwise requires a reference to a clause or a schedule of this Agreement any reference to a sub-clause is a reference to a sub-clause of the clause in which the reference appears

The expressions "the Owners" and "the Council" shall include their respective successors in title

WHEREAS:

- (A) The Owner is the owner of the Application Site which is registered at the Land Registry under title number WK453230
- (B) The Owner is also the owner of the adjacent land shown edged in blue on the Plan which is to be developed for residential purposes and is bound by the terms of the Section 106 Agreement dated 21st February 2008 made between (1) Persimmon Homes Limited and (2) North Warwickshire Borough Council
- (C) The Council is the local planning authority for the purposes of the Act and is a Principal Council for the purposes of the Local Government Act 1972
- (D) The Application Site is situated within the administrative area of the Council
- (E) By means of the Planning Application submitted by the Owner an application has been made for planning permission to carry out the Development on the Application Site
- (F) The Council is desirous of granting the Planning Permission pursuant to the Planning Application subject to conditions and subject to the implementation of the Planning Permission being regulated as set out in this Agreement

NOW THIS DEED WITNESSES as follows:

1 GENERAL PROVISIONS

Liability

- 1.1 This Agreement is made pursuant to the provisions of Section 106 of the Act and Section 111 of the Local Government Act 1972 and all other powers enabling and enactments which may be relevant for the purpose of giving validity hereto or facilitating the enforcement by the Council of the respective obligations herein contained with intent to bind the Owner's interest in the Application Site
- 1.2 In the event that the Owner shall cease to have an interest in the Application Site all liabilities of the Owner under the terms of this Agreement shall absolutely cease and determine save for any antecedent breach on the part of the Owner and the Owner shall not be liable in respect of any breach attributable to part of the Application Site in which the Owner does not have an interest
- 1.3 Nothing herein contained or implied shall give or be construed as giving any rights privileges powers or enforceability other than to the specific parties executing this Agreement and their successors (if any) as defined herein and the provisions of the Contracts (Rights of Third Parties) Act 1999 and any benefits or rights which could arise therefrom are expressly excluded to the intent that no third party within the

meaning of the Act shall have any rights of enforcement in respect of any matter herein contained

Contingencies

1.4 The obligations on the part of the Owner shall be conditional upon and shall not take effect until the Commencement of Development pursuant to the Planning Permission

1.5 In the event of:

1.5.1 The expiration of the Planning Permission or

1.5.2 The revocation of the Planning Permission or

1.5.3 The quashing of the Planning Permission

The obligations of the Owner under this Agreement shall thereupon cease absolutely and the Council shall thereupon procure that any entry referring to this Agreement in the Register of Local Land Charges shall be removed within five working days of the date of any of the events referred to in Clauses 1.5.1 1.5.2 and/or 1.5.3

1.6 Nothing in this Agreement shall prohibit or limit the right to develop any part of the Application Site in accordance with a planning permission (other than the Planning Permission granted pursuant to the Planning Application referred to herein) whether granted by the Council or otherwise including on appeal and for the avoidance of doubt this Agreement will not apply to such a planning permission

Commencement of Development

1.7 The Development shall not be commenced until the Owner has given the Council seven days prior written notice of the Commencement of Development PROVIDED THAT default in giving notice shall not prevent Commencement of Development occurring

Approvals

1.8 For the purposes of this Agreement where a party is required to make a request give confirmation approval or consent express satisfaction with agree to vary or give notice of any matter such request confirmation approval consent expression of satisfaction agreement to vary or notice shall be deemed to have not been given or expressed unless given or expressed in writing and shall not be unreasonably withheld or delayed

Notices

1.9 Any notice or other written communication to be served by one party upon any other pursuant to the terms of this Agreement shall be deemed to have been validly served if delivered by hand facsimile transmission or sent by prepaid registered or recorded delivery post to the party to be served at its address herein specified or such other address as may from time to time be notified for the purpose by notice served under this Agreement specifically referring to this clause and the intention of the notice to notify an address thereunder

- 1.10 Any such notice or other written communication to be given by the Council shall be deemed valid and effectual if on its face value it is signed on behalf of the Council by an Officer or duly authorised signatory thereof

VAT

- 1.11 In the event that the provision by the Owner to the Council or other body of any land or infrastructure pursuant to this Agreement is a taxable supply for the purpose of the legislation relating to Value Added Tax in respect of which any Value Added Tax shall become payable then the Council or other body in receipt of such supply shall pay to the Owner all such Value Added Tax upon receipt from the Owners of a Value Added Tax invoice therefor

Liability of Individual Householders and Utility Companies

- 1.12 Save for the obligations relating to affordable housing at clauses 2.2 – 2.7 below this Agreement shall not be binding on any individual purchaser lessee or tenant of any individual Dwelling erected on the Application site nor any mortgagee of such person nor of any utility company who acquires an interest in the Application Site for the purpose of providing any services or supply to the Application Site or the Development thereon

Time Periods

- 1.13 It is agreed between the parties that any of the periods specified in the Agreement may be extended by mutual agreement in writing between the Owner and the Council

Arbitration

- 1.14 Any dispute under or arising out of this Agreement shall be referred to in a single Arbitrator to be agreed upon by the parties hereto or in default of agreement to be nominated by the President for the time being of the professional body relevant to the subject matter of the dispute and such reference shall be in accordance with and subject to the provisions of the Arbitration Act 1996 and any statutory modifications or re-enactments thereof for the time being in force

Registration

- 1.15 This Deed shall be registered by the Council as a Local Land Charge in the Register of Local Land Charges maintained by them
- 1.16 The Owner may make an application to the Council for written confirmation to the effect that any of the provisions of this Agreement have been completed and/or satisfied

Monitoring Compliance

- 1.17 The Owner shall notify the Council of the Commencement of Development such notification to be given in writing within 7 working days of the date thereof

2 OWNER'S OBLIGATIONS

Owner's obligations to the Council

The Owner hereby covenants with the Council:

Open Spaces Contribution

- 2.1 To pay to the Council the Open Spaces Contribution not later than the date of Commencement of Development

Affordable Housing

- 2.2 The Affordable Housing Unit shall be provided at plot 32 shown on the Plan and shall be provided as a shared ownership unit SAVE THAT the size tenure and location of the Affordable Housing Unit can be amended if agreed in writing between the Council and the Owner
- 2.3 The Transfer of the Affordable Housing Unit to a Registered Provider shall (inter alia) contain a restrictive covenant providing that the Affordable Housing Unit shall not be used for any purposes other than as provided for in accordance with the terms of this Agreement
- 2.4 Not to occupy cause or permit to be occupied any of the Dwellings to be built pursuant to the Planning Permission until a contract has been entered into with a Registered Provider for the transfer of the Affordable Housing to that Registered Provider on terms that will enable the Registered Provider to provide the Affordable Housing for the purposes set out in Clause 2.2
- 2.5 The Affordable Housing Unit shall be provided with an access road or driveway to serve it together with (where such services are reasonably available) water gas electricity telephone and such other services together with foul and surface water sewers to the intent that such Affordable Housing Unit shall become fully serviced and the Owner shall use its reasonable endeavours to procure that any access road suitable for adoption and the sewers aforesaid are subject to Agreements respectively made under Section 38 of the Highways Act 1980 and Section 14 of the Water Industry Act 1991 within 36 months of their installation or such other period as the Owner and Council may agree
- 2.6 No Dwellings beyond the percentage specified in Clause 2.4 above shall be occupied unless and until the Owner shall have complied with their obligations in the said clause save unless no Registered Provider has been willing to take a transfer of the Affordable Housing Unit whereupon the restrictions in Clause 2.4 shall not apply but the Owner shall for a period of six months after the percentage restriction has been reached continue to actively seek in conjunction with the Council to transfer the Affordable Housing Unit to a Registered Provider
- 2.7 The Affordable Housing Unit shall at all times be managed as a shared ownership unit in accordance with the objectives and/or Articles of Association of the Registered Provider or body to whom the Affordable Housing may be transferred

3 COUNCIL'S OBLIGATIONS

The Council hereby agrees with the Owner as follows:

- 3.1 To apply the Open Spaces Contribution solely for the purpose of the provision extension enhancement or maintenance of recreational facilities in Hartshill which may reasonably be expected to serve the occupants of the Development

The Owner hereby covenants with the Council:

Open Spaces Contribution

- 2.1 To pay to the Council the Open Spaces Contribution not later than the date of Commencement of Development

Affordable Housing

- 2.2 The Affordable Housing Unit shall be provided at plot 32 shown on the Plan and shall be provided as a shared ownership unit SAVE THAT the size tenure and location of the Affordable Housing Unit can be amended if agreed in writing between the Council and the Owner
- 2.3 The Transfer of the Affordable Housing Unit to a Registered Provider shall (inter alia) contain a restrictive covenant providing that the Affordable Housing Unit shall not be used for any purposes other than as provided for in accordance with the terms of this Agreement
- 2.4 Not to occupy cause or permit to be occupied any of the Dwellings to be built pursuant to the Planning Permission until a contract has been entered into with a Registered Provider for the transfer of the Affordable Housing to that Registered Provider on terms that will enable the Registered Provider to provide the Affordable Housing for the purposes set out in Clause 2.2
- 2.5 The Affordable Housing Unit shall be provided with an access road or driveway to serve it together with (where such services are reasonably available) water gas electricity telephone and such other services together with foul and surface water sewers to the intent that such Affordable Housing Unit shall become fully serviced and the Owner shall use its reasonable endeavours to procure that any access road suitable for adoption and the sewers aforesaid are subject to Agreements respectively made under Section 38 of the Highways Act 1980 and Section 14 of the Water Industry Act 1991 within 36 months of their installation or such other period as the Owner and Council may agree
- 2.6 No Dwellings beyond the percentage specified in Clause 2.4 above shall be occupied unless and until the Owner shall have complied with their obligations in the said clause save unless no Registered Provider has been willing to take a transfer of the Affordable Housing Unit whereupon the restrictions in Clause 2.4 shall not apply but the Owner shall for a period of six months after the percentage restriction has been reached continue to actively seek in conjunction with the Council to transfer the Affordable Housing Unit to a Registered Provider
- 2.7 The Affordable Housing Unit shall at all times be managed as a shared ownership unit in accordance with the objectives and/or Articles of Association of the Registered Provider or body to whom the Affordable Housing may be transferred

3 COUNCIL'S OBLIGATIONS

The Council hereby agrees with the Owner as follows:

- 3.1 To apply the Open Spaces Contribution solely for the purpose of the provision extension enhancement or maintenance of recreational facilities in Hartshill which may reasonably be expected to serve the occupants of the Development

- 3.2 Upon written request to furnish the Owner with full details of the expenditure by the Council of all monies paid to the Council by the Owner as part of the Open Spaces Contribution such details shall be provided to the Owner by way of a written statement
- 3.3 That in the event of all or any part of the Open Spaces Contribution not being applied for the purposes specified in Clause 3.1 within five years of its receipt the Council shall refund to the Owner or the party who paid the Open Spaces Contribution to the Council any unexpected contribution along with interest thereon calculated at the base rate of HSBC Bank PLC prevailing at the time the obligation to repay the monies arose for the period from the date of payment of the Contribution to the date of its repayment
- 3.4 To co-operate fully with the Owner of the Affordable Housing Unit in finding suitable occupiers for the Affordable Housing Unit

IN WITNESS whereof the parties hereby have executed this agreement as a deed the day and year first above written

SCHEDULE

Planning Permission

EXECUTED as a DEED by PERSIMMON
HOMES LIMITED acting by its attorneys in
the presence of:

John
GARRETH HANCOCK
13 ARHWELL ST
NEADENFIELD
NOTTINGHAM
NG4 2FA

Attorney
NAME *Paul Hest*

Attorney
NAME *Simon McDONALD*

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



[Signature]
—Authorized signatory
Desmond Smith



Freeth
Cartwright
LLP

DATED 26th October 2010

(1) NORTH WARWICKSHIRE BOROUGH COUNCIL

(2) PERSIMMON HOMES LIMITED

DEED OF MODIFICATION :

**SECTION 106A
TOWN AND COUNTRY PLANNING
ACT 1990**

relating to

residential development at

Hayes Road, Hartshill , Warwickshire

Cumberland Court
80 Mount Street
Nottingham NG1 6HH
United Kingdom

DX 10039 Nottingham 1

Direct Fax: 0845 050 3683
Switchboard: +44 (0)115 9369369
www.freethcartwright.co.uk

BETWEEN

(1) the Owner

PERSIMMON HOMES LIMITED

Company Number: 04108747

Registered office: Persimmon House, Fulford, York YO19
4FE

(2) the Council

NORTH WARWICKSHIRE BOROUGH COUNCIL

of South Street Atherstone Warwickshire CV9 1BD

DEFINITIONS

In this Deed "the Principal Agreement" means the agreement pursuant to Section 106 of the Act dated 28 October 2009 made between the Council and the Owner and all other defined terms used herein bear the same meanings in this deed as were ascribed to them in the Principal Agreement

BACKGROUND

- (A) The Council is a local planning authority for the purposes of the Act
- (B) The Owner is the only person against whom the obligations contained in the Principal Agreement are enforceable.
- (C) The Principal Agreement was entered into in connection with the Development and required amongst other things that a house to be constructed at plot 32 was to be a unit of affordable housing
- (D) The Planning Permission has been granted and Owner and the Council have agreed to modify the Principal Agreement only to facilitate the provision of the unit of affordable housing at plot 32 by a Registered Provider as set forth below

1. STATUTORY PROVISIONS

This Deed of modification:-

- 1.1. is made pursuant to the provisions of Section 106A of the Act
- 1.2. is a planning obligation for the purposes of Section 106 of the Act
- 1.3. is made with the intent to bind the Owner's freehold interest in the Application Site
- 1.4. is enforceable by the Council as local planning authority and
- 1.5. is executed as a deed

2. MODIFICATION OF THE PRINCIPAL AGREEMENT

- 2.1. The Council and the Owner agree that the Principal Agreement shall be modified by the deletion in its entirety of the definition of "the Affordable Housing Unit" from the definitions in the Principal Agreement and the addition of the following to the definitions in the Principal Agreement :-

"

- "Affordable Housing"** housing available to persons who are unable to resolve their housing needs in the open market
- "the Affordable Housing Unit"** Means plot 32 as shown on the Plan which is to be made available as Affordable Housing subject to and in accordance with clause 2
- "Chargee"** any mortgagee or chargee of the Registered Social Landlord or the successors in title to such mortgagee or chargee or any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925;
- "Chargee's Duty"** the tasks and duties set out in clause 2.2.2
- "Protected Tenant"** any tenant who:
- (a) has exercised the right to acquire pursuant to the Housing Act 1996 or any statutory provision for the time being in force (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
 - (b) has exercised any statutory right to buy (or any equivalent contractual right) in respect of a particular Affordable Housing Unit
 - (c) has been granted a shared ownership lease by a Registered Provider (or similar arrangement where a share of the Affordable Housing Unit is owned by the tenant and a share is owned by the Registered Provider) in respect of a particular Affordable Housing Unit and the tenant has subsequently purchased from the Registered Provider all the remaining shares so that the tenant owns the entire Affordable Housing Unit;

"RP Proviso" an exemption from any liability on the part of a Registered Provider which has acquired any Affordable Housing Unit(s) in accordance with this Agreement to make or contribute towards any payment to the Council secured by a clause of this Agreement expressly made subject thereto

"

- 2.2. the addition of the expression "subject to the RP Proviso " at the end of clause 2.1 of the Principal Agreement
- 2.3. the deletion of clause 2.2 of the Principal Agreement in its entirety and the addition to the Principal Agreement of the following new clause 2.2 in substitution thereof:
 - " 2.2 The Affordable Housing Unit shall not be used other than as Affordable Housing PROVIDED THAT :
 - 2.2.1 such restriction shall not be binding on:
 - 2.1.1 any Protected Tenant or any mortgagee or chargee of the Protected Tenant or any person deriving title from the Protected Tenant or any successor in title thereto and their respective mortgagees and chargees; or
 - 2.1.2 any purchaser from a mortgagee or chargee of the Affordable Housing Unit pursuant to any default by the individual mortgagor; and
 - 2.1.3 any Chargee provided that the Chargee shall have first complied with the Chargee's Duty
 - 2.2.2 Any Chargee shall prior to seeking to dispose of the Affordable Housing Unit pursuant to any default under the terms of its mortgage or charge give not less than 3 months' prior notice to the Council of its intention to dispose and:
 - (i). in the event that the Council responds within 2 months from receipt of the notice indicating that arrangements for the transfer of the Affordable Housing Unit can be made in such a way as to safeguard it as an Affordable Housing Unit then the Chargee shall co-operate with such arrangements and use all reasonable endeavours to secure such transfer and for the avoidance of doubt the valuation of an Affordable Housing Unit that is to be transferred pursuant to this sub clause 2.2.2 (i) shall take into account the status of the unit as an

Affordable Housing Unit

- (ii). if the Council does not serve its response to the notice served under clause 2.2.2 (i). within the 2 months then the Chargee shall be entitled to dispose free of the restriction requiring it to remain a unit of Affordable Housing pursuant to this Agreement which restriction shall from the time of completion of the disposal permanently cease to apply
- (iii). if the Council or any other person cannot within 2 months of the date of service of its response under clause 2.2.2(i) secure such transfer then provided that the Chargee shall have complied with its obligations under clause 2.2.2 (i) the Chargee shall be entitled to dispose free of the restriction requiring it to remain a unit of Affordable Housing pursuant to this Agreement which restriction shall from the time of completion of the disposal permanently cease to apply

PROVIDED THAT at all times the rights and obligations in this clause 2.2.2 shall not require the Chargee to act contrary to its duties under the charge or mortgage and that the Council must give full consideration to protecting the interest of the Chargee in respect of moneys outstanding under the charge or mortgage "

3. DECLARATIONS

Other than as varied by this Deed the Principal Agreement shall continue in full force and effect and the terms of the Principal Agreement as modified by this Deed are incorporated into this Deed to any extent necessary to give effect hereto

4. COSTS

The Owner agrees to pay to the Council prior to completion of this Deed the sum of Seven Hundred and Fifty Pounds (£750.00) for its legal costs in the preparation of this Deed

5. EFFECTIVE DATE

The Modifications to the Principal Agreement made by this Deed take effect from and including the date of this Deed

6. EXECUTION AND DELIVERY

This document is executed as a deed and is delivered on the date stated at the beginning of this deed

EXECUTED as a DEED by
PERSIMMON HOMES LIMITED
acting by its Attorneys

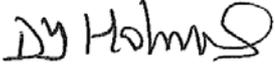
Signed:  SIMON McDONALD
.....

Attorney

Signed:  MARK WRIGHT
.....

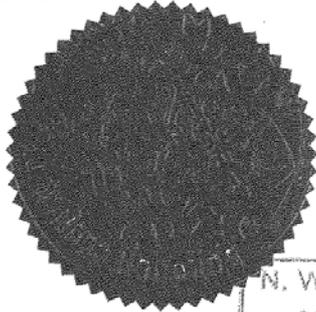
Attorney

In the presence of:

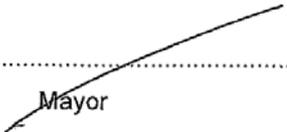
Witness' signature: 
Name (in block capitals): DAPHNE YVONNE HOLMES
Address of Witness: 55 SUTTON LANE
SUTTON-IN-THE-ELMS
BROUGHTON ASTON
LEICESTERSHIRE
LE19 6RF

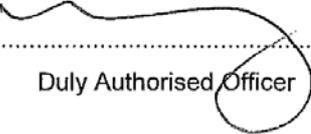
THE COMMON SEAL of
NORTH WARWICKSHIRE BOROUGH COUNCIL

was affixed in the presence of:



N. W. B. C.
SEAL
REGISTER
No 5423

.....

Mayor

.....

Duly Authorised Officer

(2) Application No PAP/2010/0368

The Stables, Caldecote Hall Drive, Caldecote, Warwickshire

Refurbishment and extension in to redundant areas of 6 residential units, creation of 2 new residential units, loss of 1 residential unit (incorporated in to existing unit), all within the existing envelope of the stable block

for Mr Gordon Harker of Festival Homes Limited

Introduction

The application is brought to the meeting following the Board's previous involvement with this site.

The Site

The application site, is part of the larger Caldecote Hall Estate, which is accessed through the village of Caldecote, to the A444 running from Nuneaton to the A5. In recent years the estate has been improved and the main hall has been converted into dwellings, along with most of the separate stable block. The current application is within the existing fabric of that stable building. It covers an area of about 0.2 hectares.

The Proposal

The proposal is for the refurbishment and extension of the existing residential units in the stable block into presently redundant areas of that block; the creation of two new residential units, and the loss of one residential unit through incorporation in to existing unit. This would result in twelve residential units within the whole of the existing stable block. The plans for the proposal can be viewed in Appendix 1. Photographs of the site can be viewed in Appendix 2.

The works would also lead to external alterations to form doors and windows and to replace existing doors and windows.

The proposal has been revised since the original submission. As Members will be aware, a recent appeal decision has led to the retention of existing haphazard garage arrangement on site, albeit with changes needed to the appearance of the garages. As a consequence a new replacement garage court to serve the residential units in the stable block has been withdrawn from the application. Secondly, there are no longer revisions proposed to an existing unit within the stable block following objections from occupiers.

Development Plan

Saved policies from the North Warwickshire Local Plan 2006 :

ENV11 – Neighbour Amenities

ENV12 – Urban Design

ENV13 – Building Design

ENV14 – Access Design

ENV1 – Protection and enhancement of the natural landscape

ECON9 – Reuse of rural buildings.

HSG3 – Housing outside the development boundaries.

ENV16 – Buildings of Local Historical Interest.

Supplementary Planning Guidance:

North Warwickshire Borough Council – A Guide for the Design of Householder Developments – Adopted September 2003

Other Material Planning Considerations

Government Advice:

Planning Policy Statement 7 - Sustainable Development in Rural Areas, and PPS5 – Planning for the Historic Environment.

Consultations

NWBC Tree Officer – The removal of the proposed new garage block will retain important trees.

Representations

Parish Council – no comments received

The occupiers of number 32 confirm support for the application following the omission of their unit from the proposals as described above. Additionally they point out that they support the overall current scheme to reuse the whole of the stable block as this would significantly enhance the area.

The Caldecote Residents Management Ltd acts on behalf of residents. It objected to the loss of trees in the original proposals that involved the construction of a separate garage block.

Observations

In order to consider the proposal, the relevant Saved Local Plan Policies from 2006 will be considered.

The policy covering the reuse of rural buildings is an important consideration. The existing building is used for residential purposes and the proposal is to use existing vacant areas to make them into larger units through remodelling some of the existing dwellings units within the building, together with the addition of new units. Whilst the residential conversion of existing buildings is not normally permitted, it is considered in this case, that as the bulk of the building is already used for residential purposes and the Caldecote Estate is mainly residential in nature, that the additional units would have no material adverse impact on that policy. Moreover it would also enhance and improve the whole area.

The extent of the proposed works is minor in respect of the setting, with only minor elevation details proposed so as to improve the existing doors and windows. The building does not require major or complete reconstruction, alteration or enlargement. None of these proposed design details are considered to result in an unacceptable loss of privacy, amenity or light to the existing tenants. The only extension is to slightly extend two first floor rear dormers, but this is not considered to overlook any residential amenity area. The existing residential units overlook the internal courtyard area and the external shared parkland area.

It is considered that the proposal is designed so as to be in-keeping with the existing property. The design is appropriate for a rural setting. Overall the works are considered to positively integrate into the existing building and the surroundings. The proposal is considered to respect and enhance local distinctiveness.

The trees in the garage area are no longer potentially threatened by the construction of a new garage block and thus are not now under threat.

Recommendation

That the application be Granted subject to the following conditions:

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

REASON

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

2. The development hereby approved shall not be carried out otherwise than in accordance with the site location plan numbered 705-01 REV A received by the Local Planning Authority on 16th July 2010 and the plan numbered 705-09 REV B (proposed site plan); 705-10 REV C (proposed ground floor plan); 705-11 REV C (proposed first floor plan); 705-12 REV A (proposed external elevations) and 705-13 REV C (proposed internal elevations) received by the Local Planning Authority on 1st October 2010.

REASON

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

3. The new works shall be carried out so as to accord with the following requirements:

- a) Infill facing brickwork are to match the existing with matching stone and brick specials.
- b) Roof tiles are to match the existing
- c) New windows and glazed doors are to be of painted timber frames to match the existing.
- d) Timber panelling is to be painted timber boarding.
- e) The rooflights are to be of a conservation type
- f) The replacement flat roof dormers are to be single ply plastic membrane with painted timber fascias and soffits.

These details shall be maintained at all times, unless agreed in writing by the Local Planning Authority.

REASON

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

4. No additional opening shall be made other than shown on the plan hereby

approved, nor any approved opening altered or modified in any manner, unless details have first been submitted to, and approved in writing by, the Local Planning Authority.

REASON

To protect the privacy of the occupiers of adjoining properties.

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

REASON

In the interests of the amenities of the area.

6. The residential units shall only be used for residential living and for no other purpose whatsoever.

REASON

In the interests of the amenities of the area.

Notes

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

3. Radon is a natural radioactive gas which enters buildings from the ground and can cause lung cancer. If you are buying, building or extending a property you can obtain a Radon Risk Report online from www.ukradon.org if you have a postal address and postcode. This will tell you if the home is in a radon affected area, which you need to know if buying or living in it, and if you need to install radon protective measures, if you are planning to extend it. If you are building a new property then you are unlikely to have a full postal address for it. A report can be obtained from the British Geological Survey at <http://shop.bgs.ac.uk/georeports/>, located using grid references or site plans, which will tell you whether you need to install radon protective measures when building the property.
4. For further information and advice on radon please contact the Health Protection Agency at www.hpa.org.uk. Also if a property is found to be affected you may wish to contact the North Warwickshire Building Control Partnership on (024) 7637 6328 for further advice on radon protective measures.
5. 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

ENV14 - Access Design

ENV1 - Protection and enhancement of the natural landscape

ECON9 - Reuse of rural buildings.

HSG3 - Housing outside the development boundaries.

ENV16 - Building of Local Historical interest.

Justification

The proposal is considered to be of a design and style that reflects the style of the existing building and features of the existing doors and windows. The character of the building will be maintained and enhanced. The building is currently used for residential purposes and the remodelling to some of the existing units and the use of the vacant storage areas is considered to be acceptable. The building is considered to offer architectural interest, to which the revisions are considered to help it remain an important local building. The proposal is not considered to result in a loss of amenity, privacy or loss of light that would result in unacceptable loss of amenity and privacy in the area, and to the nearby residential properties or to the amenity of the occupiers of the residential accommodation. The proposal is considered to comply with the relevant saved policies of the North Warwickshire Local Plan 2006. There are no material considerations which indicate against the proposal.

BACKGROUND PAPERS

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

Planning Application No: PAP/2010/0368

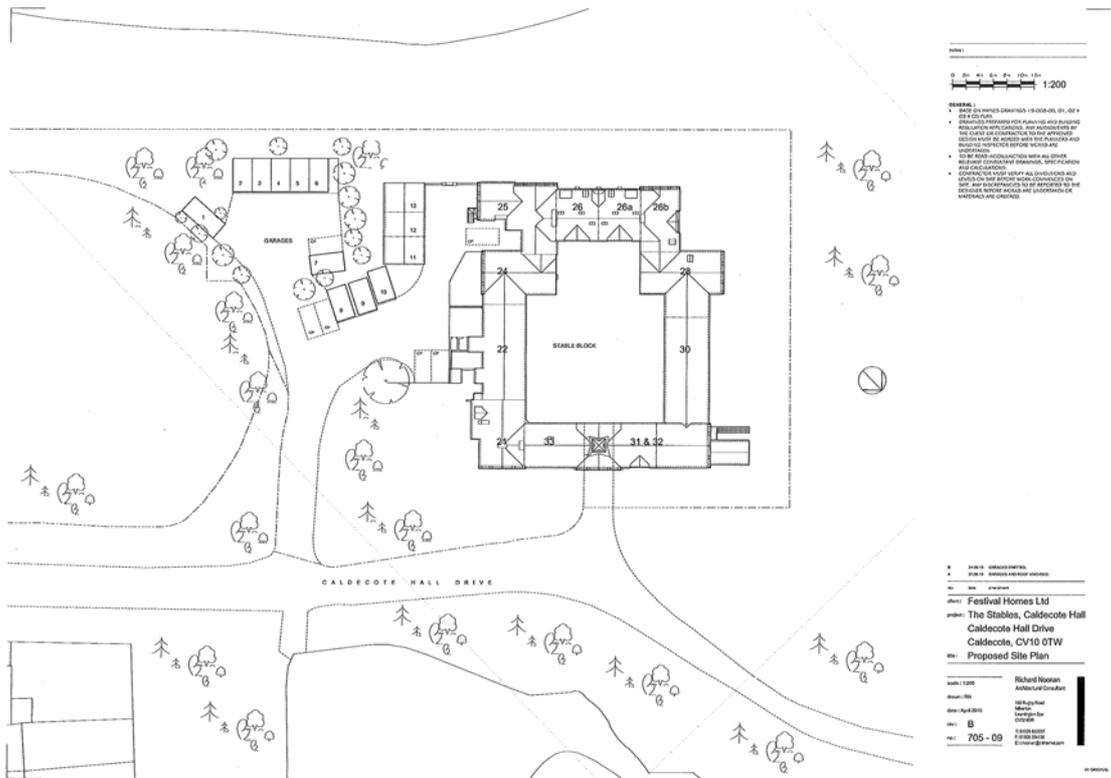
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	16/7/10
2	Case officer	File note of telephone call with Caldecote Residents Management Ltd	3/8/10
3	Case Officer	Email to Council Tree Officer	4/8/10
4	Consultation response	Caldecote Residents Management Ltd	5/8/10
5	Owner 16 Caldecote Hall	Consultation Response	5/8/10
6	Owner 32 Caldecote Hall	Consultation Response	13/8/10
7	Head of Development Control	Email to Owner 32 Caldecote Hall	13/8/10
8	Agent	Email to case officer	10/8/10
9	Case officer	Email to Agent	10/8/10
10	Head of Development Control	Email to planning and Development Board	23/9/10
11	Head of Development Control	Letter to Agent	24/9/10
12	Agent	Email to Head of Development Control	27/9/10
13	Agent	Revised plans and covering email	1/10/10
14	Owner 32 Caldecote Hall	Email to case officer	5/10/10
15	Case officer	Email to Owner 32 Caldecote Hall	5/10/10
16	Head of Development Control	Email to Planning and Development Board	5/10/10
17	Cllr Johnson	Email to Development Control	11/10/10
18	Case officer	Note of telephone message with Agent	25/10/10
19	Case Officer	Email to Chair, Vice Chair of Planning and Development Board and Local ward Councillors	25/10/10
20	Cllr Simpson	Requesting the application is taken to the Planning and Development Board	25/10/10
21	Case officer	Email to Owner 32 Caldecote Hall	26/10/10

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.

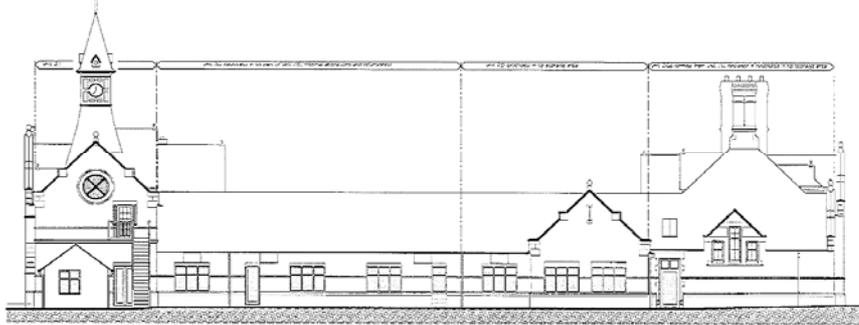


APPENDIX 1 – PROPOSED PLANS





NORTHEAST ELEVATION



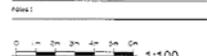
NORTHWEST ELEVATION



SOUTHWEST ELEVATION



SOUTHEAST ELEVATION



- GENERAL:**
- BASE ON PLANS DRAWINGS 19 005 00, 01, 02 & 03.
 - DRAWINGS PREPARED FOR PERMITS AND BUILDING REGULATION APPROVAL ONLY. ANY AMENDMENTS BY THE CLIENT ON CONTRACTOR TO THE PREPARED DRAWINGS MUST BE AGREED WITH THE PLANNING AND BUILDING DEPARTMENT BEFORE ANY WORK BEGINS.
 - TO BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT CONSULTANT DRAWINGS, SPECIFICATION AND CALCULATIONS.
 - CONTRACTOR MUST VERIFY ALL DIMENSIONS AND LOCUS ON SITE BEFORE WORK COMMENCES ON SITE. ANY DISCREPANCIES TO BE REPORTED TO THE ARCHITECT IMMEDIATELY AND AMENDMENTS OR MATERIALS ARE ORDERED.

- MATERIALS:**
1. ALL FACED BRICKWORK TO MATCH EXISTING WITH MATCHING STONE AND IRON SPECIALS.
 2. ALL WINDOWS AND GLAZED DOORS BRASS GLAZING TO BE PAINTED THROUGH FRAMES TO MATCH EXISTING.
 3. THESE DRAWINGS INDICATE THE FINISHING TO BE PAINTED VERTICAL TIMBER BOUNDING ROOF CAPS TO COMPLEMENT THE EQUIVALENT LANT ARCH DOORS TO BE SINGLE PAINTED VERTICAL WITH PAINTED TILES ROOFING AND SOFFITS.

A 27/01/10 1/01/10 REVISED AND FINISHED
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 FOR: Festival Homes Ltd
 PROJECT: The Stables, Caldecote Hall
 Caldecote Hall Drive
 Caldecote, CV10 0TW
 DRAWING: Proposed External Elevations
 SCALE: 1:100
 DRAWN BY: Richard Noonan
 ARCHITECTURAL CONSULTANT
 DATE: May 2010
 18 Ryle Road
 Kibworth
 Leicestershire
 LE12 9JH
 TEL: 01530 823333
 FAX: 01530 823338
 E: rnoonan@richardnoonan.com
 NO: 705 - 12



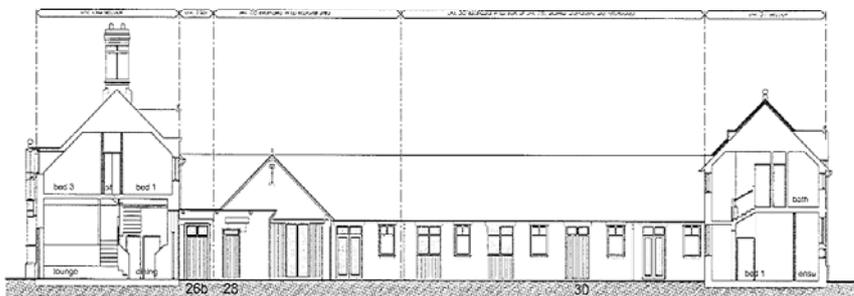
SOUTHWEST ELEVATION



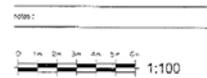
NORTHWEST ELEVATION



NORTHEAST ELEVATION



SOUTHEAST ELEVATION



- GENERAL:**
- BASED ON TANKS DRAWINGS (1900000, 01, 02 & 03).
 - DRAWINGS PREPARED FOR PLANNING AND BUILDING REGULATORY APPLICATIONS. ANY AMENDMENTS BY THE ARCHITECT OR CONSULTANT TO THE PRELIMINARY DESIGN MUST BE AGREED WITH THE PLANNING AND BUILDING REGULATORY BODIES BEFORE ANY UNDERTAKEN.
 - TO BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT CONSULTANT DRAWINGS, SPECIFICATION AND CALCULATIONS.
 - CONSTRUCTION MUST VERIFY ALL DIMENSIONS AND LOCATIONS OF ALL EXISTING WORK CONDITIONS ON SITE. ANY AMENDMENTS TO BE REPORTED TO THE ARCHITECT BY THE CONTRACTOR BEFORE ANY UNDERTAKEN OR MATERIALS ARE ORDERED.
- MATERIALS:**
REFER TO DRAWING 705-12.

A 22.05.12 LAMP 20 REVISIONS AS EXISTING

DATE: 22.05.12

CLIENT: Festival Homes Ltd

PROJECT: The Stables, Caldecote Hall
Caldecote Hall Drive
Caldecote, CV10 0TW

NO: Proposed Internal Elevations

SCALE: 1:100

DRAWN: R.N.

DATE: 1 May 2010

REV: A

NO: 705 - 13

Richard Noonan
Architectural Consultant

122 High Road
Weymouth
Dorset DT4 2JG
01305 32222
01305 24 24
E: rnoonan@festivalhomes.com

AT ORIGINAL

APPENDIX 2 – PHOTOS OF THE SITE



(3) 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

6. 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

7. 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
8. 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 it 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

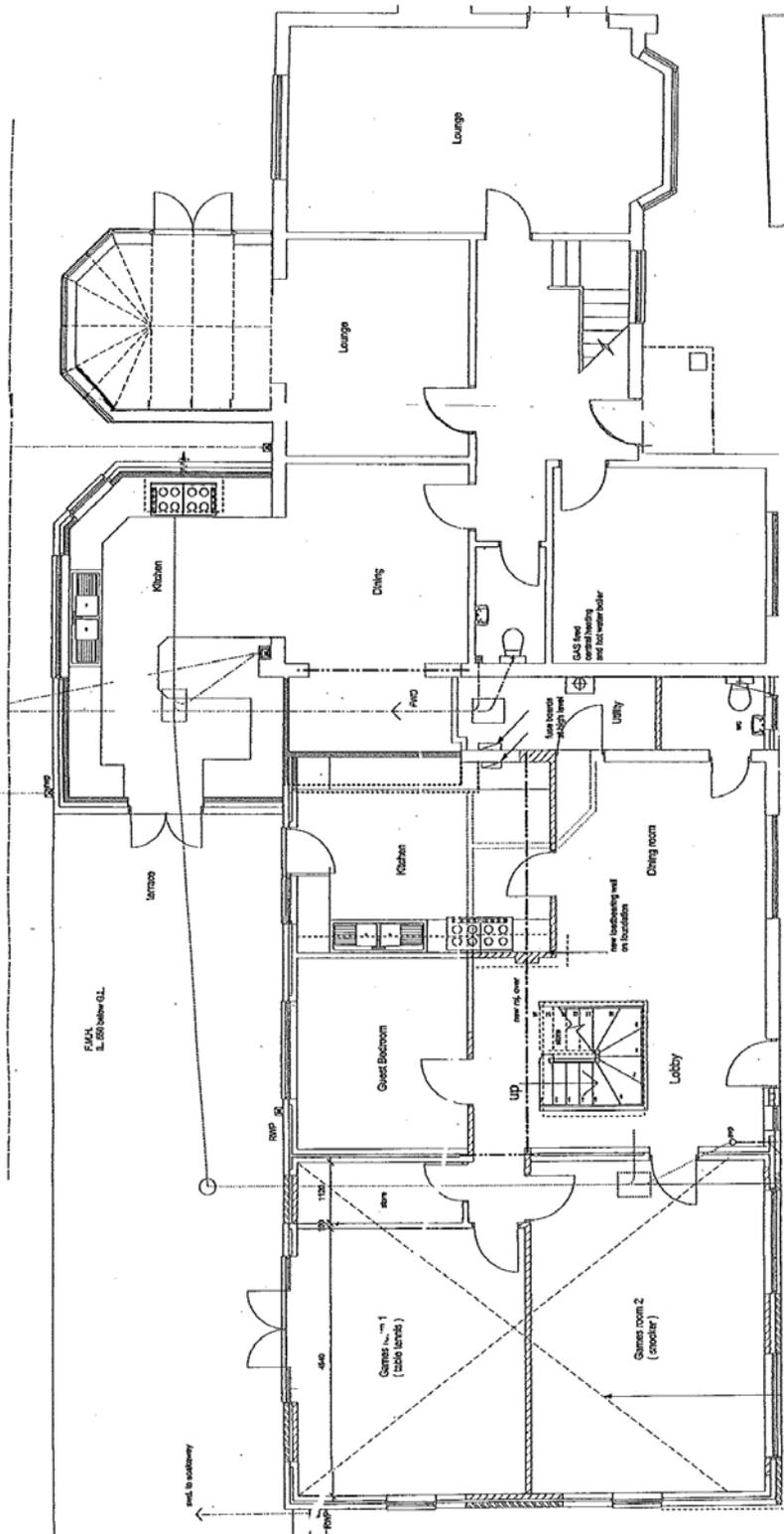
Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms and Plans	2/8/10 and made valid 21/9/10
2	Neighbour	Email of objection	28/9/10
3	Corley Parish Council	Letter of Comments	18/10/10
4	Case officer	Email report to Chair, Vice Chair and Local Borough Councillors	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.



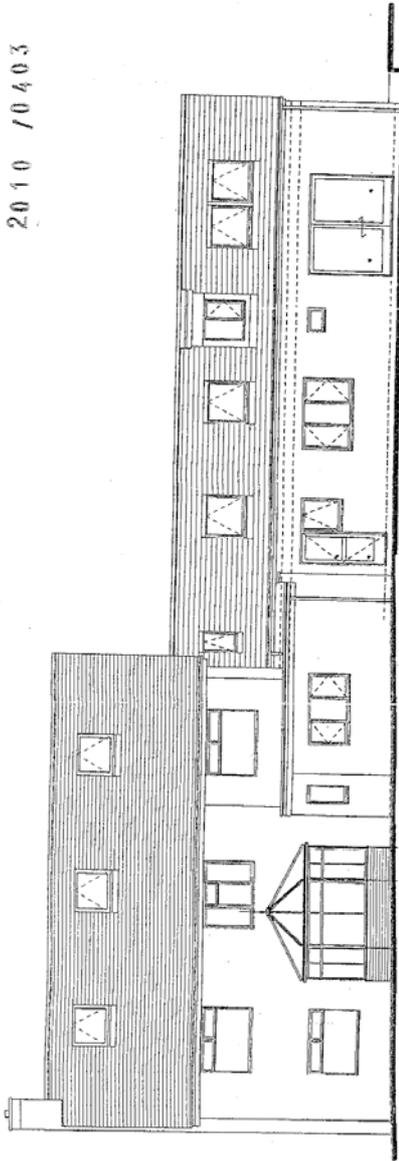
APPENDIX 1 - PLANS



RECEIVED
 2 AUG 2010
 North Warwickshire
 Borough Council

FLOOR PLAN 1:100

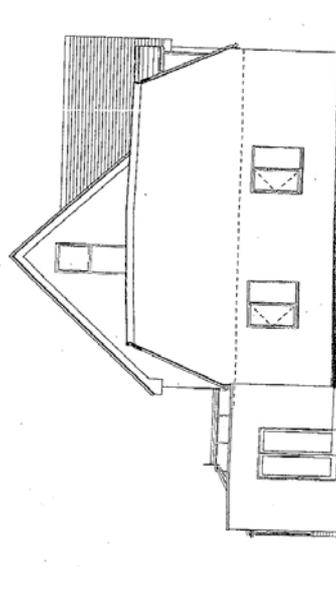
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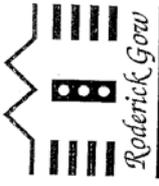
REAR ELEVATION PROPOSED

- 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

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APPENDIX 2 – PHOTOGRAPHS OF THE SITE



(4) Application No: PAP/2010/0488

The Elms, Kingsbury Road, Marston

Change of use from residential to four bed residential children's home, for Mr Chris Aristidou Archways Care Ltd

Introduction

This application is reported to Board at the request of the Local Member concerned about the impact of the proposal in respect of car parking, disturbance and sustainability.

The Site

The site lies to the end of Kingsbury Road (known as Old Kingsbury Road), wholly within Green Belt, and wraps around the rear of residences facing this road. It carries a relatively large detached dwelling, a detached double garage and ample garden space, with mature and widespread planting. This planting also forms part of the boundary to the aforementioned residential properties.

The access runs to the side of Hollybank and is of single carriageway width. There is hedgerow to the west and a two metre close-boarded fence to the east (dropping to 1m at the front of Hollybank). Old Kingsbury Road is a no through road, of two carriageway width.

The Proposal

It is intended to use the existing dwelling, without external alteration, to provide a four bed residential children's home. This would accommodate children aged 8-18 with learning difficulties and/or mild behavioural problems, and would be operated and administered by staff of the applicant company having a presence at the site 24 hours a day.

Background

The applicant company has two other such care homes, one of which has operated within North Warwickshire for a number of years at Shawbury. Both are OFSTED registered and are required to achieve minimum standards in respect of the care offered. This registration also requires all children to be assessed for their specific needs before being accepted, and they do not accept children who exhibit more disruptive and violent behaviour. The staff employed are appropriately qualified with the children not allowed away from the facility unless it is part of their agreed care plan.

Development Plan

North Warwickshire Local Plan 2006 (Saved Policies): CORE POLICY 2 (Development Distribution), ENV2 (Green Belt), ECON9 (Re-use of Rural Buildings), ENV11 (Neighbour Amenities), ENV14 (Access Design), TPT1 (Transport Considerations in New Development) and TPT6 (Vehicle Parking).

Consultations

WCC Highways – no objection

NWBC Environmental Health – no objection

Lea Marston Parish Council – no response has been received

Representations

A total of 6 objections has been received from neighbouring residences. These commonly raise concerns relating to loss of garden land to parking space; an increase in vehicle movements along the access and Old Kingsbury Road; this increase creates a greater degree of disturbance to their amenity; and noise arising from the use and associated deliveries. Further concerns are raised in respect of the isolated nature of the site and whether it has suitable social/educational facilities for the occupants; the use would be detrimental to village character; fear of anti-social behaviour; and concerned about potential to extend the property and/or intensify the use, including schooling for other homes under the applicant's control.

Observations

The re-use of an existing building is appropriate development as a matter of principle in the Green Belt if the openness of it is not adversely affected. This is the case here because there would be no external alterations, nor extensions, and suitable conditions can control the level of parking within the curtilage, which is unlikely to be more than the use of the house as a single dwelling.

Turning to sustainability considerations, the site lies close to regular bus services along Kingsbury Road and Bodymoor Heath Lane. The nearest stop on Kingsbury Road is a 450m walk along public footways, with Bodymoor Heath Lane closer. Cycling opportunities are also possible, but the nature of the use means that the occupants are moved as groups in pool cars. The proposal provides a local facility to meet a need in the Borough and wider area, with the applicants supporting statement demonstrating partnership working with education and social services authorities. With no planned provision within the nearest main settlements of Coleshill and Kingsbury, there is no planning reason to object to this re-use, particularly as its impact would be similar to that if a large household occupied the premises.

Neighbour objections mainly focus on noise and disturbance created by an increase in vehicles along Old Kingsbury Road and the access. This must be viewed in context with the existing potential for the dwelling to be occupied by a large family with older children. There would usually be 3-5 employees on site at any one time, with less during weekends and overnight, and shift changes occurring over a short period. There would also be some vehicle movements associated with taking the occupants to educational and social venues. Environmental Health acknowledges there would be a small increase in movements, but these will be relatively short in duration and the noise associated would be similar to a typical domestic residence. Consideration is also given to other uses within the same Use Class which could be more harmful. Subject to conditions, it is felt neighbouring amenity will not suffer harm. This after all, is a proposed residential use.

Concerns raised in respect of anti-social behaviour problems are not strictly relevant to a planning application. However, the requirement to conform to OFSTED standards, as well as the applicant company's admission policy addresses these concerns. The applicant company's other homes have no history of such problems.

County Highways has advised on the suitability of the existing access. Given that most two way movements would occur at shift change, with incoming staff arriving before the existing would leave, the risk of conflict is low. Whilst visibility splays are below recommended guidelines, Old Kingsbury Road is a no through road with only another 11 properties beyond the access. As such, the carriageway is lightly trafficked and a relaxation of standards is acceptable. In addition, there have been no reported accidents.

Approximately 6 parking spaces are provided, 2 within the existing double garage. In the context of 2 pool cars and employee vehicles at a managed facility which can encourage car sharing, and links to public transport, this is considered an appropriate provision. Sufficient turning space and additional informal parking remains available to allow shift changes. Laundry is done on site and shopping delivered once a week.

Finally, objections raise concern about the potential to extend and intensify the use. Subject to appropriate conditions, separate planning permission would be necessary, and as such this is not a concern under this proposal.

Recommendation:

That the application be Granted subject to the following conditions:

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

REASON

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

2. The property shall not be used for any other purpose within Class C2 of the Town and Country Planning Use Classes Order 1987 (as amended), or in any statutory instrument revoking and re-enacting that Order with or without modification, other than as a residential childrens home for no more than 4 children.

REASON

To prevent unauthorised use of the property and in the interests of neighbouring amenity.

3. No deliveries or shift changes shall occur outside of the hours of 0700 to 2200.

REASON

To protect the amenities of nearby residential properties.

4. The residential childrens home hereby approved shall not offer ancillary facilities, such as education facilities, to other residential childrens homes or businesses.

REASON

To protect the amenities of nearby residential properties.

5. The existing double garage shall not be converted or used for any purpose other than for the parking of vehicles.

REASON

The protect the character and openness of the Green Belt, and reduce the need for further hardstanding at the site.

Notes

9. The applicant is reminded that the use hereby granted does not benefit from permitted development rights to install hardstandings or make external alterations to the property. Specifically, this decision does not give consent to extend the parking area for vehicles.
10. The Development Plan policies which are relevant to this Decision are as follows: North Warwickshire Local Plan 2006 (Saved Policies) CORE POLICY 2 (Development Distribution), ENV2 (Green Belt), ECON9 (Re-use of Rural Buildings), ENV11 (Neighbour Amenities), ENV14 (Access Design), TPT1 (Transport Considerations in New Development) and TPT6 (Vehicle Parking).

Justification

The proposal is considered to be an appropriate re-use of a rural building, providing a local facility to the area, without bringing harm to openness or the amenity of the Green Belt. Consideration has been given to the likely impact on neighbouring amenity from the use concerned and the associated vehicle movements, but in the context of the relatively low level of proposed use and the existing use as a dwelling, it is not felt to be of concern. In addition, access and parking provision are adequate. Subject to conditions, the proposal is in accordance with policies CORE POLICY 2, ENV2, ECON9, ENV11, ENV14, TPT1 and TPT6 of the North Warwickshire Local Plan 2006. There are no material considerations that indicate against the proposal.

BACKGROUND PAPERS

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

Planning Application No: PAP/2010/0488

Background Paper No	Author	Nature of Background Paper	Date
1	The Applicant or Agent	Application Forms, Plans and Information by email	15/9/2010, 5/10/2010 and 28/10/2010
2	P & L Thurman	Representation – objection	13/10/2010
3	B & J Cummings	Representation – objection	14/10/2010
4	Cllr J Lea	Email to Case Officer	14/10/2010
5	Case Officer	Email reply to Cllr J Lea	15/10/2010
6	Mr K Higson	Representation – objection	21/10/2010
7	Ruth Bridges	Representation – objection	21/10/2010
8	Mrs J Hobster	Representation – objection	25/10/2010
9	WCC Highways	Consultation reply – no objection	25/10/2010
10	Environmental Health	Consultation reply – no objection	27/10/2010

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.



Agenda Item No 6

Planning and Development Board

15 November 2010

**Report of the
Head of Development Control**

**Section 106 Agreements -
Variations**

1 Summary

- 1.1 This report provides a draft paper, at the request of the Board, outlining the options that the Council could consider to increase flexibility in Section 106 Agreements as a consequence of the current economic conditions.

Recommendation to the Board

That the Executive Board be recommended to consult on the attached paper with a view to adding it to the Council's Supplementary Planning Document on Affordable Housing following consideration of any responses from that consultation period.

2 Background

- 2.1 At a recent Board meeting, Members considered increasing flexibility into the payment of financial contributions arising from Section 106 Agreements affecting affordable housing, in order to reflect the current economic times and the impact that these were having on the viability of development schemes. The request to produce a paper in response is now attached at Appendix A.

...

- 2.2 Additionally, there have been issues arising whereby prospective applicants and owners who are looking to develop land for just one or two units within a settlement where all housing is to be affordable by virtue of development plan policy are finding it difficult and cumbersome to produce a full Housing Needs Survey in order to justify their proposals. A greater degree of flexibility is needed here too. As a consequence the opportunity is taken to add to the attached paper.
- 2.3 There has been some concern expressed by different interests that the actual policy itself of limiting all new houses in some settlements to solely "affordable" housing is too onerous. This concern has been noted, and it is intended to address the matter through the work currently being undertaken on the preparation of the Preferred Option for the Core Strategy due next year.
- 2.4 If the Board agrees the attached paper, it will be added to the Council's Supplementary Planning Document on Affordable Housing following a period of consultation.

3 Report Implications

3.1 Links to the Council's Priorities

- 3.1.1 Through introducing greater flexibility in the payment of contributions, the viability of development schemes should be increased thus giving greater confidence to deliver the Council's priority of increasing the provision of affordable housing.

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

Affordable Housing Supplementary Planning Document June 2008

North Warwickshire Borough Council



ADDENDUM – DECEMBER 2010

S106 Obligation Re-negotiation

This Addendum to the Affordable Housing SPD, based on the Practice Note, sets out the Council's approach to such requests, and to the Council's approach to affordable provision on new sites during this downturn.

This Note is intended to assist, and to offer guidance to land owners and prospective developers in preparing the evidence base when proposing a new project or in seeking to renegotiate an existing permission. It will thus be taken to be material planning consideration.

Any Financial Appraisal for a new project or re-appraisal for re-submission or review of an extant S106 should start from the Council's Policy to achieve 40% affordable housing on-site. It is for the developer to provide the case for lower provision and to show that the Obligation itself is preventing implementation of the permission.

A number of options should be provided clearly showing an assessment of what level of Affordable Housing the site proposal could actually achieve. Options that need to be considered in the case of developers seeking renegotiation of financial contributions include:

- a phased approach to the payment of the already agreed contribution over the life of the project
- an initial payment at commencement, but payment of the balance only at final occupation.
- an initial nominal payment at commencement but a re-evaluation of the development project just prior to final occupation, seeking a new contribution based on final realised market values.
- postponement of any contribution until an evaluation at the time of final occupation based on final realised market values.

Options that should be considered in the case of developers seeking renegotiations of affordable housing provision already agreed for a site, or for seeking affordable provision on new sites, include:

- a phased approach to the provision of affordable housing throughout the life of the development
- all affordable provision to be made just prior to final occupation of the site
- a phased approach but with the provision at each phase based on a re-evaluation, built in at each phase in the life of the project
- a combination of a lower level of affordable provision on site, but with a compensatory off-site contribution to make up the provision so as to meet policy requirements.
- agreement of a lower level of provision on site, but at completion, a further appraisal being undertaken to establish an off-site contribution based on final realised market values.

The Council will seek to apply a flexible approach in any negotiations and decisions relating to renegotiations on S106 Affordable housing requirements and/or New proposals requiring Affordable Housing to reflect changing economic circumstances, subject to clear evidence arising from a robust assessment of the need to reduce the requirements and/or contribution.

Identifying and Evidencing Affordable Housing Need in Category 4 Settlements requirements

The main detailed Policy HSG2 includes a requirement that affordable Housing in category 4 settlements (i.e. those with a development boundary but not classed as Local Service Centres) will only be permitted “where a need has been identified following systematic analysis involving the local community concerned, landowners and housing providers.

In order to apply a more flexible approach to determining the need for Affordable housing for smaller housing sites of 4 dwellings or less, (and where the undertaking of a Formal Housing Needs Survey may be seen as placing too great a financial and administrative burden, discouraging smaller sites to come forward), the “systematic analysis” required by Policy can be satisfied by using existing information held by the Borough Council, other Agencies and Registered Social Landlords. The Council will still expect local consultation to be undertaken, but the existence of up-to-date information held by the Borough Council and other Agencies will be held to be a material consideration, establishing the Affordable Housing Need for that Parish.

Where this available information indicates a local need greater than 4 dwellings only a maximum of 4 will be permitted without further undertaking a Formal Housing Needs Survey.

Where this available information indicates a local need less than 4 dwellings only that number /maximum need identified will be permitted.

Example: On a site capable of accommodating 4 units, but where the available local evidence only indicates a need for 2, only 2 affordable units would be acceptable. Any application seeking more would have to undertake a Formal housing Needs survey to provide the additional evidence to support the planning application.

The full list of settlement to which the new approach will apply are detailed below;

Category 4 - Other settlements with a development boundary within which areas the new approach to Housing Needs surveys and evidence for proposals of 4 dwellings or less will apply.

Ansley
Austrey
Curdworth
Fillongley
Hurley
Newton Regis
Piccadilly
Shuttington
Shustoke
Warton
Whitacre Heath
Wood End

Agenda Item No 7

Planning and Development Board

15 November 2010

Report of the Chief Executive and the Deputy Chief Executive

Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April - September 2010

1 Summary

- 1.1 This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to September 2010.

Recommendation to the Board

That Members consider the performance achieved and highlight any areas for further investigation.

2 Consultation

2.1 Portfolio Holder, Shadow Portfolio Holder and Ward Members

- 2.1.1 The Portfolio Holder and Shadow Portfolio Holder for Resources, Councillors Bowden and Butcher have been sent a copy of this report and any comments received will be reported to the Board.

3 Background

- 3.1 This report shows the position with the achievement of the Corporate Plan and Performance Indicator targets for 2010/11 for the first two quarters from April to September. This is the second report showing the progress achieved so far during 2010/11.

4 Progress achieved during 2010/11

- 4.1 Attached at Appendices A and B are reports outlining the progress achieved for all the Corporate Plan targets and the performance with the national and local performance indicators during April to September 2010/11 for the Planning and Development Board.

- 4.2 Members will recall the use of a traffic light indicator for the monitoring of the performance achieved.

Red – target not achieved

Amber – target currently behind schedule and requires remedial action to be achieved

Green – target currently on schedule to be achieved.

5 Performance Indicators

- 5.1 The current national and local performance indicators have been reviewed by each division and Management Team for monitoring for the 2010/11. Members should be aware that the current set of national indicators have been reviewed by the Coalition government and have all been stopped. In a recent announcement the Secretary of State for Communities and Local Government has confirmed the replacement of the National Indicator Set with a single comprehensive list of all the data expected to be provided by local government to central government. The data requirements are being reviewed and reduced for April 2011 onwards.

6 Overall Performance

- 6.1 The Corporate Plan performance report shows that 45% of the Corporate Plan targets and 100% of the performance indicator targets are currently on schedule to be achieved. The report shows that individual targets that have been classified as red, amber or green. Individual comments from the relevant division have been included where appropriate. The table below shows the following status in terms of the traffic light indicator status:

Corporate Plan

Status	Quarter 2 Number	Percentage
Green	5	45%
Amber	6	55%
Red	0	0%
Total	11	100%

Performance Indicators

Status	Quarter 2 Number	Percentage
Green	3	100%
Amber	0	0%
Red	0	0%
Total	3	100%

7 Summary

- 7.1 Members may wish to identify any areas that require further consideration where targets are not currently being achieved.

8 Report Implications

8.1 Safer Communities Implications

8.1.1 Major applications are considered by the Police Architectural Liaison Officer who is looking to ensure that Secure by Design principles are applied for new developments.

8.2 Legal and Human Rights Implications

8.2.1 The national indicators were specified by the Secretary of State for Communities and Local Government. They have now been ended and will be replaced by a single list of data returns to central government from April 2011.

8.3 Environment and Sustainability Implications

8.3.1 Improvements in the performance and quality of services will contribute to improving the quality of life within the community.

8.4 Risk Management Implications

8.4.1 Effective performance monitoring will enable the Council to minimise associated risks with the failure to achieve targets and deliver services at the required performance level.

8.5 Equalities

8.5.1 There are indicators relating to Equality reported to other Boards.

8.6 Links to Council's Priorities

8.6.1 There are a number of targets and performance indicators included relating to protecting and improving our environment and defending and improving our countryside and rural heritage.

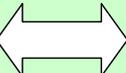
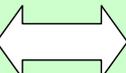
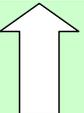
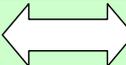
The Contact Officer for this report is Robert Beggs (719238).

Background Papers

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

Background Paper No	Author	Nature of Background Paper	Date
National Indicators for Local Authorities and Local Authority Partnerships	Department for Communities and Local Government	Statutory Guidance	February 2008

Ref	Start Date	Action	Board	Lead Officer	Reporting Officer	Theme	Sub-Theme	Update	Traffic Light	Direction
24	Apr-10	Publishing the Core Strategy by October 2010 and submitting it formally to the Secretary of State	Executive Board / Planning & Development Board	ACE&SC	Dorothy Barratt	Housing		Work on Core Strategy stalled due to abolition of RSS.	Amber	↔
29	Apr-10	Publishing the Core Strategy by October 2010 and submitting it formally to the Secretary of State which will include policies to defend the openness and character of the countryside, policies containing strategic housing proposals and other land use implications. Policies will also be included to reflect the Strategic Flood Risk Assessment	Executive Board / Planning & Development Board	ACE&SC	Dorothy Barratt	Countryside & Heritage		Work on Core Strategy stalled due to abolition of RSS.	Amber	↔
30	Apr-10	To move towards the management of development rather than its control where appropriate, looking at development proposals as an opportunity to deliver the Council's priorities and objectives as set out in the Sustainable Community Plans, the Corporate Plan, and not just the Development Plan. To report on the effectiveness of this approach by March 2011	Planning & Development Board	Head of DC	Jeff Brown	Countryside & Heritage		Development management is becoming more embedded in decision making - eg. the Section 106 for Phase 2 of Birch Coppice. This will be reported in more detail to Board in August 2011.	Amber	↑
32	Apr-10	Consideration of planning applications to ensure only appropriate development is allowed in the Green Belt including policies to focus development within the agreed settlement hierarchy in the Core Strategy by February 2011	Executive Board / Planning & Development Board	Head of DC/ACE&SC	Jeff Brown	Countryside & Heritage		This is the basis of current planning determinations, notwithstanding the delays in moving the Core Strategy forward.	Green	↔
33	Apr-10	Working with partners at the sub regional level to gather information and then develop a financial plan for financial contributions linked to development. At the same time gathering information locally and develop a robust financial plan for inclusion in the LDF process by February 2011 including a Supplementary Planning Document on contributions for Open Space provision within the LDF process by February 2011	Executive Board / Planning & Development Board	ACE&SC	Dorothy Barratt	Countryside & Heritage		Work continuing to be gathered although there may be implications from abolition of RSS and work on Core Strategy that may impact on the implementation.	Green	↑
34	Apr-10	Implementing the revised policy and provide an annual report on the outcomes of the Enforcement Policy by March 2011	Planning & Development Board	Head of DC	Jeff Brown	Countryside & Heritage		Report to go to Board in August 2011.	Amber	↔
40	Apr-10	Including policies in the Core Strategy to protect the best of our existing buildings and ensure new build is in keeping with the character of the area by February 2011	Planning & Development Board	ACE&SC	Dorothy Barratt	Countryside & Heritage		Work on Core Strategy stalled due to abolition of RSS.	Amber	↔

Ref	Start Date	Action	Board	Lead Officer	Reporting Officer	Theme	Sub-Theme	Update	Traffic Light	Direction
41	Apr-10	Considering planning applications so as to protect the best of our existing buildings and ensure new build is in keeping with the character of the area	Planning & Development Board	Head of DC	Jeff Brown	Countryside & Heritage		This is a ongoing planning consideration.	Green	
42	Apr-10	Design briefs for strategic sites in the Core Strategy and SPD on issues such as local distinctiveness and design to be prepared following the publication of the Core Strategy in February 2011	Executive Board / Planning & Development Board	ACE&SC	Jeff Brown	Countryside & Heritage		Work on Core Strategy stalled due to abolition of RSS.	Amber	
43	Apr-10	To ensure design advice is given at pre-application stages in appropriate cases and to introduce a system of post development visits. Continue to use the design champion	Executive Board / Planning & Development Board	ACE&SC	Jeff Brown	Countryside & Heritage	DCE	Design Champion involved in pre-application discussions and post development visits now taking place.	Green	
44	Apr-10	To prepare for the Civic Award event in 2012	Planning & Development Board	ACE&SC	Jeff Brown	Countryside & Heritage	DCE	No action needed yet.	Green	

Performance Indicators

PI Ref	Description	Division	Section	High/Low is good	2010/11 Target	2009/10 Outturn	National Best Quartile	Performance	Traffic Light	Direction	Comments	Suggested reporting interval	Board	Reported to MT
Development Control														
NI 157a	Processing of planning applications as measured against targets for major application types	Development Control	Development Control	High	65%	64.71%	81.6%*	66.7%	Green			Q	Planning and Development Board	Yes
NI 157b	Processing of planning applications as measured against targets for minor application types	Development Control	Development Control	High	85%	84.52%	84%*	89.29%	Green			Q	Planning and Development Board	Yes
NI 157c	Processing of planning applications as measured against targets for other application types	Development Control	Development Control	High	95%	92.48%	93.91%	93.43%	Green			Q	Planning and Development Board	Yes

Agenda Item No 8

Planning and Development Board

15 November 2010

**Report of the
Head of Development Control**

**Tree Preservation Order
Land rear of 13 to 15b, Coventry
Road, Coleshill**

1 Summary

- 1.1 The purpose of this report is to note the action taken by the Chief Executive under his emergency powers, following consultation with the Chairman and the Solicitor to the Council.
- 1.2 An outline planning application has been submitted for two dwellings at land to the rear of 13 to 15b Coventry Road. A site visit and subsequent comparison to aerial photography revealed site clearance in preparation for development had commenced, with the potential for felling of significant specimens prior to or upon a grant of planning permission.
- 1.3 One particular tree, a middle aged oak, positively enhanced amenity and offered potential for significant value in the future, as well as offering habitat value. This tree had been inspected and was considered worthy of a Tree Preservation Order.

Recommendation to the Board

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 this report, be noted, and that any representations received be referred to the Board for it to consider when it decides whether to make the Order permanent.

2 Background

- 2.1 The Chairman and Solicitor to the Council were consulted on the action taken.

3 Observations

- 3.1 An outline planning application was submitted in October 2010 for the erection of two dwellings on land to the rear of 13 to 15b Coventry Road, Coleshill. The site is currently occupied by a number of prefabricated garages and has recently been fenced off from the adjacent properties for development. The site is enclosed on the southern and northern side by mature trees and hedges which provide green

screens between this and adjacent sites. There is a public footpath which runs along the south-west edge of the site.

- 3.2 The central areas of the site have been recently cleared and much soil has been piled up on the boundaries of the site adjacent to the trees.
- 3.3 No Arboricultural Implications Assessment has been submitted with the application, despite the western corner of the site being located within the Coleshill Conservation Area resulting in a number of the trees being protected, and the boundary planting of the site.
- 3.4 Although many of the trees contribute to the ambiance of the area providing maturity, there are only limited views of them. However, one tree stands out of the site which is a middle aged oak located on the southern boundary. The current proposals do not illustrate any trees and have not considered them as material, which is a requirement of any development such as this, and the indicative plans suggest conflict with one of the proposed dwellings. This individual oak tree should be protected both for its current value and its significant future value.
- 3.5 As there was an immediate potential threat to the retention of this tree by virtue of the proposed development, highlighted by the clearance works which have occurred to date, it was recommended that an emergency TPO be made to protect one individual oak tree as per the enclosed plan.

4 Report Implications

4.1 Legal and Human Rights Implications

- 4.1.1 The owners of the land have the opportunity to make representations to the Council before any Order is confirmed as being permanent.
- 4.1.2 The tree to be protected exhibits high amenity value for both the present and the future.

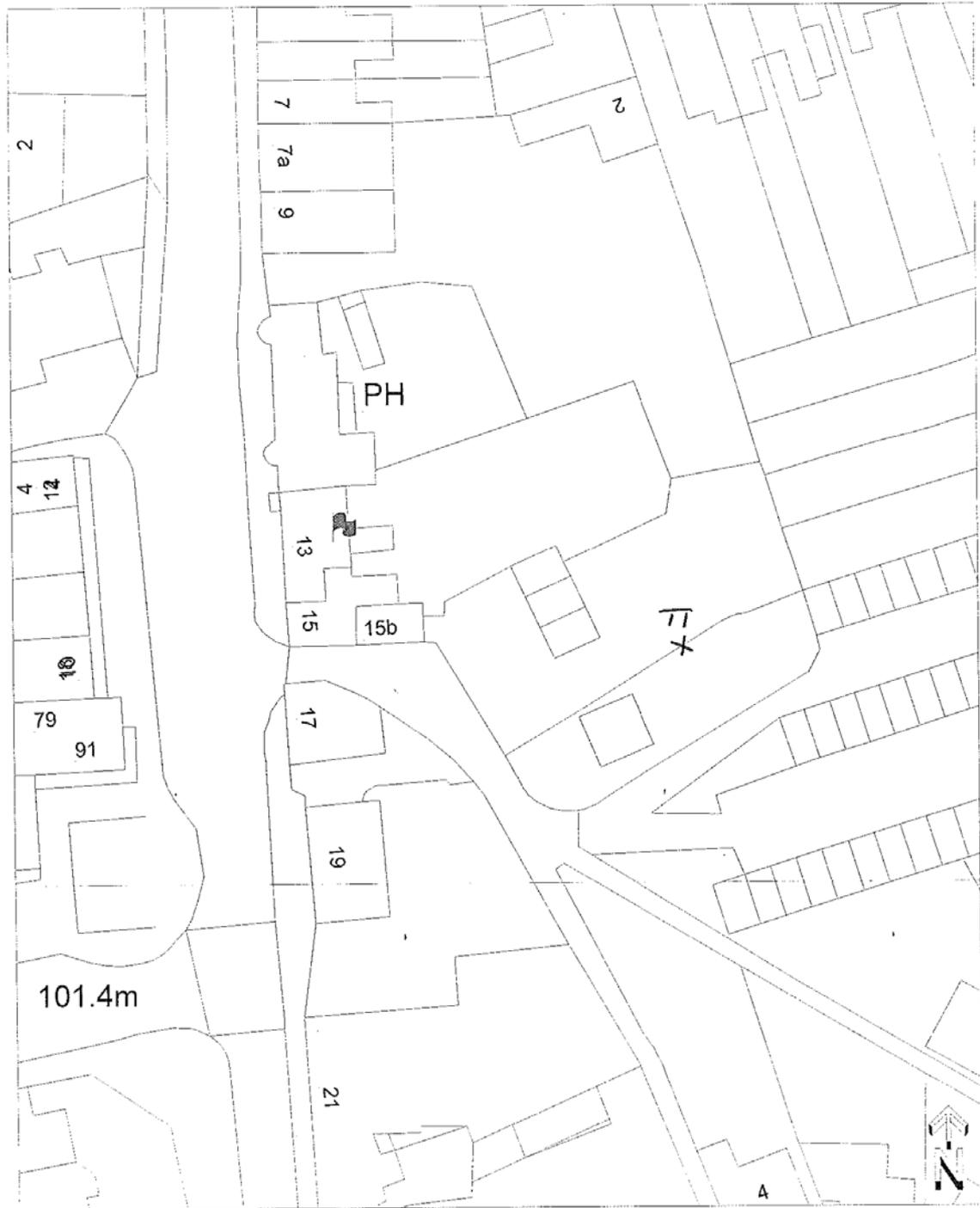
The Contact Officer for this report is Chris Nash (719481)

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
Arboricultural Comments, TEMPO Evaluation, Site Plan and Regulation 4 Notice	NWBC Tree Officer		October 2010

Land to the Rear of 13 Coventry Road, Coleshill

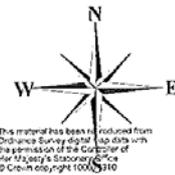


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ARBORICULTURAL COMMENTS (Planning):

From: Peter Wharton (Landscape Officer – Trees)
To: Chris Nash
Date: 25 October 2010
Re: Resolution: New Tree Preservation Order
Site: Land to the Rear of 13 Coventry Road, Coleshill
Owner: N/A
Date of Site Visit: 19 October 2010

Comments:

A site visit was undertaken to assess the trees to the trees to the rear of no. 13 Coventry Road, Coleshill following consultation in relation to the current outline planning application.

The site is currently occupied by a number of prefabricated garages and has recently been fenced off from the adjacent properties for future development. The central areas of the site have been cleared and much soil has been piled up on the boundaries of the site adjacently to the trees.

The site is located adjacently to the local Conservation Area and the western corner of the site is located within the conservation area and as a result a number of the trees are protected. The site is enclosed on the southern and northern side by mature trees and hedges which provide green screens between this and adjacent sites. Although many of the trees contribute to the ambience of the area providing maturity there are only limited views of them. One tree stands out of the site which is a middle aged oak located on the southern boundary. The current proposals do not illustrate any trees and have not considered them as material which is a requirement of any development such as this. This individual oak tree should be protected both for its current value and its significant future value.

Recommendations:

It is recommended that a new TPO be made to protect 1 individual Pedunculate oak tree as per the TPO plan. The tree to be protected exhibits amenity and habitat value. The TPO is not being made to stop development but to ensure they are not damaged or removed without discussion and agreement with the Council.

Peter Wharton

Landscape Officer (Trees)